IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
9

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

C166490 STATE OF NEVADA vs. RENARD T. POLK

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CLERK OF THE COURT

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PP
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IN THE EIGHTH JUDICIAL DISTRICT COURT IN AND FOR CLARK COUNTY, THE STATE OF NEVADA

RENARD T. POLK
Movant-Petitioner

VS.

DOUGLAS HERNDON et al,
ROBERT LEGRAND et al,
THE STATE OF NEVADA ex rel,
Respondent(s)

Dept No: III
Case No: C166490

6/10/14
9:00am

MOTION FOR RECONSIDERATION
(AND/OR)
TO REDUCE TO WRITING

COMES NOW the Movant Renard T. Polk and hereby submits for filing this Motion seeking the court to reduce its decision to writing (and/or) for reconsideration of the decision rendered on April 29, 2014.

This Motion is made pursuant to EDCR 40A, and on all papers, pleadings, filings and documents in good-faith herein.

MEMORANDUM OF POINTS, AUTHORITIES AND ARGUMENTS.

RECEIVED
MAY 16 2014
CLERK OF THE COURT

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MAY 19 2014
CLERK OF THE COURT

On December 2, 2013 the movant filed a petition for writ of habeas corpus.

On January 2, 2014 the Clark County 8th Judicial District court issued an order tentatively granting the writ having apparently found good cause.

The district attornies' office was given (45) forty five days in which to produce the movant [petitioner] for the hearing allocated on February 18, 2014, as well as, file a response and a return.

On January 16, 2014 The Movant filed a "Motion For Order To Produce," which was eventually construed as a motion for transportation.

On February 6, 2014 in absence of the movant the court found that the movant "failed to serve the district attornies office."

Moreover in absence of an opposing-corresponding application being submitted the court on (2) two occassions rescheduled the hearing further ordering briefing to be completed by April 29, 2014.

Again in absence of the movant the court found the petition "untimely" on the hearing date set.

To date the court has not or

refuses to relegate its decision to written form, notwithstanding.

FIRST: Nevada Revised Statute 34.770 states that, "[if] the petitioner is entitled to relief the court shall order a hearing."

"[If] the petitioner is not entitled to relief then the court shall dismiss the petition without a hearing." paraphrased.

The court, as stated, ordered a hearing for April 29, 2014. Irrespective of the movant's presence relief should have been forthcoming.

Dismissal is afforded and effectuated ONLY before the hearing date is set.

For all intents and purposes, legislative and administrative, to find the petition "untimely" after setting the hearing date is "untimely".

The court is collaterally and judicially estopped from deciding again the issues of cause and relief having already found it apparent prior to the hearing.

To do so definitively, adversely and prejudicially affects the movant and constitutes fraud upon the court.

The judge is attempting, if not, conspiring to divest the [movant] of vested rights and entitlements

Lombard v. Manchester 406 So. 2d. 742; Travelers Insurance Company v. Scarabough 718 F.2d (1991).

It is norm book law under Article 1 section 10 of the United States Constitution which prohibits unlawful bills of pains and penalties expressly and implicitly.

The U.S. Supreme Court has dealt with this problem at length acknowledging the general rule that, "...retroapplication which affects (substantive) substantial rights are prohibited..." Hall v. Arizona 717 P.2d 434

Here in the case subjudice the movant was entitled to be present during the hearing, cross examination, compulsory process, objections and the assistance of counsel.

The same rights which were impaired and which is manifestly unjust.

Frasure v. United States 256 F.Supp 1180 (D. Nev 2003)

SECOND: Disputed issues of fact, not arguments, furnishes the standard with respect to the movant's presence.

Gerbers v. State 50 P.3d 1092 (2004)

Yet and still the doctrine of latches is an equitable estoppel doctrine.

The state/county in pleading "latches" is not entitled to a presumption of prejudice based on an inequitable delay.

It must be proven. The burden rests with the asserting party. Mahbon v. MGM Grand Hotel 691 P.2d 421.

Plus within the petition the movant alleged fraud on the part of the state/county, inter alia.

Fraud is a cause, as well as, a defense to an action.

The very reason as to the inordinate delay surrounding the filing of the post-conviction petition for writ of habeas corpus.

Moreover "latches" is an affirmative defense. Affirmative defenses are impermissible on motions. They are not suited to address issues of fact. Kerby v. Commodity Resources Inc D.C. Colo 395 F.Supp 786 (1975).

THIRD: Be it as it may with the court having failed to acquire personal jurisdiction subject-matter jurisdiction can not be cognizable to the court.

Due modes of procedure must be followed in order for a court to issue a valid and enforceable order. Utah Liquor Control v. Woods 93 P.2d 455

It is hornbook law that a process can not be amended or a void order ratified or cured.

For the same reason time/delay is not a factor since jurisdictional defects can be brought up at any time, as well as, in any manner. Harris v. U.S. 149 F.3d 1304

The movant's presence is paramount to jurisdiction in personam and the contents of the vehicle for relief to subject-matter.

Without a competent court to acquire, effectuate and excercise jurisdiction, "void [ed] the process" which is "false imprisonment." Montana v. State 249 N.Y.S. 2d 365.

The presumption being that the detention is illegal.

'Form does not give way to substance' unless someone is seeking to disguise improprieties with abortive processes.

The law regards substance of substantive over form of procedure.

For those reasons and the ones following immediately hereafter the court's decree is contrary to (and/or) an unreasonable application of clearly established federal law, or otherwise.

FOURTH: So to the degree this court would attempt to have the movant argue the merits of the petition on paper pleadings. The movant makes out with regard to the "issues being the same."

Res judicata is an estoppel doctrine with a preclusive affect.

Which the district attornies' office did not assert.

"Precluding" the court from asserting it sua sponte.

However even so in order for the doctrine to apply the previously issued decision must have been valid and enforceable.

Once again in the petition the movant asserted that the previous decisions were based on "fraud", and "lacked specificity", and made "in absence of the" movant during the hearings conducted.

Thereby making the orders unenforceable and invalid.

"Skeletal decisions lack specificity and are contrary to federal." Nikki v. State State 97 P. 3d 1140 (D. Nev 2006)

Meaning res judicata is inapplicable

Concerning the timeliness of the petition.

"A[n] erroneous ruling by a petition[ed] court equitably is tolla[ble]..." Corjasso

v. Ayers 278 F. 3d 874 (9th. Cir. 2002)

More importantly the movant has continuously been the one claiming inordinate delay in the prearrest-post-accusation phase, the (re)sentencing phase and post-conviction evidentiary hearing phase.

The delays being attributable to the State without qualification.

The state represented by the district attornies office can not now claim the error it created somehow makes them the beneficiary of that invited error.

The movant is not supposed to be prejudiced in rights as a result of the state's error or inaction.

The movant says "state" because since initiating the petition the purported victims recanted their statements which the district attornie's office was aware of prior to trial.

It would be a fundamental miscarriage of justice to find cause apparent as evidenced by the court's order, see. exhibit A line 14, without deciding how the movant was prejudiced, or not, as well as the state.

The court did not even as much as

engage in this type of analysis. Even though required by law. Starr v. Lockhart 23 F.3d 1280 (8th Cir. 1994)

Distinctly the movant was prejudiced as, he is and, had to endure an illegal detention and confinement without probable or good cause, is being punished twice for the same offense, faced trial with unreliable and untrustworthy statements and

It is clearly erroneous for the court to have found the movant failed to demonstrate; that,

(a.) cause existed by the state/county forcibly administering antipsychotic medication,

(b.) cause existed because a new constitutional rule of law made retroactive to cases on collateral review by the Supreme court, that was previously unavailable on direct review,

(c.) the facts in the petition were "belied" by the record or not in dispute,

(d.) prejudice is presumed when prosecuting and investigating authorities act illegaly,

(e.)

(e.) the appointment of counsel is not necessitated by reason of affording a hearing date,

(f.) the presumption of "waiver" and "estoppel" are against it and not in favor of the doctrines,

(g.) The movant was challenging the judgment of conviction as opposed to the court's initial findings of fact and conclusions of law,

(h.) failure to provide for the movant's presence is not a "structural" error on collateral attack proceedings.

(i.) the court improperly admitted the movant's statement during bail consideration and trial,

(j.) the movant was not afforded representation during direct appeal and collateral attack proceedings,

(K.) the inordinate, unecessary and intentional delay was not the fault of the district attorney's office,

(l.) prejudice is presumed when an individual is represented by a conflicted trial attorney,

(m.) recusal and disqualification was not warranted on the basis of judicial bias or peremptory

challenges,

(n.) the grounds for relief could not have been discovered with reasonable diligence before circumstances prejudicial to the state occurred,

(o.) the movant is not entitled to immediate release from the custody and control of the Nevada Corrections Department,

(p.) the prosecutor did not prove every element beyond a reasonable doubt,

(q.) jury instructions relieved the prosecutor of its burden to prove every element beyond a reasonable doubt,

(r.) proof prevails in petitions and not merely pleadings,

(s.) the movant's credibility,

(t.) trial counsel acted unreasonably by failing to object to errors and misconduct at trial,

(u.) the movant was not prejudiced by the intentional delays,

(v.) the movant is not being punished thrice for the same offense,

(W.) judgment of conviction erroneously reflected the movant plead guilty affecting him collaterally, (and/or)

(X.) newly discovered evidence that, if proven, and viewed in light of the evidence as a whole, would be sufficient to establish that no reasonable trier of fact would have found the Movant guilty of the offense.

When, as here, the benefit of the movant's presence during an evidentiary hearing was not afforded.

Making the findings unreliable, inconclusive and based on hearsay.

which can not form the basis of a judicial decision or opinion, notwithstanding.

Anglo-Canadian v. Fed. Comm. 310 F.2d (9th.Cir)

CONCLUSION

Accordingly: the court abused its discretion by failing to order the movant's release as a similar situation presented itself with materially indistinguishable facts in Scatterlee v. Wolfenbarger 453 F.3d 362 (6th. Cir. 2006) wherein a court had issued an unconditional writ ordering immediate release by virtue of the fact that the state court failed to comply

with a conditional writ allowing for the petitioner to apply for relief.

The court's rationale fell on the fact that the very nature of the error alleged is contemptuous going to the structural integrity of a judicial proceeding unquantifiable and remedied only by release. Since the time spent in custody under an invalid order can not be cured post hoc.

Although in the instant case the state fails to comply with its own order in the interim, non-compliance is the tangentiality.

A theme found by the federal court to constitute a violation of clearly established legal principles objectively unreasonable in application.

WHEREFORE; reconsideration is warranted.

Nonetheless the court issued its decision, via, court minutes.

Nevada Rules Appellate Procedure 3A(b)(3); 4(b)(5)(B); Rust v. Clark County School District 747 P.2d 1380 (1987) expressly require the court to make "specific findings" to effectuate a meaningful appeal.

Moreover, "oral pronouncements are not appealable.

WHEREFORE; the court must reduce its decision to writing.

Dated this 12th day of May 2014.

Verification

/s/. [signature]

RENARD T. POLK

CERTIFICATE OF SERVICE.

I Renard Polk do hereby certify that a true, accurate and correct copy of the foregoing, "Motion for Reconsideration (and/or) to reduce to writing," was delivered to an official at the Lovelock Correctional center on this 12th day of May 2014 for the purpose of being conveyed by mail through the U.S. Postal Service to the addresses below:

- Clerk's office
200 Lewis Ave Las Vegas NV 89155
- D.A. office
555 Washington Ave
Las Vegas NV 89155

Verification

/s/. [signature]

RENARD POLK

EXHIBIT

A

PPOW

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Renard Polk,

Petitioner,

vs.

The State of Nevada,

Respondent,

Case No: 00C166490
Dept No: III

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on December 2,2013 . The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

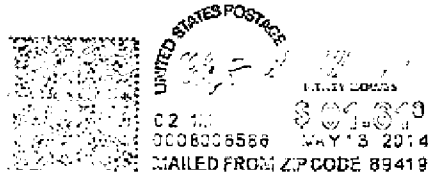
IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 18th day of February, ~~200~~ 2014, at the hour of 9:00 o'clock for further proceedings.

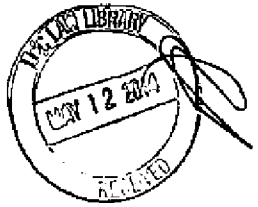
DOUGLAS W. HERNDON

District Court Judge

pg. 4 of 4

RENARD T. POLK #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419





INMATE LEGAL
MAIL CONFIDENTIAL

Regional Justice Center
Attn: Clerk's office
200 Lewis Avenue
Las Vegas Nevada 89155

ORIGINAL

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

ORDER REGARDING MOTIONS OF APRIL 29, 2014

DATE OF HEARING: APRIL 29, 2014
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 29TH day of APRIL, 2014, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through SAM BATEMAN, Chief Deputy District Attorney, without argument, based on the pleadings and good cause appearing therefor,

As to DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), OPPOSITION TO DEFENDANT'S MOTION TO TRANSPORT, and STATE'S COUNTERMOTION FOR DETERMINATION OF VEXATIOUS LITIGATION AND REQUEST FOR ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT ISSUE A PRE-FILING INJUNCTION ORDER...DEFENDANT'S PRO PER MOTION TO STRIKE (AND/OR) FOR SANCTIONS,

COURT ORDERED, State's Motion to Dismiss Defendant's Petition is GRANTED, it is untimely and without good case as all issues have been raised before, therefore, there is merit to the State's position that latches would apply.

Further, **COURT ORDERED**, Defendant's request to be transported is DENIED as Court ruled on the pleadings, without argument, and Defendant's Motion to Strike (and/or) for Sanctions is DENIED. As to State's request for determination of vexations litigation, Court stated that the Defendant needs to be warned prior to the determination.

Therefore, **COURT ORDERED**, request DENIED, without prejudice and a formal warning is being given that repeatedly raising the same issues can make access limited and Court may determine that Defendant is a vexatious litigant; Defendant is not to abuse the Court process.

DATED this 21 day of May, 2014.

DISTRICT JUDGE

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

BY _____ for
SAM BATEMAN
Chief Deputy District Attorney
Nevada Bar #008764

hjc/SVU

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CLERK OF THE COURT

IN THE EIGTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA IN AND FOR
THE County of
Clark

* * * * *

RENARD T. POLK
Petitioner

vs.

THE STATE OF NEVADA ex rel,
CLARK COUNTY ex rel,
ROBERT LEGRAND et al,
Respondent(s)

Dept No. III
Case No: 00C166490C

NOTICE OF APPEAL.

TO: The State of Nevada, Honorable Doug Herndon, District Attorney Samuel Bateman

NOTICE is hereby given that Renard T Polk proceeding in forma pauperis and good-faith appeals to the Nevada Supreme Court the decision, decree and judgment entered on April 29, 2014

Respectfully submitted this 2nd day of May 2014

/s/ [signature]
RENARD T. POLK #72439

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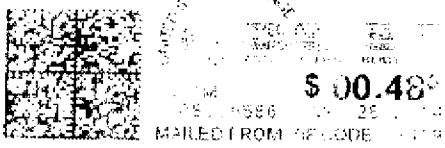
OF THE COURT

Renard T. Polk #72439
1200 Prison Rd (L.C.C.)
Lovelock, NV 89419



Attn: Clerk's Office
Regional Justice Center
200 Lewis Ave.
Las Vegas Nevada 89155

INMATE LEGAL
MAIL CONFIDENTIAL

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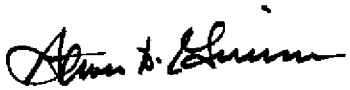


CLERK OF THE COURT

NEOJ

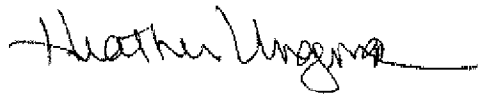
DISTRICT COURT
CLARK COUNTY, NEVADA

RENARD T. POLK, Petitioner, vs. THE STATE OF NEVADA, Respondent,	Case No: 00C166490 Dept No: III **NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on May 28, 2014, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on June 3, 2014.

STEVEN D. GRIERSON, CLERK OF THE COURT



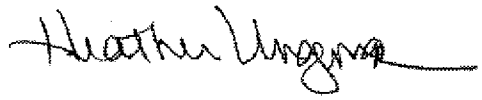
Heather Ungermann, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 3 day of June 2014, I placed a copy of this Notice of Entry in:

The bin(s) located in the Regional Justice Center of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☑ The United States mail addressed as follows:
Renard T. Polk # 72439
1200 Prison Rd.
Lovelock, NV 89419



Heather Ungermann, Deputy Clerk

ORIGINAL

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

ORDER REGARDING MOTIONS OF APRIL 29, 2014

DATE OF HEARING: APRIL 29, 2014
TIME OF HEARING: 9:00 A.M.

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As to DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), OPPOSITION TO DEFENDANT'S MOTION TO TRANSPORT, and STATE'S COUNTERMOTION FOR DETERMINATION OF VEXATIOUS LITIGATION AND REQUEST FOR ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT ISSUE A PRE-FILING INJUNCTION ORDER...DEFENDANT'S PRO PER MOTION TO STRIKE (AND/OR) FOR SANCTIONS,

COURT ORDERED, State's Motion to Dismiss Defendant's Petition is GRANTED, it is untimely and without good case as all issues have been raised before, therefore, there is merit to the State's position that latches would apply.

Further, **COURT ORDERED**, Defendant's request to be transported is DENIED as Court ruled on the pleadings, without argument, and Defendant's Motion to Strike (and/or) for Sanctions is DENIED. As to State's request for determination of vexations litigation, Court stated that the Defendant needs to be warned prior to the determination.

Therefore, **COURT ORDERED**, request DENIED, without prejudice and a formal warning is being given that repeatedly raising the same issues can make access limited and Court may determine that Defendant is a vexatious litigant; Defendant is not to abuse the Court process.

DATED this 21 day of May, 2014.

DISTRICT JUDGE

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

BY _____ for
SAM BATEMAN
Chief Deputy District Attorney
Nevada Bar #008764

hjc/SVU

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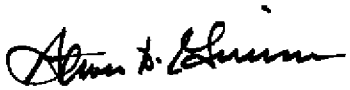


CLERK OF THE COURT

ASTA

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff(s), vs. RENARD T. POLK, Defendant(s),	Case No: 00C166490 Dept No: III

CASE APPEAL STATEMENT

1. Appellant(s): Renard T. Polk
2. Judge: Douglas Herndon
3. Appellant(s): Renard T. Polk

Counsel:

Renard T. Polk #72439
1200 Prison Rd.
Lovelock, NV 89419

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101
(702) 671-2700

5. Respondent's Attorney Licensed in Nevada: Yes
6. Appellant Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: April 12, 2000

10. Brief Description of the Nature of the Action: Criminal

    Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

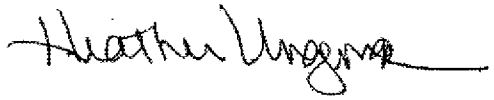
11. Previous Appeal: Yes

    Supreme Court Docket Number(s): 39457, 44087, 50949

12. Child Custody or Visitation: N/A

Dated This 3 day of June 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk
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PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

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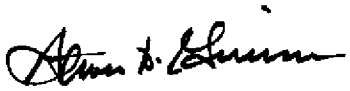

CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION AND/OR REDUCE TO WRITING

DATE OF HEARING: JUNE 10, 2014
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Reconsideration and/or Reduce to Writing.

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.

//

//

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK (hereinafter "Defendant") as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 7, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).

Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – GUILTY of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – GUILTY of Sexual Assault with a Minor under Fourteen; and Count 3 – NOT GUILTY.

On March 14, 2002, the court sentenced Defendant to the Nevada Department of Corrections as follows: COUNT 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and COUNT 2 – to a maximum of LIFE with minimum parole eligibility of two hundred forty (240) months, COUNT 2 to run CONSECUTIVE to COUNT 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.

Defendant filed a Notice of Appeal from the Judgment of Conviction on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction but remanded for the limited purpose of having the court correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury. The Remittitur issued on September 19, 2003. An Amended Judgment of Conviction was eventually filed on February 9, 2005.

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On July 1, 2004, Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on August 31, 2004. The court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.

Defendant filed a Notice of Appeal from the denial of his first petition on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. The Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. The court denied the Motion on December 18, 2007, and filed a written Order reflecting such on December 31, 2007.

Defendant filed a Notice of Appeal from the denial of his Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. The Remittitur issued on September 9, 2008.

On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, the court dismissed Defendant's Petition as time-barred. A written Order was filed on April 28, 2010. [1]

On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). This time, the State did not file a response. The court dismissed Defendant's third Petition as untimely on July 26, 2011.[2]

On March 26, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended Motion to Correct Illegal Sentence. The court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

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[1] This court has not entered a Findings of Fact, Conclusions of Law and Order reflecting the court's dismissal of Defendant's second petition.

[2] This court has not filed an Order or a Findings of Fact, Conclusions of Law and Order reflecting the court's dismissal of Defendant's third petition.

On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. The court dismissed the Petition on June 11, 2013, and filed a written Order reflecting such on August 2, 2013.[3]

On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court noted that Defendant filed the Petition but failed to serve the State and therefore set a briefing schedule for Defendant's Petition wherein the State's response is due by March 14, 2014, and Defendant's reply is due by April 11, 2014. The State filed its Response Dismiss Defendant's fifth petition on March 10, 2014.On April 1, 2014, Defendant filed a Motion to Strike the State's Response and thereafter on April 7, 2014, filed an accompanying Affidavit of Bias. On April 25, 2014, the State filed its Opposition. On April 29, 2014, the court denied Defendant's fifth post-conviction petition and Motion to Strike and filed a written order reflecting such on May 28, 2014.

On May 19, 2014, Defendant filed this instant Motion for Reconsideration and/or Reduce to Writing. Thereafter, on June 2, 2014, Defendant filed a Notice of Appeal from the denial of his fifth petition. The State now responds to Defendant's motion for reconsideration as follows.

ARGUMENT

I. THIS COURT MAINTAINS JURISDICTION TO DENY DEFENDANT'S MOTION

Generally "[j]urisdiction in an appeal is vested solely in the supreme court until the remittitur issues to the district court." Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). On June 2, 2014, Defendant filed an appeal to the Nevada Supreme Court from the denial of his post-conviction petition. That appeal is still pending at this time. While an appeal is pending, the District Court maintains jurisdiction to **deny** motions that would alter the judgment that is on appeal. Foster v. Dingwall, 126 Nev. ____, ____, 228 P.3d 453, 454-56 (2010) (emphasis added). However, the district court **does not** have jurisdiction to grant

[3] To date, no Findings of Fact, Conclusions of Law and Order have been filed reflecting the court's denial of Defendant's fourth petition.

the motion. Id. As such, this Court only maintains jurisdiction to deny Defendant's instant motion and, as explained below, should deny such as without merit.

II. DEFENDANT'S MOTION FOR RECONSIDERATION IS NOT PROPERLY BEFORE THE COURT.

Defendant's Motion for Reconsideration must be denied pursuant to E.J.D.C.R. 2.24(a) as not properly before the court. Eighth Judicial District Court Rule 2.24 states in relevant part:

> (a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, **unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.**

(Emphasis added).

EDCR 2.24(a) requires that a party seeking reconsideration request leave of the court via a motion with notice to the parties. Defendant has not requested leave of this court prior to filing his Motion for Reconsideration, and therefore his motion fails to comply with EDJCR 2.24(a). As such, Defendant's motion should be denied.

III. DEFENDANT HAS FAILED TO MAKE THE REQUISITE SHOWING FOR THIS COURT TO REHEAR HIS MOTION FOR APPOINTMENT OF COUNSEL.

To the extent this court wishes to address Defendant's Motion for Reconsideration despite his failure to comply with court rules, his motion still must be denied because Defendant has not shown that the court overlooked or misapprehended any material issue of fact or law in denying his Motion to Modify Sentence or Withdraw Guilty Plea. See NRAP 40(a).

In his Motion for Reconsideration, Defendant claims the denial of his fifth post-conviction petition should be reconsidered based on the following four grounds: 1) Defendant was entitled to be present at the hearing on his petition; 2) the State was not entitled to plead laches; 3) the court did not have jurisdiction over Defendant; and 4) the court's decisions were based on "fraud" and "lacked specificity," and were made in Defendant's absence. Motion for Reconsideration and/or Reduce to Writing, filed 05/19/2014, pp.3-7. None of these proffered "reasons" indicate this court overlooked or misapprehended any material issue of fact or law

in denying Defendant's fifth post-conviction petition. Instead, Defendant simply presents this court with a near verbatim reiteration of the claims he raised in his fifth petition. See Petition, filed 12/02/2013, pp. 23-25, 29-30; 33. Defendant's attempt to re-raise these claims without indicating what the court might have overlooked or misapprehended is misguided and wholly fails to support a motion for reconsideration. See NRAP 40(a). Accordingly, Defendant's Motion for Reconsideration must be denied.

IV. DEFENDANT'S REQUEST TO REDUCE TO WRITING IS MOOT

Defendant requests that the court's decision from April 29, 2014, be reduced to writing. Notably, this court has already done so as reflected by the Order filed May 28, 2014, and therefore Defendant's request must be denied as moot. NCAA v. University of Nevada, Reno, 97 Nev. 56, 57, 624 P.2d 10 (1981) (holding that the "duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not give opinions on moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it").

CONCLUSION

Based on the foregoing, the State respectfully requests that Defendant's Motion for Reconsideration and/or Reduce to Writing be DENIED.

DATED this 4th day of June, 2014.

Respectfully submitted,

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

BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 4TH day of JUNE 2014, to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV, 89419

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

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CLERK OF THE COURT

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION AND/OR REDUCE WRITING

DATE OF HEARING: JUNE 10, 2014
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 10TH day of JUNE, 2014, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through DANIEL WESTMEYER, Deputy District Attorney, without argument, based on the pleadings and good cause appearing therefor,

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Court stated that there is no legal basis to reconsider anything, Therefore, **COURT ORDERED**, motion DENIED. Further, Court stated that Defendant has no right to be present, especially when ruling was made based only on the pleadings.

DATED this 18 day of June, 2014.

DISTRICT JUDGE

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

BY _____ for
DANIEL WESTMEYER
Deputy District Attorney
Nevada Bar #010273

hjc/SVU

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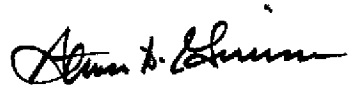

CLERK OF THE COURT

FFCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: APRIL 29, 2014
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable DOUGLAS W. HERNDON, District Judge, on the 29th day of April, 2014; the Petitioner not being present, proceeding IN FORMA PAUPERIS; the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through SAMUEL BATEMAN, Chief Deputy District Attorney; and, the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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FINDINGS OF FACT

1. On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK (hereinafter "Defendant") as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 7, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).
2. Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – GUILTY of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – GUILTY of Sexual Assault with a Minor under Fourteen; and Count 3 – NOT GUILTY.
3. On March 14, 2002, the court sentenced Defendant to the Nevada Department of Corrections as follows: COUNT 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and COUNT 2 – to a maximum of LIFE with minimum parole eligibility of two hundred forty (240) months, COUNT 2 to run CONSECUTIVE to COUNT 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.
4. Defendant filed a Notice of Appeal from the Judgment of Conviction on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction but remanded for the limited purpose of having the court correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury. The Remittitur issued on September 19, 2003. An Amended Judgment of Conviction was eventually filed on February 9, 2005.

5. On July 1, 2004, Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on August 31, 2004. The court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.
6. Defendant filed a Notice of Appeal from the denial of his first petition on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. The Remittitur issued on February 22, 2005.
7. On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. The court denied the Motion on December 18, 2007, and filed a written Order reflecting such on December 31, 2007.
8. Defendant filed a Notice of Appeal from the denial of his Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. The Remittitur issued on September 9, 2008.
9. On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, the court dismissed Defendant's Petition as time-barred. A written Order was filed on April 28, 2010. [1]
10. On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). This time, the State did not file a response. The court dismissed Defendant's third Petition as untimely on July 26, 2011.[2]
11. On March 26, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended Motion to Correct Illegal Sentence. The court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

//

[1] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's second petition.
[2] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's third petition.

12. On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. The court dismissed the Petition on June 11, 2013, and filed a written Order reflecting such on August 2, 2013.[3]

13. On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court noted that Defendant filed the Petition but failed to serve the State and therefore set a briefing schedule for Defendant's Petition wherein the State's response was due by March 14, 2014, and Defendant's reply was due by April 11, 2014. On March 10, 2014, the State filed its Response and Counter-Motion for Determination of Vexatious Litigation and Request for Pre-Filing Injunction Order. Defendant did not file a Reply.

14. On April 29, 2014, based on the briefs filed herein, the court now makes the following findings with respect to Defendant's fifth post-conviction petition.

15. The court finds Defendant's fifth petition is time barred. The Judgment of Conviction was filed on April 1, 2002, with the Remittitur affirming the Judgment of Conviction issued on September 19, 2003. Therefore, Defendant had until Monday September 20, 2004, to file a timely post-conviction petition. Defendant, however, did not file this instant petition until December 2, 2013, which is more than ten (10) years after the issuance of remittitur.

16. The court also finds Defendant's fifth petition is successive. Defendant's first habeas petition was denied on the merits on September 8, 2004, and the Nevada Supreme Court subsequently affirmed the denial on January 25, 2005, with the Remittitur issuing on February 22, 2005. Thereafter, this Court has denied Defendant's second, third, and fourth petitions as time-barred and successive. Defendant should have raised any and all grounds for relief in his first petition, and his failure to do so is an abuse of the writ as enunciated in NRS 34.810(2).

17. The court finds Defendant has not alleged any legally sufficient good cause to overcome the mandatory procedural bars. In filing this fifth untimely petition, Defendant simply re-iterates that his sentence and confinement is illegal based on bare allegations of alleged

[3] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's fourth petition.

due process violations. There is absolutely no indication that the claims Defendant now makes were somehow not available to him at the time of default.

18. The court finds the State has pleaded laches, and Defendant has not overcome the statutory presumption that his delay of more than five (5) years in filing the instant petition has prejudiced the State.

19. As Defendant's fifth petition is both untimely and successive without good cause, Defendant's fifth post-conviction petition is hereby dismissed.

20. Defendant's Motion to Transport Prisoner is hereby denied.

21. The State has also filed a counter-motion that Defendant be deemed a vexatious litigant. The court finds that Defendant needs to be warned prior to any vexatious litigant determination. Accordingly, the court now formally warns Defendant that repeatedly raising the same claims may result in his access to the court being limited as the court may deem him vexatious in the future, and therefore admonishes Defendant not to abuse the court process.

22. The State's counter-motion for determination of vexatious litigant is hereby denied without prejudice.

CONCLUSIONS OF LAW

1. The mandatory provisions of NRS 34.726 state:

> 1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, **if an appeal has been taken from the judgment, within 1 year after the supreme court issues its remittitur**. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:
>
> (a) That the delay is not the fault of the petitioner; and
>
> (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.
>
> ...

NRS 34.726(1) (emphasis added).

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2. In Gonzales v. State, 1 18 Nev. 61, 590 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late, pursuant to the "clear and unambiguous" mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the district court within the one-year mandate, absent a showing of "good cause" for the delay in filing. Gonzales, 53 P.3d at 902. The one-year time bar is therefore strictly construed.

3. The pertinent portions of NRS 34.810 state:

> 2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the Defendant to assert those grounds in a prior petition constituted an abuse of the writ.
>
> 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:
>
> (a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and
>
> (b) Actual prejudice to the petitioner.

NRS 34.810.

4. To avoid procedural default under NRS 34.726, a defendant has the burden of pleading and proving specific facts that demonstrate good cause for his failure to present his claim in earlier proceedings or comply with the statutory requirements. See Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of Prisons, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

5. "To establish good cause, appellants *must* show that an impediment external to the defense prevented their compliance with the applicable procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see also Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules."); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d

519, 537 (2001).

6. Such an external impediment could be "that the factual or legal basis for a claim was not reasonably available to counsel, or that 'some interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)). Any delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

7. The Nevada Supreme Court has clarified that, "appellants cannot attempt to manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at 506; (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

8. Excuses such as the lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel to forward a copy of the file to a petitioner have been found not to constitute good cause. See Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

9. NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period exceeding five (5) years between the filing of a judgment of conviction, an order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of conviction and the filing of a petition challenging the validity of a judgment of conviction...."

10. The statute also requires that the State plead laches in its motion to dismiss the petition. NRS 34.800.

11. In order to overcome the rebuttable presumption of laches, a defendant "will have the heavy burden of proving a fundamental miscarriage of justice." Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545 (2001).

12. In State v. Eighth Judicial District Court, 121 Nev. 225, 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

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> Given the untimely and successive nature of [defendant's] petition, the district court **had a duty imposed by law** to consider whether any or all of [defendant's] claims were barred under NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . . [and] the court's failure to make this determination here constituted an arbitrary and unreasonable exercise of discretion.

(emphasis added; Id.. at 234; 112 P.3d at 1076; see also State v. Haberstroh, 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (wherein the Nevada Supreme Court held that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default rules nor can they empower a court to disregard them.)

13. A defendant must be present at those hearings in which the Court deems it necessary to expand the record. See Gebers v. State, 118 Nev. 500, 50 P.3d 1092 (2002).

ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief shall be, and is, denied.

DATED this 26 day of ~~May~~ June, 2014.

DISTRICT JUDGE

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

BY _____ for
SAMUEL BATEMAN
Chief Deputy District Attorney
Nevada Bar #008764

NOTICE OF SERVICE

I, HOWARD CONRAD, hereby certify that the State forwarded a copy of these FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on the 20th day of MAY, 2014, to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

Secretary for the District Attorney's Office

hjc/SVU

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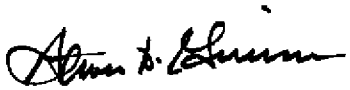

CLERK OF THE COURT

NEO

DISTRICT COURT
CLARK COUNTY, NEVADA

RENARD T. POLK, Petitioner, vs. THE STATE OF NEVADA, Respondent,	Case No: 00C166490 Dept No: III **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on June 30, 2014, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on July 2, 2014.

STEVEN D. GRIERSON, CLERK OF THE COURT

Teodora Jones, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 2 day of July 2014, I placed a copy of this Notice of Entry in:
The bin(s) located in the Regional Justice Center of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☑ The United States mail addressed as follows:
Renard T. Polk # 72439
1200 Prison Road
Lovelock, NV 89419

Teodora Jones, Deputy Clerk

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CLERK OF THE COURT

FFCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: APRIL 29, 2014
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable DOUGLAS W. HERNDON, District Judge, on the 29th day of April, 2014; the Petitioner not being present, proceeding IN FORMA PAUPERIS; the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through SAMUEL BATEMAN, Chief Deputy District Attorney; and, the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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FINDINGS OF FACT

1. On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK (hereinafter "Defendant") as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 7, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).
2. Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – GUILTY of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – GUILTY of Sexual Assault with a Minor under Fourteen; and Count 3 – NOT GUILTY.
3. On March 14, 2002, the court sentenced Defendant to the Nevada Department of Corrections as follows: COUNT 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and COUNT 2 – to a maximum of LIFE with minimum parole eligibility of two hundred forty (240) months, COUNT 2 to run CONSECUTIVE to COUNT 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.
4. Defendant filed a Notice of Appeal from the Judgment of Conviction on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction but remanded for the limited purpose of having the court correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury. The Remittitur issued on September 19, 2003. An Amended Judgment of Conviction was eventually filed on February 9, 2005.

5. On July 1, 2004, Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on August 31, 2004. The court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.
6. Defendant filed a Notice of Appeal from the denial of his first petition on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. The Remittitur issued on February 22, 2005.
7. On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. The court denied the Motion on December 18, 2007, and filed a written Order reflecting such on December 31, 2007.
8. Defendant filed a Notice of Appeal from the denial of his Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. The Remittitur issued on September 9, 2008.
9. On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, the court dismissed Defendant's Petition as time-barred. A written Order was filed on April 28, 2010.[1]
10. On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). This time, the State did not file a response. The court dismissed Defendant's third Petition as untimely on July 26, 2011.[2]
11. On March 26, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended Motion to Correct Illegal Sentence. The court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

//

[1] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's second petition.
[2] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's third petition.

12. On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. The court dismissed the Petition on June 11, 2013, and filed a written Order reflecting such on August 2, 2013.[3]

13. On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court noted that Defendant filed the Petition but failed to serve the State and therefore set a briefing schedule for Defendant's Petition wherein the State's response was due by March 14, 2014, and Defendant's reply was due by April 11, 2014. On March 10, 2014, the State filed its Response and Counter-Motion for Determination of Vexatious Litigation and Request for Pre-Filing Injunction Order. Defendant did not file a Reply.

14. On April 29, 2014, based on the briefs filed herein, the court now makes the following findings with respect to Defendant's fifth post-conviction petition.

15. The court finds Defendant's fifth petition is time barred. The Judgment of Conviction was filed on April 1, 2002, with the Remittitur affirming the Judgment of Conviction issued on September 19, 2003. Therefore, Defendant had until Monday September 20, 2004, to file a timely post-conviction petition. Defendant, however, did not file this instant petition until December 2, 2013, which is more than ten (10) years after the issuance of remittitur.

16. The court also finds Defendant's fifth petition is successive. Defendant's first habeas petition was denied on the merits on September 8, 2004, and the Nevada Supreme Court subsequently affirmed the denial on January 25, 2005, with the Remittitur issuing on February 22, 2005. Thereafter, this Court has denied Defendant's second, third, and fourth petitions as time-barred and successive. Defendant should have raised any and all grounds for relief in his first petition, and his failure to do so is an abuse of the writ as enunciated in NRS 34.810(2).

17. The court finds Defendant has not alleged any legally sufficient good cause to overcome the mandatory procedural bars. In filing this fifth untimely petition, Defendant simply reiterates that his sentence and confinement is illegal based on bare allegations of alleged

[3] No Findings of Fact, Conclusions of Law and Order have been filed for the dismissal of Defendant's fourth petition.

due process violations. There is absolutely no indication that the claims Defendant now makes were somehow not available to him at the time of default.

18. The court finds the State has pleaded laches, and Defendant has not overcome the statutory presumption that his delay of more than five (5) years in filing the instant petition has prejudiced the State.

19. As Defendant's fifth petition is both untimely and successive without good cause, Defendant's fifth post-conviction petition is hereby dismissed.

20. Defendant's Motion to Transport Prisoner is hereby denied.

21. The State has also filed a counter-motion that Defendant be deemed a vexatious litigant. The court finds that Defendant needs to be warned prior to any vexatious litigant determination. Accordingly, the court now formally warns Defendant that repeatedly raising the same claims may result in his access to the court being limited as the court may deem him vexatious in the future, and therefore admonishes Defendant not to abuse the court process.

22. The State's counter-motion for determination of vexatious litigant is hereby denied without prejudice.

CONCLUSIONS OF LAW

1. The mandatory provisions of NRS 34.726 state:

> 1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, **if an appeal has been taken from the judgment, within 1 year after the supreme court issues its remittitur**. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:
>
> (a) That the delay is not the fault of the petitioner; and
>
> (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.
>
> ...

NRS 34.726(1) (emphasis added).

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2. In Gonzales v. State, 1 18 Nev. 61, 590 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late, pursuant to the "clear and unambiguous" mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the district court within the one-year mandate, absent a showing of "good cause" for the delay in filing. Gonzales, 53 P.3d at 902. The one-year time bar is therefore strictly construed.

3. The pertinent portions of NRS 34.810 state:

> 2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the Defendant to assert those grounds in a prior petition constituted an abuse of the writ.
>
> 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:
>
> (a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and
>
> (b) Actual prejudice to the petitioner.

NRS 34.810.

4. To avoid procedural default under NRS 34.726, a defendant has the burden of pleading and proving specific facts that demonstrate good cause for his failure to present his claim in earlier proceedings or comply with the statutory requirements. See Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of Prisons, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

5. "To establish good cause, appellants *must* show that an impediment external to the defense prevented their compliance with the applicable procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see also Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules."); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d

519, 537 (2001).

6. Such an external impediment could be "that the factual or legal basis for a claim was not reasonably available to counsel, or that 'some interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)). Any delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).
7. The Nevada Supreme Court has clarified that, "appellants cannot attempt to manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at 506; (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).
8. Excuses such as the lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel to forward a copy of the file to a petitioner have been found not to constitute good cause. See Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).
9. NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period exceeding five (5) years between the filing of a judgment of conviction, an order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of conviction and the filing of a petition challenging the validity of a judgment of conviction...."
10. The statute also requires that the State plead laches in its motion to dismiss the petition. NRS 34.800.
11. In order to overcome the rebuttable presumption of laches, a defendant "will have the heavy burden of proving a fundamental miscarriage of justice." Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545 (2001).
12. In State v. Eighth Judicial District Court, 121 Nev. 225, 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

//

//

> Given the untimely and successive nature of [defendant's] petition, the district court **had a duty imposed by law** to consider whether any or all of [defendant's] claims were barred under NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . . [and] the court's failure to make this determination here constituted an arbitrary and unreasonable exercise of discretion.

(emphasis added; Id., at 234; 112 P.3d at 1076; see also State v. Haberstroh, 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (wherein the Nevada Supreme Court held that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default rules nor can they empower a court to disregard them.)

13. A defendant must be present at those hearings in which the Court deems it necessary to expand the record. See Gebers v. State, 118 Nev. 500, 50 P.3d 1092 (2002).

ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief shall be, and is, denied.

DATED this 26 day of ~~May~~ June, 2014.

DISTRICT JUDGE

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

BY _____ for
SAMUEL BATEMAN
Chief Deputy District Attorney
Nevada Bar #008764

NOTICE OF SERVICE

I, HOWARD CONRAD, hereby certify that the State forwarded a copy of these FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on the 20th day of MAY, 2014, to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

Secretary for the District Attorney's Office

hjc/SVU

THE STATE OF N

MARKED FOR ID
STATE'S PROPO

C166490

STATE'S
EXHIBIT
8
C166490
20-8-1

STEP 2 — MEDICAL HISTORY AND ASSAULT INFORMATION

PATIENT'S NAME: Anna Fox DATE OF BIRTH: 11/10/88 SEX: M ☐ F ☒

ADDRESS: 1625 [illegible]

DATE OF ASSAULT: 3/12/99 TIME OF ASSAULT: 1000 NUMBER OF OFFENDERS: 1

DATE OF EXAMINATION: 3/13/99 TIME OF EXAMINATION: 0900 SEX OF OFFENDER(S) M ☒ F ☐

OFFENDER KNOWN TO PATIENT? FRIEND ☐ NEIGHBOR ☐ RELATIVE ☒ UNKNOWN ☐ OTHER ☐

BROUGHT IN BY: [illegible] POLICE REPORT BEING MADE? YES ☒ NO ☐

MEDICAL HISTORY: CURRENT MEDICAL PROBLEMS: [illegible]

CURRENT MEDICATION(S): [illegible]

ALLERGIES: [illegible]

B/P: [illegible] Pulse: [illegible] Temperature: [illegible] Respiration: [illegible]

Emotional demeanor of patient, i.e., crying, angry, agitated, lethargic, frightened, shocked, depressed, etc.?

Description of patient's outward appearance, i.e., clothes torn, shoe(s) missing, etc.: [illegible]

Between the assault and now, has the patient: CHECK ALL THOSE WHICH APPLY

Bathed/Showered ☒	Inserted Tampon ☐ (If yes, collect tampon)	Defecated ☒	Brushed Teeth ☐	Drunk ☒
Changed Clothes ☒		Urinated ☒	Used Mouthwash ☐	Vomited ☐
Douched ☐			Eaten ☐	Smoked ☐

CHECK ALL WHICH APPLY AT TIME OF ASSAULT:

	YES	NO	UNSURE
WAS PATIENT'S VAGINA PENETRATED BY:			
Penis	☐	☒	☐
Finger	☐	☒	☐
Tongue	☐	☒	☐
If other, describe:			
WAS PATIENT'S MOUTH PENETRATED BY:			
Penis	☐	☒	☐
WAS SUSPECT'S MOUTH ON PATIENT'S:			
Vagina/Penis	☐	☒	☐
Anus	☐	☒	☐
USED DURING ASSAULT:			
Condom	☐	☒	☐
Diaphragm	☐	☒	☐
Contraceptive Foam	☐	☒	☐
Lubricant	☐	☒	☐
Other Spermacide	☐	☒	☐
WAS PATIENT BITTEN:	☐	☒	☐
If yes, describe: (LOCATION)			
WAS PATIENT LICKED/KISSED:	☐	☒	☐
If yes, describe: (LOCATION)			
DID PATIENT BITE SUSPECT:	☐	☒	☐
DID PATIENT SCRATCH SUSPECT:	☐	☒	☐
DID PATIENT PASS OUT:	☐	☒	☐

	YES	NO	UNSURE
WAS PATIENT'S RECTUM PENETRATED BY:			
Penis	☒	☐	☐
Finger	☐	☒	☐
Tongue	☐	☒	☐
If other, describe:			
MASTURBATION OF:			
Patient	☐	☐	☒
Suspect	☐	☐	☒
If other, describe:			
DID EJACULATION OCCUR:			
In/on patient's body	☒	☐	☐
If yes, describe: (LOCATION)			
MENSTRUATION:	☐	☒	☐
CONSENTING INTERCOURSE WITHIN LAST 72 HOURS:	☐	☒	☐
If yes, date: _____ and approximate time: _____ am pm			
WAS CONDOM USED:	☐	☒	☐
DOES PATIENT HAVE COMMUNICABLE DISEASE AT RISK TO LAB PERSONNEL:	☐	☒	☐
If other, describe:			

INFORMATION COLLECTED BY:

[illegible] (SIGNATURE)

[illegible] (PRINT)

DATE: [illegible]

WHITE AND PINK COPY
PLACE IN ENVELOPE ON KIT BOX

YELLOW COPY
RETAIN FOR PATIENT'S CHART

LV5-102

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

RIGHTS OF PERSONS ARRESTED

99051 03 045

You have the right to remain silent. If you give up that right to remain silent anything you say can and will be used against you in a court of law. You have the right to speak to an attorney before answering any questions, and to have an attorney present with you while you answer any questions. If you cannot afford an attorney, an attorney will be appointed for you by the court at no cost to you, and you need not answer any questions until that attorney has been appointed for you. If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues. If you decide to stop answering questions once you have begun, all questioning will stop.

Date and Time 8-14-99/0435	Signed Renard Polk
Officer DET. T. MONIOT #4664	File # 990313-0217

LVMPD 88 (REV. 6-94)

THE STATE OF NE

MARKED FOR IDE
STATE'S PROPOS

C166490

STATE'S EXHIBIT 9 C166490 1-8-02

Date

99051 01 845

ENTERED
RD

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT VICTIM UNDER 16 YEARS/LEWDNESS WITH A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: RENARD TRUMAN POLK

DOB: 10-14-80 SOCIAL SECURITY #:

RACE: SEX:

HEIGHT: WEIGHT:

HAIR: EYES:

WORK SCHEDULE: DAYS OFF:

HOME ADDRESS: (transient) HOME PHONE:

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 T. Moniot, P#4664, LVMPD General Assignment Detail, on 08-14-99 at 0445 hours. The persons present during this interview are Renard Truman Polk and Detective Moniot.

Q. Ah, just for the record, Truman, or I'm sorry, Renard, you do me a favor and, ah, say your name and spell it, as well as your birthday and social security number.

A. Renard Truman Polk, P-O-L-K. 10-14-80.

Q. AND your social security number.

A. 587-37-492

I hereby certify that this is a full, true and correct copy of a photographic film of the original document affidavit on file with the Las Vegas Metropolitan Police Department.

Director, Police Records
Records Custodian

JUL 17 '99
Date

THE STATE OF

MARKED FOR
STATE'S PROP

C166490

STATE'S EXHIBIT
10
C166490
1-8-02

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. Okay. Do me a favor and try to speak up. Ahm, why don't you, ah, tell me tonight, ah, basically what happened and, ah, ah, why you called police.

A. CAUSE I feel guilty about molesting my little sister.

Q. OK You went over to– did you– whose house did you go over to tonight?

A. MY AUNTIE'S HOUSE

Q. Okay. And what's your aunt's name?

A. SUSAN SIMMS

Q. Speak up for me, okay. So you went over to your aunt's house and you decided to call police to turn yourself in.

A. Yeah.

Q. Okay. Ah, and why did you– why did you wanna turn yourself in?

A. Feel guilty.

Q. For what?

A. For what I did.

Q. What did you do?

A. Rape my little sister.

Q. You raped her?

A. Yeah.

Q. What, ah, what happened, ah, during that? When about was this?

A. _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. When, do you remember when it was this occurred roughly? Was it this year or?

A. It, it happened _____ BEEN GOING ON FOR A WHILE SINCE 196.

Q. It had been going on, okay. When, when do you– when do you think it first started about?

A. UM

Q. I mean roughly like how many years ago? It's okay, just, alright. _____

A. ____ years ago.

Q. Renard, just be as honest as possible. You know what I'm saying? Be as honest as possible. Honesty's the best policy, you know that.

A. Yeah.

Q. Okay. So just, just be honest and, and this whole thing will work out, okay. What–which–what sister are you talking about?

A. Anna.

Q. Anna. Anna Polk.

A. Mhmm.

Q. So you were, you first started molesting her back in Mississippi?

A. NO SIR. IT'S ____ she came out to Vegas.

Q. _____ a minute ago you just said it was in Mississippi. Here's THE THING Renard, it's not a big deal but you need to be a hundred percent honest.

A. I'm trying to be. I'm trying to remember.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #. 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. Okay. Do you think it first started back in Mississippi or... It's okay if it did.

A. SHE CAME OUT TO VEGAS

Q. Maybe, maybe just once or twice back in Mississippi or?

A. _____

Q. Not at all in Mississippi?

A. NAW _____ Mississippi _____

[redacted]

A. _____

Q. You think you got molested by a guy. When was that?

A. _____

Q. What do you remember about it?

I hereby certify that this is a full, true, [illegible] copy of a [illegible] document on file with the Las Vegas Metropolitan Police Department.

[illegible] JUL 17 '01

Director of Police Records — Date
Records Custodian

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. NOT REALLY TOO MUCH

Q. Where did you live in Mississippi? _____ or where you live?

A. NATCHEZ Mississippi.

Q. Where is it?

A. NATCHEZ Mississippi.

Q. How do you spell that?

A. N-A-T-C-H-E.

Q. N-A-T-C-H-E-Z?

A. _____

Q. Okay. So then when did you guys move to Las Vegas?

A. Came to Las Vegas _____ think it was LIKE WHEN I WAS ten years old.

Q. Oh, so you've lived here quiet a while then.

A. Uh-huh.

Q. Okay. So there came a point where you started molesting your sister, Anna. Okay. Do you– when–when do you think this started, like how long ago? Do you know when was it that you first started? _____ start out as some touching or some rubbing or kissing or something or, or how'd it start out?

A. I DONIT REMEMBER.

I hereby certify that this is a full, [illegible] of a [illegible] of the original [illegible] with the Las Vegas Metropolitan Police Department.

JUL 17 '01

Director of Police Records Records Custodian — Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. You don't remember. Just, just started just having? What, ah, what, what exactly _____ going on? Do you remember at all or... what body part ____ AND THAT or, or what you did or what _____ Okay. I'm not gonna get mad at you or anything. Trying to help you out here.

A. I DID HER IN THE BOOTY.

Q. You did her in the booty. With what, with your– with what? What body part OF YOURS.

A. Penis.

Q. Okay. So you had anal intercourse with her. Do you know if you penetrated her at all or ACTUALLY inside of her, uh, her buttocks area? Could you tell or...

A. YEAH I DID.

Q. You did? How many times do you think you did that?

A. _____ I WAS HIGH AND DRUNK.

Q. You were high and drunk. _____ drink quite a bit or? Where– do you remember where you were at when this happened or?

A. I WAS STAYING ON NAY CT.

Q. On Nay Court. _____ WHAT'S THE address over there?

A. Thirteen TWENTY-FIVE Nay Court.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

Q. So you guys were all living there _____ How old were you when this happened? ___ how long ago was this? Do you remember like the last time that you can remember?

A. It was like IN FEBRUARY

Q. February of this year or?

A. I THINK SO.

Q. How many times do you think _____ you did her in the booty? Do you know how many times you think totally did that?

A. I don't even know.

Q. ____ IF YOU COULD guesstimate. Was it more than one or?

A. It was more than one.

Q. More than five or more than ten times or?

A. It was like _____

Q. Where, where all was this at? Was this at your house on Nay Court?

A. Yes.

Q. Every time it was over there?

A. JUST ABOUT

Q. And how old were you AT THE TIME you were 18?

A. ____ 18.

Q. You were 18 at the time. How old, how old was she?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. She's like six, seven.

Q. Now how, how exactly ____ did it, did it go down? What exactly– were you watching 'em or baby-sitting or just tell, tell me about it, some little bit about it.

A. I was LIKE ____ING IN THE BATHROOM OR SOMETHING

Q. In the bathroom?

A. _____

Q. Okay. And did you– how– what about her clothes, her clothing? What did you do to her clothing? Was she dressed _____ or...

A. _____

Q. Was she gettin' out of the shower? How, how did it– how did it happen?

A. _____ SOMETIMES

Q. ___ have to speak up, okay.

A. SHE'D BE LIKE walking around the house and I just _____

Q. ____ And then what?

A. _____

Q. Did she have clothes on? Do you remember?

A. NOT ALL THE TIME,

Q. So how would you have her, how ___–how would she– what kind of position was she in when you were doing this?

A. On her stomach.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. She was on her stomach.

A. _____

Q. When you put your penis inside her butt.

A. Yeah.

Q. Did you ever ejaculate inside of her or anything like that? Do you remember? Did you ever reach climax? Do you know what I mean about that? Did you–did you come inside of her?

A. UM-HMM (AFFIRMATIVE RESPONSE)

Q. You did?

A. UM-HMM

Q. Were you wearing a condom or anything like that or?

A. _____

Q. Okay. You can't recall roughly how many times you think this may have happened or... it'll be a lot easier for us, you know, to clarify ____ just bring the whole thing out _____ about how many times. Do you think it was more than 12 or 13 or was it just so many that you can't remember or?

A. ____ SO MANY JUST CAN'T REMEMBER.

Q. You can't remember.

A. NO. CAUSE I WAS DRUNK.

Q. You were dru– so you'd been drinking at the time.

I hereby certify that this is a full, [illegible] copy of the original [illegible] Metropolitan Police Department.

Director, Police Records
Records Custodian

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. Yeah. _____

Q. Was anybody else with you when you were doing any of this stuff or who was with you?

A. NO BODY.

Q. YOU WERE by yourself?

A. UM-HMM (AFFIRMATIVE). _____ WHEN I WAS DOING DRUGS AND S

Q. No. When you– when YOU DID ANNA IN THE BOOTY ~~Anna's booty,~~ was anybody else with you or around that saw it or DID, DID ANNA IN THE BOOTY ~~Anna's booty~~ too? DID ANYBODY ELSE DO ANN in the booty that you know?

A. _____

Q. Are you sure?

A. _____

Q. You need to be honest with me about this, you know, really important, you know, _____ did you– were there any other times that you can think of? Did you always just do it with your, your penis in her butt?

A. UM-HMM (AFFIRMATIVE)

Q. Did you ever do anything else? No? ____ did you ever do her in the front or anything like that? Put your penis in her vagina or your fingers or anything like that? What did she say when, when you would–when you did this? What did–

I hereby certify that this is a full, [illegible] copy of the original [illegible] on file with the Las Vegas Metropolitan Police Department.

[illegible] JUL 17 '00
Department Records Records Custodian — Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

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STATEMENT OF: **RENARD TRUMAN POLK**

what did– what did you tell her? What did you say to her? I mean you must've talked. She was your sister, right?

A. YEAH.

Q. What did she– do you remember what she said or anything else?

A. SHE DIDN'T SAY ANYTHING.

Q. You just ___ YOU WERE you're like in the bathroom, right?

A. UM-HMM (AFFIRMATIVE)

Q. And _____ I mean how did you get her to go along with it or... What did you say to her?

A. Said nothing to her.

Q. Well you musta said something to her. I mean she just didn't read your mind and just lay there.

A. Just did it.

Q. You did it. ____ did you hold her on the ground or did she move around or squirm a little bit or cry or... Remember?

A. Yeah. She cried.

Q. She cried. Did she say or _____ did she say no, don't do that or?

A. YEAH.

Q. She did? What did she say? Speak up.

A. _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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Q. What did she say?

A. She said no. SHE SAID NO.

Q. ~~She said no~~. Every time or?

A. _____

Q. Now after, after she said no, what, what did you say to her?

A. JUST KEPT ON GOING.

Q. YA JUST KEPT GOING. Okay. Now there were ___ other times that you did the same thing to her. Ah, did you ever say anything to her or threaten her or say anything to scare her so she wouldn't tell anybody or?

A. No.

Q. No. Were you afraid that she would tell anybody or nervous or?

A. _____

Q. You were? Did you enjoy doing that to her?

A. Uh, that's why I TURNED MYSELF IN.

Q. That's why you turned yourself in. You wanna get some help?

A. Yeah.

Q. _____ Now let me ask you this. It's okay. Just take a deep breath and relax. Ah, you know part of the healing process is gettin' things off your chest, you know. Sometimes it may feel like it's a, a big leap off a mountain to say, to tell a stranger something like this. You know I'm– basically you and me have never met before.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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I'm a stranger and it feels a little awkward sittin' here telling me these things but I'm gonna tell you later on, you're gonna feel heck of a lot better that you're on your way to trying to help yourself. You know what I mean?

A. Mhmm.

Q. Okay. But you need to be hundred percent honest with me because only telling part of the truth isn't gonna cut it. You need to be a hundred percent honest and you know then, then you're gonna be on the track _____ gettin' better.

A. _____

Q. Used to do what?

A. _____

Q. Where was this at?

A. _____

Q. How about, ah, how about your other sisters? How many sisters do you have?

A. I have 3 sisters and two brothers.

Q. Three sisters and two brothers.

A. Uh-huh.

Q. What about, ah, your one sister... You know what? What– why don't you give me ell of your– You have one sister named Anna, right?

A. Yeah.

Q. What's your other sister's name?

I hereby certify that this is a full, [illegible] copy of the original [illegible] on file with the [illegible] Metropolitan Police Department.

JUL 17 '08
Director, Metropolitan Police Records — Date
Records Custodian

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. Jahala.

Q. JAHALA what's her last name?

A. _____

Q. _____ the same last name?

A. NO SHE'S GOT A DIFFERENT LAST NAME

Q. Okay. How about your other sister?

A. Jamila.

Q. Huh?

A. Jamila.

Q. Can you spell it?

A. J-A-M-I-L-A.

Q. Okay. Your two brothers.

A. Ah, _____ Polk.

Q. Huh?

A. _____ Polk.

Q. Spell it.

A. G–

Q. You have to speak up–

A. (Clears throat).

Q. _____ try to speak a little louder _____, okay.

JUL 17 '01

Records Custodian Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. J-A-V-A-N.

Q. Javan Polk.

A. _____

Q. And another bro--brother?

A. Yeah.

Q. What's his name?

A. Richard Chatman.

Q. Richard Chatman. How old is, uh, Jahala?

A. _____

Q. How about Jamila?

A. _____

Q. Javan, how old's Javan?

A. _____

Q. And how about Richard?

A. _____

Q. Now, now I want you to try to remember about Jahala, right? I may not be saying it right but how do you say it again?

A. Jahala.

Q. Jahala. Did you ever have any relations with Jahala?

A. No.

[illegible] this is a full, [illegible] a [illegible] on file [illegible] Metropolitan Police Department.

JUL 17 '01

[illegible] Records Bureau Records Division — Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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Q. Never? You never, ah, did her in the booty or maybe even just, you just touched her or...

A. I Touched her _____

Q. You didn't, you just touched her. Where, where did you touch her at?

A. _____ CAN'T REMEMBER.

Q. I know you can remember because obviously you just said you did it, so obviously you can remember.

A. I CAN'T REMEMBER _____

Q. Like _____ was it here in Las Vegas?

A. Yeah.

Q. Remember roughly was that this year or?

A. I THINK IT WAS LAST YEAR.

Q. Nineteen ninety-eight? What, ah, what, what exactly, how did that go down? _____ were you just messin' around or just kinda playing around or?

A. Yeah.

Q. Where, where did you touch her at?

A. _____

Q. Do you remember any specific body parts or?

A. Yeah. I GRABBED HER BUTT.

Q. How about her vagina? _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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A. NO.

Q. You didn't? How come you didn't? How come you did with Anna but you didn't with Jahala?

A. _____

Q. Are you sure? Remember what we talked about being honest, right?

A. _____

Q. What would you say that if I said that Jahala said that you did do her in the booty? You, you think is that a lie or is that, is that the truth? _____

A. She can't be telling the truth.

Q. Okay. So is it possible that you did– Did you do her in the booty?

A. ~~I think so.~~ I DON'T THINK SO.

Q. Why would she be saying that you did her in the booty then?

A. I DON'T

Q. Huh?

A. _____

Q. You didn't?

A. I almost did.

Q. You almost did. You almost did but you didn't.

A. ____

Q. Well how, how did you almost do it?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. So you just– so you didn't– you didn't come inside _____

A. I didn't penetrate her.

Q. You didn't penetrate her. What _____ did you just like stick it in the, in, in by her cheeks or something, rub it on her cheeks with your penis?

A. YEAH.

Q. Sure it didn't penetrate? Okay, what we're trying to do here is just get this all out in the open, you know. I'm not– and I'm not gonna be mad at you but you need to tell me the truth, okay. So you rubbed your penis. Did you put it like between the butt cheeks?

A. _____

Q. But it didn't go inside the butt. But, ah, did you, did you ejaculate at all _____ maybe on her back or something like that or? How, how was she laying? Do you remember?

A. She was on her stomach too.

Q. Did you take her clothes off of her or?

A. —

Q. Do you remember where–where this occurred at?

A. THE SAME PLACE.

Q. On the house on, ah, Nay Court?

[illegible] this is a full, [illegible] of a [illegible] original [illegible] Police Depart[illegible]

[illegible] 17 '03

[illegible] Data

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. How many times you think that did that? How many times you think you did that?

A. ONCE.

Q. Just one time? Are you being a hundred percent truthful with me?

A. _____

[redacted]

Q. Okay. What I wanna know is how many times that you had– that you did this with Jahala.

A. Once. . .

Q. Just the one time. You stuck your penis in her butt.

[redacted]

Las Vegas Metropolitan Police Department

Records Section

JUL 17 '03

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. But you didn't penetrate.

A. _____

Q. How do you know you didn't penetrate?

A. _____

Q. You just rubbed it on the outside of the butt cheeks between, ah, in between the butt cheeks? What did she– what did she say or do?

A. _____

Q. Need you speak up, okay.

A. (Clears throat)

Q. Try the best you can, alright? So you can't remember what she said. Did she cry or say no _____

A. She said no.

Q. She said no. And what'd you– what did you say?

A. _____

Q. Are you sure? Now this is– this is like your time to, to be honest with me and truthful. You're not gonna help yourself. You're only gonna hurt yourself by, by lying at this point. You understand that, right?

A. Yeah.

Q. It's very important, you know. I'm not gonna get mad at you if you're telling me you did it five or six times or even if you penetrated her. I'm not gonna get mad at you but I want you to tell me the truth, okay, 'cause it tells me something about you. It tells me that you're being honest and you wanna help yourself. You know what I'm saying? Are you being truthful with me about Jahala?

A. Yes, I'm being truthful.

Q. Okay. Did you ever touch her in the front at all or vagina area?

A. NO.

Q. Nothing like that? What about Jamila?

A. NO. I NEVER MESSED WITH JAMILA

Q. You never messed with Jamila.

A. _____

Q. You sure?

A. Positive.

Q. How come you never messed with Jamila? You know a lie detector test is gonna tell us whether you're being truthful or not and then you know all, all this cooperativeness and all that is not gonna be worth anything, you know if you're lying. You know what I mean? You, you being truthful with me about Jamila?

A. I'm being truthful.

Q. You never– how come you never wanted to do her in the booty?

Data

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. Wasn't in you?

A. _____

Q. Now how about your brother, Javan?

A. DIDN'T mess with him.

Q. You didn't mess with him.

A. No.

Q. Are you sure?

A. No.

Q. We're gonna talk to him, you know. We're gonna talk to Jamila too. Are they gonna tell us that you touched 'em _____ like that? Did you ever touch Javan?

A. No.

Q. You never touched Javan at all.

A. Never.

Q. Maybe even just playing around or just kiddin', maybe just doing play stuff.

A. Never.

Q. Or maybe, you know, playing doctor or something like that?

A. No.

Q. Nothing like that ever?

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A. _____

Q. How come? How come you never messed with Javan?

A. _____

Q. Why wasn't it in you?

?: (Somebody clearing their throat)

A. Just wasn't.

Q. How about Richard?

A. NEVER TOUCHED HIM.

Q. Huh? You never touched him, not even just playing around or, or kiddin' or just even experiment.

A. NEVER TOUCHED HIM.

Q. How come you didn't touch him?

A. _____

Q. You just mess with the _____ girls or...

A. _____

Q. Sure you don't wanna think about Jamila? Are you sure you didn't ever– Did you kiss her or mess around, maybe just playing around, maybe just touch her or, or you know maybe she just _____ be friendly OR WHATEVER anything like that? Nothing at all?, You sure?

A. _____ Perry Street _____

[illegible] Police Department
JUL 17 [illegible]
[illegible] Date
Records [illegible]

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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Q. On Perry Street?

A. Yeah.

Q. _____ speak up a little, okay. So this is with Jamila.

A. Yeah.

Q. How long ago did you– this is on Perry Street?

A. BUT I didn't penetrate HER

Q. Ah, when did you live on Perry Street?

A. This was a long time AGO _____

Q. How old was she then?

A. _____

Q. ___ she's about 14 now, so she's roughly ten and you're 18 now, so you were 14 then.

A. _____

Q. But, but, uh, you didn't penetrate her, right?

A. ____

Q. You just were just messin' around. Were– do you remember what you did or was there some touching or some petting or something like that _____

A. _____

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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Q. _____ Can you remember? Did you ____-- you must be able to remember something 'cause you said that you can't, that you didn't penetrate her, so you must have some THING IN YOUR MIND.

A. _____.

Q. _____ what, with your penis? WITH YOUR HAND how-- what were you doing?

A. _____

Q. You were just touching her, fondling her like did-- were you like playing with her, with her butt hole or?

A. WITH HER cheeks ____

Q. With her-- with her butt cheeks? You didn't maybe just take your penis and rub-- rub up and down on her once or so or just, just experiment _____ you would just, ah, you would just _____ on her butt cheek? Why were you doing that? What did it make you feel like? Did it-- did it excite you a little bit? It did? Did, did you-- did your penis get erect _____ touched her butt cheeks?

A. ____

Q. You did? What did you do with your penis? You didn't do any-- you didn't just maybe just touch it on the outside of her cheeks or, or put it between her butt cheeks and not penetrate her? You didn't? You sure?

A. _____

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Q. So basically you're saying that you played with her butt cheeks and your penis got hard but you didn't do anything with it.

A. YEAH

[redacted]

hard. That was it. Is there anything else you wanna add about this? Can you think of anybody else that you may have touched or fondled or anything else or anybody else that you may have, ah, _____

A. _____ real little.

Q. Huh?

A. _____

Q. _____

JUL 17 '99

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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STATEMENT OF: RENARD TRUMAN POLK

A. _____

[redacted]

Q. it's the only way that you're gonna feel good about yourself to be a hundred percent honest with me, you know. _____ do you feel better now that you kinda got some of the stuff off your chest and...

A. Mhmm.

Q. I mean it's what you wanted to do, I mean you wanted to tell your side of the story, right? Did you want– you wanna get some help _____

A. _____

Q. You wanna get some help, right? And I'm assuming that's why you called us, right?

A. _____

Q. You called us. But I need you to be a hundred percent honest with me _____ anything,and everybody 'cause if you wanna get the help that you need, you need to be a hundred percent honest and you can't have things poppin' up later on, you

know, people saying yeah, you know, Renard did this, Renard did that. __ I need to hear it from you now so that I, I don't think that you were trying to run a game on me or you know trying to lie to me. It's very important that you–that you be a hundred percent truthful and honest 'cause you know there's not gonna be any second chances in this. You know what I mean? We're here now and we're doing this interview and if there's anybody else, uh, that you wanna tell me about, now is the time 'cause there's not gonna be a second time. You know what I mean?

A. Yeah.

Q. You know _____ I just talked about being honest with you, right? You know what I'm saying, right?

A. _____

Q. Well, who else can you think of that maybe that you fondled or played with or maybe _____ and, and, and knowing that you didn't mean to hurt anybody but knowing that, you know, _____ you had a couple problems yourself and you ___ some things– you did some things you wish you didn't do, right?

A. _____

Q. So keeping that in mind, is there anybody else that you can think of maybe you, uh, _____ a little bit or maybe you just do a little touching or playing or petting or, or maybe just rubbing your penis, I mean outside of 'em or even in the

[illegible] Police Depart[illegible]

Records Custodian

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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STATEMENT OF: RENARD TRUMAN POLK

butt cheeks or something? Anything like that? _____ just the, just those people in your family?

A. ____

Q. That's it? Is there anything else that you wanna say for the record or anything?

A. Feel stupid.

Q. You feel stupid. Why?

A. While I was doing those things, I was like _____ drugs.

Q. What kinda drugs were you _____

A. _____ weed, _____

Q. Were you using _____?

A. Yeah.

Q. When was the last time you used?

A. _____

Q. _____

A. _____

Q. When's the last time you used _____

A. Months ago.

[redacted]

[redacted]

[redacted]

JUL 17 '99
Date

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. _____ church.

Q. Huh?

[illegible] this is a full, [illegible] a [illegible] the original [illegible] with the [illegible] Police Department.

JUN 17 '99

[illegible] Date

Records Custodian

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____ church.

Q. Okay. That's the end of interview at Clark County Juvenile Hall with Detective T. Moniot, M-O-N-I-O-T, and Renard–

A. Polk.

Q. Polk.

[redacted]

I HAVE READ THIS STATEMENT CONSISTING OF 31 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT CLARK COUNTY JUVENILE HALL ON THE 14TH DAY OF AUGUST, 1999 AT 0820 HOURS.

WITNESS: #4664

WITNESS: _____

RENARD TRUMAN POLK

TM/lm
992471

STATE OF MISSISSIPPI

MISSISSIPPI STATE DEPARTMENT OF HEALTH
VITAL RECORDS

CERTIFICATE OF LIVE BIRTH

STATE OF MISSISSIPPI

80-34382

REGISTRAR'S NUMBER: 1-1163-80

STATE FILE NUMBER: 123-

1. CHILD — NAME (First, Middle, Last): Renard Truman Polk

2a. DATE OF BIRTH (Month, Day, Year): Oct. 14, 1980

2b. HOUR OF BIRTH: 12:59 PM m

3. SEX: Male

4a. THIS BIRTH SINGLE, TWIN, TRIPLET, ETC. (Specify): Single

4b. IF NOT SINGLE BIRTH, BORN FIRST, SECOND, ETC. (Specify):

5. BIRTH WEIGHT (Enter only in the type of measure on the scales used): 6 lbs. 7 1/2 ozs. OR grams

6a. HOSPITAL OR CLINIC — NAME (If not in either, give street address or route number): Jefferson Davis Memorial Hospital 01-

6b. CITY OR TOWN OF BIRTH: Natchez

6c. COUNTY OF BIRTH: Adams

7a. FATHER — NAME (First, Middle, Last):

7b. RACE (Specify White, Black, American Indian, etc.):

7c. AGE AT TIME OF THIS BIRTH:

7d. STATE OF BIRTH:

8a. MOTHER — NAME (First, Middle, Maiden): Anna Lisa Polk

8b. RACE (Specify White, Black, American Indian, etc.): Black

8c. AGE AT TIME OF THIS BIRTH: 18

8d. STATE OF BIRTH: Mississippi

9a. RESIDENCE — STATE: Nevada

9b. COUNTY: No Known

9c. CITY OR TOWN: Las Vegas

9d. INSIDE CITY LIMITS (Specify Yes or No): Yes

9e. STREET AND NUMBER OR RURAL LOCATION: 2516 Vana Ave.

10a. MAILING ADDRESS — STREET AND NUMBER OR ROUTE AND BOX NUMBER: 2516 Vana Ave.

10b. CITY OR TOWN: Las Vegas

10c. STATE AND ZIP CODE: Nevada 89030

11a. I CERTIFY THAT THE PERSONAL INFORMATION PROVIDED ON THIS CERTIFICATE IS CORRECT
SIGNATURE OF EITHER PARENT ▶ [illegible]

11b. DATE SIGNED (Month, Day, Year): Oct. 15, 1980

12a. I CERTIFY THAT THE STATED INFORMATION CONCERNING THIS CHILD IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF
SIGNATURE ▶ Bernadette Sherman M.D.

12b. DATE SIGNED (Month, Day, Year): Oct 16, 1980

12c. NAME AND TITLE OF PERSON WHO DELIVERED CHILD IF OTHER THAN CERTIFIER (Type or print):

12d. CERTIFIER — NAME AND TITLE (Type or print): Bernadette Sherman M. D.

12e. MAILING ADDRESS (Street and number or box number, City or town, State, ZIP code): 500 N. Pine Natchez, Miss. 39120

13a. REGISTRAR
SIGNATURE ▶ [illegible]

13b. DATE CERTIFICATE RECEIVED (Month, Day, Year): October 22, 1980

THE STATE OF N[illegible]
MARKED FOR IDE[illegible]
STATE'S PROPOS[illegible]
C166490

STATE'S EXHIBIT 13 C166490 1-8-02

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE CERTIFICATE ON FILE IN THIS OFFICE

F. E. Thompson Jr. MD
F. E. Thompson, Jr., M.D., M.P.H.
STATE HEALTH OFFICER

JAN - 7 2002

Judy Moulder
Judy Moulder
STATE REGISTRAR

MISSISSIPPI STATE BOARD OF HEALTH

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THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER. THIS IS WATERMARKED PAPER. DO NOT ACCEPT WITHOUT FIRST HOLDING TO LIGHT TO VERIFY WATERMARK.

(1) 1-9-02

May we have

11- additional

copies of instructions

Thanks

Christopher Morgan

Foreman

PENGAD-Bayonne, N. J.
20-b-1
Court Exhibit
II
C1664990

January 9, 2002

Question:

Judge,

Could you please clarify sexual assault vs. attempt sexual assault. Example - if penis rubs against buttox but does not penetrate the anus - is this attempt or assault.

Answer:

A penis rubbed on the buttock without any penetration is attempt sexual assault. In order for it to be sexual assault there must be at least slight penetration of the anal opening. This answer is provided in the jury instructions.

JUDGE JOSEPH T. BONAVENTURE
District Court, Department VI

Court Exhibit "III" C166490 1-9-02

Judge (2) 15-02

Could you please clarify
Sexual Assault vs.
a ~~[illegible]~~ Sexual assault.

Example — My penis
rubs against bottom
but does not penetrate
the anus — is this
attempt or sexual
Charge?

(3)

State's EXHIBITS CASE NO. C166490

	OFFERED DATE		ADMITTED OBJ		DATE
6) Photo	1-7-02	✓	no obj	✓	1-7-02
7) Poster Board	1-8-02	✓	no obj	✓	1-8-02
8) Medical History - Anna Polk	1-8-02	✓	no obj	✓	1-8-02
9) LVMPD - Rights of Persons - Renard T. Polk	1-8-02	✓	no obj	✓	1-8-02
10) LVMPD Voluntary Statement of R. T. Polk	1-8-02	✓	no obj	✓	1-8-02
12) Cassette (Copy of Microcassette above)	1-8-02	✓	no obj	✓	1-8-02
13) Birth Cert of R. T. Polk	1-8-02	✓	no obj	✓	1-8-02

Court Exhibit "LV" C166490 1-9-02

(4) 1-10-02

PENGAD-Bayonne, N. J.
20-01-1
COMPLAINT
CIV 490

May we
please have
a pad of paper
Thanks
Christy

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 1

EVENT: 990313-0217

SPECIFIC CRIME SEXUAL ASSAULT ON A MINOR

DATE OCCURRED | TIME OCCURRED

LOCATION OF OCCURRENCE

CITY OF LAS VEGAS | CLARK COUNTY

NAME OF PERSON GIVING STATEMENT POLK, ANNA LISA

DOB:	11-10-88	SOCIAL SECURITY #:	530-37-5602
RACE:	BLACK	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. Dunn, P# 385, LVMPD Sexual Abuse Juvenile Detail, on March 13, 1999, at X hours. Present during the interview is the Anna Polk's aunt, Susan Polk.

Q. Can you tell me how old you are, are right now?

A. How old I am?

Q. Yeah.

A. Ten.

Q. Ten years old? What school do you go to?

A. Walter V. Long.

THE STATE OF NEVADA VS POLK

MARKED FOR IDENTIFICATION
STATE'S PROPOSED EXHIBIT 1

C166490

EVENT: 990313-0217
STATEMENT OF: ANNA LISA POLK

Q. And what grade are you in?

A. Fourth.

Q. Okay. And you're here because you had a problem with somebody.

A. Yeah.

Q. Okay. Who is that?

A. Renard (phonetic spelling).

Q. Okay. And who's Renard?

A. My brother.

Q. All right. How old is Renard?

A. Eighteen.

Q. All right. Is – what is his last name?

A. Polk.

Q. Okay. So it's the same as yours?

A. Yeah.

Q. Okay. And when was the last time you had a problem with him?

A. Uhm... (pause) before he went in jail.

Q. Before he went in jail?

A. Yeah.

Q. Okay. So when, when was the very last time that you had a problem with him?

A. Yesterday.

Q. Okay. And where was that?

A. Uhm, in his room.

Q. In his room? At your house?

A. Yeah.

Q. Okay. And where's your house? What's the address?

A. Uhm, 1325 Nay Court.

Q. Okay. And, and what happened yesterday? Do you remember what time it was approximately?

A. Probably like four-thirty.

Q. Okay. In the afternoon?

A. Yeah.

Q. All right. And, and what happened that day? What'd he do?

A. (Clicking tongue) Uhm, he brought me in his room. He made me sit down on his chair. He sat down on his chair first, then he made me sit on top of him. And I wasn't doin' nothin', then he made me get on the floor, and then he made my back straight, and that's when he stuck it in me.

Q. Okay. You say he stuck it in you. What'd he stick in you?

A. Uhm, his dick (slight laugh).

Q. Okay. And where did he stick it in you?

A. My butt.

Q. Okay. Is that the first time he's done that?

A. No.

Q. When -- how old were you when he started doing this?

A. About five.

Q. About five years?

A. Yeah.

Q. Okay. And how many times do you think he does it? Does he do it --

A. Mm...

Q. -- a certain number of times a week? Or --

A. Uhm, I don't know.

Q. No? You don't know? How many times would you say he's done it since you were five?

A. Mm... (pause) I don't know.

Q. A lotta times?

A. (No audible response)

Q. Okay. Yesterday was the last time. Do you remember the time before that?

A. Mm-hmm.

Q. (Coughs) When was that?

A. Oh! Nope.

Q. You don't remember the time before that? Okay. All right. Would he do the same thing to you each time?

A. Uhm, ... sometimes yes. Sometimes he makes me sit on the... ____ makes me sit on top of him. Or sometimes he makes me lie on the floor.

Q. Okay. When you lie on the floor, are you on your back or on your stomach?

A. Uhm, I'm on my knees with my, uhm, butt sticking up. That's how he makes me sit.

Q. All right. And do you have your clothes on?

A. No.

Q. How do your clothes get off?

A. He takes 'em off.

Q. All right. Does he take his off too?

A. Yes.

Q. ___. And, and, uh, have you ever seen him do anything to anybody else?

A. Yeah.

Q. Who?

A. My sister.

Q. Okay. Which sister? What's her name?

A. Jahala (phonetic spelling).

Q. Jahala? And how old is Jahala?

A. Twelve.

Q. And what did you see him doing to Jahala?

A. Uhm, mm – me, me and my sister looked under the door, and my sister was on the floor with him on top of her.

Q. Okay. Did she have clothes on?

A. No.

Q. Did he have clothes on?

A. No.

Q. Could you tell what he was doing to her?

A. Mm, no. Like just on top of her.

Q. Okay. That's all right. Did he ever do anything else to you?

A. Mm...

Q. Other, other than that. Other than putting his, his dick in your butt?

A. No.

Q. No? Did he ever have you touch him?

A. No.

Q. Okay. Did he ever touch you any place else?

A. Mm... no.

Q. Okay. All right. Uh, ... is there anything else that you can tell me about what happened?

A. Mm... (pause) mm-mm (negative).

Q. Uh-uh? Has anybody else ever done this to you?

A. Yeah. Uh, my... cousin Darrell (phonetic spelling). I mean, my brother's friend Darrell and Dorin (phonetic).

Q. What's his name?

A. Darrell and Dorin.

Q. Darrell and Dorin? So there was, there was two other guys that did this to you?

A. Mm-hmm.

Q. And, and was, was your, was your brother there when this happened?

A. No.

Q. No. So Darrell -- how old are Darrell and Dorin?

A. They're about --

SP. Nineteen.

A. Nineteen.

Q. Okay. All right. Are they, are they brothers?

A. Yeah. They're twins.

SP. Darrell and Dorin are brothers. They're twins.

Q. Okay. All right. How many times have they done this to you?

A. About five.

Q. About five times. Okay. Did they, did you know if they did it to anybody else?

A. No. -- Yeah, my, my sister.

Q. Which one?

A. Jameela (phonetic spelling).

Q. Jameela?

A. Yeah.

Q. Okay. All right. And did you see them do something to Jameela?

A. Yeah, the same night they did something to me.

Q. All right. Were you in the same room?

A. Nn...no.

Q. Okay. All right. And, and when was the last time that they did something to you?

A. Mm... the last time I came over to their house.

SP. That was --

Q. Was it before, before Christmas?

SP. -- that was a while back.

Q. Oh, it was a while ago? Okay. Were you still, still, uh, -- how old are you now?

A. Ten.

Q. Ten. Were you still ten when they did it?

A. No. About eight.

Q. About eight years old? Okay. Have they done it since you were eight years old?

A. No.

Q. All right.

SP. Uh, Anna, you at least had to have been about six. Or seven. Not eight. Couldn't been eight. You're takin' a wild guess, ain't you?

A. (Slight laugh)

SP. Aren't you? Yes or no?

A. Yeah.

Q. Okay. So, so you – it's possible you were six or seven?

A. Yeah.

Q. All right. Okay. How did, how did they know that they could do this to you?

A. I don't know.

Q. Okay. All right. Is there anything else you wanna tell me?

A. Mm-mm (negative) (tape skips)

Q. Did you ever tell anybody what happened?

A. Uh, my sister did today.

EVENT: 990313-0217
STATEMENT OF: ANNA LISA POLK

Q. Okay. But before this, have you ever told anybody?

A. No.

Q. How come?

A. 'Cause I was scared.

Q. Okay. And, and why were you scared? What'd he do to make you afraid?

A. 'Cause – 'cause, uhm, he said that if I told somebody, he's gonna kill me.

Q. Okay. Did you think he would?

A. Yeah.

Q. All right. Okay. Is there anything else?

A. No.

Q. Okay. That'll be the end of the statement. Same persons present, Anna Polk and this detective. Date and time is March 13, 1999, at approximately 0600 hours.

I HAVE READ THIS STATEMENT CONSISTING OF 10 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT COLUMBIA SUNRISE HOSPITAL ON THE 13TH DAY OF MARCH, 1999, AT 0600 HOURS.

WITNESS: _____

WITNESS: _____

_____
SIGNATURE OF PERSON GIVING STATEMENT

DD:cml
990798

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT OF A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: CHATMAN, JAMILA

DOB:	6/20/85	SOCIAL SECURITY #:	
RACE:	BLACK JUVENILE	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. DUNN, P# 385, LVMPD SEXUAL ABUSE Detail, on 3/15/99. Person being interviewed is JAMILA CHATMAN.

Q. Jamila, how old are you right now?

A. Thirteen.

Q. Thirteen. And you're...

A. I'll be 14 in four more months.

Q. O.K. And what school do you go to?

A. Fremont, J.C. Fremont Middle School.

THE STATE OF NEVADA VS POLK

MARKED FOR IDENTIFICATION
STATE'S PROPOSED EXHIBIT 4

C166490

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

Q. All right. And you're here because of a situation involving your brother, Renard.

A. Yeah, with my sisters.

Q. O.K. Did you ever see him do anything to either one of your sisters?

A. Hm, once when I lived on Perry Street.

Q. Hm Hm.

A. Ahm, he was, he was, ahm, he grabbed her and put her on her bed. He had took her and ate her out.

Q. And ate her out. O.K. What sister was that?

A. Anna.

Q. O.K. How old was Anna at that time?

A. Five, three, four, one of those.

Q. Since then, have you ever seen him do anything to her?

A. Yeah.

Q. When?

A. Friday.

Q. O.K. What Friday are we talking about?

A. Ah, what was the day .... it was, ah, it was the 12th of this month.

Q. O.K. 12th of March?

A. Yeah.

Q. O.K. And what did you see him do that time?

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

A. Ah, it was like around, it was like around five, four, like five or four.

Q. O.K. In the afternoon or in the morning?

A. In the, ah, afternoon.

Q. O.K. And, and where were they?

A. They were up in his room.

Q. All right. And what did you see happen?

A. He had _____ her.

Q. He what?

A. He pee pee'd in her.

Q. He pee pee'd in her. In her where?

A. In her private.

Q. Which private?

A. Her private.

Q. O.K. She's got two. She's got a front private and a back private.

A. Well, the back private.

Q. O.K. And you actually saw him do this? Hm?

A. Yes.

Q. O.K. Did she have clothes on or not?

A. Well, he told her to take off her clothes, well he forced her to take off her clothes, and she did.

Q. O.K. And what about him?

A. He just took off his shirt and his pants.

Q. O.K. And was she, was she standing up, laying down?

A. No, she was up in the chair or she was on the floor, it's one of those two, cause he got a big gray chair up in his room.

Q. Hm Hm.

A. And then the floor is his floor.

Q. O.K. Now did you actually see him do this to her?

A. Yeah. And I knew this was gonna happen cause I had a bad feeling, and I went to the store and I came back, and she was still in the room with him.

Q. All right. O.K. Is there anything else you can tell me about him?

A. He's abusive.

Q. O.K. Physically? Physically abusive?

A. Like what?

Q. Like punching, hitting, slapping..

A. Yeah.

Q. Beating.

A. Hm Hm (positive)

Q. Yeah.

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

A. And he, and ah, what else.... he's sick in the mind because what he did to my brother's ____ not my brother's, but my sisters, and he's nasty.

Q. O.K. All right. That will be the end of this statement. Same persons present, Jamila Chatman, this detective, date and time of this statement is 3/15/99 at approximately 9:35 hours.

DD:lp:990808

I HAVE READ THIS STATEMENT CONSISTING OF 5 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT ON THE 15TH DAY OF MARCH, 1999 AT 0935 HOURS.

WITNESS: _____

WITNESS: _____

_____
CHATMAN, JAMILA

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT OF A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: CHATMAN, JAHALA MATISHA

DOB:	8/28/86	SOCIAL SECURITY #:	530-17-2223
RACE:	BLACK JUVENILE	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. DUNN, P# 385, LVMPD SEXUAL ABUSE Detail, on 3/15/99. Person being interviewed is JAHALA MATISHA CHATMAN.

Q. Jahala, how old are you right now?

A. Twelve.

Q. O.K. And what school do you go to?

A. Fremont.

Q. Fremont Junior High. O.K. And what grade are you in there?

A. Seventh.

THE STATE OF NEVADA VS POLK
MARKED FOR IDENTIFICATION
STATE'S PROPOSED EXHIBIT 5

C166490

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

Q. All right. And you know why you're here today?

A. Yeah.

Q. O.K. Why is that?

A. Because my brother had did me.

Q. O.K. Because your brother had did you in the bootie?

A. Hm Hm (positive)

Q. O.K. What's your brother's name?

A. Renard.

Q. And how old is Renard?

A. Eighteen.

Q. And how, how old were you when he did this to you?

A. Twelve.

Q. All right. How long ago was it?

A. In January.

Q. Of this year?

A. Yeah.

Q. And where did it take place?

A. In the downstairs bathroom.

Q. All right. How did you know to go into the bathroom? Did he take you in the bathroom?

A. Yeah.

Q. O.K. What'd he say to ya?

A. He didn't say nothing.

Q. O.K. So he took you in the bathroom, and then what happened?

A. He laid me on the floor and then covered my mouth.

Q. All right. Did he take your clothes off? Huh?

A. Yeah.

Q. All your clothes?

A. Yeah.

Q. O.K. What about his clothes?

A. He, he didn't have no shirt on, he just had on pants.

Q. O.K. Did he take those off?

A. Yeah.

Q. All the way off?

A. Yeah.

Q. O.K. And then, and then he'd put you down on the floor?

A. Yeah.

Q. Were you on your back or on your stomach?

A. Stomach.

Q. And then what did he do?

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

A. He stuck his thing in my bootie.

Q. He stuck his thing in your bootie. How many times has he done that to you?

A. Once.

Q. That was the only time?

A. Yes.

Q. Did he say anything to you?

A. No.

Q. And you said that when he did that, he put his hand over your mouth?

A. Yes.

Q. O.K. Did that hurt you when he did that?

A. Yes.

Q. Did he put anything on his, his penis before he did that?

A. No.

Q. And that was the only time?

A. Yes.

Q. And how long do you think it lasted?

A. Ten minutes.

Q. O.K. Has anybody else ever done these things to you?

A. No.

Q. No. O.K. Is there anything else you want to tell me?

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

A. No.

Q. O.K. That will be the end of the statement. Ah, persons present are Jahala Chatman, this detective, date and time of this statement is, ah, 3/15/99 at approximately 0925 hours.

DD:lp:990807

I HAVE READ THIS STATEMENT CONSISTING OF 5 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT ON THE 15TH DAY OF MARCH, 1999 AT 0925 HOURS.

WITNESS: _____

WITNESS: _____

990313-0217

THE SEALED PORTION
OF THESE MINUTES
WILL FOLLOW VIA
U.S. MAIL.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 02, 2010**

00C166490 The State of Nevada vs Renard T Polk

February 02, 2010	**9:00 AM**	**Motion**	**DEFT'S PRO PER MTN TO EXTEND PRISON COPYWORK Court Clerk: Carol Green Reporter/Recorder: Sharon Howard Heard By: Douglas Herndon**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT: Wilson, Dennis C. Attorney

JOURNAL ENTRIES

- Based on the pleadings, COURT ORDERED, motion DENIED; there is insufficient showing to justify relief being requested as motion did not address merits.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	March 09, 2010

00C166490 The State of Nevada vs Renard T Polk

March 09, 2010	9:00 AM	Motion	DEFT'S PRO PER MTN FOR PRODUCTION OF TRANSCR Court Clerk: Carol Green Reporter/Recorder: Sharon Howard Heard By: Douglas Herndon

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT: Fleck, Michelle Attorney

JOURNAL ENTRIES

- COURT ORDERED, presence of Defendant is WAIVED. Based on the pleadings, COURT ORDERED, motion DENIED. Court stated that Defendant has filed prior petition and motions which have been denied, and almost half of the transcripts requested are after sentencing. Additionally, Court noted that this no showing of any need for transcripts.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**April 08, 2010**

00C166490 The State of Nevada vs Renard T Polk

April 08, 2010	**9:00 AM**	**Petition for Writ of Habeas Corpus**	**PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Carol Green Relief Clerk: Billie Jo Craig/bjc Reporter/Recorder: Sharon Howard Heard By: Douglas Herndon**

HEARD BY: **COURTROOM:**

COURT CLERK:

RECORDER:

REPORTER:

PARTIES PRESENT:

Herbert, Jennifer M.	Attorney
Roger, David J.	Attorney

JOURNAL ENTRIES

- Court noted defendant is Pro Per with a Petition for Writ of habeas Corpus pending. Court stated its findings, and ORDERED, Petition DENIED on its pleadings and that it is time barred.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**July 26, 2011**

00C166490 The State of Nevada vs Renard T Polk

July 26, 2011	**9:00 AM**	**Petition for Writ of Habeas Corpus**	**Petition for Writ of Habeas Corpus (Post Conviction)**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green
Anntoinette Naumec-Miller

RECORDER:

REPORTER: Robert Cangemi

PARTIES PRESENT:

JOURNAL ENTRIES

- Lisa Luzaich, Deputy District Attorney, present for the State of Nevada.

Deft. not present. Ms. Luzaich requested sixty days to file a response to the Petition. Court indicated it does not need a response from the State and noted the Deft. previously filed two Petitions which were denied. Based on the pleadings, COURT ORDERED, Petition DENIED advising the Petition contains the same arguments as the previous two Petitions and is still untimely.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**April 10, 2012**

00C166490 The State of Nevada vs Renard T Polk

April 10, 2012	**9:00 AM**	**Motion to Correct Sentence**	**Defendant's Pro Per Motion to Correct an Illegal Sentence**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Monique Alberto

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

Herbert, Jennifer M.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court noted motion was sent to the Attorney Generals Office by mistake. State requested matter be continued to file an opposition. COURT ORDERED, matter CONTINUED to allow the State file an opposition; State opposition due 4/28/12, Defendant Reply Due 5/22/12, hearing set for 5/29/12.

NDC

CONTINUED TO: 5/29/12 9:00 A.M.

CLERK'S NOTE: The above minute order has been distributed to:
Renard Polk #72439
Lovelock Correctional Center
1200 Prison Rd.
Lovelock, NV 89419

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**May 29, 2012**

00C166490 The State of Nevada vs Renard T Polk

May 29, 2012	**9:00 AM**	**Motion to Correct Sentence**	**Defendant's Pro Per Motion to Correct an Illegal Sentence**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

JOURNAL ENTRIES

- Jacob Villani, Deputy District Attorney, present on behalf of the State.
Defendant Polk not present, in custody at the Nevada Department of Corrections, acting in Proper Person.

Court noted that Defendant filed a Motion and an Amended Motion. Noting that issues have been addressed previously, and there is nothing illegal about sentence, COURT ORDERED, both motions are DENIED.

NDC

CLERK'S NOTE: 5/30/12 - A copy of this minute order was sent to: Renard Polk, BAC#72439, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**June 11, 2013**

00C166490 The State of Nevada vs Renard T Polk

June 11, 2013	**9:00 AM**	**Petition for Writ of Habeas Corpus**	**Defendant's Pro Per Petition for Writ of Habeas Corpus (Post-Conviction) and/or Mandamus or Prohibition**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

JOURNAL ENTRIES

- Karen Whelan, Deputy Attorney General, present on behalf of the State.
Defendant Polk not present, in custody at the Nevada Department of Corrections, acting in Proper Person.

Based on the pleadings, without argument, COURT ORDERED, DENIED. Court stated that Petition does not address anything within the criminal case, but raises issues complaining about civil cases he has tried to file and he does not like the lack of response or decision, therefore, this Court has no jurisdiction.

NDC

CLERK'S NOTE: 6/14/13 - A copy of this minute order was mailed to Renard T. Polk #72439, Lovelock Correctional Center, 1200 Prison Road, Lovelock, Nevada 89419.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 06, 2014**

00C166490 The State of Nevada vs Renard T Polk

February 06, 2014	**9:00 AM**	**Motion for Order**	**Defendant's Pro Per Motion for Order to Produce Prisoner**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Katrina Hernandez
Ying Pan

RECORDER:

REPORTER: Robert Cangemi

PARTIES PRESENT:

Monje, Ofelia L.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court advised it will not hear argument, stated its findings, and ORDERED, Motion DENIED. Court noted Defendant filed Petition for Writ of Habeas Corpus and he failed to serve the State. COURT FURTHER ORDERED, Briefing schedule SET as follows: Opposition due by 3/14/14; Reply by 4/11/14 and matter RESET for hearing thereafter.

NDC

4/22/14 9:00 AM DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

*CLERK'S NOTE: A copy of the above minute order was sent via postal mail to: Renard Polk./kh 2-10-14

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**March 04, 2014**

00C166490 The State of Nevada vs Renard T Polk

March 04, 2014	**9:00 AM**	**Motion**	**Defendant's Pro Per Motion for Sanctions and to Disqualify the District Attornies' Office**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

JOURNAL ENTRIES

- Samuel Bateman, Deputy District Attorney, present on behalf of the State.
Defendant Polk not present, in custody at the Nevada Department of Corrections, acting in Proper Person.

Based on the pleadings, without argument, COURT ORDERED, motion denied. Court stated that deadlines have not passed, so there is no merit in request.

NDC

CLERK'S NOTE: 3/10/14 - A copy of this minute order was mailed to Renard Polk, #72439, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	March 20, 2014

00C166490 The State of Nevada vs Renard T Polk

March 20, 2014 **9:00 AM** **Motion For Reconsideration**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green
Tia Everett

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

JOURNAL ENTRIES

- Victoria Villegas, Deputy District Attorney, present on behalf of the State. Defendant not present in custody with the Nevada Department of Corrections.

Court noted defendant has a pending petition for writ of habeas corpus set for 4/22/2014 and the Court is not certain what the defendant is seeking reconsideration for with the exception of wanting out of custody immediately; therefore, COURT ORDERED, Motion DENIED. Further, Court noted any additional legal issues with the petition and the issue of defendant being transported will be determined at the evidentiary hearing.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD

LOVELOCK, NV, 89149

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **April 29, 2014**

00C166490 The State of Nevada vs Renard T Polk

April 29, 2014 **9:00 AM** **All Pending Motions**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green

RECORDER:

REPORTER: Robert Cangemi

PARTIES PRESENT:

JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), OPPOSITION TO DEFENDANT'S MOTION TO TRANSPORT, AND STATE'S COUNTERMOTION FOR DETERMINATION OF VEXATIOUS LITIGATION AND REQUEST FOR ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT ISSUE A PRE-FILING INJUNCTION ORDER...DEFENDANT'S PRO PER MOTION TO STRIKE (AND/OR) FOR SANCTIONS

Samuel Bateman, Deputy District Attorney, present on behalf of the State.
Defendant Polk not present, in custody at the Nevada Department of Corrections, acting in Proper Person.

Based on the pleadings, without argument, COURT ORDERED, State's Motion to Dismiss Defendant's Petition is GRANTED, it is untimely and without good case as all issues have been raised before, therefore, there is merit to the State's position that latches would apply. Further, COURT ORDERED, Defendant's request to be transported is DENIED as Court ruled on the pleadings, without argument, and Defendant's Motion to Strike (and/or) for Sanctions is DENIED.

As to State's request for determination of vexations litigation, Court stated that the Defendant needs to be warned prior to the determination. Therefore, COURT ORDERED, request DENIED, without prejudice and a formal warning is being given that repeatedly raising the same issues can make access limited and Court may determine that Defendant is a vexatious litigant; Defendant is not to abuse the Court process.

NDC

CLERK'S NOTE: 5/5/14 - A copy of this minute order was mailed to: Renard Polk, BAC#72439, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**June 10, 2014**

00C166490 The State of Nevada vs Renard T Polk

June 10, 2014	**9:00 AM**	**Motion to Reconsider**	**Defendant's Pro Per Motion for Reconsideration (and/or) to Reduce to Writing**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Carol Green

RECORDER:

REPORTER: Sharon Howard

PARTIES PRESENT:

JOURNAL ENTRIES

- Daniel Westmeyer, Deputy District Attorney, present on behalf of the State.
Defendant Polk not present, in custody at the Nevada Department of Corrections, acting in Proper Person.

COURT ORDERED, presence of Defendant is WAIVED. Based on the pleadings, without argument, Court stated that there is no legal basis to reconsider anything, Therefore, COURT ORDERED, motion DENIED. Further, Court stated that Defendant has no right to be present, especially when ruling was made based only on the pleadings.

NDC

CLERK'S NOTE: 6/11/14 - A copy of this minute order was mailed to: Renard Polk, BAC#72439, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419.

Certification of Copy and Transmittal of Record

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

Pursuant to the Supreme Court order dated June 12, 2014, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the above referenced case. The record comprises nine volumes with pages numbered 1 through 1922.

STATE OF NEVADA,

Plaintiff(s),

vs.

RENARD T. POLK,

Defendant(s),

Case No: C166490
Dept No: III

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 14 day of July 2014.

Steven D. Grierson, Clerk of the Court

Barbara J. Gutzmer

Barbara J. Gutzmer, Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
8

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

C166490 STATE OF NEVADA vs. RENARD T. POLK

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

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I N D E X

PRIN

Case No. C166490

Dept. No. III

FILED
JAN 27 2010
CLERK OF COURT

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

RENARO T. POLK,
Petitioner,

-vs-

Jack Palmer et. al,
Respondent.

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: Court Reporter Shawn E. OTT:

Petitioner, ("Polk") named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Date or dates of proceeding: 9/8/04; 9/4/04; 12/18/07; 12/27/00; 4/11/00; 4/18/00; 4/1/00; 10/4/01

Portions of the transcript requested: all portions in relation to a presupposed judicial decision.

This notice requests a transcript of only those portions of the district court proceedings which I reasonably and in good faith believe are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

RECEIVED
JAN 27 2010
CLERK OF THE COURT

I recognize that I must personally serve a copy of this form on the above named court reporter and opposing counsel, and that the above named court reporter shall have ten (10) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this 18th day of January, 2010.

Renard Polk

RENARD POLK #22435
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

RENARD POLK In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing REQUEST FOR ROUGH DRAFT TRANSCRIPT to the below address on this 18th day of January, 2010, by placing same in the U.S. Mail via prison law library staff:

Attorney For RENARD POLK

Renard Polk

RENARD POLK #22435
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REQUEST FOR ROUGH DRAFT TRANSCRIPT, filed in district court case number C0C166490C, does *not* contain the social security number of any person.

Dated this 18th day of January, 2010.

Rd Polk

REWARD POLK #72469
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

ORIGINAL

OPPS
CATHERINE CORTEZ MASTO
Attorney General
DENNIS C. WILSON
Senior Deputy Attorney General
Nevada Bar No. 4420
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
P: (702) 486-3086
F: (702) 486-2377
DWilson@ag.nv.gov
Attorneys for Respondents

FILED
JAN 28 3 25 PM '10
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD POLK, Petitioner, v. JACK PALMER, et al., Respondents.	Case No.: C166490 Dept. No.: III

RESPONDENTS' OPPOSITION TO MOTION TO EXTEND PRISON COPYWORK LIMIT

Respondents, by and through legal counsel, CATHERINE CORTEZ MASTO, Nevada Attorney General, and DENNIS C. WILSON, Senior Deputy Attorney General, hereby oppose Petitioner Renard Polk's (hereinafter "POLK") Motion to Extend Prison Copywork Limit and move this Court for an order denying said Motion. This Opposition is based upon the pleadings and papers on file herein, the following Memorandum of Points and Authorities, and exhibits attached hereto.

DATED this 27 day of January, 2010.

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: Dennis C. Wilson
DENNIS C. WILSON
Senior Deputy Attorney General
Bureau of Criminal Justice

ORIGINAL

OPPS
CATHERINE CORTEZ MASTO
Attorney General
DENNIS C. WILSON
Senior Deputy Attorney General
Nevada Bar No. 4420
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
P: (702) 486-3086
F: (702) 486-2377
DWilson@ag.nv.gov
Attorneys for Respondents

FILED
JAN 28 3 25 PM '10
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD POLK, Petitioner, v. JACK PALMER, et al., Respondents.	Case No.: C166490 Dept. No.: III

RESPONDENTS' OPPOSITION TO MOTION TO EXTEND PRISON COPYWORK LIMIT

Respondents, by and through legal counsel, CATHERINE CORTEZ MASTO, Nevada Attorney General, and DENNIS C. WILSON, Senior Deputy Attorney General, hereby oppose Petitioner Renard Polk's (hereinafter "POLK") Motion to Extend Prison Copywork Limit and move this Court for an order denying said Motion. This Opposition is based upon the pleadings and papers on file herein, the following Memorandum of Points and Authorities, and exhibits attached hereto.

DATED this 27 day of January, 2010.

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: _____
DENNIS C. WILSON
Senior Deputy Attorney General
Bureau of Criminal Justice

MEMORANDUM OF POINTS AND AUTHORITIES

On April 1, 2002, after a jury trial, the district court convicted POLK of one count of sexual assault of a minor under fourteen and one count of attempted sexual assault of a minor under fourteen. See Exhibits A, B, and C. On August 25, 2003, the Nevada Supreme Court affirmed his judgment of conviction and sentence. See Exhibit A.

On July 1, 2004, POLK filed a postconviction petition for writ of habeas corpus which the Nevada Supreme Court dismissed on January 25, 2005. See Exhibit A.

On December 7, 2007, POLK filed a proper person motion to correct an illegal sentence which the state district court denied on December 31, 2007. On June 9, 2008, the Nevada Supreme Court affirmed said denial; the court denied rehearing on August 12, 2008 and issued its remittitur on September 9, 2008. Exhibits A and E.

On January 20, 2010, POLK filed his motion to extend prison copy work limit herein. He is currently incarcerated in the Lovelock Correctional Center. His Certificate of Inmate's Institutional Account shows that he is indebted to the Nevada Department of Corrections (hereinafter "NDOC") in the amount of 1,499.00 dollars and has eleven cents in his NDOC savings account. In his motion, he represents that his grounds have merit and, as such, he is entitled to relief in the instant habeas corpus proceeding.

The court should deny his motion for the following reasons. Although he claims his grounds have merit, he has not filed any kind of habeas petition or pleading which presents his grounds. If POLK intends to file a postconviction petition which challenges his eight-year-old conviction or sentence, his petition will be procedurally barred unless he can demonstrate cause and prejudice for his untimely, successive, and procedurally-abusive petition. If his postconviction habeas petition challenges computation of the time he has served, or makes any other claim which does not challenge his conviction/sentence, such petition must be filed in Pershing County where he is incarcerated, not Clark County, as set forth in NRS 34.738 as follows:

> **NRS 34.738 Petition: Filing in appropriate county; limitation on scope.**
> 1. A petition that challenges the validity of a conviction or sentence must be filed with the clerk of the district court for the county in which

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

the conviction occurred. **Any other petition must be filed with the clerk of the district court for the county in which the petitioner is incarcerated.**

2. A petition that is not filed in the district court for the appropriate county:

(a) Shall be deemed to be filed on the date it is received by the clerk of the district court in which the petition is initially lodged; and

(b) Must be transferred by the clerk of that court to the clerk of the district court for the appropriate county.

3. A petition must not challenge both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has served pursuant to that judgment. If a petition improperly challenges both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has served pursuant to that judgment, the district court for the appropriate county shall resolve that portion of the petition that challenges the validity of the judgment of conviction or sentence and dismiss the remainder of the petition without prejudice. [Emphasis added.]

POLK's motion is premature. He has not filed a petition or stated the nature of the petition. The claims in the petition will tell the court if the petition is to be filed in Clark County and whether the District Attorney or the Attorney General will respond to the petition. POLK has not stated how much copies cost him, how many copies he intends to make, or how much of an increase he is requesting. The Court's file and the State's files contain all of the documents which pertain to the case. The Court should deny his motion to extend the $100.00 copy limit.

DATED this 27 day of January, 2010.

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: Dennis C. Wilson
DENNIS C. WILSON
Senior Deputy Attorney General
Bureau of Criminal Justice

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

CERTIFICATE OF SERVICE

I hereby certify that, on the 28th day of January, 2010, service of the ***Respondents' Opposition to Motion to Extend Prison Copywork Limit*** was made this date by depositing a true and correct copy of the same for mailing, first class mail, at Las Vegas, Nevada, or via facsimile, addressed as follows:

Renard T. Polk #72435
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

An employee of the Office of the Attorney General

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50949

FILED

JUN 09 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

On April 1, 2002, the district court convicted appellant Renard Truman Polk, pursuant to a jury verdict, of one count of attempted sexual assault with a minor under 14 years of age and one count of sexual assault with a minor under 14 years of age. The district court sentenced appellant to serve in the Nevada State Prison a term of 48 to 120 months for the attempted sexual assault count and a consecutive term of life in prison with the possibility of parole after 240 months for the sexual assault count. This court affirmed appellant's judgment of conviction and sentence.[1] The remittitur issued on September 19, 2003.

---

[1]Polk v State, Docket No. 39457 (Order of Affirmance with Limited Remand for Correction of Judgment of Conviction, August 25, 2003). The matter was remanded to the district court for a correction of Polk's

continued on next page . . .

08-14497

On July 1, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On September 14, 2004, the district court denied appellant's petition. On appeal, this court affirmed the district court's denial of appellant's petition.[2]

On December 7, 2007, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On December 31, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended as follows: that errors in the prior trial and habeas proceedings deprived the district court of personal jurisdiction and subject matter jurisdiction over him, that the district erred by denying the claims in his habeas petition, that he was convicted without presentment of a grand jury indictment, that he was not before a fair and impartial tribunal, that he did not have meaningful access to the courts, that his conviction violated double jeopardy, that he was not properly certified as an adult for the proceedings, that refusal to

---

. . . *continued*

judgment of conviction, which inaccurately reflected that he pleaded guilty.

[2]Polk v. State, Docket No. 44087 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, January 25, 2005). The matter was again remanded to the district court for a correction of Polk's judgment of conviction, as the correction had not been made pursuant to the previous order.

allow filing of proper person documents by a party represented by counsel violates his U.S. Constitutional rights, and that ex-parte decisions on post-conviction writs violate the U.S. Constitution.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.[3] "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence.'"[4]

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal.[5] Further, there is nothing in the record indicating that the district court was without jurisdiction to impose a sentence in this case. The claims that appellant raised fell outside of the scope of claims permissible in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

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[3]Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

[4]Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

[5]See NRS 200.364, 1999 Nev. Stat., ch. 105, § 23, at 431-432 (codified as NRS 200.366).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[6] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[7]

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. Michael Villani, District Judge
Renard Truman Polk
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

---

[6]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[7]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

EXHIBIT B

ORIGINAL

JOCP
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED
APR 1 2 40 PM '02
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court herein with counsel and entered a plea of guilty to the crime(s) of **COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (CATEGORY B FELONY) and COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (CATEGORY A FELONY)** in violation of NRS 200.364, 200.366, 193.330; thereafter, on or about the 14th day of March, 2002, the Defendant was present in court for sentencing with his counsel, CHRISTOPHER ORAM, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the $25.00 Administrative Assessment Fee, $250.00 DNA Analysis Fee and $1,493.40 Restitution. Defendant is sentenced as to COUNT I - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada

Department of Corrections. Defendant is sentenced to a special sentence of Lifetime Supervision is imposed to commence upon release from any term of probation, parole or imprisonment. Additionally, the Defendant is ORDERED to submit to a blood or saliva test to determine genetic status. Defendant is sentenced as to COUNT II - a MAXIMUM of LIFE in the Nevada Department of Corrections with a parole eligibility after a MINIMUM of TWO HUNDRED FORTY (240) MONTHS. COUNT II TO RUN CONSECUTIVELY TO COUNT I. Credit for time served of (691) served.

DATED this 29th day of March, 2002.

DISTRICT JUDGE

jr

P:\WPDOCS\JUDG\904\90472601.WPD

EXHIBIT C

ORIGINAL

6

JOCP
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

FILED

2005 FEB -9 A 11: 53

CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718

Defendant.

Case No: C166490

Dept No: VI

AMENDED

JUDGMENT OF CONVICTION (JURY TRIAL)

The Defendant previously entered plea(s) of not guilty to the crime(s) of COUNT 1, 2 & 3 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony), in violation of NRS 200.364, 200.366, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crime(s) of COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony) and COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony); and thereafter on the 14th day of March, 2002, the Defendant was present in Court for sentencing with his counsel, CHRISTOPHER ORAM, ESQ., and good cause appearing therefor,

THE DEFENDANT HEREBY ADJUDGED guilty of the crime(s) as set forth in the jury's verdict and, in addition to the $25.00 Administrative Assessment Fee, $250.00 DNA Analysis Fee and $1,493.40 restitution, the Defendant is sentenced as to Count 1 – a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months in

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JAN 31 2005
COUNTY CLERK

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FEB - 9 2005
COUNTY CLERK

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the Nevada Department of Corrections. Defendant is sentenced to a special sentence of Lifetime Supervision is imposed to commence upon release from any term of probation, parole or imprisonment. Additionally, the Defendant is ordered to submit to a blood or saliva test to determine genetic status. Defendant is as to Count 2 – a maximum of Life in the Nevada Department of Corrections with a parole eligibility after a minimum of two hundred forty (240) months. Count 2 to run consecutively to Count 1. Credit for time served of (691) days.

DATED this 8th day of ~~January~~ February, 2005.

J Bonaventure

DISTRICT JUDGE

mmw/SVU

P:\WPDOCS\JUDO\904\90447201.DOC

EXHIBIT D

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50949

FILED

AUG 12 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. Michael Villani, District Judge
Renard Truman Polk
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

RECEIVED

SEP 11 2008

CLERK OF THE COURT

08-20809

EXHIBIT E

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 50949

District Court Case No. C166490

REMITTITUR

TO: Charles J. Short, Clark District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: September 9, 2008

Tracie Lindeman, Clerk of Court

By: H. Ingersoll
Deputy Clerk

cc (without enclosures):
Hon. Michael Villani, District Judge
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Renard Truman Polk

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the REMITTITUR issued in the above-entitled cause, on SEP 11 2008.

BRANDI J. WENDEL
Deputy District Court Clerk

08-21179

PPOW

FILED
FEB 06 2010
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Polk, Renard T.,

Petitioner,

vs.

Jack Palmer, et al.,

Respondent,

Case No: C166490
Dept No: III

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on January 27, 2010. The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 8th day of April, 2010, at the hour of 9 o'clock for further proceedings.

District Court Judge

RECEIVED
FEB 06 2010
CLERK OF THE COURT

CMC

FILED
FEB 25 2010
CLERK OF COURT

MOT
Renard T. Polk # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Petitioner In Pro Se

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

Renard T. Polk, Petitioner, -vs- State of Nevada ex rel. Respondent(s).	C166490 Case No. XXCIIIXXXXX Dept. No. III DATE OF HEARING: 3-9-10 TIME OF HEARING:

MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE EXPENSE

COMES NOW Petitioner, Renard T. Polk, in pro se, and moves the Court for an order directing the Clerk of the Court to prepare or cause to be prepared, transcripts of the (list the hearing(s)/date(s) for which you request transcripts): 9/8/04; 9/4/04; 12/18/07; 12/27/00; 4/18/00; 4/11/00; 10/4/01; 4/1/02 in Eighth Jud. Dis. Court Department (6), and to serve same upon him at his place of confinement.

This motion is made and based upon the requirements of NRS 34.370(4); NRS 34.760(2); all papers, pleadings and documents on file herein; the instant (check applicable pending action to which this motion relates) ✓ petition for writ of habeas corpus ✓ motion to/for Correction, Vacation or Set-Aside;

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FEB 24 2009
CLERK OF THE COURT

RECEIVED
FEB 25 2010
CLERK OF THE COURT

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FEB 11 2010
CLERK OF THE COURT

and the following points and authorities.

POINTS AND AUTHORITIES

Petitioner/Defendant has filed a ✓ petition for writ of habeas corpus ✓ motion to/for Correction, Vacation or Set-Aside, presenting ground(s)/claim(s) for relief. NRS 34.730(4) and NRS 34.760(2) require that the presentation of habeas petitions be supported by affidavits, records, transcripts or other relevant evidence. Id. Petitions and motions which are not supported by such evidence render the claims therein to be bare and naked allegations, unsupported by the record and meriting dismissal. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984). See also Griffin v. State, 122 Nev. 737, 137 P.3d 1165, 1170 (2006)(defendant must support his claims with "specific facts" demonstrating entitlement to relief sought); Berjarano v. Warden, 112 Nev. 1466, 929 P.2d 922 (1996) (defendant bears burden of establishing factual allegations in support of his claims).

In order to obtain this Court's order to produce the requested transcripts, Petitioner/Defendant need show that they would serve a useful purpose and that he would be prejudiced without them. Peterson v. Warden, 87 Nev. 134, 483 P.2d 204, 205 (1971). Petitioner/Defendant requires the transcripts at bar in order to support his ground(s)/claim(s), which have merit, as shown on the separate page(s) annexed hereto as page (s) N/A (you must describe your grounds/claims and demonstrate how the requested transcripts are necessary to avoid a dismissal/denial of same), and as are incorporated as if set forth herein. Prejudice is demonstrated inasmuch as due to the

merit of Petitioner/Defendant's claims, same would be dismissed/denied without the transcripts at issue.

Petitioner/Defendant is a pauper, as evidenced by his having proceeded as a pauper in these proceedings. Therefore, the transcripts must be provided at State expense so as to satisfy the concerns of due process and fairness herein. See e.g. Gardner v. California, 393 U.S. 367, 89 S.Ct. 580, 582 (1969)(transcripts in habeas proceedings may not be supplied those who can afford them and denied to those who cannot).

CONCLUSION

For the reasons set forth above, the Court should grant the instant motion via ordering the Clerk of the Court to produce the above-described transcripts and serve same upon Petitioner/Defendant at his place of confinement.

Dated this 8th day of February, 2010.

Renard T. Polk
In Pro-Se #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Rd Polk In Pro Se

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CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing MOTION FOR PRODUCTION OF TRANSCRIPTS to the below address on this 8th day of February, 2010, by placing same in the U.S. Mail via prison law library staff:

Attorney For Respondent

RENARD T. POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE EXPENSE does *not* contain the social security number of any person.

Dated this 8th day of February, 2010.

RENARD POLK
Petitioner In Pro Se

RENARO T. Polk #12439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419

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Las Vegas Nevada 89155

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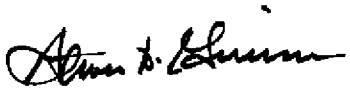

CLERK OF THE COURT

OPPS
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, #1521718 Defendant.	)	CASE NO: C166490 DEPT NO: III

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE'S EXPENSE

DATE OF HEARING: MARCH 9, 2010
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through xxxDeputy Name, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Production of Transcripts at State's Expense.

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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 18, 2000, Renard Polk, hereinafter "Defendant," was charged by way of Amended Information with two counts of Sexual Assault with a Minor Under Fourteen Years of Age and one count of Sexual Assault with a Minor Under Sixteen Years of Age. The charges were amended on January 7, 2002, to three counts of Sexual Assault with a Minor Under Fourteen Years of Age. On January 9, 2002, a jury found Defendant guilty of Attempt Sexual Assault with a Minor Under Fourteen and Sexual Assault with a Minor Under Fourteen.

On March 14, 2002, Defendant was sentenced as follows: as to Count 1 – Attempt Sexual Assault with a Minor Under Fourteen to a Maximum of One Hundred Twenty (120) Months and a Minimum of Forty-Eight (48) Months; as to Count 2 – Sexual Assault with a Minor Under Fourteen to Life with a Minimum Parole Eligibility of Two Hundred Forty (240) moths, to run Consecutive to Count 1. A Judgment of Conviction was filed on April 2, 2002. Defendant filed a timely notice of appeal on April 3, 2002. The Nevada Supreme Court affirmed Defendant's conviction and remittitur issued on September 23, 2003.

Defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction) on July 1, 2004. The State filed its response on August 31, 2004. The district court filed its Findings of Fact, Conclusions of Law and Order denying Defendant's petition on September 14, 2004. Defendant filed notice of appeal on October 8, 2004. The Nevada Supreme Court affirmed the district court's denial and remittitur issued on February 24, 2005.

Defendant filed a Motion to Vacate Illegal Sentence on December 7, 2007. The State filed its opposition on December 17, 2007. The district court filed an Order denying Defendant's motion on December 31, 2007. Defendant filed a notice of appeal on January 18, 2008. The Nevada Supreme Court affirmed the district court's denial and remittitur issued on September 9, 2008.

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Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction) on January 27, 2010. That petition is still pending. Defendant filed the instant motion on February 25, 2010. The State's opposition is as follows.

ARGUMENT

The State is not required to furnish transcripts at its expense upon the inadequate request of a petitioner claiming inability to pay for them. Petitioner must satisfy the court that the points raised have merit, which will tend to be supported by a review of the record before he may have transcripts supplied at state expense. Peterson v. Warden, 87 Nev. 134, 135-36, 483 P.2d 204, 205 (1971).

An indigent appellant's right to have access to needed transcripts was established in Griffin v. Illinois, 351 U.S. 12, 76 S.Ct. 585 (1956). The protection of indigents from preclusive monetary requirements has been extended to other post-conviction proceedings. *See* Smith v. Bennett, 365 U.S. 708, 81 S.Ct. 895 (1961); Douglas v. Green, 363 U.S. 192, 80 S.Ct. 1048 (1960) (docket fees in habeas corpus proceedings). However, the United States Supreme Court reiterated in Eskridge v. Washington State Board of Prison Terms and Paroles, 357 U.S. 214, 216, 78 S.Ct. 1061, 1062 (1958), what it said in Griffin: "We do not hold that a State must furnish a transcript in every case involving an indigent defendant." Although the Nevada Supreme Court recently ruled that an indigent defendant is entitled to free transcripts for his *direct appeal*, George v. State, 122 Nev.Adv.Op. 1 (2006), it also stated that Peterson remains good law as to post-conviction proceedings beyond the direct appeal.

In the instant motion, Defendant is requesting transcripts to support the claims he intends to raise in what would be his second petition for writ of habeas corpus. Therefore, Defendant is not entitled to free transcripts per George. Furthermore, Defendant has failed to specify why the requested transcripts are required or relevant. The motion also fails to note how transcripts will support Defendant's arguments or establish good cause to overcome the time bar (NRS 34.726) and successive petition bar (NRS 34.810(2). Thus, it is impossible for this court to determine whether the points will be supported by a review of the

record. Therefore, Defendant has not met the requirements set forth in Peterson. Consequently, Defendant is not entitled to free transcripts.

CONCLUSION

Based on the foregoing arguments, the State respectfully requests that Defendant's motion be denied.

DATED this 5th day of March, 2010.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing, was made this 5th day of March, 2010, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

/s/ HOWARD CONRAD
Secretary for the District Attorney's Office

hjc/SVU

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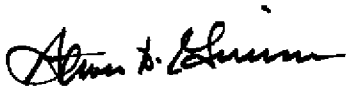

CLERK OF THE COURT

RSPN
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
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Nevada Bar #003814
200 Lewis Avenue
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(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD T. POLK, #1521718 Defendant.	)	CASE NO: C166490 DEPT NO: III

STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

DATE OF HEARING: APRIL 8, 2010
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction).

This response 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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 18, 2000, Renard Polk, hereinafter "Defendant," was charged by way of Amended Information with two counts of Sexual Assault with a Minor Under Fourteen Years of Age and one count of Sexual Assault with a Minor Under Sixteen Years of Age. The charges were amended on January 7, 2002, to three counts of Sexual Assault with a Minor Under Fourteen Years of Age. On January 9, 2002, a jury convicted Defendant of one count each of Attempt Sexual Assault with a Minor Under Fourteen and Sexual Assault with a Minor Under Fourteen, and acquitted Defendant of the remaining count of Sexual Assault with a Minor Under Fourteen.

On March 14, 2002, Defendant was sentenced as follows: as to Count 1 – Attempt Sexual Assault with a Minor Under Fourteen to a Maximum of One Hundred Twenty (120) Months and a Minimum of Forty-Eight (48) Months; as to Count 2 – Sexual Assault with a Minor Under Fourteen to Life with a Minimum Parole Eligibility of Two Hundred Forty (240) moths, to run CONSECUTIVE to Count 1. Defendant was also ordered to receive 691 days credit for time served. A Judgment of Conviction was filed on April 1, 2002.

Defendant filed a timely notice of appeal from the Judgment of Conviction on April 3, 2002 (No. 39457). On August 25, 2003, the Nevada Supreme Court filed an Order affirming Defendant's convictions but ordered a limited remand to correct the Judgment of Conviction. Remittitur issued on September 19, 2003.

Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction) on July 1, 2004. The State filed its Response on August 31, 2004. The district court denied Defendant's petition on the merits on September 8, 2004, and filed its Findings of Fact, Conclusions of Law and Order on September 14, 2004. A Notice of Entry of Decision and Order was filed on September 16, 2004. Defendant appealed the denial to the Nevada Supreme Court (No. 44087). On January 25, 2005, the Court filed an Order affirming the district court's denial of Defendant's habeas petition on the merits, but ordered a limited remand for the specific purpose of correcting the Judgment of Conviction to reflect that

Defendant was convicted pursuant to jury verdict rather than to a guilty plea. An Amended Judgment of Conviction was subsequently filed on February 9, 2005. Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate Illegal Sentence. The State filed its Opposition on December 17, 2007. On December 18, 2007, the district court denied Defendant's motion. The district court filed an Order denying Defendant's motion on December 31, 2007. Defendant appealed the district court's denial of his motion (No. 50949). On June 9, 2008, the Nevada Supreme Court filed an Order affirming the district court's denial. The Court denied a Rehearing on August 12, 2008. Remittitur issued on September 9, 2008.

Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction) on January 27, 2010. The State's Response and Motion to Dismiss is as follows.

ARGUMENT

I. DEFENDANT'S PETITION MUST BE DISMISSED BECAUSE IT IS TIME BARRED.

A. The Petition Is Time Barred Under NRS 34.726.

The mandatory provisions of NRS 34.726 state:

> 1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed **within 1 year after entry of the judgment of conviction** or, if an appeal has been taken from the judgment, within 1 year after the supreme court issues its remittitur. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:
>
> (a) That the delay is not the fault of the petitioner; and
>
> (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.
>
> . . .

NRS 34.726(1) (Emphasis added).

In Gonzales v. State, 118 Nev. 61, 590 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late, pursuant to the "clear and unambiguous" mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance

of filing the petition with the district court within the one year mandate, absent a showing of "good cause" for the delay in filing. Gonzales, 53 P.3d at 902. The one-year time bar is therefore strictly construed.

Here, Remittitur from the Nevada Supreme Court's Order affirming Defendant's convictions was issued on September 19, 2003, therefore, his petition was due on September 20, 2004 (September 19, 2004, was a Sunday). Defendant's instant (second) petition was filed on January 27, 2010, almost six and a half (6 ½) years after the Remittitur from his direct appeal was issued. Further, as discussed, infra, Defendant has not shown good cause to explain the delay. Defendant's petition must therefore be dismissed as time-barred.

II. DEFENDANT'S PETITION MUST BE DISMISSED BECAUSE IT IS SUCCESSIVE.

Defendant's instant petition should be dismissed pursuant to NRS 34.810 as it is successive. Pertinent portions of NRS 34.810 state:

> 2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the Defendant to assert those grounds in a prior petition constituted an abuse of the writ.
>
> 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:
>
> (a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and
>
> (b) Actual prejudice to the petitioner.

NRS 34.810.

The district court denied Defendant's first habeas petition on the merits in 2004, and the Nevada Supreme Court subsequently affirmed the district court's denial of Defendant's first habeas petition on January 25, 2005 (Remittitur issued on February 22, 2005). Defendant should have raised any and all grounds in his first petition and his failure to do so is an abuse of the writ as enunciated in NRS 34.810(2). Because Defendant's first petition was filed and decided on the merits, his instant petition is a successive petition pursuant to NRS 34.810(2). To avoid procedural default under NRS 34.810, Defendant has the burden

of pleading and proving specific facts that demonstrate both good cause for his failure to present his claim in earlier proceedings and actual prejudice. NRS 34.810(3); Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Director, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988). Defendant has not demonstrated any such good cause, and consequently Defendant clearly has not met that burden. Absent a showing of good cause, Defendant's petition should be dismissed pursuant to NRS 34.810.

III. DEFENDANT HAS NOT SHOWN GOOD CAUSE FOR OVERCOMING THE PROCEDURAL BARS.

"In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules." Hathaway v. State, 119 Nev. 30, 71 P.3d 503, 506 (2003); citing Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v. Director, 105 Nev. 63, 769 P.2d 72 (1989); see also Crump v. Warden, 113 Nev. 293, 295, 934 P.2d 247, 252 (1997); Phelps v. Director, 104 Nev. 656, 764 P.2d 1303 (1988). Such an external impediment could be "that the factual or legal basis for a claim was not reasonably available to counsel, or that 'some interference by officials' made compliance impracticable." Hathaway, 71 P.3d at 506; quoting Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzales, 118 Nev. at 595, 53 P.3d at 904; citing Harris v. Warden, 114 Nev. 956, 959-60 n. 4, 964 P.2d 785 n. 4 (1998). Clearly, any delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

To find good cause there must be a "substantial reason; one that affords a legal excuse." Hathaway, 71 P.3d at 506; quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), quoting State v. Estencion, 625 P.2d 1040, 1042 (Haw. 1981). The lack of the assistance of counsel when preparing a petition, and even the failure of trial counsel to forward a copy of the file to a petitioner, have been found to be non-substantial, and not constituting good cause. See Phelps, 104 Nev. at 660; Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

Notably, the Nevada Supreme Court has specifically held that the district court has a duty to consider whether the procedural bars apply to a post-conviction petition and not arbitrarily disregard them. In State v. Eighth Judicial District Court, 121 Nev. 225, 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

> Given the untimely and successive nature of [defendant's] petition, the district court *had a duty imposed by law* to consider whether any or all of [defendant's] claims were barred under NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . . [and] the court's failure to make this determination here constituted an arbitrary and unreasonable exercise of discretion.

[Emphasis added.] 121 Nev. at 234. (See also State v. Haberstroh, 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) wherein the Nevada Supreme Court held that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default rules nor can they empower a court to disregard them.) Here, the State submits Defendant has offered no reason to explain the delay. Absent a finding of good cause, therefore, Defendant's instant (second) petition is procedurally barred from consideration on the merits.

Finally, to the extent Defendant references newly discovered evidence as good cause to overcome the procedural bars, the State would note Defendant has not submitted any. See Calderon v. Thompson, 523 U.S. 538, 559 (1998). Since Defendant has offered no reason to explain the delay, his instant petition must be dismissed.

IV. DEFENDANT WAS NOT ENTITLED TO A GRAND JURY INDICTMENT.

Contrary to Defendant's contention, a criminal defendant does not have a right to be prosecuted by Indictment rather than Information. Section 8 of Article 1 of the Nevada Constitution reads in pertinent part as follows:

> 1. No person shall be tried for a capital or other infamous crime . . . except on presentment or indictment of the grand jury, *or upon information duly filed by a district attorney*, or Attorney General of the State, ...

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[Emphasis added.] NV CONST. art. I, § 8, cl. 1. Moreover, the Nevada Legislature has enacted statutes which permit the prosecution of a criminal defendant by either Information or Indictment. As NRS 172.015 reads:

> Every public offense must be prosecuted by indictment ***or*** information, . . .

[Emphasis added.] NRS 172.015. Moreover, NRS 173.015 provides that the first pleading filed by the State in a criminal action is either an Indictment or Information.

Most significantly, the Nevada Legislature has specifically addressed this precise issue by enacting the following statute:

> Courts may act upon information for all offenses. The several courts of this state shall have and may exercise the same power and jurisdiction to try and determine prosecutions upon information for crimes, misdemeanors and offenses, to issue writs and process and do all acts therein ***as in cases of like prosecution under indictment.***

[Emphasis added.] NRS 173.025. Finally, the Nevada legislature enacted NRS 173.035 wherein it reads in pertinent part as follows:

> 1. *An information may be filed against any person for any offense* when the person:
>
> (a) Has had a preliminary examination as provided by law before a justice of the peace, or other examining officer or magistrate, and has been bound over to appear at the court having jurisdiction; or
>
> (b) *Has waived his right to a preliminary hearing.*

[Emphasis added.] NRS 173.035(1). Based on the foregoing, Defendant's argument is without merit. His petition should therefore be dismissed on this ground.

V. DEFENDANT'S MOTION IS PRECLUDED BY THE DOCTRINE OF LACHES PER NRS 34.800.

NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period exceeding five years between the filing of a judgment of conviction, an order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of conviction and the filing of a petition challenging the validity of a judgment of conviction…." The statute also requires that the State plead laches in its motion to dismiss the petition. NRS 34.800. The

State pleads laches in the instant case.

As noted, supra, Remittitur from the Nevada Supreme Court's Order affirming Defendant's convictions was issued on September 19, 2003. Since almost six and one half (6 ½) years have elapsed between the date of the Remittitur and the filing of Defendant's instant (second) petition, NRS 34.800 directly applies in this case.

Many of the claims in Defendant's petition are mixed questions of law and fact that will require the State to prove facts that are almost six and one half (6 ½) years old from the date of the Remittitur. NRS 34.800 was enacted to protect the State from having to go back years later to re-prove matters that have become ancient history. There is a rebuttable presumption of prejudice for this very reason and the doctrine of laches must be applied in the instant matter. If courts required evidentiary hearings for long delayed petitions such as in the instant matter, the State would have to call and find long lost witnesses whose once vivid recollections have faded and re-gather evidence that in many cases has been lost or destroyed because of the lengthy passage of time. Based on the State's arguments above, this Court should summarily deny the instant petition according to the doctrine of laches pursuant to NRS 34.800, as the delay of almost six and one half (6 ½) years in filing is unexcused.

CONCLUSION

Based on the foregoing, Defendant's second Petition for Writ of Habeas Corpus (Post-Conviction) should be DISMISSED.

DATED this 18th day of March, 2010.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY /s/ MARY KAY HOLTHUS
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing, was made this 18th day of March, 2010, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

/s/ HOWARD CONRAD
Secretary for the District Attorney's Office

hjc/SVU

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CLERK OF COURT

ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MICHELLE FLECK
Deputy District Attorney
Nevada Bar #0010040
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD POLK, #1521718 Defendant.	Case No. C166490 Dept No. III

ORDER DENYING DEFENDANT'S MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE'S EXPENSE

DATE OF HEARING: MARCH 9, 2010
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 9TH day of March, 2010, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by DAVID ROGER, District Attorney, through MICHELLE FLECK, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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MAR 25 2010
CLERK OF THE COURT

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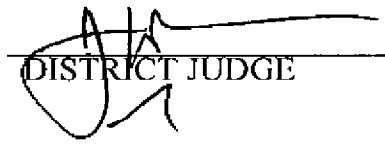
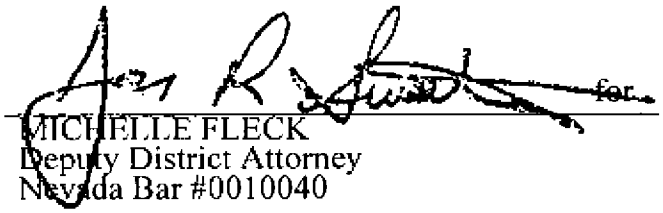
IT IS HEREBY ORDERED that the DEFENDANT'S MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE'S EXPENSE, shall be, and is, DENIED.

DATED this 19 day of March, 2010.



DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781



for

MICHELLE FLECK
Deputy District Attorney
Nevada Bar #0010040

hjc/SVU

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ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD T. POLK,
#1521718
Defendant.

Case No. C166490
Dept No. III

ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AS TIME BARRED

DATE OF HEARING: 04/08/10
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 8th day of April, 2010, the Defendant not being present, in proper person, the Plaintiff being represented by DAVID ROGER, District Attorney, through WILLIAM J. MERBACK, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefore,

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CLERK OF THE COURT

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IT IS HEREBY ORDERED that the Defendant's Petition for Writ of Habeas (Post-Conviction, shall be, and it is denied as time barred.

DATED this 27 day of April, 2010.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

mmw/SVU

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DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
MAY 14 2010
CLERK OF COURT

RENARD T. POLK,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C166490
Dept No: III

NOTICE OF ENTRY OF DECISION AND ORDER

PLEASE TAKE NOTICE that on April 28, 2010, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 14, 2010.

STEVEN D. GRIERSON, CLERK OF THE COURT

By: _____
Jennifer Alexy, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 14 day of May 2010, I placed a copy of this Notice of Entry of Decision and Order in:

The bin(s) located in the Office of the District Court Clerk of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division

☑ The United States mail addressed as follows:
RENARD T. POLK # 72439
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

_____
Jennifer Alexy, Deputy Clerk

ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

APR 29 2 38 PM '10

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD T. POLK,
#1521718

Defendant.

Case No. C166490
Dept No. III

ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AS TIME BARRED

DATE OF HEARING: 04/08/10
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 8th day of April, 2010, the Defendant not being present, in proper person, the Plaintiff being represented by DAVID ROGER, District Attorney, through WILLIAM J. MERBACK, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefore,

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APR 28 2010

CLERK OF THE COURT

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IT IS HEREBY ORDERED that the Defendant's Petition for Writ of Habeas (Post-Conviction, shall be, and it is denied as time barred.

DATED this 27 day of April, 2010.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

mmw/SVU

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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

00C166490
COSCC
Criminal Order to Statistically Close Case
899937

THE STATE OF NEVADA	CASE NO.: 00C166490
VS	DEPARTMENT 3
RENARD T POLK	

CRIMINAL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☐ Conviction
- ☑ Jury Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☑ Conviction
- ☐ Other Manner of Disposition

DATED this 12th day of August, 2010.

DOUGLAS W. HERNDON
DISTRICT COURT JUDGE

SD

AUG 1 4 2010

PCR
RENARD POLK # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

FILED

2011 MAY 19 P 3:36

CLERK OF THE COURT

00C166490
PWHC
Petition for Writ of Habeas Corpus
1422614

IN THE DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

RENARD POLK,

Petitioner,

-vs-

JACK PALMER,

Respondent.

Case No. C166490
Dept. No. III

Date of Hearing: _____
Time of Hearing: _____

Supplemental

PETITION FOR WRIT OF HABEAS CORPUS
(Post-Conviction Relief - NRS 34.735 Petition: Form)

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

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MAY 06 2011
CLERK OF THE COURT

10

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Lovelock Correctional Center, Pershing County, Nevada.

2. Name and location of court which entered the judgment of conviction under attack: Eighth Judicial District Court In and for the County of Clark

3. Date of judgment of conviction: April 1 2002

4. Case number: C166490

5. (a) Length of sentence: 20 years to Life/consecutive with 2 years to 12.

(b) If sentence is death, state any date upon which execution is scheduled: N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ___ No ////

If "yes," list crime, case number and sentence being served at this time: N/A

7. Nature of offense involved in conviction being challenged: Sexual Assault

8. What was your plea? (check one)

(a) Not guilty ////
(b) Guilty ___
(c) Guilty but mentally ill ___
(d) Nolo contendere ___

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: N/A

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury //// (b) Judge without a jury ___

11. Did you testify at the trial? Yes //// No ___

12. Did you appeal from the judgment of conviction?

Yes //// No ___

13. If you did appeal, answer the following:
(a) Name of court: Nevada Supreme Court
(b) Case number or citation: 39457
(c) Result: Dismissed
(d) Date of result: August 25, 2003
(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: N/A

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes //// No ___

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: Federal District Court

(2) Nature of proceeding: Civil Rights 1983 Suit

(3) Grounds raised: [See Record]

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ////

(5) Result: Dismissed

(6) Date of result: 9/13/09

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: Nevada Supreme Court

(2) Nature of proceeding: Appellate

(3) Grounds raised: [See Record]

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ////

(5) Result: Dismissed

(6) Date of result: 8/25/03

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion?
Yes //// No ___

Citation or date of decision: 44087

(2) Second petition, application or motion?
Yes //// No ___

Citation or date of decision: 50949

(3) Third or subsequent petitions, applications or motions? Yes //// No ___

Citation or date of decision: _____

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: None

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) All of them. (a) state interference (b) newly discovered evid (c) indiscovarble issues of fact and law (d) force given psychopic medication.

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes //// No ___

If yes, state what court and the case number: _____

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Nance Henke (Preliminary Hearing) Christopher Oram (Trial) David Schmeke (Direct Appeal)

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes ___ No ////

If yes, specify where and when it is to be served, if you know: N/A

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: The petitioner was denied the right to "Due Process" during a hearing on April 8 2010

Supporting FACTS (Tell your story briefly without citing cases or law.): where the district attorney Mary Holthoos represented falsely that the petitioner was procedurally defaulted from obtaining relief due to [his] failure to prosecute [his] post-conviction within a timely manner (or) successively filing petitions in violation, derogation and contrary to the U.S. Federal Constitution's Amendments one through fourteen.

(b) Ground two: The petitioner was denied the right to "Due Process" "Equal Protection" and a "Full and Fair Hearing" on April 8 2010 whereas the district court conducted a hearing

Supporting FACTS (Tell your story briefly without citing cases or law.): without the petitioner's presence in absence of consent or waiver in violation, derogation and contrary to the U.S. Federal Constitutions Amendments one through fourteen.

(c) Ground three: The petitioner was denied the right to "Due Process" and "Equal Protections" whereas the state was forcefully administering antipsychotic medication to the petitioner

Supporting FACTS (Tell your story briefly without citing cases or law.): against his better will and judgment (or) without court order during collateral attack proceedings appellate review of the instant matter in violation, derogation and contrary to the U.S. Federal Constitutions Amendments against governmental intrusion one through fourteen.

(d) Ground four: The petitioner is being denied the right to "Due Process" "Equal Protections" and "Liberty" whereas the state department of corrections is illegaly detaining or

Supporting FACTS (Tell your story briefly without citing cases or law.): restraining the petitioner without probable cause (or) under proper authority/jurisdiction in violation derogation and contrary to the U.S. Federal Constitutions Amendments one through fourteen.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at Lovelock Correctional Center on the 26th day of the month of April of the year 2011.

Renard Polk
Rd Polk #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

REUARD POLK
Rd Polk # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE BY MAIL

I, REUARD POLK, hereby certify, pursuant to N.R.C.P. 5(b), that on this 26th day of the month of April of the year 2011, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Jack Palmer, Warden
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada

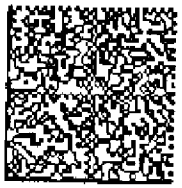
Catherine Cortez Masto
Nevada Attorney General
100 No. Carson Street
Carson City, Nevada 89701-4717

David Roger
Clark County District Attorney
P.O. Box 552211
Las Vegas, Nevada 89155-2211

Rd Polk
REUARD POLK # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

RENARD POLK #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419



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Regional Justice Center
200 Lewis Ave. 3rd Floor
Las Vegas, Nevada 89155-1160

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2011 MAY 31 P 4: 51

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD T. POLK,

Petitioner,

vs.

JACK PALMER,

Respondent,

Case No: C166490
Dept No: 3

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on May 19, 2011. The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 19th day of July, ~~200~~2011, at the hour of 9:00 o'clock for further proceedings.

District Court Judge

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MAY 31 2011
CLERK OF THE COURT

00C166490
OPWH
Order for Petition for Writ of Habeas Corpu
1452398

RENARD T. Polk Prison: #72439 County: #1521718
1200 Prison Rd
Lovelock Correctional Center
Love Lock Nevada 89419
In Pro-Se (sui juris) [sui generis]

FILED
MAR 26 2012
CLERK OF COURT

In The Eigth Judicial District Court
In and For The County of Clark
For the State of Nevada

00C166490
MCOR
Motion to Correct Sentence
1808025

Renard Truman Polk
Movant

CASE NUMBER: C166490C Dst. Crt.,
: 99F04726X Jst. Crt

4-10-2012
9:00AM

(VS.)
The State of Nevada ex rel,
Clark County, City of Las Vegas;
District Attoney's office, Clerk's
office et al.
Respondent(s)

MOTION TO CORRECT AN ILLEGAL SENTENCE.

COMES Now the defendant RENARD TRUMAN POLK herein after referred to as the ("Movant") and hereby submitts this motion and the attached points and authorities.

This motion is based on all papers on file herein and oral argument at the time of the hearing if necessary.

Points and Authorities.

Statement of the Case.

On or about March 13, 1999 an arrest warrant was issued out of the juveniile justice center pursuant to this case subjudice.

On August 14, 1999 the movant surrendered himself to authorities and was taken to the juveniile justice center.

After being booked in the movant gave an involuntary statement.

During a related or unrelated probation revokation hearing the district attorney's office dismissed the sexual assault charges (and/or) quashed the warrant in regards thereto.

On August 16, 1999 juveniile jurisdiction and wardship terminated and the movant was sent to the Clark County Detention Center for (30) thirty-days

On January 12, 2000 another arrest warrant was issued (and/or) obtained pursuant to the sexual assault charges initialy dismissed in the juveniile court. Ire Gault

On February 23, 2000 the movant was arrested and transported to the Clark County Detention Center.

On August 8, 2001 the movant was brought before the court on a Pre-trial Writ of Habeas Corpus.

wherein the movant alleged, inter alia, pre-arrest delay, double jeopardy and forced administration of anti-psychotic medication.

However, the district attorney Mary Holthus falsely represented to the court; that, i.) it was the movant's decision to plead guilty by reason of insanity, ii.) the purported victims were from two seperate and distinct cases involving different incidents, iii.) a preliminary hearing was allocated and iv.) the movant was not (re)arraigned in excess of the statutory limit.

Notwithstanding the movant proceeded to trial on January 7, 2002.

On January 10, 2002 the jury returned with a verdict of guilty wherein counsel of record immediately informed the court of the party's intent to appeal.

Shortly thereafter a Notice of Appeal was filed.

In excess of authority the trial court then oraly pronounced sentence on March 14, 2002.

On April 1, 2002 the judgment of conviction was entered which reflected the movant plead guilty further imposing lifetime supervision upon any type of release.

This occured while direct appeal proceedings were underway, but before the transmittal of the record. Buffington v. State 868 P.2d 643

On August 25, 2003 the Nevada Supreme

Court issued a limited order of remand to correct the judgment of conviction

The remittitur issued on September 23, 2003

Having never corrected the judgment of conviction on July 1, 2004 the movant submitted a Petition for Writ of Habeas Corpus.

A good cause order was issued the same day and a hearing set.

Having never been served by the district attorney's office with the response (answer) the district attorney's office filed a pleading falsely (and/or) fraudulently representing (and/or) concealing that; i.) the petition for relief was summarily dismissed, ii.) the petitioner did not request his presence, iii.) the issues presented were decided on direct appeal, iv.) the clerk's office had entered the new judgment of conviction and the movant was sentenced accordingly having been present during, v.) the direct appeal was dismissed vi.) the case was remanded to correct the judgment of conviction rather than amend vi.) law of the case was applicable to the movant's issues

Nevertheless the Petition was denied in absence of the petitioner movant and opportunity to be heard on September 14, 2004

Shortly thereafter the movant appealed and once again the Nevada Supreme Court issued a

limited order for remand to correct the judgment of conviction.

The remittitur issued on February 24, 2005

On February 9, 2005 however, the trial court clerk in department six entered (and/or) filed an amended judgment of conviction in excess of authority (and/or) jurisdiction; further, inconsistent with the Nevada Supreme Court's order to correct. Glanner v. State 107 Nev 482

Accordingly the movant has been held under an invalid, foriegn, extrajudicial and fraudulent judgment, notwithstanding.

Argument

As an extreme detrimental result of the clerk's actions and the district attorney's office false representations or concealment of pertinent facts the movant (is) has been

a.) committed by reason of an administrative process indefinitely restrained, detained and imprisoned falsely, unduly, unconstitutionaly, impermissibly, illegaly, unlawfully and unreasonably of his liberty without notice, charge or trial.

b.) (being) sentenced (and/or) punished multiple times for the same offense.

Conclusion

Wherefore the movant requests this Court issue an order directing the department of corrections release the defendant forthwith.

Verification

I, Renard Polk do hereby certify under the penalty of perjury the instant "Motion to Correct an Illegal Sentence" is true accurate and correct to the best of my Knowledge.

/s/ Polk ©

Certificate of Service by Mail

I Renard Polk do hereby certify on the 19th day of March I entrusted the above-stated Motion to the care of prison official(s) for the purpose of being conveyed in the U.S. Postal Service to the following address: 1.) Clerk's Office 200 Lewis Ave Las Vegas Nevada 89155. 2.) Attorney General's Office 100 North Carson St Carson City Nevada 89702.

/s/ Polk ©

Notice of Motion

Attention: Nevada Attorney General Catherine Masto; Director of Prisons Gregory Cox; Chief Deputy District Attorney Mary Holthus; District Court Clerk Diana Alba the instant Motion will be heard on April 10, 2012 @ 9:00Am Department 3 before the honorable judge Douglas Herndon

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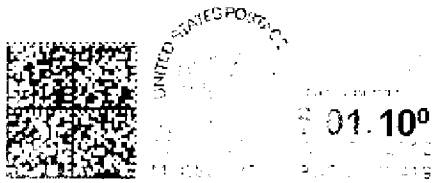
///.

///.

///.

#72439 (RENARD T. POLK)
1200 Prison Rd
Love Lock Correctional Center
Love Lock Nevada 89419



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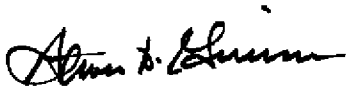

CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, # 1521718 Defendant.	CASE NO: **C-00-166490-1** DEPT NO: **III**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CORRECT AN ILLEGAL SENTENCE

DATE OF HEARING: MAY 29, 2012
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Correct and Illegal Sentence.

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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 13, 2000 Renard Polk (hereinafter "Defendant") was charged by way of an Information with two counts of Sexual Assault with a Minor Under Sixteen Years of Age (Felony – NRS 200.364, 200.366) and one count of First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the charges were amended to three counts of Sexual Assault with a Minor Under Fourteen Years of Age.

On January 10, 2002, following trial, the jury returned a verdict of guilty to one count each of Attempt Sexual Assault with a Minor Under Fourteen and Sexual Assault with a Minor Under Fourteen, and not guilty as to the remaining count of Sexual Assault with a Minor Under Fourteen.

On March 14, 2002, Defendant was sentenced as follows: as to Count 1 – 48 to 120 months; as to Count 2 –Life with a minimum parole eligibility of 240 months, to run consecutive to Count 1; with 691 days credit for time served. Judgment of Conviction was filed on April 1, 2002; however, it incorrectly stated that Defendant was convicted pursuant to a guilty plea.

Defendant filed a timely notice of appeal from the Judgment of Conviction on April 3, 2002 (No. 39457). On August 25, 2003, the Nevada Supreme Court filed an Order affirming Defendant's convictions but ordered a limited remand to correct the Judgment of Conviction to reflect the jury's guilty verdicts. Remittitur issued on September 19, 2003.

Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction) on July 1, 2004. The State filed its Response on August 31, 2004. The district court denied Defendant's petition on the merits on September 8, 2004, and filed its Findings of Fact, Conclusions of Law and Order on September 14, 2004. Defendant appealed the denial to the Nevada Supreme Court (No. 44087). On January 25, 2005, the Court filed an Order affirming the district court's denial of Defendant's habeas petition on the merits, but ordered a limited remand for the specific purpose of correcting the Judgment of Conviction to reflect that Defendant was convicted pursuant to jury verdict rather than to a guilty plea. An

Amended Judgment of Conviction was subsequently filed on February 9, 2005. Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate Illegal Sentence. The State filed its Opposition on December 17, 2007. On December 18, 2007, the district court denied Defendant's motion. The district court filed an Order denying Defendant's motion on December 31, 2007. Defendant appealed the district court's denial of his motion (No. 50949). On June 9, 2008, the Nevada Supreme Court filed an Order affirming the district court's denial. The Court denied a Rehearing on August 12, 2008. Remittitur issued on September 9, 2008.

On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response and Motion to Dismiss on March 18, 2010. Defendant's second Petition was denied on the pleadings as time-barred on April 8, 2010, and an Order to that effect was filed on April 28, 2010.

On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). On July 26, 2011 the court denied the petition as being untimely.

On March 26, 2012 Defendant filed a Motion to Correct an Illegal Sentence and the State's opposition follows.

ARGUMENT

Although the court may correct an illegal sentence at anytime, pursuant to NRS 176.555, a motion to correct an illegal sentence must address the facial legality of the sentence. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney v. State, 185 P.3d 350, 352 (Nev. 2008). A motion to correct an illegal sentence may only be granted when the sentence is at variance with the controlling sentencing statute, the court acts without jurisdiction, or the sentence is in excess of the statutory maximum. Edwards, 112 Nev. at 708, 928 P.2d at 324. In the present case Defendant has failed to make the requisite showing that his sentence is facially illegal, therefore, his motion should be denied.

//

//

In 2002, Defendant was found guilty of Count 1 – Attempt Sexual Assault with a Minor Under Fourteen, and one count of Sexual Assault with a Minor Under Fourteen in violation of NRS 200.364, 200.366, and 193.330. Defendant was subsequently sentenced in Count 1 to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months, and a consecutive sentence of Life with a minimum of two hundred forty (240) months in Count 2. At the time Defendant was sentenced the statutes under which Defendant was found guilty read as follows:

NRS 200.366(3) reads in pertinent part:

> 3. A person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:
>
> . . .
>
> (c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison **for life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served.** (Emphasis added).

NRS 193.330(a) provides, in relevant part:

> 1. An act done with the intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. A person who attempts to commit a crime, unless a different penalty is prescribed by statute, shall be punished as follows:
>
> (a) If the person is convicted of:
>
> (1) Attempt to commit a category A felony, for a category B felony by imprisonment in the state prison for **a minimum term of not less than 2 years and a maximum term of not more than 20 years**. (Emphasis added).
>
> NRS 176.0931(1) If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

Here, Defendant's sentence is within the statute and thus it is not facially illegal per NRS 176.555. Furthermore, any other arguments Defendant may have made are beyond the scope of this limited remedy per Edwards and thus must also be denied.

//

CONCLUSION

Based on the foregoing arguments the State respectfully requests the Defendant's Motion to Correct an Illegal Sentence be denied.

DATED this 23rd day of April, 2012.

Respectfully submitted,

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

BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing, was made this 23rd day of April, 2012, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

/s/ HOWARD CONRAD
Secretary for the District Attorney's Office

hjc/SVU

RENARD T. POLK #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada. 89419

S20

FILED
MAY 10 2012
CLERK OF COURT

In The Eighth Judicial District Court
In And For The County of Clark
The State of Nevada

00C166490
MOT
Motion
1848517

Renard Truman Polk
Movant

CASE No: 00-C166490-1
DEPARTMENT No: II

vs.

The State of Nevada ex. rel,
Clark County ex. rel,
City and Township of Las Vegas ex. rel,
Pershing County ex. rel,
Defendant(s)/Respondent(s)

"Amended Motion To Correct Illegal Sentence."

COMES NOW RENARDT. POLK[1] in pro-se and hereby submitts for filing this 'amended-motion' in preparation of the hearing allocated on May 29, 2012 @ 9:00 a.m. before the above-captioned court and department.

This motion is further made and based on all papers, pleadings and documents on file, as well as, in support of the argument presented at the "hearing."

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MAY 10 2012
CLERK OF THE COURT

Statement of facts, Procedural history, Points, Authorities and Memoranda.

On February 8, 1999 the movant was unconditionaly released from the Family and Youth Services Facility after being accredited time served pursuant to Robbery with the use of a deadly weapon.

Whereupon release juveniile wardship was to terminate.

However, on March 16, 1999 an arrest warrant was obtained against the movant without an affidavit in support thereof for sexual assault and absconding probation stemming from the juveniile justice center.

On August 14, 1999 the movant surrendered himself to local authorities where he was booked in at the Juveniile Facility.

Upon being booked in the movant was approached by a detective and asked whether he would like to make a statement.

The movant consented by signing a Miranda/attorney waiver only because the detective made threatning gestures toward his gun holster.

On August 16, 1999 the movant was sentenced by the juveniile court pursuant to the probation absonding regarding the Robbery for being accused of sexual assault.

During the movant's stay at the Clark County Detention Center, after examination by jail house officials/employees due to the movant filing internal documents/grievances regarding movant being illegaly detained,

Staff ordered the forced-administration of anti-psychotic medication from August 22, 1999 until September 16, 1999.

Once the petitioner was released the arrest warrant went unexecuted.

On October 26, 1999 the petitioner was arrested and released for possession of stolen vehicle.

On January 12, 2000 the termination of wardship for the juvenille justice center was filed

On January 13, 2000 a second arrest warrant was issued upon complaint by the district attorney's office submitted without an affidavit in support thereof.

On February 23, 2000 the petitioner was detained for a domestic disturbance wherein it was discovered that an outstanding warrant had been issued.

The petitioner was therein taken to the Clark County Detention Center and booked in accordingly.

The petitioner initialy appeared before the justice court on March 6, 2000 charged with (3) three counts of sexual assault with a minor under the age of (16) sixteen, notwithstanding.

On April 11, 2000 the petitioner again appeared before the justice court on criminal felony complaint for the purpose of unconditionaly waiving preliminary examination pursuant to a

negotiated plea.

Having been bound over to the district court on April 18, 2000 the district attorney changed the effect of the plea increasing the punishment severity.

This prompted the petitioner to revoke the offer and request a speedy trial.

Sometime thereafter on April 25, 2000 defense counsel moved the court to have petitioner psychologicaly evaluated.

Prosecuting attorney filed an amended information also at this time.

Notwithstanding, an amended criminal complaint was filed in the justice court involving the same parties with the purported victims age lowered to (14) fourteen.

On August 1, 2000 the petitioner was transported to the Lakes Crossing Mental Hygieve and Retardation Department and Division for Human Resources.

During the petitioner's stay at the facility Petitioner was disallowed to; i.) have access to legal materials, ii.) order law books, iii.) correspond with legal advocates, iv.) obtain records and information from other state agencies and departments

Furthermore, forensic experts and evaluators tested and conducted exams to determine the petitioner's competency, rather than whether Petitioner

was insane.

Doctors concluded the petitioner was competent to stand trial and Petitioner was transported back to the Clark County Detention Center to stand to answer to the charges.

On November 11, 2000 the petitioner was found competent by the court and trial was set.

However, on or about January 23, 2001 the state supreme court found and concluded the legislatures statutory prohibition and preclusion to plead guilty by reason of insanity was unconstitutional.

On July 26, 2001 defense attorney was permitted to pursue an insanity defense on behalf of the petitioner, but not at the advice thereof.

Notwithstanding, the doctor who performed the initial forensic exam prompting the court to send the petitioner to Lakes Crossing made contradictory findings and conclusions than that first represented.

However, the petitioner was not remanded back to the Lakes Crossing Mental Hygiene and Retardation Department and Division for Human Resources for further evaluations.

On August 8, 2001 the petitioner's motion to dismiss case on hearing, alleging, inter alia, i.) double jeopardy, ii.) failure to certify [petitioner] as an adult, iii.) illegaly obtained statement, iv.) forced-administration of anti-psychotic medication during pre-

arraignment proceedings and v.) pre-initial appearance post-arrest delay.

Notwithstanding, the motion was summarily dismissed and the petitioner was not permitted to appeal.

On September 11, 2001 the petitioner submitted a writ of mandamus to the supreme court of the state.

While awaiting direction from the state supreme court the petitioner conveyed a pre-trial writ of habeas to the lower trial district court on September 21, 2001.

The court clerk deferred filing the petition for pre-trial writ of habeas.

On October 3, 2001 the nevada supreme court directed the petition writ of mandamus to be filed in the eigth judicial district lower trial court.

The writ of mandamus went unanswered until January 3, 2002 wherein the court erroneously order the writ of mandamus off calendar and docket, simultaneously directing the court clerk to file the pre-trial writ of habeas.

The court then therein found the pre-trial writ as successive.

A jury trial commenced on January 7, 2002 wherein the district attorney was permitted to again amend the information's date and purported victim's

age.

On January 10, 2002 the jury returned a verdict of guilty at which time defense attorney moved for a mistrial.

The lower trial district court over-ruled the motion and defense attorney advised the court of the petitioner's right and intention to appeal.

Shortly thereafter an appellate attorney was appointed.

On March 14, 202 the petitioner was orally sentenced.

On April 1, 2002 the actual jury verdict and 'judgment of conviction' were filed.

On April 2, 2002 however; the clerk and district attorney's office were permitted to subrogate/substitute another 'judgment of conviction' reflecting the petitioner plead guilty, also imposing lifetime supervision upon any type of release, as well as, a fine/restitution.

Thereafter on April 3, 2002 the Notice of Appeal was filed.

On September 11, 2002 the opening brief was submitted.

The state submitted its answer on November 15, 2002.

On August 25, 2003 the state supreme court remanded for the purpose of correcting the judgment wich incorrectly stated the petitioner plead guilty dismissing the appeal.

On September 23, 2003 the remittitur having failed to issue and with the judgment of conviction uncorrected the clerk filed the (post-conviction) petition writ of habeas corpus submitted on July 1, 2004.

In addition the petitioner submitted an Ex-Parte Motion to Appoint Counsel and for Evidentiary Hearing along with an Affidavit in Support of the Petition and Memorandum of Exhibits.

On July 4, 2004 the eighth judicial lower trial district court issued an order to show cause, file a return and set a hearing date for September 14.

On August 14, 2004 the petitioner attempted to submit a Motion to Transport and Produce Prisoner.

Having never received a response on the Motion to Produce the petitioner attempted to submit a correctional center's grievance to transfer for the predetermined court date on September 7, 2004.

On September 8, 2004 the lower trial district court conducted an ex-parte proceeding summarily dismissing the petitioner's writ.

That likewise on September 14, 2004 and every subsequent court date hearing thereafter in absence of the petitioner, an answer being served and opportunity to be heard the district attorney's office falsely (and/or) fraudulently represented (and/or) concealed or suborned another thereto: i.) the judgment of conviction went uncorrected, ii.) the petition was

not summarily dismissed, iii.) the direct appeal was not dismissed, iv.) that the purported victims were from to seperate accessions, v.) the petitioner waived preliminary examination, vi.) prosecution was brought in "good-faith" or with "clean-hands", vii.) the petitioner was not on juveniile probation when allegation/charges arose, viii.) a judges signature was appropriated to the bench/ arrest/detention warrant, ix.) an affidavit supported the criminal complaint, x.) the petitioner gave false information, xi.) the petitioner waived or was estopped from asserting these claims, inter alia, xii.) the petitioner's signature and documents were replicated and converted, xiii.) the petitioner was not being forcefully administered antipsychotic medication during the delay in pre-initial appearance and post-arrest, as well as, post-conviction, xiv.) the petitioner was resentenced xv.) additional charges were being sought, xvi.) the petitioner plead guilty.

On September 16, 2004 the notice of entry was filed.

On October 8, 2004 the petitioner filed a notice of appeal.

On November 16, 2004 the petitioner submitted a original jurisdiction writ of habeas corpus having decided not to submit an opening brief.

On January 25, 2004 the state supreme court on remand once again issued an order directing the lower trial court to correct the judgment/sentence to reflect the

movant went to trial rather than accepted/entered a guilty plea.

Notwithstanding, on February 9, 2005 the clerk's office, along with the district attorney's, were permitted to file an AMENDED judgment of conviction irrespective and erroneously from the state supreme court's order to CORRECT before the remittitur issued on February 25.

That on December 7, 2007 the movant submitted and the clerk filed a Motion to Correct Illegal Sentence.

On December 31, 2007 the lower trial district court construed the motion as a petition likewise finding the motion 'time-barred.'

A notice of appeal was submitted by the movant shortly thereafter on January 18, 2008.

On June 4, 2008 and every precedent hearing allocated/conducted before the state supreme court in absence of the petitioner, a reply brief served, opportunity to be heard, the appeal record docketed and sue sponte the court resolved disputed material issues of fact absent proof, production or presentment.

That in addition to the previously stated facts beginning April 11, 2002 and continuing thereafter due to the revision of various laws, regulations, computers, codes or otherwise, as well as, false, fraudulent or concealment of entries, representations or otherwise the department of corrections and corresponding, correlate and coordinate departments have been refusing, failing, deferring,

restraining, prohibiting or otherwise to: i.) resentence movant in accordance with the new parameters, ii.) produce movant for any hearing (video or otherwise) conducted/allocated for relief/detention, iii.) properly accredit the accumulation of good, work, meritorious and statutory credits/days (and/or) iv.) produce and convey orders in regards to the hearings conducted October 13, 2011, as well as, June 10, 2011.

▷ Conclusion. ◁

Wherefore {and/or} Therefore, as an extreme detrimental result the movant [having been] (is) has been:

(a.) committed by reason of an administrative process or assessment; i.) indefinitely, ii.) excessively, iii.) disproportionately, iv.) falsely, v.) impermissibly, vi.) improvidently, vii.) unduly, viii.) illegaly, ix.) doubly, x.) unreasonably, xi.) arbitrarily, xii.) collateraly and xiii.) unlawfully

(b.) disentitled, disallowed and dispossessed to; i.) receive the benefits of the Second Chance Act ii.) sentencing as a juveniile rather than adult, iii.) concurent sentences as a juveniile or an adult, iv.) criminal rights based on civil forfietures, v.) sentencing structure initialy imposed without false or fraudulent represeritations, vi.) offer mitigating factors, testimony or otherwise, vii.) personal appearance, viii.) visitation rights; whereby the movant should (must) be resentenced

{and/or} released from custody.

Verification:

/s/ [signature]

Renard T. Polk #72439

Lovelock Correctional Center

1200 Prison Rd

Lovelock, Nevada 89419

(#72439) RENARD T. PONK
Lovelock Correctional Center
1200 Prison Rd
Lovelock, Nevada. 89419

ORIGINAL

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED
JUN 08 2012
CLERK OF COURT

00C166490
ODM
Order Denying Motion
1871407

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD POLK, #1521718 Defendant.	Case No.	**C-00-166490-1**
	Dept No.	**III**

ORDER DENYING DEFENDANT'S MOTION
TO CORRECT ILLEGAL SENTENCE

DATE OF HEARING: MAY 29, 2012
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 29TH day of May, 2012, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through JAKE VILLANI, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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IT IS HEREBY ORDERED that the DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE, shall be, and is, DENIED.

DATED this 6 day of ~~May~~ June, 2012.

DISTRICT JUDGE

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

for

JAKE VILLANI
Deputy District Attorney
Nevada Bar #011732

hjc/SVU

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FILED
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CLERK OF COURT

(48)

Case No. A-12-66018-C/00C166490C
Dept. No. I

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

RENARD T. Polk
Petitioner,

Kenneth Cox,
Lacey Donaldson,
Robert Legrand,
Respondent.

00C166490
PWHC
Petition for Writ of Habeas Corpus
2376974

PETITION FOR WRIT OF HABEAS CORPUS (POSTCONVICTION) {AND/OR} Mandamus or PROHIBITION

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Lovelock Correctional Center

2. Name and location of court which entered the judgment of conviction under attack: The Sixth Judicial District Court Pershing County (and/or) Lake Township

3. Date of judgment of conviction: October 13, 2011

4. Case number: 00C166490C/11 SC 0023

5. (a) Length of sentence: 4-12 years consecutive w/ 20 years

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CLERK OF THE COURT

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(b) If sentence is death, state any date upon which execution is scheduled:....

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ..... No ...✓...

If "yes," list crime, case number and sentence being served at this time: .....N/A.....

.....

.....

7. Nature of offense involved in conviction being challenged: .....

.....

8. What was your plea? (check one)

(a) Not guilty ...✓...

(b) Guilty .....

(c) Guilty but mentally ill .....

(d) Nolo contendere .....

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: .....N/A.....

.....

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury ...✓...

(b) Judge without a jury .....

11. Did you testify at the trial? Yes ...✓... No .....

12. Did you appeal from the judgment of conviction? Yes ...✓... No .....

13. If you did appeal, answer the following:

(a) Name of court: ....Nevada Supreme Court.....

(b) Case number or citation: .....38941.....

(c) Result: ....Dismissed.....

(d) Date of result: .....August 25, 2003.....

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: N/A

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ✓ No .....

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: Eighth Judicial District Court

(2) Nature of proceeding: Pre-trial Writ of Habeas Corpus, Motion To Dismiss Information and Objections

(3) Grounds raised: Double Jeopardy, Delinquency and Post-Arrest Pre-Accusation Delay

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ✓ No .....

(5) Result: Dismissed

(6) Date of result: August 8, 2001

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

N/A

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: Eigth Judical District Cort

(2) Nature of proceeding: Petition Writ

(3) Grounds raised: Ineffective Trial Counsel

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ✓ No .....

(5) Result: Order Unsatisfied

(6) Date of result: On-going

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes ...✓... No .....

Citation or date of decision: ....August 8, 2001.....

(2) Second petition, application or motion? Yes ...✓... No .....

Citation or date of decision: ....July 23, 2011.....

(3) Third or subsequent petitions, applications or motions? Yes ...✓... No .....

Citation or date of decision: ....October 13, 2011.....

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.).....N/A.....

.....

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: .....N/A.....

.....

(b) The proceedings in which these grounds were raised: .....N/A.....

.....

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....N/A.....

.....

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) ....Conditions Subsequent.....

N/A

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) N/A

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ✓ No .....

If yes, state what court and the case number: The Sixth Judicial District Court Pershing County Department

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Nancy hemke (Arraignment) Christopher Oram (Trial) David Schieke (Direct Appeal)

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes ..... No ✓

If yes, specify where and when it is to be served, if you know: N/A

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground ONE: The petitioners right, priviledge and entitlement to access the courts and redress of grievances are being derogated, abrogated, violated and trespassed contrary and repugnant to, inviolation, inoverbreadth

Supporting FACTS (Tell your story briefly without citing cases or law.): and invagueness of the due process and equal protections clause(s) of the United States Federal Constitution Amendments 1, 5 and 14 based on the following; that,

From, on or about October 13, 2011 the petitioner submitted a total of (4) four contempt complaints, inter alia, to the Sixth Judicial District's clerks office.

Dawn Bequette having received the complaints refuses to file and commence them, notwithstanding.

Further said clerk along with Lacey Donaldson refuses to file the summons submitted to effect service of process in regard to case number PI-12-0834.

Whereas judge Ed Dannan having conducted a hearing, or otherwise, refuses to relegate his decision to paper form pursuant to case number 11 SC 7923

Whereas judge Kenneth Corey having conducted an in chambers ex-parte hearing pursuant to case number A-12-66018-C refuses to make a written order regarding his decision.

(b) Ground TWO: The petitioner's right, priviledge and entitlement to be free from governmental reprisal, retaliation, cruel and unusual punishment are being derogated, trespassed, violated and infringed

Supporting FACTS (Tell your story briefly without citing cases or law.): contrary and repugnant to, inviolation and moverbreadth of the right to petition the government for redress of grievances, due process and equal protections clauses of the United States Constitution Amendments 1, 5, 8 and 14 based on the following; that

But-for the internal grievances the petitioner has submitted regarding recreational priviledges, sparse medical care, treatment and examinations, the fraud and contempt being committed by the administrative personnel at the Lockhock Correctional Center. The petitioner would not be receiving baseless disciplinary infraction citations, threatened with the potential placement into solitary confinement and aggrieved from having his grievances rejected by the correctional center.

(c) Ground THREE: The petitioner's right, priviledge and entitlement to be free from an unconstitutional confinement are derogated, trespassed, infringed, violated and suborned contrary and repugnant to, inviolation, moverbreadth

Supporting FACTS (Tell your story briefly without citing cases or law.): and invagueness of the due process, equal protections, double jeopardy and searches and siezures clause(s) of the United States (Federal) Constitution Amendments 1, 4, 5, 8, and 14 baised on the following; that,

On June 7, 2002, April 8, 2010 and again on July 19, 2011 the petitioner's petition for writ was granted allocating an evidentiary hearing.

Notwithstanding, to date no order has been adhered to, nor has the petitioner been haled into court for the purported relief

(d) Ground FOUR: The petitioner's right, priviledge and entitlement to be free from peonage, involuntary servitude and debtor's jail are being violated, trespassed, violated, abrogated and infringed contrary and repugnant to,

Supporting FACTS (Tell your story briefly without citing cases or law.): Invialation, inverbreadth and inveagueness of the due process, equal protections, excessive fines and penalties, cruel and unusual punishment clause(s) of the United States Constitution Amendments 1, 4, 5, 8 and 14 based on the following; that,

On June 8, 2007; April 8, 2010; July 23, 2010; December 8, 2011 and August 16, 2008 the petitioner was permitted to process and file court documentation, inter alia, without costs per court order.

Whereas the Sixth Judicial District court clerks office contemptuously refuses to obey the dictates of said orders.

Further imposing fees and expenses to utilize court services.

Not to mention the Department of Corrections Administrative Legal Personnel refuse as well to obey the commands and dictates of the court orders, notwithstanding.

WHEREFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at 11:58a.m. on the 27th day of the month of 3 of the year 2013

Signature of petitioner

1200 Prison Rd

Address

Signature of attorney (if any)

RENARD POLK

Attorney for petitioner

Lovelock, NV 89419

Address

VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true.

Petitioner

RENARD POLK

Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, RENARD POLK, hereby certify, pursuant to N.R.C.P. 5(b), that on this 27th day of the month of 3 of the year 2013 I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

200 Lewis Ave, Las Vegas NV 89155

Respondent prison or jail official

Robert Legrand

Address

1200 Prison Rd, Lovelock, NV 89419

Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

Mary Hotthus

District Attorney of County of Conviction

200 Lewis Ave, LV, NV 89155

Address

Signature of Petitioner

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Petition

For Writ OF Habeas Corpus
(Title of Document)

filed in District Court Case number A-12-66018-C

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:
N/A
(State specific law)

-or-

B. For the administration of a public program or for an application for a federal or state grant.

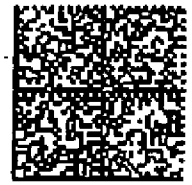
Signature

2/22/13
Date

RENARD PONK
Print Name

Proper Person
Title

RENARD T. POLK #12439
1200 Prison Rd
Lovelock, Correctional Center
Lovelock, Nevada 89419



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200 Lewis Ave
Las Vegas, Nevada 89155

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Renard T Polk

Petitioner,

vs.

Kenneth Corey, Larey Donaldson, Robert Legrand

Respondent,

Case No: 00C166490

Dept No: III

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on April 9, 2013. The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 11th day of June, 2013 ___, at the hour of 9:00 o'clock for further proceedings.

00C166490
OPWH
Order for Petition for Writ of Habeas Corpu
2395020

District Court Judge

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CLERK OF THE COURT

04-10-2013 RCVD

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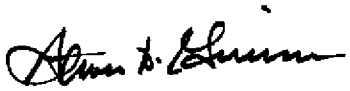

CLERK OF THE COURT

RSPN
CATHERINE CORTEZ MASTO
Attorney General
DENNIS C. WILSON
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555 E. Washington Ave., Ste. 3900
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P: (702) 486-3086
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DWilson@ag.nv.gov
Attorneys for Respondents

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD T. POLK, Petitioner, v. KENNETH COREY, LAREY DONALDSON, ROBERT LEGRAND, Respondents.	Case No.: C166490 Dept. No.: III Date of Hearing: 06/11/13 Time of Hearing: 9:00 a.m.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents through legal counsel CATHERINE CORTEZ MASTO, Attorney General, by Senior Deputy Attorney General DENNIS C. WILSON, hereby respond to Petitioner Renard T. Polk's (POLK) Petition for Writ of Habeas Corpus. This response is made and based upon the accompanying "Memorandum of Points and Authorities" and all pleadings and documents on file regarding this matter.

DATED this 5th day of June, 2013.

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: /s/ Dennis C. Wilson
DENNIS C. WILSON
Senior Deputy Attorney General
Appellate Division

POINTS AND AUTHORITIES

On April 1, 2002, the Court entered POLK's judgment of conviction and sentenced him to 48-120 months on Attempt Sexual Assault of a Minor under 14 and to a consecutive 240 months to Life for Sexual Assault with a Minor under 14, with 691 days credit for time served. POLK is currently incarcerated in Lovelock Correctional Center.

His petition names two case numbers A-12-66018 and C166490. He misstates the first case number which is actually A-12-660168; in said case he filed on April 16, 2012, a "Civil Rights Complaint and/or Petition for Writ of Habeas Corpus, Mandamus, Review, Ad Testificandum, Nisi Plea, Duces Tecum (and/or) Ad Subjudiciem." He also filed on June 20, 2012, a Motion for Preliminary and Permanent Injunctive and/or Declaratory Relief/Judgment.

On July 23, 2012, Judge Cory denied the above motion because POLK failed to serve it on the Attorney General and because POLK lacked standing in that he had failed to allege an injury that directly stemmed from the challenged statutes and it was not likely that the injury would be rectified even if the Court were to grant the motion. The Court dismissed his petition for writ of habeas corpus as time-barred. The Court further dismissed the 1983 Civil Rights Complaint because the Attorney General was not served and because POLK had failed to allege that his conviction had been reversed, expunged or declared invalid.

In the instant petition, POLK names as defendants Judge Ken Cory, Pershing County Clerk/Treasurer Lacey Donaldson, and Warden Robert LeGrand. He alleges that he is challenging his October 13, 2011 conviction out of Pershing County.

It appears that POLK may have intended to file the instant habeas corpus petition in both this case and Judge Cory's but he did not submit two petitions and did not give the correct case number. The Clerk filed the petition in his criminal case.

In Ground One of the instant petition, he alleges that the following individuals violated his rights: Dawn Bequette who refused to file four contempt complaints which he filed in Pershing County; Pershing County Clerk/Treasurer Lacey Donaldson who refused to issue summonses pertaining to Pershing County case PI-12-08834; Judge Ed Dannon who refused to relegate [sic]

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

his decision to paper form pursuant to case number 11 SC 7923; and Judge Ken Cory who refuses to make a written order regarding his decision.

In Ground Two, he alleges that the administrative personnel at the Lovelock Correctional Center violated his rights to be free from governmental reprisal and retaliation and cruel and unusual punishment, and to petition the government for redress. He further complains said personnel have rejected his grievances and threatened him with solitary confinement.

In Ground Three, he alleges the following rights have been violated by un-named individuals: to be free from unconstitutional confinement, to due process, to equal protection, not to be put in double jeopardy, to be free from unreasonable searches and seizures, and his rights under the 1st, 4th, 5th, 8th, and 14th Amendments. These violations are based on the fact that in an unspecified case, on June 7, 2007, April 8, 2010, and July 19, 2011, his petition and an evidentiary hearing were granted but no such hearing has been held.

In Ground Four, he alleges his rights to be free from peonage, involuntary servitude and debtor's jail are being violated because in an unspecified case, on June 8, 2007, August 16, 2008, April 8, 2010, July 23, 2010, and December 8, 2011, the Sixth Judicial District Court Clerk's Office refused to obey court orders. He further mentions that Nevada Department of Corrections (NDOC) legal personnel also refuse to obey court orders. He asks for no specific relief.

The Court should dismiss his petition because he fails to challenge his conviction herein and fails to challenge NDOC's computation of his time served pursuant to said judgment of conviction. All his allegations are civil in nature and should be filed in civil cases in the appropriate county. The Court should dismiss his petition because it has no jurisdiction over his civil claims in this criminal case.

DATED this 5th day of June, 2013.

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: /s/ Dennis C. Wilson
DENNIS C. WILSON
Senior Deputy Attorney General
Appellate Division

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

CERTIFICATE OF SERVICE

I hereby certify that, on the 5th day of June, 2013, service of the ***Response to Petition for Writ of Habeas Corpus*** was made this date by depositing a true and correct copy of the same for mailing, first class mail, at Las Vegas, Nevada, or via facsimile, addressed as follows:

Renard T. Polk #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

/s/ C. A. Sholing, PLS
An employee of the Office of the Attorney General

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

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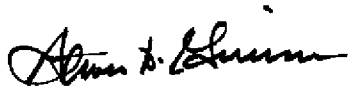

CLERK OF THE COURT

ORDR
CATHERINE CORTEZ MASTO
Attorney General
DENNIS C. WILSON
Senior Deputy Attorney General
Nevada Bar No. 4420
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Attorneys for Respondents

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD T. POLK, Petitioner, v. KENNETH COREY, LAREY DONALDSON, ROBERT LEGRAND, Respondents.	Case No.: C166490 Dept. No.: III

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the above-captioned Court for hearing on June 11, 2013. Petitioner is incarcerated and was not present. CATHERINE CORTEZ MASTO, Attorney General, by and through her Deputy Attorney General, KAREN WHELAN, represented Respondent. No oral argument was taken. After reviewing Petitioner's April 9, 2013 Petition for Writ of Habeas Corpus, the Respondents' Response, and the pleadings and papers on file herein, the Court makes the follow findings of fact and conclusions of law:

1. Petitioner's petition does not raise any issues within the criminal case herein;
2. Petitioner complains about civil cases he has tried to file and about the lack of a response to his pleadings or the lack of a decision on said pleadings;
3. The Court has no jurisdiction over his civil complaints.

///

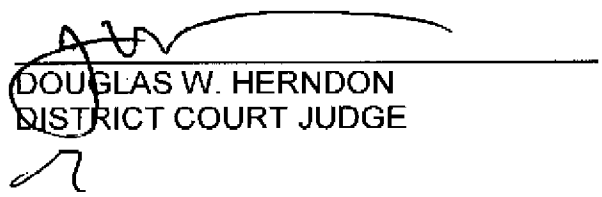
///

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

07-29-2013 RCVD

IT IS HEREBY ORDERED, based upon the above findings of fact and conclusions of law, that Petitioner's petition is without merit, and said petition is therefore **DISMISSED**.

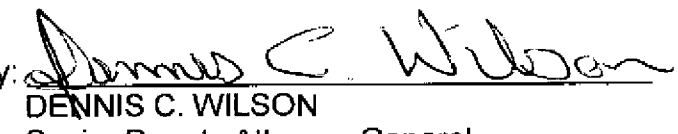
DATED this 29 day of July, 2013.



DOUGLAS W. HERNDON
DISTRICT COURT JUDGE

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: 
DENNIS C. WILSON
Senior Deputy Attorney General

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

ORDER/POLK/C166490

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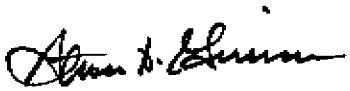

CLERK OF THE COURT

NEOJ

DISTRICT COURT
CLARK COUNTY, NEVADA

RENARD T. POLK,

Petitioner,

vs.

Case No: 00C166490
Dept No: III

THE STATE OF NEVADA,

Respondent.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on August 2, 2013, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on August 6, 2013.

STEVEN D. GRIERSON, CLERK OF THE COURT

Teodora Jones, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 6 day of August 2013, I placed a copy of this Notice of Entry in:

The bin(s) located in the Regional Justice Center of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☑ The United States mail addressed as follows:
Renard T. Polk # 72439
1200 Prison Rd.
Lovelock, NV 89419

Teodora Jones, Deputy Clerk

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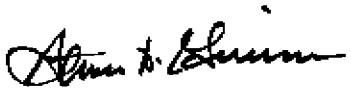

CLERK OF THE COURT

ORDR
CATHERINE CORTEZ MASTO
Attorney General
DENNIS C. WILSON
Senior Deputy Attorney General
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DWilson@ag.nv.gov
Attorneys for Respondents

DISTRICT COURT

CLARK COUNTY, NEVADA

RENARD T. POLK, Petitioner, v. KENNETH COREY, LAREY DONALDSON, ROBERT LEGRAND, Respondents.	Case No.: C166490 Dept. No.: III

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the above-captioned Court for hearing on June 11, 2013. Petitioner is incarcerated and was not present. CATHERINE CORTEZ MASTO, Attorney General, by and through her Deputy Attorney General, KAREN WHELAN, represented Respondent. No oral argument was taken. After reviewing Petitioner's April 9, 2013 Petition for Writ of Habeas Corpus, the Respondents' Response, and the pleadings and papers on file herein, the Court makes the follow findings of fact and conclusions of law:

1. Petitioner's petition does not raise any issues within the criminal case herein;
2. Petitioner complains about civil cases he has tried to file and about the lack of a response to his pleadings or the lack of a decision on said pleadings;
3. The Court has no jurisdiction over his civil complaints.

///

///

07-29-2013 RCVD

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

IT IS HEREBY ORDERED, based upon the above findings of fact and conclusions of law, that Petitioner's petition is without merit, and said petition is therefore **DISMISSED**.

DATED this 29 day of July, 2013.

DOUGLAS W. HERNDON
DISTRICT COURT JUDGE

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: Dennis C. Wilson
DENNIS C. WILSON
Senior Deputy Attorney General

Attorney General's Office
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

ORDER/POLK/C166490

PCR
Polk, Renard T. #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

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CLERK OF COURT

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PWHC
Petition for Writ of Habeas Corpus
3268481

IN THE DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

Renard T. Polk,
Petitioner,

-vs-

Robert Legrand et al,
Respondent.

Case No. C166490

Dept. No. III

Date of Hearing:
Time of Hearing:

PETITION FOR WRIT OF HABEAS CORPUS
(Post-Conviction Relief - NRS 34.735 Petition: Form)

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

LCC LL FORM 24.080

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Lovelock Correctional Center, Pershing County, Nevada.

2. Name and location of court which entered the judgment of conviction under attack: Eighth Judicial District Court In and for the County of Clark

3. Date of judgment of conviction: January 9, 2002

4. Case number: C0C166490C

5. (a) Length of sentence: 20 years to life consecutive with 2 to 12 years

(b) If sentence is death, state any date upon which execution is scheduled: N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ___ No ✓

If "yes," list crime, case number and sentence being served at this time: N/A

7. Nature of offense involved in conviction being challenged:

8. What was your plea? (check one)

(a) Not guilty ✓
(b) Guilty ___
(c) Guilty but mentally ill ___
(d) Nolo contendere ___

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: N/A

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury ✓ (b) Judge without a jury ___

11. Did you testify at the trial? Yes ✓ No ___

12. Did you appeal from the judgment of conviction?

Yes ✓ No ___

13. If you did appeal, answer the following:
(a) Name of court: 8th Judicial District Clrk Cnty
(b) Case number or citation: 39457
(c) Result: Limited Remand
(d) Date of result: August 25, 2003
(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: N/A

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ✓ No ___

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: Nevada Supreme Court

(2) Nature of proceeding: Original Habeas Corpus "Fast-Tracked"

(3) Grounds raised: (I.) Double Jeopardy (II.) Involuntary/unreliable Statement (III.) Speedy Trial (IV.) outrageous Government conduct

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ✓ No ___

(5) Result: Denied or Dismissed

(6) Date of result: August 8, 2001

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: No written opinion was provided pretrial

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: 8th Judicial District Court

(2) Nature of proceeding: Pretrial Writ of Habeas Corpus or Motion to Dismiss Complaint

(3) Grounds raised: Ineffective Assistance of Counsel and appointment of alternate counsel

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ✓

(5) Result: Dismissal as successive

(6) Date of result: January 3, 2002

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: no written opinion provided during trial

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion?
Yes ✓ No ___

Citation or date of decision: 38438

(2) Second petition, application or motion?
Yes ___ No ✓

Citation or date of decision: 49176

(3) Third or subsequent petitions, applications or motions? Yes ✓ No ___

Citation or date of decision: 44087

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
The petitioner was (is) being forcibly administered antipsychotic medication, (Haldol), Riggins v. Nevada 112 S.Ct 1810

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(D.) (a) Which of the grounds is the same: grounds (A.) –

(b) The proceedings in which these grounds were raised: Pretrial Applications, Post-Conviction Petitions/Motions

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
(I.) Argument not previously available, (II.) Newly discovered facts and evidence, (III.) State imposed obstructions

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) Grounds (G.) – (O.) were not previously presented due to state imposed obstructions

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
Yes retroactivity affords resubmission of petition pursuant to new laws, rules and procedures; plus the inadequate access to the law library at (N.C.C.).

PETITION (cont....)

The judgment of conviction was purportedly entered on April 1 2002. The case number is C166490. The current sentence length is 20 years to life consecutive with 2 years to 12 years.

The petitioner/claimant is not presently serving a sentence other than the conviction under attack in this petition.

The petitioner/claimant plead not guilty and a jury trial was conducted.

The petitioner/claimant testified at trial.

The petitioner/claimant appealed the judgment of convictions under case and docket number(s): before the nevada supreme court; (a.) 38941, (b.) 39457, (c.) 50147, (d.) 50949, (e.) 38438, (f.) 44017, (g.) 44258, (h.) 49176, (i.) 44087, (j.) 62165, (K.) 62083; before the sixth judicial district court; PI 13-062.

The nevada supreme court dockets resulted in dismissals and the pershing county sixth judicial district case is under review.

Other than appeals filed challenging the petitioner/claimant's confinement, sentence and conviction the following applications were submitted and initiated:

Nevada Federal District Court;

(a.) 3:05-cv-00252-RCJ-VPC, (b.)

3:08-cv-00134-LRH-VPC, (c.) cv-05-0252-HDM-VPC, (d.) cv-S-01-0089-DMP-RJJ, (e.) cv-N-05-232-RCJ-VPC, (f.) cv-N-03-0332-HDM-VPC, (g.) cv-S-03-0709-RLH-RJJ, (h.) 3:13-cv-00350-RCJ-WGC, (i.) A-12-660168-C, (j.) PI 12-0834 before the sixth judicial district court pershing county.

The following cases are still under review; pershing county PI 13-0682, PI 12-0834, clark county A-12-660168C.

The reason for not appealing at the time was due to the petitioner/claimant being forcibly administered antipsychotic medication.

The double jeopardy, self-incrimination and speedy trial violations were presented during pretrial proceedings in the case subjudice and by way of federal writ of habeas corpus.

The grounds are now being raised again due to the courts failure to pass upon initialy them as a result of misrepresentations made by the deputy district attornies' office, interference by state officials and fraud.

The grounds were not previously presented due to the availability of the argument and facts at the time, newly discovered evidence and conditions subsequent.

The petition is being submitted and filed more than (1) one year after the amended judgment of conviction or remittitur being filed as the county clerks within the state of nevada are

not making the court orders returnable, and due to an erroneous ruling made by the court and entry by the clerk.

The names of the attorneys that represented the petitioner during pretrial (Nancy Henke), trial (Christopher Oram), post-trial (David Schieke) and aborted post-conviction (Joseph Bunin).

The petitioner/claimant does not have any sentences to serve in the future.

(1.) on February 8 1999 Mr. Polk was unconditionaly released from the family and youth services Facility after being accredited time served pursuant to a robbery with the use of a deadly weapon charge.

(2.) whereupon release juvenille wardship was to terminate.

(3.) However on March 16 1999 a false arrest warrant was obtained by David Dunn without judicial authorization against Mr. Polk for sexual assault and absonding juvenille probation.

(4.) On August 14, 1999 Mr. Polk was booked in at the family and youth services facility despite being (20) twenty years of age after surrendering himself to local authorities.

(5.) Upon being processed Mr. Polk was approached by detective Timothy Maniot and by the detective whether Mr. Polk would like to give a statement.

(6.) Before Mr. Polk could respond said detective gestured toward his gun holster in a threatning manner further prompting Mr. Polk to sign a 5th Amendment waiver.

(7.) Notwithstanding the arrestee consented to giving a statement, albeit untrue.

(8.) Nonetheless, the transcription of the statement represented false information than that provided and was not signed.

(9.) On August 16, 1999 Mr. Polk was sentenced by the juvenille court for

absconding juveniile probation, in relation to being charged for sexual assault, to [30] thirty days confinement in the Clark County Detention Center (C.C.D.C.).

(10.) During Mr. Polk's stay at the detention center after an absentia examination by psychologist John Doe last name "Mantis" due to Mr. Polk Filing internal grievances regarding Mr. Polk being unlawfully and illegaly detained at C.C.D.C.

(11.) John Doe last name "Mantis" ordered the forced administration of antipsychotic medication from August 22, 1999 to September 16, 1999.

(12.) Mr. Polk was sometime thereafter released and the warrant of arrest for sexual assault went unexercised.

(13.) On october 26, 1999 Mr. Polk was arrested and released for possession of stolen vehicle.

(14.) On January 12, 2000 the termination of juveniile wardship order was filed concomitantly a second arrest warrant was obtained by the district attorney's office at the behest of Mary Holthus without an affidavit of complaint in support thereof.

(15.) On February 23, 2000 Mr. Polk was detained for a domestic disturbance wherein it was discovered by the responding officer Mr. Polk had an out-standing warrant of arrest for sexual

assault

(16.) Accordingly Mr. Polk was escorted to the Clark County Detention Center and initialy appeared before the Las Vegas Township Justice Court on March 6, 2000 charged by way of criminal complaint with [3] three counts of sexual assault with a minor under [16] sixteen years of age for a probable cause determination.

(17.) On April 11, 2000 Mr. Polk again came before the justice court on felony criminal complaint for the purpose of unconditionaly waiving preliminary examination pursuant to a negotiated plea.

(18.) Having been bound over to the Eigth Judicial District Court Clark County on April 18, 2000 the district attorney Mary Holthus changed the effect and form of the plea agreement increasing the age and severity of the offenses.

(19.) This prompted Mr. Polk to reject the plea offer and request a speedy trial.

(20.) Notwithstanding, on April 25, 2000 defense attorney of record Christopher Oram moved the court to have Mr. Polk psychologicaly evaluated.

(21.) Concomitantly the district attorney Mary Holthus amended the criminal complaint filed in the justice court, although the case was never remanded for preliminary examination.

(22.) On August 1, 2000 Mr. Polk was transported to the Lakes Crossing

Mental Hygiene and Retardation Department and Division for Human Resources.

(23.) During Mr. Polk's stay at the Lakes Crossing facility Mr. Polk was disallowed to;

(i.) have access to legal materials,

(ii.) order law books,

(iii.) correspond with legal advocates, and

(iv.) obtain records and information from other agencies and departments.

(24.) Furthermore, forensic experts and evaluators tested and conducted examinations to determine Mr. Polk's competency rather than whether Mr. Polk could distinguish right from wrong.

(25.) Nonetheless, doctors concluded Mr. Polk was competent and could assist attorney of record in preparation of trial transporting Mr. Polk back to the Clark County Detention Center.

(26.) On November 11, 2000 Mr. Polk was found competent by the court and a trial date was set.

(27.) In addition on or about January 23, 2001 the Nevada state Supreme Court rescinded the state legislature's statutory prohibition and preclusion, to plead guilty by reason of insanity; was unconstitutionaly impermissible as applied.

(28.) On July 26, 2001 in conflict with Mr. Polk's position, defense attorney of record was permited to pursue an insanity defense.

(29.) Nonetheless, the forensic expert John Paglini, who performed the initial exam prompting the court to remand Mr. Polk to the custody of the Mental Health Facility Lakes Crossing, Made contradictory findings and conclusions than those first represented.

(30.) However, Mr. Polk was never remanded back to the custody of the Lakes Crossing Facility for additional examinations and evaluations.

(31.) Around or about the same time Mr. Polk initiated a civil complaint pursuant to United States Code (U.S.C.) title [42] forty-two section [1983] nineteen-eighty-three, et. seq.

(32.) Also about the same time on August 8, 2001 Mr. Polk's motion to dismiss information came on hearing alleging, inter alia;

(i.) double jeopardy

(ii.) failure to certify Mr. Polk as an adult,

(iii.) illegaly obtained statements made by witness and Mr. Polk,

(iv.) forced administration of antipsychotic medication during pre-arraignment post-arrest proceedings,

(v.) post-arrest and

accusation pre-initial appearance delay.

(33.) The motion was summarily dismissed and Mr. Polk not permitted to apeal.

(34.) On September 11, 2001 Mr. Polk submitted a writ of mandamus to the nevada state supreme court.

(35.) While awaiting direction from the state supreme court Mr. Polk conveyed a pre-trial writ of habeas corpus to the eigth judicial district clark county trial court on September 21, 2001.

(36.) At which time the court clerk Christe Domingo defered and withheld filing the pre-trial writ.

(37.) On October 3, 2001 the nevada supreme court directed the petition writ of mandamus be filed in the eigth judicial district trial court.

(38.) Notwithstanding, the petition writ of mandamus went unheard or unanswered until January 3, 2002; wherein judge Joseph Bonaventure erroneously ordered the mandamus off calendar concomitantly directing the court clerk to file the pre-trial writ of habeas corpus.

(39.) The court then found the pre-trial habeas corpus successive and dismissed the same.

(40.) On or around the same dates Mr. Polk voluntarily dismissed the federal civil complaint. [CV-S-01-0089-PMP-RJJ]

(41.) A jury trial commenced on January 7, 2002 wherein district attorney Mary Holthus was permitted to amend for the (4th) fourth time the criminal information in relation to the purported victim's name age and alleged date of occurence.

(42.) On January 10, 2002 the jury returned a guilty verdict and defense attorney of record Christopher Oram moved for a mistrial.

(43.) The eigth judicial district court clark county over-ruled the motion and defense counsel advised the court of Mr. Polk's intention to appeal.

(44.) Shortly thereafter appellate defense attorney David Shiecke was appointed to represent Mr. Polk before the Nevada Supreme Court.

(45.) On March 14, 2002 Mr. Polk was orally sentenced.

(46.) The actual jury verdict and judgment of conviction were not filed until April 1, 2002 excluding [16] sixteen days of day accreditation toward Mr. Polk's sentence.

(47.) In addition however the court clerk Christe Domingo and district attorney Mary Holthus were permitted to remove and strike the original guilty verdict and substitute a fabricated guilty plea agreement imposing lifetime supervision and sentences upon release including a fine and restitution.

(48.) Notwithstanding, and in truth and in fact, Mr. Polk has never plead guilty.

(49.) On April 3, 2002 Mr. Polk filed a Notice of Appeal for direct review.

(50.) On September 11, 2002 the opening brief was submitted.

(51.) The state's answer was submitted on November 15, 2002.

(52.) On April 1, 2003 Mr. Polk submitted for filing a document titled "Judicial Notice and Release Pending Appeal."

(53.) Upon receipt of the **notice** nevada supreme court clerk deferred filing the document.

(54.) Until clerk, John Doe; last name: "Richards," was directed by Deborah Agosti to docket and file the "judicial notice."

(55.) Concomitantly Deborah Agosti then, being extrajudicialy informed falsely, struck the document from consideration and determination.

(56.) That the extraterritorial information related Mr. Polk's appellate attorney was sanctioned and permitted to process Mr. Polk's appeal.

(57.) When in truth and in fact the defense appellate attorney David Schiecke had been conflicted and disqualified earlier in the proceedings.

(58.) Notwithstanding, on August 25, 2003 the state supreme court of Nevada remanded Mr. Polk for the purpose of correcting the judgment which incorrectly and erroneously reflected Mr. Polk plead guilty rather than a jury trial conducted dismissing the appeal.

(60.) On September 23, 2003 the remittitur having failed to issue and with the judgment of conviction uncorrected the court clerk filed and processed Mr. Polk's "Post-Conviction" Petition Writ of Habeas Corpus submitted July 1, 2004.

(61.) In addition Mr. Polk submitted an Ex-Parte Motion to Appoint Counsel and Request for Evidentiary Hearing along with an Affidavit in Support of the Petition and Memorandum of Exhibits and Points and Authorities.

(62.) On July 4, 2004 the eigth judicial district trial court issued an **order to show cause**, filed a return and set a hearing date for September 14, 2004.

(63.) On August 14, 2004 Mr. Polk attempted to submit a Motion to Transport and Produce Prisoner.

(64.) Having never received a response on the Motion to Produce Prisoner Mr. Polk submitted a department of corrections for the state of Nevada internal grievance to alert officials of the up-coming court date.

(65.) Nonetheless on September 7, 2004 officials noted the situation was not grievable.

(66.) On September 8, 2004 the eigth judicial district trial court clark county nevada conducted an ex-parte **interposed** hearing summarily dismissing Mr. Polk's **petition.**

(67.) That likewise on September 14, 2004 and every subsequent hearing date

thereafter, in absence of Mr. Polk, an answer (and/or) motion being served upon Mr. Polk and Mr. Polk's opportunity to be heard district attorney Mary Holthus falsely and fraudulently represented, concealed or suborned another thereto; that:

(i.) the judgment of conviction was and went uncorrected and amended,

(ii.) the post-conviction petition was summarily dismissed,

(iii.) the direct appeal was dismissed without oral arguments,

(iv.) the purported victims were from seperate occassions and distinctly different,

(v.) Mr. Polk unconditionaly waived preliminary examination,

(vi.) prosecution was brought in "good-faith" or with "clean-hands;"

(vii.) Mr. Polk was not a juveniile when charges/allegations arose,

(viii.) a judges signature was affixed to the detention/arrest warrant(s),

(ix.) an affidavit by the victim was annexed to and supported the criminal complaint,

(x.) Mr. Polk gave false information in relation to his identity,

(xi.) Mr. Polk waived or was estopped from asserting constitutional claims,

(xii.) Mr. Polk's signature and likenesses were not replicated fabricated and converted and affixed to a guilty plea memorandum

(**xiii.**) Mr. Polk was being forcibly administered antipsychotic medication during pre-initial appearance post-arrest and post-conviction proceedings,

(**xiv.**) Mr. Polk was resentenced in absentia (and/or) administratively by the (N.O.T.I.S.) Nevada Offender Tracking Information System,

(**xv.**) additional criminal charges were being sought against Mr. Polk,

(**xvi.**) Mr. Polk plead guilty, **and**

(**xvii.**) the victims recanted and retracted thier accusations.

(**68.**) Nonetheless, on the same date the eigth judicial district trial court by way of an order prepared by Mary Holthus, and attesting falsely to the same, found and concluded the issues had been presented on direct appeal.

(**69.**) On September 16, 2004 the notice of entry of judgment was filed.

(**70.**) On October 8, 2004 Mr. Polk submitted a Notice of Appeal.

(**71.**) On November 16, 2004 Mr. Polk submitted an original jurisdiction writ of certiorari, having opted not to file an appeal brief to the Nevada Supreme Court.

(**72.**) On January 25, 2004 the state supreme court of nevada once again **remanded** Mr. Polk to the eigth judicial district trial court clark county to correct the judgment of conviction and sentence as per its previous order on August 23, 2003.

(**73.**) Inspite of the nevada supreme court's

order district attorney Mary Holthus along with court clerk Christe Domingo on February 9, 2005 were permitted to file an "AMENDED" judgment of conviction rather than a CORRECTED judgment in absence of Mr. Polk, or purported hearing.

(74.) Notwithstanding, the remittitur did not issue until February 25, 2005.

(75.) That on December 31, 2007 Mr. Polk submitted and the court clerk filed a motion titled, "correction of an Illegal Sentence Consolidated Writ of Error."

(76.) Wherein the eigth judicial district trial court judge Doug Herndon having set a hearing date construed the motion as a petition likewise finding it untimely.

(77.) A Notice of Appeal was submitted by Mr. Polk on January 18, 2008.

(78.) Also at this time the Northern Federal District Court summarily dismissed without prejudice a writ of Habeas Corpus being simultaneously pursued in the United states District Court's by Mr. Polk in pro-se.

(79.) On June 9, 2008 and every precedent hearing conducted and allocated before the Nevada Supreme Court in absence of:

(i.) Mr. Polk,
(ii.) the judgment of conviction uncorrected,
(iii.) an answering and reply brief,
(iv.) Mr. Polk's opportunity to be heard,
(v.) the appeal record docketed, and

(80.) That again on November 1, 2013 the Nevada Supreme Court sua sponte resolved Material and disputed issues of fact further issuing an opinion without:

(i.) any proof prof,
(ii.) production of materials,
(iii.) the interested parties' presence, and
(iv.) the benefit of confrontation.

(81.) Additionaly the clark county clerk's office refuse or fail to make the issued orders of the court returnable.

(82.) Moreover during the "initial" post-conviction collateral attack proceedings initiated pursuant to Habeas Corpus the court niether appointed after request, nor did Mr. Polk pursue the relief available with the assistance of counsel.

Grand (A)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 32, are invalid, illegal, unlawful and unconstitutionally sound whereas the State's second prosecution of the facts surrounding the instant case denied the petitioner/claimant due process of law, equal protections and the right to be free from double jeopardy in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5 and 14, as well as, the Nevada Constitution Article 1 section 8 Powell v. Hocker 453 F.2d 652 (1971)

ath cir.; In Re Gault 87 S. Ct. 1045

Grand (B)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 24, are invalid, illegal, unlawful and unconstitutionally sound whereas the state's use of an illegaly obtained statement from the petitioner/claimant during trial denied the petitioner/claimant due process of law, equal protections and the right to be free from self incrimination and unreliable statements in violation of, contrary and repugnant to, and inconsistent with The United State's Constitution Amendments 4, 5 and 14, as well as, the Nevada Constitution Article 1 section 8 Miranda v Arizona 384 U.S. 436 Napue v. Illonios

Grand (C)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 53, are invalid, illegal, unlawful and unconstitutionaly sound whereas the state's (3) three year and (1) one month intentional delay of the prosecution of the instant case post-arrest pre-arraignment denied the petitioner/claimant the right to a speedy trial, and due process and equal protections of the law in violation of, contrary and repugnant to, and

inconsistent with the United States Constitution Amendments 5, 6 and 14, as well as, the Nevada Constitution Article 1 section 8; Marion v. U.S. 404 U.S. 309; State v. Autry 746 P.2d 637

Ground (D)

The petitioner/claimants sentence, conviction and confinement, consistent with paragraphs 62 through 68 are invalid, illegal, unlawful and unconstitutionally sound whereas the state's intentional, wrectless, negligent and bad-faith decision to preserve, disclose or accumulate the purported victim's recantation prior to trial or exculpatory evidence denied the petitioner/claimant due process of law, equal protections and the right to confrontation and witnesses in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5, 6 and 14, as well as, Nevada Constitution Article 1 section 8

Arizona v. Youngblood 488 U.S. 51 (1988); U.S. v. Wright 43 F.3d 491 (10th Cir 1994)

Ground (E)

The petitioner/claimant's sentence, conviction and confinement are invalid, illegal, unlawful and unconstitutionaly sound, consistent with paragraphs 69 through 75 ,whereas the state's (4) four year delay in resentencing the petitioner/claimant denied the petitioner/claimant due process and equal protections of the law in

violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5 and 14, as well as, Nevada Constitution Article 1 section 8

Ground (F)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 80, are illegal, unlawful, invalid and unconstitutionaly sound whereas the state's failure or refusal to produce and secure the petitioner/claimant's presence during the evidentiary hearings allocated on September 4, 2004; April 8, 2010; July 26, 2011 and June 11, 2013 denied the petitioner/claimant due process, equal protections, confrontation and the right to a full and fair hearing in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 4, 5, 6 and 14, as well as, the Nevada Constitution Article 1 section 8 Gerber v. State 50 P.2d 1092 U.S. v. Baid 131 F.3d 951

Ground (G)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 62 through 68 are illegal, invalid, unlawful and unconstitutionaly sound whereas the state and county deputy district attornies falsely

represented or fraudulently concealed that no procedural hurdles applied to the case subjudice denied the petitioner/claimant due process, equal protections and the right to a full and fair hearing in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5 and 14, as well as, Nevada Constitution Article 1 section 8
Morgan v. U.S. 58 S.Ct 773

Ground (H)

The claimant/petitioner's sentence, conviction and confinement, consistent with paragraphs 1 through 82, are invalid, illegal, unlawful and unconstitutionaly sound whereas N.R.S. 200.366 and jury instruction 1-2 is overbroad, onerous and ambiguous in as much as it employs the terms "sexual" and "assault" creating an irrebutable mandatory unconstitutional presumption of guilt or unwanted touching relieving the prosecutor of its burden to prove physical contact beyond a reasonable doubt denied the petitioner/claimant due process equal protections, confrontation and the right to a fair and impartial trial in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5 and 14, as well as, Nevada Constitution Article 1 section 8
Sandstrom v. Montana 442 U.S. 510 (1979)
Mullaney v. Wilbur 421 U.S. 684 (1975)

Ground (I)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 52 through 55 are invalid, illegal, unlawful and unconstitutionaly sound whereas nevada supreme court clerk refused, failed or deferred the filing of a supplemental brief presented by the petitioner/claimant on direct appeal denied the petitioner/claimant due process, equal protections and the right to access the courts and to redress the government in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 1, 4, 5 and 14, as well as, Nevada Constitution Article 1 section 8.

Ground (J)

The petitioner/claimant's sentence conviction and confinement, consistent with paragraphs 81 through 82 are invalid, illegal, unlawful and unconstitutionaly sound whereas the county or state refused to and the eigth judicial district court denied the apportionment of counsel during "initial-direct collateral-attack" proceedings denied the petitioner/claimant due process, equal protections and the assistance of counsel in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5, 6 and 14, as well as, Nevada Constitution

Article 1. Section 8
Ryan v. Martinez

Ground (K)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 Through 80, are illegal, invalid, unlawful and unconstitutionaly sound whereas the petitioner/claimant received and the court appointed the assistance of a conflicted counsel the representations and actions of which fell below an objective standard of reasonableness in that counsel failed, refused or otherwise to; (**i.**) interview the purported victims, (**ii.**) put the state's case in chief to any adversarial testing suppressing the petitioner/claimant's statement, (**iii.**) induced the petitioner/claimant to proceed under an insanity defense then changed strategum at the 11th hour, (**iv.**) utilize the funds appropriated by the county to mount a viable defense, (**v.**) refrain from stating that the petitioner/claimant committed the instant offenses, (**vi.**) inform the petitioner/claimant the state attorney initialy offered a plea negotiation less than that offered during trial, (**vii.**) file any meritorious pretrial motions or petitions, (**viii.**) move the court to have the purported victims psychologicaly evaluated, and (**xi.**) present the psychiatrist's conflicting findings which resulted in the prejudicial effect of having the petitioner/claimant endure pretrial and trial proceedings with a conflicted attorney,

the jury being subjected to an unreliable statement made by the petitioner/claimant, the jury being subjected to outside influences on their deliberative function, received sparse assistance in order for counsel to save funds from those alloted and the jury not being instructed on the victims' prior bad accusations, denied the petitioner/claimant due process, equal protections and the right to the assistance of counsel in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5, 6 and 14, as well as, the Nevada Constitution Article 1 section 8

Strictland v. Washington 466 U.S. 668

Thomas v. Hubbard 273 F.3d 1164

Ground (L)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 82, are illegal, invalid, unlawful and unconstitutionaly sound whereas the petitioner/claimant received and the court appointed the assistance of a conflicted appellate counsel the representations and actions of which fell below an objective standard of reasonableness in that counsel failed, refused or otherwise to; (i.) raise the pretrial issues preserved by trial counsel, (ii.) raise the ineffective assistance of trial counsel on direct appeal, (iii.) provided

the nevada supreme court with a waiver consent of the petitioner/claimant's constitutional rights, (iv.) perfect the record on direct appeal of any errors or deficiencies prior to filing the opening brief, and (v.) initiated another appeal after the first was terminated by reason of counsel's dereliction which resulted in the prejudicial effect of having the petitioner/claimant's issues of fact and law unheard and unresolved on direct appeal and the illegal detention and false imprisonment of the petitioner/claimant denying the petitioner/claimant due process, equal protections and the right to the assistance of counsel in violation of, contrary and repugnant to, and inconsistent with the United State Constitution Amendments 5, 6 and 14, as well as, the Nevada Constitution Article 1 section 8

Evitts v. Lucey 469 U.S. 387

Williams v. Collins 16 F.3d 626

Grand (M)

The petitioner/claimant's sentence, conviction and confinement, straiten at paragraphs 62 through 82, are invalid, illegal, unlawful and unconstitutionaly sound whereas the eighth judicial district court's policy is unconstitutionaly void, vague, ambiguous or overbroad in application or on its face in as much as the courts orders surrounding the post-conviction process in the case subjudice employ the

term "denied" when Nevada Revised statute 34.770 only provides for "dismissal" in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 1, 4, 5, 6 and 14, as well as, the Nevada Constitution Article 1 section 8.

Ground (N)

The petitioner/claimant's sentence conviction and confinement, consistent with paragraphs 55 through 74, are illegal, invalid, unlawful and unconstitutionally sound whereas the nevada supreme court panel(s) of judges on September 24, 2007 docket 50147 during appellate review sue sponta exercised fact finding jurisdiction beyond the scope of their authority by assuming facts not in evidence or the record docketed denied the petitioner/claimant due process, equal protections and the right to access the courts in violation of, contrary and repugnant to, and inconsistent with the United States Constition Amendments 5 and 14, as well as, the Nevada Constitution Article 1 section 8 and Article 6 Section 4.

Ground (O)

The petitioner/claimant's sentence, conviction and confinement, consistent

29

with paragraphs 50 through 62 are invalid, illegal, unlawful and unconstitutionally sound whereas Nevada Revised Statute 34.775 is unconstitutionally void, vague, ambiguous, overbroad and onerous on its face or in application as it repeals the Nevada Supreme Courts power to issue writs denying the petitioner/claimant due process, equal protections and the right to access the courts in violation of, contrary and repugnant to, and inconsistent with the United States Consitution Amendments 1, 5 and 14, as well as, the Nevada Constitution Article 1 section 8 and Article 6 section 4

Blair v. Crawford 275 F.3d 1156

Ground (P)

The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 50 through 73 are invalid, illegal, unlawful and unconstitutionaly sound, whereas Nevada Revised Statute 34.810 in as much as it employs the term "waived" is unconstitutionaly void, vague, ambiguous, overbroad and onerous on its face or in application as no procedural safegaurds exist to secure a valid waiver, nor does the asserting party have to prove it in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 5 and 14, as well as, the Nevada Constitution Article 1

Section 8

PRAYER FOR RELIEF

Wherefore: the petitioner/claimant requests;

(1.) the findings of fact set-aside,

(2.) the sentence vacated,

(3.) the judgment of conviction and corresponding jury verdicts anulled,

(4.) the petitioner/claimant released forthwith from custody

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ✓ No ___

If yes, state what court and the case number: Sixth Judicial District court Pershing County PT 13-0862

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Pretrial: Nancy Lemke; Trial: Christopher Oram; Post-trial: David Schieke; Aborted Post-Conviction: Joseph Bonin

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes ___ No ✓

If yes, specify where and when it is to be served, if you know: N/A

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground [redacted]: The petitioner's/claimant's sentence conviction and confinement consistent with paragraphs 62 through 69, are invalid, illegal, unlawful and

Supporting FACTS (Tell your story briefly without citing cases or law.): unconstitutionally sound whereas the eighth judicial district court rule 8 in as much as it employs the phrase "the clerk shall not file, but forward" is unconstitutionally void, vague, ambiguous, over broad, impermissible and onerous denying the Petitioner/claimant's right to access the courts, due process and equal protections in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 1, 5 and 14 as well as, Nevada Constitution Article 1 section 8

Barnes v. State 813 P.2d 1001

(b) Ground [redacted]: The petitioner/claimant's sentence conviction and confinement consistent with paragraphs 36 through 39 are invalid, illegal, unlawful

Supporting FACTS (Tell your story briefly without citing cases or law.): and unconstitutionally sound whereas the findings of fact in the eighth judicial district court orders surrounding post-conviction relief are "skeletal" and incomplete denying the petitioner/claimant due process, equal protections and access to the courts in violation of, contrary and repugnant to, and inconsistent with the United

States Constitution Amendments 1, 5 and 14, as well as, Nevada constitution Article 1 Section 8
Niki v. State 97 P.3d 1140

(c) Ground (R): The petitioner/claimant's sentence, conviction and confinement, consistent with paragraphs 1 through 82 are invalid, illegal, unlawful

Supporting FACTS (Tell your story briefly without citing cases or law.): and unconstitutionaly sound whereas the nevada department of corrections occupancy level is overcrowded and (350%) thirty-five percent past legal occupancy allowed denying the petitioner/claimant due process, equal protections and the right to be free from cruel and unusual punishment in violation of, contrary and repugnant to, and inconsistent with the United States Constitution Amendments 1, 5, 8 and 14 as well as, Nevada Constitution Articles 5, 1 sections 8, 4

(d) Ground (S): The petitioner/claimant's sentence conviction and confinement, consistent with paragraphs 62 through 69, are invalid, illegal, unlawful

Supporting FACTS (Tell your story briefly without citing cases or law.): and unconstitutionally sound whereas Nevada Revised Statute 176 authorizing private mediation of matter in as much as it employs the phrase "in absence of the interested parties" is unconstitutionally void, vague, ambiguous, impermissible, overbroad and overaus denying the petitioner/claimant due process, equal protections, confrontation, compulsory process the right to a full-fair hearing, be free from unlawful arbitrters, access to the courts and substantive dueprocess in violation of, contrary and repugnant to, inconsistent with the United States constitution Amendments 1, 5, 6 and 14 and Article 1 Section 8

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at Lovelock Correctional Center on the 15th day of the month of November of the year 2013.

/s/ R Polk
RENARO POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

/s/ R Polk
RENARD POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE BY MAIL

I, Renard T. Polk, hereby certify, pursuant to N.R.C.P. 5(b), that on this 15th day of the month of November of the year 2013, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Warden Robert Legrand
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada

Catherine Cortez Masto
Nevada Attorney General
100 No. Carson Street
Carson City, Nevada 89701-4717

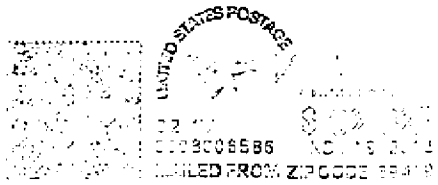
David Roger / Steve Wolfson
Clark County District Attorney
P.O. Box 552211
Las Vegas, Nevada 89155-2211

/s/ R Polk
RENARD POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

(#72439) RENARO POLK
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419

INMATE LEGAL
MAIL CONFIDENTIAL



Regional Justice Center
Clerk's Office
200 Lewis Ave
Las Vegas, Nevada 89155

PIFP
Renard Polk # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

FILED
DEC 02 2013
CLERK OF COURT

00C166490
PIFP
Application to Proceed in Forma Pauperis
3286487

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

Renard T. Polk,
Petitioner,

-vs-

Robert Legrand et al.,
Respondent.

Case No. C166490
Dept. No. III

APPLICATION TO PROCEED IN FORMA PAUPERIS

COMES NOW Petitioner, Renard T. Polk, in pro se, and moves the Court for an order granting him leave to proceed in the above-entitled action without paying the costs and/or security of proceeding herein.

This motion is made and based upon NRS 12.015 and the attached affidavit and certificate of inmate's institutional account.

Dated this 15th day of November, 2013.

/s/ Polk
RENARD POLK # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

RECEIVED
DEC - 2 2013
DEPARTMENT IX

RECEIVED
NOV 22 2013 LCC LL FORM 24.012
CLERK OF THE COURT

3

Affidavit In Support of Application
To Proceed In Forma Pauperis

STATE OF NEVADA)
) ss:
COUNTY OF PERSHING)

COMES NOW, Renard T. Polk, who first being duly sworn and on my own oath, do hereby depose and state the following in support of my foregoing motion:

(1) Because of my poverty I am unable to pay the costs of the proceedings in the foregoing action or to give security therefore; I am entitled to relief. This application is made in good faith.

(2) I swear that the responses below are true and correct and to the best of my knowledge, information and belief:

(a) I ___ am ✓ am not presently employed. I currently earn salary or wages per month in the following amount at Lovelock Correctional Center OR, if I am not presently employed, the date of my last employment and the amount of salary or wages I earned per month were as follows: October 2002 to June 2006; credit davis and (95) five dollars per week.

(b) I have NOT received any money from any of the following sources within the past 12 months: business, profession, self-employment, rent payments, pensions, interests or dividends, annuities, insurance payments, gifts or inheritances. Money, if any, placed on my prison account from sources such as family or friends, is in the amount as indicated on the attached Certificate of Inmate's Institutional Account, which reflects the total amount of money on my prison account.

(c) I do NOT own any real estate, stocks, bonds, notes, automobiles or other valuable property, and I do not have any money in a checking account.

(d) I ✓ do ___ do not have persons dependent upon me for support. The persons I support, if any, are as follows, with my relationship to them and the amount of my contribution towards their support being as follows: Ceasar Travis;

(3) I swear under penalty of perjury that the above is true and correct and to the best of my personal knowledge, and that the foregoing is rendered without notary per NRS 208.165.

Dated this 15th day of November, 2013.

/S/ RPolk
RENARD POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS does *not* contain the social security number of any person.

Dated this 15th day of November, 20 13.

RENARD DOLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Renard Polk,

Petitioner,

vs.

The State of Nevada,

Respondent,

Case No: 00C166490
Dept No: III

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on December 2,2013 . The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

MC

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 18th day of February, ~~200~~ 2014, at the hour of 9:00 o'clock for further proceedings.

District Court Judge

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OPWH
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CLERK OF THE COURT

Case No. C166490

Dept. No. III

MC
PP
DA

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

Renard T. Polk,
Petitioner,

-vs-

Robert Legrand et al,
Respondent.

MOTION FOR ORDER TO PRODUCE PRISONER

Date: 02/06/14
Time: 9:00 AM

The application of Renard T. Polk, Petitioner in pro se, respectfully shows: (1) That he is presently incarcerated in the Nevada Department of Corrections ("NDOC"), at the Lovelock Correctional Center, Pershing County, Nevada. (2) That a hearing is currently scheduled in the above-entitled Court on Feb. 18th, 2014, at 9:00 a.m.

WHEREFORE, Applicant prays that an order issue, ordering his appearance before said Court at said date and time, and directing the execution of said order by the NDOC. [see petition order]

Dated this 7th day of January, 2014.

/s/ R Polk
RENARD POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

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CLERK OF THE COURT

LCC LL FORM 26.052

Pg. 1 of 4

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing MOTION FOR ORDER TO PRODUCE PRISONER to the below address on this 7th day of January, 2014, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Mary K. Holthus
200 Lewis Ave
Regional Justice Center
Las Vegas, Nevada 89155
Attorney For Respondent

/s/ R Polk
RENARD POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR ORDER TO PRODUCE PRISONER does *not* contain the social security number of any person.

Dated this 7th day of January, 2014.

/s/ R Polk
RENARD POLK
Petitioner In Pro Se

PPOW

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Renard Polk,

Petitioner,

vs.

The State of Nevada,

Respondent,

Case No: 00C166490
Dept No: III

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on December 2,2013 . The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

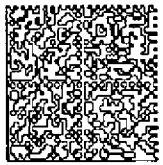
IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 18th day of February, ~~200~~ 2014, at the hour of 9:00 o'clock for further proceedings.

DOUGLAS W. HERNDON

District Court Judge

pg. 4 of 4

Renard T. Polk #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419



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Regional Justice Center
200 Lewis Ave
Las Vegas, Nevada 89155

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CLERK OF THE COURT

RENARD POLK #72439
1200 Prison Rd (L.C.C.)
Lovelock, Nevada 89419
In Pro-Se

IN THE EIGTH JUDICIAL DISTRICT COURT THE STATE OF NEVADA IN AND FOR CLARK COUNTY

Renard T. Polk
Movant-Petitioner
(vs.)
The State of Nevada ex rel,
Clark County ex rel,
Robert Legrand et al,
Respondents

00C166490

CASE NO. 00C166490C

Hearing Date:03/04/14 @ 9:00AM

MOTION FOR SANTIONS AND TO DISQUALIFY THE DISTRICT ATTORNIES' OFFICE.

Comes now the movant Renard T. Polk and hereby submits for filing this motion. This motion is prepared in good-faith and based on all filings, pleadings, documents and papers on record herein.

MEMORANDUM OF POINTS AND AUTHORITIES.

Beginning August 1, 2001 and continuing

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CLERK OF THE COURT

02-10-2014 RCVD

thereafter with respect to every hearing allocated to review the Movant's detention the district attornies office through various representatives await filing the response to the district courts order until the 11th hour.

That is to say despite the fact the judge issued an order specifying the district attornies office respond to the petition filed by the Movant within (45) forty-five days and due to prior behavior and policy said representatives usually wait until (5) five to (6) six days before the habeas corpus writ hearing to file a response.

Thereby disenabling the Movant-petitioner's ability to reply, be properly prepared or file a timely traverse before the hearing takes place.

This has become common place and practice among the district attornies for Clark County irrespective of a particular attorney.

Notwithstanding, a hearing has been scheduled for the 18th of February 2014 concerning the petition and the legality of the petitioner's detention or confinement.

Moreover a hearing regarding transportation has been scheduled for the 6th of February 2014.

Nonetheless to the degree that a response is filed in a timely manner the movant either receives it late or not at all.

All of which impairs the movant-petitioner's ability to have a full and fair hearing.

Additionally the movant has alleged in his petition that the prosecuting attorney Mary Holthus has been misrepresenting and concealing material facts through out the remedial process to the detriment of the movant-petitioner.

Further establishing the necessity for disqualification

RELIEF REQUESTED,

WHEREFORE, the movant requests this court:

1.) disqualify the Clark County District Attornies office from representing the state and purported victims,

2.) impose sanctions on the current representative for the State and purported victims for failing to file a timely response,

3.) continue the habeas writ hearing to a later date wherein the movant-petitioner will have ample time to reply to the State's response.

Dated this 3rd day of February 2014

Verification
/S/. R Polk 6@2007
RENARD POLK

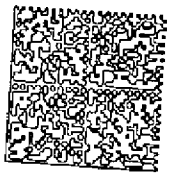
CERTIFICATE OF SERVIC BY MAIL

I Renard Polk do hereby certify that a true and correct copy of the instant document entitled "Motion for Sanctions and to Disqualify the District Attorneys Office" was delivered to an official at the Lovelock Correctional Center to be conveyed by U.S. Postal mail service to the address listed below:

Steven Grierson 200 Lewis Ave 3rd Floor Las Vegas Nevada 89155-1160

Verification
/S/. R Polk 6@2007
RENARD POLK

Renard T. Polk #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419



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200 Lewis Ave 3rd Flr
Las Vegas, Nevada 89155

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Center

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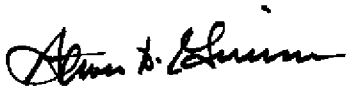

CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD T. POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS AND TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE

DATE OF HEARING: MARCH 4, 2014
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Sanctions and to Disqualify the District Attorney's Office.

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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK ("Defendant") with three (3) criminal counts as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 27, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).

Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – guilty of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – guilty of Sexual Assault with a Minor under Fourteen; and Count 3 – not guilty.

On March 14, 2002, this Court sentenced Defendant to the Nevada Department of Corrections as follows: Count 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and Count 2 – to a maximum of life with minimum parole eligibility of two hundred forty (240) months, consecutive to Count 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.

Defendant filed a Notice of Appeal on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction and issued a limited remand to correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury. Remittitur issued on September 19, 2003, and an Amended Judgment of Conviction was eventually filed on February 9, 2005.

On July 1, 2004, Defendant filed a Petition for Writ of Habeas Corpus. The State filed a Response on August 31, 2004. This Court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.

Defendant filed a Notice of Appeal on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. This Court denied the Motion on December 18, 2007, and filed a written Order on December 31, 2007.

Defendant filed a Notice of Appeal on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. Remittitur issued on September 9, 2008.

On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, this Court dismissed Defendant's Petition as time-barred. A written Order was filed on April 28, 2010.

On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). The State did not file a response. This Court dismissed Defendant's third Petition as untimely on July 26, 2011.

On March 16, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended Motion to Correct Illegal Sentence. This Court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. This Court denied the Petition on June 11, 2013, and filed a written Order on August 2, 2013.

On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court noted that Defendant filed the Petition but failed to serve the State. This Court further set a briefing schedule for Defendant's Petition wherein the State's response is due by March 14, 2014, and Defendant's reply is due by April

11, 2014. Hearing is currently set for April 22, 2014.

On February 11, 2014, Defendant filed the instant Motion for Sanctions and to Disqualify the District Attorney's Office. The State files this Opposition and, for the reasons set forth below, respectfully requests that Defendant's Motion be denied.

ARGUMENT

I. THERE IS NO BASIS TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE FROM THIS CASE.

The disqualification of a prosecutor's office rests with the sound discretion of the district court. Collier v. Legakes, 98 Nev. 307, 646 P.2d 1219 (1982) (citing Tomlin v. State, 81 Nev. 620, 407 P.2d 1020 (1965); Hawkins v. Eighth Judicial Dist. Ct., 67 Nev. 248, 216 P.2d 601 (1950); Trone v. Smith, 621 F.2d 994 (9th Cir. 1980)). In exercising that discretion, the court should consider all the facts and circumstances and determine whether the prosecutorial function could be carried out impartially and without breach of any privileged communication. Id., at 311, 646 P.2d at 1221.

Here, Defendant requests that this Court disqualify the District Attorney's Office from representing the State in this matter. However, Defendant fails to identify any legitimate basis upon which to make such a request. Rather, Defendant merely refers to the bare allegations within his pending habeas Petition that Chief Deputy District Attorney Mary Holthus "has been misrepresenting and concealing material facts throughout the remedial process" and offers no evidence in support of such a claim whatsoever. Defendant fails to even allege that the District Attorney's Office has a conflict of interest or similar impediment to its ability to carry out its duties in this case impartially. Therefore, Defendant fails to demonstrate any legitimate reason that this Court should consider disqualifying the District Attorney's Office from representing the State in this case, and thus his Motion should be denied.

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II. THE STATE'S RESPONSE TO DEFENDANT'S PETITION IS NOT DUE UNTIL MARCH 14, 2014, AND THUS THERE IS NO BASIS TO SANCTION THE STATE FOR FILING AN UNTIMELY RESPONSE.

Defendant requests that this Court sanction the State for filing an untimely response to his December 2, 2013, fifth post-conviction habeas Petition. However, at the February 6, 2014, hearing regarding Defendant's Motion for Order to Produce Prisoner for the upcoming hearing on his Petition, this Court stated that Defendant filed his Petition but failed to properly serve the State. As such, this Court set a briefing schedule under which the State's response is currently due on March 14, 2014, and Defendant's reply, if any, is due on April 11, 2014. The State is not untimely in responding to Defendant's Petition because the State still has more than two weeks in which to file a response per this Court's briefing schedule. Moreover, Defendant's concern about a potential lack of time to reply is misguided as the briefing schedule provides Defendant with nearly one month in which to file a reply to the State's forthcoming response. Therefore, notwithstanding that Defendant provides no legal authority upon which to base his request for sanctions, the purported factual basis for his request is belied by the record and thus his Motion should be denied.

III. DEFENDANT'S REQUEST TO CONTINUE THE HEARING ON HIS PETITION FOR WRIT OF HABEAS CORPUS IS MOOT.

Defendant requests that the hearing on his pending habeas Petition be continued so as to provide ample time for Defendant to reply to the State's forthcoming response. However, Defendant's request is moot because, as explained above, on February 6, 2014, this Court set a briefing schedule under which Defendant has nearly one month in which to file a reply, and further, this Court already continued the hearing on Defendant's Petition until April 22, 2014. Therefore, as Defendant's request is moot, his Motion should be denied. See Nat'l Collegiate Athletic Ass'n v. Univ. of Nevada, Reno, 97 Nev. 56, 624 P.2d 10 (1981).

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CONCLUSION

Based on the foregoing, the State respectfully requests that Defendant's Motion be DENIED.

DATED this 25TH day of February, 2014.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #

BY _____
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I, HOWARD CONRAD, hereby certify that service of the above and foregoing was made this 25th day of February, 2014, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV, 89419

BY _____
Secretary for the District Attorney's Office

hjc/SVU

9

MC
PP
DA

RENARO T. POLK #72439
1200 Prison Rd (L.C.C.)
Lovelock Nevada 89419

DISTRICT COURT
CLARK COUNTY, NEVADA

Date: 03/20/14
Time: 9:00 AM

RENARO T. POLK
MOVANT

Case No: C166490
Dept No: III

(VS.)

THE EIGHTH JUDICIAL
DISTRICT COURT, et al;
THE STATE OF NEVADA,
ex rel; real parties in interest
RESPONDENTS

MOTION FOR RECONSIDERATION

Comes Now The Movant Renard Polk and hereby submits for filing this motion for reconsideration pursuant to the Eighth Judicial District Court rule 40A.

This motion is made in good-faith and based on all papers, pleadings and documents on file and record with this court.

MEMORANDUM OF POINTS, AUTHORITIES AND ARGUMENTS

On December 2, 2013 the movant

filed a petition for writ of habeas corpus.

On January 2, 2014 the court issued an order for the Movant's presence or production having supposed good cause existed.

Further providing the state had (45) forty-five days to file a response and a return allocating a hearing for February 18, 2014.

On January 16, 2014 the Movant filed a "Motion For Order To Produce," [sic] the movant-petitioner for the hearing on February 18, 2014.

Although the court essentially classified the motion as one for production the Motion was actually requesting transport. Due to the fact production of the defendant had been ordered.

On February 6, 2014 the motion for order to produce came on hearing in absence of, Mr. Polk, the Movant.

Notwithstanding the court found in error that, Mr. Polk, the Movant had failed to serve the State.

Since then the Movant, Mr. Polk, filed for sanctions and disqualification of the Clark County District Attorney's office.

A hearing has been scheduled for March 4, 2014

FIRST: Concerning the transportation and presence of the Movant [petitioner] any time material facts are at issue or questioned the party's presence is necessary irrespective of the fact disputed or the hearing so provided. Rivett v. State 345 P.2d 264

Should the court seek to resolve these facts apart from the presence of the interested party jurisdiction is not acquired and the process is void ab initio. Byford v. State 156 P.3d 691

The court has already issued a writ for habeas corpus, unless the functional meaning thereof no longer dictates the Movant's presence, presence of the Movant is necessary to controvert, deny, present or object to testimony, arguments and evidence Gerbers v. State 50 P.3d 1092

SECOND: By that same order Nevada Revised Statute 34.770 states in relevant part that if, "relief," is warranted then a "hearing" is allocated.

Further if, "relief," is not warranted then the court shall, "dismiss the petition."

In the instant case a hearing has been reset from the prior hearing on February 18, 2014 to March 14, 2014

Any further interruption by the court to adhere to this process nullifies absolutely Utah Liquor Control v. Wouras 63 P.2d 455 jurisdictional requisites

THIRD: To the degree that the court would have the state through the clark county district attornies' office file an opposition to the order for cause and the corresponding petition is disharmonious with prior decisions involving habeas petitioners. "After a rule to show cause or cause having been demonstrated the only pleading contemplated following the issuance is the filing of an answer" Sibbetti v. Jones 48 Leg. Reg. 247

For the court to attempt to retroactively divest the movant of these entitlements and rights are illegal. Lomard v. Manchester 406 So. 2d 742, Scarabough v. Travelers 718 F.2d 702

FOURTH: The movant's requested relief does not reside in the need for an hearing evidentiary or otherwise, but immediate release from custody.

This is now the (6) sixth time the court is attempting to reacquire jurisdiction having lost or

failed to acquire it in the previous proceedings.

Nevada Revised Statute 34.500 mandates the immediate release of the movant [petitioner] under the conditions provided for in the statute.

The Movant [petitioner] fulfills and meets the criteria of everyone thusly.

REQUESTED RELIEF

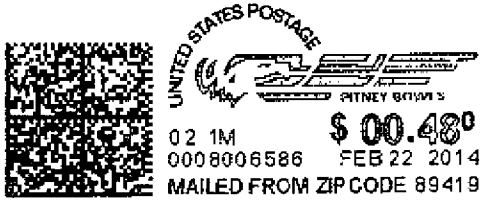
WHEREFORE; the movant requests: this court reconsider the decision rendered on February 6, 2014 ordering the Movant's presence and release from custody forthwith as the instant court abused its discretion

Respectfully Submitted

151. [signature] 08 2007

RENARD T. POLK

Renard T. Polk #72439
1200 Prison Rd Lovelock Correctional Center
Lovelock, Nevada 89419.



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Dept. III
Las Vegas Nevada 89155

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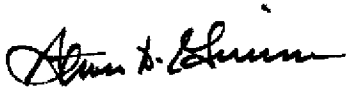

CLERK OF THE COURT

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TURMAN POLK, #1521718 Defendant.	Case No.	**00C166490**
	Dept No.	**III**

ORDER DENYING DEFENDANT'S PRO PER MOTION TO TRANSPORT

DATE OF HEARING: FEBRUARY 6, 2014
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 6TH day of February, 2014, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through OFELIA MONJE, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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02-19-2014 RCVD

IT IS HEREBY ORDERED that the DEFENDANT'S PRO PER MOTION TO TRANSPORT, shall be, and is, DENIED.

DATED this 25 day of February, 2014.

DISTRICT JUDGE

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

for

OFELIA MONJE
Deputy District Attorney
Nevada Bar #011663

hjc/SVU

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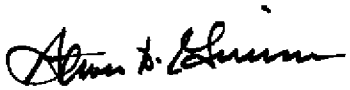

CLERK OF THE COURT

RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), OPPOSITION TO DEFENDANT'S MOTION TO TRANSPORT, AND STATE'S COUNTER-MOTION FOR DETERMINATION OF VEXATIOUS LITIGATION AND REQUEST FOR ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT ISSUE A PRE-FILING INJUNCTION ORDER

DATE OF HEARING: APRIL 22, 2014
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through Enter Deputy DA Name, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction), and an Opposition to Defendant's Motion to Transport. The State also submits a Counter-Motion for Determination of Vexatious Litigation and Request for Order to Show Cause Why the Court Should Not Issue a Pre-Filing Injunction Order.

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This response 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.

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK (hereinafter "Defendant") as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 7, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).

Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – GUILTY of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – GUILTY of Sexual Assault with a Minor under Fourteen; and Count 3 – NOT GUILTY.

On March 14, 2002, the court sentenced Defendant to the Nevada Department of Corrections as follows: COUNT 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and COUNT 2 – to a maximum of LIFE with minimum parole eligibility of two hundred forty (240) months, COUNT 2 to run CONSECUTIVE to COUNT 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.

Defendant filed a Notice of Appeal from the Judgment of Conviction on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction but remanded for the limited purpose of having the court correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury.

The Remittitur issued on September 19, 2003. An Amended Judgment of Conviction was eventually filed on February 9, 2005.

On July 1, 2004, Defendant filed his first Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on August 31, 2004. The court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.

Defendant filed a Notice of Appeal from the denial of his first petition on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. The Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. The court denied the Motion on December 18, 2007, and filed a written Order reflecting such on December 31, 2007.

Defendant filed a Notice of Appeal from the denial of his Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. The Remittitur issued on September 9, 2008.

On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, the court dismissed Defendant's Petition as time-barred. A written Order was filed on April 28, 2010. [1]

On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). This time, the State did not file a response. The court dismissed Defendant's third Petition as untimely on July 26, 2011.[2]

On March 26, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended

[1] This court has not entered a Findings of Fact, Conclusions of Law and Order reflecting the court's dismissal of Defendant's second petition.

[2] This court has not filed an Order or a Findings of Fact, Conclusions of Law and Order reflecting the court's dismissal of Defendant's third petition.

Motion to Correct Illegal Sentence. The court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. The court dismissed the Petition on June 11, 2013, and filed a written Order reflecting such on August 2, 2013.[3]

On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court noted that Defendant filed the Petition but failed to serve the State and therefore set a briefing schedule for Defendant's Petition wherein the State's response is due by March 14, 2014, and Defendant's reply is due by April 11, 2014. The State now responds to Defendant's fifth petition as follows.

ARGUMENT

I. DEFENDANT'S PETITION MUST BE DISMISSED BECAUSE IT IS TIME BARRED.

Defendant's instant petition should be dismissed pursuant to NRS 34.726 because it is time-barred. The mandatory provisions of NRS 34.726 state:

> 1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, **if an appeal has been taken from the judgment, within 1 year after the supreme court issues its remittitur**. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:
>
> (a) That the delay is not the fault of the petitioner; and
>
> (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.
>
> ...

NRS 34.726(1) (Emphasis added).

In Gonzales v. State, 118 Nev. 61, 590 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late, pursuant to the "clear and unambiguous" mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the district court within the one-year mandate, absent a showing of

[3] To date, no Findings of Fact, Conclusions of Law and Order have been filed reflecting the court's denial of Defendant's fourth petition.

"good cause" for the delay in filing. Gonzales, 53 P.3d at 902. The one-year time bar is therefore strictly construed.

Here, Defendant's Judgment of Conviction following his jury trial was filed on April 1, 2002,[4] with the Remittitur affirming his Judgment of Conviction issued on September 19, 2003. Therefore, Defendant had until Monday September 20, 2004, file a timely post-conviction petition. Defendant, however, did not file this instant petition until December 2, 2013. As such, Defendant's petition is time-barred and must be dismissed absent a showing of good cause.

II. DEFENDANT'S PETITION MUST BE DISMISSED BECAUSE IT IS SUCCESSIVE.

Defendant's instant petition should be dismissed pursuant to NRS 34.810 as it is successive. Pertinent portions of NRS 34.810 state:

> 2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the Defendant to assert those grounds in a prior petition constituted an abuse of the writ.
>
> 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:
>
> (a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and
>
> (b) Actual prejudice to the petitioner.

NRS 34.810.

This Court denied Defendant's first habeas petition on the merits on September 8, 2004. The Nevada Supreme Court subsequently affirmed the District Court denial on the merits January 25, 2005, with the Remittitur issuing on February 22, 2005. Thereafter, this Court has denied Defendant's second, third, and fourth petitions as time-barred and successive.

[4] The State notes that the time bar runs from the Judgment of Conviction filed on April 1, 2002, not the Amended Judgment of Conviction filed on February 9, 2005. Per Sullivan v. State, 120 Nev. 537, 96 P.3d 761 (2004), when an Amended Judgment of Conviction has been filed, the one year time bar runs from the original Judgment of Conviction unless the Amended Judgment of Conviction reflects a change in the subject matter of the claim in the petition. Notably, this appears to be a non-issue for terms of timeliness of Defendant's fifth petition as any petition from the Amended Judgment of Conviction would be untimely as well.

Defendant should have raised any and all grounds for relief in his first petition, and his failure to do so is an abuse of the writ as enunciated in NRS 34.810(2). Accordingly, Defendant's instant petition is also a successive petition pursuant to NRS 34.810(2) and must be dismissed as such.

III. DEFENDANT HAS NOT SHOWN GOOD CAUSE OR PREJUDICE FOR OVERCOMING THE PROCEDURAL BARS

To avoid procedural default under NRS 34.726, a defendant has the burden of pleading and proving specific facts that demonstrate good cause for his failure to present his claim in earlier proceedings or comply with the statutory requirements. See Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of Prisons, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

"To establish good cause, appellants must show that an impediment external to the defense prevented their compliance with the applicable procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see also Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules."); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001). Such an external impediment could be "that the factual or legal basis for a claim was not reasonably available to counsel, or that 'some interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)). Any delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

The Nevada Supreme Court has clarified that, "appellants cannot attempt to manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at 506; (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Excuses such as the lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel to forward a copy of the file to a petitioner have been found not to

constitute good cause. See Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

In filing this fifth untimely petition, Defendant has not even attempted to allege good cause to overcome the time bar. Instead, Defendant simply re-iterates that his sentence and confinement is illegal based on bare allegations of alleged due process violations. See Petition, pp. 21-32. There is absolutely no indication that the claims Defendant now makes were somehow not available to him at the time of default and therefore Defendant has not met his burden of establishing god cause to overcome the procedural bars. Accordingly, Defendant's fifth petition must be dismissed.

IV. DEFENDANT'S PETITION IS PRECLUDED BY STATUTORY LACHES PER NRS 34.800

NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period exceeding five (5) years between the filing of a judgment of conviction, an order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of conviction and the filing of a petition challenging the validity of a judgment of conviction...." The statute also requires that the State plead laches in its motion to dismiss the petition. NRS 34.800. The State pleads laches in the instant case.

As noted, supra, Defendant's Judgment of Conviction was filed on April 1, 2002, and the Remittitur affirming his Judgment of Conviction issued on September 19, 2003. Because the instant petition was filed on December 2, 2013, more than five (5) years has elapsed since the filing of both the Judgment of Conviction and the decision on direct appeal of the Judgment of Conviction. Therefore, NRS 34.800 directly applies in this case.

In order to overcome this rebuttable presumption, Defendant "will have the heavy burden of proving a fundamental miscarriage of justice." Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545 (2001). Based on the State's arguments above, this Court should summarily deny the instant petition pursuant to the doctrine of laches, as the delay of more than ten (10) years after the Remittitur date in filing this petition is completely unexcused.

V. THE DISTRICT COURT MUST APPLY THE PROCEDURAL BARS.

The Nevada Supreme Court has specifically held that the district court has a duty to consider whether the procedural bars apply to a post-conviction petition (and not arbitrarily disregard them), and that the district court must in fact apply the procedural bars if warranted. In State v. Eighth Judicial District Court, 121 Nev. 225, 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

> Given the untimely and successive nature of [defendant's] petition, the district court **had a duty imposed by law** to consider whether any or all of [defendant's] claims were barred under NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . . [and] the court's failure to make this determination here constituted an arbitrary and unreasonable exercise of discretion.

(emphasis added; Id.. at 234; 112 P.3d at 1076; see also State v. Haberstroh, 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (wherein the Nevada Supreme Court held that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default rules nor can they empower a court to disregard them.)

In filing his untimely petition, Defendant has offered no legally sufficient reason to explain the delay. Therefore, Defendant's instant petition is procedurally barred from consideration on the merits and must be dismissed.

VI. DEFENDANT HAS NOT ESTABLISHED SUFFICIENT GROUNDS TO JUSTIFY AN ORDER TO PRODUCE THE PRISONER.

Defendant requests that he be transported to the April 22, 2014,[5] hearing on his petition. However, a defendant must be present at those hearings in which the Court deems it necessary to expand the record. See Gebers v. State, 118 Nev. 500, 50 P.3d 1092 (2002). In addressing Defendant's untimely petition filed on December 2, 2013, it will not be necessary for this court to expand the record because the claims therein are time-barred and successive without good cause. Defendant has not shown, nor is there is any need, for the court to receive evidence or

[5] Notably, Defendant's Motion to Transport requests that he be transported to the February 18, 2014, hearing. This was the original hearing date for his fifth post-conviction petition. However, the date was re-set to April 22, 2014, due to Defendant's failure to serve his petition to the State. As such, the State construes Defendant's Motion as requesting to be present at the upcoming April 22, 2014, hearing.

take testimony from any party before ruling on Defendant's petition. Therefore, Defendant's motion should be denied.

VII. THE STATE REQUESTS A FINDING THAT DEFENDANT IS A VEXATIOUS LITIGANT AND REQUESTS COURT TO ORDER DEFENDANT TO SHOW CAUSE WHY THE COURT SHOULD NOT ISSUE A PRE-FILING INJUNCTION ORDER.

The United States Supreme Court has recognized "that prisoners have a constitutional right of access to the courts." Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491, 1494, 52 L.Ed.2d 72 (1977). That right of access, however, may be counterbalanced by the traditional right of courts to manage their dockets and limit abusive filings. See In re McDonald, 489 U.S. 180, 184, 109 S.Ct. 993, 996 (1989) (per curiam). "[T]here is no constitutional right to file frivolous litigation." Wolfe v. George, 486 F.3d 1120, 1125 (9th Cir. 2007).

Because Defendant appears intent on continuing his campaign of vexatious litigation, the State requests an order to show cause why the court should not institute a system of pre-filing merits screening for any of Defendant's future pleadings. Since 2004, Defendant has repeatedly filed and re-filed this same frivolous request for relief. Not considering this instant petition, Defendant has filed four (4) previous post-conviction petitions along with two (2) Motions to Correct Illegal Sentence. Notably, every single one of these have been denied as meritless.

At this point, Defendant's continued reassertion of his alleged "illegal confinement" can only be construed as a bad faith litigation strategy designed to vex and harass the State and the Court. As Judge Easterbrook of the Seventh Circuit has noted:

> An argument in the teeth of the law is vexatious, and a criminal defendant who chooses to harass his prosecutor may not do so with impunity. The time of prosecutors is valuable. If a defendant multiplies the proceedings, this takes time that could more usefully be devoted to other prosecutions. When a defendant makes an argument so empty that no responsible lawyer could think the argument supportable by any plausible plea for a change in the law the court may reply with a penalty. When [even a pro se] defendant makes an argument so empty that no responsible lawyer could think the argument supportable by any plausible plea for a change in the law[,] the court may reply with a penalty.

State of Wis. v. Glick, 782 F.2d 670, 673 (7th Cir. 1986) (emphasis added).

The State now requests an order to show cause why the court should not institute a system of pre-filing merits-screening for any of Defendant's future pleadings. Baum v. Blue Moon Ventures, 513 F.3d 181, 187 (5th Cir. 2008) ("A district court has jurisdiction to impose a pre-filing injunction to deter vexatious, abusive, and harassing litigation." (internal citations omitted)).

The Nevada Supreme Court has recognized the propriety of and the district courts' inherent power to issue pre-filing orders. See Jordan v. State ex rel. Dept. of Motor Vehicles and Public Safety, 121 Nev. 44, 110 P.3d 30 (2005) ("Nevada courts [] possess inherent powers of equity and of control over the exercise of their jurisdiction[, including] the power to permanently restrict a litigant's right to access the courts."), abrogated on unrelated grounds by Buzz Stew, LLC v. City of North Las Vegas, 181 P.3d 670 (2008). The Nevada Supreme Court has adopted the Ninth Circuit's four-prong test for issuance of a pre-filing injunction, which requires the following: 1) "the litigant must be provided reasonable notice of and an opportunity to oppose the restrictive order's issuance"; 2) "the district court must create an adequate record for review, including a list of all the cases and documents, or an explanation of the reasons, that led it to conclude that a restrictive order was needed to curb repetitive or abusive activities"; 3) "the district court must make 'substantive findings as to the frivolous or harassing nature of the litigant's actions.'"; and 4) "the order must be narrowly drawn to address the specific problem encountered[.]" Id. at 60-62 (quoting De Long v. Hennessey, 912 F.2d 1144 (9th Cir. 1990), cert. denied, De Long v. American Protective Services, 498 U.S. 1001, 111 S.Ct. 562 (1990)). Because Defendant's conduct clearly meets the four-prong test, the State is seeking imposition of a pre-filing injunction.

The pre-filing order would require Defendant to obtain from the court an initial merit screening and certification of any future post-conviction motions and petitions. The Clerk would be instructed in the order not to file any of Defendant's pleadings absent such a certification. Such a prefiling order might look something like the following order approved by the federal district court for the Central District of California:

//

> The Clerk of the Court shall not accept for filing any petition for writ of habeas corpus under 28 U.S.C. section 2254 naming Ronald Allen Galeska as a petitioner and asserting claims arising out of his state court conviction for first degree murder and financial gain special circumstances (California Superior Court for the County of Ventura, case no. CR 21718) unless and until the petitioner first files with the Clerk an application for leave, bearing the caption "Application Seeking Leave to File." The application for leave shall include a copy of this Order to the Clerk of the Court. Any such habeas petition shall not be filed:
>
> (i) without prior written authorization from a United States District Judge or a United States Magistrate Judge upon such showing of evidence supporting the claim as the judge may require; and
>
> (ii) without a signed declaration under penalty of perjury by Ronald Allen Galeska describing facts meeting the requirements of cause and prejudice or a fundamental miscarriage of justice.

Galeska v. Duncan, 894 F.Supp. 1375, 1377 (C.D. Cal. 1995).[6]

Additionally, the pre-filing injunction would establish a "paperless" review system which would prevent Defendant from inundating the Court's chambers with frivolous petitions while at the same time ensuring he is not deprived of the benefit of new changes to the law. See Alexander, 121 F.3d at 315 ("[W]e can and do provide that any future applications for leave to file successive collateral attacks will be deemed rejected, without the need for judicial action, on the thirtieth (30th) day, unless the court orders otherwise. That will reduce the burden of paper-moving and explanation-writing, conserving a little judicial time for litigants who deserve attention. We will read any future application Alexander files, even though we will not necessarily enter an order addressing it, so Alexander will not lose the benefit of any decision made retroactive by the Supreme Court.").

However, in order for this pre-filing injunction to pass muster under the Nevada Supreme Court's incorporation of the Ninth Circuit's De Long v. Hennessey standard, the State requests that Defendant be provided a show cause hearing, set at least thirty days from the upcoming April 22, 2014, hearing, in which Defendant will first have an opportunity to

[6] Another exemplar can be found in State v. John Odoms, District Court Case No. C056663 in which the Honorable Judge Elissa Cadish, Department 6, entered on August 25, 2011, an order imposing a pre-filing injunction on a similar vexatious prisoner litigant. That order elaborates at length the procedure for how the injunction would operate.

contest entry of the pre-filing injunction. The State would prepare an order for Defendant to be transported to appear before the Court on the hearing date set.

CONCLUSION

Based on the foregoing, the State respectfully requests that Defendant's fifth post-conviction petition and Motion to Transport be DENIED, and that the Court GRANT State's countermotion and Defendant be ordered to show cause why a pre-filing injunction should not issue.

DATED this 10TH day of MARCH, 2014.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #

BY _____
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 10TH day of MARCH, 2014, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV, 89149

BY _____
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

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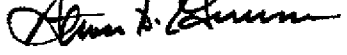

CLERK OF THE COURT

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD T. POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

ORDER DENYING DEFENDANT'S MOTION FOR SANCTIONS AND TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE

DATE OF HEARING: MARCH 4, 2014
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 4TH day of MARCH, 2014, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through SAMUEL BATEMAN, Chief Deputy District Attorney, without argument, based on the pleadings and good cause appearing therefor,

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//

IT IS HEREBY ORDERED that the DEFENDANT'S MOTION FOR SANCTIONS AND TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE, shall be, and is, DENIED.

DATED this 13 day of March, 2014.

DISTRICT JUDGE

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

BY _____ for
SAMUEL BATEMAN
Chief Deputy District Attorney
Nevada Bar #008764

hjc/SVU

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CLERK OF THE COURT

RENARD T. POLK #72439
1200 Prison Rd (L.C.C.)
Lovelock, Nevada 89419

IN THE EIGHTH JUDICIAL DISTRICT COURT IN AND FOR THE COUNTY OF CLARK STATE OF NEVADA

Renard T. Polk
Movant-Petitioner
(vs.)
Robert Legrand et al,
The State of Nevada ex rel,
Respondent(s)

C166490

DEPT NO: III
CASE NO: C166490

Hearing Date: 04/22/14
Time: 9:00AM

MOTION TO STRIKE (AND/OR) FOR SANCTIONS.

COMES NOW the movant-petitioner Renard T. Polk and hereby submits for filing this motion to impose sanctions against district attorney James Sweetin and to strike the response submitted in opposition to the movant-petitioner's post-conviction writ petition for habeas corpus.

This motion is made in good-faith based on all pleadings, papers, documents

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and orders, as well as, pursuant to Nevada Rules Civil Procedure Rule(s) 7, and 11.

Procedural History.

On December 2, 2013 the Eigth Judicial District Court, Doug Herndon, issued an order for writ of habeas corpus via the clark county clerk's office scheduling a hearing for cause on February 18, 2014.

The court then sua sponte vacated the hearing without any corresponding application being submitted by the district attorney's office, James Sweetin, scheduling another hearing for April 22, 2014.

Further, directing the district attornies' office to file an opposition to the post-conviction petition, although the state initially had (45) forty five days to answer the petition and file a return as commanded by the correlate order of the court.

None The less, on or about March 10, 2013 the district attornies' office, through James Sweetin, submitted an application or "counter-motion" to the petition and order.

MEMORANDUM OF POINTS, AUTHORITIES AND ARGUMENT.

FIRST: Pursuant to Nevada Rules of Civil Procedure rule 11 and 12 the Movant can request that, vague, immaterial, redundant, impertinent, false and scandalous matters be stricken.

To the degree that the attorney for the county, James Sweetin, would represent that; (1.) the Movant filed [five petitions] seeking post-conviction relief,

(2.) the judgment of conviction was affirmed on direct appeal,

(3.) the previous petitions were "denied" on the merits,

(4.) the "deni[al]" was affirmed on appeal for post-conviction,

(5.) the Movant-petitioner was present during the prior post-conviction petition hearings,

(6.) The court did not already issue a cause order,

(7.) the Movant-petitioner is requesting to be produced or present,

(8.) the burden of proof now rests with the Movant-petitioner,

(9.) the movant- petitioner failed to serve the "State" with the petition for post-conviction relief and,

(10.) the subsequent petitions were "dismissed" rather than denied, would be fraudulent at best disingenuous.

As in truth and in fact none of those things occurred.

SECOND: Said attorney, James Sweetin, cannot plead two (2) different positions in the "motion to dismiss"... [sic].

In the application submitted by Mr. James Sweetin esquire he attempts to plead (a.) laches, procedural default and time-bar while also pleading (b.) successiveness and abuse of the writ.

Even so the latter legal points address the procedural sufficiency of the petition while the former addresses the substantive quality of the petition.

Either way the state and county are prohibited from meshing or combining these issues.

Moreover "factual concerns" do not resolve themselves or can not be prefaced in a motion. Kerby v. Commodity Resources Inc D.C. Colo 1975 395 F.Supp 786

This is nothing more than a rogue pleading disquietly set to frustrate a petitioner's rights and confuse the court.

Which likewise constitutes delay and an assault on judicial economy.

Accordingly said district attorney should be sanctioned for filing such a document with the court.

Ironically, as well as, unilateraly the attorney requests a pre-filing, "star chamber," order concerning the vexatiousness of the proceedings.

However, obviating judicial review is the corner stone of a tyranny and monarchy.

At page 12 of the submission the attorney requests the motion to transport be denied and in the same instance suggests that a transportation order should be, by all means, prepared.

Who's being redundant?

CONCLUSION

Wherefore: the district attorney assigned to represent the state, county and purported victims should be sanctioned for contempt, inter alia, and the document submitted stricken allowing the attorney to

plead anew in accordance with the order issued on December 2, 2013

Dated this 24th day of March 2014

Verification;

/s/. [signature] 00007

RENARD POLK

CERTIFICATE OF MAILING.

I hereby certify that service of the above and foregoing was made this 24th day of March 2014 by depositing a copy with the Lovelock Correctional Center Mailroom Supervisor to be conveyed by U.S. Mail addressed to:

Regional Justice Center
200 Lewis Ave
Las Vegas Nevada 89155

/s/. [signature] 00 2007

RENARD POLK

Renard T. Polk #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, NV 89419

UNITED STATES POSTAGE
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Las Vegas, NV 89155

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CLERK OF THE COURT

RENARD POLK #72489
1200 Prison Rd (L.C.C.)
Lovelock, Nevada 89419

IN THE EIGHTH JUDICIAL DISTRICT COURT IN AND FOR THE COUNTY OF CLARK THE STATE OF NEVADA

Renard T. Polk
Defendant

(vs.)

The State of Nevada ex rel,
Doug Herndon et al,
Plaintiff

CASE NO: 00C166490
DEPT NO: III

Affidavit of Bias.

The affiant does hereby depose, declare and state: that;

1.) The defendant is over the age of (18) eighteen years.

2.) The defendant is of sound mind and competent to testify as to the matters related herein.

3.) On December 3, 2013 the defendant submitted and the clerk's

office for clark county filed a petition for writ of habeas corpus.

On or about January 13, 2014 the eighth judicial district court department three, Doug Herndon, ordered the state to "answer or otherwise respond" to the petition within "(45) fourty five days."

Further ordering "a return" and "hearing" date by "February 18, 2014."

In the absence of a corresponding document submitted or filed by the party-opponents the court then sua sponte vacated the hearing set and rescheduled another hearing for April 22, 2014.

4.) Additionally finding, ex parte, the "State" had not been "served" with the petition writ of habeas corpus.

5.) The court has since then made (2) two desicions regarding the defendant-affiant being transported despite an opposing application, document or change in conditions, as well as, carrying out the precepts and commands of the pre existing order remaining unsatisfied.

6.) Further the affiant sayeth naught.

Dated and signed under the penalty

this 26th day of March 2014.

verification:

/s/. R Polk ED 2007

RENARD POLK #72439

cc: Judicial Compliance Committee
Regional Justice Center
A.C.L.U.

TRANSMISSION VERIFICATION REPORT

TIME : 04/01/2014 10:23
NAME : DC3
FAX : 7026714311
TEL : 7026714312
SER.# : BROF8J822635

DATE,TIME	04/01 10:23
FAX NO./NAME	4556980
DURATION	00:00:20
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

RENARD POLK #72439
1200 Prison Rd (L.C.C.)
Lovelock, Nevada 89419

IN THE EIGHTH JUDICIAL DISTRICT COURT IN AND FOR THE COUNTY OF CLARK THE STATE OF NEVADA

Renard T. Polk
Defendant

(vs.)

The State of Nevada ex rel,
Doug Herndon et al,
Plaintiff

CASE NO: 00C186490
DEPT NO: III

Affidavit of Bias.

TRANSMISSION VERIFICATION REPORT

TIME : 04/01/2014 10:24
NAME : DC3
FAX : 7026714311
TEL : 7026714312
SER.# : BROF8J822635

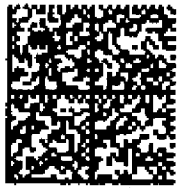
DATE,TIME	04/01 10:24
FAX NO./NAME	4556980
DURATION	00:00:11
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

this 26th day of March 2014.

verification
/s/ R. Polk
RENARD POLK #72439

cc: Judicial Compliance Committee
Regional Justice Center
A.C.L.U.

RENARD PONK #72439
1200 Prison Rd (L.C.C.)
Lovelock, NV 89419



UNITED STATES POSTAGE
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Regional Justice Center
Department 3
200 Lewis Ave
Las Vegas, NV 89155

INMATE LEGAL
MAIL CONFIDENTIAL

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ORIGINAL

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

Electronically Filed
04/16/2014 10:24:18 AM

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD T. POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

ORDER DENYING DEFENDANT'S MOTION

FOR RECONSIDERATION

DATE OF HEARING: MARCH 20, 2014
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 20TH day of MARCH, 2014, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through VICTORIA VILLEGAS, Chief Deputy District Attorney, without argument, based on the pleadings and good cause appearing, as the Court is not certain what the defendant is seeking reconsideration for with the exception of wanting out of custody immediately; therefore,

//

//

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COURT ORDERED, Motion DENIED. Further, Court noted any additional legal issues with the petition and the issue of defendant being transported will be determined at the evidentiary hearing.

DATED this 15th day of April, 2014.

DISTRICT JUDGE

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

BY _____ for
VICTORIA VILLEGAS
Chief Deputy District Attorney
Nevada Bar #002804

hjc/SVU

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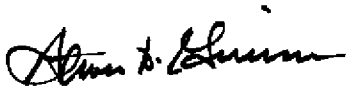
04/25/2014 09:01:44 AM



CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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- RENARD T. POLK, #1521718 Defendant.	CASE NO: **00C166490** DEPT NO: **III**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE AND/OR FOR SANCTIONS

DATE OF HEARING: APRIL 29, 2014
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Strike and/or for Sanctions.

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.

//

//

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On April 13, 2000, the State filed an Information charging RENARD TURMAN POLK (Defendant) with three (3) criminal counts as follows: Counts 1 and 2 – Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366); Count 3 – First Degree Kidnapping (Felony – NRS 200.310, 200.320). On November 22, 2000, the State filed an Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Sixteen Years of Age (Felony – NRS 200.364, 200.366). On January 27, 2002, the State filed a Second Amended Information charging Defendant with three (3) counts of Sexual Assault with a Minor under Fourteen Years of Age (Felony – NRS 200.364, 200.366).

Defendant's jury trial began on January 7, 2002. On January 10, 2002, the jury returned the following verdicts: Count 1 – guilty of Attempt Sexual Assault with a Minor under Fourteen; Count 2 – guilty of Sexual Assault with a Minor under Fourteen; and Count 3 – not guilty.

On March 14, 2002, this Court sentenced Defendant to the Nevada Department of Corrections as follows: Count 1 – to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months and a special sentence of lifetime supervision; and Count 2 – to a maximum of life with minimum parole eligibility of two hundred forty (240) months, consecutive to Count 1. Defendant received six hundred ninety-one (691) days credit for time served. The Judgment of Conviction was filed on April 1, 2002.

Defendant filed a Notice of Appeal on April 3, 2002. On August 25, 2003, the Nevada Supreme Court affirmed Defendant's conviction and issued a limited remand to correct the Judgment of Conviction which incorrectly stated that Defendant pleaded guilty rather than was found guilty by a jury. Remittitur issued on September 19, 2003, and an Amended Judgment of Conviction was eventually filed on February 9, 2005.

On July 1, 2004, Defendant filed a Petition for Writ of Habeas Corpus. The State filed a Response on August 31, 2004. This Court denied Defendant's Petition on September 8, 2004. The Findings of Fact, Conclusions of Law and Order were filed on September 14, 2004.

Defendant filed a Notice of Appeal on October 8, 2004. The Nevada Supreme Court affirmed the denial of Defendant's Petition on January 25, 2005. Remittitur issued on February 22, 2005.

On December 7, 2007, Defendant filed a Motion to Vacate, Set Aside or Correct Illegal Sentence of Judgment, Consolidated Writ of Error. The State filed an Opposition on December 17, 2007. This Court denied the Motion on December 18, 2007, and filed a written Order on December 31, 2007.

Defendant filed a Notice of Appeal on January 18, 2008. On June 9, 2008, the Nevada Supreme Court affirmed the denial of Defendants Motion. Remittitur issued on September 9, 2008.

On January 27, 2010, Defendant filed his second Petition for Writ of Habeas Corpus (Post-Conviction). On March 18, 2010, the State filed a Response and Motion to Dismiss the Petition. On April 8, 2010, this Court denied Defendant's Petition as time-barred. A written Order was filed on April 28, 2010.

On May 19, 2011, Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction). The State did not file a response. This Court denied Defendant's third Petition as untimely on July 26, 2011.

On March 16, 2012, Defendant filed a second Motion to Correct Illegal Sentence. The State filed an Opposition on April 23, 2012. On May 10, 2012, Defendant filed an Amended Motion to Correct Illegal Sentence. This Court denied the Motion on May 29, 2012, and filed a written Order on June 8, 2012.

On April 9, 2013, Defendant filed his fourth Petition for Writ of Habeas Corpus (Post-Conviction). The State filed a Response on June 5, 2013. This Court denied the Petition on June 11, 2013, and filed a written Order on August 2, 2013.

On December 2, 2013, Defendant filed his fifth Petition for Writ of Habeas Corpus (Post-Conviction). On February 6, 2014, this Court set a briefing schedule for Defendant's Petition wherein the State's response was due by March 14, 2014, and Defendant's reply was due by April 11, 2014. On March 10, 2014, the State filed a Response and Motion to Dismiss

Defendant's Petition and a Countermotion for Determination of Vexatious Litigation and Request for Order to Show Cause why the Court should not Issue a Pre-Filing Injunction Order. The matter is set for hearing on April 29, 2014.

On February 11, 2014, Defendant filed a Motion for Sanctions and to Disqualify the District Attorney's Office. The State filed an Opposition on February 25, 2014. This Court denied the Motion on March 4, 2014, and filed a written Order on March 14, 2014.

On April 1, 2014, Defendant filed the instant Motion to Strike and/or for Sanctions. The State files this Opposition and respectfully requests that Defendant's Motion be denied.

ARGUMENT

I. THERE IS NO BASIS UPON WHICH TO STRIKE THE STATE'S RESPONSE AND MOTION TO DISMISS DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION).

Defendant requests that the State's March 10, 2014, Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus be stricken pursuant to NRCP 12. First, this is a criminal proceeding and the NRCP do not apply. Second, even if such rules applied, there is nothing "vague, immaterial, redundant, impertinent, false and scandalous" about the State's pleadings. Defendant filed his fifth post-conviction petition, and the State appropriately responded and moved to dismiss the petition based on all applicable procedural bars, i.e. NRS 34.726, 34.800, and 34.810. Despite Defendant's baseless claim, the State is not required to only pick one procedural bar for argument in its pleadings. In fact, all of the procedural bars are mandatory in their application. State v. Eighth Judicial District Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005). Inasmuch as Defendant provides a list of purported untruths from the State's pleadings, the State has accurately and in good faith recited the procedural history of this case and the legal authority applicable to Defendant's fifth post-conviction petition. Moreover, as the procedural history of this case plainly indicates, the State filed its Countermotion requesting a show-cause hearing regarding a pre-filing injunction against Defendant in good faith, and for good reason as the instant Motion is just the latest example of Defendant's repeated abuse of the judicial system and this Court's resources. Therefore, Defendant's request that the State's Response and Motion to Dismiss be stricken should be

denied.

II. THERE IS NO BASIS UPON WHICH TO SANCTION THE STATE.

Defendant requests that this Court sanction the State essentially for the same reasons as he requests that the State's Response and Motion to Dismiss Defendant's fifth post-conviction Petition should be stricken pursuant to NRCP 11. Again, this is a criminal proceeding and the NRCP do not apply. Further, prosecutors generally receive absolute immunity from sanctions while performing their traditional functions as an advocate. See Kalina v. Fletcher, 522 U.S. 118, 131, 118 S.Ct. 502, 510 (1997). Moreover, the State has litigated these post-conviction proceedings in good faith and has not committed any inappropriate conduct whatsoever. Inasmuch as Defendant again complains that the State did not file a timely response to his pending Petition, notwithstanding that this Court already rejected such a claim at the March 4, 2014, hearing on Defendant's prior Motion for Sanctions, the State has fully complied with the briefing schedule set by this Court. Further, and notwithstanding, there are no default judgments in post-conviction habeas corpus proceedings so Defendant's request to sanction the State by striking the State's Response is of no consequence to Defendant's meritless, procedurally barred Petition. See Means v. State, 120 Nev. 1001, 1020, 103 P.3d 25, 37 (2004). Therefore, there is no basis to sanction the State and Defendant's Motion should be denied.

CONCLUSION

Based on the foregoing, the State respectfully requests that Defendant's Motion be DENIED.

DATED this day of April, 2014.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #

BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 25TH day of APRIL 2014, to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV, 89419

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
7

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

C166490 STATE OF NEVADA vs. RENARD T. POLK

I N D E X

I N D E X

I N D E X

I N D E X

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I N D E X

I N D E X

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IKLA LODGING INQUIRY 06/06/2001 15:04

ID NO: 01521718 LODGING: 005 TRUE NAME: POLK, RENARD TURMAN
FACILITY: CCDC IN CUSTODY: 11/08/2000 RELEASED:
CURRENT HOUSING: 3A34L PROP NUMBER: 02079 EARLIEST RELEASE:
ACTIVE CHARGES: 003 DETAINERS: 0 NO BAIL: 003 CASH ONLY: 0
TOTAL BAIL- CASH: $0 SURETY: $0 PROPERTY: $0

LG	CASE NUM		CT	CHARGE LITERAL	BK-DTE	RL-DTE	REL/RSN	EVENT #
05	99F04726X	*	01	SEXUAL ASSAULT VICTI	110800			
		*	02	SEXUAL ASSAULT VICTI	110800			
		*	03	SEXUAL ASSAULT VICTI	110800			
04	00M04291X		01	OBSTRUCTING A PUBLIC	022300	022500	48 HOUR DELAY	0002232160
	99F04726X		01	SEXUAL ASSAULT VICTI	022300	082300	COM/LAKES CROS	9903130217
			02	SEXUAL ASSAULT VICTI	022300	082300	COM/LAKES CROS	9903130217
			03	SEXUAL ASSAULT VICTI	030600	082300	COM/LAKES CROS	
03	99JJ0041X		01	PROBATION VIOLATION	081799	091699	TIME SERVED	
02	98F17396X		01	SEXUAL ASSAULT	011499	020899	REL OWN RECOGN	

PRESS ENTER TO VIEW MORE CHARGES

IKLA LODGING INQUIRY 06/06/2001 15:04

ID NO: 01521718 LODGING: 005 TRUE NAME: POLK, RENARD TURMAN

LG	CASE NUM	CT	CHARGE LITERAL	BK-DTE	RL-DTE	REL/RSN	EVENT #
01	98F17396X	01	SEXUAL ASSAULT	122298	122498	BOND POSTED	9810241797

*** END OF CHARGES ***

END OF CHARGES FOR ID NO. PRESS PF7 TO VIEW PREVIOUS CHARGES OR ENTER NEW ID.

Date: 6/6/01 Time: 3:10:12 PM

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Exhibit _____

CASE NO. C166490

DEPARTMENT NO. 7

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

-oOo-

STATE OF NEVADA,
Plaintiff,

vs.

RENARD TURMAN POLK,
Defendant.

CASE NO. 99F04726X

REPORTER'S TRANSCRIPT
OF
UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

BEFORE THE HONORABLE MELANIE TOBIASSON
PRO TEMPORE
JUSTICE OF THE PEACE
TUESDAY, APRIL 11, 2000

APPEARANCES:
For the State: **MARY KAY HOLTHUS, ESQ.**
Deputy District Attorney

For the Defendant: **CHRISTOPHER ORAM, ESQ.**

Reported by: Angela Campagna, CCR #495

1 LAS VEGAS, NEVADA
2 APRIL 11, 2000
3 9:00 A.M.
4 * * * * *
5 THE COURT: Renard Polk.
6 MR. ORAM: This matter is probably resolved.
7 Are you going to take a break?
8 THE COURT: Yes.
9 MR. ORAM: Can we pass it until after the
10 break?
11 THE COURT: Yes. We'll pass it until after
12 the break.
13 (Break in proceedings to
14 handle unrelated matters.)
15 THE COURT: Okay. 99F04726X, Renard Polk.
16 MR. ORAM: Good morning, your Honor. This
17 matter is resolved.
18 MS. HOLTHUS: That's correct, Judge. It's my
19 understanding that the defendant will be
20 unconditionally waiving his preliminary hearing
21 this morning. He's going to be pleading guilty to
22 three counts.
23 THE COURT: As charged in the criminal
24 complaint?
25 MS. HOLTHUS: Yes, and one fictitious to

1 accommodate negotiations which will result in five
2 to life on that particular count. We've
3 stipulated to three sentences. That is
4 conditional.
5 If the court won't impose those
6 particular sentences on those other counts, either
7 side may withdraw two, five to twenty, one five to
8 life. Both sides will be able to argue beyond
9 that.
10 MR. ORAM: That's correct, Judge. I've
11 advised him what it means to unconditionally waive
12 his right to preliminary hearing.
13 THE COURT: Do you understand these
14 negotiations?
15 THE DEFENDANT: Yes.
16 THE COURT: I know it's cryptic, but I know
17 your attorney discussed it in detail with you; is
18 that correct?
19 THE DEFENDANT: Yes.
20 THE COURT: Do you understand that by
21 unconditionally waiving your right to preliminary
22 hearing you're giving up that right forever?
23 THE DEFENDANT: Yes.
24 THE COURT: At that preliminary hearing you
25 have the right to confront and cross-examine the

1 witnesses against you, and you also have the right
2 to testify and present evidence on your own
3 defense. Do you understand you're giving up these
4 rights also?
5 THE DEFENDANT: Yes.
6 THE COURT: When you get up to District
7 Court, you can follow through the negotiations as
8 outlined by your attorney and the district
9 attorney and also as discussed with you by your
10 attorney.
11 If you decide you don't want to
12 plead guilty, you will go to trial in District
13 Court on all of the original charges. You will
14 not come back here for hearing. Do you understand
15 that?
16 THE DEFENDANT: Yes, ma'am.
17 THE COURT: Okay. It appearing to me from
18 the complaint on file herein, crimes have been
19 committed, Counts I, II and III.
20 And the defendant having
21 unconditionally waived his right to preliminary
22 hearing, I hereby order said defendant be held to
23 answer to said charges in the Eighth Judicial
24 District Court, County of Clark, State of Nevada
25 the following date and time:

THE CLERK: April 18th, 8:00 o'clock in Department VI.

* * * * *

Attest: Full, true, accurate transcript of proceedings.

ANGELA CAMPAGNA,
CCR #495

Con. Pag. Non
3pgs.

AC

Exhibit

COPY

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Shirley B. Parraguirre
CLERK

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TRUMAN POLK, aka Renard Turman Polk, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE
WEDNESDAY, DECEMBER 27, 2000

RECORDER'S TRANSCRIPT RE:
DEFENDANT'S MOTION FOR DISCOVERY

APPEARANCES:

For the State: SUSAN BENEDICT, ESQ.
Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

LAS VEGAS, NEVADA; WEDNESDAY, DECEMBER 27, 2000; 8:30 A.M.

THE COURT: Renard Polk.

MR. ORAM: Your Honor, this was on for a discovery motion. However, I have talked with Ms. Holthus about this matter, and she indicated – I basically told her that I was really concerned about two areas. I believe or I have information that –

THE COURT: Are you prepared to hear this, Ms. Benedict?

MS. BENEDICT: I think it's already worked out.

THE COURT: All right.

MR. ORAM: But I just want to put it on the record, okay.

THE COURT: Yeah, fine.

MR. ORAM: That Mr. Polk may have made a statement concerning this case. I do not have that in the discovery. I would ask and Ms. Holthus has agreed to provide me any statement my client has within a reasonable period of time. The second matter was, Mr. Polk informs me, and I cannot locate it through indexing, that he was previously charged with this identical set of allegations. I cannot prove that, and so Ms. Holthus indicated to me that she would provide that as well and any information on that. So, as long as that's provided within a reasonable period of time, two weeks or something, then I would just take my motion off calendar now that we have that.

THE COURT: Ms. Benedict?

MS. BENEDICT: The notes made by Ms. Holthus indicate that she

1 did speak with Mr. Oram, she invited him to review her file with her to see
2 if there's anything we have that he doesn't.
3 THE COURT: All right. Make sure you get that stuff and if you do,
4 fine, it's moot. If you don't, put it back on calendar, all right.
5 MR. ORAM: Yes, Your Honor. But just for the record, again, if my
6 client has made a statement, it's not a matter of if it's in their file or not, I
7 have to have it. I mean, I don't want to be in the middle of a jury trial and
8 find out that my client –
9 THE COURT: Well, did Ms. Holthus agree with that?
10 MR. ORAM: I believe so, but the notes sound sort of –
11 MS. BENEDICT: Well, I've made note of what he's asking for, so
12 she'll know if she doesn't already.
13 THE COURT: All right.
14 MR. ORAM: Okay. Well, it sounds like we'll be able to work it out.
15 THE COURT: Okay. Thank you.
16 MR. ORAM: Thank you very much.
17 THE COURT: So, the motion is taken off calendar for now?
18 MR. ORAM: Yes. Thank you, Your Honor.
19 THE COURT: The trial date stands.
20 (Proceedings concluded)
21 * * * * *
22 ATTEST: I do hereby certify that I have truly and correctly transcribed
23 the sound recording in the above-entitled case.
24 Elizabeth Garcia
ELIZABETH GARCIA
25 Court Transcriber

Com. Pag. Non
Ego.

Exhibit _____

CASE NO. C166490

DEPT. NO. VI

FILED

MAY 22 9 47 AM '02

DISTRICT COURT

CLARK COUNTY, NEVADA

CLERK

-oOo-

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK aka RENARD TRUMAN POLK, Defendant.	)	REPORTER'S TRANSCRIPT OF CALENDAR CALL

BEFORE THE HON. JOSEPH T. BONAVENTURE, DISTRICT JUDGE

Thursday, July 26, 2001

8:50 A.M.

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.

Reported by: SHAWN E. OTT, CCR NO. 577

1 LAS VEGAS, CLARK COUNTY, NV, THURS. JULY 26, 2001
2 8:50 A.M.
3 -oOo-
4 P R O C E E D I N G S
5
6 THE COURT: The Polk matter. This is on
7 for calendar call. Where is Mr. Polk?
8 THE DEFENDANT: Right here.
9 THE COURT: This was on for calendar call
10 and a few motions that were filed. What's the deal
11 on this?
12 MR. ORAM: Your Honor, we were preparing
13 for Mr. Polk. I visited him numerous times over the
14 last two weeks to talk about possible resolutions to
15 the case. However, he wanted to proceed to trial.
16 We had not sent over a witness list because we had no
17 witnesses. The State has offered a statement that
18 they say is a confession. Page 1 of that does appear
19 to be incriminating.
20 Yesterday in the newspaper I read that the
21 Supreme Court had overturned our statute saying --
22 precluding us from introducing an insanity defense.
23 Mr. Polk went up to Lakes Crossing. We had one
24 doctor who indicated he suffered from delusions.
25 Based on that I think that I need to put on an

1 insanity defense.

2 I cited in my motion Zollie Dumas versus

3 State which indicates that if counsel has no defense

4 they must put on a psychological defense. And based

5 upon that, Your Honor, I'd ask for a short

6 continuance, two, three weeks, just so that I can get

7 my doctors ready. The State can perhaps get an

8 independent expert if they want ready, and we can

9 proceed.

10 MS. HOLTHUS: I haven't seen the motion to

11 continue.

12 THE COURT: I got a courtesy copy. You

13 got a copy for Ms. Holthus?

14 MR. ORAM: We faxed a copy yesterday to

15 Ms. Holthus.

16 MS. HOLTHUS: I got two witness lists but

17 no motion. I can't dispute it, Judge.

18 THE COURT: Are you aware of this new

19 case?

20 MS. HOLTHUS: I am.

21 THE COURT: I read the paper myself.

22 MS. HOLTHUS: I am.

23 THE COURT: What is your position on

24 that?

25 MS. HOLTHUS: He's probably right, but I

1 can't do it in two weeks. I'm in trial right now.
2 I've just gotten their notice of expert.
3 THE COURT: I can't do it in two weeks
4 either. I got other cases.
5 MR. ORAM: I'm just trying to tell the
6 court I'm not doing this for the purposes of delay.
7 THE COURT: Did you discuss this with
8 Mr. Polk?
9 MR. ORAM: Yes, I went yesterday.
10 THE COURT: What is your position? You
11 want a continuance?
12 THE DEFENDANT: Fine with me, Your Honor.
13 THE COURT: All right.
14 MR. ORAM: Your Honor, I do believe --
15 THE COURT: Until we get the case, the
16 actual case, I'll reread it, and we'll vacate the --
17 vacate the trial, reset it in -- I don't know -- 60
18 days or something like that, 45 days, 60 days?
19 MR. ORAM: That's fine, Your Honor.
20 THE COURT: Miss Clerk.
21 THE CLERK: 60 days, calendar call,
22 September 13 at 8:30. Jury trial, September 17 at
23 9:00.
24 MS. HOLTHUS: Can we just get it back --
25 THE CLERK: You want it before that?

1 THE COURT: Yes, before that.
2 MS. HOLTHUS: Can we get it after that? I
3 know that September is ugly.
4 THE COURT: All right. After that.
5 THE CLERK: First week October?
6 MR. ORAM: No, second week in October. I
7 have another one with them, the sexual assault team.
8 THE CLERK: Calendar call October 4th with
9 a jury trial October 9th.
10 MS. HOLTHUS: Thank you.
11 THE COURT: So that resolved the motion to
12 continue. There is a State's motion to admit
13 evidence of other acts. I just received an
14 opposition.
15 You can sit down, Mr. Polk.
16 I just received an opposition by Mr. Oram
17 this morning. I didn't really have a chance to read
18 it. I just got it. There is also a proper person --
19 not a proper person. It's a motion that Mr. Oram
20 filed regarding a motion to dismiss that apparently
21 was -- it was prepared in proper person, but you
22 asked me that I hear this; is that correct?
23 MR. ORAM: That's correct, Your Honor.
24 THE COURT: And goes on to manifest
25 injustice the defendant has sustained. It goes on to

1 say that maybe -- I don't know -- double jeopardy.
2 That's a very unusual thing. But double jeopardy as
3 a juvenile. I don't understand. I don't have all
4 the facts in front of me, Mr. Oram.
5 That he gave a statement. I'd like to
6 resolve that statement too. It's a second
7 prosecution by double jeopardy standards. It
8 requires an evidentiary hearing. Then he has dupe
9 dismissal for unnecessary delay. He cites certain
10 cases. The State blatantly told His Honorable Court
11 that no statement existed. Now you have a
12 statement. He's on antipsychotic medication. It
13 goes on and on.
14 I want to resolve it. I don't want to --
15 I hate these last-minute motions. I really hate
16 them. I don't know why attorneys -- and even the
17 DA, they file a last-minute motion on a motion to
18 admit evidence of other acts. That is not fair,
19 Ms. Holthus.
20 The defendant has a right -- if this case
21 was going on Thursday, he has a right a month or so
22 notice for them to check these witnesses out if I
23 grant it. I'm going to stop granting motions if
24 they're done at the last minute. I'm just going to
25 say it's too late, it's unfair, and that's the end of

1 it. You got to get these motions in on time.
2 Now that being said, I want to set a
3 scheduling order. I want to argue these motions.
4 Any other motions you have to be produce, please do
5 so. I don't want these last-minute motions. Look at
6 the packed courthouse. I can't be doing these
7 last-minute motions. All right. So we'll put about
8 two weeks or so for -- you file an opposition,
9 whatever you want --
10 MS. HOLTHUS: Okay.
11 THE COURT: -- to the motion for pretrial
12 writ of habeas corpus or dismissal of the
13 information. You got two weeks to file any
14 opposition. You already filed your opposition on the
15 motion to admit evidence, and a couple of days after
16 that, I'll make -- argument and decision on any of
17 those motions, and any other motions you want to
18 file, do so. All right. All right. Thanks.
19 THE CLERK: Oppositions to be filed by
20 August 9th, and argument, decisions will be on
21 August 14 at 8:30.
22 MS. HOLTHUS: I'm going to be out of the
23 jurisdiction between the 10th and the 25th of
24 August.
25 THE CLERK: So before that, Judge?

THE COURT: Yes, before

THE CLERK: So the oppositions will be due by August 6th, and we'll have the argument, decision August 8th, 8:30.

MS. HOLTHUS: Thank you. May I inquire? I assume they agree that we are entitled to an independent psychological evaluation. I won't need to file a motion on that?

MR. ORAM: I agree

THE COURT: Thank you.

-oOo-

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

Shawn E. Ott

Shawn E. Ott, CCR No. 577

Com. Pag. Nom.

Eggs.

Exhibit _____

TRAN

COPY

FILED
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CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TRUMAN POLK, aka Renard Turman Polk, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE

WEDNESDAY, APRIL 18, 2001

RECORDER'S TRANSCRIPT RE:
DEFT'S MOTION FOR OWN RECOGNIZANCE RELEASE,
FOR HOUSE ARREST, OR FOR SETTING OF REASONABLE BAIL

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Chief Deputy District Attorney

VICKI MONROE, ESQ.
Chief Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

LAS VEGAS, NEVADA; WEDNESDAY, APRIL 18, 2001; 8:00 A.M.

THE COURT: Is the D.A. here on Polk?

MS. MONROE: Yes.

THE COURT: Renard Polk. Mr. Oram?

MR. ORAM: Yes, Your Honor. Present, he's in custody. Your Honor, I didn't know whether the D.A. was going to argue or just submit this on the pleadings that they filed.

THE COURT: I don't know, do you want me to ask them? I mean, what do you want? I'm asking you then I'm going to ask her.

MR. ORAM: Your Honor, we were a little bit surprised based upon their response yesterday. They referred to a statement in there. You may remember that I filed a motion in December of 2000 specifically asking for that statement. Up until yesterday afternoon, I was completely unaware that a statement –

THE COURT: Really? Because I never hear – I've seen the statement. Didn't Mr. Oram get a copy of that statement?

MS. MONROE: Your Honor, I apologize. This is Ms. Holthus' case. She was late getting here, so I'm just –

THE COURT: Oh, there she is now.

MS. MONROE: She's right here right now. I'll let her answer those questions.

THE COURT: All right.

MS. HOLTHUS: I've been looking for the statement because Mr. Polk

had said he made one. The detective that originally handled the case had moved on. I called him, he thought someone else was handling it. We've been e-mailing for the last few months trying to find it. Just when I was ordering everything up for trial, then ultimately we found it over at Metro records. It was taken by a detective not really related to anything, so –

THE COURT: So, basically you never had it, Ms. Holthus.

MS. HOLTHUS: Correct.

THE COURT: And as soon as you received it –

MS. HOLTHUS: Absolutely, we called him –

THE COURT: Mr. Oram has a copy of it now. And you attached it to your opposition to the bail motion.

MS. HOLTHUS: Exactly.

THE COURT: I mean, the trial is not until July, so I mean, you do have it. I mean, there is a statement.

MR. ORAM: Right. I just didn't want you to think that we were filing a motion without addressing that type of an issue.

THE COURT: Yeah, I was very – I just got it. In fact, Al handed it to me at ten to eight before I came down, and that's what I was doing, reading it. And I was a little surprised that there was a statement. I mean, apparently he unconditionally waived his Preliminary Hearing to take a deal, then he changed his mind, and now there's a statement he confessed to everything. So – but here it is and, you know, the trial date is not until July, so you've got plenty of time to look at it.

Would you like to say anything or not, because I've got to

1 hurry up, I can't –
2 MR. ORAM: Submit it. Submit it on that.
3 THE COURT: All right. You submit it, then?
4 MS. HOLTHUS: Submit it.
5 THE COURT: Well, you know, I remember this case and you know,
6 as I said, Mr. Polk originally unconditionally waived his Preliminary Hearing
7 back in April to take a deal. An offer was made to him, rather than to make
8 him go to life in prison, I guess they offered him some sort of a deal, I don't
9 know what it was. He originally didn't show up in Justice Court on January
10 13th when they issued him a summons, I guess, and it was a Bench Warrant
11 issued and then he was picked up on that. He subsequently was found that
12 he needed some medical help and I referred him to Lakes Crossing on August
13 1st. And I have many doctors' letters that I reviewed in this case last night,
14 and I reviewed the admissions by Mr. Polk this morning.
15 This is a very serious charge. I mean, any time somebody
16 takes advantage, a brother – an older brother takes advantage of his sisters
17 like that and anally penetrates them, young girls, for many, many years,
18 seems to me is a dangerous man. He refused an interview initially with the
19 Intake Services, and there's some statements that he threatened to kill the
20 sister if she told. And he – I just don't feel comfortable, Mr. Oram, in
21 releasing this man on any bail reduction or anything. Given all the facts
22 of it and the nature of the case, I'm going to deny your motion, in all due
23 respect. So, any bail that is set, it stands now and the trial date stands.
24 MS. HOLTHUS: Thank you.
25

1 THE DEFENDANT: Excuse me, Your Honor.
2 THE COURT: Yes, sir.
3 THE DEFENDANT: May I say something?
4 THE COURT: Yes, sir. I'm not going to change my mind, but you
5 can say something.
6 THE DEFENDANT: Well, back when I turned myself in on these
7 charges, Your Honor, it wasn't like I –
8 THE COURT: You better not make any statements, either. Mr.
9 Oram, tell him that – don't make any statements about this because it might
10 come back to haunt him. Everything is taken down.
11 THE DEFENDANT: It's not a statement.
12 MR. ORAM: Your Honor, I don't think he'll address –
13 THE COURT: All right. I mean, don't make any admissions about
14 this case, about the facts of the case, all right. That's all I'm saying.
15 THE DEFENDANT: It's not an admission.
16 THE COURT: All right.
17 THE DEFENDANT: I'm just supplicating, Your Honor, that I turned
18 myself in back in '99 on this case. Now, it's beyond me why the prosecutor
19 couldn't have found some way to prosecute as soon as I came from juvenile
20 courts, which I believe I should have been prosecuted expeditiously.
21 MR. ORAM: Well –
22 THE DEFENDANT: Hold on, Chris, please. Now, I don't understand.
23 You granting an O.R. release or a House Arrest release wouldn't be no more
24 negligent than what they did when I was here the first time, because I was
25

supposed to – as a matter of fact, in the medical records, I was a mental health case. I was a threat to my environment, also a threat to myself. Now, and also after I gave this incriminating statement, they still released me, so how – I mean, to me in my mind's eye, it wouldn't be no more negligent than what the prosecutor did or State did, Your Honor, at least to grant a House Arrest or O.R., whatever the situation may be.

THE COURT: You have a right to your opinion, Mr. Polk, and I respect your opinion, but I have a differing opinion, so I'm not going to do it, all right. But I respect your opinion. Thank you very much.

MS. HOLTHUS: Thank you.

(Proceedings concluded)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

Elizabeth Garcia

ELIZABETH GARCIA
Court Transcriber

Com. Pag. Num.

4 pgs.

AF

Exhibit _____

C.C. 3/22/01
3/26/01

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff

-vs-

Renard T. Polk Defendant

CASE NO. C166490

DEPT. NO. 6

DOCKET NO. _____

Motion To Dismiss Counsel

Comes, Now, the defendant, Renard T. Polk, and moves this honorable court to Dismiss Counsel, Christopher Oram, and appoint alternative counsel to represent this defendant.

This motion is based on facts stated in Points and Authorities contained therein.

- Points and Authorities -

It is respectfully requested of this court to grant this motion to dismiss counsel for the reasons listed below:

Since Christopher Oram was appointed approximately on March of 2000 defendant Renard T Polk, has been prejudice and suffered manifest injustice based on counsel's failure to:

1.) Communicate or visit defendant at C.C.D.C., before defendants referal to Lakes Crossing Facility in Sparks, Nevada. 2.) Investigate into clients oral requests as any defense that may help mitigate, dismiss or reduce charges. 3.) Talk to defendant as to defendants

feelings about being coerced into a plea agreement on approximately June of 2000. 4.) Motion for an O.R. or Bail reduction. 5.) Proceeded to opply actions without defendant's consent. 6.) Where defendant feels counsel is not mentaly able or willing to represent said defendant.

II Argument.

Where counsel's office was not excepting calls from defendant and counsel was unable to be reached until important court dates. Prior to defendants admittance to Lakes Crossing, defendant told counsel to look into certain issues such as due process violations defendant feels have been committed. Wich it clearly states in Douglas v. California 83 S. Ct. 814 (1983). A party whose counsel is unable to provide effectiveness of assistance is no better than one who has no counsel.

Where defendant requested counsel to look into a due process violation and motion for discovery earlier in the criminal proceedures to check validity of request. As stated in Anders v. California, 87 S. Ct. 1396 and 1400 (1967). Thus, the adversarial process protected by the sixth amendment requires that the accused have "counsel acting in the role of an advocate."

Counsel gave defendant an unsubstantial amount of time to consider deal and trying as he may to coerce defendant into plea agreement, after defendant gave counsel detrimental issues to look into. Also stated in Crandell v. Bunnell No. 92-5530 DC. No. CV-90-6419. Filed May 25 (1994) [9th Cir]. Appointed counsel has done nothing to fairly and properly represent defendant since that "deal

day" (of wich defendant had less than [5] minutes to make an informed-- rushed -- decision. This alone is a viable claim as to ineffective counsel.

Where knowing this honorable court has to take everything into consideration when asking for an O.R. or Bail reduction. Where defendant told counsel he turned himself in on these charges, and to the best of defendants knowledge has no failure to appears. This being an arrest warrant. Did not the counsel should have considerd this and asked, but failed to.

Counsel proceeded to waive defendants right to a speedy trial without his consent. That being a due process violation in itself.

Defendant feels counsel is not mentaly ready or capable of representing defendant. Where on Nov. 22, 2000 charges of defendant were read aloud and in open court counsel retorts "I thought this was a robbery." Now showing counsel's feelings as to representing defendant. In Frazier v. U.S. 18 F.3d 778 (1994). A defendant has an unqualified right to legal assistance that expresses loyalty to said defendant. "The right to counsel is the right also to effective counsel."

Therefore defendant contends that although counsel has been appointed in this case, the actions of counsel or lack thereof, have created unfair prejudice and due process violations, wich do not comport the fair procedures owed a defendant.

So clearly, a conflict of interest now exists betwixt counsel and client, as all trust has diminished as a result of counsel's actions or lack thereof. Wich stated in Cuyler v. Sullivan

100 S. Ct. 1717. A showing of conflict of interest requires no showing of prejudice.

Therefore, fundamental fairness requires abolition of prejudice wich defendant is presently suffering. This is an actuality the law must adress. Any thing short of a bdication would further manifest injustice. The right to effective counsel is the most fundamental right an individual has without it, every other right defendant has to assert becomes affected.

DATED THIS 16 day of January, 20 01.

I, Renard T Polk, do solemnly swear, under the penalty of perjury, that the above Motion To Dismiss Counsel is accurate, correct, and true to the best of my knowledge. NRS 171.102 and NRS 208.165.

Respectfully submitted

Defendant

Renard T Polk, Renard Polk

Renard T. Polk #72439
L.C.C. P.O. Box 359
In Proper Person

FILED

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CLERK

District Court

Clark County, Nevada

Renard T. Polk

Petitioner

vs:

Craig Farwell, Warden

Respondent

Case No. 00-C-166490

Dept No. VI

Docket No.

Memorandum of Points and Authorities and Legal Argument in Support of Petition for Writ of Habeas Corpus.

Date of Hearing:

Time of Hearing:

Comes Now:

The Petitioner, RENARD T. POLK, in his proper person and files this Memorandum in Support of his Writ of Habeas Corpus (Post-Conviction.)

This Memorandum is made and based upon the claims enumerated and raised in the instant petition.

This Memorandum is further made and based upon the contents of the petitioner's Affidavit in Support of the forthcoming petition, as well as any and all exhibits provided in the Memorandum of Exhibits in Support of the forthcoming petition.

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COUNTY CLERK

Furthermore, it is made and based upon any oral arguments at the time of any and all allocated hearings if deemed appropriate by this court and all legal documents, pleadings and papers on file herewith in objection to the petitioner's unconstitutional confinement of life and liberty withou the due process of law.

Dated this 24th **day of** June **200**__.

Respectfully Submitted:

R. Polk 6/24/04

Renard T. Polk 72439
L.C.C. P.O. Box 359
LoveLock, Nevada. 89419

Ground (A)

Petitioner is imprisoned in violation of the Federal Constitution Amendments VI and V as welll as the Nevada Constitution Article 1 section 8 where the petitioner was denied his rights to a 'fair hearing before an impartial tribunal' and 'due process of the law due to the instances of judicial misconduct. Nev Const 1§8 and Fed. U.S. Const Amendments VI and V.

Supporting Details:

That the judge in the eigth judicial district court, Joseph Bonaventure with the complicity or his court clerk Nora Pena removed a document deposited in the clerk's office for filing.

That is to say that on or about November 31, 2000 and January 15, 2001 Polk sent a motion to dismiss counsel of record Christopher Oram: **see exhibit** "AF" to the eigth judicial district court department six.

That when Nora Pena received the document she did not forward or file the document herself but instead sent it to Joseph Bonaventure the judge residing in that court at his behest.

That when the above-stated judge received the document to be filed he then sent it to Christopher Oram where the document remained and was never filed.

That on April 18, 2001 the above stated judge initiated, permitted, considered or conducted an ex parte communicxation outside the presence of the interested party concerning an impending or pending proceeding.

That is to say that on April 18, 2001 Polk was to go before the above stated court on an O.R. or Bail Reduction Hearing.

That (10) ten minutes before the hearing was convened

or took place the judge allowed the prosecuting attorney Mary Holthus to introduce a statement given by Polk during a custodial intterrogation without requiring the prosecution to give notice of its intention to use such a statement that Polk had motioned the court to produce by way of discovery (4) four months prior to that hearing.

That on December 7, 2001 or December 3 2001 Polk sent to the above stated court a motion to dismiss information on grounds of pre-arrest delay, conspiracy, outrageous and egrigous government conduct and double joepardy. **see exhibit** "X"; pg. ____.

That when the eigth judicial district court department six received the motion to be filed it was with held from being filed until January 3, 2002. **see exhibit** "X"; pg. 4.

That after the motion was filed on January 3, 2002 the judge in the above stated court repremanded POlk for filing last minute applications to the court.

That on March 24, 02during sentencing the judge said he had become emotionaly involved in this. **see exhibit** "AH" pg. ____.

Points, Authorities andLegal Argument.

The United States Supreme Court has long determined that one of the most fundemental rights an accused can enjoy is the right to a fair hearing before an impartial tribunal or court, C.J.S. 708, West Digest Const. Law 569 (4) because it is presumed if the tree is poisoned, then the fruits and any derivative thereof is poisoned likewise.

A judges impartiality must be drawn into question if the judge manifests any bias or prejudice toward an accused or the accused demonstrates that a judge is not protecting his interests. (case citing ommitted.)

Notwithstanding a judges impartiality is questionable when he refuses to file a document to invoke a judicial inquiry, thereby devoiding the record of facts.

That is to say that, when the judge Joseph Bonaventure refused to file the Ineffective Assistance of Counsel Motion the petitioner sent to the courts to be filed as supported by the **affidavit in support of writ of habeas corpus,** it has had the effect of devoiding the record of concrete facts.

It was held in Gorman v. Randolph. "Due process requires a nuetral and detached judge and if the judge evidences his lack of impartiality whatever its orgin or justification that judge cannot sit in judgement."

The prejudice caused by the judges failure to file this document has interfered with the remedial and fact finding process.

That is to say that, post-conviction proceedings usualy draw from objections or cliamed and preserved errors.

Being that the judge never filed this document, this has given the state opportunity to argue that this claim was never brought

forth in an earlier application.

Not to mention if the judge had allowed this motion to be filed there is the possiblity that the petitioner would have not had to go through trial with such an incompetent counsel.

Then when the judge allowed, initiated or considered an exparte determination, at the request of the prosecuting attorney (10) ten minutes before the petitioner was to come before the court on an O.R. or Bail Application, the judge should have reasonably known this would give the prosecutor an unfair advantage over the accused since the prosecutor used this determination to put information the petitioner had requested by way of discovery (4) four months prior to that hearing. **see also Ground (e)** and **affidavit in support of writ of habeas corpus.**

It was held in In Re Fine, 116 Nev. 1001 (2000): Canon 3(b)(7) in accordance with C.J.C. which provides..."a judge shall not initiate, permit, or consider ex parte communications made to the judge outside the presence of the parties concerning a pending or impending hearing."

This only further shows the judge's impartiality and his lack of judicial integrity.

One can draw the judges impartiality into question from the instances provided.

A judge who cannot refrain himself from being personaly involved or moved to willfull misconduct bespeaks an antithesis of judicial propriety.

"The Law Demands not only that
judges refrain from actual bias

or prejudice but also refrain
from any appearances of unfairness
bias or prejudice."

How can it be feasably determined that the judge in this case sat in a unbiased or unprejudicial frame of mind when he exceeded his ministerial duties by failing to file the document the petitioner wanted filed to make the court aware that he and his counsel were at wits end with eachother.

It cannot.

It can be said though that when a judge has caused himself to be subjected to criminal prosecution and putting his career in jeopardy warrants a rehearing or a new trial, since any determination made by this judge would have been from a biased standpoint.

The petitioner also makes this argument inclusive per. all other arguments set forth in the instant petition.

Also as grounds as to why the afore-said judge should be disqualified from hearing or making any determinations further in this matter.

Wherefore, the petitioner prays that a Writ of Habeas Corpus issue and upon the proper findings an evidentiary hearing allocated to furhter this claim and upon evidence adduced vacate the sentence and judgement and grant a new trial before a different tribunal.

Ground (b)

Petitioner was deined his sixth amendment right to a 'fair trial' and impartial jury in violation of the federal and united satets constitution and , and through his his fourteenth amendment right to the due process of law and equql protections of law in violation of the federal and united states constiution as well as in violation of Article 1 section 8, of the Nevada Constitution ; whereas, the jury pooling process relied upon in Clark County Nevada to impanel potential jurors is fundamentally flawed and lacks racial nuetrality where the jury commisioner's office fails to or refuses to attain records or data pertaining to race or the racial dynamics of the zip codes affected by the pooling process and even though the process radomnly selects potential jurors **from every** zip code, the process recorded proof to indicet jury panels sre under-represented on a regular basais by a fair cross-section of the community and gives no recorded proof to the contrary that there is a systematic exclusion based on particular race or class, where petitioner supports the claim of systematic exclusion or under-representation of blaccks hispanics, asians or other minority groups with credible proof that without racial diversity the radom process results in an all white jury which constitute a partial perspective during trial proceedings.

Supporting Details:

That during jury selection Polk noticed that the jury pool was wholly made up of white jurors with the exception of one minority.

That as voir dire was being conducted every juror stated that they either woked for the state as civil servants or was a public official or was a spouse of one.

That when Polk told his attorney to object to this discriminatory jury pool he told POlk that, "it was of no importance." "So, why should he object."

Ponits, Authorities and Legal Argument.

The petitioner submits, the fundemental basis of the jury pooling process is to ensure that it reaches a fair cross section of the community. However there are no "safe-gaurds or "provisions" to ensure that all races (a fair cross-section of the community) are indeed prospective jurors, to the security that there is no ' fundamental flaw', which leads to the "systimaic exclusion" of particular races and classes.

Petitioner submits, race is a vital issue if a fair trial can be achieved.

The right to a jury trial is gauranteed by both the Nevada Constitution Article 1 section 3 and the Sixth Amendment to the United States Constitution, see State v. Smith 99 Nev. 806 (1983). That right is fundemental to the American scheme of justice, and the Fourteenth Amendment Gaurantees it is Criminal Cases. Duncan v. Louisiana, 391 U.S. 145 (1968). It is a Constutitional right to a fair trial by an impartial jury. Singer v. United States 380 U.S. 24 (1965).

The right to a jury trial is granted to criminal defendants in order to prevent oppression by the government. see Duncan, supra, wherein in it was stated:

> "The framers of the constitution strove to create an independent judiciary but insisted upon further protections against arbitrary action. Providing an accused with the right to be tried by a jury of his peers gave him an inestimable safegaurd against the corrupt

or overzealous prosecutor and aginst

the complaint, biased or eccsentric judge."

Id.

It is part of the established traditions in the use of juries for criminal trials as instruments of public justice that they be bodies which are truly repesentive of the community, and not the instrument of any special group or class. Glasser v. United States , 315 U.S. 60 (1942). It is a constitutional imperative that any criminal jury trial fairly represents the community. Brooks v.Beto, 366 F.2d 1 (5th. Cir. 1966).

The under-representation of negroes on panels summoned for jury duty does not comply with the Equal Protections Clause of the Fourteenth Amendment. Boshop v. State ,92 Nev. 510 (1976).

Therefore the petitioner argues with out some type of safe-gaurd or provisions to ensure that blacks, Hispanics and Asians are summoned and brought forth from every zip code and cross-section of the community of clark county as well as others in order to ensure that the process does not 'systematicaly' exclude particular races and classes and groups of minorities and poor-whites. The system has to be accountable for race and racial dynamics of zip codes affected by the process used, otherwise the process has a "telling flaw", which violates due process of law where absent a means to determine race or class, it in fact, may tend to systematicaly exclude various classes, because no record or class or race which spoils the makeup of jury panels. see Collins v. State , 88 Nev. 9, 492 P.2d 991 (1972) (The absence of members of one's race on a .. jury may occur. If so there is no error. It is the systematic exclusion of members of a race or class that spoils the make-up of the jury."}

Id. @13, 993.

Because it is already known by the affitdavits in support of the forth coming petition that the process used to determine jury qualifications and duty is a random one.

The peitioner further argues that the lack of statistical information on race is evidence that a clear widow of opportunity exists in the jury slection process for the exclusion.

Meaning the cross-section of the community does not have a fair way of empaneling a jury of one's peers.

Certainly, an all white jury panel does not in itself constitute a violation of due process. Petitioner instead argues that the process used by the Clark County, Nevada to obtain potential jurors is fundamentally flawed whereas the process used although it is based upon randomization it has no safe gaurds, nor provisions that ensure that blacks, asians hispanics and other groups are being not only summoned but brought into court for jury duty.

Conversely, with recors of race and racial dynamics that make up the racial cross-section of the zip codes affected the jury commisioner would be better able to conduct modificatios the jury pooling process to include any race which might be systematically excluded by the random process now in use by Clark County. Taylor v. Louisiana 419 U.S. 522 (1975) ("... we do not impose requirement that petit juries actually chosen must mirror the community and reflect the various distintive groups in the population. Defendants are not entitled to a jury of any particular composition...,but the jury wheels, pools of names, panels or vendors from which juries are drawn must **not** systematically exclude distictive groups in the community and thereby fail to be reasonably representative thereof.") Id. @ 538

consequently where there are no records of race or data and information to establish that the process being used does not tend to summon and bring forth whites in disproportionate numbers as opposed to blacks, hispanics and asians the process can be said to be any-thing but protective at all, but instead it adversley affects the random nature or objectivety of the jury selectiopn process.

A system that was ment to be racialy nuetral has now in fact been just the oppisite.

Wherefore, the petitioner prays that a Writ of Habeas Crpus issue in the instant case to check the validity of such a claim and apply strict scrutiny when wieging this claim as an equal protections issue.

Then upon evidence adduced vacate the judgement and sentence allocated in this case and grant the petitioner a new trial based upon the allegations alleged in the instant claim.

Ground (C)

Petitioner is in custody in violation of the federal constitutional gaurantees of due process and the equal protections of the law as the state did not certify the petitioner therefore the adult state court did not have jurisdiction over the defendant's case.

Federal Constitution Amendments V and XIV and Nevada Constitution Article 1 Section 8.through the provisions of State law N.R.S. 62.080.

Supporting:

On March 13, 1999 Polk was unconditionaly released from the family and youth services facility after being accredited for time served pursuant to case number J241117 having been found guilty of battery in the juvenille petition.

On April 15, 1999 an arrest warrant was issued against Polk for violating terms and conditions of probation in that Polk was cited for having committed another crime while being on probation for the juvenille court.

However in truth and in fact Polk was not on probation for the juvenille courts.

Although it may appear so due to the fraudulent and false documenst in Polk's juvenille file.

The evidence that lays hold to Polk's contention are bourne out by the following:

1.) The formal probation order validating Polk's appropriation on probation specifies that a parental consent decree has been attached to the order. **see exhbit** "I" pg. 6.

Yet this document cannot and will not be located in Polk's file.

2.) The dispositional report recommending Polk be put on probation

was written up on January 10, 1999 and filed on January 11, 1999. **see exhibit** "I" pg: 1 & 4.

In the afore-said document it makes and represents the fact that Polk was to go before the adult criminal justice system for a prelimenary hearing to be executed on January 27, 1999. **see exhbit** "I" pg: 1.

However this piece of information could not have been known at that time in junture due to the fact Polk did not recieve a prelimenary hearing date until Janury 14, 1999 when he was arrested agin for alluding the previuos hearing that had been allocated on January 6, 1999. **see exhbit** "I" pg. 1 & "Y" (highlighted)

3.) Polk also asserts that the signatures on all the documents appear to be forged or false. **see exhibits** "I" pg: 9 & "I" pg: 19

On March 15, 1999 an arrest warrant was issued for Polk pursuant to case number 00-C-166490-C.

Juvenille wardship did not terminate until January 13, 2000 **see exhbit** "I" pg. 10

Points, Authorities and Legal Argument.

If the state wants to argue that the petitioner was in fact on juvenille probation then it incumbent that a certification proceedign should have enused, due to the fact that the petitioner was still on juvenille probation when the commision of the allged crime took place and would therefore have made the petitioner under juvenille jurisdiction as the issuance of the arrest warrant pursuant to this case.

To further substantiate this claim exhibit "I" pg: 10 shows that juvenille wardship did not terminate until January 13, 2000 the arrest warrant pursuant to this case was issued on March 13, 1999 at which time the petitioner was on "probation" for the juvenille courts. **see exhibit** "N" pg: 2-3

N.R.S. 62.080 states in pertinent part:

subsection 2.) Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenille court shall certify a **child** for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed be an adult if the **child:** Is charged with a sexual offense involving the use of force or violence against the victim.

When coupled with N.R.S. 62A.030 which states:
subsection 1.) **Child** means: (b) a person who is less than 21 years of age and subject to the jurisdiction of the juvenille court for an unlawful act that was committed before the person reached 18 years of age.

So, before this court could have retained jurisdiction of the petitoner a certification proceeding should have took place.

Which is more had this proceedings took place or had the full investigation been conducted, the mental health issues would have been preserved for this case now before the delay took place.

Wherefore, the petitioner prays that a writ of habeas corpus issue to check the validity of such a claim and allocate an

evidentiary hearing and upon the proper evidence adduced vacate the judgment and set aside the sentence, if no such certification is shown and dismiss the information due to lack of jurisdiction to entertain this case.

Ground (d)

The Petitioner is in custody in violation of the gaurantees under the fifth and fourteenth Amendments as well as the Nevada Constitution Article 1 section 8 of due process of law, equal protections the right to a fair trial and to complulsory process due to the states uneccesary, unjustified wrectless or intentional delay in bringing a public accusation pursuant to Federal Rules of Criminal Procedure 48 (b) and the Speedy Trial Act of 1974, 18 U.S.C. 3161-3174.

Supporting Details:

(See affidavit in support of Petition for Writ ofHabeas Corpus, all facts pertinent and inclusive.)

Points, Authorities and Legal Argument.

All cases in post-confession, pre-accusatorial delay or speedy trial violation situations have set out various parameters or factors to be considered before an accused can avail on a due process claim or speedy trial claim which are: 1.) Length of the delay. 2.) Reason for the delay. 3.) Substantial, Actual Non-Speculative Prejudice and Deprivation of Constitutional rights., and upon evidence adduced to assess whether the acussed was in fact accused the fourth would be, 4.) Assertion of the right to a speedy trial.

This is due to the fact that the speedy trial garuantees and the due process clause when dealing with delays are so closely knit together. (Barker v. Wingo 407 U.S. 514; Marion v. U.S. 92 S.CT. 455; Lavasco v. U.S. 431 U.S. 783; Dickey v. Florida 90 S.Ct. 1564; and Hooey v. Smith 393 U.S. 374.)

Therefore, the petitioner has presented the argument in a break down of the four parameters.

1.) Length of the delay.

The U.S. Supreme Court held in Marion, supra,@458: ..[ ] " prejudice can result from the most meaningful and shortest delay."

The petitioner asserts it was nine (9) months of delay from the issuance of the arrest warrant **see exhibit** "N" pg: 2:3 until the fourth (4) apprehension of the petitioner or the petitioner being in state custody, nearly three (3) months before the delay would have been presumed "presumptively prejudicial" as set forth in Barker, supra, @519 and two (2) years before the state would bring this matter to trial.

So, it would be remiss for the court to reach a decision before wieghingthe other reasons as to the petitioner's contention

as to why the petitioner is illegaly detained.

Since this factor is only used as a "triggering mechanism" in considering the other factors.

2.) Reason for the delay.

All cases in this factor have determined the state is in a better position to give a reason for the delay; However, it was also determined that if the delay was 1.) used to gain a tactical advantage over the accused, 2.) reasonably avoidable, 3.) the prosecutor's **good-faith** decision not to serve the accused, 4.) for the convenience of the state or 5.) failure of the prosecutor to locate an accused housed in its own facility such conduct would **require** a dismissal and wiegh very heavily against the state.

This is what was said by Justice when dealing with such a dealy: " when the prosecution of its own volitionfails to bring an accused before the court for such reasons,[as above stated], this type of conduct is intolerable as a matter of fact and impermissible as a matter of law."

From simple review of the petitioner juvenille record it would appear the the state delayed in order to await the termination of juvenille wardship this is bourne out by the following:

On January 12, 2000 the complaint pursuant to this case was plead to also at this time in junture the Termination of Juvenille Wardship Order was filed and completed. **see exhbits** "I" pg: 10 & "P" pg: 2

This is exactly the same circumstances that too place in Gidley v. Sate (Wash) 765 P.2d 1292 wherein the petitioner cited Dickey,supra, ..." an action **must be dismissed** if the delay is the result of the prosecution. If no valid reason for the delay existed. If that it was exclusively for the convenience of the state."

Undoubtedly this was of great convenince to the state in delaying the state did not have to go through the formalities of a certification proceeding, since the first one was boched by the state. **see exhibits** "AI" & "AF"

This is the only valid reason the state intentionally delayed, because the fact remains the petitioner was in state custody on three (3) different occassions before the termination of juvenille wardship order was completed, after the issuance of the arrest warrant pursuant to this case.

Notwithstanding the state will argue that the warrant was not active; However, this would be undercut by the fact that every time authorities were made aware as to the petitioner's location attempts were made to apprehend the petitioner.

In as much as it appears no just cause for the delay, it has now become evident that the state has gained significant tactical advantages over the accused.

Therefore, the petitioner has made out the following argument when dealing with the issue of the **tactical advantage gained** by the delay.

First, the delay gave the state oppurtunity to make false statements to the court in violation of N.R.S. (199.510) and Supreme Court Rules of Professional Conduct 172.(1)(a). unlawfully obstructing another party's access to evidence or other material having potential evidentiary value Supreme Court Rules (173) or thereby failing to timely comply with a proper discovery request Surpeme Court Rules (174)

That is to say that, on December 27, 2000 the petitioner made an attempt to procure an incriminating statement which contained exculpatory and inculpatory representations, given by the petitioner during an unlawful custodial interrogation. **see exhibits** "AC"

and Ground (K), by way of discovery from the prosecuting attorney Mary K. Holthus; at which time the prosecutor told the Court and the petitioner that, "The state was **not** in possession of such a statement or was even aware that one existed. **see exhibit** "A" Pg: 12

This discovery matter was brought before the court agian two (2) weeks later. **see exhibit** "A" Pg: 12

Then on April 15, 2001 four (4) months after the first request for discovery, twenty (20) months afetr the discovery that was requested was in state possession and logged at the Metropolitan Police Department and considering arguendo one (1) to fifteen (15) months after the requested discovey was in the prosecutor's possession, the statement the petitioner was trying to procure from the state is suddenly or conveniently located. **see exhibit**

Which is more, the same day the prosecutor was made aware the petitioner could possibly be released on O.R. or Bail.

That on the same afore-mentioned date the prosecutor introduced the statement to show cause as to why the petitioner should not be released on bail or O.R.

These facts undeniably demonstrate that the state could have at all times complied with the petitioner's discovery request.

So, considering a competent counsel for the defense would have challenged the admissibilty of the petitioner statement prior to any hearing that could possibly cause his client to be released and since the state **did not** give notice of its intention to use the statement as required by the provisions of F.R.C.P. Federal Rules of Criminal Procedure 12 (b) of which the petitioner was entitled to pursuant to F.R.C.P. 16 and the Jenks Act 18 U.S.C. 350. It can be reasonably said that this vantage point was

gained by the delay. Which had the delay not taken place the state would have never had opportunity to circumvent the provisions of F.R.C.P. 12 (b).

Being that the accessibility of the statement would have been readily ascertainable for counsel who would have been appointed when the petitioner first turned himself in and gave such an incriminating statement.

Furthermore, had this tactic not been employed to procure the petitioner's bail being denied, The prosecutor would have suprisingly introduced the incriminating statement at the time of trial as evidenced by the fact that the statement was in the prosecutor's possession two (2) weeks before the petitioner was to go to trial on March 26, 2001 and never made the court the the petitioner aware that they had obtained the discovery the petitioner had been requesting after a proper discovery reqeust.

Secondly, the delay gave the state opportunity to interfere with the remedial and fact finding process, putting the state in position to spoliate, falsify and doctor evidence without the culpability of such conduct being attributted to the state.

That is to say that, the incriminating statement the petitioner gave during the arbitrary juvenille proceedings transcribed by detective Timothy Moniot #4664 had ommissions and insertions inconsistent with the recorded interview.

That on page 19 of the petitioner statement the detective left out the fact that the peitioner asked him for,"psychiatric help." **see exhibit** "A" & "G" pg. 27

This ommission was of great importance to the defense being that the petitioner was trying to establish an insanity defense. whereby the burden of proof is shifted and clear and convincing

is needed to even present the question or instruction of insanity to the jury as set out in Holsey v. U.S. 995 F.2d 960 and 18 U.S.C. 4242.

So, because these errors or ommissions were not known until trial the peitioner was unable to even present the instruction or question to the jury.

Although the state will argue that this was no fault of thier's this would be undercut by the fact that the detective told the court and the petitioner an hour before trial started and during examination that he had redacted the first transcription to give a better understanding of what took place during the interview meaning this was the second or third time the state had opportunity to listen to the petitioner's recorded statement and transcribe what was recorded with accuracy, and being that the state was well aware of what type of defense the petitioner was bringing forth the state intentionaly left out that the petitioner had asked him for " psychiatric help." **see exhibit** "G" pg. 27

Then when coupled with the fact that officers David Newton and T. Beck stated in the official police report when the petitioner first turned himslef in that, " the petitioner turned himself in because he was ashamed of what he had done."

When in truth and in fact the petitioner never made such a statement to the above-stated officers.

This false representation could have been construed at a hearing to suppress the petitioner statment that the petitioner was able to distinguish right from wrong and turned himself in to confess to the charges he convicted of at this time without any undue influence, coercion or promises or a knowing and voluntary waiver of his rights pursuant to Miranda v. Arizona

384 U.S. 436.

Also, had this information been incorparated at the time of trial again the state would have used this false representation to show the petitioner could distinguish right from wrong.

Once again, had a competent attorney been appointed at the time the delay was taking place all these facts along with the false statements made by officers David Newton and T. Beck would have been brought to light and challenged in order to give a better representation of the facts.

That the totality of the petitioner's arguement on the tactical advantage gained by the delay is that factual determinations were needed and should have ensued to dertimine pertinent information on the petitioner's frame of mind as well as the state's misconduct, but since **"what has been forgotten can rarely be shown"** ,Dickey, supra, @459, the determinations now would be in adverse proportion to those needed when the dely was taking place.

3.) Actual, Substantial and Non-Speculative Prejudice and Deprivation of Constitutional Rights.

The petitioner contendsthat the delay in bringing charges in this case violates the due process clause of the fifth and fourteenth amendments and the Nevada Constitution Articl 1 section 8 and caused actual prejudice aside from those already enumerated in the (Reason for the delay arguement) in the following ways:

a.) The confession made by the petitioner without the assistance of his psychotropic medication purports that a determination should have been made to asses if in fact the statement given was voluntary pursuant to Miranda, supra and Sergent v. State 621 P.2d 209.

However, this venture would be frivilous now since the petitioner has regained some semblance of lucidity.

b.) That due to the delay counsel of record Christopher Oram was unable to obtain mental health records from the Oasis Facility on 6161 West Charleston Blvd being that either in maintanence of thier records or due to being lost or destroyed this facility was unable to locate any records on the petitioner which records were important to the defense, since they would have established clear and convincing evidence to present the instruction or question of insanity to the jury.

c.) The petitioner's defense relied wholly on psychiatric testimony as to the petitioner's frame of mind before the delay and after, which testimony could have been given by the petitioner childhood psychiatrist Dr. Alli on who had diagnosed the petitioner with split personality disorder, delusional paranoa and schizophrenia long before these charges were allegedly committed and longer still before the delay and trial of petitioner.

However, from in or about July of 1999 and December of 1999 the above-stated psychiatrist moved his practice.

Needless to say at the same time the delay was taking place.

Of course the state will argue the petitioner has no proof of such a person or the petitioner actualy being seen prior to the petitioner being accused of this crime yet this assertion by the state would be undercut or rebutted by Jamila Chatman's testimony. **see exhibit** "E" pg: 33-34

It was held in Geelan v. U.S. 520 F.2d 585, @589 (9th Cir) citing Williams v. U.S. 250 F.2d 19, @22-23:

"When prosecution is delayed ...
determining Mens Rea is increased
Passage of time makes any proof of
any fact more difficult.
When the fact is as subtle as a mental
state the difficulty is
immeasurably enhanced."

The only disitinct differences between the above cited case and the petitioner's is that the indivdual in the above-mentioned case was civily committed to a mental health facility for a umpteen amount of years and here the petitioner was in state custody on other matters for cumulative stay of two (2) months

However, the overwhelming similarities is that in both cases it was on the part of the prosecutor who caused the delay and both individuals were unable to present an insanity defense as a result thereof.

Which in the first case court ordereda dissmissal.

4.) Asserttion of the Right to a Speedy Trial.

If upon evidence adduced by the state it is assessed the petitioner was in fact "accused" thereby attaching his right to a Speedy Trial the following is asserted:

On August 14, 1999 when the petitioner first turned himself in this was impliedly demonstrating that the petitioner wanted a speedy out come of this matter.

Moreover, the petitioner does not have a right to bring himself to trial. (case citing ommitted)

In Mathies v. U.S. 374 F2d 312, @314, it was stated:

" A motion under F.R.C.P. 48 (b)
is enough in itself to show that

a defendant has been asserting

right to a speedy trial."

On August 2, 2001 the petitioner through his counsel filed a motion to dismiss under F.R.C.P. 48 (b) or denial the right to a speedy trial.

From the date of that hearing on the above-mentioned motion on August 8, 2001 the petitioner was not broughtto trial until three (3) months after the seventy day time period had ran on January 7, 2002.

Wherefore, the petitioner prays a Writ of Habeas Corpus issue and an evidentiary hearing be held to determine the facts and circumstances attendant upon the delay in this matter and thereafter upon evidence adduced vacate the judgment and set aside the sentence and dismiss the information on the grounds setforth in the instant claim.

Also the petitioner does hereby set forth this argument as inclusive per all other grounds.

Ground (e)

Petitioner's conviction and sentence are invalid under the federal constitutuonal gaurantees of due process , equal protections, effective assistance of counsel, fair tribunal and an impartial jury, due to the cumulative errors and gross misconduct by the state and the systematic deprivation of the petitioner's right to the effective assistance of counsel.

U.S. Constitution Amendments IV, V, VI, VIII and XIV, and Nev Constitution Article 1 section 8.

Supporting Details:

That detective Timothy Moniot offered into evidence on January 8, 2002 a transcribed statement given by Polk during an interrogation knowing omissions and insertions had been made to the same.

That is to say that on January 8, 2002 detective Timothy Moniot was called to testify at Polk's jury trial and was to offer the statement given by Polk on August 14, 1999.

That before the detective allowed the statement to be put into the state's exhibits he told the court the," he was giving the court a better or redacted transcription of the interrogation on August 14, 1999."

Let it be noted that this was the second or third time the detective had an opportunity to listen and give an accurate transcription of Polk's statement.

However,again the detective left otu the following statements made by Polk:

Q: 'Cause rember what we said about being truthful. How do you think you would do on a lie detector test right now and we were to ask you similar question? How many times you did it and

you were to say once.

A:

Q: A lie detector test is hook up and we ask you questions and it tells us if you lying or you're telling the truth.

Id. page 19

Q: Well, I'm asking you. If you take a lie detector test, if its gonna tell me that what you're telling the truth or its gonna tell me that, you know, that something else

A:

Q: I mean it's what you wanted to do, I mean you wanted to tell your side of the story, right? Didi you want-you wanna get help

A: Psychiatric Help.

Id. page 26-27

Q: Polk

A: lie detector test?

Q: Huh?

A lie detector test?

Q: Well, we could talk about that later. It's not a big deal. Uh, once agian, conclusion of the interview. Clark County Juvenille Hall, 8-14-99, at 0520 hours.

Id. page 31

That the prosecuting attorney Mary Holthus obstructed another party's acces to evidence or other material having potential evidentiary value by failing to make a reasonably diligent effort to comply with a proper discovery request in that the above stated prosecutor made false statements to a tribunal.

That is to say that on December 27, 2000 Polk motioned the court to have the prosecuting attorney Mary Holthus to produce the statement that Polk had given to Timothy Moniot on August 14, 1999 by way of discovery.

At which time the above stated prosecutor told Polk and the court that the state did not posses such such a statement or was even aware that one existed.

This discovery matter was brought to the court again on January 10, 2001, and agian the prosecutor said they did not have such a statement.

That on April 18, 2001 during an exparte communication between the judge and the prosecutor, the statement that Polk had been trying to obtain by discovery is suddenly located.

That when the prosecutor was questioned about the delay in locating the material the prosecutor told the court that: "she had just received a copy from the metro politan police department records division that morning."

However in truth and in fact the transcribed statement had been retrieved from the records division on March 13, 2001

see exhibit "H" pgs: 1-31

After this was done Chistopher Oram counsel of record for Polk at that time did not object to the exparte communication or to the statements use to show cause as to why Polk should be granted bail.

That on the same date above mentioned detective Timothy Moniot perjured him self by stating that, " when Polk first turned him self in there was no active warrant out for his arrest."

However in truth and in fact there was. **see exhibit** "N" pg: 2-3

During Polk's stay at the clark county detention center Polk tried to correspond with the following legal entities:

1.) Judicial Compliance Commitee 3476 Exec. Pointe Way Carson City, Nevada. 89706

2.) Nevada State Bar P.O. Box 3363 Carson City, Nevada. 89702

3.) A.C.L.U. 3255 S. Third Street Las Vegas, Nevada. 89101

4.) N.A.A.C.P. 4805 Mt. Hope Drive Baltimore, Maryland. 21215

5.) Internal Affairs 400 Stewart Ave Las Vegas, Nevada 89101

However, the above stated legal entities never recieved Polk's mail.

That on Janury 8, 2002 officers Timothy Beck and David Beck testified that when Polk surrendered himself to the Metropolitan Police Department on August 14, 1999 there was at that time no active warrant out for Polk's arrest.

However, in truth and in fact there was. **see exhibit** "N" pg: 2-3

That when Polk informed counsel of record Christopher Oram to take some type of action sustained by Polk counsel refused to do so even though requested in a formal letter. **see exhbit** "Y" pgs: 1-3

(**See** also affidavit in support of petition for writ of habeas corpus all facts and grounds inclusive.)

Points, Authorities and Legal Argument.

The provisions of the Bill of Rights now applicable to the state contain basic gaurantees of a fair trial which to name a few: 1.) The right to counsel and the right to the reasonable effective assistance of counsel. 2.) The right to a fair and speedy trial. 3.) The right to be free from the use of evidence unlawfully obtained and evidence (confessions) unlawfully siezed. 4.) The right to cross examine witnesses and to compulsoryprocess of witnesses and evidence. 5.) The right to be heardmeaningfully and to present a defense to accusations just to name a few.

However, this does **not** exhaust the requirements of "fairness" essential to the very concept of justice.

Meaning the law is always evolving to try to codify common sense.

Therefore the petitioner has taken the liberty to bring forth this argument as cumulative error due to the exstensive case law involoved in dealing with the issues enumerated in this claim and will exstract the base or foundational claim upon appeal.

Aside from the issues and claim already litigated in the insatnt petition the petitioner makes out the following:

In Bowman v. State 728 P.2d 433 the Nevada stated:

> " the clerk... has no duty to pass upon validity... of a document for filing that is for the court to determine."

Even though this was a disciplinary action this holding is very relevant to the situation at hand because the clerk's of the clak county district court have taken it upon themselves to only accept certain documents to be filed ascribing rule 7.40(b) and 3.70 which states in pertinent part:

except as may b r[illegible]ired by the provisions of [illegible]R.S. 34.730 to 34.830 all motions, petitions, pleadings or other papers delivered to the clerk of the court by the defendant who has counsel or record will not be filed but must be marked with the received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to rule 7.40(b)(2)(ii).

and 7.40(b)(2)(ii) which states:
counsel in any case may be only changed: When no attorney has been retained to replace the attorney withdrawing by order of the court grainted upon motion and: If the application is made by the client the client must state in the application the address at which the client may be served with notice of all further proceedings in the case in the event the application is granted and the telephone number, the client must serve a copy of the application upon clients attorney and all other parties to the action...

This is in direct violation of an accused first amendment right to petition the government for a redress of greivances.

Not only that but this implicates other right such as access to the courts and a myriad of substantive and remedial rights as well.

Although the state will argue that one who is represented by counsel has no fundemental basis or right to petiton the court outside of counsel's decision making.

Yet in the instant case the petitioner was trying to inform the court that counsel and the defendant were in opposition to one-another.

So the petitoner therefore states that rule 7.40(b) and 3.40 are unconstitutional and should be amended or repealed.

The petitioner futher makes this argument inclusive per the judicial misconduct claim.

Secondly, the U.S. Supreme Court held in Ruiz v. Estelle 503 F.Supp 1265, @1372: "Regulations and practices that unjustifiably obstruct the availablity of prisoners to communicate with attorneys and thier assistants are ripe for adjudication. The right is not limited to one who is represented by counselbut extends

equally to persons seeking any form of legal advice and assistance."

Since the petitioner's induction into prison and jail the petitioner has been unable to contact or call various law advocates agencies and governmental buildings, due to either the phone being blocked at the facility the petitioner was housed at the time he was attempeting to get in contact with the entities, by the facility or the facility not allowing the petitionet to induct the number of the agency specified on the inmate "phone lists." **see affidavit in support of Petition for Writ of Habeas Corpus and ground (d)**

This claim also implicates a myriad of rights, especialy those enumerated in the first instance where the clerk failed to file the document the petitioner sent to the courts.

Also being that mail fraud is practice in this county and state the petitioner holds that if the accused or the individual whos rights have been violated try to correspond with a law advocate there is no way he can be assured that the infomation sent reached its destination.

Which brings me to my next argument; unless he sends it by certified mail however, as it is already commonly known certfied mail costs, meaning an indigent perosn cannot ascertain this type of correspondance, this leaves the entity as well as the state to plausibly deny that any information was sent to the agency, court or person, thereby avoiding legal reprmands or civil litigation as well as criminal prosecution.

The telephone is the only way whereby the accused can establish any kind of record.

Lastily due to the constant pattern of misprison or failure

of judges, attorneys and prosecutors as well as officers to report violations of laws, statutes or professional rules and canons. **see affidavit in support of Petition for writof habeas corpus,** this practice will continue to be prevailent in the state of nevada.

Although the petitioner has no case law to raise on this claim he does hereby preserve this as a federal question.

In Omni Intern v. U.S. 634 F.Supp 1380 the U.S. Supreme Court held: repeated instances of flagrant misconduct justify the dismissal of an information."

Holding to that same statement and inference the Nevada Suprmem Court Held in(Id) 448 P.2d 907:

> "where the requirements of due process have been so distorted or ignored, the case must be dismised."

From the onset of this case it has been a continual obstruction of justice from the investigation, to the prosecutor making false statemnts, to the defense attorney failing to report crimes and violatios of laws and rules and the police giving false information also, the judge or clerk obstructing the execution of a process, not to mentionmail fraud and the works. This is undeniably one of those instances where it was stated in Hillis v. State :

> "... it may someday be presented with a situation in which the conduct of the law enforcement agents is so outrageous that due process principles would absolutey bar the government from invoking judicial to obtain a conviction."

Id. 103 Nev. 54.

Also in Victoria v. State

> **"...willful and continuous misconduct by the** prosecutor or the state requires a dismissal."

From the onset of this case the petitioner has sustained ills that would set precedence in any court from the spoliation of evidence to officers giving false police reports, todetectives perjuring themselves on the stand during trial proceedings, to false probationary documents being incorperated in the petitioner's juvenille file to diguis or cover up some mishap conducted by the state.

This would undeniably be a situation were the means did **not** justify the end.

Wherefore, the petitioner prays a writ of habeas corpus issue to search out the validity of such serious claims and upon evidence adduced vacate the judgement and set aside the sentence and dismiss the complaint for reasons of state arbitrariness.

Ground (f)

Petitioner's sentence and conviction are invalid under the federal constitutional gaurantees of due process and equal protection of the laws due to the failrue od the state mental health experts to provide meaning and competent assistance and psychiatric evaluations. Fed. Const V and XiV and Nev Const. Art.1 Sec8.

Supporting Details:

Once Polk was brought back from lakes crossing on July 25, 200 the Nevada Supreme Court overturned thier ruling excluding the insanity defense and Polk's attorney of record Christopher Oram gave the court notice that Polk would be relying on a dfense of insanity to present to the jury.

On Janury 3 , 2002 Dr. Paglini interviews Polk to see if a insanity dfense could be presented to the jury.

However, during the interview Dr. Paglini niether recorded the interview or gave true facts about the same.

That is to say that Dr. Paglini made the representation that Polk was seen by Dr. Jim Ali on two occasions in the past.

However Polk never made such an assertion to Dr. Paglini Polk told Dr. Paglini that he was housed at the Oasis Mental Health Facility for approximately two (2) weeks and that he had a childhood psychiatrist by the name of "Ali" and he had diognosed Polk since March 15, 1993.

Furthermore Dr. Paglini asked no questions about the mental illnesses prevailent in Polk's family or asked any historical qeustions about Polk's past.

Ground (0)

Petitioner was denied effective assistance of counsel on direct appeal in violation of the fifth, sixth and fourteenth amendments of the United States and Nevada Constitution Article 1 Section 8 due to counsel's failure to:

1.) investigate the claims that had been preserved by the petitioner before trial. 2.) reasonably communicate with the petitioner. 3.) raise the claims that previous counsel of record and appealate counsel had agreed upon.

Supporting Details:

After Polk's conviction a timely notice of appeal was filed by appellate counsel David Shieke.

While the appeallate process was taking place above-stated counsel failed to communicate with his client, or failed to ask his client ,Polk, about issues that had already been preserved for appeal.

That is to say that, on numeruos occasions Polk tried to call Mr. Shieke and go over some the issues that previous counsel of record Christopher Oram and Polk had preserved for appeal, especialy the pre-accusotorial delay, in that this arguemtn can only be brought up on appeal after the trial since any arguemnt would be premature in regards to the prejudice factor in dealing with delays or speedy trial violations.(Ground (d).

Upon failing to get in touch with Mr. Sheike Polk filed a judicial notice to bring to the court's attention what valid issues Polk felt was being ommited from his appeal.

Ground (h)

Petitioner's sentnce and conviction are invalid as the petitioner was deined the reasonable effective assistance of counsel as counsel's assistance fell below the required objective standard of reasonableness in violation of the Fed Constututiun 6th and 14th Amendmant as well as the Nevada Constitution Article 1 section 8 gaurantees of the due process of law and the reasonable effective assistance of counsel because counsel failed to: 1.) move to suppress statements made by the petitoner. 2.) object to the statement's use; (a.) during the petitioner's bail hearing, and (b.) during trial proceedings. 3.) object to instances of prosecutorial misconduct. 4.) object to instances of judicial misconduct. 5.) move to disqualify the judge the was presiding over this matter. 6.) object to an 'all white jury.' 7.) file a motion for a new trial based on newly discovered evidence. 8.) properly investigate the petitioner's case. 9.) obtain an affidavit from juror number 5. 10.) notify the petitioner of his intention to change the plea entered in this matter. 11.)object to an untimely discovery request. 12.) object to the use of spoliated evidence 13.) file any meritorious pre-trial applications to the court. 14.) interview police officers involved in taking the petitioner's statement.

Supporting Details:

(See affidavit in support of Petition for Writ of Habeas Corpus all facts inclusive.)

Deficient Perfor ce.

Counsel failed to interview potential witnesses for the defense.

Because counsel failed to interview potential witnesses the petitioner was unable to present an insanity instruction to the judge and jury.

It was of great importance that counsel talked to peopl that the petitioner interacted with on a daily basis, this would have provided counsel with some insight to the defense that he had gave the court his intention upon relying on.

If counsel had talked to any of the witnesses already provided by the state it could have been established that Polk had been suffering from sevre mental illnesses in his childhood due to hereditary taint, in that both Polk's mother, Anna Lisa Edwards and Polk's grandfather, were diognosed as shcizophrenic and bipolar this would have at least gave counsel an avenue or some means of showing that Polk's was highly suseptable to being mentally disordered.

This cannot be ascribed to sound trial strategy or even reasonably effective assistance rendered by counsel since any counsel who was competent in the law would have at least known about the different ways by which a person can inherent mental disorders.

However this only raises the strong presumption that counsel was unskilled in this area of law since the insanity dfense had been abolished since 1996.

Prejudice.

The petitioner was entiled constitutionaly to present a complete defense and as the decision was rendered in Zollie v. Dumas counsel was constitutionaly required to present such a dfense as insanity if no other defense was avilable and mental health

questions could have played a pivatol part in the commission of a crime.

It was held in

"...we are reluctant to look at counsel's performance in hindsight the only concern for counsel action or inaction is what was constitutionally compelled."

Deficient Performance.

The petitioner argues that due to counsel's failur to object to the instances of judicial and prosecutorial misconduct has left the petitioner with the burden of presenting a claim with a barren record devoid of facts to substantiate the grounds for appellate review and other post conviction proceedings was assistance rendered by counsel that fell below an objective standard of reasonableness.

The arguement remains pretty much the same for all other allegations of ineffective assistance of counsel.

Counsel was required by the rules of professional conduct to report what judge Joseph T. Bonaventure had done, when he failed to file the document of inneffective assistance of counsel and motion to withdraw counsel, this was aiding or comforting the judges malcontentment against the petitioner.

One can draw from counsel failure to file said document that collusion existed and that this had become a common practice with counsel and afore-said judge.

The petitioner had aright to a fair hearing before an impartial tribunal and does hereby assert this arguement as prejudice caused by counsel.

There is an overwhelming presumption that the whole out-come of the petitioner court proceedings would have been different if counsel had moved to disqualify the judge in this matter. Since it can be reasonably said any decision rendered by the judge in this matter was from a biased standpoint. **see Ground (a) also** affidavit in support of petition for writ of habeas corpus and motion to disqualify judge.

Prejudice.

The petitioner had an undeniable right to a fair trial and that being before an impartial tribunal.

If counsel had raised the judges impartiality in earlier proceedings the petitioner would not have to go to trial with an impartial judge residing over the case.

Furthermore, a record would have at least been established for appeal but now again the petitioner is left with the burden of proving and establishing claims that at first sight would appear naked abd bare.

Likewise the same stands true for counsel failing to report or object to intances of prosecutorial misconduct.

Deficent Performance

In the instant case the petitioner contends that defense counsel performance fell below an objective standard of reasonableness at a critical stage in the trial proceedings when counsel failed to request a jury instruction or question of temporary insanity or not gfuilty by reason of insanity in support of the defense.

That because counsel failed to do so the jury did not receive a viable and crucial instruction that was needed pertinent facts to establish on appealate review and to meet the prosecution's case and in order that the jury may have given proper consideration to the defendant's defense.

This failure was in violation of the petitioner's sixth amendment right to the reasonable effective assistance of counsel gauranteed by the State and Federal Constitutoin. See Strictland v. Washington 104 U.S. 2052, Cooper v. Fitzharris 586 F.2d 1235, Warden v. Lyons 683 P.2d 322.

On the date of July 26, 2001 counsel made the court aware of his intention to rely upon an insanity dfense as required by F.R.C.P. 12.2 (e). see exhibit

On the day of trial on Janury 7, 2002 counsel abandoned this defense without the consent of his client or to his client's knolegde.

It was held in Jones v. State 664 P.2d 12 16 also Henadez v. State 994 P.2d 354: " Plea of insanity may be withdrawn by the defendant and the defendant alone."

Thus, the petitioner argues a reasonable counsel acting in the role of an advocate would have informed his client that he would not be presenting a defense that him and his clinet had agrred upon, in order that a more viable dfense could have been

pursued long before trial.

It is almost as if this unpreparedness caused counsel to shuffle for a way of presenting a new defense wothout familiarizing himself with the nessecitated facts in order present a new defense.

As much as it would appear that counsel was wholly at fault the state must take some culpabilty asw well due to the fact that the state intentionally suppressed Brady material on the day of trial, **see Ground (K)** and **affidavit in support of petition for wirt of habeas corpus,** so any ineffective assistance rendered by counsel was predicated on the state's misconduct.

It was held in (case citation ommitted.):

> "... ineffective assistance of counsel must be found if it was predicated on the prosecutor's misconduct. That if counsel could not render effective assistance due to the state obstructing justice." (emphasis added.), Id. at 412.

Needless to say if the state continualy fustrated counsel's attempts to defend the petitioner it was only and always met with the state's willfull and calculated misconduct.

The petitioner does by make this argument inclusive per the prejudice and tactical advantage gained by the delay, in the instant petition.

Prejudice.

Petitioner argues defense counsel's failure to request an instruction of insanity resulted in plain error affecting substantial rights.

Defense counsel's dereliction posed a clear capacity to not bring about a just result in the trial proceeding as such, 1.) The defendant was entitled to present a defense to the charges., 2.) The defendant was entitled to compulsory, advesarial, fact finding, remedial and corrective process which would have furthered the remedial aspect in the case at hand.

Cosequently, defense counsel's error undermined a critical funtion of trial therefor, the prejudicial effect of counsel's error cannot be ignored.

Take for example had counsel presented the question of insanity to the jury all psychiatric information would have been preserved on the record and it would not be so void from any information that would have been relied upon now that the petitioner has to establish some kind of proof and basis for the claims asserted in the instant petition, meaning that since the record is void of any substantial information relating to psychiatric treatment and the state can now argue that the petitioner has given no proof of the facts alleged in the petition.

Thus the prejudice in this case goes directly to the heart of the deliberation and remedial aspect and process and since the state possessed a coerced confession from the petitioner, it is almost impossible if not unlikley that the petitioner to prove the inadmisablity of the statement due to counsel avoiding the mind frame aspect and facts of this case.

Counsel's inaction deprived the petitioner a fair trial complete with an unreliable constitutionally gauranteed adversarial and remedial process.

Petioner does hereby make this claim inclusive per all other claims in the instant petition.

To state the obvious, trial lawyers in every case could have done something more or something different. So, omissions are inevitable. But, the issue is not what possible or what 'is prudent or appropriate, but only what is constitutionally compelled.' Burger v. Kemp 483 U.S. 776, 107 S.Ct. 3114 (1987).

Counsel was required pursuant to Zollie Dumas v State to present a defense of insanity if no other defense existed.

Deficient Performance.

The petitioner argues that because counsel, 1.) failed to interview potential witnesses provided by the district attorney 2.) failed to interview police officers involved in taking the petitioner statement, 3.) only reviewed the district attorney's file, 4.) failed to interview psychiatrists who'd diagnosed the petitioner before the prosecution of this case was ineffective pursuant to (Thomas v. Lockhart 783 F.2d 304; Kirksey v. State 923 P.2d 1102).

It was of great importance for counsel to interview witnesses associated with the petitioner, in that, an insanity defense was being presented and relied wholly on the petitioner frame of mind and testimony which could have been given by people in the petitioner's circle of influence, yet this error cannot be completely attributed to counsel because any hope of obtaining such testimony had been lost occasioned by the delay. **(See Ground (d)).**

It cannot be reasonably determined that counsel was effective if he put an insanity defense forward then abandoned the decision of him and his client and fail to interview witnesses for the defense and prosecution.

" Neglect to interview available witnesses to a crime cannot be ascribed to trial strategy and tactics." See Caro v. Calron 165 F.2d 1223, @1226.

Secondly, by counsel failing to seek an intsrtuction on insanity and coupled with the fact counsel failed to interview potential witnesses, there would have been little or no evidence to substantiae the petitioner's defense in order to even present the question.

Prejudice.

By counsel failing to interview potential witnesess for the state, failing to interview police officers involved intaking the petitioner's statement, only reviewed the disitrict attorney's file and failure to interview psychiatrists who'd diognosed the petitioner in the past the petitioner has been left with the burcen of establishing psychistrict testimony on the record on his own.

Not only that but, beacuse counsel failed to interview the officers who taken the petitioner's statement attempts can be made by the state to lie to the court since no assessments were made into this aspect of pre-trial proceedings and agian this is a valid contention since the petitioner has already proven that state officials lie when its in their best interest.

see ground (e) and affidavit in support of petition for writ of habeas corpus.

Ground (i)

Petitioner is imprisoned in violation of the Double Jeopardy Clause of the Fifth and Fourteenth Amendments as well as the Nevada Constitutioin Article 1 section 8 and N.R.S. 62.195 as the petitoiner is being punished twice for the same offense.

Supporting Details:

(See supporting details in ground (c) and affidavit in support of petition for writ of habeas corpus.)

Points, Authorities and Legal Argument.

The petitioner is being held in violation of the fifth and fourteenth amendment pursuant to double jeopardy in the form of collateral estoppel and N.R.S. 62.195 (b) which states in pertinent part:

> "... criminal proceedings and other
> juvenille proceedings... based
> upon the same conduct are barred
> if the court has began taking evidence
> or has accepted a child's admission
> of the alleged facts in the petition
> No child can be prosecuted as an adult
> when previously prosecuted as an adolescent."

This statute being in accordance with the United States Constitution **Doctrine of Collateral Estoppel.**

The basis for the petitioner's assertions are bourne out by the following:

The fact remains that when the petitioner first turned himself in , The detective told him that the reason he was at the juvenille facility was for this case now before this court, even though the petitioner was over (18) eighteen years of age.

Also considering that the petitioner had not been certified as an adult, leaves the inference that the original charges would have been filed under juvenille jurisdiction.

However, since this fact was not known to prosecuting offficials until after the petitioner had been incarcerated for a umpteen amount of days, the state took the liberty of appropriating false probationary documents into the petitioner's juvenille record to explain the reason the petitioner had been in custody for (3) thirty days.

That is to say that, if the petitioner was on probation at the time of the alleged crime, then the charges pursuant to this case would have been filed under juvenille jurisdiction and required a certification proceeding to proceed in the adult criminal justice system.

Also being that the first time the prosecutoring official tried to certify the petitioner as an adult the proceeding was boched due to the petitioner not being certified as an adult.

Sc , in order to avoid another mishap false probationary documents were put into the petitioner's juvenille file or record.

In order that this proceeding might be circumvented.

As demonstrated by the following:

1.) The formal Probation order allocating the petitioner to probation specifies that a parental consent decree has been attached. **see exhibit** "1" pg: 6

However, in truth and in fact this document **cannot** and **will not** be located in the petitioner's juvenille file.

2.) The dispositional Report recommending the petitioner be put on probation states and represents the fact that the petitioner was to go before the adult court system for a **preliminary hearing** pursuant to case number C156363 on January 27, 1999.

However, this information could not have been known at this time because the petitioner did not receive that hearing for the above stated case until (3) three or more days after the report was filed on January 14, 1999. **see exhibit** "Z" pg: 12

Meaning the report was filed after the 14th of January of 1999.

Purporting the signatures of the judges and the clerks to be forged or false.

Although the state will argue that no one was aware of what the juvenille courts were doing or that any collusion can be proved.

Yet this assertion by the state would be rebutted by the fact that the Termination of Juvenille Wardship order was filed on January 12, 2000, the same day the complaint pursuant to this case was written up. **see exhibit** "I" and "P".

Therefore the petitioner has laid out a forked tongue argument. If the court concludes the petitioner was on probation then the state intentionaly delayed to await the termination of juvenille jurisdiction.

If the court finds that the petitioner was not on probation then the argument is simple.

The petitioner is being punished twice for the same offense once by the juvenille court for violating terms of probation in that the petitioner was cited for a felony while on probation for the juvenille courts, where the juvenille courts accepted the petitioner's admmision to certain facts pursuant to this case, even though the petitioner was not on probation for the juvenille courts, meaning the first punishment was unjustified.

Now the petitioner is being punished twice by the Adult Court System.

Not to mention a simple review from the surveilance tapes when the petitioner was supposedly put on probation will demonstrate the petitioner was **not.**

Wherefore, the petitioner prays that a Writ of Habeas Corpus issue to further the factual imbalance in this claim of which

the prosecution has no evidence to refute this allegation and appropriate an evidentiary hearing, then upon evidence adduced vacate the sentence and judgment and dismiss the information based upon the petitioner being punished twice for the same offense.

Ground (j)

Petitioner's sentence and conviction are invalid under the Nevada Constitution Artilce 1 section 8 and the Federal Constitution gaurantees of 'due process of law' and 'freedom from self-incrinination', because a certain detective obtained statements made by and from petitioner only after detective Moniot Timoty lied, promised or promised the petitioner into waiving his rights, or in the ABSENCE OF AN INTELLIGENT, VOLUNTARY AND KNOWING WAIVER OF HIS constitutional rights. Nev Const. 1§8 and U.S. Const Amends v,vi and XIV.

Supporting Details:

That detective Timothy Moiniot #4664 having the cutody of the petitioner Renard Polk and control of the same person under arrest extorted from Polk incriminating statements or a confession by the use of violence or the threat of violence.

That is to say that Timothy Moniot on August 14, 199 was called to investigate the possible apprehension of a person Polk, who was wanted for questioning pursuant to case number 00-C-166490-C.

That when the above stated detective arrived at the Juvenille Detention Center where Polk was being held Mr. Moniot asked Polk would he like to give a statement pursuant to the above cited case. That Before Mr. Polk could respond said detective motioned toward his gun holster.

That after this was done Polk queitly consented to giving the detective an incriminating statement.

That during questioning when Polk would become less compliant

or the detective believed Polk to be lieing he would make inference of the use of a lie detector test and motion toward his gun holster when doing so. **see exhibit** "F" pg: 19 and 26

That officers David Newton and Timothy Beck knowingly made false or ficticious statements on an official police report.

That is to say that on August 14, 1999 Polk turned himself in on a warrant that he beieved was out for his arrest, by calling emergencny number 911, at which time the operator dispatched a patrol unit to his location.

Polk was then taken to the Juvenille Detention Center.

That during being transported Polk asked the officers why was he being taken to the Juvenille Detention Center, at which time the officers responded by saying, " you know why."

No other words were exchanged after this.

However, in the police report pursuant to case number 00-C-166490-C, the above stated officers make and represent the fact that Polk stated." he turned himself because he was ashamed of what he had done." **see exhibit** "N" pg: 5

When in truth and in fact Polk never made such a statement to officers David Newton and Timothy Beck.

That on or about August 17, 2000 the transcribing company or Timothy Moniot made omissions and insertions to the statement Polk had given on August 14, 2000. That is to say that when the statement that Polk had given to detective Timonthy Moniot was transcribed the following omissions and insertions were made:

Points, Authorities and Legal Argument.

Based upon the facts provided in the supporting details the petitioner's statement was **involuntary.**

The requirement that a statement be voluntary is exstracted from the fifth and fourteenthamendment of the federal constitution.

In Hutto v. Ross 429 U.S. 28, @30, the U.S. Supreme Court held:

> ..." a statement is involuntaRY IF IT
> is exstracted by some or any sort
> of threat or violence or obtained by any
> direct or implied promises however slight
> or by any exertion of improper influence."

The petitioner asserts that by the detective motioning or gesturing toward his gun holster lead the peitioner to beleive he was in actual danger and any resistance would have resulted in bodily harm. Ergo, the reason why the petitioner quietly consented to the detective's questioning.

The petitioner is also of the belief that the state was well aware of the fact that the petitioner's statement was involuntary as evidenced and drawn from the "presumption" that an attempted suppression or spoliation of evidence raises the inference that the suppressor or spoliator knew of the evidence suppressablility. **see also Brady argument Ground (k).**

When coupled with the fact that the petitioner was without the assisstance of his psychotropic medication any thing the detective could have done at that point would have been questionable since the detective was unskilled or trained in handling psychiatric perpatrators.

This is evidenced by the fact that when on the stand during the petitioner's trial the detective was asked, " did the petitioner seem mentally unstable at the time questioning began."

The detective said, "No."

However, during questioning the petitioner continualy asked the detective for psychiatric help.

Which is more, if in fact the statement was given voluntarily then why did the detective continue to use the inference of a lie detector test to illicit a statement from the petitioner and motion toward his gun holster when doing so.

see exhibit "F" pg: 1-31

Although the state will probably argue that the petitioner has presented no proof to substantiate this claim or that the petitioner should have brought this issue forth in pretrial applications, to that the petitioner would assert the following:

a.) A simple review of the juvenille booking surveilance tapes on or about August 14, 1999 at about 1:30 A.M., will show when the detective motioned toward his gun holster upon his arrival at the juvenille facility, when he first talked to the petitioner.

Not to mention if the video data on the above-mentioned date can be located then the previous dates when the petitioner was supposedly allocated to probation for the juvenille courts can be located likewise.

If the data can not be located then the petitioner asserts this claim inclusive per **ground (d)** on the pre-accusatorial delay as prejudice caused by the delay.

b.) The reason the petitioner did not bring this claim forward in an earlier proceeding is in that the petitioner was told by counsel of record Chistopher Oram that the petitioner could possibly be retaliated on by government officials and that he, "did not want to open another can of worms."

Furthermore, it has become common practice by the clerks and judges in the eigth judicial district to return or not file certain documents outside the endorsement of one who is represented by counsel. **see Ground (h)**, inclusive per this claim.

Wherefore the petitioner prays that a Writ of Habeas Corpus issue allocating an evidentiary hearing to futher the facts in this matter and take corrective measures against the evidentiary imbalance and upon the proper findings vacate the sentance and judgment and grant anew trial excluding the petitioner's statmentt.

Renard T. Polk #72439
L.C.C. PO Box 359
LoveLock, Nevada. 89419
In Proper Person

FILED

JUL 1 11 16 AM '04

CLERK

In The Eighth Judicial District Court In And For

The County Of Clark

The State Of Nevada
Plaintiff
VS:

Renard Truman Polk
Defendant.

Case No: C166490
Dept No: VI
Docket No:

Date Of Hearing:

Time Of Hearing:

Motion for Disqualification or Recusal of Judge.

Comes Now: the defendant, Renard T. Polk. requesting the honorable Judge Joseph T. Binaventure to disqualify or recuse himself from hearing or making any determinations and procees no further in the above-entitled case or the defendant's (Petition for Writ of Habeas Corpus) that will be timely filed in the forseeable future.

This Motion is made and based upon the affidavit in the petition writ and all papers, pleadings and documents on file herein and oral or briefed argument at the time of said hearing.

Dated this 24 day of June 2004.

Rd T. Polk 6/24/04

Renard T. Polk #72439
L.C.C. PO Box 359
LoveLOck, Nevada. 89419

RECEIVED
JUL 01 2004
COUNTY CLERK

To: Stewart Bell, Clark County District Attorney Mary Holthus, The State of Nevada; Plaintiff.

Each and all of you will please take notice that a defendant's _____ will come on for hearing before the above-titled court on the _____ day of _____ 200___, at the hour of _____ a.m. in _____.

Dated this _____ day of _____ 200___.

Statement of Facts.

Renard T. Polk the defendant in case number 00-C166490-C believes and makes out that judge Joseph T. Bonaventure has a personal bias or prejudice against the defendant or in favor of the government.

The facts and reasonsare as follows:

On or about November 31, 2000 and January 15, 2000 the judge , above mentioned , with the complicity of his court clerk Nora Pena removed a document to be filed, specifically a Motion to Dismiss counsel that Polk filed or sent to the eighth judicial district court to have counsel of record CHirstopher Oram dismissedfrom the defendant case.

However, instead of the document being filed it was sent to counsel of recoed Chsistopher Oram when the document was and depoisted in Nora Pena office.

That is to say that when Nora Pena the court clerk in the above stated court received the document to be filed she then sent it to Joseph T. Bonaventure at his behest where the document was then sent back to Christopher and never filed or even recieved a filed or reciede stamp on the same.

The judge's ill disposition was further demonstrated on December 3 , 2001 when the judge finaly filed a document, specifically, a Motion to dismiss Wirt of habeas Crpus, 28 twenty-eight days before the next predtermined court date hearing on January 3, 2002.

Then repremanded the defendant for filing last minute court applications.

On March 13, 2002 the judge stated on record that he has

become emotionally einvloved in the defendant case.

Basis for recusal or disqualification.

The defendant has an undeniable right to a fair hearing before animpartial tribunal (C.J.S 708; Const Law 569 (4) west digest; The law not only demands judges refrian from actual bias but any appearonse pf bias orprejudice (410 P.2d 732 name omitted), (Randoplh v. Gorman 338 P.2d 732).

Needless to say that when a judge has demonstrated on record thqat he has become emotionally involvedin am matter where he is supposed to aT all times remain nuetral, and refuses to file a motion thatm would keep the defendant from having to trilal with an incomptetet counsel devoiding the record of concrtet facts as to dismissal of counsel and why it was werranted recusal or disqaulification is inevitable.

> "... due process reqiures a nuetral and detatched judge and if the judge evidences his lack of impartiality what ever its orgin or justification that judge cannot sit in judgment."

Id. Gorman, supra@ 219.

The defendant furhter states that the reason this application was not pursued earlier is due to counsel's ineffectiveness and also:

1.) Fear of retaliation by goverment officails.

2.) Lack of knowlegde of the law and this type of applications is to be filed by an attorney.

3.) The clerk's failure to file certain meritorious documents see also argument in petition for writ of habeas corpus ground

(a) all facts inclusive.

Conclusion.

Wherefore, the defendant prays that the honorable judge Joseph T. Bonaventure proceed no further and another judge be appointed to hear the defendant's (post-conviction) petition for writ of habeas corpus.

Dated this 24 day of June 2004.

Respectfully Submitted:

/s/ Rd Polk

Renard T. Polk #72439
L.C.C. P.O. Box 359
LoveLock, Nevada. 89419

105

CASE NO. 00-C-166490-C

DEPT. NO. VI

FILED

JUL 1 11 16 AM '04

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

Shirley B. Parraguirre
CLERK

Renard T. Polk,
Petitioner

vs.

Craig Farwell,
Respondent

/

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Comes now the Petitioner, in properia persona, pursuant to NRS 12.015, and respectfully moves this Court for an order granting Renard T. Polk leave to proceed in the above-entitled action in forma pauperis without requiring sucurity for the payment of costs of prosecuting this action.

This motion is made and based upon the attached affidavit and certificate of inmate's institutional account.

Respectfully Submitted,

NDOP # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419-0359

CASE NO: C166491X

DEPT NO: VI

FILED

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

The State of Nevada,
-Plaintiff-

vs.

RENARD T. POLK,
-Defendant-

AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

I, RENARD T. POLK, first being duly sworn, depose and say that I am the Movant in the above-entitled action; that in support of my Motion for Leave to Proceed in Forma Pauperis without being required to prepay fees, costs, or give security therefor; I state because of my poverty, I am unable to pay the costs of said proceedings or to give security therefor; that I am entitled to relief.

I X do request an attorney appointed to me.

I ____ do not request an attorney to be appointed to me.

I further swear that the responses wich I have made to questions and instructions below are true and correct to the best of my knowledge

1. Are you presently employed? YES____ NO X

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer: N/A

b. If the answer is no, state the date of last employment and the amount of salary and wages per month you received: N/A

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?

YES ____ NO X

b. Rent payments, interest or dividends?

YES ____ NO X

c. Pensions, annuities or life insurance payments?

YES ____ NO X

d. Gifts or inheritances?

YES ____ NO X

e. Any other sources?

YES ____ NO X

If the answer to any of the above is "YES" describe each source of money and state the amount received from each during the past twelve months: N/A

3. Do you own cash or equivalent prison currency, or do you have money in a checking account?

YES ____ NO X

If the answer is "YES" stat the total value of the items: N/A

4. Do you own any real estate, stocks, bonds, notes automobiles, or other

valuable property (excluding ordinary household furnishings and clothing)?

YES_____ NO X

If your answer is "YES" describe the property and state its approximate value: N/A

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: N/A

UNDER THE PENALTY OF PERJURY, pursuant to NRS 208.165, the above affidavit is true and correct to the best of affiants personal knowledge.

DATED this 27th day of April, 2004.

By: Renard Polk

NDOP# 72439
Lovelock Correctional Center
Post Office Box 359
Lovelock, Nevada 89419-0359

CASE NO. C166490

DEPT. NO. VII

IN THE 8th JUCICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

The State of Nevada,
Plaintiff,

vs.

Renard T. Polk,
Defendant.

CERTIFICATE OF INMATE'S INSTITUTIONAL ACCOUNT

I, the undersigned, hereby certify that Renard T. Polk, # 12439, Plaintiff above named has a balance of $ .03 on account to his credit at the Lovelock Correctional Center, Lovelock, Nevada, where he is presently confined.

I further certify that the said Plaintiff owes Departmental Charges in the amount of $ 151.52 and that he has ~~no~~ $43.00 securities to his credit according to our records.

DATED this 22nd day of APRIL, 20 04

Institutional Officer's Signature and Title

Submitted by: R. Polk # 12439

Date Submitted: _____

Case No. C166490

Dept. No. VI

FILED

JUL 1 11 16 AM '04

CLERK

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR Clark

-oOo-

Renard T. Polk,

Petitioner,

vs.

Craig Farwell,

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of prisons, name the warden or head of the institution. If you are not in a specific institution of the department but within its custody, name the director of the department of prisons.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

RECEIVED

JUL 01 2004

COUNTY CLERK

this time: _____

_____

7. Nature of offense involved in conviction being challenged: **N/A**

_____

8. What was your plea? (check one)

(a) Not Guilty **X**

(b) Guilty ___

(c) Guilty but mentally ill ___

(d) Nolo Contendere ___

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: **N/A**

_____

_____

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury **X** (b) Judge without a jury ___

11. Did you testify at the trial? Yes **X** No ___

12. Did you appeal from the judgment of conviction?

Yes **X** No ___

13. If you did appeal, answer the following:

(a) Name of court: **Nevada Supreme Court**

(b) Case number or citation: _____

(c) Result: **Conviction Upheld**

(d) Date of result: **September , 2003**

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the attorney general's office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: **LoveLock Correctional Cnt. Pershing County, Nevada, LoveLock, 89419.**

2. Name and location of court which entered the judgment of conviction under attack: **The 8th Judicial District Court Clark County, Las Vegas, Nevada, 89101:Department(6)**

3. Date of judgment of conviction: _____

4. Case number: **00-C-166490-C**

5. (a) Length of sentence: **20 to Life, consecutive with a 4 to 10 years**

(b) If sentence is death, state any date upon which execution is scheduled: **N/A**

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ____ No **x**

If "yes" list crime, case number and sentence being served at

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:

N/A

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes X No ___

16. If your answer to No. 15 was "yes", give the following information:

(a) (1) Name of court: Eighth Jud. Dis. Department #6

(2) Nature of proceedings: Pretrial (Writ of Habeas Corpus.)

(3) Grounds raised: 1.) Double Jeopardy. 2.) Prosecutorial Misconduct; [a] Pre-Accusation Delay [b] State Arbitrariness. (3) Egrigious Outrageous Government Conduct.

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No X

(5) Result: N/A

(6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: Eighth Jud. Dis. Department #6

(2) Nature of proceedings: Mtion To Dismiss Info.

(3) Grounds raised: **Same as previously stated.**

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No X

(5) Result: **January 3. 2002**

(6) Date of result: **Denied**

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: **N/A**

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion?

Yes ___ No X

Citation or date of decision: **N/A**

(2) Second petition, application or motion?

Yes ___ No X

Citation or date of decision: **N/A**

(3) Third or subsequent petitions, applications or motions? Yes ___ No X

Citation or date of decision: **N/A**

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed

five handwritten or typewritten pages in length.)

See Attached

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify:

(a) Which of the grounds is the same:

Yes

(b) The proceedings in which these grounds were raised:

All procedures previously stated.

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

See Attached.

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) **See Attached**

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

NO.

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ___ No **x**___

If yes, state what court and the case number: _____

N/A

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

Nancy Lemnce/Initial Appearance, **Christopher Oram/** Trial
David Shieke/Appeal.

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes ___ No X___

If yes, specify where and when it is to be served, if you know:

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: See Attached

Supporting FACTS (Tell your story briefly without citing cases or law.): See Attached

(b) Ground two: See Attached

Supporting FACTS (Tell your story briefly without citing cases or law.): See Attached

(c) Ground three: See Attached

Supporting FACTS (Tell your story briefly without citing cases or law.): See Attached

(d) Ground four: See Attached

Supporting FACTS (Tell your story briefly without citing cases or law.): See Attached

WHEREFORE, petitioner prays that the Court grant him relief to which he may be entitled in this proceeding.

Executed at Lovelock Correctional Center on this 24 day of June, 2004.

Signature of Attorney (if any)

N/A

Attorney & Address of Attorney

In Pro Se
RENARD T. POLK #72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Petitioner

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

Renard T. Polk #72439
Petitioner

Pro-Se
Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 24 day of June, 2004, by placing same into the hands of prison law library staff for posting in the U.S. Mail, pursuant to N.R.C.P. 5:

CRAIG FARWELL, Warden
Lovelock Correctional Center
[via Interdepartmental Mail]

FRANKIE SUE DEL PAPA
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717

Mary K. Holthus
200 South Third St.
Las Vegas, Nevada 89101

_____
_____, Nevada 89_____

R. Polk
Signature of Petitioner In Pro Se

/ / /

/ / /

/ / /

16.) continued

(A) 1.Application to the Nevada Supreme Court

2.Petition for Writ Of Habeas Corpus

3.Same as previous Petition

4. No evidentiary Hearing was allocated.

5. **Denied** on January 8, 2002

(B) 1.Civil Rights 1983 complaint, to the Nevada District Federal Court.

2.Civil Complaint.

3.[a] Conspiracy [b] Double Jeopardy [c] Forced Anit-Psychotic Medication.

4.No evidentiary hearing was allocated.

5.**Denied** or voluntarily dismissed on January 6, 2002.

(E) Petitioner did not appeal because he was unaware of his right to appeal and due to the complexity of the issues involved and his limited knowledge of the law.

(D) Fourth Application. **Np**

Fifth Application. **No**

17.) continued.

(a) 1.) Pre-Accusation Delay. 2.) State Arbitrariness.

3.) Double Jeopardy.

(c). The reason petitioner is agin raising these grounds are due to the fact that an evidentiary hearing was not given to give full consideration to the claims. Furthermore in regards to the pre-accusation delay it is required to go to trial before any prejudice can be substantiated or else it is premature as set forth in Autry v. State, case citing in argument memorandum.

18.) continued

Due to the petitioner limited lack of education and the law the just recently found these claims to be viable.

Furthermore petitioner was laboring with a conflicted counsel who felt it incumbent to dismiss the petitioner contentions as frivilous. Not to mention the court clerk in the eighth judicial district court only excepts certain documents for filing.

Lastily petitioner's cousnel told him he would be retaliated on at the detention center if he brought forth certain claims that could be constued to envoke a civil lawsuit.

Certificat of Service by Mail.

The undersigned does hereby certify that I mailed a true and correct copy of the foregoing **instruments listed below** to the addresses listed below on this 24 day of June 2004., by delivering a copy of the same to an official at the Law Library with purpose of being conveyed by mail and incorperated into the U.S. Postal Servive's in accordance and pursuant to N.C.R.P. (5):

District Attorney's Office
200 South Third St.
Las Vegas, Nevada. 89101

Attorney General's Office
100 North Carson Street
Carson City, Nevada. 89701

Craig Farwell, Warden
LoveLock Correctional Center
(Interdepartmental Mail)

Christopher Oram
520 South Fourth St.
Las Vegas, Nevada. 89101

/s/ Renard Polk 6/24/04
Renard T. Polk 72439
L.C.C. P.O. Box 359
LovrLock, Nevada. 89419

F.I. :
1.) Motion to Disqualify or Recusal of Judge.
2.)Ex Parte Motion for Appointment of Counsel and for Evidentiary Hearing.
3.)Affidavit in Support of Petition for Writ of Habeas Corpus.
4.)Petition for Writ of Habeas Corpus.
5.)Letter to clerk of the court.
6.)Motion to proceed In Forma Pauperis.
7.)Memorandum of Exhibits In Support of Petition for Writ of Habeas Corpus.
8.)Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus.

PPOW

FILED

JUL 7 7 40 AM '04

Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

RENARD POLK,
Petitioner,
vs.
STATE OF NEVADA,
Respondent,

Case No: C166490
Dept No: 6

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on 07/01/04. The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's calendar on the 8th day of September, 2004, at the hour of 8:30 o'clock A. M. for further proceedings.

J Bonaventure
District Court Judge

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CLERK

RSPN
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff,	CASE NO:	C166490
-vs-	DEPT NO:	VI
RENARD TURMAN POLK, #1521718 Defendant.		

STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

DATE OF HEARING: 9/8/04
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction).

This response 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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

Renard Polk, hereinafter Defendant, was charged by way of Amended Criminal Complaint with two counts of Sexual Assault with a Minor Under Fourteen (14) Years of Age and one count of Sexual Assault with a Minor Under Sixteen (16) Years of Age. On April 25, 2000, defense counsel moved to have Defendant psychologically evaluated. As a result, the trial court directed counsel to have Defendant evaluated by a doctor. On June 27, 2000, defense counsel advised the court that he had a report that recommended Defendant be sent to Lakes Crossing. On August 1, 2000, pursuant to NRS 178.425, the trial court ordered Defendant remanded to the custody of the Administration of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for the detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.

On November 2, 2000, the State filed in open court an Order of Findings of Competency and Order to Transport Defendant. The court found Defendant competent and ordered Defendant to be transported.

The charges were amended on January 7, 2002, by way of interlineation to three counts of Sexual Assault With a Minor Under Fourteen (14) Years of Age (Felony – NRS 200.363, 200.366). A Jury trial commenced on January 7, 2002. On January 9, 2002, defense counsel moved for a mistrial. The trial court denied defense counsel's motion for mistrial. On January 9, 2002, the jury found Defendant guilty of Attempted Sexual Assault With a Minor Under Fourteen and Sexual Assault With a Minor Under Fourteen.

A Judgment of Conviction was filed on April 2, 2002. The Defendant was sentenced to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months for Count I, Attempted Sexual Assault with a Minor under Fourteen. As for Count II, Sexual Assault with a Minor under Fourteen (14), Defendant was sentenced to life with a minimum of two hundred forty (240) months, to run consecutive with Count I. In addition, Defendant was ordered to pay $1,493.40 restitution and ordered to lifetime supervision upon

release from any term of probation, parole or imprisonment. On April 3, 2002, Defendant filed a notice of appeal. On September 23, 2003, the Nevada Supreme Court issued its remittitur, affirming Defendant's conviction. Defendant filed this instant Petition for Writ of Habeas Corpus (Post Conviction) on July 11, 2004.

ARGUMENT

I

DEFENDANT IS NOT ENTITLED TO THE APPOINTMENT OF AN ATTORNEY

In *Coleman v. Thompson*, 501 U.S. 722, 111 S.Ct. 2546 (1991), the United States Supreme Court ruled that under the Sixth Amendment of the United States Constitution, there is no right to effective assistance of counsel, or to counsel at all, in post-conviction proceedings. In *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996), the Nevada Supreme Court similarly observed that "[t]he Nevada Constitution also does not guarantee a right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to counsel provision as being coextensive with the Sixth Amendment to the United States Constitution." *Id.*

NRS 34.750 provides, in pertinent part:

> A petition may allege that the Defendant is unable to pay the costs of the proceedings or employ counsel. If the court is satisfied that the allegation of indigency is true and the petition is not dismissed summarily, the court may appoint counsel at the time the court order the filing of an answer and a return. In making its determination, the court may consider whether:
> (a) The issues are difficult;
> (b) The Defendant is unable to comprehend the proceedings; or
> (c) Counsel is necessary to proceed with discovery.

Id. (emphasis added).

Under NRS 34.750, it is clear that the court has discretion in determining whether or not to appoint counsel. *McKague*, *supra*, specifically held that with the exception of NRS 34.820(1)(a) [entitling appointed counsel when petition is under a sentence of death], one does not have ". . .any constitutional or statutory right to counsel at all. . ." in post-conviction proceedings. *Id.* at Nev. 164, P.2d 258.

Also, NRS 34.750 requires a threshold showing that a defendant's petition will not be summarily dismissed before he will be appointed counsel.

In *Peterson v. Warden*, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971), the Nevada Supreme Court observed that a defendant ". . . must show that the requested review is not frivolous before he may have an attorney appointed. . ." *Id.*, citing former statute NRS 177.345(2).

II
THE MOTION FOR EVIDENTIARY HEARING IS PREMATURE AS THE COURT HAS NOT YET DETERMINED THAT A HEARING IS REQUIRED PURSUANT TO NRS 34.770.

Defendant's motion seeking an evidentiary hearing is premature. Pursuant to NRS 34.770:

> 1. The judge or justice, upon review of the return, answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required. A petitioner must not be discharged or committed to the custody of a person other than the respondent unless an evidentiary hearing is held.
>
> 2. If the judge or justice determines that the petitioner is not entitled to relief and an evidentiary hearing is not required, he shall dismiss the petition without a hearing.
>
> 3. If the judge or justice determines that an evidentiary hearing is required, he shall grant the writ and set a date for the hearing.

Id.

The Court has not yet determined that an evidentiary hearing is required. Therefore, Defendant's motion is premature.

III
THE DEFENDANT HAS FAILED TO ESTABLISH THAT THE TRIAL JUDGE WAS BIASED

Defendant contends that Judge Bonaventure has a personal bias or prejudice against the defendant or in favor of the government and has moved for his recusal.

A judge is presumed not to be biased, and the burden is on the party asserting the challenge to establish sufficient factual grounds warranting disqualification. *Goldman v.*

Bryan, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988); Hogan v. State, 112 Nev. 553, 560, 916 P.2d 805 (1996). Moreover, the Supreme Court of Nevada has always accorded substantial weight to a judge's determination that he can fairly and impartially preside over a case. Sonner v. State, 112 Nev. 1328, 1335, 930 P.2d 707 (1996). Additionally, "rumor, speculation, belief, conclusions, innuendo, suspicion, opinion, and similar non-factual matters do not ordinarily satisfy the requirements for disqualification." Hogan, 112 Nev. at fn. 5(citing, United States v. Cooley, 1 F.3d 985, 993 (10th Cir. 1993)).

The Defendant has not established sufficient factual grounds warranting disqualification of the trial judge. The focus of Defendant's motion is that Judge Bonaventure is somehow complicit with Defendant's late filing of a Motion to Dismiss Counsel. It is the sole duty of Defendant to file motions with the District Court Clerk, not the judge's. The Defendant has not shown that the judge is personally biased against him. See Cameron v. State, 114 Nev. 1281, 968 P.2d 1169 (1998). Thus, he has not overcome the well established presumption that a judge is unbiased.

IV

DEFENDANT'S REMAINING CLAIMS ARE BARRED FROM CONSIDERATION BY THE LAW OF THE CASE AS THEY WERE PREVIOUSLY DECIDED ON DIRECT APPEAL

In Grounds a, b, c, d, f, i, j, and e of Defendant's petition he alleges misconduct by the State. Defendant raised these claims on direct appeal claiming that the trial court erred in not granting a mistrial. The Nevada Supreme Court affirmed Defendant's conviction finding that although some of the State's questioning on cross examination was improper, such questioning constituted harmless error. Defendant's claims are now barred by the doctrine of law of the case.

The law of the case theory mandates that "the law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same." Bejarano v. State, 106 Nev. 840, 841, 801 P.2d 1388, 1389 (1990); LoBue v. State, 92 Nev. 529, 532, 554 P.2d 258, 260 (1976). "[T]his doctrine cannot be avoided by more a detailed and precisely focused argument." Colwell v. State, 118 Nev. Adv. Op. No 80, 59 P.3d 463, 467

(2002). Defendant's claims are barred by the law of the case doctrine because they were previously decided on appeal. See *Hall v. State*, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975). Defendant is not entitled to relief.

In Grounds e and j of Defendant's petition, he claims that he was denied due process of law due to cumulative error and that his Fifth Amendment rights were violated. Defendant did not raise these claims on direct appeal, therefore they are now barred by NRS 34.810, which provides that the court shall dismiss a petition if:

> (b)The petitioner's conviction was the result of a trial and the grounds for the petition could have been:
>
> (1) Presented to the trial court;
>
> (2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or post-conviction relief; or
>
> (3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

NRS 34.810(1)(b); See also *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds by *Thomas v. State*, 115 Nev. 148, 979 P.2d 222 (1999). The Defendant has not shown good cause why he failed to previously present these grounds in his direct appeal, nor has he shown what prejudice he suffered. The Defendant's claims are waived and must be denied.

V

DEFENDANT DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Defendant claims that he received ineffective assistance of trial counsel in Grounds e and h of his petition. In order to assert a claim for ineffective assistance of counsel the defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of *Strickland v. Washington*, 466 U.S. 668, 686-687, 104 S.Ct. 2052, 2063-2064 (1984). See also *State v. Love*, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the Defendant must show first that his counsel's representation fell

below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. *Strickland*, 466 U.S. at 687-688 and 694, 104 S.Ct. at 2065 and 2068; *Warden, Nevada State Prison v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting *Strickland* two-part test in Nevada). "Effective counsel does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" *Jackson v. Warden, Nevada State Prison*, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975), quoting *McMann v. Richardson*, 397 U.S. 759, 771, 90 S.Ct. 1441, 1449 (1970).

In considering whether trial counsel has met this standard, the court should first determine whether counsel made a "sufficient inquiry into the information that is pertinent to his client's case." *Doleman v State*, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing *Strickland*, 466 U.S. at 690-691, 104 S.Ct. at 2066. Once such a reasonable inquiry has been made by counsel, the court should consider whether counsel made "a reasonable strategy decision on how to proceed with his client's case." *Doleman*, 112 Nev. at 846, 921 P.2d at 280, citing *Strickland*, 466 U.S. at 690-691, 104 S.Ct. at 2066. Finally, counsel's strategy decision is a "tactical" decision and will be "virtually unchallengeable absent extraordinary circumstances." *Doleman*, 112 Nev. at 846, 921 P.2d at 280; *Howard v. State*, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); *Strickland*, 466 U.S. at 691, 104 S.Ct. at 2066.

Based on the above law, the court begins with the presumption of effectiveness and then must determine whether or not defendant has demonstrated by "strong and convincing proof" that counsel was ineffective. *Homick v State*, 112 Nev. 304, 310, 913 P.2d 1280, 1285 (1996), citing *Lenz v. State*, 97 Nev. 65, 66, 624 P.2d 15, 16 (1981); *Davis v. State*, 107 Nev. 600, 602, 817 P.2d 1169, 1170 (1991). The role of a court in considering allegations of ineffective assistance of counsel is "not to pass upon the merits of the action not taken but to determine whether, under the particular facts and circumstances of the case, trial counsel failed to render reasonably effective assistance." *Donovan v. State*, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978), citing *Cooper v. Fitzharris*, 551 F.2d 1162, 1166 (9th Cir. 1977).

This analysis does not mean that the court "should second guess reasoned choices

between trial tactics nor does it mean that defense counsel, to protect himself against allegations of inadequacy, must make every conceivable motion no matter how remote the possibilities are of success." Donovan, 94 Nev. at 675, 584 P.2d at 711. In essence, the court must "judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Strickland, 466 U.S. at 690, 104 S.Ct. at 2066.

"There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way." Strickland, 466 U.S. at 689, 104 S.Ct. at 689. "Strategic choices made by counsel after thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066; See also Ford v. State, 105 Nev. 850, 784 P.2d 951 (1989).

Even if a defendant can demonstrate that his counsel's representation fell below an objective standard of reasonableness, he must still demonstrate prejudice and show a reasonable probability that, but for counsel's errors, the result of the trial would have been different. McNelton v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999), citing Strickland, 466 U.S. at 687. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id., citing Strickland, 466 U.S. at 687-89, 694. Based on the above law, Defendant's claims have no merit.

Defendant argues in Ground c that his trial attorney was ineffective for failing to: 1) object to an alleged ex-parte communication between the judge and the prosecutor regarding Defendant's incriminating statement made to police, and 2) object to the statements used to show cause as to why Defendant should not be granted bail. Defendant's counsel was not ineffective in not objecting, because any objection raised would have been futile. Defendant's allegation that there was an ex-parte communication is a bare allegation not entitling him to relief. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). If there was any communication between the prosecutor and the judge it was solely regarding the date the prosecutor received Defendant's statement from Metro, thus

Defendant was not prejudiced. Furthermore, the statement was Defendant's own confession voluntarily given after He received *Miranda* warnings, it was relevant and non hearsay. Defendant's counsel was not ineffective in not raising frivolous objections.

In Ground h Defendant raises several bare allegations that his counsel was ineffective in failing to: 1) move to suppress statements made by Defendant, 2) object to the statements use during bail proceedings and trial, 3) object to prosecutorial misconduct, 4) object to judicial misconduct, 5) move to disqualify the judge, 6) object to an "all white jury," 7) file a motion for a new trial based on newly discovered evidence, 8) properly investigate Defendant's case, 9) obtain an affidavit from juror number 5, 10) notify the Defendant of his intention to change his plea, 11) object to an untimely discovery request, 12) object to the use of spoliated evidence, 13) file any meritorious pre trial applications to the court, 14) interview police officers involved in taking Defendant's statement, 15) interview Defendant's witnesses, 16) request a jury instruction of insanity, 17) interview the state's witnesses, 18) only reviewing the district attorney's file, and 19) interview psychiatrists who diagnosed Defendant before the prosecution of this case.

Defendant's voluntary confession was admissible at trial, it was legally relevant and non hearsay offered as a statement against a party opponent [see NRS 51.035], and any objection would have been unsuccessful. Defendant's counsel was not ineffective in not raising an objection. Also, Defendant's counsel was not ineffective in not objecting to any alleged prosecutorial or judicial misconduct. The Nevada Supreme Court, when issuing its remittitur, held that although some of the prosecutor's questioning may have been inappropriate such questioning constituted harmless error, thus defendant has not shown prejudice under the second prong of Strickland, *supra*. Furthermore, there is no evidence that the trial judge was biased; Defendant's attorney would have been unsuccessful in moving for recusal of the trial judge.

Defendant alleges that his attorney was ineffective in failing to object to an all white jury and move for a new trial based on newly discovered evidence. Defendant is not entitled to a specific jury comprised of minorities; he is entitled to a jury pool that is representative

of a cross section of the community at large. See Taylor v. Louisiana, 419 U.S. 522, 95 S.Ct. 692 (1975); McCray v. New York, 461 U.S. 961, 103 S.Ct. 2438 (1983). Defendant's attorney could not have raised a proper objection on the issue of an all white jury, therefore he was not ineffective. Also, A motion for new trial based on newly discovered evidence will only be granted if the new evidence is probable to render a different result on retrial, See NRS 176.515; Hennie v. State, 114 Nev. 1285, 1289, 968 P.2d 761 (1998). Based on the overwhelming evidence of Defendant's guilt, his own confession as well as his sister's testimony, a motion for retrial would not have been granted, therefore, Defendant cannot prove he was prejudiced in any way. See Strickland, *supra*.

Allegations 8-19 are completely without merit. As mentioned in Dawson, *supra*, "[s]trategic choices made by counsel after thoroughly investigating the plausible options are almost unchallengeable." Id., 108 Nev. 112, 117, 825 P.2d 593, 596 (1992), citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. Here, the errors that Defendant alleges are strategic decisions made by his Attorney in an effort to defend Defendant after reviewing the evidence against him. Such decisions are virtually unchallengeable.

VI

DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF APPELLLATE COUNSEL

In Ground h of his petition, Defendant claims that he was denied effective assistance of appellate counsel. The United States Supreme Court has held that there is a constitutional right to effective assistance of counsel in a direct appeal from a judgment of conviction. Evitts v. Lucey, 469 U.S. 395, 397, 105 S.Ct. 830, 836 837 (1985); See also, Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). The federal courts have held that in order to claim ineffective assistance of appellate counsel the defendant must satisfy the two prong test set forth by Strickland, 466 U.S. at 687 688, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993); Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991).

Further, there is a strong presumption that counsel's performance was reasonable and

fell within "the wide range of reasonable professional assistance." See, United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065. The Nevada Supreme Court has held that all appeals must be "pursued in a manner meeting high standards of diligence, professionalism and competence." Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). Finally, in order to prove that appellate counsel's alleged error was prejudicial; the defendant must show that the omitted issue would have had a reasonable probability of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941 F.2d at 1132.

The defendant has the ultimate authority to make fundamental decisions regarding his case. Jones v. Barnes, 463 U.S. 745, 751, 103 S.Ct. 3308, 3312 (1983). However, the defendant does not have a constitutional right to "compel appointed counsel to press nonfrivolous points requested by the client, if counsel, as a matter of professional judgment, decides not to present those points." Id. In reaching this conclusion the Supreme Court has recognized the "importance of winnowing out weaker arguments on appeal and focusing on one central issue if possible, or at most on a few key issues." Id. at 751 752, 103 S.Ct. at 3313. In particular, a "brief that raises every colorable issue runs the risk of burying good arguments . . . in a verbal mound made up of strong and weak contentions." Id. 753, 103 S.Ct. at 3313. The Court also held that, "for judges to second guess reasonable professional judgments and impose on appointed counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314. Defendant's claims do not support his allegations of ineffective assistance of counsel.

Defendant's claims are merely bare allegations that are completely unsupported by any fact on the record. Hargrove, 100 Nev. 498, 686 P.2d 222. Defendant's bare allegations do not warrant the granting of a Writ of Habeas Corpus. Due to Defendant's failure to satisfy his burdens under Strickland, *supra*, his Petition for Writ of Habeas Corpus should be denied.

CONCLUSION

Based on the forgoing arguments of law and fact the State respectfully requests that Defendant's Petition for Writ of Habeas Corpus (Post Conviction) and his motions for appointment of counsel, evidentiary hearing, and recusal of judge be denied.

DATED this_____day of August, 2004.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY _____
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this _____ day of August, 2004, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

Renard T. Polk, #72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

BY M. Free
Secretary for the District Attorney's Office

RM/msf

ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

FILED
SEP 14 10 57 AM '04
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK,
#1521718
Defendant.

CASE NO: C166490
DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: 9/8/04
TIME OF HEARING: 8:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JOSEPH BONAVENTURE, District Judge, on the 8th day of September, 2004, the Petitioner not being present, in Proper Person, the Respondent being represented by DAVID ROGER, District Attorney, by and through CHERYL KOSEWICZ, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Renard Polk, Defendant, was charged by way of Amended Criminal Complaint with two counts of Sexual Assault with a Minor Under Fourteen (14) Years of Age and one count of Sexual Assault with a Minor Under Sixteen (16) Years

SS

of Age.

2. On April 25, 2000, defense counsel moved to have Defendant psychologically evaluated. As a result, the trial court directed counsel to have Defendant evaluated by a doctor. On June 27, 2000, defense counsel advised the court that he had a report that recommended Defendant be sent to Lakes Crossing. On August 1, 2000, pursuant to NRS 178.425, the trial court ordered Defendant remanded to the custody of the Administration of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for the detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.

3. On November 2, 2000, the State filed in open court an Order of Findings of Competency and Order to Transport Defendant. The court found Defendant competent and ordered Defendant to be transported.

4. The charges were amended on January 7, 2002, by way of interlineation to three counts of Sexual Assault With a Minor Under Fourteen (14) Years of Age (Felony – NRS 200.363, 200.366).

5. A Jury trial commenced on January 7, 2002. On January 9, 2002, defense counsel moved for a mistrial. The trial court denied defense counsel's motion for mistrial. On January 9, 2002, the jury found Defendant guilty of Attempted Sexual Assault With a Minor Under Fourteen and Sexual Assault With a Minor Under Fourteen.

6. A Judgment of Conviction was filed on April 2, 2002. The Defendant was sentenced to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months for Count I, Attempted Sexual Assault with a Minor under Fourteen. As for Count II, Sexual Assault with a Minor under Fourteen (14), Defendant was sentenced to life with a minimum of two hundred forty (240) months, to run consecutive with Count I. In addition, Defendant was ordered to pay $1,493.40 restitution and ordered to lifetime supervision upon

release from any term of probation, parole or imprisonment.

7. On April 3, 2002, Defendant filed a notice of appeal. On September 23, 2003, the Nevada Supreme Court issued its remittitur, affirming Defendant's conviction.

8. Defendant filed a Petition for Writ of Habeas Corpus (Post Conviction), and Motions for Appointment of Counsel, Evidentiary Hearing, and Recusal of Trial Judge on July 11, 2004.

9. The Court finds that Defendant is not entitled to the appointment of an attorney as his petition is being summarily dismissed.

10. Defendant is not entitled to an evidentiary hearing because the claims raised in his Petition do not entitle him to relief.

11. Defendant has failed to establish that the trial judge was biased, therefore recusal is not merited.

12. Defendant's claims of misconduct by the State (Grounds a, b, c, d, f, i, j, and e of his Petition) are barred from consideration by the doctrine of law of the case as these issues where previously decided on direct appeal.

13. Defendant received effective assistance of trial counsel.

14. Defendant received effective assistance of appellate counsel.

CONCLUSIONS OF LAW

1. In Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546 (1991), the United States Supreme Court ruled that under the Sixth Amendment of the United States Constitution, there is no right to effective assistance of counsel, or to counsel at all, in post-conviction proceedings. In McKague v. Warden, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996), the Nevada Supreme Court similarly observed that "[t]he Nevada Constitution also does not guarantee a right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to counsel provision as being coextensive with the Sixth

Amendment to the United States Constitution." Id. In Peterson v. Warden, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971), the Nevada Supreme Court observed that a defendant ". . . must show that the requested review is not frivolous before he may have an attorney appointed. . ." Id., citing former statute NRS 177.345(2).

2. The district court may appoint counsel to assist a defendant with a petition for post conviction habeas corpus if the petition is not summarily dismissed. NRS 34.750.

3. NRS 34.770 provides:

> 1. The judge or justice, upon review of the return, answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required. A petitioner must not be discharged or committed to the custody of a person other than the respondent unless an evidentiary hearing is held.
>
> 2. If the judge or justice determines that the petitioner is not entitled to relief and an evidentiary hearing is not required, he shall dismiss the petition without a hearing.
>
> 3. If the judge or justice determines that an evidentiary hearing is required, he shall grant the writ and set a date for the hearing.

4. A judge is presumed not to be biased, and the burden is on the party asserting the challenge to establish sufficient factual grounds warranting disqualification. Goldman v. Bryan, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988); Hogan v. State, 112 Nev. 553, 560, 916 P.2d 805 (1996). Moreover, the Supreme Court of Nevada has always accorded substantial weight to a judge's determination that he can fairly and impartially preside over a case. Sonner v. State, 112 Nev. 1328, 1335, 930 P.2d 707 (1996). Additionally, "rumor, speculation, belief, conclusions, innuendo, suspicion, opinion, and similar non-factual matters do not ordinarily satisfy the requirements for disqualification." Hogan, 112 Nev. at fn. 5(citing, United States v. Cooley, 1 F.3d 985, 993 (10th Cir. 1993)).

5. Where an issue has already been decided on the merits by the Nevada Supreme Court, the Court's ruling is law of the case, and the issue will not be revisited.

Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001); See McNelton v. State, 115 Nev. 396, 990 P.2d 1263, 1276 (1999); Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975); See also Valerio v. State, 112 Nev. 383, 386, 915 P.2d 874, 876 (1996); Hogan v. Warden, 109 Nev. 952, 860 P.2d 710 (1993). The law of a first appeal is the law of the case in all later appeals in which the facts are substantially the same; this doctrine cannot be avoided by more detailed and precisely focused argument. Hall, supra; see also McNelton, supra; Hogan, supra.

6. In order to assert a claim of ineffective assistance of counsel a defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984).

7. A defendant has a constitutional right to effective assistance of counsel in a direct appeal from a judgment of conviction. Evitts v. Lucey, 469 U.S. 395, 397, 105 S.Ct. 830, 836-837 (1985); See also, Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). In order to claim ineffective assistance of appellate counsel the defendant must satisfy the two-prong test set forth by Strickland, 466 U.S. at 687-688, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993); Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991). There is a strong presumption that counsel's performance was reasonable and fell within "the wide range of reasonable professional

assistance." See United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065. The Nevada Supreme Court has held that all appeals must be "pursued in a manner meeting high standards of diligence, professionalism and competence." Burke, 110 Nev. 1366, 1368, 887 P.2d 267, 268. In order to prove that appellate counsel's alleged error was prejudicial; the defendant must show that the omitted issue would have had a reasonable probability of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941 F.2d 1126, 1132.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, it is hereby:

ORDERED, ADJUDGED, and DECREED that Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motions for Appointment of Counsel, Evidentiary Hearing, and Recusal of Judge are denied.

DATED this 13th day of September, 2004.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

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District Court

Clark County, Nevada

RENARD TURMAN POLK,

Petitioner,

vs

THE STATE OF NEVADA,

Respondent.

Case No. C166490

Dept. No. VI

NOTICE OF ENTRY OF DECISION AND ORDER

PLEASE TAKE NOTICE that on September 14, 2004, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on September 16, 2004.

SHIRLEY B. PARRAGUIRRE, CLERK OF COURT

By: Norreta Caldwell

Norreta Caldwell, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on the 16 day of September, 2004, I placed a copy of this Notice of Entry of Decision and Order in:

The bin(s) located in the Office of the County Clerk of:
Clark County District Attorney's Office - Appellate Division
Attorney General's Office - Appellate Division

☐ The United States mail addressed as follows:

Renard Turman Polk 72439
PO Box 359
Lovelock, NV 89419

Norreta Caldwell

Norreta Caldwell, Deputy Clerk

Notice of Entry of Decision and Order/2-01/jh

S3

ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

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CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK, #1521718
Defendant.

CASE NO: C166490
DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: 9/8/04
TIME OF HEARING: 8:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JOSEPH BONAVENTURE, District Judge, on the 8th day of September, 2004, the Petitioner not being present, in Proper Person, the Respondent being represented by DAVID ROGER, District Attorney, by and through CHERYL KOSEWICZ, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

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of Age.

2. On April 25, 2000, defense counsel moved to have Defendant psychologically evaluated. As a result, the trial court directed counsel to have Defendant evaluated by a doctor. On June 27, 2000, defense counsel advised the court that he had a report that recommended Defendant be sent to Lakes Crossing. On August 1, 2000, pursuant to NRS 178.425, the trial court ordered Defendant remanded to the custody of the Administration of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for the detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.

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9. The Court finds that Defendant is not entitled to the appointment of an attorney as his petition is being summarily dismissed.

10. Defendant is not entitled to an evidentiary hearing because the claims raised in his Petition do not entitle him to relief.

11. Defendant has failed to establish that the trial judge was biased, therefore recusal is not merited.

12. Defendant's claims of misconduct by the State (Grounds a, b, c, d, f, i, j, and e of his Petition) are barred from consideration by the doctrine of law of the case as these issues where previously decided on direct appeal.

13. Defendant received effective assistance of trial counsel.

14. Defendant received effective assistance of appellate counsel.

CONCLUSIONS OF LAW

1. In Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546 (1991), the United States Supreme Court ruled that under the Sixth Amendment of the United States Constitution, there is no right to effective assistance of counsel, or to counsel at all, in post-conviction proceedings. In McKague v. Warden, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996), the Nevada Supreme Court similarly observed that "[t]he Nevada Constitution also does not guarantee a right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to counsel provision as being coextensive with the Sixth

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5. Where an issue has already been decided on the merits by the Nevada Supreme Court, the Court's ruling is law of the case, and the issue will not be revisited.

Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001); See McNelton v. State, 115 Nev. 396, 990 P.2d 1263, 1276 (1999); Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975); See also Valerio v. State, 112 Nev. 383, 386, 915 P.2d 874, 876 (1996); Hogan v. Warden, 109 Nev. 952, 860 P.2d 710 (1993). The law of a first appeal is the law of the case in all later appeals in which the facts are substantially the same; this doctrine cannot be avoided by more detailed and precisely focused argument. Hall, supra; see also McNelton, supra; Hogan, supra.

6. In order to assert a claim of ineffective assistance of counsel a defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984).

7. A defendant has a constitutional right to effective assistance of counsel in a direct appeal from a judgment of conviction. Evitts v. Lucey, 469 U.S. 395, 397, 105 S.Ct. 830, 836-837 (1985); See also, Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). In order to claim ineffective assistance of appellate counsel the defendant must satisfy the two-prong test set forth by Strickland, 466 U.S. at 687-688, 694, 104 S.Ct. at 2065, 2068; Williams v. Collins, 16 F.3d 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir. 1993); Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991). There is a strong presumption that counsel's performance was reasonable and fell within "the wide range of reasonable professional

assistance." See United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065. The Nevada Supreme Court has held that all appeals must be "pursued in a manner meeting high standards of diligence, professionalism and competence." Burke, 110 Nev. 1366, 1368, 887 P.2d 267, 268. In order to prove that appellate counsel's alleged error was prejudicial; the defendant must show that the omitted issue would have had a reasonable probability of success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941 F.2d 1126, 1132.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, it is hereby:

ORDERED, ADJUDGED, and DECREED that Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motions for Appointment of Counsel, Evidentiary Hearing, and Recusal of Judge are denied.

DATED this 13th day of September, 2004.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #002814

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Renard T. Polk #22129
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Petitioner In Pro Se

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Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

Renard T. Polk, Petitioner,	Case No. C166490
-vs-	Dept. No. VI
THE STATE OF NEVADA, Respondent.	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Petitioner, Renard T. Polk, in pro se, hereby appeals to the Nevada Supreme Court the Findings of Fact, Conclusions of Law and Order Denying/Dismissing petition for writ of habeas corpus, as filed/entered on the 13 day of September, 2004, in the above-entitled Court.

Dated this 5 day of October, 2004.

Renard T. Polk #22129
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Petitioner In Pro Se

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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff(s), vs. RENARD T. POLK, Defendant(s),	Case No: C166490 Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): RENARD T. POLK
2. Judge: JOSEPH T. BONAVENTURE
3. All Parties, District Court:

Plaintiff, THE STATE OF NEVADA

Defendant(s), RENARD T. POLK

4. All Parties, Appeal:

Appellant(s), RENARD T. POLK

Respondent, THE STATE OF NEVADA

5. Appellate Counsel:

Appellant/Proper Person
Renard T. Polk #72439
P.O. Box 359
Lovelock, NV 89419

Respondent
David Roger, District Attorney
200 S. 3rd St.
Las Vegas NV 89101
(702) 455-4711

S15

6. District Court Attorney, Retained

7. On Appeal, N/A

8. Forma Pauperis, N/A

9. Date Commenced in District Court: 04/12/00

Dated This 11 day of October 2004.

Shirley B. Parraguirre, Clark County Clerk

By: Robin J. Mills

Robin J. Mills, Deputy Clerk
200 South Third Street
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 455-4409

ORIGINAL

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JOCP
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

FILED
2005 FEB -9 A 11: 53
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK,
#1521718
Defendant.

Case No: C166490
Dept No: VI

AMENDED
JUDGMENT OF CONVICTION (JURY TRIAL)

The Defendant previously entered plea(s) of not guilty to the crime(s) of COUNT 1, 2 & 3 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony), in violation of NRS 200.364, 200.366, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crime(s) of COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony) and COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony); and thereafter on the 14th day of March, 2002, the Defendant was present in Court for sentencing with his counsel, CHRISTOPHER ORAM, ESQ., and good cause appearing therefor,

THE DEFENDANT HEREBY ADJUDGED guilty of the crime(s) as set forth in the jury's verdict and, in addition to the $25.00 Administrative Assessment Fee, $250.00 DNA Analysis Fee and $1,493.40 restitution, the Defendant is sentenced as to Count 1 – a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months in

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COUNTY CLERK

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the Nevada Department of Corrections. Defendant is sentenced to a special sentence of Lifetime Supervision is imposed to commence upon release from any term of probation, parole or imprisonment. Additionally, the Defendant is ordered to submit to a blood or saliva test to determine genetic status. Defendant is as to Count 2 – a maximum of Life in the Nevada Department of Corrections with a parole eligibility after a minimum of two hundred forty (240) months. Count 2 to run consecutively to Count 1. Credit for time served of (691) days.

DATED this 8th day of ~~January~~ February, 2005.

J Bonaventure

DISTRICT JUDGE

mmw/SVU

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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

FEB 25 10 36 AM '05

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 44087

District Court Case No. C166490

CLERK

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction."

Judgment, as quoted above, entered this 25th day of January, 2005.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 22nd day of February, 2005.

Janette M. Bloom, Supreme Court Clerk

By: _____
Chief Deputy Clerk

JUDGMENT ENTERE

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CB-02

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IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44087

FILED

JAN 25 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT THE JUDGMENT OF CONVICTION

This is a proper person appeal from an order of the district court denying appellant Renard Polk's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On April 1, 2002, the district court convicted Polk, pursuant to a jury verdict, of one count each of sexual assault on a minor under fourteen and attempted sexual assault on a minor under fourteen. The district court sentenced Polk to serve a term of life in the Nevada State Prison with the possibility of parole after 240 months for count I, and a consecutive term of 48 to 120 months for count II. This court affirmed

05-01548

Polk's judgment of conviction and sentence on appeal.[1] The remittitur issued on September 19, 2003.

On July 1, 2004, Polk filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Polk or to conduct an evidentiary hearing. On September 14, 2004, the district court denied Polk's petition. This appeal followed.

In his petition, Polk raised numerous claims of ineffective assistance of trial counsel.[2] To state a claim of ineffective assistance of trial counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance fell below an objective

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[1]Polk v. State, Docket No. 39457 (Order of Affirmance with Limited Remand for Correction of Judgment of Conviction, August 25, 2003). The matter was remanded to the district court for a correction of Polk's judgment of conviction, which inaccurately reflected that he pleaded guilty.

[2]To the extent that Polk raised any of the following issues independently from his ineffective assistance of counsel claims, we conclude that they should have been raised on direct appeal and are therefore waived. See Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

standard of reasonableness.[3] A petitioner must further establish a reasonable probability that, in the absence of counsel's errors, the results of the proceedings would have been different.[4] The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.[5]

First, Polk contended that his trial counsel was ineffective for failing to object to errors that occurred at a hearing conducted on Polk's motion for own recognizance release. Specifically, Polk claimed that the State had impermissible ex parte contact with the district court. Polk further alleged that the district court improperly relied on a statement Polk gave police in denying his motion. We conclude that these claims are without merit. Polk failed to adequately demonstrate the existence of an impermissible ex parte communication. Further, he did not establish that the district court inappropriately relied on his voluntary statement to the police in denying his motion. Therefore, Polk failed to demonstrate that his trial counsel acted unreasonably in failing to object to these alleged errors. Additionally, Polk failed to articulate how his counsel's performance prejudiced the outcome of his trial. As such, the district court did not err in denying these claims.

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[3]See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

[4]Id.

[5]Strickland, 466 U.S. at 697.

Second, Polk argued that his trial counsel was ineffective for failing to move to suppress Polk's statement to police. A review of the record reveals that Polk called the Las Vegas Metropolitan Police Department to surrender because he believed there was an active warrant for his arrest. Polk received his Miranda[6] warning and was interviewed by Detective Timothy Moniot. During the interview, Polk admitted to sexually assaulting his sisters.

Polk failed to demonstrate that he is entitled to relief on this claim. Polk did not articulate a reasonable ground on which his statement should have been suppressed; his argument that Detective Moniot threatened him is not convincing. Therefore, Polk did not demonstrate that a motion to suppress his statement to police would have been successful, and he failed to establish that his counsel was ineffective in this regard.

Third, Polk contended that his trial counsel was ineffective for failing to move to disqualify the district court judge. Polk argued that the district court judge refused to file proper person documents that Polk submitted, and instead sent them to his trial counsel. We conclude that this claim is without merit. The clerk of the court acted appropriately in forwarding the motions to Polk's trial counsel without filing them.[7]

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[6]See Miranda v. Arizona, 384 U.S. 436 (1966).

[7]See EDCR 3.70 ("[A]ll motions . . . delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be

continued on next page . . .

Further, to the extent that any of the proper person motions dealt with Polk's unhappiness with his trial counsel, the record reveals that the district court addressed Polk's numerous complaints about his trial counsel's performance. Polk did not demonstrate that his counsel acted unreasonably in failing to move to disqualify the district court judge, and we therefore affirm the order of the district court.

Fourth, Polk claimed that his trial counsel was ineffective for failing to object to the composition of the jury, which he alleged contained only white jurors.[8] However, Polk did not have the "right to a 'petit jury composed in whole or in part of persons of his own race.'"[9] Further, Polk did not allege, and there is nothing in the record to suggest, that the State exercised its peremptory challenges on the basis of race.[10] Therefore, Polk did not demonstrate that his trial counsel acted unreasonably in failing to object to the composition of the jury, and the district court did not err in denying this claim.

. . . continued

marked with the date received and a copy forwarded to that attorney for such consideration as counsel deems appropriate").

[8]We note that nothing in the record before this court supports Polk's statement regarding the racial composition of the jury.

[9]Batson v. Kentucky, 476 U.S. 79, 85 (1986) (quoting Strauder v. West Virginia, 100 U.S. 303, 305 (1880)); see also Holland v. Illinois, 493 U.S. 474, 483 (1990).

[10]See Batson, 476 U.S. 79.

Fifth, Polk argued that his trial counsel was ineffective for failing to cross-examine Detective Moniot and Officer David Newton about the existence of an active warrant for Polk's arrest. Moniot and Newton testified that at the time Polk called police to surrender, there was not a warrant for his arrest; Polk alleged that this testimony was false. However, Polk failed to articulate how this issue affected the outcome of his trial. Consequently, he did not establish that he was prejudiced by his counsel's allegedly deficient performance, and we affirm the order of the district court.

Sixth, Polk claimed that his trial counsel was ineffective for failing to pursue an insanity defense. The record reveals that at his arraignment, Polk entered a plea of not guilty. Subsequently, trial counsel informed the district court that he intended to investigate a possible insanity defense. Polk was evaluated by psychologist Dr. John Paglini, who concluded, "there is no justification for an insanity defense." Consequently, Polk did not change his plea and a not guilty by reason of insanity defense was not presented at trial.[11]

We conclude that Polk is not entitled to relief on this claim. Polk did not demonstrate that he was in a delusional state such that he could not know or understand the nature of his act, or that his delusion

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[11]We note that Polk did testify during trial that he had mental problems and was "not right in the head."

prevented him from appreciating the wrongfulness of his conduct.[12] Thus, Polk did not establish that he was prejudiced by his counsel's failure to pursue an insanity defense. Further, Polk did not adequately demonstrate that his trial counsel abandoned an insanity defense in contravention of his wishes.[13] As such, Polk failed to establish that his trial counsel was ineffective in this regard.[14]

Seventh, Polk argued that his trial counsel was ineffective for failing to: (1) object to instances of prosecutorial misconduct, (2) object to instances of judicial misconduct, (3) file a motion for a new trial based on newly discovered evidence, (4) properly investigate his case, (5) obtain an affidavit from juror five, (6) object to an untimely discovery request, (7) object to the use of spoliated evidence, (8) file any meritorious pre-trial motions, and (9) interview police officers. However, Polk failed to support any of these claims with specific facts, or articulate how his counsel was

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[12]See Finger v. State, 117 Nev. 548, 576, 27 P.3d 66, 84-85 (2001).

[13]See Johnson v. State, 117 Nev. 153, 17 P.3d 1008 (2001) (holding that a defendant has the right to make certain fundamental decisions regarding the objectives of representation, such as whether to present a defense of not guilty by reason of insanity).

[14]Polk additionally alleged that his trial counsel was ineffective for failing to request jury instructions concerning insanity. However, as discussed above, Polk failed to demonstrate that he was prejudiced by this deficiency. See Finger, 117 Nev. at 576, 27 P.3d at 84-85.

deficient with respect to these issues.[15] As such, he is not entitled to relief on these claims.

Next, Polk raised several claims of ineffective assistance of appellate counsel. To establish ineffective assistance of appellate counsel, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness, and the deficient performance prejudiced the defense.[16] "To establish prejudice based on the deficient assistance of appellate counsel, the defendant must show that the omitted issue would have a reasonable probability of success on appeal."[17] Appellate counsel is not required to raise every non-frivolous issue on appeal.[18]

First, Polk contended that his trial counsel was ineffective for failing to appeal the alleged violation of his right to a speedy trial. The Sixth Amendment to the United States Constitution provides the right to a speedy trial.[19] In determining whether a defendant's right to a speedy

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[15]See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

[16]See Strickland, 466 U.S. 668; Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

[17]Kirksey, 112 Nev. at 998, 923 P.2d at 1114.

[18]Jones v. Barnes, 463 U.S. 745, 751 (1983).

[19]See Adams v. Sheriff, 91 Nev. 575, 575 n.1, 540 P.2d 118, 119 n.1 (1975) (citing Klopfer v. North Carolina, 386 U.S. 213 (1967); McGee v. Sheriff, 86 Nev. 421, 423, 470 P.2d 132, 133 (1970) (citing Klopfer).

trial has been violated, this court must examine four factors: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of his right; and (4) prejudice to the defendant.[20]

In the instant case, a period of nearly two years elapsed between Polk's arrest and his trial. However, the majority of this delay cannot be attributed to the State. Further, Polk did not assert his right to a speedy trial, and failed to demonstrate that he was prejudiced by this delay. Therefore, Polk did not establish that a speedy trial claim had a reasonable likelihood of success on appeal, and we affirm the order of the district court with respect to this claim.

Second, Polk claimed that his appellate counsel was ineffective for failing to argue that his double jeopardy rights were violated. Specifically, Polk alleged that he was previously punished in juvenile court for the instant offenses. However, Polk failed to demonstrate that he was previously punished for the instant offenses in juvenile court. Polk's argument that juvenile court documents were forged is unpersuasive. Accordingly, Polk failed to demonstrate that his counsel was ineffective in this regard.

Third, Polk alleged that his appellate counsel was ineffective for failing to communicate with him and for failing to investigate claims that had been preserved before trial. Polk failed to support either of these

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[20]Barker v. Wingo, 407 U.S. 514, 530 (1972); State v. Fain, 105 Nev. 567, 568-69, 779 P.2d 965, 966 (1989).

claims with specific facts or articulate how his appellate counsel's performance was deficient.[21] Therefore, the district court did not err in denying Polk relief.

Finally, Polk contended that: (1) he was denied the right to an impartial tribunal, (2) he was never certified as an adult, (3) the State committed misconduct with respect to his confession to police, and (4) State mental health experts failed to provide competent psychiatric exams. However, these claims are outside the scope of a post-conviction petition for a writ of habeas corpus.[22] We therefore affirm the district court's denial of these claims.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Polk is not entitled to relief and that briefing and oral argument are unwarranted.[23] However, our review of the judgment of conviction reveals an error. Although this court previously remanded the matter to the district court for a correction of Polk's judgment of conviction, it appears that his judgment of conviction was never corrected. Polk's judgment of conviction states that he was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. We therefore conclude that this matter should

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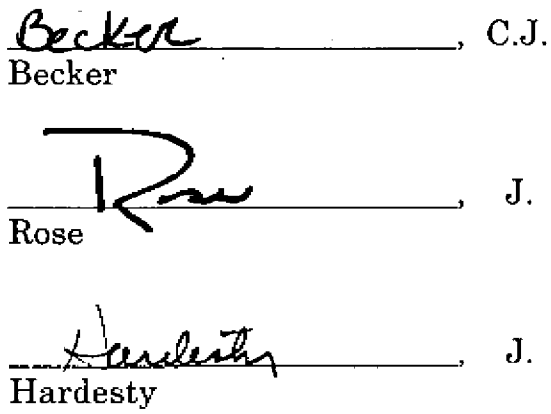
[21]See Hargrove, 100 Nev. at 502, 686 P.2d at 225.

[22]See NRS 34.810(1)(b)(2).

[23]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

be remanded to the district court for a correction of the error. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.[24]



_____, C.J.
Becker

_____, J.
Rose

_____, J.
Hardesty

cc: Hon. Joseph T. Bonaventure, District Judge
Renard Truman Polk
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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[24]We have reviewed all documents that Polk has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that Polk has attempted to present claims or facts in those submissions that were not previously presented in the proceedings below, we have declined to consider them in the first instance.

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 44087

District Court Case No. C166490

REMITTITUR

TO: Shirley Parraguirre, Clark County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: February 22, 2005

Janette M. Bloom, Clerk of Court

By: J. Rivas
Chief Deputy Clerk

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Renard Truman Polk

RECEIPT FOR REMITTITUR

Received of Janette M. Bloom, Clerk of the Supreme Court of the State of Nevada, the REMITTITUR issued in the above-entitled cause, on 2-24-05.

DEPUTY NORRETA CALDWELL
County Clerk

05-02163

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RENARD T. POLK #72439
L.C.C. P.O. Box 359
Lovelock, Nevada 89419
Movant/Petitioner In Pro-Se

FILED
DEC 7 2 28 PM '07
CLERK OF THE COURT

Eigth Judicial District Court In
And For The County of Clark
* * * *

RENARD TRUMAN POLK
~Movant/Petitioner~

~vs~

The State of Nevada et al.;
~Respondent~

Case No. 00-C-166470-C
17

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MC1

Motion to Vacate, Set Aside or Correct
Illegal Sentence or Judgment.
Consolidated Writ of Error

Date of Hearing:
Time of Hearing:

RECEIVED
DEC 07 2007
CLERK OF THE COURT

RECEIVED
DEC 06 2007
CLERK OF THE COURT

Comes, now the movant/petitioner herein after RENARD TRUMAN POLK, reffered to as "POLK" and hereby files this Motion/Petition consolidated as a Writ of Error pursuant to N.R.S. 176.555 and 34.724 as well as Estrada v. Ahrens 296 F.2d 690 challenging the amended judgment of conviction

SIS

entered on 8 / 16 / '06, as well as the, judgment and order on 9 / 14 / '84, denying the post-conviction writ of habeas corpus.

Requesting the lower district trial tribunal to either 1.) dismiss the post-conviction petition writ of habeas corpus with leave to amend 2.) grant an evidentiary on the post-conviction petition writ of habeas corpus 3.) discharge Polk 4.) grant a new trial 5.) issue the writ post-conviction.

This Motion/Petition is made and based upon all papers pleading documents and orders on file herein.

This Motion/Petition is further based upon the facts, points and authorities incorperated herein.

Dated this 02th day of Dec. 2007

/s/ Rd Polk

Respectfully Submitted
Renard Truman Polk

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Procedural History

On July 25, 2001 the petitioner/movant, Polk, filed a Pretrial Writ of Habeas Corpus and/or Motion to Dismiss Complaint on the following grounds challenging the legality of Polk's detention: 1.) The juvenille court did not properly certify Polk for adult court proceedings; 2.) the (11) eleven month delay in filing charges prejudiced Polk's right to a fair trial; 3.) the cumulative effect of the errors committed by the State prejudiced Polk's right to a fair trial; 4.) Polk is being punished twice for the same offense; 5.) Polk statement was illegaly obtained.

Polk further requested an evidentiary hearing be allocated in order to develop the facts surrounding Polk's contention.

On August 8, 2001 the trial court denied the petition for pre-trial writ and motion to dismiss.

On December 18, 2001 Polk filed an original jurisdiction writ of habeas corpus docket number: 38941 again citing, inter alia, the above specified violations, allegations and facts.

On January 23, 2002 the Nevada Supreme Court denied the petition stating: "the petitioner was not entitled to relief."

En Banc Reconsideration was denied on April 3, 2002

Polk was convicted on January 10, 2002 after a jury trial.

On September 11, 2002 Polk through appellate counsel filed his direct appeal opening brief.

On December 6, 2002 Polk submitted a Motion to 1.) Compel Specific Performance; 2.) Release Pending Appeal and 3) Judicial Notice when Polk was made aware that appellate counsel was excluding the previously stated claims, inter alia, from the opening brief.

On April 1, 2003 the motion was not filed nor a stamp of reciept appropriated thereto as directed in the order by judge "Maupin" premised on the fact Polk was "represented by counsel."

On August 25, 2003 the Nevada Supreme Court filed its opinion affirming the petitioner/Movants conviction with limited remand to correct an error which reflected that Polk plead guilty when in fact a trial was had.

On July 1, 2004 Polk filed a proper person petition (post-conviction) writ of habeas corpus as well as, an affidavit of complaint, affidavit in support of the petition, motion for an evidentiary hearing memorandum of exhibits, and memorandum of points arguments and authorities.

Again Polk citied, inter alia, the claims previously

stated in the pre-trial writ and/or Motion to Dismiss.

The trial court denied the post-conviction petition, after an order to show cause was issued, without a hearing or making Polk to appear or having the D.A. serve process on Polk or no waiver and appearance showing on the record, finding and concluding the claims presented were barred by "law of the Case Doctrine," as the claims were decided on direct appeal.

A timely notice of appeal was filed on September 21, 2004.

After the denial of the post-conviction writ on September 14, 2004.

On January 25, 2005 the Nevada Supreme Court Sua Sponte decided the appeal concluding the issues presented, previously stated, were procedurally barred pursuant to N.R.S. 34.810(b)(2) as the claims were not presented on direct appeal.

The remittitur was issued February 22, 2005.

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Statement or Assignment of Errors

A.) Jurisdictional Defects or Errors

I.) Personal Jurisdiction

The trial court erred in finding and concluding that Polk waived his personal appearance and that fair notice and opportunity to be heard was given.

II.) Subject-Matter Jurisdiction

i.) the trial court erred in finding and concluding the Nevada Legislature limited its exclusive fact finding jurisdiction.

ii.) the trial court erred in finding and concluding the movant/petitioner was estopped from asserting federal constitutional rights.

iii.) the trial court erred in finding and concluding a valid waiver existed.

B.) Errors of Fact.

i.) The trial court erred in finding that:

a.) The petition was naked or bare

b.) The allegations asserted were belied or repelled by the record.

c.) The claims were not presented in a prior petition.

d.) The claims were presented on direct appeal.

e.) The claims were not presented on direct

appeal

f.) trial counsel made timely objections for consideration of claims on direct appeal.

g.) petitioner/movant waived his presence of a hearing on the post-conviction petition writ of habeas corpus.

h.) that detective Moniot did not threaten Polk into signing Miranda waiver.

i.) that Polk was prosecuted previously for same offense in juvenille court.

j.) that prosecution did not intentionaly delay in filing charges.

K.) that a certification proceeding was had before Polk was brought before adult magistrate.

l.) that prosecutor gave notice of intent to use said statement.

M.) that counsel filed meritorious pre-trial motions

o.) that the Nevada Legislature limited the trial courts exclusive fact finding jurisdiction.

C.) Error of Law

I.) The trial court erred in concluding that:

a.) the movant/petitioner was procedurally barred.

b.) the claims were barred by law of the case.

c.) the charges should not be dismissed

d.) the petitioner/movant is not entitled

to an evidentiary hearing.
e.) the movant/petitioner is not entitled to a new trial.
f.) the facts are not in dispute
g.) the writ should not issue
h.) the movant/petitioner has not shown the requisite cause to overcome the procedural bar.
i.) the movant/petitioner has not shown the requisite prejudice warranting reversal.
j.) trial counsel rendered effective assistance
K.) appellate counsel rendered effective assistance.
l.) personal appearance can be waived.
M.) the trial court's fact finding jurisdiction can be limited to law.
n.) the trial court can act beyond the scope of it's remedial jurisdiction.

Authority to The Instant Motion/Petition.

The court has authority to hear the forthcoming Motion/Petition pursuant to N.R.S. 176.555 and 34.724: the appropriate vehicle for challenging a facialy illegal sentence at any time under statute or rule of the court is by Motion to vacate, set-aside or correct. Edwards v. State 918 P.2d 321; In Re Marriage of Baltins 212 C. Ca. 3d 66 and Wilson v. Huckle 724 P.2d 1069.

Furthermore, an: order or judgment may be set-aside in habeas proceedings where such an order is void for want, lack, loss or unauthorized exercise of jurisdiction. People v. Brown 9 N.E. 327

(A) Jurisdictional Defects.

I) Personal Jurisdiction

The judgment entered on 9/14/04 pursuant to the post-conviction writ of habeas corpus is void because the petitioner was never made to appear and no service or process appearing on the record and substantial or material issues of fact having been resolved, without a hearing.

In the absence of an appropriate service or a general appearance jurisdiction is not acquired. Kiebel v. City of San Diego 169 Cal. Rptr. 342

II.) Subject-Matter Jurisdiction

i.) The judgment of this court is void because waivers cannot be confered by implication. No waiver having been shown or appearing on the record.

Fay v. Noia 83 S.Ct. 822

ii.) The judgment of this court is void because estoppel cannot be confered on a court. Jurisdiction of subject-matter cannot be confered on a court by or based on the estoppel of a party to deny it exists. Leonard v. Board of Directors 730 P.2d 1290, Wheller v. Moore 38 P. 1053

iii.) The judgment of this court is void because the trial court has exsclusive or plenary jurisdiction of facts and cannot be limited to law.

Law of the case doctrine is only concerned with law and only binding to the subject-matter and/or parties.

Habeas Corpus proceedings are fact specific.

The trial court cannot limit its subject-matter jurisdiction to law when the legislature or Nevada Constitution has made no allowances. In Re Harkness Estate 204 P.911, In Re Cate 273 P.617

(B.) Errors of Fact or Materialy False Assumptions

I.) The movant/petitioner was made to appear or service having been given, and a hearing allocated.

II.) The movant/petitioner did not attempt to raise the claims in the post-conviction petition writ of habeas corpus on direct appeal.

III.) The movant/petitioner did not raise the instant claims in said petition in a prior petition previous to trial before the Nevada Supreme Court and the lower court.

IV.) The movant/petitioner waived his presence at a hearing on the post-conviction writ of habeas corpus.

V.) The movant/petitioner waived the claims in the post-conviction writ of habeas corpus on direct appeal.

VI.) appellate counsel presented claims on direct appeal.

VII.) trial counsel made timely objections for consideration on direct appeal.

VIII.) The movant/petitioner plead guilty.

(C.) Errors of Law or Mistake of Law.

I.) Procedural Bar.

Under the independent and adequate state grounds doctrine a state law ground is independent if application of the bar does not depend on an antecedent ruling on a federal question(s). Bennett v. Muller (9th. Cir. 2003) 322 F.3d.

The doctrine rests on the principles of comity

and federalism.

The movant/petitioner asserts that the application of N.R.S. 34.810(b)(2) and law of the Case is niether independent of a federal question in the following ways:

i.) In the context of waivers the bar is not independent because [ ] a state courts finding of a waiver is a federal question Rice v. Olsen 324 U.S. 786

Furthermore waivers cannot be confered on a court by implication.

ii.) In the context of evidentiary hearings when facts are: a.) in dispute b.) not belied or repelled by the recording c.) outside of the trial court record or d.) material testimony is needed an evidentiary hearing is required, as a protected state liberty interest.

iii.) In the context of applying law of the case the doctrine is exclusively concerned with law not facts.

This court cannot limit its exclusive or original jurisdiction to hear facts to law. see Avail v. Ryder Systems Inc 110 F.3d 892

All of which constitute cause for excusing the procedural impediments.

II.) Prejudice warranting reversal.

i.) prejudice is presumed if a conviction

is the result of an illegaly obtained confession or incriminating statement warranting a new trial or dismissal of the charges.

ii.) prejudice is presumed if the delay is over (1) year, used to gain a tactical advantage or used to circumvent or by pass juveniile justice proceedings.

iii.) as for the remaining independent claims as to the post-conviction writ of habeas corpus all are structural errors; California v. Roy 507 U.S. 619; which require reversal or dismissal of the charges, except the Ineffective Assistance of Counsel Claims. Conde v. Henry (9th. Cir. 1999) 198 F.3d 734 @ 740-41

(C.) Extreme Detriment or Interests of Justice

As a result of the trial courts action(s) the movant/petitioner asserts said action(s) of the court have worked to his extreme detriment in the following ways.

i.) convicted upon an unconstitutionaly unreliable statement.

ii.) being punished twice for same offense

iii.) unconstitutionaly waived his right to due process.

iv.) unconstitutionaly suspended the availability of the issuance of a writ.
v.) having said charges disposed of or dispositioned in the juvenille court.
vi.) dehors the record.
vii.) being restrained of personal liberty without due process.

Requested Relief.

Wherefore the movant/petitioner request that the order(s) entered on 8/16/'06 and on 9/14/'04 be vacated, set-asid or corrected for the express purpose of 1.) allowing the movant/petitioner leave to amend the post-conviction writ of habeas corpus 2.) grant an evidentiary hearing 3.) discharging the movant/petitioner 4.) granting a new trial 5.) issuing the writ.

Dated this 2nd day of Dec 200?

/S/ Rd Polk

Respectfully Submitted
Renard T. Polk #72439
L.C.C. P.O. Box 359

Verification

I Rd Polk do hereby certify under the penalty of perjury pursuant to the Nevada Revised Statutes that the forthcoming Motion to Vacate, Correct or Set Aside an Illegal Sentence or Judgment consolidated Writ of Error is true, accurate and correct to the best of my knowledge.

Dated this 2nd day of Dec 2007.

Certificate of Service by Mail

I Rd Polk do hereby certify that a true, accurate and correct copy was deposited in the institution mailing process with the purpose of being conveyed by mail in the U.S. Postal Service this instant Motion/Petition to the following addresses.

· Clerk's Office	· Nevada Att. Gen	· Warden
Clark County	100 North Carson St.	L.C.C. Po. Box 359
200 South Third St.	Carson City, NV 89701	Lovelock, Nevada 89419
Las Vegas, NV 89101		

/s/ Rd Polk
REYNARD T. POLK #72459
L.C.C. P.O. Box 359
Lovelock, Nevada 89419

E-FILE LITE
ORIGINAL

Electronically Filed
12/17/2007 09:24:01 AM

CLERK OF THE COURT

OPPS
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
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- RENARD T. POLK, #1521718 Defendant.	CASE NO: C166490 DEPT NO: XVII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO VACATE, SET-ASIDE OR CORRECT ILLEGAL SENTENCE OR JUDGMENT/ CONSOLIDATED WRIT OF ERROR

DATE OF HEARING: DECEMBER 18, 2007
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Vacate, Set-Aside or Correct Illegal Sentence or Judgment/Consolidated Writ of Error.

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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

Renard Polk (hereinafter "Defendant") was charged by way of Amended Criminal Complain with two counts of Sexual Assault with a Minor Under Fourteen (14) Years of Age and one count of Sexual Assault with a Minor Under Sixteen (16) Years of Age. On April 25, 2000, defense counsel moved to have Defendant psychologically evaluated. As a result, the trial court directed counsel to have Defendant evaluated by a doctor. On June 27, 2000, defense counsel advised the court that he had a report that recommended Defendant be sent to Lake Crossing. On August 1, 2000, pursuant to NRS 178.425, the trial court ordered Defendant remanded to the custody of the Administration of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for the detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.

On November 2, 2000, the court found Defendant competent and ordered Defendant to be transported. The State filed an Order of Findings of Competency and Order to Transport Defendant in open court.

The charges were amended on January 7, 2002, by way of interlineations to three counts of Sexual Assault with a Minor Under Fourteen (14) Years of Age (Felony – NRS 200.363, 200.366). A jury trial commenced on January 7, 2002. On January 9, 2002, defense counsel moved for a mistrial. The trial court denied defense counsel's motion for mistrial. On January 9, 2002, the jury found Defendant guilty of Attempted Sexual Assault with a Minor Under Fourteen and Sexual Assault With a Minor Under Fourteen.

On March 14, 2002, Defendant was sentenced to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months for Count 1 – Attempted Sexual Assault with a Minor Under Fourteen. As to Count 2 – Sexual Assault with a Minor Under Fourteen (14), Defendant was sentenced to Life imprisonment with a minimum of two hundred forty (240) months, to run consecutive with Count 1. In addition, Defendant was ordered to pay $1493.40 restitution and ordered to lifetime supervision upon release from

any term of probation, parole or imprisonment. The Judgment of Conviction was filed on April 2, 2002.

On April 3, 2002, Defendant filed a Notice of Appeal. The Nevada Supreme Court affirmed Defendant's conviction, and remanded for the limited purpose of correcting the Judgment of Conviction to reflect that Defendant was convicted pursuant to a jury trial and not a guilty plea. (See Order of Affirmance with Limited Remand for Correction of Judgment of Conviction, case number SC39457, filed August 25, 2003). The Remittitur was issued on September 23, 2003.

Defendant filed a Petition for Writ of Habeas Corpus (Post Conviction) on July 1, 2004. In addition, Defendant filed an Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing. The State responded on August 31, 2004. The district court issued its Findings of Fact and Conclusions of Law on September 14, 2004, denying Defendant's post conviction petition and motion for appointment of counsel and request for evidentiary hearing. Defendant filed a Notice of Appeal on October 8, 2004. The Nevada Supreme Court affirmed the district court's denial of Defendant's petition and remanded for the limited purpose of correcting the Judgment of Conviction to reflect Defendant's conviction by jury and not a guilty plea. (See Order of Affirmance with Limited Remand for Correction of Judgment of Conviction, case number SC44087, filed January 25, 2005). The Remittitur was issued on February 24, 2005. An Amended Judgment of Conviction (Jury Trial) was filed in response to the Nevada Supreme Court's Order on February 9, 2005.

Defendant's instant motion was filed on December 7, 2007. The State responds as follows.

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ARGUMENT

I. DEFENDANT'S SENTENCE IS NOT FACIALLY ILLEGAL.

A motion to correct an illegal sentence looks only to see if the sentence is illegal upon its face. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). The Court in Edwards further explained:

> A motion to correct an illegal sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at any time; such a motion cannot be used as a vehicle for challenging the validity of a judgment of conviction or sentence based on alleged errors occurring at trial or sentencing. Issues concerning the validity of a conviction or sentence, except in certain cases, must be raised in habeas proceedings.

Edwards, 112 Nev. at 707, 918 P.2d at 324. An "illegal sentence" is one which is at variance with the controlling sentencing statute, or "illegal" in a sense that the court goes beyond its authority by acting without jurisdiction or imposing a sentence in excess of the statutory maximum provided. Id., (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985) (quoting Prince v. United States, 432 A.2d. 720, 721 (D.C. 1981); Robinson v. United States, 454 A.2d 810, 813 (D.C. 1982)). The Court in Edwards clearly established that a motion to correct an illegal sentence can only be used to attack a sentence that is facially illegal, and not to attack alleged errors at trial or sentencing. In the present case Defendant has failed to make the requisite showing that his sentence is facially illegal, therefore, his motion should be denied.

In 2002, Defendant was found guilty of Count 1 – Attempt Sexual Assault with a Minor Under Fourteen, and one count of Sexual Assault with a Minor Under Fourteen in violation of NRS 200.364, 200.366, and 193.330. Defendant was subsequently sentenced in Count 1 to a maximum of one hundred twenty (120) months and a minimum of forty-eight (48) months, and a consecutive sentence of Life with a minimum of two hundred forty (240) months in Count 2. The statutes under which Defendant was found guilty reads as follows:

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NRS 200.366(3) reads in pertinent part:

> 3. A person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:
>
> .....
>
> (c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison **for life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served.**

Id. (emphasis added).

NRS 193.330(a) provides, in relevant part:

> 1. An act done with the intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. A person who attempts to commit a crime, unless a different penalty is prescribed by statute, shall be punished as follows:
>
> (a) If the person is convicted of:
>
> (1) Attempt to commit a category A felony, for a category B felony by imprisonment in the state prison for **a minimum term of not less than 2 years and a maximum term of not more than 20 years.**

Id. (emphasis added). Defendant was lawfully sentenced within the parameters of the foregoing statutes. Therefore, Defendant's sentence is not facially illegal, and Defendant's contention is not a valid reason to correct an illegal sentence pursuant to Edwards and his motion should be dismissed.

II. DEFENDANT'S MOTION FOR REHEARING IS NOT PROPERLY BEFORE THIS COURT.

To the extent that Defendant moves for reconsideration of this Court's denial of his post-conviction petition, Defendant's motion is not properly before this Court as Defendant has failed to obtain the approval of the Court to file the instant motion pursuant to Rule 2.24(a) of the Eighth Judicial District Court Rules, which reads:

> (a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, **unless by leave of the court** granted upon motion therefor, after notice of such motion to the adverse parties.

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Id. (emphasis added). Defendant's instant claims were already denied by this Court on September 14, 2004. (See Findings of Fact and Conclusions of Law, filed September 14, 2004). Defendant has not moved for, nor received leave from this Court to have this instant motion heard. Accordingly, Defendant's motion should be dismissed.

> Moreover, Defendant's motion should be denied as untimely under EJDCT 2.24(b):
> (b) A party seeking reconsideration of a ruling of the court, other than any order which may be addressed by motion pursuant to NRCP 50(b), 52(b), 59 or 60, must file a motion for such relief **within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order**. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the 30-day period for filing a notice of appeal from a final order or judgment.

Id. (emphasis added). As Defendant's motion was filed well in excess of ten (10) days of this Court's ruling of September 14, 2004, Defendant's motion is untimely and should therefore, be dismissed.

CONCLUSION

Based on the above arguments, the State respectfully requests this Court DENY Defendant's Motion to Vacate, Set-Aside or Correct Illegal Sentence or Judgment/Consolidated Writ of Error.

DATED this 17th day of December, 2007.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY /s/ MARY KAY HOLTHUS
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing, was made this 17th day of December, 2007, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RENARD POLK, BAC#72439
LOVELOCK CORRECTIONAL CENTER
P.O. BOX 359
LOVELOCK, NV 89419

/s/ HOWARD CONRAD
Secretary for the District Attorney's Office

hjc/SVU

ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
NELL KEENAN
Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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CLERK OF THE COURT

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD T. POLK,
#1521718
Defendant.

Case No. C166490
Dept No. XVII

ORDER DENYING DEFENDANT'S MOTION TO VACATE, SET-ASIDE, OR CORRECT ILLEGAL SENTENCE OR JUDGMENT/ CONSOLIDATED WRIT OF ERROR

DATE OF HEARING: DECEMBER 18, 2007
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 18TH day of December, 2007, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by DAVID ROGER, District Attorney, through NELL KEENAN, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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IT IS HEREBY ORDERED that the DEFENDANT'S MOTION TO VACATE, SET-ASIDE, OR CORRECT ILLEGAL SENTENCE OR JUDGMENT/CONSOLIDATED WRIT OF ERROR, shall be, and is DENIED.

DATED this 28 day of December, 2007.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

NELL KEENAN
Deputy District Attorney
Nevada Bar #008822

hjc/SVU

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RENARD T. Polk #72439
L.C.C. P.O. Box 359
Lovelock, Nevada 89419
Pro-se sui juris

FILED
JAN 18 11 06 AM '08
CLERK OF THE COURT

In The Eigth Judicial District Court
of the State of Nevada
In and for the County of Clark

The State of Nevada -Plaintiff-	C166490 case no. ~~C166490~~ 17
vs	
RENARD TRUMAN POLK -Defendant-	

NOTICE OF APPEAL

Notice is hereby given that RENARD T. POLK in pro-se sui juris, defendant above-named hereby appeals to the Supreme Court of Nevada from the order entered on December 31 2006 DENYING the Motion to vacate, set-aside or correct illegal sentence or judgment Consolidated Writ of Error

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JAN 18 2008
CLERK OF THE COURT

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In Pro-se sui juris /s/ Rd Polk
RENARD T. Polk #72439

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2008 JAN 22 1 A 11: 33

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff(s), vs. RENARD T. POLK, Defendant(s),	Case No: C166490 Dept No: XVII

CASE APPEAL STATEMENT

1. Appellant(s): RENARD T. POLK
2. Judge: MICHAEL VILLANI
3. All Parties, District Court:

Plaintiff, THE STATE OF NEVADA

Defendant(s), RENARD T. POLK

4. All Parties, Appeal:

Appellant(s), RENARD T. POLK

Respondent, THE STATE OF NEVADA

5. Appellate Counsel:

Appellant/Proper Person
Renard T. Polk #72439
P.O. Box 359
Lovelock, NV 89419

Respondent
David Roger, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101
(702) 671-2700

6. District Court Attorney, Appointed

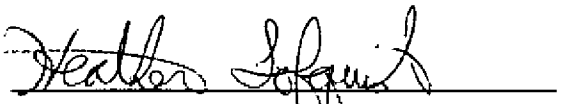
7. On Appeal, N/A

8. Forma Pauperis, N/A

9. Date Commenced in District Court: April 12, 2000

Dated This 22 day of January 2008.

Charles J. Short, Clerk of the Court

By: 

Heather Lofquist, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

FILED

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CLERK OF THE COURT

RENARD T. POLK #72439
L.C.C. P.O. Box 359
Lovelock, Nevada 89419
In Pro-Se sui juris

In The Eigth Judicial Diotrict Court of the State of Nevada In and For Clark County

The State of Nevada ~Plaintiff~	C166490 Case No: 00C164900 XVII
VS: RENARD TRUMAN POLK ~Defendant~	

CASE APPEAL Statement

1.) RENARD TRUMAN POLK is filing this case appeal statement.
2.) Judge Micheal P Villani issued the order from which the appeal is taken.
3.) The parties to the proceedings in the district court are.
a.) Nevada Legislator
b.) Nevada Supreme Court
c.) Eigth Judicial Diotrict Court, Clark County
d.) The State of Nevada

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CLERK OF THE COURT

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e.) District Attorney's Office, namely
Mary K. Holthus
f.) Clark County clerk's office.

4.) The parties involved in this appeal are Appellant / Defendant: BENARD T. POLK In Pro-Se; Appellee / Plaintiff: The State of Nevada represented by David Roger, District Attorney, through Nell Keenan.

5.) BENARD TRUMAN POLK
L.C.C. P.O. Box 359
Lovelock Nevada 89419
In Pro-Se sui juris
Attorney for Defendant

District Att. Office
Nell Keenan
Nevada Bar #002261
200 Lewis Ave
Las Vegas NV 89155
(702) 671-2500
Attorney for Plaintiff

6.) The appellant was not represented by counsel in the district court.

7.) The appellant is not represented by counsel on the appeal.

8.) The district court on granted the appellant leave to proceed In Forma Pauperis.

9.) The petition/motion was commenced and filed on December 7, 2007.

///.

Dated this 1st day of Feb 2008

/s/ Benard Polk

ouijuris BENARD T. POLK
L.C.C. Po. Box 359
Lovelock, Nevada 89419

///

///

///

No. C 166490

FILED

Dept No. XVII

FEB 7 2 44 PM '08

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

THE STATE OF NEVADA Plaintiff, vs. RENARD T. POLK, #83135 Defendant.	Case No. C 166490 Dept. No. 17

CERTIFICATE OF MAILING

I certify that service of the foregoing [redacted] was made this 1st day of Feb., 2008 by depositing copies of the same for mailing at Lovelock, Nevada, first class mail, postage prepaid, addressed to:

Case Appeal Statement

David Roger, Esq.
Clark County District Attorney
Regional Justice Center
200 Lewis Ave.
P.O. Box 552212
Las Vegas, Nevada 89155-2212

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

By: w/out waiving Rd Polk In Pro Se
RENARD T. POLK
Sui juris

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FEB 7 2008
CLERK OF THE COURT

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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 50949
2008 SEP 12 A 9:00

District Court Case No. C166490

CLERK OF THE COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 9th day of June, 2008.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "Rehearing denied."

Judgment, as quoted above, entered this 12th day of August, 2008.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 9th day of September, 2008.

Tracie Lindeman, Supreme Court Clerk

By: A. Ingersoll
Deputy Clerk

RECEIVED
SEP 11 2008
CLERK OF THE COURT

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50949

FILED

AUG 12 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. Michael Villani, District Judge
Renard Truman Polk
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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SEP 11 2008

CLERK OF THE COURT

08-20809

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50949

FILED

JUN 09 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

On April 1, 2002, the district court convicted appellant Renard Truman Polk, pursuant to a jury verdict, of one count of attempted sexual assault with a minor under 14 years of age and one count of sexual assault with a minor under 14 years of age. The district court sentenced appellant to serve in the Nevada State Prison a term of 48 to 120 months for the attempted sexual assault count and a consecutive term of life in prison with the possibility of parole after 240 months for the sexual assault count. This court affirmed appellant's judgment of conviction and sentence.[1] The remittitur issued on September 19, 2003.

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[1]Polk v State, Docket No. 39457 (Order of Affirmance with Limited Remand for Correction of Judgment of Conviction, August 25, 2003). The matter was remanded to the district court for a correction of Polk's

continued on next page . . .

08-14497

On July 1, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On September 14, 2004, the district court denied appellant's petition. On appeal, this court affirmed the district court's denial of appellant's petition.[2]

On December 7, 2007, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On December 31, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended as follows: that errors in the prior trial and habeas proceedings deprived the district court of personal jurisdiction and subject matter jurisdiction over him, that the district erred by denying the claims in his habeas petition, that he was convicted without presentment of a grand jury indictment, that he was not before a fair and impartial tribunal, that he did not have meaningful access to the courts, that his conviction violated double jeopardy, that he was not properly certified as an adult for the proceedings, that refusal to

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. . . continued

judgment of conviction, which inaccurately reflected that he pleaded guilty.

[2]Polk v. State, Docket No. 44087 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, January 25, 2005). The matter was again remanded to the district court for a correction of Polk's judgment of conviction, as the correction had not been made pursuant to the previous order.

allow filing of proper person documents by a party represented by counsel violates his U.S. Constitutional rights, and that ex-parte decisions on post-conviction writs violate the U.S. Constitution.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.[3] "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence.'"[4]

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal.[5] Further, there is nothing in the record indicating that the district court was without jurisdiction to impose a sentence in this case. The claims that appellant raised fell outside of the scope of claims permissible in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

---

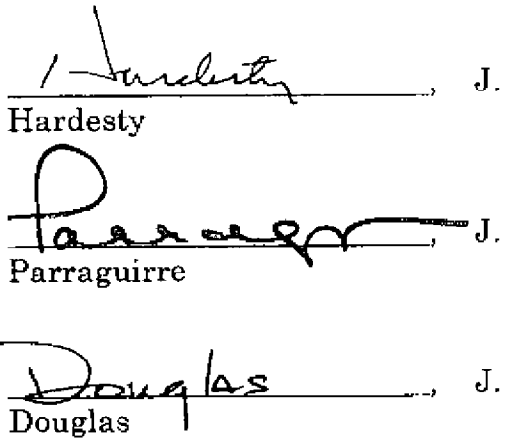
[3]Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

[4]Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

[5]See NRS 200.364, 1999 Nev. Stat., ch. 105, § 23, at 431-432 (codified as NRS 200.366).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[6] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[7]



_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. Michael Villani, District Judge
Renard Truman Polk
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

---

[6]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[7]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant,
vs
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 50949

District Court Case No. C166490

REMITTITUR

TO: Charles J. Short, Clark District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: September 9, 2008

Tracie Lindeman, Clerk of Court

By: H. Ingersoll
Deputy Clerk

cc (without enclosures):
Hon. Michael Villani, District Judge
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Renard Truman Polk

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the REMITTITUR issued in the above-entitled cause, on SEP 11 2008.

BRANDI J. WENDEL
Deputy District Court Clerk

08-21179

PIFF RENARD Polk # 72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
RENARD Polk In Pro Se

FILED
JAN 20 2010
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

Renard T. Polk, ~Plaintiff~,

-vs-

Douglas County, Carson City, Clark County, City of Las Vegas, Pershing County, Lake Township ~Defendant(s)~

Civ. Case No: C 166490
Crim. Case No: 00C166490C
Dept. No: 3
Docket No:

APPLICATION TO PROCEED IN FORMA PAUPERIS

COMES NOW Plaintiff, RENARD T. Polk, in pro se, and moves the Court for an order granting him leave to proceed in the above-entitled action without paying the costs and/or security of proceeding herein.

This motion is made and based upon NRS 12.015 and the attached affidavit and certificate of inmate's institutional account.

Dated this 8th day of January, 2010.

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CLERK OF THE COURT

RENARD Polk #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Rd Polk In Pro Se

RECEIVED
JAN 20 2010
CLERK OF THE COURT

RECEIVED
JAN 14 2009
COUNTY CLERK

Affidavit In Support of Application
To Proceed In Forma Pauperis

STATE OF NEVADA)
) ss:
COUNTY OF PERSHING)

COMES NOW, RENARD T. Polk, who first being duly sworn and on my own oath, do hereby depose and state the following in support of my foregoing motion:

(1) Because of my poverty I am unable to pay the costs of the proceedings in the foregoing action or to give security therefore; I am entitled to relief. This application is made in good faith.

(2) I swear that the responses below are true and correct and to the best of my knowledge, information and belief:

(a) I ___ am ✓ am not presently employed. I currently earn salary or wages per month in the following amount at Lovelock Correctional Center OR, if I am not presently employed, the date of my last employment and the amount of salary or wages I earned per month were as follows: _____.

(b) I have NOT received any money from any of the following sources within the past 12 months: business, profession, self-employment, rent payments, pensions, interests or dividends, annuities, insurance payments, gifts or inheritances. Money, if any, placed on my prison account from sources such as family or friends, is in the amount as indicated on the attached Certificate of Inmate's Institutional Account, which reflects the total amount of money on my prison account.

(c) I do NOT own any real estate, stocks, bonds, notes, automobiles or other valuable property, and I do not have any money in a checking account.

(d) I ___ do ✓ do not have persons dependent upon me for support. The persons I support, if any, are as follows, with my relationship to them and the amount of my contribution towards their support being as follows: _____.

(3) I swear under penalty of perjury that the above is true and correct and to the best of my personal knowledge, and that the foregoing is rendered without notary per NRS 208.165.

Dated this 8th day of January, 2010.

RENARD Polk #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

R. Polk In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS does *not* contain the social security number of any person.

Dated this 8th day of January, 2010.

REYARD Polk #72239
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

In Pro Se

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

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REWARD Polk #72439
Lovelock Correctional Center
1200 Prison Rd
Lovelock, Nevada 89419

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0004215355 JAN 12 2010
MAILED FROM ZIP CODE 89419

Clerk Office
Regional Justice Center
200 Lewis Ave
Las Vegas Nevada 89155

INMATE LEGAL
MAIL CONFIDENTIAL

LEGAL MAIL

89155-8450

Case No. 00C164490C criminal

Dept. No. 3

Docket No. _____ civil

FILED
JAN 20 2010
CLERK OF COURT

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

Renard T. Polk,
- Plaintiff -,

-vs-

Douglas County, Carson City, Clark County, City of Las Vegas, Pershing County, Lake Township exrel.
- Defendant(s) -

CERTIFICATE OF INMATE'S INSTITUTIONAL ACCOUNT

I, the undersigned, do certify that Renard T. Polk, NDOC # 72439, above-named, has a balance of $-1,419 on account to his credit in the prisoners' personal property fund for his use at Lovelock Correctional Center, in Pershing County.

I further certify that said prisoner owes departmental charges in the amount of $-1,419 and that the solitary security to his credit is a savings account established pursuant to NRS 209.247(5) with a balance of $ 6.11 which is inaccessible to him.

Dated this 8th day of January, 2010.

Accounting Technician
Inmate Services Division
Nevada Department of Corrections

Submitted by: January 1 2010 # 72439, on 1/1/10

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JAN 21 2010
CLERK OF THE COURT

Renard T. Polk # 72435
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada

Petitioner In Pro Se

FILED
JAN 20 2010
CLERK OF COURT

Las Vegas
Clark County, Nevada

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

* * * * *

2/2/10

RENARD Polk, Petitioner, -vs- Jack Palmer et al., Respondents.	Case No. 00C166490C Civil Case No: B **MOTION TO EXTEND PRISON COPYWORK LIMIT**

COMES NOW, Petitioner, Renard T. Polk, in pro se, and submits his Motion to Extend Prison Copywork Limit, moving the Court to order the Nevada Department of Corrections ("NDOC") to extend his copywork limit for the narrow purposes of the instant habeas corpus proceedings.

This motion is based upon NDOC Administrative Regulation ("AR") 722; all papers and documents on file herein; and the following points and authorities.

32

MC

POINTS AND AUTHORITIES

Petitioner is an indigent prisoner, as demonstrated by the Motion for Leave to Proceed In Forma Pauperis on record herein. NDOC AR 722.12(4) allows Petitioner to accrue a $100.00 debt against his account towards legal copywork which, once reached, prohibits him from accumulating any further indebtedness for

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JAN 20 2010
CLERK OF THE COURT

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JAN 19 2010
CLERK OF THE COURT

such copywork. "Exceptions to this rule would be a court order received directly from the courts..." Id. The AR therefore gives this Court authority to issue an order allowing Petitioner to exceed his copywork limit.

Petitioner has reached or exceeded the $100.00 limit of AR 722.12. As such, NDOC has prohibited him at this time from receiving any further legal copywork in the instant proceeding unless the Court issues an order allowing him to do so.

Petitioner's grounds have merit. As such, he is entitled to relief in the instant habeas proceedings; however, he requires copywork services in order to litigate his instant petition. In addition to his originals of all pleadings, motions and other documents in this case, he will need copies to serve upon Respondents per FRCP 5, LR 5-1 and LR 7-2. Additionally, he will require a copy of same for his own records. See e.g. Gluth v. Kangas 951 F.2d 1504, 1510 (9th Cir. 1991)(a reasonable amount of copywork for prisoners is found in that required to file, serve opponents and maintain copy for inmate's records).

Petitioner does not herein seek a blanket order for unlimited copywork, but seeks only a reasonable allowance of copywork for documents relevant to the instant proceeding, including, but not limited to, supplemented/amended pleadings, motions, responses, replies, notices, etc. Id.

As Petitioner's liberty is at the heart of these proceedings, he should be provided an extension of his copywork limitation in order to render him reasonably capable of fairly litigating this habeas action.

CONCLUSION

For the reasons set forth above, the Court should direct the NDOC to extend Petitioner's copywork limitations towards the allowance of receiving copies of documents pertinent to the instant habeas proceedings.

Dated this 8th day of January, 2010.

Renard Polk #[illegible]
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing to the below address on this 8th day of January, 2010, by placing same in the hands of prison law library staff for posting in the U.S. Mail:

Attorney For Respondents

Renard T. Polk

Petitioner In Pro Se

RENARD Polk #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419

INMATE LEGAL
MAIL CONFIDENTIAL

LEGAL MAIL

8915534500

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0004215355 JAN 14 2010
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Clerk's Office
Regional Justice Center
200 Lewis Ave
Las Vegas, NV 89155

1526

MAILED
JAN 14 2010
Lovelock Correctional Center

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JAN 13 2010
LCC Law Library

Case No. C166490

Dept. No. III

FILED
JAN 27 2010
CLERK OF COURT

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

RENARD T. POLK, Petitioner, -vs- Jack Palmer et. al, Respondent(s).	MOTION FOR JUDICIAL ACTION ON PETITION

Petitioner, RENARD T. POLK, in pro se, submits his Motion for Judicial Action on Petition, moving the Court to take action on the pending Petition for Writ of Mandamus on file herein. This motion is based upon all papers and pleadings on file herein; NRS 34.170; and the following points and authorities.

POINTS AND AUTHORITIES

The Petition for Writ of Mandamus ("Petition") was filed on May 17th, 2006 - some 33 months ago. However, the Court has yet to have taken any action thereon as contemplated by the mandamus provisions of NRS Chapter 34, which declare that mandamus lies "where there is not a plain, speedy and adequate remedy in the ordinary course of law." NRS 34.170. Mandamus necessitates an element of speed, Child v. Lomax, 124 Nev. 57,

188 P.3d 1103, 1106-07 (2008), as it exists to "afford an expeditious and effective means" of obtaining relief, Ex parte Republic of Peru, 318 U.S. 578, 63 S.Ct. 793, 796 (1943). Indeed, mandamus lies to "expite the official business of state officials in the discharge of their duties." Wichita Eagle Beacon Co. v. Owens, 27 P.3d 881, 882 (Kan. 2001).

"Justice delayed is justice denied." Dougan v. Gustavenson, 108 Nev. 517, 835 P.2d 795, 799 (1992). As such, the Court is moved to expeditiously take action as necessary towards the commencement and ultimate adjudication of the instant Petition, including, but not limited to, an ordering of Respondent(s) to file and serve an answer or other response thereto.

CONCLUSION

Pursuant to the above, the Court should promptly take judicial action on the pending Petition.

Dated this 18th day of January, 2010.

RENARD T. POLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing MOTION FOR JUDICIAL ACTION ON PETITION to the below address(es) on this 22th day of January, 2010 by placing same in the U.S. Mail via prison law library staff:

U.S. Attorney's office
333 Las Vegas Blvd #5000
Las Vegas, Nevada 89101

Nev. Att. Gen. Office
100 North Carson St
Carson City, Nevada 89701

Clerk's Office
Regional Justice Center
200 Lewis Ave
Las Vegas Nevada 89155

Rd Polk
RENARD POLK #72239
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding does *not* contain the social security number of any person.

Dated this 18th day of January, 2010.

Rd Polk
RENARD POLK

Petitioner In Pro Se

PGR
RENARD T DOLK #72439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

FILED
JAN 27 2010
CLERK OF COURT

IN THE DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

RENARD T. DOLK, Petitioner,	Case No. C0C166490C
-vs-	Dept. No. 3
JACK PALMER, et al., Respondent.	Date of Hearing:
	Time of Hearing:

Supplemental **PETITION FOR WRIT OF HABEAS CORPUS**
(Post-Conviction Relief - NRS 34.735 Petition: Form)

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

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JAN 27 2010
CLERK OF THE COURT

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Lovelock Correctional Center, Pershing County, Nevada.

2. Name and location of court which entered the judgment of conviction under attack: Eighth Judicial District Court In and for the County of Clark

3. Date of judgment of conviction: January 9 2002

4. Case number: 00C166490C (and/or)

5. (a) Length of sentence: (20) years to life consecutive with a term of (4) to (6) years.

(b) If sentence is death, state any date upon which execution is scheduled: N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ___ No ✓

If "yes," list crime, case number and sentence being served at this time: N/A

7. Nature of offense involved in conviction being challenged: N/A

N/A

8. What was your plea? (check one)

(a) Not guilty ✓
(b) Guilty ___
(c) Guilty but mentally ill ___
(d) Nolo contendere ___

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: N/A

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury ✓ (b) Judge without a jury ___

11. Did you testify at the trial? Yes ___ No ✓

12. Did you appeal from the judgment of conviction?

Yes ✓ No ___

13. If you did appeal, answer the following:
(a) Name of court: Nev. Sup. Court.
(b) Case number or citation: ___
(c) Result: Dismissed
(d) Date of result: August 25, 2003
(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:
N/A

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ✓ No ___

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: Federal District Court

(2) Nature of proceeding: Civil Complaint

(3) Grounds raised: all grounds raised in pretrial writ of habeas corpus (i.e. double jeopardy, illegally obtained statement inter alia,)

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ///

(5) Result: Voluntary Dismissal

(6) Date of result: December 21, 2001

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: Young v Harris

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: Pre-trial Writ of Habeas

(2) Nature of proceeding: Eighth Judicial District Court State of Nevada Clark County

(3) Grounds raised: inter alia, illegally obtained statement, double jeopardy, failure to certify as an adult ect,

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ///

(5) Result: Denied

(6) Date of result: August 8, 2001

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach. Motion for New Trial (and/or) Post-Conviction Writ of Habeas.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion?
Yes ___ No ///

Citation or date of decision: N/A

(2) Second petition, application or motion?
Yes /// No ___

Citation or date of decision: January 23, 2002

(3) Third or subsequent petitions, applications or motions? Yes /// No ___

Citation or date of decision: N/A

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
Pre-trial proceedings makes no allowance for appeal. In effective assistance of counsel (and/or) appellate counsel. The proceedings are still unfinalized.

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: None

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
N/A

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)(1.) Newly discovered information evidence (and/or) the argument was previously unavailable (2.) Fraudulent conveyances (3.) Deceptive Practices.

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)
No

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ___ No ////

If yes, state what court and the case number: N/A

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Nancy Lemke (Initial Arraignment) Christopher Oram (trial) David Shreke (Appellate proceedings)

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes ___ No ////

If yes, specify where and when it is to be served, if you know: N/A

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: The petitioner's sentence and conviction are invalid whereas the eighth judicial district court tentatively issued a post-conviction writ on July 1, 2004 allocating a

Supporting FACTS (Tell your story briefly without citing cases or law.): (ground one cont...) hearing on September 4, 2004 then having concluded the petitioner waived his presence (of) that counsel was duly appointed resolved material issues of fact [ex-parte] in relation to the allegations in the petition in violation of both substantive and procedural due process violative of the 5th, 6th and 14th Amendment to the U.S. Constitution) as well as repugnant or contrary to the same.

(b) Ground two: The petitioners conviction is invalid whereas the trial court lacked jurisdiction to proceed to trial and accept the petitioners plea in that on April 11 2000

Supporting FACTS (Tell your story briefly without citing cases or law.): (ground two cont...) the petitioner has/had never waived) his right to grand jury (or) preliminary examination. However during the course of proceedings it was decided that the petitioner would be foregoing his right to grand jury indictment upon an acceptance of a plea of guilty in the district court. On the date of the acceptance the petitioner declined the agreement and the case was to be remanded or proceed

in the justice court. Nonetheless the case proceeded to trial, in absence of jurisdiction in the district court in violation of both substantive and procedural due process violative of the 6th and 14th amendment to the U.S. constitution as well as repugnant and contrary to the same.

(c) Ground three: The petitioner's sentence and conviction are invalid whereas the district attorney (Mary Hotthus) annexed, signed, transfixed (or) affixed the petitioner's signature to

Supporting FACTS (Tell your story briefly without citing cases or law.): (ground three cont...) document which has/had the force and effect of "waiving" and "obtaining an unjust conviction." However in truth and in fact the petitioner has signed no such document (or) plead guilty. All of which is in violation of the 1-14th Amendment to U.S. Constitution as well as repugnant and contrary to the same.

(d) Ground four: The petitioner's sentence is invalid whereas the trial court imposed sentence while the direct appeal was pending (or) under consideration after the

Supporting FACTS (Tell your story briefly without citing cases or law.): (ground four cont...) notice of appeal was submitted (and) before the remittitur issued the district court having been divested of subject matter jurisdiction in violation of both substantive and procedural due process violative of the 1-14 Amendment to the U.S. Constitution and Articles 1-6 as well as repugnant or contrary to the same.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at Lovelock Correctional Center on the 7th day of the month of 22th of the year 2010.

Renard Polk #72429
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

RENARD Polk #32439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE BY MAIL

I, RENARD Polk, hereby certify, pursuant to N.R.C.P. 5(b), that on this 22nd day of the month of January of the year 2010, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Jack Palmer, Warden
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada

Catherine Cortez Masto
Nevada Attorney General
100 No. Carson Street
Carson City, Nevada 89701-4717

David Roger
Clark County District Attorney
P.O. Box 552211
Las Vegas, Nevada 89155-2211

RENARD Polk #32439
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

RENARD T. POLK #72439
1200 Prison Rd
Lovelock Correctional Center
Lovelock, Nevada 89419

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MAILED FROM ZIP CODE 89419

Clerk's Office
Regional Justice Center
200 Lewis Ave #
Las Vegas, Nevada 89155

INMATE LEGAL
MAIL CONFIDENTIAL

LEGAL MAIL

8915584500

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
6

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

C166490 STATE OF NEVADA vs. RENARD T. POLK

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

I N D E X

1 THE COURT: Thank you.
2
3 CROSS EXAMINATION
4
5 Q. (By Mr. Oram) you okay?
6 A. Yes.
7 Q. I'm going to ask you some questions, can we do
8 that?
9 A. Uh-huh.
10 Q. Think you're okay to do that?
11 A. Yes.
12 Q. If you need a break just let the judge no, okay?
13 A. Uh-huh.
14 Q. I want to ask you a few questions about some of
15 the things you described today, okay?
16 A. Okay.
17 Q. The first thing I want to ask you about is If I
18 understand you correctly, the night that this is reported, some
19 time you said in February or March, you overheard conversation
20 when the door was shut between?
21 A. Jahala and Anna.
22 Q. And you were hearing Anna describe to Jahala
23 something that happened to her that was very bad, is that
24 right?
25 A. Yes.

1 Q. And that must have been very upsetting to you,
2 wasn't it?
3 A. Yes.
4 Q. Something you'd never forget, right?
5 A. Yes.
6 Q. And that was the first time that you knew that
7 something had happened to Anna that was bad in this regard, is
8 that right?
9 A. Yes.
10 Q. Up until the time you heard it at the door, you
11 didn't know anything bad had happened to Anna, did you?
12 A. No. I just thought she was crying.
13 Q. And that's something you'll never forget, isn't
14 that right?
15 A. Yes.
16 Q. And that's true, isn't it?
17 A. Yes.
18 Q. And Miss Holthus asked you if you had ever seen
19 anything happen to Anna, and you told us no, but you heard that
20 incident, right?
21 A. Yes.
22 Q. Do you have your statement in front?
23 A. No.
24 Q. I have your statement here and I'm going to ask
25 you first if you remember telling the police -- strike that.

1 You didn't tell the police in that statement that
2 you had overheard a conversation outside the door, did you?
3 A. No.
4 Q. You forgot to tell the police that thing that you
5 heard that was so horrible? Had you just forgotten?
6 A. I told them what happened that night --
7 Q. Listen to my question.
8 When you failed to tell them on the tape-recorded
9 statement about the conversation you heard, did you just forget
10 or had you told them previously and they didn't put it in
11 there?
12 A. I told them before they even asked me any more
13 questions.
14 Q. Isn't it true what you told the police is that
15 you, on that day, witnessed Renard Polk on top of your sister
16 and you watched him urinate in her? Isn't that what you said?
17 A. No.
18 Q. That's your name, isn't it?
19 A. Uh-huh.
20 Q. Is that a "yes"?
21 A. Yes.
22 Q. Now, if you could read to yourself from page two,
23 the middle of page two, where it says -- just read the whole
24 page.
25 A. I read the statement.

1 Q. I want to go through that statement with you. Do
2 you need a copy to look at?
3 A. No.
4 Q. The police asked you, "Did you ever see him,"
5 speaking about Renard Polk, "ever see him do anything to either
6 one of your sisters?" And you indicate that you had seen him
7 grab her and, your words, "ate her out." Do you remember
8 saying that, yes or no?
9 A. No.
10 Q. You don't remember saying that?
11 A. No.
12 Q. Are you disputing -- you've had a chance to read
13 this statement, right?
14 A. Uh-huh.
15 Q. Is that a "yes"?
16 A. Yes.
17 Q. You don't dispute this is the statement you gave,
18 correct?
19 A. I don't remember saying that.
20 Q. You do?
21 A. I don't remember saying that.
22 Q. If you -- you would agree with me -- strike that.
23 You told us today that when you heard this
24 incident where Anna is upset, that that was very traumatic to
25 you, correct?

1 A. Uh-huh.
2 Q. Is that a "yes"?
3 A. Yes.
4 Q. And, obviously, if you had seen your sister, using
5 your words being "eaten out," that would also be terribly
6 upsetting to you, something you wouldn't forget, right?
7 A. Uh-huh.
8 Q. Is that a "yes"?
9 A. Yes.
10 Q. But you're telling us today that you forgot that
11 you ever made that statement?
12 A. I don't remember saying that that night.
13 Q. Well, let me ask it this way. Did that ever
14 happen?
15 A. I can't remember. It was on Perry Street, I was
16 only a little girl.
17 Q. Then you tell the police, they ask you, this is
18 Anna, and you indicate it is. And they ask you what had
19 happened just before they arrived. And you even say it was on
20 a Friday, the 12th of the month, the 12th of March? And you
21 say yeah, do you remember saying that?
22 A. Uh-huh.
23 THE COURT: Jamila, we say that for a reason. See
24 that young man, he takes down everything said. So every
25 sometime you say "uh-huh" it doesn't mean anything, so you have

1 to say yes or no. Don't get mad at the lawyers. I need you to
2 say yes or no, do you understand that?
3 THE WITNESS: It's a habit.
4 THE COURT: I know it, but how many times do I
5 have to tell you? Could you break the habit right now, or if
6 you can't if he says "yes," don't get mad at him, all right?
7 THE WITNESS: Uh-huh -- yes.
8 Q. (By Mr. Oram) they asked you what you saw on
9 March 12, -- strike that.
10 You gave your statement on March 15, 1999. Do you
11 remember reading that up there, 3-15-99.
12 A. Yes.
13 Q. So this is three days after you observed this
14 incidents, correct?
15 A. Yes.
16 Q. And you say it was about four or five o'clock in
17 the afternoon, correct?
18 A. Yes.
19 Q. And you went up to the room and you say he peed in
20 her. And the police officer says he peed in her? In where?
21 And you say in her private. And the police officer says which
22 private? And you say her private.
23 A little ways down the police officer says you
24 actually saw him do this? And you said yes. Do you remember
25 telling the police that?

1 A. No.
2 Q. Do you remember telling the police that she was on
3 a chair and he was on the floor and it was a big gray chair
4 that you saw this all happen on?
5 A. I overheard that with Jahala when --
6 Q. You're telling the police that you actually saw
7 him do this and then you're adding something that he actually
8 urinated in her. And you say you saw this. So did you see it
9 or didn't you see it?
10 A. I just said I don't know, I can't remember.
11 Q. But you remember hearing in detail what was being
12 said inside the room when the door was closed, is that correct?
13 A. Yes.
14 Q. And that's the one thing that you don't mention in
15 your statement, isn't that right?
16 A. Yes.
17 Q. Jamila, I have to ask you these questions, do you
18 understand that, Jamila?
19 A. Yes.
20 Q. If you'll just bear with me.
21 So what you're telling the ladies and gentlemen of
22 the jury is that you didn't actually see anything or don't
23 remember ever seeing anything, you just heard this
24 conversation, correct?
25 A. Yes.

1 Q. And you would agree that telling the police that
2 you saw Renard Polk actually assaulting your sister is
3 different than it is to say that you just heard about it. You
4 would agree that's different, isn't it?
5 A. Yes.
6 Q. Are you making these things up?
7 A. No.
8 Q. I want to move on to this incident you've told us
9 about where you talk about how you saw Jahala under the door.
10 Do you remember telling us that day?
11 A. Yes.
12 Q. You didn't tell that to the police, did you?
13 A. Because they didn't ask.
14 Q. Would you have told them if they had asked?
15 A. Yes.
16 Q. Now, this situation with Jahala happened and we
17 heard yesterday a little bit about this incident. There was
18 some wrestling going on and then your grandmother tells you to
19 find Jahala, is that correct?
20 A. Yes.
21 Q. And you went down and you looked under the door,
22 right?
23 A. Yes.
24 Q. And you saw black, right?
25 A. Yes.

1 Q. Like it was dark or black, like something black
2 underneath the door?
3 A. The light was on.
4 Q. So when you say black, what did you see that was
5 black?
6 A. I seen -- okay, it's a girl on the floor laying
7 down. So when you look under the door you will only see her
8 body.
9 Q. Did you see her body laying across the floor or
10 could you see-- were you looking at her head or looking at her
11 feet?
12 A. Just from here, the stomach part of her body.
13 Q. You didn't see her feet and Renard's feet, you
14 just saw the stomach part of her, is that right?
15 A. Yes. Yes.
16 Q. And at that point you decide that you're going
17 to -- your grandmother tells you to go to Tommy's house, right?
18 A. Yes.
19 Q. So you remember this incident well, don't you?
20 A. Yes.
21 Q. And the first place you went after the bathroom
22 was to Tommy's house, right?
23 A. No.
24 Q. Where was the first place you went?
25 A. Katrina's.

1 Q. What happened there?
2 A. She said she wasn't there.
3 Q. Did you ask her if she was there?
4 A. Yes.
5 Q. Were you surprised to hear that she wasn't there?
6 A. No, I wasn't.
7 Q. Why?
8 A. Because I heard a little scream in the bathroom.
9 Q. Where did you go after Katrina's house?
10 A. We didn't go all the way to Tommy's house, I
11 stopped the bike.
12 Q. Is that the only house you went to?
13 A. Yes.
14 Q. So you were going to go to Tommy's house but you
15 decided not to because you already knew where Jahala was,
16 right?
17 A. Yes.
18 Q. You didn't go to Katrina's house a little ways
19 down to another house to ask, right?
20 A. Yes.
21 Q. You did not?
22 A. No.
23 Q. And you had already told Anna where Jahala was
24 before you had gone back; is that right?
25 A. Yes.

1 Q. And when you got back, Jahala was out of the
2 bathroom, wasn't she?
3 A. Yes.
4 Q. So you didn't go back to that bathroom along with
5 Anna and look under that door and see her feet, did you,
6 because she was already out of the bathroom?
7 A. When I got back, yes.
8 Q. She was already out?
9 A. Yes.
10 Q. How often have you talked about this with your
11 sisters?
12 A. We don't talk about it.
13 Q. Did you talk about it last night?
14 A. No.
15 Q. Not at all?
16 A. No.
17 Q. Did you talk with the prosecutors last night?
18 A. I wasn't with no prosecutors last night.
19 Q. You just went home and you haven't talked to
20 anybody about this, correct?
21 A. No.
22 Q. Is that right?
23 A. Yes.
24 Q. And it's your testimony today that besides that
25 incident with Jahala and seeing her under the door, that's the

1 only time you actually saw anything, right?
2 A. Yes.
3 Q. You heard her scream under the bathroom door?
4 A. It was a little scream. It wasn't like she was
5 screaming for a long time.
6 Q. And you didn't tell anybody?
7 A. No.
8 Q. On the night when the police were coming, you
9 indicated that your aunt had a conversation with Renard,
10 correct?
11 A. In the room. They argued.
12 Q. Your aunt was pretty angry?
13 A. Yes.
14 Q. You told your aunt what you had seen or heard?
15 A. Yes.
16 Q. Is that what you told her, what you heard?
17 A. Yes, on the phone.
18 Q. Did your aunt strike Renard? Do you know what I
19 mean by that?
20 A. Hit?
21 Q. Yes.
22 A. I'm not sure.
23 Q. Now, you talked about another gentleman who was in
24 the house who was also talking with Renard and then Renard ran
25 away?

1 A. His name was Barry.
2 Q. Barry was pretty angry, right?
3 A. I don't remember. He didn't act angry.
4 Q. You described Renard as a caring brother who got
5 good grades, correct?
6 A. Yes.
7 Q. Did you notice whether or not Renard had mental
8 problems?
9 A. No.
10 Q. You never noticed that?
11 A. No.
12 Q. Did you -- are you aware whether he ever went to a
13 mental facility?
14 A. You mean, like counseling?
15 Q. We'll start with that, counseling.
16 MS. HOLTHUS: I'm going to object. I'm not
17 convinced she has any personal knowledge of this at all.
18 MR. ORAM: I'll lay a better foundation.
19 THE COURT: All right.
20 Q. (By Mr. Oram) do you have knowledge, personal
21 knowledge as to whether Renard received counseling?
22 A. Yes.
23 Q. And was that for mental problems?
24 A. I really don't know.
25 Q. Do you have personal knowledge as to whether

1 Renard was ever in any type of mental facility?
2 A. No, I only know about counseling.
3 Q. When did that occur?
4 A. Probably in '98 or '99. I really don't know.
5 Q. Sometime in that two-year period?
6 Is that a "yes"?
7 A. Yes.
8 Q. How long did the counseling go on for, if you
9 know?
10 MS. HOLTHUS: Judge, at this point what we need to
11 do is approach.
12 THE COURT: Approach the Bench.
13
14 (Off the record discussion at bench).
15
16 THE COURT: Proceed, Mr. Oram.
17 MR. ORAM: Thank you.
18 You indicated that Anna has attitude, I think you
19 said.
20 A. Yes.
21 Q. When did that occur?
22 A. She always have attitude, ever since I been
23 knowing her.
24 Q. So that's not a change, you're saying Anna always
25 had attitude?

1 A. Always had attitudes.
2 Q. It wasn't something that just happened after March
3 12, 1999?
4 A. No.
5 Q. I want to ask you one final question. Why did you
6 tell the police that you had seen your brother sexually assault
7 Anna when you're saying you cannot remember?
8 A. I don't remember telling the police I saw it.
9 MR. ORAM: Nothing further.
10 THE COURT: Anything else?
11
12 REDIRECT EXAMINATION
13
14 BY MS. HOLTHUS:
15 Q. Jamila, you met with Tammy and I, didn't you,
16 before trial?
17 A. Yes.
18 Q. When was it?
19 A. Sunday.
20 Q. And Sunday morning we gave you a copy of your
21 voluntary statement that Mr. Oram has been showing you, is that
22 right?
23 A. Yes.
24 Q. Let you read it over?
25 A. Yes.

23 you didn't remember saying?

1 Q. Then you came in to my office and we talked?
2 A. Yes.
3 Q. And one of the first things you said was there was
4 some stuff in there that wasn't true?
5 MR. ORAM: Object to leading, Judge.
6 THE WITNESS: Yes.
7 THE COURT: All right. Try not to lead the
8 witness, but proceed.
9 THE WITNESS: When you told me you had it on tape.
10 MR. ORAM: Objection what the prosecutor may have
11 said.
12 MS. HOLTHUS: This is not offered for the truth of
13 the matter asserted, but the effect on her and what she then
14 said.
15 THE COURT: Overruled. Proceed.
16 THE WITNESS: When I came in your office and told
17 you that this wasn't true, you told me that it was on tape and
18 that's when I told you that I don't remember, I might have said
19 it but I don't remember saying that. I really don't
20
21 BY MS. HOLTHUS:
22 Q. But in my office, what was it that you told me
23 you didn't remember saying?
24 A. That Renard on Perry Street, about eating Anna out
25 and.

1 Q. What you're talking about is where Mr. Oram showed
2 you, and the question was did you ever see him do anything to
3 one of your sisters, and you responded once when I lived on
4 Perry Street, is that right?
5 A. Uh-huh.
6 Q. And then you said he was -- he grabbed her, put
7 her on the bed, he took her and ate her out. That's what the
8 statement says you said?
9 A. That's what the statement says.
10 Q. And the first thing you said was I don't remember
11 seeing it or saying it?
12 A. No.
13 Q. What about the parts about what you saw him do to
14 Anna? Did you tell us you didn't remember saying that or
15 seeing that as well?
16 A. Yes, I told you I don't remember seeing nothing.
17 All -- I don't see nothing. All I said was only hearing them
18 talking.
19 Q. So anything that you told the detectives you saw
20 was actually what you were describing you heard?
21 MR. ORAM: I'd object, that's leading.
22 THE COURT: Rephrase it
23 BY MS. HOLTHUS:
24 Q. If you said to the detective that you saw that
25 Renard had peepeed in her, meaning in Anna?

1 A. Uh-huh.
2 Q. That information was information you got from
3 where?
4 A. I must have heard it from Anna because that's the
5 only person that I could have heard it from.
6 Q. When he asked you was it front private or back
7 private you said back private. You didn't see that?
8 MR. ORAM: Objection, leading.
9 THE COURT: I don't think she's leading. Let's
10 finish this up
11 BY MS. HOLTHUS:
12 Q. In fact, you told us Sunday you didn't see that?
13 A. Yes.
14 Q. The only thing was that's probably what you heard
15 Anna say?
16 A. Yes.
17 Q. How old are your brothers Richard and Javan?
18 A. Javan is nine.
19 Q. Javan, I'm sorry.
20 A. Javan is nine and Richard is seven.
21 Q. So back in March of '99 they would have been five
22 and sevenish?
23 A. Richard was a little baby.
24 Q. And he's how old now?
25 A. Seven.

1 Q. And you were 13?
2 A. 13.
3 Q. Jahala was 12?
4 A. 12. And Anna was, I think nine -- no, ten or 11.
5 MS. HOLTHUS: Nothing else.
6 THE COURT: Anything else.
7 MR. ORAM: Yes.
8
9 RE-CROSS EXAMINATION
10
11 BY MR. ORAM:
12 Q. Do you remember that you were describing what you
13 said you had seen to the police, and the police say on page
14 three, "okay, and you actually saw him do this?"
15 Answer: Yes.
16 Then again on page four, the policeman asks you,
17 "okay, now, did you actually see him do this to her," "and you
18 answered yeah. Do you remember telling the police twice that
19 you had seen it?
20 A. No.
21 Q. Was that true? Let's assume that you made this
22 statement. Was it true that you had seen it, yes or no?
23 A. No, I did not see it.
24 MR. ORAM: Nothing further.
25 THE COURT: Anything else.

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31 pgs.

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Exhibit X

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT VICTIM UNDER 16 YEARS/LEWDNESS WITH A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: RENARD TRUMAN POLK

DOB: 10-14-80 SOCIAL SECURITY #:

RACE: SEX:

HEIGHT: WEIGHT:

HAIR: EYES:

WORK SCHEDULE: DAYS OFF:

HOME ADDRESS: (transient) HOME PHONE:

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 T. Moniot, P#4664, LVMPD General Assignment Detail, on 08-14-99 at 0445 hours. The persons present during this interview are Renard Truman Polk and Detective Moniot.

Q. Ah, just for the record, Truman, or I'm sorry, Renard, you do me a favor and, ah, say your name and spell it, as well as your birthday and social security number.

A. Renard Truman Polk, P-O-L-K, 10-14-80.

Q. _____ your social security number.

A. 587-37-492

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **990313-0217**

STATEMENT OF: **RENARD TRUMAN POLK**

Q. Okay. Do me a favor and try to speak up. Ahm, why don't you, ah, tell me tonight, ah, basically what happened and, ah, ah, why you called police.

A. _____ I feel guilty about molesting my little sister.

Q. _____ You went over to-- did you-- whose house did you go over to tonight?

A. _____

Q. Okay. And what's your aunt's name?

A. _____

Q. Speak up for me, okay. So you went over to your aunt's house and you decided to call police to turn yourself in.

A. Yeah.

Q. Okay. Ah, and why did you-- why did you wanna turn yourself in?

A. Feel guilty.

Q. For what?

A. For what I did.

Q. What did you do?

A. Rape my little sister.

Q. You raped her?

A. Yeah.

Q. What, ah, what happened, ah, during that? When about was this?

A. _____

MAR 13 '01
Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **990313-0217**

STATEMENT OF: **RENARD TRUMAN POLK**

Q. When, do you remember when it was this occurred roughly? Was it this year or?

A. It, it happened _____

Q. It had been going on, okay. When, when do you– when do you think it first started about?

A. _____

Q. I mean roughly like how many years ago? It's okay, just, alright. _____

A. _____ years ago.

Q. Renard, just be as honest as possible. You know what I'm saying? Be as honest as possible. Honesty's the best policy, you know that.

A. Yeah.

Q. Okay. So just, just be honest and, and this whole thing will work out, okay. What–which–what sister are you talking about?

A. Anna.

Q. Anna. Anna Polk.

A. Mhmm.

MAR 13 '91
Date

Q. So you were, you first started molesting her back in Mississippi?

A. _____ she came out to Vegas.

Q. _____ a minute ago you just said it was in Mississippi. Here's _____ Renard, it's not a big deal but you need to be a hundred percent honest.

A. I'm trying to be. I'm trying to remember.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **990313-0217**

STATEMENT OF: **RENARD TRUMAN POLK**

Q. Okay. Do you think it first started back in Mississippi or... It's okay if it did.

A. _____

Q. Maybe, maybe just once or twice back in Mississippi or?

A. _____

Q. Not at all in Mississippi?

A. _____ Mississippi _____

Q. _____

A. _____

Q. Uh-huh.

A. _____

Q. Speak up a little bit. So you were messin' with your cousins back there. How old were they? Do you remember?

A. They was about the same age as me.

Q. _____ Are they boys or girls _____

A. _____

Q. I'm sorry.

A. _____

Q. You think you got molested by a guy. When was that?

A. _____

Q. What do you remember about it?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

A. _____

Q. Where did you live in Mississippi? _____ or where you live?

A. _____ Mississippi.

Q. Where is it?

A. _____ Mississippi.

Q. How do you spell that?

A. N-A-T-C-H-E.

Q. N-A-T-C-H-E-Z?

A. _____

Q. Okay. So then when did you guys move to Las Vegas?

A. Came to Las Vegas _____ think it was _____ ten years old.

Q. Oh, so you've lived here quiet a while then.

A. Uh-huh.

Q. Okay. So there came a point where you started molesting your sister, Anna. Okay. Do you– when–when do you think this started, like how long ago? Do you know when was it that you first started? _____ start out as some touching or some rubbing or kissing or something or, or how'd it start out?

A. _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

Q. You don't remember. Just, just started just having? What, ah, what, what exactly _____ going on? Do you remember at all or... what body part ____ _____ or, or what you did or what _____ Okay. I'm not gonna get mad at you or anything. Trying to help you out here.

A. _____

Q. You did her in the booty. With what, with your– with what? What body part _____

A. Penis.

Q. Okay. So you had anal intercourse with her. Do you know if you penetrated her at all or _____ inside of her, uh, her buttocks area? Could you tell or...

A. _____

Q. You did? How many times do you think you did that?

A. _____

Q. You were high and drunk. _____ drink quite a bit or? Where– do you remember where you were at when this happened or?

A. _____

Q. On Nay Court. _____ address over there?

A. Thirteen _____ Nay Court.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **990313-0217**

STATEMENT OF: **RENARD TRUMAN POLK**

Q. So you guys were all living there _____ How old were you when this happened? ___ how long ago was this? Do you remember like the last time that you can remember?

A. It was like _____

Q. February of this year or?

A. _____

Q. How many times do you think _____ you did her in the booty? Do you know how many times you think totally did that?

A. I don't even know.

Q. _____ guesstimate. Was it more than one or?

A. It was more than one.

Q. More than five or more than ten times or?

A. It was like _____

Q. Where, where all was this at? Was this at your house on Nay Court?

A. Yes.

Q. Every time it was over there?

A. _____

Q. And how old were you _____ you were 18?

A. _____

Q. You were 18 at the time. How old, how old was she?

MAR 13 '01

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

A. She's like six, seven.

Q. Now how, how exactly ____ did it, did it go down? What exactly– were you watching 'em or baby-sitting or just tell, tell me about it, some little bit about it.

A. I was _____

Q. In the bathroom?

A. _____

Q. Okay. And did you– how– what about her clothes, her clothing? What did you do to her clothing? Was she dressed _____ or...

A. _____

Q. Was she gettin' out of the shower? How, how did it– how did it happen?

A. _____

Q. ___ have to speak up, okay.

A. _____ walking around the house and I just _____

Q. _____ And then what?

A. _____

Q. Did she have clothes on? Do you remember?

A. _____

Q. So how would you have her, how ___–how would she– what kind of position was she in when you were doing this?

A. On her stomach.

MAR 13 '01

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **990313-0217**

STATEMENT OF: **RENARD TRUMAN POLK**

Q. She was on her stomach.

A. _____

Q. When you put your penis inside her butt.

A. Yeah.

Q. Did you ever ejaculate inside of her or anything like that? Do you remember? Did you ever reach climax? Do you know what I mean about that? Did you--did you come inside of her?

A. _____

Q. You did?

A. _____

Q. Were you wearing a condom or anything like that or?

A. _____

Q. Okay. You can't recall roughly how many times you think this may have happened or... it'll be a lot easier for us, you know, to clarify _____ just bring the whole thing out _____ about how many times. Do you think it was more than 12 or 13 or was it just so many that you can't remember or?

A. _____

Q. You can't remember.

A. _____

Q. You were dru-- so you'd been drinking at the time.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: **RENARD TRUMAN POLK**

A. Yeah. _____

Q. Was anybody else with you when you were doing any of this stuff or who was with you?

A. _____

Q. _____ by yourself?

A. _____

Q. No. When you– when _____ Anna's booty, was anybody else with you or around that saw it or _____ Anna's booty too? _____ in the booty that you know?

A. _____

Q. Are you sure?

A. _____

Q. You need to be honest with me about this, you know, really important, you know. _____ did you– were there any other times that you can think of? Did you always just do it with your, your penis in her butt?

A. _____

Q. Did you ever do anything else? No? _____ did you ever do her in the front or anything like that? Put your penis in her vagina or your fingers or anything like that? What did she say when, when you would–when you did this? What did–

MAR 13 '01

what did– what did you tell her? What did you say to her? I mean you must've talked. She was your sister, right?

A. _____

Q. What did she– do you remember what she said or anything else?

A. _____

Q. You just _____ you're like in the bathroom, right?

A. _____

Q. And _____ I mean how did you get her to go along with it or... What did you say to her?

A. Said nothing to her.

Q. Well you musta said something to her. I mean she just didn't read your mind and just lay there.

A. Just did it.

Q. You did it. _____ did you hold her on the ground or did she move around or squirm a little bit or cry or... Remember?

A. Yeah. She cried.

Q. She cried. Did she say or _____ did she say no, don't do that or?

A. _____

Q. She did? What did she say? Speak up.

A. _____

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

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STATEMENT OF: **RENARD TRUMAN POLK**

Q. What did she say?

A. She said no.

Q. She said no. Every time or?

A. _____

Q. Now after, after she said no, what, what did you say to her?

A. _____

Q. _____ Okay. Now there were ___ other times that you did the same thing to her. Ah, did you ever say anything to her or threaten her or say anything to scare her so she wouldn't tell anybody or?

A. No.

Q. No. Were you afraid that she would tell anybody or nervous or?

A. _____

Q. You were? Did you enjoy doing that to her?

A. Uh, that's why I _____

Q. That's why you turned yourself in. You wanna get some help?

A. Yeah.

Q. _____ Now let me ask you this. It's okay. Just take a deep breath and relax. Ah, you know part of the healing process is gettin' things off your chest, you know. Sometimes it may feel like it's a, a big leap off a mountain to say, to tell a stranger something like this. You know I'm-- basically you and me have never met before.

MAR 13 '01

I'm a stranger and it feels a little awkward sittin' here telling me these things but I'm gonna tell you later on, you're gonna feel heck of a lot better that you're on your way to trying to help yourself. You know what I mean?

A. Mhmm.

Q. Okay. But you need to be hundred percent honest with me because only telling part of the truth isn't gonna cut it. You need to be a hundred percent honest and you know then, then you're gonna be on the track _____ gettin' better.

A. _____ _____

Q. Used to do what?

A. _____

Q. Where was this at?

A. _____

Q. How about, ah, how about your other sisters? How many sisters do you have?

A. I have _____ sisters and two brothers.

Q. Three sisters and two brothers.

A. Uh-huh.

Q. What about, ah, your one sister... You know what? What– why don't you give me all of your– You have one sister named Anna, right?

A. Yeah.

Q. What's your other sister's name?

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STATEMENT OF: **RENARD TRUMAN POLK**

A. Jahala.

Q. _____ what's her last name?

A. _____

Q. _____ the same last name?

A. _____

Q. Okay. How about your other sister?

A. Jamila.

Q. Huh?

A. Jamila.

Q. Can you spell it?

A. J-A-M-I-L-A.

Q. Okay. Your two brothers.

A. Ah, _____ Polk.

Q. Huh?

A. _____ Polk.

Q. Spell it.

A. G--

Q. You have to speak up--

A. (Clears throat)

Q. _____ try to speak a little louder _____, okay.

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A. J-A-V-A-N.

Q. Javan Polk.

A. _____

Q. And another bro--brother?

A. Yeah.

Q. What's his name?

A. Richard Chatman.

Q. Richard Chatman. How old is, uh, Jahala?

A. _____

Q. How about Jamila?

A. _____

Q. Javan, how old's Javan?

A. _____

Q. And how about Richard?

A. _____

Q. Now, now I want you to try to remember about Jahala, right? I may not be saying it right but how do you say it again?

A. Jahala.

Q. Jahala. Did you ever have any relations with Jahala?

A. No.

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Q. Never? You never, ah, did her in the booty or maybe even just, you just touched her or...

A. Touched her _____

Q. You didn't, you just touched her. Where, where did you touch her at?

A. _____

Q. I know you can remember because obviously you just said you did it, so obviously you can remember.

A. _____

Q. Like _____ was it here in Las Vegas?

A. Yeah.

Q. Remember roughly was that this year or?

A. _____

Q. Nineteen ninety-eight? What, ah, what, what exactly, how did that go down? _____ were you just messin' around or just kinda playing around or?

A. Yeah.

Q. Where, where did you touch her at?

A. _____

Q. Do you remember any specific body parts or?

A. Yeah. _____

Q. How about her vagina? _____

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A. _____

Q. You didn't? How come you didn't? How come you did with Anna but you didn't with Jahala?

A. _____

Q. Are you sure? Remember what we talked about being honest, right?

A. _____

Q. What would you say that if I said that Jahala said that you did do her in the booty? You, you think is that a lie or is that, is that the truth? _____

A. She can't be telling the truth.

Q. Okay. So is it possible that you did– Did you do her in the booty?

A. I think so.

Q. Why would she be saying that you did her in the booty then?

A. _____

Q. Huh?

A. _____

Q. You didn't?

A. I almost did.

Q. You almost did. You almost did but you didn't.

A. ____

Q. Well how, how did you almost do it?

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A. _____

Q. So you just– so you didn't– you didn't come inside _____

A. I didn't penetrate her.

Q. You didn't penetrate her. What _____ did you just like stick it in the, in, in by her cheeks or something, rub it on her cheeks with your penis?

A. _____

Q. Sure it didn't penetrate? Okay, what we're trying to do here is just get this all out in the open, you know. I'm not– and I'm not gonna be mad at you but you need to tell me the truth, okay. So you rubbed your penis. Did you put it like between the butt cheeks?

A. _____

Q. But it didn't go inside the butt. But, ah, did you, did you ejaculate at all _____ maybe on her back or something like that or? How, how was she laying? Do you remember?

A. She was on her stomach too.

Q. Did you take her clothes off of her or?

A. __

Q. Do you remember where–where this occurred at?

A. _____

Q. On the house on, ah, Nay Court?

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A. _____

Q. How many times you think that did that? How many times you think you did that?

A. _____

Q. Just one time? Are you being a hundred percent truthful with me?

A. _____

Q. 'Cause remember what we said about being truthful. How do you think you would do on a lie detector test if you were to take a lie detector test right now and we were to ask you similar question? How many times you did it and you were to say once. That tell me you were lying or would that tell me you're being truthful?

A. _____

Q. A lie detector test is _____ hook up and we ask you questions and it tells us if you're lying or _____ you're telling the truth.

A. _____

Q. _____ I say how would you do? Would you be tell– would it say that you're telling me the truth or would it say that you're not telling me the truth on some stuff?

A. Telling truth.

Q. Okay. What I wanna know is how many times that you had– that you did this with Jahala.

A. Once.

Q. Just the one time. You stuck your penis in her butt.

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A. _____

Q. But you didn't penetrate.

A. _____

Q. How do you know you didn't penetrate?

A. _____

Q. You just rubbed it on the outside of the butt cheeks between, ah, in between the butt cheeks? What did she– what did she say or do?

A. _____

Q. Need you speak up, okay.

A. (Clears throat)

Q. Try the best you can, alright? So you can't remember what she said. Did she cry or say no _____

A. She said no.

Q. She said no. And what'd you– what did you say?

A. _____

Q. Are you sure? Now this is– this is like your time to, to be honest with me and truthful. You're not gonna help yourself. You're only gonna hurt yourself by, by lying at this point. You understand that, right?

A. Yeah.

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A. _____

Q. Wasn't in you?

A. _____

Q. Now how about your brother, Javan?

A. _____ mess with him.

Q. You didn't mess with him.

A. No.

Q. Are you sure?

A. No.

Q. We're gonna talk to him, you know. We're gonna talk to Jamila too. Are they gonna tell us that you touched 'em _____ like that? Did you ever touch Javan?

A. No.

Q. You never touched Javan at all.

A. Never.

Q. Maybe even just playing around or just kiddin', maybe just doing play stuff.

A. Never.

Q. Or maybe, you know, playing doctor or something like that?

A. No.

Q. Nothing like that ever?

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A. _____

Q. How come? How come you never messed with Javan?

A. _____

Q. Why wasn't it in you?

?: (Somebody clearing their throat)

A. Just wasn't.

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Q. How about Richard?

A. _____

Q. Huh? You never touched him, not even just playing around or, or kiddin' or just even experiment.

A. _____

Q. How come you didn't touch him?

A. _____

Q. You just mess with the _____ girls or...

A. _____

Q. Sure you don't wanna think about Jamila? Are you sure you didn't ever– Did you kiss her or mess around, maybe just playing around, maybe just touch her or, or you know maybe she just _____ be friendly _____ anything like that? Nothing at all? You sure?

A. _____ Perry Street _____

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Q. On Perry Street?

A. Yeah.

Q. _____ speak up a little, okay. So this is with Jamila.

A. Yeah.

Q. How long ago did you– this is on Perry Street?

A. _____ I didn't penetrate _____

Q. Ah, when did you live on Perry Street?

A. This was a long time _____

Q. How old was she then?

A. _____

Q. ___ she's about 14 now, so she's roughly ten and you're 18 now, so you were 14 then.

A. _____

Q. But, but, uh, you didn't penetrate her, right?

A. ____

Q. You just were just messin' around. Were– do you remember what you did or was there some touching or some petting or something like that _____

A. _____

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Q. _____ Can you remember? Did you ____-- you must be able to remember something 'cause you said that you can't, that you didn't penetrate her, so you must have some _____

A. _____

Q. _____ what, with your penis? _____ how-- what were you doing?

A. _____

Q. You were just touching her, fondling her like did-- were you like playing with her, with her butt hole or?

A. _____ cheeks _____

Q. With her-- with her butt cheeks? You didn't maybe just take your penis and rub-- rub up and down on her once or so or just, just experiment _____ you would just, ah, you would just _____ on her butt cheek? Why were you doing that? What did it make you feel like? Did it-- did it excite you a little bit? It did? Did, did you-- did your penis get erect _____ touched her butt cheeks?

A. _____

Q. You did? What did you do with your penis? You didn't do any-- you didn't just maybe just touch it on the outside of her cheeks or, or put it between her butt cheeks and not penetrate her? You didn't? You sure?

A. _____

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Q. So basically you're saying that you played with her butt cheeks and your penis got hard but you didn't do anything with it.

A. _____

Q. You just, you just let it go? Sure about that? That's, that's what lie detector test is gonna tell us. Is that what you're telling me?

A. _____

Q. Well, I'm asking you. If you take a lie detector test, if it's gonna tell me that you're telling the truth or is it gonna tell me that, you know, that maybe something else _____, maybe you stuck your penis in her butt cheeks.

A. _____

Q. Or did you, ah, masturbate while _____ butt cheeks or something like that?

A. _____

Q. No? You just basically touched her, fondled her butt cheeks and your penis got hard. That was it. Is there anything else you wanna add about this? Can you think of anybody else that you may have touched or fondled or anything else or anybody else that you may have, ah, _____

A. _____ real little.

Q. Huh?

A. _____

Q. _____

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A. _____

Q. Do you remember any other kids in the neighborhood _____ that you may have fondled or maybe, maybe you were just experimented around a little bit? I know you didn't mean to hurt anybody, you know, you know you're not a violent person, right? But we need you to be a hundred percent honest _____ tell me everything about everybody. That's the only way–

(END OF SIDE A)

(BEGINNING OF SIDE B)

Q. It's the only way that you're gonna feel good about yourself to be a hundred percent honest with me, you know. _____ do you feel better now that you kinda got some of the stuff off your chest and...

A. Mhmm.

Q. I mean it's what you wanted to do, I mean you wanted to tell your side of the story, right? Did you want– you wanna get some help _____

A. _____ Psychiatric Help!!

Q. You wanna get some help, right? And I'm assuming that's why you called us, right?

A. _____

Q. You called us. But I need you to be a hundred percent honest with me _____ anything and everybody 'cause if you wanna get the help that you need, you need to be a hundred percent honest and you can't have things poppin' up later on, you

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know, people saying yeah, you know, Renard did this Renard did that. __ I need to hear it from you now so that I, I don't think that you were trying to run a game on me or you know trying to lie to me. It's very important that you–that you be a hundred percent truthful and honest 'cause you know there's not gonna be any second chances in this. You know what I mean? We're here now and we're doing this interview and if there's anybody else, uh, that you wanna tell me about, now is the time 'cause there's not gonna be a second time. You know what I mean?

A. Yeah.

Q. You know _____ I just talked about being honest with you, right? You know what I'm saying, right?

A. _____

Q. Well, who else can you think of that maybe that you fondled or played with or maybe _____ and, and, and knowing that you didn't mean to hurt anybody but knowing that, you know, _____ you had a couple problems yourself and you ____ some things– you did some things you wish you didn't do, right?

A. _____

Q. So keeping that in mind, is there anybody else that you can think of maybe you, uh, _____ a little bit or maybe you just do a little touching or playing or petting or, or maybe just rubbing your penis, I mean outside of 'em or even in the

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butt cheeks or something? Anything like that? _____ just the, just those people in your family?

A. ____

Q. That's it? Is there anything else that you wanna say for the record or anything?

A. Feel stupid.

Q. You feel stupid. Why?

A While I was doing those things, I was like _____ drugs.

Q. What kinda drugs were you _____

A. _____ weed, _____

Q. Were you using _____?

A. Yeah.

Q When was the last time you used?

A. _____

Q. _____

A. _____

Q. When's the last time you used _____

A. Months ago.

Q. _____ doing any other stuff, any robberies or anything? Any stickups or anything like that?

A. No.

Q. Sure?

A. _____

Q. Where do you go to church?

A. _____

Q. _____ you musta been doing some stuff to get by, right? Where were you gettin' money to get food and everything?

A. _____

Q. So we're not doing some other stuff that we're gonna find out about later?

A. _____

Q. Huh?

A. Acid.

Q. You did some acid.

A. Yeah.

Q. When was that?

A. That was like four months ago.

Q. But I mean as far as, ah, doing any robberies or anything like that or any shootings or anything like that. _____ robberies or anything like that?

A. _____ church.

Q. Huh?

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A. _____ church.

Q. Okay. That's the end of interview at Clark County Juvenile Hall with Detective T. Moniot, M-O-N-I-O-T, and Renard–

A. Polk.

Q. Polk.

A. _____ lie detector test?

Q. Huh?

A. _____ lie detector test?

Q. Well, we could talk about that later. It's not a big deal. Uh, once again, conclusion of the interview. Clark County Juvenile Hall. 08-14-99, at 0520 hours.

I HAVE READ THIS STATEMENT CONSISTING OF 31 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT CLARK COUNTY JUVENILE HALL ON THE 14TH DAY OF AUGUST, 1999 AT 0520 HOURS.

WITNESS: #4664

WITNESS: _____

RENARD TRUMAN POLK

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Exhibit

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

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EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT VICTIM UNDER 16 YEARS/LEWDNESS WITH A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: RENARD TRUMAN POLK

DOB: 10-14-80 SOCIAL SECURITY #:

RACE: SEX:

HEIGHT: WEIGHT:

HAIR: EYES:

WORK SCHEDULE: DAYS OFF:

HOME ADDRESS: (transient) HOME PHONE:

WORK ADDRESS: WORK PHONE:

BEST PLACE TO CONTACT:

BEST TIME TO CONTACT:

redacted version given to defense on Jan. 8/01

The following is the transcription of a tape-recorded interview conducted by Detective T. Moniot, P#4664, LVMPD General Assignment Detail, on 08-14-99 at 0445 hours. The persons present during this interview are Renard Truman Polk and Detective Moniot.

Q. Ah, just for the record, Truman, or I'm sorry, Renard. you do me a favor and, ah, say your name and spell it, as well as your birthday and social security number.

A. Renard Truman Polk, P-O-L-K. 10-14-80.

Q. AND your social security number.

A. 587-37-492

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1999 AUG 22 A 9:52

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Director, Police Records
Records Custodian

JUL 17 '01
Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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Q. Okay. Do me a favor and try to speak up. Ahm, why don't you, ah, tell me tonight, ah, basically what happened and, ah, ah, why you called police.

A. CAUSE I feel guilty about molesting my little sister.

Q. OK You went over to-- did you-- whose house did you go over to tonight?

A. MY AUNTIE'S HOUSE

Q. Okay. And what's your aunt's name?

A. SUSAN SIMMS

Q. Speak up for me, okay. So you went over to your aunt's house and you decided to call police to turn yourself in.

A. Yeah.

Q. Okay. Ah, and why did you-- why did you wanna turn yourself in?

A. Feel guilty.

Q. For what?

A. For what I did.

Q. What did you do?

A. Rape my little sister.

Q. You raped her?

A. Yeah.

Q. What, ah, what happened, ah, during that? When about was this?

A. _____

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Q. When, do you remember when it was this occurred roughly? Was it this year or?

A. It, it happened _____ BEEN GOING ON FOR A WHILE SINCE 196.

Q. It had been going on, okay. When, when do you-- when do you think it first started about?

A. UM

Q. I mean roughly like how many years ago? It's okay, just, alright. _____

A. ____ years ago.

Q. Renard, just be as honest as possible. You know what I'm saying? Be as honest as possible. Honesty's the best policy, you know that.

A. Yeah.

Q. Okay. So just, just be honest and, and this whole thing will work out, okay. What--which--what sister are you talking about?

A. Anna.

Q. Anna. Anna Polk.

A. Mhmm.

Q. So you were, you first started molesting her back in Mississippi?

A. NO SIR. IT'S ____ she came out to Vegas.

Q. _____ a minute ago you just said it was in Mississippi. Here's THE THING Renard, it's not a big deal but you need to be a hundred percent honest.

A. I'm trying to be. I'm trying to remember.

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Director, Police Records
Records Custodian

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Q. Okay. Do you think it first started back in Mississippi or... It's okay if it did.

A. SHE CAME OUT TO VEGAS

Q. Maybe, maybe just once or twice back in Mississippi or?

A. _____

Q. Not at all in Mississippi?

A. NAW _____ Mississippi _____

[redacted]

A. _____

Q. You think you got molested by a guy. When was that?

A. _____

Q. What do you remember about it?

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Records Custodian

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A. NOT REALLY TOO MUCH.

Q. Where did you live in Mississippi? _____ or where you live?

A. NATCHEZ Mississippi.

Q. Where is it?

A. NATCHEZ Mississippi.

Q. How do you spell that?

A. N-A-T-C-H-E.

Q. N-A-T-C-H-E-Z?

A. _____

Q. Okay. So then when did you guys move to Las Vegas?

A. Came to Las Vegas _____ think it was LIKE WHEN I WAS ten years old.

Q. Oh, so you've lived here quiet a while then.

A. Uh-huh.

Q. Okay. So there came a point where you started molesting your sister, Anna. Okay. Do you– when–when do you think this started, like how long ago? Do you know when was it that you first started? _____ start out as some touching or some rubbing or kissing or something or, or how'd it start out?

A. I DON'T REMEMBER.

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Q. You don't remember. Just, just started just having? What, ah, what, what exactly _____ going on? Do you remember at all or... what body part ____ AND THAT or, or what you did or what _____ Okay. I'm not gonna get mad at you or anything. Trying to help you out here.

A. I DID HER IN THE BOOTY.

Q. You did her in the booty. With what, with your– with what? What body part OF YOURS.

A. Penis.

Q. Okay. So you had anal intercourse with her. Do you know if you penetrated her at all or ACTUALLY inside of her, uh, her buttocks area? Could you tell or...

A. YEAH I DID.

Q. You did? How many times do you think you did that?

A. _____ I WAS HIGH AND DRUNK.

Q. You were high and drunk. _____ drink quite a bit or? Where– do you remember where you were at when this happened or?

A. I WAS STAYING ON NAY CT.

Q. On Nay Court. _____ WHAT'S THE address over there?

A. Thirteen TWENTY-FIVE Nay Court.

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Q. So you guys were all living there _____ How old were you when this happened? ___ how long ago was this? Do you remember like the last time that you can remember?

A. It was like IN FEBRUARY

Q. February of this year or?

A. I THINK SO.

Q. How many times do you think _____ you did her in the booty? Do you know how many times you think totally did that?

A. I don't even know.

Q. IF you COULD guesstimate. Was it more than one or?

A. It was more than one.

Q. More than five or more than ten times or?

A. It was like _____

Q. Where, where all was this at? Was this at your house on Nay Court?

A. Yes.

Q. Every time it was over there?

A. JUST ABOUT

Q. And how old were you AT THE TIME you were 18?

A. 18.

Q. You were 18 at the time. How old, how old was she?

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A. She's like six, seven.

Q. Now how, how exactly ____ did it, did it go down? What exactly– were you watching 'em or baby-sitting or just tell, tell me about it, some little bit about it.

A. I was LIKE ____ING IN THE BATHROOM OR SOMETHING

Q. In the bathroom?

A. _____

Q. Okay. And did you– how– what about her clothes, her clothing? What did you do to her clothing? Was she dressed _____ or...

A. _____

Q. Was she gettin' out of the shower? How, how did it– how did it happen?

A. _____ SOMETIMES

Q. ___ have to speak up, okay.

A. SHE'D BE LIKE walking around the house and I just _____

Q. ____ And then what?

A. _____

Q. Did she have clothes on? Do you remember?

A. NOT ALL THE TIME,

Q. So how would you have her, how ___–how would she– what kind of position was she in when you were doing this?

A. On her stomach.

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Q. She was on her stomach.

A. _____

Q. When you put your penis inside her butt.

A. Yeah.

Q. Did you ever ejaculate inside of her or anything like that? Do you remember? Did you ever reach climax? Do you know what I mean about that? Did you–did you come inside of her?

A. UM-HMM (AFFIRMATIVE RESPONSE)

Q. You did?

A. UM-HMM

Q. Were you wearing a condom or anything like that or?

A. _____

Q. Okay. You can't recall roughly how many times you think this may have happened or... it'll be a lot easier for us, you know, to clarify ____ just bring the whole thing out _____ about how many times. Do you think it was more than 12 or 13 or was it just so many that you can't remember or?

A. ___SO MANY JUST CAN'T REMEMBER.

Q. You can't remember.

A. NO. CAUSE I WAS DRUNK.

Q. You were dru– so you'd been drinking at the time.

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Date

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A. Yeah. _____

Q. Was anybody else with you when you were doing any of this stuff or who was with you?

A. NO BODY.

Q. YOU WERE by yourself?

A. UM-HMM (AFFIRMATIVE). _____ WHEN I WAS DOING DRUGS AND S

Q. No. When you– when YOU DID ~~Anna's booty,~~ ANNA IN THE BOOTY was anybody else with you or around that saw it or DID, DID ~~Anna's booty~~ ANNA IN THE BOOTY too? DID ANYBODY ELSE DO ANN in the booty that you know?

A. _____

Q. Are you sure?

A. _____

Q. You need to be honest with me about this, you know, really important, you know. _____ did you– were there any other times that you can think of? Did you always just do it with your, your penis in her butt?

A. UM-HMM (AFFIRMATIVE)

Q. Did you ever do anything else? No? ____ did you ever do her in the front or anything like that? Put your penis in her vagina or your fingers or anything like that? What did she say when, when you would–when you did this? What did–

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what did– what did you tell her? What did you say to her? I mean you must've talked. She was your sister, right?

A. YEAH.

Q. What did she– do you remember what she said or anything else?

A. SHE DIDN'T SAY ANYTHING.

Q. You just ____ YOU WERE you're like in the bathroom, right?

A. UM-HMM (AFFIRMATIVE)

Q. And _____ I mean how did you get her to go along with it or... What did you say to her?

A. Said nothing to her.

Q. Well you musta said something to her. I mean she just didn't read your mind and just lay there.

A. Just did it.

Q. You did it. _____ did you hold her on the ground or did she move around or squirm a little bit or cry or... Remember?

A. Yeah. She cried.

Q. She cried. Did she say or _____ did she say no, don't do that or?

A. YEAH.

Q. She did? What did she say? Speak up.

A. _____

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Q. What did she say?

A. She said no. SHE SAID NO.

Q. ~~She said no~~. Every time or?

A. _____

Q. Now after, after she said no, what, what did you say to her?

A. JUST KEPT ON GOING.

Q. YA JUST KEPT GOING. Okay. Now there were ___ other times that you did the same thing to her. Ah, did you ever say anything to her or threaten her or say anything to scare her so she wouldn't tell anybody or?

A. No.

Q. No. Were you afraid that she would tell anybody or nervous or?

A. _____

Q. You were? Did you enjoy doing that to her?

A. Uh, that's why I TURNED MYSELF IN.

Q. That's why you turned yourself in. You wanna get some help?

A. Yeah.

Q. _____ Now let me ask you this. It's okay. Just take a deep breath and relax. Ah, you know part of the healing process is gettin' things off your chest, you know. Sometimes it may feel like it's a, a big leap off a mountain to say, to tell a stranger something like this. You know I'm– basically you and me have never met before.

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

I'm a stranger and it feels a little awkward sittin' here telling me these things but I'm gonna tell you later on, you're gonna feel heck of a lot better that you're on your way to trying to help yourself. You know what I mean?

A. Mhmm.

Q. Okay. But you need to be hundred percent honest with me because only telling part of the truth Isn't gonna cut it. You need to be a hundred percent honest and you know then, then you're gonna be on the track _____ gettin' better.

A. _____

Q. Used to do what?

A. _____

Q. Where was this at?

A. _____

Q. How about, ah, how about your other sisters? How many sisters do you have?

A. I have 3 sisters and two brothers.

Q. Three sisters and two brothers.

A. Uh-huh.

Q. What about, ah, your one sister... You know what? What– why don't you give me all of your– You have one sister named Anna, right?

A. Yeah.

Q. What's your other sister's name?

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A. Jahala.

Q. JAHALA what's her last name?

A. _____

Q. _____ the same last name?

A. NO SHE'S GOT A DIFFERENT LAST NAME

Q. Okay. How about your other sister?

A. Jamila.

Q. Huh?

A. Jamila.

Q. Can you spell it?

A. J-A-M-I-L-A.

Q. Okay. Your two brothers.

A. Ah, _____ Polk.

Q. Huh?

A. _____ Polk.

Q. Spell it.

A. G–

Q. You have to speak up–

A. (Clears throat).

Q. _____ try to speak a little louder _____, okay.

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Records Division Date

A. J-A-V-A-N.

Q. Javan Polk.

A. _____

Q. And another bro--brother?

A. Yeah.

Q. What's his name?

A. Richard Chatman.

Q. Richard Chatman. How old is, uh, Jahala?

A. _____

Q. How about Jamila?

A. _____

Q. Javan, how old's Javan?

A. _____

Q. And how about Richard?

A. _____

Q. Now, now I want you to try to remember about Jahala, right? I may not be saying it right but how do you say it again?

A. Jahala.

Q. Jahala. Did you ever have any relations with Jahala?

A. No.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
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Q. Never? You never, ah, did her in the booty or maybe even just, you just touched her or...

A. I Touched her _____

Q. You didn't, you just touched her. Where, where did you touch her at?

A. _____ CAN'T REMEMBER.

Q. I know you can remember because obviously you just said you did it, so obviously you can remember.

A. I CAN'T REMEMBER _____.

Q. Like _____ was it here in Las Vegas?

A. Yeah.

Q. Remember roughly was that this year or?

A. I THINK IT WAS LAST YEAR.

Q. Nineteen ninety-eight? What, ah, what, what exactly, how did that go down? _____ were you just messin' around or just kinda playing around or?

A. Yeah.

Q. Where, where did you touch her at?

A. _____

Q. Do you remember any specific body parts or?

A. Yeah. I GRABBED HER BUTT.

Q. How about her vagina? _____

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A. NO.

Q. You didn't? How come you didn't? How come you did with Anna but you didn't with Jahala?

A. _____

Q. Are you sure? Remember what we talked about being honest, right?

A. _____

Q. What would you say that if I said that Jahala said that you did do her in the booty? You, you think is that a lie or is that, is that the truth? _____

A. She can't be telling the truth.

Q. Okay. So is it possible that you did– Did you do her in the booty?

A. ~~I think so.~~ I DON'T THINK SO.

Q. Why would she be saying that you did her in the booty then?

A. I DON'T

Q. Huh?

A. _____

Q. You didn't?

A. I almost did.

Q. You almost did. You almost did but you didn't.

A. _____

Q. Well how, how did you almost do it?

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A. _____

Q. So you just– so you didn't– you didn't come inside _____

A. I didn't penetrate her.

Q. You didn't penetrate her. What _____ did you just like stick it in the, in, in by her cheeks or something, rub it on her cheeks with your penis?

A. YEAH.

Q. Sure it didn't penetrate? Okay, what we're trying to do here is just get this all out in the open, you know. I'm not– and I'm not gonna be mad at you but you need to tell me the truth, okay. So you rubbed your penis. Did you put it like between the butt cheeks?

A. _____

Q. But it didn't go inside the butt. But, ah, did you, did you ejaculate at all _____ maybe on her back or something like that or? How, how was she laying? Do you remember?

A. She was on her stomach too.

Q. Did you take her clothes off of her or?

A. —

Q. Do you remember where–where this occurred at?

A. THE SAME PLACE.

Q. On the house on, ah, Nay Court?

[illegible] Police Depart[illegible]

JUL 17 '01

[illegible] Data

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A. _____

Q. How many times you think that did that? How many times you think you did that?

A. ONCE.

Q. Just one time? Are you being a hundred percent truthful with me?

A. _____

[redacted]

Q. Okay. What I wanna know is how many times that you had-- that you did this with Jahala.

A. Once. . .

Q. Just the one time. You stuck your penis in her butt.

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A. _____

Q. But you didn't penetrate.

A. _____

Q. How do you know you didn't penetrate?

A. _____

Q. You just rubbed it on the outside of the butt cheeks between, ah, in between the butt cheeks? What did she– what did she say or do?

A. _____

Q. Need you speak up, okay.

A. (Clears throat)

Q. Try the best you can, alright? So you can't remember what she said. Did she cry or say no _____

A. She said no.

Q. She said no. And what'd you– what did you say?

A. _____

Q. Are you sure? Now this is– this is like your time to, to be honest with me and truthful. You're not gonna help yourself. You're only gonna hurt yourself by, by lying at this point. You understand that, right?

A. Yeah.

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Q. It's very important, you know. I'm not gonna get mad at you if you're telling me you did it five or six times or even if you penetrated her. I'm not gonna get mad at you but I want you to tell me the truth, okay, 'cause it tells me something about you. It tells me that you're being honest and you wanna help yourself. You know what I'm saying? Are you being truthful with me about Jahala?

A. Yes, I'm being truthful.

Q. Okay. Did you ever touch her in the front at all or vagina area?

A. NO.

Q. Nothing like that? What about Jamila?

A. NO. I NEVER MESSED WITH JAMILA.

Q. You never messed with Jamila.

A. _____

Q. You sure?

A. Positive.

Q. How come you never messed with Jamila? You know a lie detector test is gonna tell us whether you're being truthful or not and then you know all, all this cooperativeness and all that is not gonna be worth anything, you know if you're lying. You know what I mean? You, you being truthful with me about Jamila?

A. I'm being truthful.

Q. You never– how come you never wanted to do her in the booty?

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A. _____

Q. Wasn't in you?

A. _____

Q. Now how about your brother, Javan?

A. DIDN'T mess with him.

Q. You didn't mess with him.

A. No.

Q. Are you sure?

A. No.

Q. We're gonna talk to him, you know. We're gonna talk to Jamila too. Are they gonna tell us that you touched 'em _____ like that? Did you ever touch Javan?

A. No.

Q. You never touched Javan at all.

A. Never.

Q. Maybe even just playing around or just kiddin', maybe just doing play stuff.

A. Never.

Q. Or maybe, you know, playing doctor or something like that?

A. No.

Q. Nothing like that ever?

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A. _____

Q. How come? How come you never messed with Javan?

A. _____

Q. Why wasn't it in you?

?: (Somebody clearing their throat)

A. Just wasn't.

Q. How about Richard?

A. NEVER TOUCHED HIM.

Q. Huh? You never touched him, not even just playing around or, or kiddin' or just even experiment.

A. NEVER TOUCHED HIM.

Q. How come you didn't touch him?

A. _____

Q. You just mess with the _____ girls or...

A. _____

Q. Sure you don't wanna think about Jamila? Are you sure you didn't ever– Did you kiss her or mess around, maybe just playing around, maybe just touch her or, or you know maybe she just _____ be friendly OR WHATEVER anything like that? Nothing at all?. You sure?

A. _____ Perry Street _____

[illegible] this is a full, [illegible] a [illegible] original [illegible] the [illegible] Police Department.

JUL 17 [illegible]

[illegible] Date
Records Division

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Q. On Perry Street?

A. Yeah.

Q. _____ speak up a little, okay. So this is with Jamila.

A. Yeah.

Q. How long ago did you– this is on Perry Street?

A. BUT I didn't penetrate HER

Q. Ah, when did you live on Perry Street?

A. This was a long time AGO _____

Q. How old was she then?

A. _____

Q. ___ she's about 14 now, so she's roughly ten and you're 18 now, so you were 14 then.

A. _____

Q. But, but, uh, you didn't penetrate her, right?

A. _____

Q. You just were just messin' around. Were– do you remember what you did or was there some touching or some petting or something like that _____

A. _____

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Q. _____ Can you remember? Did you ____-- you must be able to remember something 'cause you said that you can't, that you didn't penetrate her, so you must have some THING IN YOUR MIND.

A. _____

Q. _____ what, with your penis? WITH YOUR HAND how– what were you doing?

A. _____

Q. You were just touching her, fondling her like did– were you like playing with her, with her butt hole or?

A. WITH HER cheeks ____

Q. With her-- with her butt cheeks? You didn't maybe just take your penis and rub-- rub up and down on her once or so or just, just experiment _____ you would just, ah, you would just _____ on her butt cheek? Why were you doing that? What did it make you feel like? Did it– did it excite you a little bit? It did? Did, did you-- did your penis get erect _____ touched her butt cheeks?

A. ____

Q. You did? What did you do with your penis? You didn't do any– you didn't just maybe just touch it on the outside of her cheeks or, or put it between her butt cheeks and not penetrate her? You didn't? You sure?

A. _____

Director, Records
Records Custodian

JUL 17 '99
Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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Q. So basically you're saying that you played with her butt cheeks and your penis got hard but you didn't do anything with it.

A. YEAH

[redacted]

hard. That was it. Is there anything else you wanna add about this? Can you think of anybody else that you may have touched or fondled or anything else or anybody else that you may have, ah, _____

A. _____ real little.

Q. Huh?

A. _____

Q. _____

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Date

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A. _____

[redacted]

Q. It's the only way that you're gonna feel good about yourself to be a hundred percent honest with me, you know. ____ do you feel better now that you kinda got some of the stuff off your chest and...

A. Mhmm.

Q. I mean it's what you wanted to do, I mean you wanted to tell your side of the story, right? Did you want-- you wanna get some help ____

A. _____ Psychiatric help!!

Q. You wanna get some help, right? And I'm assuming that's why you called us, right?

A. _____

Q. You called us. But I need you to be a hundred percent honest with me ____ anything and everybody 'cause if you wanna get the help that you need, you need to be a hundred percent honest and you can't have things poppin' up later on, you

know, people saying yeah, you know, Renard did this, Renard did that. ___ I need to hear it from you now so that I, I don't think that you were trying to run a game on me or you know trying to lie to me. It's very important that you–that you be a hundred percent truthful and honest 'cause you know there's not gonna be any second chances in this. You know what I mean? We're here now and we're doing this interview and if there's anybody else, uh, that you wanna tell me about, now is the time 'cause there's not gonna be a second time. You know what I mean?

A. Yeah.

Q. You know _____ I just talked about being honest with you, right? You know what I'm saying, right?

A. _____

Q. Well, who else can you think of that maybe that you fondled or played with or maybe _____ and, and, and knowing that you didn't mean to hurt anybody but knowing that, you know, _____ you had a couple problems yourself and you ___ some things– you did some things you wish you didn't do, right?

A. _____

Q. So keeping that in mind, is there anybody else that you can think of maybe you, uh, _____ a little bit or maybe you just do a little touching or playing or petting or, or maybe just rubbing your penis, I mean outside of 'em or even in the

[illegible] Police Department
Records Custodian
JUL 17 '99
Date

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butt cheeks or something? Anything like that? _____ just the, just those people in your family?

A. _____

Q. That's it? Is there anything else that you wanna say for the record or anything?

A. Feel stupid.

Q. You feel stupid. Why?

A While I was doing those things, I was like _____ drugs.

Q. What kinda drugs were you _____

A. _____ weed, _____

Q. Were you using _____?

A. Yeah.

Q. When was the last time you used?

A. _____

Q. _____

A. _____

Q. When's the last time you used _____

A. Months ago.

[redacted]

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A. _____ church.

Q. Huh?

[illegible] this is a full, [illegible] of a [illegible] the original [illegible] with the [illegible] Police Department.

JUL 17 '06

[illegible] Date

Records [illegible]

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A. _____ church.

Q. Okay. That's the end of interview at Clark County Juvenile Hall with Detective T. Moniot, M-O-N-I-O-T, and Renard--

A. Polk.

Q. Polk.

[redacted]

I HAVE READ THIS STATEMENT CONSISTING OF 31 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT CLARK COUNTY JUVENILE HALL ON THE 14TH DAY OF AUGUST, 1999 AT 0520 HOURS.

WITNESS: #4664

WITNESS: _____

TM/lm
992471

RENARD TRUMAN POLK

Con. Pay Non.
2 pgs.

H

Exhibit E

CRIMINAL COURT MINUTES

99-C-156363-C STATE OF NEVADA vs Polk, Renard T

02/08/99 08:30 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORMA CHATY, Relief Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:			
		STATE OF NEVADA	Y
	003776	Monroe, Vicki J.	Y
	001 D1	Polk, Renard T	N
	006769	Oronoz, James	Y

GUILTY PLEA AGREEMENT FILED IN OPEN COURT. NEGOTIATIONS: Defendant to plead guilty, pursuant to Alford, to Information; the State to agree not to oppose probation if recommended by P&P; if there is no recommendation, the State retains the right to argue and will not oppose release of defendant on his own recognizance. DEFENDANT POLK ARRAIGNED and PLED GUILTY, pursuant to Alford to COERCION (F). The State made an offer of proof. COURT ACCEPTED plea and ORDERED, matter referred to P & P and set for sentencing. Pursuant to negotiations, FURTHER ORDERED, Defendant released on an O.R.

O.R.

5/10/99 8:30 A.M. SENTENCING

03/08/99 08:30 AM 00 P&P'S REQUEST DEFT'S STATUS

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:			
		STATE OF NEVADA	Y
	003726	Guymon, Gary L.	Y
	001 D1	Polk, Renard T	N
	PUBDEF	Public Defender	Y
	005114	Rusley, Eric W.	Y

Robert Lawson of P & P present. Mr. Rusley stated deft is not here, he talked to him on Friday to be here and does not know where the deft. is. Mr. Guymon advised he would like to send the case back to Justice Court and can reach the client through Mr. Rusley. COURT ORDERED, Will allow Defendant to WITHDRAW GUILTY PLEA and REFER matter back to JUVENILE COURT since deft. was never certified; date of 5/10th VACATED.

CASE CLOSED

CONTINUED ON PAGE: 002

CRIMINAL COURT MINUTES

99-C-156363-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 001

04/12/99 09:00 AM 00 MINUTE ORDER RE: RE DISMISSAL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk

PARTIES: NO PARTIES PRESENT

Pursuant to representations of Robert Teuton, Chief Deputy District Attorney, Juvenile Division, the State is not going to proceed in this case, CASE DISMISSED.

CASE DISMISSED AND CLOSED

CLERK'S NOTE: Minute order created pursuant to representations of Clerk's Office, Juvenile Division.

Cum. Pag. Nom.
32 Pgs.

I

Exhibit _____

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION – JUVENILE
CLARK COUNTY, NEVADA

Shirley B. Parraguirre

JAN 11 9 46 PM '99

FILED

In the Matter of: RENARD TURMAN POLK, AKA RENARD TURMAN EDWARDS, Date of Birth: October 14, 1980, A Minor, 18 Years 3 Months of Age.	CASE NO.: J58683 DEPT. NO.: F

DISPOSITIONAL REPORT

Date of Hearing: January 13, 1999
Time of Hearing:
Courtroom: #11

REASON FOR HEARING:

At the Contested Hearing on December 18, 1998, Renard Polk, represented by the Public Defender's Office, was found guilty of Petition #3, Count 2 - Attempted Robbery and Petition #3, Count 3 - Battery, amended to read "by punching him in the nose".

The Court ruled that the State failed to prove Petition #3, Count 1 - Battery with Substantial Bodily Harm.

RECOMMENDATION:

1) Wardship continued, having been adjudicated a Delinquent Youth;
2) Formal Probation continued for five months;
3) Restitution as recommended by the Victims Assistance Program in the amount of $500.00;
4) Renard Polk to obtain employment, and substantiate employment with the Probation Department and pay the Court Ordered Restitution from his earnings;
5) Eighty hours of community service;
6) Completion of an Anger Control Class.

WHEREABOUTS OF MINOR:

Renard Polk resides with his maternal grandmother, Gloria Polk..

The subject minor was detained upon his arrest on September 20, 1998. At a subsequent Hearing on October 8,1998, Renard was released on the Electronic Monitor.

On December 21, 1998 Renard Polk was arrested as an adult on the Charge of Sexual Assault. The Clark County Detention Center contacted the Continuum of Care Program and the electronic ankle bracelet was removed and the equipment was removed from the home. On December 24, 1998, Renard Polk was released from the Clark County Detention Center on bail. Renard's next Hearing is scheduled for January 27, 1999.

LEGAL RESIDENCE: 1325 Nay Court, Las Vegas, Nevada 89104; telephone: 352-0377.

PRIOR RECORD: Please see Exhibits "A-1" and "A-2" – Family & Youth Services Records Printout.

OFFENSE REPORT: Please see Exhibit "B" – Family and Youth Services Declaration of Arrest, Exhibit "C' - Las Vegas Metropolitan Police Department Arrest Report, Exhibit "D" - Las Vegas Metropolitan Police Department Incident Report, Exhibit "E" - Las Vegas Metropolitan Police Department Voluntary Statement, Exhibit "F" - Las Vegas Metropolitan Police Department Property Report and Exhibit "G" - Jack Close & Associates Physical Therapy and Rehabilitation Center Initial Evaluation.

On September 20, 1998, at approximately 0730 hours, Officers working as a marked patrol unit were dispatched on a call in reference to an attempted robbery that occurred on September 19, 1998, at 2030 hours. The victim, Daniel Huff, was unable to file a report on September 19, 1998, due to the fact that he was hospitalized all night after the robbery incident.

Huff stated on September 19, 1998, at approximately 2030 hours, he was walking west bound on Colorado Street when he was approached by suspects, Wyatt Peterson and Renard Polk. Huff said Peterson asked for drugs and money. When Huff said he did not have either both Peterson and Polk demanded money and Huff's shoes. As Peterson squared off in front of Huff, Polk circled to the rear of Huff. As Huff turned to face Polk, Polk struck him in the face with either his fists or unknown object. This caused Huff to fall down to the ground where Polk attempted to remove Huff's brand new shoes. An unknown neighbor came out and stated the Police were being called which caused Peterson and Polk to walk briskly west bound on Colorado.

On September 20, 1998, Officers did both talk to Peterson and Polk. After being read his Rights per Miranda, Peterson admitted that he and Polk did in fact push Huff down to the ground. Polk however after being read his Rights, denied the whole incident. Both Polk and Peterson were positively listed as suspects by Huff. Wyatt Peterson and Renard Polk were placed under arrest and transported to Family and Youth Booking where they were charged accordingly.

VICTIM INFORMATION: Please see Exhibit "H".

The Victims Witness Administrator has recommended that the minors involved be ordered to pay Restitution in the amount of $500.00 each.

PRIOR SERVICES:

Renard Polk first came to the attention of the Court during 1994 when his mother was arrested and he and the other children were placed into Child Haven. In March, 1995, Neglect Supervision was initiated on the Charge of Destitution. Wardship was terminated on December 27, 1995. In March, 1997, Renard Polk was placed on a Consent Decree on a Charge contained in amended Petition #1 - Trespass as amended from Attempted Burglary. The Informal Supervision was closed in July,1 997. Renard was placed on Formal Probation on December 9, 1997, on the amended Charge of Petty Larceny as amended from Grand Larceny. He has paid $200.00 in ordered Restitution.

...

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...

SOCIAL HISTORY: Please see Exhibit "I" -- Family Data Sheet. (Unless otherwise indicated, background material is based solely on information provided by the parties themselves.)

Gloria Polk, the maternal grandmother and guardian was unable to be present for a presentencing interview due to her medical condition. Social history information was obtained during a telephone interview.

Mrs. Polk has raised Renard since birth. In addition she is raising the five other children born to her daughter, Anna Lisa Edwards. Jamila Chatman age thirteen; Jahala Chatman age twelve; Anna Lisa Polk age ten; Javan Polk age seven and Richard Chatman age four. Jamila and Jahala have been cared for full time since 1991, although prior to this they were in her home sporadically when the need arose. At present, she does not experience any substantial problems from the other children. Anna Lisa Edwards, the natural mother, has experienced both alcohol and drugs abuse problems throughout the years. She is currently incarcerated in the Clark County Jail on the charge of Driving under the Influence. The natural mother gave birth to Renard when she was eighteen. The natural father Darrell Edwards is said to spend time with Renard. He is employed by a temporary employment agency, Onsite Staffing.

Gloria Polk states she receives five hundred twenty six dollars per month for the guardian ship of the children. She also receives three hundred dollars plus in food stamps. Mrs. Polks husband Archie Polk died as a result of an accident while employed as a Longshoreman in 1968. She receives approximately six hundred dollars per month in death benefits.

Since 1994, Gloria Polk has undergone two surgeries for cancer. Her most recent surgery was in 1996. She is presently undergoing chemotherapy treatments.

Renard attends alternative Co Star High School enrolled in the 12th grade.

PSYCHOLOGICAL EVALUATION: Please see Exhibit "J" - Family and Youth Services Psychological Evaluation.

EVALUATION:

Eighteen-year three-month of age Renard Turman Polk is before the Court on a sustained allegations contained in Petition #3, Count 2 - Attempted Robbery and Petition #3, Count 3 - Battery, amended to read "by punching him in the hose". The Court ruled the State failed to prove Petition #3, Count 1 - Battery with Substantial Bodily Harm.

On December 21, 1998, Renard was arrested as an adult on a Charge of Sexual Assault. He was detained and released on $500.00 bail on December 24, 1998. He is scheduled for a preliminary Plea Hearing on January 27, 1999.

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...

EVALUATION: (Continued)

Justification for commitment is present based on the severity of the attack and the sustained injuries to the victim. However, due to Renard Polk's age of majority, commitment to a Juvenile Institution, in all likelihood, would not be feasible. The Police reports revealed that the victim was at a gross disadvantage. Two perpetrators attacking one individual is no act of self defense. The Nevada Revised Statutes as applied to this case, does not allow for Renard Polk to be sentenced to jail. Therefore, a recommendation for continued Formal Probation with specific Orders is presented to the Court for consideration as recompense for the offense.

Submitted by:

STEVE BARBER
Probation Officer
601 North Pecos Road
Las Vegas, Nevada 89101

DAPHNA PARKER
Supervisor I

Date: 1-11-99

Shirley B. Parraguirre

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION - JUVENILE
CLARK COUNTY, NEVADA

MAR 10 2 18 PM '99

FILED

In the Matter of: RENARD TURMAN POLK, AKA RENARD TURMAN EDWARDS, Date of Birth: October 14, 1980, A Minor, 18 Years 5 Months of Age.	24117 CASE NO. J58683 DEPT. NO. F

FORMAL PROBATION ORDER

This matter having come on for hearing before the Family Court, Eighth Judicial District, County of Clark, State of Nevada, on petition of Steve Barber, Probation Officer, Probation Division, Clark County Department of Family and Youth Services, on this 3rd day of March, 1999, said minor being present in Court.

This matter having come on before this Court and good cause being shown;

IT IS HEREBY ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, is continued a Ward of the Family Court, having been adjudicated a Delinquent Child and continued on Formal Probation for a period of five months, until August 3, 1999, or until the further Order of the Court.

IT IS FURTHER ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, pay Restitution in the amount of $500.00 as recommended by the Victims Assistance Program.

...

...

CASE NO. J58683

IT IS FURTHER ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, obtain employment, and substantiate employment with the Probation Department and pay the Court ordered Restitution from his earnings.

IT IS FURTHER ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, complete eighty hours of unpaid community service work.

IT IS FURTHER ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, complete an Anger Control Class.

IT IS FURTHER ORDERED that Renard Turman Polk, AKA Renard Turman Edwards, and the parent(s) will abide by the Terms of Probation and Parental Agreement as attached.

The Director of Court Services, Clark County Family & Youth Services Probation Department, is charged with the execution of said Order.

THE COURT has advised the subject minor that pursuant to N.R.S. 62.370, said subject minor may, after three years have elapsed after termination of the Family Court's jurisdiction, or since the minor has so appeared, petition the Court for the sealing of all records relating to said minor;

...

...

...

...

...

...

CASE NO. J58683

That, if the Court, after a hearing on said petition, orders the records sealed, all proceedings theretofore recounted in the records are deemed never to have taken place, and the minor may, in response to any inquiry, reply that he has no juvenile record whatsoever.

Dated this 9th day of March, 1999.

JUVENILE HEARING MASTER
FERNANDO GUZMAN

DISTRICT JUDGE - JUVENILE
ROBERT E. GASTON

Submitted by:

STEVE BARBER
Probation Officer
601 North Pecos Road
Las Vegas, Nevada 89101

DATE: 3-3-99

ORIGINAL

EIGHT JUDICIAL DISTRICT
FAMILY DIVISION - JUVENILE
CLARK, COUNTY, NEVADA

FILED
APR 14 3 45 PM '99
Shirley B. Parraguirre
CLERK

In the Matter of: RENARD TURMAN POLK aka RENARD TURMAN EDWARDS JUVI ID #445068 02 A Minor, 18 Years, 6 Months of Age. Born October 14, 1980	CASE NO. J58683 DEPT NO. **D** J245306 Petition No. 4-1 **ARREST WARRANT**

PETITION - PROBATION VIOLATION

That there is now within the County of Clark, State of Nevada, the above named minor who resides with his/her parents or guardians at:

Father:	Information not available
Mother:	Gloria Polk
Guardian:	NA
Residence:	1325 Nay Court, Las Vegas, Nevada 89104
Probation Officer:	Steve Barber

That your Petitioner, a duly appointed, qualified and acting Probation Officer of the Clark County, State of Nevada, makes the following declaration under the penalty of perjury:

That Petitioner is informed and believes, and therefore on information and belief, alleges that the facts bringing said minor within the jurisdiction of the Juvenile Court pursuant to NRS 62.040 and NRS 62.211 are that on or about, March 3, 1999 subject minor was adjudicated a delinquent on charges of Petition 3, Count 2 Attemp Robbery and Petition 3, Count 3 Battery ameded to read "By punching him in the nose" and was placed on probation under the supervision of the Department of Family and Youth Services Probation Division; that subject minor has violated the terms and conditions of probation in the following manner:

CONDITION: Renard Polk was Ordered to report to his assigned Probation Officer on a regularly scheduled basis.

CONDUCT: .Renard Polk ceased contact with the Probation Department after his formal sentencing on March 3, 1999.

~~**CONDITION**: Renard Polk was ordered to pay restitution in the amount of $500.0 as recommended by the Victims Assistance program.~~

~~**CONDUCT**: Renard Polk failed to do so.~~

CONDITION: Renard Polk was ordered to obtain employment, and substantiate employment with the assigned probation Officer and to pay the court ordered restitution with his earnings.

CONDUCT: Renard Polk failed to do so.

CONDITION: Renard Polk was ordered to complete eighty hours of unpaid community service work.

CONDUCT: Renard Polk failed to do so.

CONDITION: Renard Polk was ordered to complete an Anger Control Class.

CONDUCT: Renard Polk failed to do so.

WHEREFORE, Petitioner prays that an arrest warrant issue for the apprehension of Renard Polk aka Edwards as it is in the best interest of the public and the subject minor be forthwith brought before the Court and that the Court take such further action as deemed fit and proper under the circumstances and in accordance with law as the subject minor is in need of treatment of rehabilitation; Petitioner recommends, based upon the information known at the time of the filing of this request, that the subject minor be committed.

Dated this 14th day of April, 1999

STEWART L. BELL
DISTRICT ATTORNEY

BY: _____
Deputy District Attorney

_____
Steve Barber
Petitioner

AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY _____, **DEPUTY**
8/17, 19 99

14

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION - JUVENILE
CLARK COUNTY, NEVADA

JAN 14 1 32 PM '00

In the matter of:

RENARD TURMAN POLK,

Date of Birth: October 14, 1980,

Minor, 19 Years of Age.

CASE NO. J58683
DEPT NO.

EX PARTE TERMINATION OF WARDSHIP ORDER

Based on the information presented in the Termination of Wardship Report and good cause being shown;

IT IS HEREBY ORDERED that the Wardship of Renard Turman Polk is terminated.

Dated this 13 day of January, 2000.

JUVENILE HEARING MASTER
FERNANDO GUZMAN

DISTRICT JUDGE - JUVENILE
ROBERT E. BASTIAN

Submitted by:

STEVE BARBER
Juvenile Probation Officer II
601 North Pecos Road
Las Vegas, Nevada 89101
DATE: 1-10-2000

RECEIVED
JAN 12 2000
COUNTY CLERK

1 · RIC

ORIGINAL

DN
Se-d
8-14-99

FILED

AUG 25 2 32 PM '99

CLERK

STEWART L. BELL
DISTRICT ATTORNEY
NEVADA STATE BAR NO. 447
PANDORA JOHNSON
Deputy District Attorney
Nevada State Bar No. 826
Juvenile Division
601 North Pecos Road
Las Vegas, Nevada 89101
(702) 455-5320
Attorney for the State of Nevada

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

In the Matter of: RENARD TURMAN POLK aka EDWARDS Date of Birth: 10/14/1980 A Minor 18 Years of Age,	CASE NO. J58683 DEPT NO. D

WARRANT OF ARREST

TO: Any Sheriff, Constable, Marshal, Policeman, or Peace Officer, in Clark County:

I have this day, been informed by PROBATION OFFICER STEVE BARBER of the FAMILY AND YOUTH SERVICES DIVISION, that the crime(s) of VIOLATION OF PROBATION has/have been committed, and accusing the above-named thereof.

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named subject minor, RENARD TURMAN POLK aka EDWARDS, and bring him/her to Family and Youth Services, 601 North Pecos Road, Las Vegas, Clark County, Nevada.

WITNESS my hand this 15th day of April, 1999, and I direct that this Warrant may be served at any hour of the day or night.

DISTRICT COURT JUDGE
FAMILY DIVISION-JUVENILE

RECEIVED
AUG 25 1999
COUNTY CLERK

DETEN ON/PLEA/DISPOSITION HEARI S

10:00 A.M. 2 TUESDAY, 8/17/99 PAGE: 8

IN THE MATTER OF: BELL

CASE NO.: J 58683

RENARD TURMAN POLK DOB: 10/14/80
aka RENARD TURMAN EDWARDS

PARENTS: N/A
GLORIA POLK (DECEASED)

RIGHTS GIVEN
WAIVED COUNSEL
WAIVED SPDY.TRIAL
SPECIAL DISPOSITION
✓ NOC ✓ ADJ.DEL
ADJ.NEG
PETN(s): #4
PRIOR ORDER VACATED
REVOKED PAROLE PROB.
✓ COMMIT: CCJ = 30 days
SUSPEND STAY
FORMAL PRO PO's.
INTERSTATE TO:
PLACEMENT AT:
FREEDOM
SUPPORT PMTS.$
$ FINE +
$10.00 FEE +
REST.$ Waived
C.S. HOURS
COUNSEL'G.
OPTIONS P/L I, II,
CAP SCHOOL DRUG PRO.
RANDOM U/A's
AEP DRUG COURT
MARCON ASSESSMENT
LIC.PROHIB. MO's.
LIC.SUSP. MO's.
MANDATORY SCHOOL OR:
NO CONTACT W/CO-DEFTS.
OTHER COND.PER PO
OTHER

CONTINUED ENTRY OF PLEA/SC: RESTITUTION
PETN. #4 FILED 4/14/99 (VIOLATION OF PROBATION) J245306

**RESTITUTION $500.00

Dept claims he has paid this Rest, but has no proof at this time

NO APPR. ✓ S/M ✓ CUST. STEP MOTHER STEP FATHER GUARDIAN/ADDULT RELATIVE COURT APPOINTED GDN.AD LITEM

JUDGE/REFEREE: FERNANDO GUZMAN CLERK: DOREEN FONSECA SPECIAL SETTING

TE/APPEAR:	COURT ACTION THIS HEARING	SCHEDULED ACTION
AUG 17 1999	STATEMENTS: ✓ COURT ✓ STATE ✓ COUNSEL DPO CPS CFS JSO NEW DIR. CON.CARE MINOR MOTHER FATHER OTHER	DATE:
Johnson DDA	✓ S/M CT. ATTY/PD MOTHER FATHER OTHER	TIME:
Rosie PD	CHANGED PLEA ✓ ADMITS DENIES ALFORD NOLO NO PLEA TAKEN	DEPT:1, 2, 3,
	PETN.NO: #4	CONTINUED
	COUNTS:	ROP
	COURT APPOINTED P.D. CONFLICT/CT.APPTD.	CONSULT ATTY/PD
	ORDER TO CON.P.D. FINANCIAL ONLY ASSESSMENT FEE:$	R&D
	WAIVER FILED	P/P
	UPON MOTION OF: STATE ATTY/PD COURT DPO PARENT	C.D.REVIEW
	COURT ORDERED/RECOMMENDED:	CONT.HRG.
	SUMMONS B/W OSC/PARENTS REFERRED TO: DPO CD PAROLE TRAFFIC	TRIAL
	✓ PETNs 4 AMENDED (INTERLINEATION/DELETED) TO READ:	CERT.HRS:
	Pertaining to Restitution	M.O.C.O.
	PETN TO BE FILED AFTER COURT TO READ:	REVO:
	JUDICIAL REPRIMAND-PETN'S DISMISS PETN's	POSS.DISMISS
	MINOR RELEASED TO: PARENT HM.MGMT. ELEC.MON. ✓ JSO CON.CARE	DRUG COURT
	✓ MINOR DETAINED ✓ TRANSFER TO: CH SMYC DCFS ✓ CCJ 30 DAYS/MONTHS	STATUS CHECKS
	HOUSE ARREST DAYS NO CREDIT CREDIT GOOD TIME	FINE $
	NO RELEASE DET.REVIEW 9:00 AM. CCJ REL.DATE	REST:$
	✓ PROBATION/WARDSHIP/CUSTODY TERMINATED Upon release CASE CLOSED	C.S. HRS.
		PLACEMENT
		PROGRAM:
		OTHER:
		1 2 3

COMMENTS: Dept. is homeless + has been in the Mental Health System

3

9:00 A.M. 2 MONDAY, 8/16/99 PAGE:

IN THE MATTER OF: BELL

CASE NO.: J 58683

RENARD TURMAN POLK DOB: 10/14/80
aka RENARD TURMAN EDWARDS

PARENTS: N/A
GLORIA POLK (Deceased)

ENTRY OF PLEA/ARREST WARRANT SERVED
PETN. #4 FILED 4/14/99 (VIOLATION OF PROBATION) J245306

__RIGHTS GIVEN
__WAIVED COUNSEL
__WAIVED SPDY.TRIAL

SPECIAL DISPOSITION
__NOC __ADJ.DEL
__ADJ.NEG
PETN(S)#
__PRIOR ORDER VACATED
__REVOKED __PAROLE __PROB.
__COMMIT:
__SUSPEND __STAY
__FORMAL PRO __MO's.
__INTERSTATE TO:
__PLACEMENT AT:
__FREEDOM
__SUPPORT PRES.$
$ FINE +
$10.00 FEE -
__REST.$
__C.S. HOURS
__COUNSEL'G.
__OPTIONS P/L I, II.
__CAP SCHOOL DRUG PRO.
__RANDOM U/A's
__AEP DRUG COURT
__MARION ASSESSMENT
__LIC.PROHIB. __MO's.
__LIC.SUSP. __MO's.
__MANDATORY SCHOOL OR:
__NO CONTACT W/CO-DEFTS.
__OTHER COND.PER PO
__OTHER

P.D. appt.

minor stated he didn't paid Restitution

__NO APPR. ✓S/M ✓CUST. __STEP __MOTHER __STEP __FATHER __GUARDIAN/ADDULT RELATIVE __COURT APPOINTED GDN.AD LITEM

JUDGE/REFEREE: FERNANDO GUZMAN CLERK: Deanna Bryant __SPECIAL SETTING

DATE/APPEAR:	COURT ACTION THIS HEARING	SCHEDULED ACTION
8/16/99 P. Johnson DD	STATEMENTS: ✓COURT __STATE __COUNSEL __DPO __CPS __CPS __JSO __NEW DIR. __CON.CARE __MINOR __MOTHER __FATHER __OTHER ✓S/M __CT. __ATTY/PD __MOTHER __FATHER __OTHER __CHANGED PLEA __ADMITS __DENIES __ALFORD __NOLO __NO PLEA TAKEN PETN.NO: COUNTS: ✓COURT APPOINTED P.D. __CONFLICT/CT.APPTD. ✓ORDER TO CON.P.D. __FINANCIAL ONLY __ASSESSMENT FEE:$ __WAIVER FILED UPON MOTION OF: __STATE __ATTY/PD __COURT __DPO __PARENT COURT ORDERED/RECOMMENDED: __SUMMONS __B/W __OSC/PARENTS REFERRED TO: __DPO __CD __PAROLE __TRAFFIC __PETNs ____ AMENDED (INTERLINEATION/DELETED) TO READ: __PETN ____ TO BE FILED AFTER COURT TO READ: __JUDICIAL REPRIMAND-PETN'S DISMISS PETN's __MINOR RELEASED TO: __PARENT __HM.MGMT. __ELEC.MON. __JSO __CON.CARE __MINOR DETAINED __TRANSFER TO: __CH __SMYC __DCFS __CCJ ____ DAYS/MONTHS __HOUSE ARREST ____ DAYS __NO CREDIT __CREDIT GOOD TIME __NO RELEASE __DET.REVIEW ____ 9:00 AM. CCJ REL.DATE __PROBATION/WARDSHIP/CUSTODY TERMINATED __CASE CLOSED I-Wortman opt Guardian ad litem Minor is homless.	DATE: 8-17-99 TIME: 10 00 __DEPT:1, 2, 3, ✓CONTINUED ✓ 4 ✓CONSULT ATTY/PD __R&D __P/P __C.D.REVIEW __CONT.HRG. __TRIAL __CERT.HRS: __M.O.C.O. __REVO: __POSS.DISMISS __DRUG COURT STATUS CHECKS __FINE $ __REST:$ __C.S. HRS. __PLACEMENT __PROGRAM: __OTHER: 1 (2) 3

Wortman Intake

COMMENTS:

1. RP

· Daniel Huff Incident ·

ORIGINAL

FILED

SEP 29 9 50 AM '98

CLERK

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

In the Matter of:	
RENARD TURMAN POLK aka EDWARDS	CASE NO. J58683
ID#:194955 JUVI ID: 44506802	DEPT. D
Date of Birth: 10/14/1980	Courtroom 2
Years of Age: 17	Petition 3
	Plea: 10/01/1998 at 10:00 a.m. WITH CO-DEFENDANT

PETITION - DELINQUENCY J241117

That there is now within the County of Clark, State of Nevada, the above named minor who resides with his/her parent(s) or guardian(s) at: 1325 Nay Court, Las Vegas, Nevada 89104

Mother: ANNA EDWARDS
Father: Information not available
Grandmother: GLORIA POLK

That your Petitioner, a duly appointed and qualified Deputy District Attorney for the County of Clark, State of Nevada, makes the following declaration:

That Petitioner is informed and believes, and thereon alleges that the facts bringing said minor within the jurisdiction of the Juvenile Court pursuant to NRS 62.040 are that, in Clark County, Nevada, subject minor:

COUNT 1: BATTERY WITH SUBSTANTIAL BODILY HARM

on or about September 20, 1998, together with WYATT S. PETERSON, did wilfully and unlawfully use force and violence upon the person of another, to-wit: DANIEL HUFF, by punching the victim in the nose and breaking it, resulting in substantial bodily harm to the said victim, in violation of NRS 200.481.

LVMPD Event #: 980920-0537

COUNT 2: ATTEMPTED ROBBERY

on or about September ~~20~~ 19, 1998, together with WYATT S. PETERSON, did wilfully and unlawfully attempt to take personal property, to-wit: cash and

Case No. J58683

shoes, from the person of DANIEL HUFF, or in his/her presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said victim, by surrounding the victim, demanding the cash and shoes, punching him in the face, by the subject minor trying to remove the shoes and the subject minor and PETERSON fleeing together, in violation of NRS 200.380 and NRS 193.330.

LVMPD Event #: 980920-0537

COUNT 3: BATTERY

on or about September ~~20~~ 19, 1998, together with WYATT S. PETERSON, did wilfully and unlawfully use force and violence upon DANIEL HUFF, by striking the above-named about the body as follows: by surrounding DANIEL HUFF and ~~pushing~~ him ~~to the ground~~, in violation of NRS 200.481.
Pushing & in the face.

LVMPD Event # 980920-0537

AMENDED BY ORDER OF THE COURT
LORETTA BOWMAN, CLERK
INEZ ZIMMERMAN
BY: Deputy
Oct. 21, 1998

That the subject minor is now in the custody and control of Family and Youth Services Detention Facility, and has been since 09/23/1998.

WHEREFORE, Petitioner prays that this matter be set for hearing as it is in the best interest of the public and the subject minor that this proceeding be commenced and that the Court take such further action as is deemed fit and proper under the circumstances and in accordance with the law as the subject minor is in need of treatment and/or rehabilitation.

I declare that I am the Petitioner named in the foregoing Petition and know the contents thereof: that this petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28th day of September, 1998.

STEWART L. BELL
DISTRICT ATTORNEY

BY: _____
Deputy District Attorney
Petitioner

LC/ss

19

13

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION - JUVENILE

CLARK COUNTY, NEVADA

FILED
DEC 29 2 43 PM '98
CLERK

In The Matter of:

Renard Turman Polk aka Edwards

A Minor Born: 10/14/80

CASE NO. J 58683-1
DEPT NO. D
COURTROOM 2

FINDINGS OF FACT, RECOMMENDATION,

ORDER OF APPROVAL

AND NOTICE OF RIGHT TO APPEAL

PETITION NO. 3 AMENDED COUNTS 1, 2 & 3 AMENDED

This matter having come before the Court on the 21st day of December, 1998, and said minor, Renard Turman Polk and Edwards, having been present in Court accompanied by his father, Darold Edwards, and having been represented by Randall Roske, Esq., and the Court having considered the evidence presented in this matter on the 21st day of December, 1998, by the State of Nevada and by Renard Turman Polk aka Edwards.

Wherefore, Fernando Guzman, Hearing Master in the Family Division of the Eighth Judicial District Court of Nevada, in and for Clark County, Nevada, does hereby find that the State has failed to prove beyond a reasonable doubt that the subject minor on or about September 19, 1998, together with Wyatt S. Peterson, did wilfully and unlawfully use force and violence upon the person of another, to-wit: Daniel Huff, by punching the victim in the nose and breaking it, resulting in substantial bodily harm to the said victim, in violation of N.R.S. 200.481 as alleged in Petition No. 3 Amended Count 1 Amended, Battery with Substantial Bodily Harm.

Wherefore, Fernando Guzman, Hearing Master in the Family Division of the Eighth Judicial District Court of Nevada, in and for Clark County, Nevada, does hereby find beyond a reasonable doubt that the subject minor on or about September 19, 1998, together with Wyatt S. Peterson, did wilfully and unlawfully attempt to take personal property, to-wit: cash and shoes, from the person of Daniel Huff, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said victim, by surrounding the victim, demanding the cash and shoes, punching him in the face, by the subject minor trying to remove the shoes and the subject minor and Peterson fleeing together, in violation of N.R.S. 200.380 and N.R.S. 193.330 as alleged in Petition No. 3 Amended Count 2 Amended, Attempted Robbery and on or about September 19. 1998, together with Wyatt S. Peterson, did wilfully and unlawfully use force and violence upon Daniel Huff, by striking the above-named about the body as follows: by surrounding Daniel Huff and striking him in the face, in violation of N.R.S. 200.481 as alleged in Petition No. 3 Amended, Count 3 Amended, Battery.

Wherefore, Fernando Guzman, Hearing Master in the Family Division of the Eighth Judicial District Court of Nevada, does hereby recommend that Renard Turman Polk aka Edwards be adjudged a delinquent child as defined in Nevada Revised Statute Chapter 62. It is further recommend that a Dispositonal Hearing be held for Petition No. 3 Amended, Counts 2 and 3 Amended on the 13th day of January, 1999. It is further recommended that Petition No. 3 Amended Count 1 Amended be dismissed.

DATED this 28th day of December, 1998.

FRED L. FISHER FOR
FERNANDO GUZMAN
HEARING MASTERS

ORDER OF APPROVAL

The above Findings of Fact and Recommendation's of the Hearing Master are hereby approved and such Findings of Fact and Recommendation's are hereby made on Order of the Eighth Judicial District Court of Nevada, Family Division.

Dated this 29th day of December, 1998.

CYNTHIA DIANNE STEEL FOR
GERALD W. HARDCASTLE
DISTRICT JUDGE -
FAMILY DIVISION -
JUVENILE

NOTICE OF RIGHT TO APPEAL

An application for rehearing of this matter may be filed with the Family Division of the Eighth Judicial District Court of the State of Nevada, within five days of receipt of this Findings of Fact and Recommendation of the Hearing Master pursuant to N.R.S. 62.090 and Rule 1.46 of the Eighth Judicial District Court.

CERTIFICATE OF MAILING

I hereby certify that I did deposit in the United States Post Office, at Las Vegas, Nevada, on the 29th day of December, 1998, in a sealed envelope with first-class postage fully prepaid thereon, a true and correct copy of the above and foregoing Findings of Fact and Recommendation, addressed to:

Randall Roske, Esq.
c/o 601 N. Pecos Rd.
Las Vegas, NV 89101

District Court

CLARK COUNTY, NEVADA

JUVENILE COURT

— FILED IN OPEN COURT —
8-16, 19 99
CLERK OF THE COURT
By: Deanna Bryant
Deputy

In the Matter of:

Renard Thomas Polk
a person under the age of 18 years.

Case No. J 58683

COURT ORDER

Because of what the juvenile and his parent or guardian have told the Court, it appears to the Court that the juvenile will need to be represented by legal counsel in the proceedings now before this Court. Therefore,

It is hereby ordered that the juvenile and one of his parents or guardian shall GO IMMEDIATELY to the Juvenile Court Branch Office of the Public Defender for an interview. Their address is 601 North Pecos Road, Las Vegas, Nevada 89101-2408. The telephone number is (702) 455-5475.

This interview will be for the purpose of determining whether the juvenile qualifies for legal representation by the Public Defender's Office and for discussion of the juvenile's case. The next Court date for this case is on 8-17-99 at 10:00 a.m. Failure to comply with this COURT ORDER may subject the parent or legal guardian of the juvenile to be held in contempt of Court.

- [x] Court Appointed
- [x] S/M In Custody
- [ ] Other _____

JUVENILE REFEREE

TAKE THIS ORDER TO YOUR ATTORNEY

Pg. 13

9

District Court

CLARK COUNTY, NEVADA

JUVENILE COURT

— FILED IN OPEN COURT —
October 1, 1998
LORETTA BOWMAN, CLERK
By: Inez Zimmerman
INEZ ZIMMERMAN Deputy

In the Matter of:
Renard Turman Polk
a person under the age of 18 years,

Case No. J58683

COURT ORDER

Because of what the juvenile and his parent or guardian have told the Court, it appears to the Court that the juvenile will need to be represented by legal counsel in the proceedings now before this Court, Therefore,

It is hereby ordered that the juvenile and one of his parents or guardian shall GO IMMEDIATELY to the Juvenile Court Branch Office of the Public Defender for an interview. Their address is 601 North Pecos Road, Las Vegas, Nevada 89101. The telephone number is (702) 455-5475.

This interview will be for the purpose of determining whether the juvenile qualifies for legal representation by the Public Defender's Office and for discussion of the juvenile's case. The next Court date for this case is on 10-8-98 at 10:00 a.m. Failure to comply with this **COURT ORDER** may subject the parent or legal guardian of the juvenile to be held in contempt of Court.

- [ ] Court appointed
- [x] S/M in custody
- [ ] Other _____

JUVENILE REFEREE
FERNANDO GUZMAN

TAKE THIS ORDER TO YOUR ATTORNEY

P.17

DET TION/PLEA/DISPOSITION HEAR GS

9:00 A.M. WED., JAN. 13, 1999 PAGE: 13

IN THE MATTER OF: BELL

CASE NO.: J58683-1 RENARD TURMAN POLK aka EDWARDS DOB 10/14/80 HARRIS

RIGHTS GIVEN
WAIVED COUNSEL
WVD.SPDY.TRIAL

PARENTS: DAROLD EDWARDS STEVE BARBER
ANNA EDWARDS
GLORIA POLK (GRANDMOTHER)

SPECIAL DISPOSITION
WOC ADJ.DEL
ADJ.NEG.
PETN(S)#
PAROLE REVOKED
COMMIT:
PLACEMENT AT:
PAYMENT:$
SUSP.COM. STAY
PML.PRO: MONTHS
INTERSTATE TO:

REPORT AND DISPOSITION
AM PETN #3 AMENDED 12/21/98 J241117
AM COUNT 2 - ATTEMPTED ROBBERY
AM COUNT 3 - BATTERY
COURT FOUND PETN TO BE TRUE 12/21/98

COUNSEL'G.
OPTIONS
POS.CH.
BACK IN CONT.
METRO.YTH.DIV.
FREEDOM PROGRAM
MISDEMEANOR
LIC.PROHIB. MOs.
LIC.SUSP. MOs.
MARCON ASSESSMENT
OTHER COND.PER.PO.
OTHER

NO.APPR. MINOR CUST. STEP MOTHER STEP FATHER GUARDIAN/ADULT RELATIVE COURT APPOINTED GDN.AD LITEM

JUDGE/REFEREE: ROBERT E. GASTON CLERK: TONI MEZA

DATE/APPEARANCES | COURT ACTION THIS HEARING | SCHEDULED ACTION

JAN 13 1999

STATEMENTS: COURT STATE COUNSEL DPO CPS CFS
MINOR MOTHER FATHER
S/M CT. ATTY/PD MOTHER FATHER OTHER
DENIES PETNs CTs ADMITS PTNs CTs
NOLO PTNS CTs ALFORD PTNS CTs
CHANGE OF PLEA-PTNs ADMITS CTs
COURT APPOINTED P.D. CONFLICT/CT.APPTD.ATTY:
ORDER TO CONSULT P.D. FILED IN OPEN COURT
WAIVER FILED

UPON MOTION OF: STATE ATTY/PD COURT DPO PARENT
COURT ORDERED:
S/M FINED $ +ADM.FEE:$10.00 REST:$ C.S. HRS.
A.A.MTGS WEEKLY N.A.MTGS WEEKLY

SUMMONS B/W OSC/PARENTS REFERRED TO: DPO CD PL TRAFFIC
PETNs AMENDED (INTERLINEATION-DELETED) TO READ:
PETNs TO BE FILED AFTER COURT TO READ:
PTNs FILED IN OPEN COURT:
JUDICIAL REPRIMAND-PETNs DISMISS PETNs
REQUEST OF: S/M RELEASED S/M DETAINED
TRANSFER TO: CH SMYC DCFS CCJ DAYS/MONTHS
HOUSE ARREST DAYS CREDIT GOOD TIME NO CREDIT
NO RELEASE DETENTION REVIEW CCJ REL.DATE

DATE:
TIME:
DEPT: 1,2,3,D
CONTINUED
EOP
CONSULT ATTY/PD
R&D
F/P
C.D.REVIEW
CONT.HRG.
TRIAL
CERT.HRG:
M.O.C.O
REVO:
POSS.DISMISS
STATUS CHECKS:
FINE $
REST:$
C.S. HRS.
PLACEMENT
PROGRAM:
OTHER

1 2 3 D

S. Shortz, P.O.
S. Roske, DPD
Pontiello, DDA

COMMENTS:
P.O. stated Sim was aware of Court.
Note: NO BW form found in file.

DETENTION/PLEA/DISPOSITION HEARINGS

9:00 A.M. 2 TUESDAY, 2/9/99 PAGE:

IN THE MATTER OF: BELL

CASE NO.: J 58683 - 1

RENARD TURMAN POLK DOB: 10/14/80 HARRIS
aka EDWARDS

PARENTS: DAROLD EDWARDS STEVE BARBER
ANNA EDWARDS
GLORIA POLK (GRANDMOTHER)

RIGHTS GIVEN
WAIVED COUNSEL
WAIVED SPDY.TRIAL

SPECIAL DISPOSITION
WOC ADJ.DEL
ADJ.NEG
PETN(s)
PRIOR ORDER VACATED
REVOKED PAROLE PROB.
COMMIT:
SUSPEND STAY
FORMAL PRO MO's.
INTERSTATE TO:

PLACEMENT AT:

FREEDOM
SUPPORT PMTS.$
$ FINE +
$10.00 FEE =
REST.$
C.S. HOURS
COUNSEL'G.
OPTIONS P/L I, II.
CAP SCHOOL DRUG PRO.
RANDOM U/A's
AEP DRUG COURT
MARCON ASSESSMENT
LIC.PROHIB. MO's.
LIC.SUSP. MO's.
MANDATORY SCHOOL OR:

NO CONTACT W/CO-DEFTS.
OTHER COND.PER PO
OTHER

REPORT AND DISPOSITION/BENCH WARRANT SERVED
AM. PETN. #3 AMENDED 12/21/98 J241117
AM. CT. 2 - ATTEMPTED ROBBERY
AM. CT. 3 - BATTERY
COURT FOUND PETN. TO BE TRUE 12/21/98

Signed

**BENCH WARRANT ISSUED 1/13/99

Has Sentencing downtown on 5-10-99

NO APPR. ✓ S/M CUST. STEP MOTHER STEP FATHER GUARDIAN/ADDULT RELATIVE COURT APPOINTED GDN.AD LITEM

JUDGE/REFEREE: FERNANDO GUZMAN CLERK: INEZ ZIMMERMAN SPECIAL SETTING

DATE/APPEAR:	COURT ACTION THIS HEARING	SCHEDULED ACTION
FEB 9 1999	STATEMENTS: COURT STATE COUNSEL DPO CPS CFS JSO NEW DIR. CON.CARE MINOR MOTHER FATHER OTHER	DATE: 3-3-99
Thyron DDA	S/M CT. ATTY/PD MOTHER FATHER OTHER	TIME: 9:00
Pam Snodgrass for Steve Barber P.D.	CHANGED PLEA ADMITS DENIES ALFORD NOLO NO PLEA TAKEN	DEPT:1, 2, 3, (F)
	PETN.NO:	CONTINUED
	COUNTS:	EOP
	COURT APPOINTED P.D. CONFLICT/CT.APPTD.	CONSULT ATTY/PD
	ORDER TO CON.P.D. FINANCIAL ONLY ASSESSMENT FEE:$	R&D
	WAIVER FILED	F/P
	UPON MOTION OF: STATE ATTY/PD COURT DPO PARENT	C.D.REVIEW
	COURT ORDERED/RECOMMENDED:	CONT.HRG.
	SUMMONS B/W OSC/PARENTS REFERRED TO: DPO CD PAROLE TRAFFIC	TRIAL
	PETNs AMENDED (INTERLINEATION/DELETED) TO READ:	CERT.HRS:
		M.O.C.O.
	PETN TO BE FILED AFTER COURT TO READ:	REVO:
		POSS.DISMISS
	JUDICIAL REPRIMAND-PETN'S DISMISS PETN's	DRUG COURT
	MINOR RELEASED TO: PARENT HM.MGMT. ELEC.MON. JSO CON.CARE	STATUS CHECKS
	MINOR DETAINED TRANSFER TO: CH SMYC DCFS CCJ DAYS/MONTHS	FINE $
	HOUSE ARREST DAYS NO CREDIT CREDIT GOOD TIME	REST:$
	NO RELEASE DET.REVIEW 9:00 AM. CCJ REL.DATE	C.S. HRS.
	PROBATION/WARDSHIP/CUSTODY TERMINATED CASE CLOSED	PLACEMENT
		PROGRAM:
		OTHER:
		1 2 3 (F)

COMMENTS:

DE NTION/PLEA/DISPOSITION HE INGS

9:00 A.M. WED., MAR. 3, 1999

PAGE: 12

IN THE MATTER OF: BELL

CASE NO.: J 58683-1 RENARD TURMAN POLK aka EDWARDS DOB 10/14/80 HARRIS

RIGHTS GIVEN
WAIVED COUNSEL
WAIVED SPDY.TRIAL

SPECIAL DISPOSITION
✓NOC ADJ.DEL
MOD.NEG
PETN(s): am 3 am 2 + am 3
PRIOR ORDER VACATED
REVOKED PAROLE PROB.
COMMIT:
SUSPEND STAY
✓FORMAL PRO 5 MO's.
INTERSTATE TO:
PLACEMENT AT:
FREEDOM
SUPPORT PMTS.$
$ FINE +
$10.00 FEE
✓REST.$ VAR $500.00 to be paid from earnings
✓C.S. 20 HOURS
✓COUNSEL'G. per PO.
OPTIONS P/L I, II.
CAP SCHOOL DRUG PRO.
RANDOM U/A's
AEP DRUG COURT
NARCON ASSESSMENT
LIC.PROHIB. MO's.
LIC.SUSP. MO's.
MANDATORY SCHOOL OR:

NO CONTACT W/CO-DEFTS.
OTHER CONDAPER-PO
✓OTHER Obtain employment
Complete anger control

PARENTS: DAROLD EDWARDS
ANNA EDWARDS
GLORIA POLK (GRANDMOTHER)

STEVE BARBER

REPORT AND DISPOSITION

AM PETN #3 AMENDED 12/21/98 J241117
AM COUNT 2 - ATTEMPTED ROBBERY
AM COUNT 3 - BATTERY
COURT FOUND PETN TO BE TRUE 12/21/98

STEP STEP GUARDIAN/ADULT RELATIVE
NO APPR. ✓S/M ✓CUST. MOTHER FATHER COURT APPOINTED GDN.AD LITEM

JUDGE/REFEREE: ROBERT E. GASTAN CLERK: LINDA TITSWORTH SPECIAL SETTING

DATE/APPEAR:	COURT ACTION THIS HEARING	SCHEDULED ACTION
MAR 03 1999	STATEMENTS: ✓COURT STATE ✓COUNSEL DPO CPS CFS JSO NEW DIR. CON.CARE MINOR MOTHER FATHER OTHER	DATE:
Jan Baskerck DDA	S/M CT. ATTY/PD MOTHER FATHER OTHER	TIME:
	CHANGED PLEA ADMITS DENIES ALFORD NOLO NO PLEA TAKEN	DEPT:1, 2, 3,
	PETN.NO:	CONTINUED
	COUNTS:	BOP
	COURT APPOINTED P.D. CONFLICT/CT.APPTD.	CONSULT ATTY/PD
	ORDER TO CON.P.D. FINANCIAL ONLY ASSESSMENT FEE:$	R&D
	WAIVER FILED	F/P
		C.D.REVIEW
	UPON MOTION OF: STATE ATTY/PD COURT DPO PARENT	CONT.HRG.
	COURT ORDERED/RECOMMENDED:	TRIAL
Barker P.O.	SUMMONS B/W OSC/PARENTS REFERRED TO: DPO CD PAROLE TRAFFIC	CERT.HRG:
	PETNs AMENDED (INTERLINEATION/DELETED) TO READ:	M.O.C.O.
		REVO:
	PETN TO BE FILED AFTER COURT TO READ:	POSS.DISMISS
		DRUG COURT
Roske PD	JUDICIAL REPRIMAND-PETN's DISMISS PETN's	STATUS CHECKS
	✓MINOR RELEASED TO: ✓PARENT HM.MGMT. ELEC.MON. JSO CON.CARE	FINE $
	MINOR DETAINED TRANSFER TO: CH SMYC DCFS CCJ DAYS/MONTHS	REST:$
	HOUSE ARREST DAYS NO CREDIT CREDIT GOOD TIME	C.S. HRS.
	NO RELEASE DET.REVIEW 9:00 AM. CCJ REL.DATE	PLACEMENT
	PROBATION/WARDSHIP/CUSTODY TERMINATED CASE CLOSED	PROGRAM:
		OTHER:
		1 2 3

COMMENTS:

ORIGINAL

DEC 9 1997

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

Joe Farano

In the Matter of:	
RENARD TURMAN POLK aka EDWARDS	CASE NO. J58683
JUVI ID# 44506802	DEPT. NO. A
DOB: October 14, 1980	Courtroom No. 7
A Minor 16 Years of Age.	Petition No. 2 Plea: 12/09/97 at 2:00 p.m. **with Contested Hearing**

2nd

AMENDED "MVU"
PETITION - DELINQUENCY

That there is now within the County of Clark, State of Nevada, the above named minor who resides with his/her parent(s) or guardian(s) at: 1325 Nay Court, Las Vegas, Nevada 89104

Father: Information not available
Mother: Anna Edwards

That your Petitioner, a duly appointed and qualified Deputy District Attorney for the County of Clark, State of Nevada, makes the following declaration:

That Petitioner is informed and believes, and thereon alleges that the facts bringing said minor within the jurisdiction of the Juvenile Court pursuant to NRS 62.040 are that, in Clark County, Nevada, subject minor:

COUNT 1: ROBBERY WITH A DEADLY WEAPON

on or about September 20, 1997, did wilfully and unlawfully take personal property, to-wit: household appliances and clothing, from the person of SHANNON BELL, or in his/her presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said victim, subject minor using a deadly weapon, to-wit: a large hunting knife, during the commission of said crime, in violation of N.R.S. 200.380 and N.R.S. 193.165.

LVMPD Ev # 970921-0194

COUNT 2: INTIMIDATING A WITNESS

on or about ~~September 20, 1997~~ October 6, 1997, did wilfully and

PS.16

Case No. J58683

shoes, from the person of DANIEL HUFF, or in his/her presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said victim, by surrounding the victim, demanding the cash and shoes, punching him in the face, by the subject minor trying to remove the shoes and the subject minor and PETERSON fleeing together, in violation of NRS 200.380 and NRS 193.330.

LVMPD Event #: 980920-0537

COUNT 3: BATTERY

on or about September ~~20~~ 19, 1998, together with WYATT S. PETERSON, did wilfully and unlawfully use force and violence upon DANIEL HUFF, by striking the above-named about the body as follows: by surrounding DANIEL HUFF and ~~pushing~~ him ~~to the ground~~, in violation of NRS 200.481.
Struck ↑ ↓ in the face.

LVMPD Event # 980920-0537

AMENDED BY ORDER OF THE COURT
LORETTA BOWMAN, CLERK
BRIGITTE ZIMMERMAN, Deputy
October 27, 1998

That the subject minor is now in the custody and control of Family and Youth Services Detention Facility, and has been since 09/23/1998.

WHEREFORE, Petitioner prays that this matter be set for hearing as it is in the best interest of the public and the subject minor that this proceeding be commenced and that the Court take such further action as is deemed fit and proper under the circumstances and in accordance with the law as the subject minor is in need of treatment and/or rehabilitation.

I declare that I am the Petitioner named in the foregoing Petition and know the contents thereof: that this petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28th day of September, 1998.

STEWART L. BELL
DISTRICT ATTORNEY

BY: _____
Deputy District Attorney
Petitioner

LC/ss

P3:12

AMENDED BY ORDER OF THE COURT
LORETTA BOWMAN, CLERK
BY [illegible] Deputy
[illegible] 1997

unlawfully use any force, threat, intimidation or deception, with intent to influence the testimony of any witness or person who may be called as a witness in an official proceeding, to-wit: SHANNON BELL, or with the intent to cause or induce the said SHANNON BELL to give false testimony or to withhold true testimony, or with the intent to cause or induce the said SHANNON BELL to withhold a record, document or other object from the proceeding, by the defendant threatening, intimidating or attempting to force SHANNON BELL to change or withhold true testimony in a case against RENARD POLK, by threatening physical injury to her in an effort to cause her to change or withhold true testimony, in violation of N.R.S. 199.240.

LVMPD Ev # 970921-0194

COUNT 3: ~~GRAND LARCENY~~ PETTY LARCENY 777

on or about September 20, 1997, did wilfully and unlawfully take, steal and carry away property, to-wit: household appliances and clothing, more than $250.00 in value, from BELL FAMILY, by removing the same with the intent to deprive the owner permanently thereof, in violation of N.R.S. 205.220.

LVMPD Ev # 970921-0194

That the subject minor is now in the custody and control of his parent(s), and has been since November 18th, 1997.

WHEREFORE, Petitioner prays that this matter be set for hearing as it is in the best interest of the public and the subject minor that this proceeding be commenced and that the Court take such further action as is deemed fit and proper under the circumstances and in accordance with the law as the subject minor is in need of treatment and/or rehabilitation.

I declare that I am the Petitioner named in the foregoing Petition and know the contents thereof; that this petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9th day of December, 1997.

STEWART L. BELL
DISTRICT ATTORNEY

BY: [signature]
Deputy District Attorney
Petitioner

PS.19

RECEIPT OF SERVICE

Susan Roske, Deputy Public Defender, for Renard Turman Polk aka Edwards , does hereby acknowledge receipt of the Findings of Fact and Recommendation of the Hearing Master, this 22 day of December, 1997.

Robert Michael Gardner
DEPUTY PUBLIC DEFENDER

District Court

JUVENILE DIVISION
CLARK COUNTY, NEVADA

OCT 9 9 04 AM '98

In the Matter of:

RENARD POLK,

A person under the age of 18 years.

CASE NO. J58683
DEPARTMENT NO. D

ORDER APPOINTING COUNSEL AND ORDERING REIMBURSEMENT

Whereas the minor has requested an attorney and submits the attached affidavit of eligibility, therefore, in accord with NRS 62.085, the Clark County Public Defender is hereby appointed to represent this juvenile in the matter now pending before the Court.

IT IS FURTHER ORDERED that N/A

and each of them jointly and severally pay to the County of Clark the sum of $ N/A as reimbursement for legal services provided.

DATED this 6th day of October, 19 98.

HEARING MASTER
FERNANDO GUZMAN

IT IS SO ORDERED.

DISTRICT COURT JUDGE
GERALD W. HARDCASTLE

PDJ-107-D

PO-6

District Court

FILED

JUVENILE DIVISION

MAR 10 1 49 PM '97

CLARK COUNTY, NEVADA

Loretta Lummus
CLERK

In the Matter of:	)	
	)	CASE NO. J58683
RENARD POLK	)	DEPARTMENT NO. A
	)	
A person under the age of 18 years.	)	

ORDER APPOINTING COUNSEL AND ORDERING REIMBURSEMENT

Whereas the minor has requested an attorney and submits the attached affidavit of eligibility, therefore, in accord with NRS 62.085, the Clark County Public Defender is hereby appointed to represent this juvenile in the matter now pending before the Court.

IT IS FURTHER ORDERED that n/a

and each of them jointly and severally pay to the County of Clark the sum of $ n/a as reimbursement for legal services provided.

DATED this 10 day of ~~February~~ March, 19 97.

Terrance P. Marren

DISTRICT JUDGE

Pg 2

'rk County Family and Youth Ser ɜs
601 North Pecos Road
Las Vegas, Nevada 89101

Probation/Parole Services Termination Report

Probationer: POLK, RENARD TURMAN **Role:** Son **Primary PO:** Stewart / Stewart Unit 1 / Steve Barber

AKA: REANRD POLK

Address: 1327 NAY COURT, LAS VEGAS, NV 89104

Phone: Home: (702)452-0377

Temporarily Resides With:

Client ID#	JUVI ID#	J#	SS#	Age	Birth Date
194955	445068 02	58683	- -	19Yrs 2Mths	10/14/1980

Race	Hispanic/Latino	Height	Weight	Hair	Eyes	Language Spoken
Black/African Amer	No	5'09"	145 lb 0 oz	Brown	Brown	

School Last Attended	School Phone	Grade Level	IEP Date	Special Education
CO-STAR	(702)799-8643	12th Grade		

Identifying Features	Gang Aff	Moniker	Religion	Employer
			No Preference	

Type of Probation

	Probation Date	Termination Date	Petition
Formal Probation	03/03/1999	08/03/1999	3
Susp Commit / Form Prob	12/09/1997		2-3

Arrest

Petition-Cnt	Charge	Court Dt	Orders	Amount	#of hrs	Comp Dt	Waived	Subst
586055								
3	Battery	01/13/1999	Bench Warrant Issued			09/17/1999	☐	☐
3	Robbery	01/13/1999					☐	☐
3	Battery	03/03/1999	Community Service		80	09/17/1999	☐	☐
3	Robbery	03/03/1999					☐	☐
3	Battery	03/03/1999	Counseling Program			09/17/1999	☐	☐
3	Robbery	03/03/1999					☐	☐
3	Battery	03/03/1999	Other			09/17/1999	☐	☐
3	Robbery	03/03/1999					☐	☐

ırk County Family and Youth Ser ɔs
601 North Pecos Road
Las Vegas, Nevada 89101

Probation/Parole Services Termination Report

Petition-Cnt	Charge	Court Dt	Orders	Amount	#of hrs	Comp Dt	Waived	Subst
586055								
3	Battery	03/03/1999	Restitution	$500.00		09/17/1999	☐	☐
3	Robbery	03/03/1999					☐	☐
655067								
4	Violation of Probation	08/17/1999	Restitution	$500.00		08/17/1999	☐	☐

Subsequent Findings

Arrest ID	Petition	Charge	Date	Result	Source
586055	3	Battery with Substantial Bodily Har	12/21/199	Dismissed	Court
[illegible]		[illegible]	02/09/199	No Further Action	Intake
655067		Arrest Warrant Served	08/16/199	No Further Action	Intake

Warrants

Arrest ID	Bench Warrants		Arrest Warrants		Traffic Warrants	
	Issued Date	Served Date	Issued Date	Served Date	Issued Date	Served Date
586055	☐	☐	☑ 01/13/1999	☑ 02/08/1999	☐ 00/00/0000	☐
655067	☑ 04/15/1999	☑ 08/14/1999	☐	☐	☐ 00/00/0000	☐

Special Orders

Restitution waived.

obtain employment

per p.o., complete anger control

to be paid from earnings

Comments

This youth was extremely uncooperative with the probation department. On August 17,1999, he appeared at a Plea Hearing and was sent to the Clark County Jail and, upon his release the Court instructed the probation department to terminate wardship.

Treatment Plan

Balanced Appr Cat	Service	Start Date	End Date	Youth	Care taker	Service Provider	Unit(s)	Frequency	Completed	Outcome
Accountability	Other	08/17/1999	09/17/1999	☑	☐					

Education

Status: Attending

Performance:

Comments:

ırk County Family and Youth Ser ɜs
601 North Pecos Road
Las Vegas, Nevada 89101

Probation/Parole Services Termination Report

Employment
Termination Evaluation

Home Involvement:

S/M was not cooperative with parental rules.

Peers Involvement:

S/M has made positive changes in peer groups.

Home/Peers Comments:

Parental Involvement:

Parent did not cooperate with the S/M's treatment program and/or failed to maintain regular contact with the Probation Division.

Parental Comments:

Abiding by Terms of Probation:

S/M failed to report to his/her Probation Officer on a regular basis or as otherwise specified.
S/M was not cooperative with his/her Probation Officer.

Summary/Evaluation:

S/M is terminated from Probation Services negatively.

Summary Comments:

Renard Polk was sent to the Clark County Jail for a 30 day duration. Additionally, he is pending serious Felony Offenses in the Adult System.

Community Plan

Steve Barbee
Probation Officer

Chris Lemmier
Supervisor

1-10-2000
Date

4

Com. Pag. Nosh.
8 pgs.

J

Exhibit _____

Involuntary Administration of Psychotropic Medications

INMATE NAME Polk, Renard ID# 1521718

1. Inmate is suffering from a mental illness which creates:(circle those that apply)

   (A) an immediate threat of bodily harm to self or others
   B. serious destruction of property
   (C) extreme deterioration of functioning secondary to psychiatric illness

2. Behavior exhibited:

   A. Banging head on wall, door, bars, etc. thought disorder
   B. Assaultive
   C. Threatening/attempted suicide
   D. Other(describe) Suicidal ideation

3. Less restrictive measures employed (circle)

   A. Restraints: Effective Not effective Would not be effective
   (B) Isolation: Effective (Not effective) Would not be effective
   (C) Medication offered but inmate refused
   (D) Individual counseling
   (E) Constant observation

4. Inmate will receive a one- time order of:

   A. Prolixin & Benadryl
   B. Prolixin & Benadryl & Ativan
   C. Haldol & Benadryl
   D. Haldol & Benadryl & Ativan

Signature of Primary Doctor _____ Date _____

Signature of Secondary Doctor _____ Date _____

This order may be renewed in 2-4 hours after the doctor has been called.
Inmate to be seen during next Psych Call
Inmate to be seen on a weekly basis while medications are involuntarily administered

(5.) Inmate remains a danger to him/herself &/or others and has either not responded to the medications specified in # 4 or a one-time dose will be ineffective and requires a long-acting dose:

   (A.) Prolixin Decanoate & Benadryl
   B. Prolixin Dec. & Benadryl & Ativan
   C. Haldol Dec. & Benadryl
   D. Haldol Dec. & Benadryl & Ativan

Signature of Primary Doctor _____ Date 9-9-99

Signature of Secondary Doctor _____ Date 9/9/99

Clark County Detention Center.

RT6/99

Medical Records

EMSA CORRECTIONAL CARE

INMATE NAME: Polk, Renard

I.D. NUMBER: 1521718

D.O.B.:

ALLERGIES:

PROBLEM LIST

Date Identified	Problem No.	Chronic (Long Term) Problems	Date Resolved
9-2-99		Refusal TB/P	
9-9-99	1	hall	
	2	drug	

Temporary (Usually Self-Limiting) Problems

Prob. No.	Problem	Date of Each Occurence							

I hereby certify that this is a full, true And correct copy of the original hard Copy on file with EMSA/Correctional Care, Clark County Detention Center.

Joyce DiGiovanna
Medical Records
2-6-2001

EMSA CORRECTIONAL C...
MENTAL HEALTH REPORT

Inmate Name: Polk, Renard Date: 9/3/99 ☒ Resident ☐ Non-Resident
ID#: 1521718 Housing: 5B117 ☐ Employed ☐ Unemployed
SS#: DOB/Age: 10/14/80, 18 ☐ Receiving Disability ☐ SSI ☐ SSDI ☐ VA

☒ Male ☐ Female Marital Status: ☐ Married ☒ Single ☐ Divorced Current Charges: prob. viol.

A. Presenting Problem: Officer Smith ref. – IM requesting meds.

B. Current Mental Status:

Quality of Affect:
☐ Elated/Euphoric ☐ Labile ☐ Sarcastic
☒ Flat ☐ Depressed ☐ Anxious
☐ Agitated ☐ Frightened ☐ Apathetic
☐ Pressured ☐ Appropriate

Thought Progression:
☐ Illogical
☐ Incoherent
☒ Coherent
☐ Rational
☐ Vague
☐ Confused

Orientation:
☒ Time
☒ Place
☒ Person
☒ Situation

☒ Hallucinating: ☒ Audio ☐ Visual ☐ Tactile
☐ Delusional ☐ Paranoid ☐ Grandiose

C. Treatment History:
☒ Previous MH Treatment History:
☐ Family History of Mental Illness:
☒ Medications Prescribed in past:
☐ Currently Receiving Medications:

☒ Psych Hospitalizations
☐ Civilly Committed
☒ Suicidal History
☐ Present Ideation (no)

drank bottle rubbing alcohol 3 mos. ago – last seen by private psychiatrist, Dr. Alli, who referred to Mental Health 2 mos. ago – placed on risperdal (IM says did not help c̄ voices)

D. Substance Use/Abuse:
☐ Drug/Alcohol Treatment
☐ Other

☐ Narcotics
☐ Depressants
☐ Stimulants

☐ Hallucinogens (acid)
☒ Cannabis
☒ Alcohol (meth)

E. Mental Health Status Summary: IM is an adult, oriented 1&4 y/o b/m who is experiencing auditory hallucinations which appear to be drug-induced. IM states that he did large amounts of acid along c̄ many other drugs. Has flashbacks + pronounced memory problems. Denies SI/HI & contract for safety.

Diagnostic Impression
Axis I: substance-induced psychosis
Axis II: polysubstance abuse

F. Recommendations and Treatment Plan:
1) psychiatric eval
2) HTC
3) f/u PRN

☐ Implement Suicide Watch
☐ Remove from Suicide Watch
☒ Observe for Suicidal Behavior

I hereby certify that this is a full, true And correct copy of the original hard Copy on file with EMSA/Correctional Care, Clark County Detention Center
Medical Records

Report Completed By: Jack Manis LCSW

PHS
PRISON HEALTH SERVICES INCORPORATED

PROGRESS NOTES

Date/Time	Inmate's Name: 152176 Polk Ronald D.O.B.: / /
9-7-99	CD – speed + alcohol Fix – hall. marijuana
9-8-99	Request to see JM. He is hallucinating (Voices – "Come be c my Heavenly Father") & SI. Has difficulty formulating thoughts & impaired memory. Could not recall seeing Drs. or being offered meds. Officer felt more comfortable having JM on psych. module. JM needs Bible & able to say push button for officer & faith to cellmates if can not control SI. Plan: JM moved to 2B5V; referred to Psychiatry. Seen by Manis + Eyman. Jack Manis, LCSW
9-9-99	Pt has SI and is psychotic & will require meds

60111 (5/85) Complete Both Sides Before Using Another Sheet

EMSA CORRECTIONAL CARE

REFUSAL OF TREATMENT FORM

Institution: CCDC

Name: Polk Rennard ID# 1521718

D.O.B. 10/14/80

I, _____ have, this day, knowing that I have a condition
(Name of Inmate)

requiring medical care as indicated below:

Responded

- ___ A. Refused medication.
- ___ B. Refused dental care.
- ___ C. Refused an outside medical appointment.
- ___ D. Refused laboratory services.
- ___ E. Refused X-Ray services.
- ___ F. Refused other diagnostic tests.
- ___ G. Refused physical examination.
- ___ H. Other (Please specify)

Reason For Refusal I don't need my medicine.

Potential Consequences Explained yes

I hereby certify that this is a full, true And correct copy of the original based Copy on file with EMSA/Correctional Care, Clark County Detention Center.

Medical Records

I acknowledge that I have been fully informed of and understand the above treatment recommendations and the risks involved in refusing them. I hereby release and agree to hold harmless the state, statutory authority, all correctional personnel, medical/health personnel from all responsibility and any ill effects which may result from this refusal and I shall personally assume responsibility for my welfare.

I have read this form and certify that I understand its contents.

Witness Signature [illegible]

Witness Signature

Patient Signature Rennard Polk

Date 8/17/89

Time 2200

NOTE: A refusal by the inmate to sign requires the signatures of at least one witness in addition to that of the medical staff member.

CC 013

7/94

POLK

EMSA CORRECTIONAL CARE

INITIAL MEDICAL SCREENING

23 N

ARE YOU ILL? ☐ YES ☐ NO ARE YOU INJURED? ☐ YES ☐ NO HOUSING _____ DOCKET # _____

NAME _____ 1521718

ADDRESS _____

SEX _____ Polk, Renard DATE 8-17-99 TIME 0215

PREVIOUS COMMITMENTS _____ LAST TETANUS (DATE) _____

DO YOU HAVE MEDICAL INSURANCE? ☐ YES ☒ NO INSURANCE COMPANY _____

VISUAL OBSERVATION Circle Y or N (Explain all "Yes" answers)

ALLERGIES:

	Yes	No
1. Is inmate unconscious or showing visible signs of illness, injury, bleeding, pain or other symptoms requiring immediate emergency medical referral? If Yes,	Y	N
2. Are there obvious signs of fever, jaundice, skin lesions, rash, or infection? Insects, nits, lice? Body Vermin? Trauma markings, bruises? If Yes,	Y	N
3. Does the inmate's behavior/appearance suggest the risk of suicide or assault? If Yes,	Y	N
4. Does the inmate exhibit any signs of abnormal behavior? (e.g. tremors, sweating) If Yes,	Y	N
5. Does the inmate appear to be under the influence of, or withdrawing from drugs or alcohol? If Yes,	Y	N
6. Is the inmate's mobility restricted in any way due to deformity, cast, injury, etc.? If Yes,	Y	N
7. Does the inmate have a persistent cough or appear to be lethargic? If Yes,	Y	N

INMATE QUESTIONNAIRE Circle Y or N (Explain all "Yes" answers)

	Yes	No
8. Are you taking medication for: (circle as appropriate) asthma, diabetes, heart condition, high blood pressure, mental health problems, ulcers, arthritis, or other condition? If Yes, what medication? Mental illness / Respidal / Ds ??	Y	N
9. When were you last seen by a physician or at a clinic for a medical, dental or mental health condition? 2 wks.	Y	N
10. Are you allergic to any medications, foods, plants, etc.? If Yes, NKA	Y	N
11. Have you fainted or had a head injury within the last 72 hours? If Yes,	Y	N
12. Do you have or have you been exposed to AIDS, hepatitus, TB, VD, or other communicable diseases? Have you experienced lethargy, weakness, weight loss, loss of appetite, fever or night sweats? If Yes,	Y	N
13. Have you been hospitalized by a physician or psychiatrist within the last year? If Yes, 2 wks Charleston + Jones Mental facility	Y	N
14. Have you ever considered or attempted suicide? If Yes, 2 wks. Charleston + Jones ... Not now	Y	N
15. Do you have a painful dental condition? If Yes,	Y	N
16. Are you on a specific diet prescribed by a physician? If Yes,	Y	N
17. Do you use drugs and/or alcohol? What kind? How often? How much? If Yes, include types, methods, date/time of last use and problems associated with ceasing use. (e.g. convulsions)	Y	N
18. Females: Last menstrual period _____. Are you pregnant, on birth control pills, recently delivered or aborted? If Yes,	Y	N

PLACEMENT RECOMMENDATION (Check One)

☐ Emergency Room ☐ General Population ☐ Infirmary ☐ Isolation ☐ Observation ☐ Sick Call _____ (Date/Time)

REMARKS: PRO GIVEN

I have answered all questions truthfully. I have been told and shown how to obtain medical services. I hereby give consent for professional services to be provided to me by and through EMSA Correctional Care.

X Renard Polk — Inmate Signature — Date 8-17-99

Respiration	Pulse	Temp	Blood Pressure	Nurse Signature	Date
15	80			[signature]	8-17-99

I hereby certify that this is a true and correct copy of the original hard copy in the EMSA Correctional Care Polk County Detention Center Medical Records.

INTAKE MENTAL HEALTH/SUICIDE QUESTIONAIRRE

☒ Past History

☐ Hallucinations: ☐ Auditory ☐ Visual ☐ Other

☐ Substance Abuse ☒ Drugs Type Crystal Meth/ Marijuana

☒ Alcohol Last Use 12-2 ☐☐

☐ Suicidal Ideation YES NO When 2 weeks

☒ Psych Hospitalizations: When/where/why?

Mental Health on Martin Jones

☐ Present Status

☐ Hallucinations: ☐ Auditory ☐ Visual ☐ Other

☐ Substance Abuse ☐ Drugs Type ∅

☐ Alcohol Last Use ∅ ☐☐

☐ Suicidal Ideation YES NO When ∅

☐ Any Suicidal attempts: ☐ In Custody

☐ Prior to Arrest ∅

☐ Current Medications _____

Compliant with Meds? Yes NO

ASSESSMENT

Findings requiring Immediate Referral

O dystonias/EPS

O Made attempt at suicide in Custody

O Poses Immediate threat to others Or self

Findings Requiring Referral

o Suicidal ideation in past 12 Months

o Current RXs for psych

o Known Mental Problems

PLAN

- ☐ Suicide Watch
- ☐ Referral to Psych Call
- ☐ Segregation or Isolation
- ☐ Immediate call to Psych Services
- ☐ Immediate call to Psychiatrist/Medical Doctor

I hereby certify that this is a full, true And correct copy of the original hard Copy on file with EMSA/Correctional Care, Clark County Detention Center

Medical Records

STOP DATE	HOUR	1	2	3	4	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	27	28	29	30	3

Prolixen Dec 57.5
Benadryl 50mg IM NOW

"Oxytocin 2mg po q AM x 9d" 12/2 0830 → [illegible]

Benadryl 50mg IM q4° for ES PRN

I hereby certify that this is a full, true and correct copy of the original here Copy of [illegible] with ENSA/Correctional Care Clark County Detention Center.

Medical Record

ERGY				NURSE'S SIGNATURE	INITIAL	NURSE'S SIGNATURE	INITIAL
NOSIS				[illegible]	[illegible]	Townsend RPP	[illegible]
CIAN ME	Desmanes	PHYSICIAN PHONE NO.					
LITY ME	CCDC	SECTION		ROOM NO.	2B05		
ENT ME	Polk Renard	PATIENT NO.	1521719				

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Cum. Page. Num
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Westcliff Psychological Associates

John Paglini, Psy. D.
Licensed Clinical Psychologist

(702) 869-9188
FAX (702) 869-9203

K

June 15, 2000

FORENSIC COMPETENCY EVALUATION

PATIENT:	RENARD POLK
CASE NUMBER:	99F04726X
DATE OF EVALUATION:	June 14, 2000
DATE OF BIRTH:	October 14, 1980
AGE:	19 years/8 months.
STATUS:	Single
SEX:	Male
REFERRAL SOURCE:	Attorney Christopher R. Oram
EXAMINER:	John Paglini, Psy.D.

PROCEDURES OF EVAULATION:

1. McArthur Competence Assessment Tool – Criminal Adjudication
2. Clinical Interview.
3. Review of legal material:
   - Criminal charges.

REASON FOR REFERRAL:

Attorney Chris Oram contacted this author to conduct a competency evaluation of his client, Renard Polk. Attorney Oram wanted this author to determine whether his client is competent to stand trial and can assist him in legal proceedings.

LEGAL CHARGES:

Renard Polk is charged with two counts of sexual assault of a minor under 16-years-of-age. The crimes occurred on January 1, and 31, 1999. No police reports were reviewed.

GENERAL INFORMATION:

Renard Polk was born in Natchez, Mississippi. He was a few months old when his family moved to Las Vegas. He reported his parents separated when he was very young. He stated that he moved back to Natchez, Mississippi at the age of 10 and 13. Up to the age of 7 he lived initially with his biological parents, then his mother and stepfather, and then his grandmother. Renard reported his mother and stepfather used to smoke crack cocaine, was fired, and eventually his mother went to prison when he was relatively young. Renard reported his mother has rarely been involved in his life, but he

211 N. Buffalo, Ste. C • Las Vegas, Nevada 89145

recently had seen her six weeks ago. He stated his biological father was never involve in his life but began coming around within the last two years. Renard reported that his brothers and sisters moved into his grandmother's home when he was in the fifth grade. Renard had lived with his grandmother or his aunt since the second grade, and up to when the charges were filed.

Renard reported he dropped out of Las Vegas High School in tenth grade. This author enquired why, and he reported, "being stupid". He reported he was in the G.A.I.T. program from second to fifth grade. He denied grade repeats or special education classes. He stated he lost passion to learn when he began using drugs in the ninth grade. Renard stated that he tried acid infrequently, as well as crystal, however his primary drug of choice was marijuana. Renard reported that up to eighth grade he was a very good student. He stated his life went downhill once he began using drugs in the ninth grade. Renard also reported that he has one prior charge of assault with a deadly weapon. He stated that his neighbors accused him of trying to rob their home at knifepoint. He stated the parents did not like him because he often times would smoke marijuana with their daughter.

Renard reported that after initially running away because of the offenses, he eventually turned himself him. During the time he was gone his grandmother passed away. He stated that he called the police, turned himself in and was at Juvenile Hall and then Clark Country Detention Center for approximately 30 days. He then had seen a psychiatrist and he was placed on a Psych ward.

Renard reported prior to turning himself in, he tried to kill himself by drinking a bottle of rubbing alcohol. His friends called the police and he was taken to an Emergency Room and eventually spent two weeks at Las Vegas Mental Health Center where he was given Risperdal. Renard reported he eventually discontinued the Risperdal because he felt like he was too much of a zombie and he had Parkinson-like symptoms. Renard reported that he was hearing voices during the time of his suicide attempt. He stated that he was despondent because of a whole bunch of stuff, and he then referred to the Chinese culture, saying that there is a phrase called "Get Sonichi" which basically means that if you loose honor you cleanse your soul by killing your physical body. Renard also talked about how during that time period, prior to turning himself in, he went from North Town to Sunrise Mountain to sit and contemplate for the voices told him to go there. He stated he was there for quite some time and the voices told him to jump off the mountain for he then would feel better.

Renard reported that he continues to hear the voices, but they are not as audible. By the end of the session he reported that when he was young he could speak fluently and clearly and have no trouble trying to think straight. He stated now it is very difficult for him to think clearly for he is frequently sidetracked and it is hard for him to get out his words.

MENTAL STATUS EXAM:

Renard Polk is a 19-and-a-half-year-old single, African-American male who was dressed in Clark County Detention Center garb. He was alert, oriented times four and cooperative. He was able to recite the day of the week, month, year, his current situation, and the charges against him. He was able to spell the word "world" backwards, and he was able to recite three objects after a five-minute delay, accurately. Hence, memory was intact.

Mood appeared neutral with blunted affect. Thought processes appeared relatively slow to questions asked. To illustrate, this author would ask him questions and it may take Renard ten to fifteen seconds to respond. Renard appears to be responding to internal stimuli as evidenced by the latency of his responses. Thought content infrequently revealed delusional themes. Renard denied current suicidal/homicidal ideation intent or plan. Speech quantity was often times unelaborative, and speech quality was within normal limits.

FORENSIC COMPETENCY EVALUATION:

The McArthur competency assessment tool -- Criminal Adjudication form was administered on June 15, 2000. This assessment tool is designed to determine whether or not an individual is competent or incompetent to stand trial, and is broken into three sections.

Understanding:

In the understanding section the individual needs to have a capacity for factual understanding of the legal system in the process of adjudication. The individual is asked questions regarding the role of the defense attorney, prosecutor, elements of an offense, elements of a lesser offense, role of the jury, roll of the judge at trial, and consequences of conviction. The individual has to have an ability to distinguish between relevant and less relevant factual information, as well as be able to reason about two legal options.

Renard Polk received a score of 12 out of 16. Renard's responses to this subsection often times were slow and unelaborative. He was queried frequently regarding his understanding of defense attorney, prosecuting attorney, role of the jury, as well as the judge. At times he had difficulties distinguishing between legal options. Despite this, Renard demonstrated an adequate understanding of the legal system.

Reasoning:

In this subsection the individual has to have an ability to distinguish between relevant and less relevant, factual information, as well as be able to reason about two legal options.

Renard received a score of 12/16. He is barely competent in this area. Once again Renard's responses were very, very slow. It was very difficult for Renard to elaborate or distinguish between relevant and less relevant legal information, or reason between legal options. Four of the eight responses to questions were barely adequate.

Appreciation:

In the appreciation subsection the individual's beliefs and understanding about how the legal system will work as applies to their case is identified. Appreciation refers to the likelihood of being treated fairly, likelihood of being assisted by defense council, and likelihood of fully disclosing the case information to the defense attorney, as well as the likelihood of punishment if convicted.

In this category Renard received a 3 out of a possible 12 score. This indicates there is significant impairment in regards to appreciation realm. Of the six questions answered, Renard's scores on four of the items were 0. To illustrate, one question was in regards to a prosecutor recommending less punishment if the defendant agrees to plead guilty. If this were the case in his situation, what would he do? Renard's response was as follows; "Because sometimes the DA gives you less, but you still can get less". This author then queried him regarding his response. Renard responded, "You feel you can get less changes than the DA offers". This response obviously did not make sense to the question being asked. The patient had a very difficult time explaining what he meant. In response to the question, "Compared to other people found guilty of this crime do you think you will get more punishment, less punishment, about the same punishment if you are found guilty?", Renard's response was, "You are supposed to trust authorities". Obviously once again Renard's response was unelaborative and concrete. His belief system is that he will receive about the same amount of punishment as other people with this crime because you are supposed to trust authorities, but he has no understanding about sentencing needing to be fair, and limits being set in regards to sentencing for crimes.

Another question was, "Compared to other people who are in trouble with the law, do you think you are more likely, less likely, or just as likely to be treated fairly by the legal system". Renard stated, "Just as likely". When queried regarding his reasons for thinking this, he reported, "Because the Bible talks about authorities. Respect your authorities. He put them there for your protection". Instead of Renard stating that people should be treated fairly, or substantiate his

reasons by how he wanted to be treated fairly by the legal systems, he once again referred to the Bible and authority figures.

This author believes that currently Renard is not competent to stand trial. He is suffering from a psychosis, and his thought processes are currently impaired. As such, he will not be able to assist defense council in preparation of his case, nor will he be able to appropriately appreciate his current legal situation. Although Renard has an adequate understanding of the legal system and marginally adequate reasoning abilities, there are deficits in regards to appreciation component of is competency.

SUMMARY AND RECOMMENDATIONS:

This author believes that Renard currently is incompetent to stand trial. Renard likely suffers from a psychosis. This author strongly recommends that Renard be transferred to Lakes Crossing where he can be evaluated. Renard should be evaluated for possible medication management. Renard will be somewhat resistant to taking an antipsychotic medication for his psychosis. He has been on Risperdal in the past and felt like a zombie. Hence it would be imperative that the medical doctor explain to Renard treatment considerations and help Renard with medication compliance. In regards to remediation, this author believes that with medication, Renard's psychosis will clear and the likelihood of Renard being able to stand trial at a later date is positive. Once again, Renard is currently incompetent to stand trial due to his psychosis that has resulted in impaired cognitive processes.

This author appreciates the referral in regards to this case. If I may be of any further assistance, please do not hesitate to contact this author.

Respectfully submitted,

John Paglini, Psy.D.
JP bf: 6/16/2000

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4pgs.

Exhibit _____

MENTAL HEALTH MEDICAL ASSOCIATES

PSYCHIATRY / PSYCHOLOGY / PSYCHOTHERAPY

80 CONTINENTAL DR., SUITE 200
RENO, NEVADA 89509
(775) 329-4284
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STEVEN E. RUBIN, M.D.
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J. ZENOA MESERVY, M.D.
GERRI STEINAGEL, M.D.
THOMAS F. BITTKER, M.D.
JOAN WINKLER, M.A., M.F.T., CDAC
CARON TAYLOE, M.A., M.F.T.
BEVERLY G. CLEFF, Ed.D., APN

PSYCHIATRIC EVALUATION

Re: RENARD TRUMAN POLK
Case No. 166490
Date: October 4, 2000

IDENTIFYING DATA: Renard Truman Polk is a 19-year-old, never married, African-American man who is currently confronting two counts of sexual assault with a minor under 16 years of age, as well as charges of first degree kidnapping.

The defendant was first arrested on February 23, 2000.

He has been in Lake's Crossing Center since August 23, 2000.

OPINION SOUGHT: *Is the defendant competent to stand trial?*

SOURCES OF INFORMATION: Review of chart and interview with defendant at Lake's Crossing Center.

CONDUCT OF INTERVIEW: The interview occurred at Lake's Crossing Center on October 4, 2000. I identified myself to the defendant and advised him that the product of this interview was not to be confidential. The defendant understood my advice.

RELEVANT HISTORY: The defendant reports being raised in a chaotic family. His Father left the family when the defendant was 5 years old. He reports episodes of sexual assault by an older woman at age 5. He also reports history of physical abuse at the hands of his alcoholic Mother, from infancy into later childhood.

In spite of this abuse, the defendant identifies himself as having been a good student until losing his way coincident to drug abuse. At age 14 he began to use cannabis heavily and sustained that use through age 18. He began to experiment with amphetamines at age 16 and continued that use through age 18. He has also used LSD, but denies use of PCP or mushrooms.

He denies drinking to intoxication. In the past year he states that he has been clean and sober.

Approximately a year and a half ago, he decided to give his life to Christ and believes that he is now a religious man.

He acknowledges several juvenile arrests prior to his religious conversion. These arrests included charges of assault and shoplifting. His current arrest is his only incarceration as an adult.

He states that he has worked as a "model scout agent", as well as a bus boy at a fast food restaurant.

He states that he prays daily and reads the Bible daily.

The patient states that he was a good basketball player and played varsity basketball as a small forward in spite of his 5'9" stature.

MEDICAL HISTORY: Renard acknowledges a history of allergic rhinitis and reactive airway disease for which he takes antihistamines and a ventilate inhaler. He also states that he has taken antipsychotic drugs, but no longer takes these. He has been off all psychotropic agents for over a year.

PSYCHIATRIC REVIEW OF SYSTEMS: The defendant acknowledges one episode of intense dysphoria coincident to his awareness that he had strayed from God's path. This occurred when he became aware that he might be facing charges of sexual assault. At that time he ingested a bottle of isopropyl alcohol, blacked out for approximately 5 hours, but recovered without any known sequelae.

FAMILY HISTORY: Both Father and Mother have a history of alcoholism. The patient is the only child born of this union.

SUBSTANCE ABUSE HISTORY: See above.

PERSONAL SOCIAL HISTORY: See above.

MENTAL STATUS EXAM: The defendant presented as a compactly built, well-groomed African-American male within his stated age. He offered good eye contact and was in a reasonable rapport with me. His speech was clear, coherent and articulate.

He had a sophisticated vocabulary.

His affect was congruent, albeit somewhat constricted. His mood was neutral to positive. He acknowledged being at peace.

He was oriented to time, place, person and circumstance. His thoughts were focused. There was no evidence of tangentiality or circumstantiality. Thought content related to his remorse for his misdirected adolescence, as well as his fear regarding the consequences of the charges that he might be confronting.

After 2 tries he could recall 3 objects after 3 minutes In the initial trial he may have misheard the original 3 words. He successfully subtracted 7 serially from 100 for 5 iterations without error, but did struggle with calculating the number of nickels in $2.45, estimating that there were 29 rather than 49.

He was able to identify the similarity of a grape and a banana, as well as distinguish misery from poverty, but could identify the similarity between a poem and a statue. His proverb interpretation was excellent and he quickly interpreted the proverb "the tongue is the enemy of the neck."

Specific responses to questions regarding legal awareness: The defendant responded quickly to questions regarding the role of judge, jury, prosecuting attorney, defense attorney and plea bargain. When asked what he would do if something "bad about you" were said in court, he responded "nothing". When asked why, he reported he did not wish to be found in contempt and did not wish to postpone his trial. When asked what would occur should he be found guilty, the defendant was aware that he could server two consecutive 20-year sentences and potential life imprisonment.

FORMULATION: The defendant presents with a history of a chaotic childhood. In spite of this, he appears to be a bright young man who has a significant remorse for his misdirected youth.

He is currently confronting charges of sexual assault and first degree kidnapping.

He appears to be functioning well without medication and in institutional setting.

He has a past history of cannabis and amphetamine dependency, but is no longer using these substances.

He furthermore is aware of the charges and the consequences of those charges

DIAGNOSIS:

AXIS I: 1. Cannabis Dependency (in remission).
2. Amphetamine Dependency (in remission).
AXIS II: Open.
AXIS III: Allergic rhinitis.
AXIS IV: Stressors – problem with the legal system, problem with the mental health system, primary support system: abusive childhood.
AXIS V: GAF – 55/55.

OPINION REGARDING COMPETENCY: *The defendant has a reasonable awareness of the legal process and appears to be sufficiently self-controlled to contain his behavior in court. In addition, his reporting of events is such to allow him to cooperate with his counsel in the defense of his case.*

He furthermore is aware of the charges and the consequences of those charges if convicted.

On the basis of my evaluation, I consider the defendant to be of sufficient mentality to understand the nature of the offense charged and to be of sufficient mentality to aid and assist counsel in the defense of the offense charged. The defendant's competency is not predicated on the administration of psychotropic medication.

Thomas E. Bittker, M.D.

TEB/cjw

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John Paglini, Psy. D.
Licensed Clinical Psychologist

7381 West Charleston Blvd., Suite 140
Las Vegas, Nevada 89117

Phone (702) 869-9188 Fax (702) 869-9203

January 8, 2002

PSYCHOLOGICAL FORENSIC EVALUATION

DEFENDANT'S NAME:	RENARD POLK
CASE NUMBER:	C166490
DATE OF BIRTH:	October 14, 1980
AGE:	21 years/2 months.
SEX:	Male.
STATUS:	Single.
ETHNICITY:	African-American
REFERRAL SOURCE:	Attorney Christopher R. Oram.
EXAMINER:	John Paglini, Psy.D.

REASON FOR REFERRAL:
Attorney Oram contacted this author on October 4, 2001 to request an evaluation to determine if there is psychological evidence to support an insanity plea in the case of Renard Polk. Attorney Oram reported that the defendant was at Lakes Crossing because he was incompetent.

PROCEDURES OF EVALUATION:

- Clinical interview of defendant at Clark County Detention Center, October 4, 2001.
- Review of discovery provided by defense council:
  1. Competency evaluation of Renard Polk conducted by Patricia Chatham, Ph.D., October 7, 2000.
  2. Competency evaluation of Renard Polk conducted by Thomas Bitker, M.D., October 4, 2000.
  3. Competency evaluation of Renard Polk conducted by Martha Mahaffey, Ph.D., October 12, 2002.
  4. Competency evaluation of Renard Polk conducted by John Paglini, Psy.D., June 14, 2000.
  5. Competency evaluation of Renard Polk conducted by Jack Jurasky, July 18, 2000.
  6. State of Nevada versus Renard Polk, Criminal complaint, January 12, 2000.
  7. Las Vegas Metropolitan Police department declaration of warrant/summons, March 15, 1999.
  8. Criminal history of Renard Polk, March 15, 1999.

9. Las Vegas Metropolitan Police Department incident report, March 13, 1999.
10. Las Vegas Metropolitan Police Department Voluntary statement of Anna Polk, March 13, 1999.
11. Las Vegas Metropolitan Police Department Voluntary Statement of Jamilia Chatman, March 15, 1999.
12. Las Vegas Metropolitan Police Department Voluntary Statement of Jahala Chatman, March 13, 1999.
13. Las Vegas Metropolitan Police Department Voluntary Statement of Renard Truman Polk, August 14, 1999.

CRIMINAL CHARGES:

According to the Las Vegas Metropolitan Police Department arrest report, on August 14, 1999, Renard Polk contacted Las Vegas Metropolitan Police department and wanted to turn himself in for sexually assaulting his sisters. Mr. Polk was interviewed on August 14, 1999 by Detective Newton. Renard reported in February of 1999, he had molested his sister, Anna Polk, who was approximately six or seven years of age at the time of the incident. Renard reported that he had anal intercourse with his sister numerous times in the past.

Renard also reported that he had molested his sister, Jahala Chatman. Renard stated he grabbed and fondled Jahala's buttocks and rubber his penis inside her butt cheeks while she was lying on her stomach. Renard reported this act occurred sometime in 1998.

Renard additionally reported that he had molested his other sister, Jamilia Chatman. Renard reported this molestation likely occurred approximately four years ago when Jamilia was approximately ten years of age and he was 14 years of age. Renard reported that he fondled Jamilia's buttocks numerous times, but never penetrated her. Renard was charged with two counts of sexual assault with a minor under 16 years of age.

REVIEW OF RECORDS:

Mr. Polk was assessed for competency by this author on June 14, 2000. Mr. Polk was administered the MacArthur Competency Assessment Tool – Criminal Adjudication form. He marginally passed the factual understanding and legal reasoning subsection of the MCAT. He did not pass the appreciation component. At that time, I believed that he likely suffered from a history of psychosis and should be transferred to Lakes Crossing to be further evaluated. Renard was not forthcoming with his substance dependent lifestyle.

Jack Jurasky, M.D. evaluated Mr. Polk on July 18, 2000. Dr. Jurasky believed that Mr. Polk was a disturbed and mentally ill individual whose diagnosis would require more time on examination. He did not believe that he was incompetent. Nevertheless, Mr.

Polk was transferred to Lakes Crossing on August 23, 2000, and released on November 8, 2000.

Mr. Polk was evaluated by Patricia Chapman, Ph.D., Thomas Bitker, M.D., and Martha Mahaffey, Ph.D., in October 2000. All three clinicians believe that Mr. Polk was competent to stand trial. Dr. Mahaffey stated in the conclusions of her report, "Renard Polk is competent to stand trial. He has sufficient mentality to understand the nature of the offenses charged. He has sufficient mentality to be able to assist his attorney in the defense of the offenses charged if he so chooses. He has a personality disorder with maladaptive, narcissistic and antisocial traits. Consequently, he is likely to want things to go his way, and to be oppositional and difficult if her perceives things are not proceeding to his liking. However, such behavior is volitional and he has the capacity to cooperate rationally if he so chooses. Mr. Polk continues to endorse barely audible auditory hallucinations, but in a manner that does not need the clinical criteria for a psychotic disorder". Dr. Mahaffey's final diagnosis was poly-substance dependence in remission, in a controlled environment. Personality disorder not otherwise specified, with narcissistic and antisocial traits.

Review of EMSA Correctional Mental Health report, September 3, 1999 reveals that Mr. Polk requested medication. The form stated that Mr. Polk was experiencing auditory hallucinations, which appear to be drug induced. Also noted was that he had an extensive history of acid usage, as well as other drugs.

PSYCHOSOCIAL HISTORY:

Renard Polk was born in Natchez, Mississippi. His family moved to Las Vegas when he was several months old. He was raised primarily by his maternal grandmother. Mr. Polk reported his parents separated when he was very young. Mr. Polk reported he has the following half siblings: Jamilia Chatman, 17 years of age; Jahala Chatman, 15 years of age; Anna Polk, 12 years of age; Javen Chatman, 9 years; Richard, 5 years; and Gloria, 2 years old.

Renard reported his parents smoked crack cocaine heavily. He stated his mother went to prison when he was relatively young. Renard reported his mother was rarely involved in his life. Renard stated his biological father predominantly was not involved in his life, but has associated with him in the last several years.

Renard reported he tries not to remember any of the hardships about his family. It appeared, by Renard's description, to be chaotic and turbulent. Renard stated on one occasion when he was five or six years of age he was beaten with a monkey wrench by this mother. On another occasion, he was slammed into a wall. Renard also remembers that his mom, who was high, tried to kill herself in front of him by slicing her wrists, when he was 12 years of age. Renard reported his mother was physically abusive to all

the children. Renard also discussed as a child, he frequently would be exposed to pornography at an early age of 4 or 5.

Renard reported, in an arrogant fashion, that he was a straight A student from first through fifth grade. He reported he was in G.A.T.E or accelerated classes through 8th grade. He denied a behavioral history in grammar school. Renard reported that he was an exceptional student throughout grammar school and middle school. Renard stated that he began smoking marijuana at the beginning of 8th grade.

Renard attended Chaparral High School for the 9th grade, and received all A's the first semester. Renard reported in the second semester of 9th grade he received an A/B average, yet began to associate with a negative crowd. Renard denied truancy or required parent conferences in ninth grade. Renard reported in tenth grade, he was truant from school frequently. He stated a school counselor tried to help him out, yet his focal point was drugs. He was selling and smoking marijuana. Renard denied behavioral problems in tenth grade.

Renard reported he began trying harder drugs when he was 14 years of age. He stated he did all drugs but crack and heroin. Renard reported he frequently would use acid, as much as 30 or 40 times. Renard also used Ecstasy approximately five times, and sherm two times.

Renard reported at the age of 18 he was using methamphetamines on a daily basis. Renard stated he had a poor appetite and was frequently mixing marijuana with methamphetamines. In addition he was drinking heavily. Renard reported he was drunk every other day, and days he was not drunk he continued to at least drink. Renard reported he would drink Jack Daniels, Tequila, as well as vodka. He as well as several of his friends would consume a fifth of Jack Daniels, during a sitting.

Renard reported that his hallucinations coordinated with his usage of acid, and crystal methamphetamines. Renard reported that as a 17-year-old he was charged with robbery and assault with a deadly weapon. Renard reported he was accused of robbing a friend's home and putting a knife to someone's throat. He denied that this occurred. Renard also reported prior to his 18th birthday he was also charged with battery with substantial bodily harm. With a cocky attitude, Renard discussed how he struck a guy in the face and broke his nose.

Renard reported he had seen Jim Ali, Ph.D., when he was 17 years of age, on two occasions. He stated he was referred by juvenile courts. Renard stated that during his adolescence he would sell marijuana. Renard reported he did drugs until his hospitalization in July 1999. Renard reported prior to turning himself in, he tried to kill himself by drinking a bottle of rubbing alcohol. His friends called the police and he was

taken to the Emergency Room and eventually was admitted to Las Vegas Mental Health Center for two weeks. He was given Risperdal at this time. Renard reported he discontinued the Risperdal because he felt like a zombie and had Parkinson-like symptoms. Renard reported he was hearing voices during his alleged suicide attempt, however it is imperative to note that during this time he was using crystal methamphetamines on a daily basis. Additionally Renard reported he last used acid in June of 1999.

As reported earlier, Renard contacted the police on August 14, 2000.

Mr. Renard Polk is a 20-year-old single African-American male who currently is incarcerated at Clark County Detention Center. Initially when I interviewed this young man on June 14, 2000, it was for a competency. I felt that he was incompetent because his thought processes appeared relatively slow, and it appeared as if he was responding to internal stimuli as evidenced by the latency of his responses. Hence I felt a diagnosis of psychotic disorder needed to be ruled out. When evaluated on October 4, 2001, Mr. Polk's thoughts were goal oriented. Thought processes did not reflect delusional qualities. Mr. Polk denied suicidal thought, intent or plan. Mr. Polk appeared as an intelligent young man who engaged in cognitive distortions in a self-protective manner. He appeared narcissistic and arrogant.

Reviewing the additional competency evaluations, as well as clinically interviewing Mr. Polk for additional time on October 4, 2001, reveals that this individual is obviously competent to aid and assist his attorney in a court of law. Additionally there is no support for an insanity defense. Mr. Polk's history of auditory/visual hallucination is a result of his polysubstance dependence. Mr. Polk has used acid over 30 to 40 times. In addition, he was using crystal methamphetamines daily over a two-year period. Hence, as a result his auditory and visual hallucinations likely are secondary to his drug dependence. Additionally it should be noted that he comes across in an arrogant and narcissistic manner. Mr. Polk's thought processes are logical and goal oriented. He presented himself much differently than he did approximately a year before at this author's office, for competency. During the first occasion, his thought process appeared very slow. At that time he likely had a substance induced psychosis. However, currently his thought processes were goal oriented and no psychosis of any kind was present.

<u>DIAGNOSTIC IMPRESSION:</u>

AXIS I: 1. POLYSUBSTANCE DEPENDENCE, IN FULL REMISSION (DUE TO INCARCERATION).
2. SUBSTANCE INDUCED PSYCHOSIS, IN FULL REMISSION.

AXIS II: PERSONALITY DISORDER NOT OTHERWISE SPECIFIED, WITH NARCISSISTIC AND ANTI-SOCIAL TRAITS.

POLK, RENARD
Page six

To conclude, the reason why this individual likely was sent to Lakes Crossing was because he possibly suffered from a substance-induced psychosis. Hence, if he never did street drugs he would never be psychotic. He does not have a functional psychosis. This individual is very intelligent and narcissistically inclined. Dr. Mahaffey's early report was appropriate when she stated that Mr. Polk had sufficient mentality to assist his attorney in the defense of his case if he chooses. Additionally, if things don't go his way, he likely will be oppositional and difficult. Not only is this individual competent to stand trial, but also there is no justification for an insanity defense.

The above information is forwarded to the courts to help them in any actions as they may elect.

Respectfully submitted,

John Paglini, Psy.D
JP bf: 1/8/2002

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8 pgs.

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

RIGHTS OF PERSONS ARRESTED

99051 [illegible]

You have the right to remain silent. If you give up that right to remain silent anything you say can and will be used against you in a court of law. You have the right to speak to an attorney before answering any questions, and to have an attorney present with you while you answer any questions. If you cannot afford an attorney, an attorney will be appointed for you by the court at no cost to you, and you need not answer any questions until that attorney has been appointed for you. If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues. If you decide to stop answering questions once you have begun, all questioning will stop.

MAR 14 '01

Date and Time 8-14-99/0435	Signed Renard Polk
Officer DET. T. MONTOR #4664	File # 990313-0217

LVMPD 98 (REV. 4-94)

S VEGAS METROPOLITAN POLICE DEPARTM

DE ARATION OF WARRANT/SU. IONS

(N.R.S. 171.106)
(N.R.S. 53 amended 07/13/93)

EVENT: 990313-0217

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

David E. Dunn, being first duly sworn, deposes and says:

That he is a police officer with the Las Vegas Metropolitan Police Department, being so employed for a period of 30 years, assigned to investigate the crime(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS committed on or about 03-12-99, which investigation has developed RENARD TURMAN POLK as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME TO WIT:

1. That on 3-12-99 ANNA LISA POLK, DOB 11-10-88 became the victim of a Sexual Assault. That the suspect is known to her as he is her brother, Renard 18 years of age.

2. That Anna stated that Renard has been having ANAL intercourse with her since she was five years of age. That every time Renard would catch Anna alone he would drag her into his bedroom, or into the bathroom.
That once in the bathroom or bedroom he would tell her to take off her clothing and her would remove his. That Renard would then make her lay on the floor and have ANAL intercourse with her. That on other occasions he would sit in a chair and then force her to sit on his penis.

3. That Renard never did anything else to her in the way of sexual activity. That he would always do the same thing to her and would never vary.

(4) That the last time she was assaulted by Renard was March 12, 1999. That Renard took her into his bedroom and told her to remove her clothing, while he removed his clothing. That he then forced her to lay one the floor. That he then put his penis into her rectum, with force and against her will.

5. That ANNA stated Renard would, after forcing her to the floor, put his hand over her mouth to prevent her from crying out. That he threaten ANNA saying that he would kill her if she ever told anyone about what he was doing.

7. That there are two siblings, JAHALA CHATMAN, and her sister JAMILA. That they were both interviewed as to what may or may not have taken place. That jamila was interviewed and it was found she had not been the victim of a sex crime. That Jamila

EVENT: 990313-0217

stated she had been physically abused by RENARD on many occasions but never sexually abused.

8. That on 3-12-99 Jamila observed Renard Sexually assaulting Anna on the bathroom floor. That Jamila stated Renard had his penis inserted into Anna's rectum.

9. That Jahala Chatman, DOB 8-28-86 had been the victim of a Sexual Assault and that Renard was the suspect. That Jahala stated she had only been assaulted by Renard one time, and that was in January of 1999. That Jahala was taken into the bathroom and forced to remove her clothing. That Renard took off his clothes and forced Jahala to lay on the floor and Renard then forced his penis into her rectum. That this was done with force and against her will.

Wherefore, declarant prays that a Warrant of Arrest be issued for suspect RENARD TURMAN POLK on a charge(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS.

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

Executed on this 15th day of March, 1999.

DECLARANT: David E. Dunn

WITNESS: [illegible] **DATE:** 3-16-99

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DISTR. 1R
INDEX
STATS

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

OFFICER'S REPORT

EVENT #: 990313-0217

SEXUAL ASSAULT VICTIM UNDER 16 YEARS OF AGE
LEWDNESS WITH A MINOR (MULTIPLE COUNTS)

SUBJECT

DIVISION REPORTING: ISD

DIVISION OF OCCURRENCE: PD

DATE AND TIME OCCURRED: Multiple/03-12-99 1600

LOCATION OF OCCURRENCE: 1325 Nay Court
Las Vegas, NV 89104

DICTATING OFFICER: DETECTIVE T. MONIOT, P#4664
GENERAL ASSIGNMENT/GRAVEYARD

VICTIM #1: POLK, ANNA LISA
DOB/11-10-88
SS 530-37-5602
BF 5' 69# BRO BRO
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377
SCHOOL:
WALTER V. LONG ELEMENTARY
(FOURTH GRADE)

VICTIM #2: CHATMAN, JAHALA MATISHA
BF, DOB/08-28-86
SS 530-17-2223
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377

VICTIM #3: CHATMAN, JAMILA
BF, DOB/06-20-85
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377

MAR 13 '01

SUSPECT: POLK, RENARD

Date and Time of Report: 08-14-99 Officer: DETECTIVE T. MONIOT P#: 4664

Approved: Officer: P#:

LVMPD 82 (REV. 1-91) - AUTOMATED

SIGNATURE: #4664

DOB/10-14-80
SS 587-38-4092
BM 5'10" 160# BLK BRO
RESIDENCE ADDRESS:
TRANSIENT
PRIOR ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104

I. SYNOPSIS

The following is an account of the follow-up investigation which was conducted with Renard Polk after he called LVMPD dispatch to turn himself in for perpetrating past sexual assault crimes on his sisters.

II. PERSONS AT SCENE

A. PATROL (NEAC)

1. Officer D. Newton, P#5278
2. Officer T. Beck, P#5472

B. INVESTIGATORS

1. Detective T. Moniot, P#4664 (General Assignment)

III. DETAILS

On 08-14-99, at approximately 0303 hours, the suspect, Renard Polk, telephoned LVMPD dispatch and stated that he was at his aunt's residence at 6380 Pine Hill Avenue, Las Vegas, Nevada and that he wanted to turn himself in because he believed he had a warrant for committing a sexual assault against his sister. Renard stated that he would be standing by at that location for contact by officers.

Officer Newton and Beck, operating as marked Patrol Unit 1G1, responded to 6380 Pine Hill Avenue and contacted Renard Polk. Polk stated that he was ashamed of what he had done and that he wanted to turn himself in because he felt that he had a warrant for sexually assaulting his sister, Anna Polk.

Officers Newton and Beck conducted a records and wants check on Polk and discovered that he did not have any outstanding warrants for sexual

assault, however, he did have a probation violation warrant out of the juvenile court system which was subsequently confirmed as still outstanding. It should be noted that at this time of the contact, Renard Polk was 18 years of age but still had the outstanding juvenile court warrant, therefore he was taken to the Clark County Juvenile Hall and booked accordingly for his probation violation warrant.

IV. NOTIFICATION OF GENERAL ASSIGNMENT DETAIL

On 08-14-99, at approximately 0330 hours, this detective was notified by Officer D. Newton, P#5278, for the need of investigative assistance reference a suspect who was turning himself in for molesting/sexually assaulting his juvenile sister. Officer Newton provided this detective with the suspect name, victim name and approximate date of the assault.

I advised Officers Newton and Beck to transport the suspect to the Clark County Juvenile Hall and book him for his outstanding probation violation warrant and that I would be in contact with them reference the suspect interview after I could learn more about the alleged sexual assault.

This detective responded to the bureau to conduct an LRMS records check on the suspect, Renard Polk, to see if an incident crime report had been filed against him for sexual assault. The LRMS records check revealed that an incident crime report had been filed against Renard Polk under Event No. 990313-0217 for sexually assaulting his sisters. The details of the incident crime report indicated that the suspect, Renard Polk, had perpetrated a sexual assault on his two sisters, Anna Polk and Jahala Chatman, whereby he forced anal intercourse with them. The primary assigned detective was D. Dunn (LVMPD Sexual Abuse Detail) with a case status indicating submitted.

After conducting the records check, I responded to the Clark County Juvenile Hall to conduct an interview with the suspect, Renard Polk.

V. INVESTIGATION

I arrived at the Clark County Juvenile Hall at approximately 0435 hours after the suspect, Renard Polk, was booked in and asked him if he wanted to speak with me. Polk stated that he did.

I spoke with Polk in an interview room and provided him with an LVMPD "Rights of Persons Arrested" card, LVMPD 99, indicating his Miranda rights. Polk read the Miranda card, told me that he could read and that he did

understand his rights and that he did still want to talk to me. Polk signed the Miranda card in acknowledgment of his rights. To confirm that Polk could read and write, he told me that he attended high school up until the tenth grade and that he did know how to read. I provided Polk with my LVMPD issue criminal offense handbook dated April 1997 and asked him to read me an excerpt off of Page 1. Polk read the entire page and did not have any problems.

VI. SUSPECT INTERVIEW

The following information was obtained from the suspect, Renard Polk, at the Clark County Juvenile Hall interview room during a taped statement. Renard stated that he called police on this evening to turn himself in because he was ashamed of what he did. Renard stated that he wanted to turn himself in for raping his younger juvenile sister, Anna Polk. Renard stated that the sexual assault/molestations occurred at 1325 Nay Court, Clark County, Las Vegas, Nevada sometime around February of 1999. Renard stated that the victim, his sister Anna Polk, was six or seven years at the time of the incident. Renard stated that he sexually assaulted Anna, against her will even after she told him no and was crying, by forcing his penis into her rectum. Renard stated, "I did her in the booty." Renard indicated that he had done this numerous times in the past and that he had done this so many times that he could not count.

Renard stated that he had another sister named Jahala Chatman. Renard stated that he touched Jahala all over her body numerous times in Clark County, Las Vegas, Nevada last year, unknown month, 1998. Renard stated that he would grab and fondle Jahala's buttocks and rub his penis inside of her butt cheeks while she was laying on her stomach. Renard stated that he believed this to have occurred at their residence at 1325 Nay Court, Las Vegas, Nevada.

Renard stated that he also had a third sister named Jamila Chatman. Renard first stated that he "never messed with Jamila." Renard then changed his story and stated that he molested her when they lived on Perry Street approximately four years ago. At this time, Renard stated that the victim Jamila was approximately ten years of age and he was approximately 14 years of age. Renard stated that he used to fondle Jamila's buttocks numerous times and that this made his penis erect, but that he never penetrated her.

**For full details reference Renard Polk's confession, please refer to his taped interview statements.

MAR 13 '01

Date

VII. SUMMARY/CONCLUSION

After comparing the incident crime report under 990313-0217 and the interview statements made by the suspect Renard Polk, it appears that he has been sexually assaulting and molesting his three sisters whom he identified as Anna Polk, Jahala Chatman and Jamila Chatman.

Renard Polk's suspect interview statements were consistent with the details provided in the incident crime report for the sexual assault.

Sergeant D. Cavalieri of the LVMPD Sexual Assault Detail was notified of the incident for further follow up. The suspect was last known to be booked in the Clark County Juvenile Hall for probation violation for a previous robbery/battery offense.

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MAR 13 '01
Date

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Exhibit _____

Jack A. Jurasky, M.D.
Adult and Forensic Psychiatry
2416 Greens Ave.
Henderson, NV 89014
(702) 433-7177 FAX: (702) 547-1031

July 18, 2000

Christopher R. Oram, Esq.
520 S. Fourth St., 2nd Floor
Las Vegas, NV 89101

Re: Psychiatric evaluation of Renard Turman Polk
Case No: C166490

Dear Sir,

Renard Turman Polk, 19, was interviewed on July 17, 2000 at the CCDC where he is being detained accused of two counts of Sexual Assault With a Minor Under Sixteen Years of Age. One of the victims was his younger sister and the other an acquaintance and neighbor. These events are said to have occurred between January 1, 1999 and March 12, 1999. I have reviewed copies of the Criminal Complaint as well as the Amended CC. At issue is whether or not the defendant is competent to assist counsel, aid in his defense, recall evidence and to give testimony if called upon to do so.

Polk is a well-developed and nourished Black male who told me he has lived in Las Vegas 13 years coming originally, with his family, from Mississippi. He has less than 11 years of formal education, has done unskilled labor, and is unmarried and childless. He denies prior arrests. He has been a psychiatric patient in the past and was hospitalized in the Nevada State Mental Health facility once in 1999 for "depression" after making two suicide attempts by drinking rubbing alcohol. He remained there in treatment about one month.

Renard admits to drinking alcohol since the age of 14 and although he agrees he has been a heavy drinker he does not consider it a problem. On the other hand, he has abused street drugs, "Heavy," including marijuana, methamphetamine (Speed), and "acid."

He correctly identified the charges against him as "Sexual Assault" but refused to discuss details with me as not being relevant and also claiming he was so advised by counsel.

Polk's general attitude and behavior seemed consistent with a passive, sleepy cooperation. He offered little spontaneously but did not object to being questioned except when the subject of sexual assault was raised. He is oriented, aware of his circumstances, and memory functions appear grossly intact. He sat almost sluggishly, definitely withdrawn, and responding slowly and deliberately to me. Facial expressions tended to be flat as was his emotional tone. Mood must be considered depressed although he denies suicidal wishes or intentions. He could relate he was the oldest of two brothers and three sisters. He also spoke hesitantly of hearing voices saying they were hostile and a basic reason for his depressions. He said he was refusing medications because they "only make me feel worse." He is of average intelligence and could subtract serial 7's with only one error (this indicates some capacity to think abstractly, pay attention, and concentrate on the task at hand). He also identified the President, direction of wind, three States bordering Nevada, and the CCDC ("Clark County Detention Center").

I asked if the voices he was hearing had any bearing on his behavior as far as the accusations of Sexual Assault were concerned. I felt it was important to know if such may be the case. He again withdrew from our conversation and refused to discuss the matter and did so in a manner indicating awareness and an alert and defensive consciousness. He comprehends his situation and is aware of the legal aspects of this matter.

Obviously, Renard is a disturbed and mental ill individual whose diagnosis would require more time and examination. However, I find despite the limitations imposed by such illness that the defendant is competent to know right from wrong and to appreciate the nature and quality of the charges against him. His refusal to discuss the issues of the alleged offense is done so in a logical and relevant manner and is reasonably motivated. I don't believe the defendant, although suspicious and distrustful of being examined and "psyched," deserves a label of "paranoid" at this time. He is not taking medication but appears to be holding his own. His primary defense, at least with me, is withdrawal as opposed to denial or belligerence. This does not mean he is incompetent. I believe he is capable of assisting counsel, aiding in his defense, recalling evidence, and of giving responsible testimony if called upon to do so.

My opinion is also that should he be considered for probation it should be on the most stringent of circumstances with clear, regular and enforced medical supervision. Without those conditions I think Renard would either commit suicide or break out in some hostile behavior. He is quite distressed by his condition and exhibits despair.

Sincerely,

Jack A. Jurasky, M.D.

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Exhibit

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TURMAN POLK #1521718, Defendant.	CASE NO. 99F04726X DEPT. NO. 7 CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), in the manner following, to-wit: That the said Defendant, on or between January 1, 1999 and March 12, 1999, at and within the County of Clark, State of Nevada,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

20K

COUNT II

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

1/12/00

99F04726X/lks
LVMPD EV#9903130217
SEX ASSLT W/MNR - F
(TK7)

FILED IN OPEN COURT
ON MAR 6 2000
COURT DIANE FISLER

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK #1521718,
Defendant.

CASE NO. 99F04726X
DEPT. NO. 7

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), in the manner following, to-wit: That the said Defendant, on or between 1998 and March 12, 1999, at and within the County of Clark, State of Nevada,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about 1998, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

///

///

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

1/12/00

99F04726X/lks
LVMPD EV#9903130217
SEX ASSLT W/MNR - F
(TK7)

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Exhibit AC

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED
APR 25 12 15 PM '02
Shirley B. Parraguirre
CLERK

Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PROCEEDINGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on October 4, 2001
At 8:30 a.m.

APPEARANCES:
For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

RECEIVED
APR 25 2002
COUNTY CLERK

CE05

1 Las Vegas, Nevada, October 4, 2001
2
3 * * * * *
4
5 THE COURT: Page one, Polk.
6 MR. ORAM: My understanding is trial it set for
7 9:30 30 Monday. We are going to be ready; however, I'd like to
8 make a little bit of a record.
9 Your Honor, in early September I had had word from
10 Mr. Polk that he had been at a mental health facility at 6161
11 West Charleston. We issued a subpoena upon 6161.
12 THE COURT: What is that?
13 MR. ORAM: It's a mental health facility .
14 THE COURT: Charleston mental health?
15 MR. ORAM: Yes, state run facility.
16 We received what I would call a letterhead with a
17 form and the box is checked, essentially, we do not know who
18 this individual is. Based upon that I thought there was no
19 background to give to my psychiatrist on 6161 West Charleston.
20 Subsequently, we received jail records with regard
21 to Mr. Polk. These jail records indicate specifically and
22 these jail records are from 1999, it mentions in there 6161
23 West Charleston, which led me to believe Mr. Polk was accurate
24 as to his --
25 THE COURT: Do you have a copy of the jail

1 records?

2 MR. ORAM: It's a survey and I can tell the Court

3 it appears to be somebody filling it out based upon what Mr.

4 Polk would have told them.

5 THE COURT: So he might have said to them it was

6 at 6161, they just put it down in the jail log and you got a

7 cop?y.

8 MR. ORAM: Correct.

9 THE COURT: So he perhaps told the jail he was at

10 6161 West Charleston then he told you definitely he was at 6161

11 west Charleston, you tried to check that out with your

12 investigator, they have no record.

13 MR. ORAM: Right. And I have a letter in the

14 file that establish that.

15 However, I would point out this was in 1999, well

16 before the insanity defense was available. And based upon

17 that, my investigator wanted to go back and try to obtain these

18 records from 6161 West Charleston. He's still attempting to do

19 that as we speak. My psychiatrist wanted a complete background

20 of Mr. Polk, so based on that we would have asked for a

21 continuance and I believe the Court will not permit that.

22 THE COURT: What's the State's position?

23 MS. HOLTHUS: Our position is we have been ready

24 a hundred times on this case. He has -- there may or may not

25 be records there, maybe they are lost, maybe he never went,

1 maybe went under another name, in the past he's used a
2 different name when he feels the need.
3 My understanding is we are only talking about a
4 couple weeks worth of records back at the time. I would think
5 Dr. Pagline, who I understand they are using, should be able to
6 evaluate him based on, we've got -- he spent several months up
7 at Lakes Crossing. He's been seen by at least five different
8 doctors during that time period. It would seem to the State,
9 although maybe Dr. Paglini would like to have everything, in a
10 perfect world he would, he should be able to make an
11 appropriate based evaluation based on what he's had since then
12 . There's a whole bunch of stuff out there amongst various
13 doctors, three doctors found he's competent and our position is
14 they should be able to go forward. This case has been set a
15 number of times.
16 Just one caveat. We have having some logistical
17 problems. The child victims are in California in foster care.
18 It's my understanding the authorities have said the foster
19 parents cannot bring them to Nevada for the trial, that we have
20 to go through their case workers and stuff. So there's some
21 legalities going on that the lawyers are reviewing to see which
22 case workers will bring them or whatnot and they still have yet
23 to get back to us. We've been calling every day. We are in
24 contact, we know where the kids are, the foster mom is willing
25 to bring them, she just needs to get the authority. That's the

1 only problem we have at this point.
2 THE COURT: Submitted?
3 MR. ORAM: Submitted.
4 THE COURT: This case has been going on for a long
5 time, Mr. Oram. This is almost three years old. It was
6 January, '99, was the sexual assault, or alleged sexual
7 assault. We have young children here, people forget, they
8 disappear and this is why they say "Justice delayed is justice
9 denied."
10 This man unconditionally waived preliminary
11 hearing originally back in April of 2000, he was going to take
12 a deal and I think that was an excellent offer.
13 MS. HOLTHUS: He was offered two five-to-twenties
14 and five-to-life. It would be up to the judge whether they ran
15 consecutive or concurrent. In best case scenario he could get
16 one five-to-life. He's already done a lot of time. Worse case
17 15 years. If convicted at trial his best hope would be 20 to
18 life. These children were minors well under 14 when he raped
19 them and to one of them he confessed to multiple counts.
20 THE COURT: Confessed to the police?
21 MS. HOLTHUS: To the police.
22 THE COURT: Did you explain this to Mr. Polk?
23 MR. ORAM: I have, Your Honor.
24 THE COURT: He apparently was convinced that was
25 in his best interest back in April to unconditionally waive his

1 preliminary hearing, but I understand, I know he has some
2 problems. His initial arraignment was here in April of 2000.
3 He's had two or three continuances on this trial. We sent him
4 up to Lakes Crossing to be convinced that his mental status was
5 appropriate to stand trial and he did get some treatment up
6 there and they indicated he's competent to stand trial now.
7 You've had an investigator in this case. Back in
8 March you said your investigator is looking into this matter,
9 checking witnesses.
10 This is not something the Court is rushing you or
11 trying to rush this case. I've never had a case, not even the
12 Binion case or Ruden case gone three years. And it's been
13 going on and on. Arraignment in 2000 in this Court. It's just
14 not that complicated, Mr. Oram. This is really not a
15 complicated rocket science case. The girl's going to say he
16 did it or didn't do it and you're going to present testimony
17 and a few doctors. But no, the facts that you present to me,
18 I'm not convinced there are any records at the 6161 West
19 Charleston and even if they were you had an opportunity to try
20 to get them, they're not available. They say they have no
21 records and you have, as Mr. Holthus points out there,
22 voluminous doctors results and results of tests on Mr. Polk.
23 So no, you go with what you have now. I'm not going to
24 continue this again.
25 MR. ORAM: Your Honor, Mr. Polk has filed a pro

1 per writ of mandamus, I'm not quite sure.

2 THE COURT: Is this something new?

3 MR. ORAM: I became aware of it from Mr. Polk, he

4 indicated yesterday when I saw him he would like to briefly

5 address the Court because I do not have knowledge, I don't

6 have.

7 THE COURT: I don't know. I've had other proper

8 person motions from him and some weird writ of habeas corpus

9 about public jeopardy. I tried to accommodate Mr. Polk, I try

10 to do the best I can but there comes a time, come on, we are

11 going to trial on this or resolve it or some other proceeding

12 but I can't keep on these writ of mandamus and this and that.

13 I'd be here all day.

14 Where is it? Is there a copy around? Get a copy

15 from him.

16 MR. ORAM: May I also approach? Dr. Paglini

17 would like to come in at 12:30.

18 THE COURT: Yes.

19 What is this writ of mandamus, Mr. Polk? I'm not

20 going to take a lot of time with your proper person writs .

21 You have an attorney, he's doing a good job for you and I can't

22 be having double team. What is the writ?

23 THE DEFENDANT: I don't have a copy right now.

24 THE COURT: I can't resolve it. You get a copy,

25 I'll figure it out next week or next Monday but we are going to

1 trial Monday, we are going to pick a jury Monday nine-thirty.
2 THE DEFENDANT: I apologize being argumentative
3 but I sent the mandamus up there because when I filed the writ
4 of habeas corpus in proper person you denied it on the relevant
5 argument, you said every everything ran normal course.
6 THE COURT: You got a right to argue the writ, I
7 heard you and denied it. For whatever reason I denied it it's
8 on the record, I don't want to revisit that, I don't want you
9 to talk about the writ anymore, its done.
10 If you get convicted of this and I give you life
11 in prison three times or whatever I do, you have a right to
12 appeal my denial of the writ to the supreme court of Nevada. I
13 don't want to revisit that anymore. I asked you a specific
14 question. A writ of mandamus, I asked you if you have a copy
15 of it, you either have it or you don't. Do you have one now?
16 THE DEFENDANT: No, sir.
17 THE COURT: If you get one I'll look at it Monday
18 and if you want to make a record on it I'll allow you to make a
19 record Monday but I don't want to revisit anything. You don't
20 want to take that offer?
21 THE DEFENDANT: No, sir.
22 THE COURT: Good. We'll go to trial Monday,
23 nine-thirty. You better get your witnesses here.
24 MS. HOLTHUS: We are going to pick the jury here
25 at nine-thirty. Shall I have witnesses for the Petrocelli

1 hearing at one?

2 THE COURT: That evidence of other bad acts I

3 heard argument on it and -- sit down or somebody is going to go

4 to jail. I'm going to have my bailiff --

5 MS. POLK: I'm his mother.

6 THE COURT: I don't care who you are. Don't

7 interrupt my courtroom. Don't interrupt it.

8 You want to say something, you go through the

9 lawyer, Mr. Oram, and he'll present it to me. This is not a

10 baseball game here where we all get up.

11 MS. POLK: I apologize.

12 THE COURT: I granted the -- I think it's

13 certainly relevant and the prejudicial value is not -- it

14 doesn't outweigh the probative value. So all I wanted to do is

15 have clear and convincing evidence. I don't want to argue it.

16 The only argument will be Your Honor, this is not clear and

17 convincing, do you understand?

18 MS. HOLTHUS: Right.

19 THE COURT: Who are you going to present to me if

20 we go in the afternoon?

21 MS. HOLTHUS: It would be Frida White, is the

22 other victim, and I believe I have a police officer. One of

23 the things we were seeking was at the time of his arrest on

24 this case he gave false I.D. It is our position that's

25 consciousness of guilt, he knew there was a warrant for his

1 arrest on these charge and particularly in light of his
2 insanity defense that would be relevant.
3 THE COURT: They will be available at one o'clock,
4 1:30?
5 MS. HOLTHUS: Sure.
6 THE COURT: What we'll do Monday is pick a jury at
7 nine-thirty, get the jury in place, then any evidentiary
8 hearings, the Petrocelli and writ of mandamus, if you have
9 something on that I'll rule on any other legal issues Monday
10 afternoon and then we'll begin opening statements and witnesses
11 on Tuesday at nine-thirty.
12 MR. ORAM: That's fine. And the State's
13 indicated they are going to get me discovery on Frida White .
14 MS. HOLTHUS: I will.
15 THE COURT: If this is not available you call me
16 up Friday. I want to be made aware what's happening with the
17 witnesses and everything is set to go.
18 MR. ORAM: Thank you.
19 THE COURT: Thank you so much.
20
21
22 ATTEST: Full, true and accurate transcript of proceedings.
23
24 Tom Mercer
25 THOMAS D. MERCER, C.C.R. No. 33

Cum Pag. Num
2 Pgs.

R

Exhibit _____

SOUTHERN NEVADA ADULT MENTAL HEALTH
6161 W. CHARLESTON BLVD
LAS VEGAS, NEVADA 89146
FAX 486-8070

RELEASE OF INFORMATION

COST OF COPYING CHARTS IS $.60 PER PAGE.

CLIENT NAME: RENARD ~~[illegible]~~ TRUMAN POLK BIRTHDATE: 10/14/80

SS #: 587-37-4092 TELEPHONE NUMBER: _____

This is to authorize that information as specified below regarding the above identified person be released:

TO: DENNIS R. REEFER, 4992 CROOKED STICK WAY, LAS VEGAS, NV. 89113.
(person/facility, address)

PURPOSE OR NEED FOR DATA (Must be filled in): TO BE USED IN MY DEFENSE AT MY CRIMINAL TRIAL. CLIENT IS IN CCDC.

Total records will not be sent unless purpose clearly demonstrates need.

Information to be released includes:

- [x] Psychiatric Assessment
- [x] Release Summary
- [x] Psychosocial Assessment
- [ ] Outpatient information for the last six (6) months only.
- ___ [ ] Information of any and all tests performed and information regarding diagnosis and treatment for "sexually transmitted and H.I.V. diseases" as defined in NRS 441A.220.
- ___ [ ] Drug/Alcohol records based on 42 C.F.R., Part 2

Client must initial section on sexually transmitted and H.I.V. disease and the drug/alcohol section or information will not be provided.

- [x] Other ANY MEDICATIONS PRESCRIBED

This authorization may be revoked by me at any time unless action has been taken in reliance thereon, and in any event, no longer than 90 days from this date, or upon the following conditions or events:

_____

This information has been disclosed to you from records whose confidentiality is protected by law. You are prohibited from disclosing this information without my written consent or as otherwise permitted by law.

x Renard Polk
Client/Guardian/Personal Representative

Dennis R. Reefer INVESTIGATOR
Witness

9/12/01
Date

Relationship (if other than Client)

If not patient, legal papers required as proof of legal representation

SNAMHS REV. 02/00

SOUTHERN NEVADA ADULT MENTAL HEALTH SERVICES

6161 WEST CHARLESTON BLVD, LAS VEGAS, NV 89158
(702) 486-6071

HEALTH INFORMATION SERVICES DEPARTMENT

DATE: 9-13-01 RE:: Renard Truman Polk

TO: Dennis Reefer – Dyment Investigations, LTD SS# 587-37-4092

A request to furnish you information concerning the above named person has been received.

The following checked item (s) is applicable to this request.

_____	the requested information is enclosed. Since this information is privileged, its confidentiality should be maintained and not released to another agency without the consent of the patient or his/her legal guardian.
_____	thank you for your payment in the amount of $_____
_____	please see the enclosed statement for fee due and send payment to the attention of Southern Nevada Adult Mental Health Services.
_____	as the patient is still confined to the hospital, we are sending information that is available. If you require more information, please submit a new request.
_____	at this time, the medical record is incomplete. As soon as the physician has completed the chart, we will forward the requested information to you.
X	we are unable to identify this individual. If you can furnish additional information, such as date of birth, approximate date of admission and/or discharge, and verify spelling of the name, social security number, or other pertinent information, we will conduct another search. (Perhaps patient has an AKA)
_____	Information cannot be released without a signed release dated within 90 days. The enclosed form may be used.
_____	before releasing the medical information, we will need a written consent by the patient. If you will present an authorization signed and dated, we will act on your request. The enclosed form is for this purpose. A general consent is not sufficient for this purpose.

Sincerely,

Health Information Services Department

Cum. Pag. Nom
6 Pgs.

S

Exhibit _____

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 521718 Event #:

DATE OF ARREST: 8-17-99 TIME OF ARREST: LVPD LVPD

I.D. ESTAB. BY:

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last	First	Middle
POLK	RENARD	TURMAN	POLK,	RENARD	TURMAN

ADDRESS NUMBER & STREET	BLDG./APT. #	CITY	STATE	ZIP

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	PLACE OF BIRTH
10-14-80	B	F	5	140	B	BRO	581-38-4092	Natchez, Miss

LOCATION OF CRIME (# - Street - City - State - Zip)	☐ CC ☐ LV	Citizen Arrest	LOCATION OF ARREST	PCN #
		(Y) N	CCDC	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
6300	PROB. VIOL.	☐	☑	☐	TO	J58683	99J00411K	☐	☐	☐	☑
	176.215	☐	☐	☐				☐	☐	☐	☐
	SENT. 30 DAYS	☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
	HLD BAIL	☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

OTHER COURT:

Arresting Officer's Signature / (Print Name) DAVIS / P # 2828 / Agency DSA

Transporting Officer's Signature / (Print Name) / P # / Agency

Time Stamp at BOOKING: ED 3:55

INTAKE P #	RELEASE P #
1343	5949
	N-N
TCR / DOA P #	
Money	
Search	
Property 6303	
Jails	
Voucher	

PRE-BOOK P #: 1343

NAME OF NEAREST RELATIVE	RELATIONSHIP	PROPERTY #	HOUSING UNIT
		0353	23

ADDRESS	PHONE ( )
CITY	STATE / ZIP

CUSTODY RELEASED TO

NAME

POSITION

AGENCY

Time Stamp at RELEASE: SEP 15 1 37 AM '99

P #: 5949 2DG

L.V.M.P.D. RECORDS SECTION

320 Home Service

LVMPD 22 (REV. 9-94) (3) DETENTION

1278

-Re Booking-

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 1521718 Event #:

DATE OF ARREST: 03-06-00 TIME OF ARREST: 1230

I.D. ESTAB. BY:

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last: Polk	First: Kendrd	Middle: Turman

ADDRESS NUMBER & STREET	BLDG./APT. #	CITY	STATE	ZIP

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	Speak English?	PLACE OF BIRTH
10-14-80	B	m	509	190	Blk	Br	567-38-4092	☐ Yes ☐ No	MS

LOCATION OF CRIME (# - Street - City - State - Zip)	☑ CC ☐ LV	Citizen Arrest Y N	LOCATION OF ARREST	PCN #
			JC#37	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
5083	sex asslt under 16	☐	☐	☒	RM		99F04726X	☐	☒	☐	☐
	20,000/20,000/40,000	☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
	TA 3/13/00 @ 0900	☐	☐	☐				☐	☐	☐	☐
	JC#7	☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

OTHER COURT:

Arresting Officer's Signature	(Print Name)	P #	Agency
E H Peck		D709	

Transporting Officer's Signature	(Print Name)	P #	Agency

Time Stamp at BOOKING: 1 4-5 PM 03

INTAKE P#		RELEASE P#
	Scope	
	NCIC / CJIS	
	TCR / DOA P #	
	Money	
	Search	
	Property	
	Jails	
6107	Voucher	

NAME OF NEAREST RELATIVE	RELATIONSHIP	PROPERTY #	HOUSING UNIT

ADDRESS	PHONE ( )
CITY	STATE / ZIP

CUSTODY RELEASED TO

NAME	POSITION
5388	Coll

AGENCY: LVMPD

U.S. CITIZEN? YES ☐ NO ☐ IF NO, WHAT NATION

DO YOU WISH YOUR CONSULATE NOTIFIED? YES ☐ NO ☐

Time Stamp at RELEASE

P #: 5449 5374

PRE-BOOK P #:

004/165

1279

LVMPD 22 (REV. 7-98) (3) DETENTION

Page ____ of ____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 1521718 Event #: ____

DATE OF ARREST: [illegible] TIME OF ARREST: [illegible]

I.D. ESTAB. BY: ____

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last	First	Middle
			Rik	Bernard	Turman

ADDRESS NUMBER & STREET	BLDG./APT. #	CITY	STATE	ZIP

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	Speak English? ☐ Yes ☐ No	PLACE OF BIRTH
[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]		

LOCATION OF CRIME (# - Street - City - State - Zip)	☐ CC ☐ LV	Citizen Arrest Y N	LOCATION OF ARREST	PCN #
			[illegible]	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
[illegible]	[illegible]	☐	☐	☑	BU	99F18650X		☐	☑	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

OTHER COURT:

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER SW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

[redacted]

Arresting Officer's Signature / (Print Name) / P # / Agency

Transporting Officer's Signature / (Print Name) / P # / Agency

Time Stamp at BOOKING	INTAKE P #		RELEASE P #
		Scope	
		NCIC / CJIS	
	4636	TCR / DOA P #	
		Money	
		Search	
		Property	
		Jails	
PRE-BOOK P #:		Voucher	

NAME OF NEAREST RELATIVE	RELATIONSHIP	PROPERTY #	HOUSING UNIT

ADDRESS	PHONE ( )
CITY	STATE / ZIP

CUSTODY RELEASED TO

NAME	POSITION
AGENCY	

U.S. CITIZEN? YES ☐ NO ☐ IF NO, WHAT NATION ____

DO YOU WISH YOUR CONSULATE NOTIFIED? YES ☐ NO ☐

Time Stamp at RELEASE

P #:

[redacted] 22 ([redacted]) [redacted] (3) DE[redacted]N [redacted]

1280

Page ____ of ____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 15211 Event #: ____

DATE OF ARREST: ____ TIME OF ARREST: ____ I.D. ESTAB. BY: ____

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last	First	Middle
			POLK	RENARD	THURMAN

ADDRESS NUMBER & STREET	BLDG./APT. #	CITY	STATE	ZIP

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	Speak English? ☐Yes ☐No	PLACE OF BIRTH

LOCATION OF CRIME (# - Street - City - State - Zip)	☐ CC ☐ LV	Citizen Arrest Y N	LOCATION OF ARREST	PCN #
			Las Vegas	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
1C	Sexual Assault	☐	☐	☐	PC	C	166470	☐	☐	☑	☐
		☐	☐	☐		99F04726X		☐	☐	☐	☐
		☐	☐	☐		00166490X		☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐	OP	30		☐	☐	☐	☐

*ARREST TYPES: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

OTHER COURT:

(5)

McGuire / McGuire / 15/3209 / LVMPD
Arresting Officer's Signature (Print Name) P # Agency

Transporting Officer's Signature (Print Name) P # Agency

Time Stamp at BOOKING

RECEIVED 2000 NOV -8 P 1:37 RECORD SEC

INTAKE P #		RELEASE P #
6202	Scope	
N7N	NCIC / CJIS	
	TCR / DOA P #	
	Money	
	Search	
	Property	
6623	Jails	
	Voucher	

PRE-BOOK P #: 38099

NAME OF NEAREST RELATIVE	RELATIONSHIP	PROPERTY #	HOUSING UNIT
		2079	2B1SU

ADDRESS	PHONE ( )
CITY	STATE / ZIP

CUSTODY RELEASED TO

NAME	POSITION
AGENCY	

U.S. CITIZEN? YES ☐ NO ☐ IF NO, WHAT NATION ____

DO YOU WISH YOUR CONSULATE NOTIFIED? YES ☐ NO ☐

Time Stamp at RELEASE

P #:

LVMPD 22 (REV. 7-98) (3) DETENTION

1281

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 1521718 Event #: 000223-2160

DATE OF ARREST: 2-23-00 TIME OF ARREST: 2200

I.D. ESTAB. BY: SCOPE

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last	First	Middle
POLK	RENARD	TURMAN	POLK	Renard	Turman

ADDRESS NUMBER & STREET	BLDG./APT. #	CITY	STATE	ZIP
TRANSIENT		LV	NV	

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	Speak English?	PLACE OF BIRTH
10-14-80	B	M	5'9	140	BLK	BRO	587-38-4092	☒ Yes ☐ No	NATCHEZ, MS

LOCATION OF CRIME (# - Street - City - State - Zip)	Citizen Arrest	LOCATION OF ARREST	PCN #
LV, NV 89110 ☒ LC ☐ LV WARRANTS / ST. LOUIS / GATEWAY	Y (N)	ST. LOUIS / GATEWAY	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
5058	SEXUAL ASSAULT VICT. UNR 16/200.366(2) NO BAIL	☐	☐	☒	AW	JCJ	99F04726X	☐	☒	☐	☐
4808	OBSTRUCTING PO / 197.190 $200	☒	☐	☐	PC	000223-2160	00M04291X JCJ	☐	☒	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

OTHER COURT:

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

Arresting Officer's Signature	(Print Name)	P #	Agency
	D. DOCKERDORF / J. SCHUTT	5581 / 162167	LVMPD

Transporting Officer's Signature	(Print Name)	P #	Agency
S/A			

Time Stamp at BOOKING: RECEIVED 2316

INTAKE P #		RELEASE P #
6316	Scope	
	NCIC / CJIS	
	ICR / DOA P #	
	Money	
5916	Search	
	Property	
6312	Jails	
	Voucher	

PRE-BOOK P #: 0316

NAME OF NEAREST RELATIVE	RELATIONSHIP	PROPERTY #	HOUSING UNIT
		2613	22

ADDRESS	PHONE	CITY	STATE	ZIP
	( )			

CUSTODY RELEASED TO

NAME	POSITION
[illegible] 5388	CO II

AGENCY: LVMPD

U.S. CITIZEN? YES ☐ NO ☐ IF NO, WHAT NATION

DO YOU WISH YOUR CONSULATE NOTIFIED? YES ☐ NO ☐

Time Stamp at RELEASE: RECEIVED 2000 AUG 23 A 8:22 DETENTION RECORDS SECTION

P #: 5949 5374

LVMPD 22 (REV. 7-98) (3) DETENTION

009/165

4

1282

Page 1 of 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 521718 Event #: 981222-0662

DATE OF ARREST: 12/22/98 TIME OF ARREST: 1045

I.D. ESTAB. BY: Verbal

INTAKE NAME (AKA, ALIAS, ETC.) Last: POLK First: RENARD Middle: TURMAN

TRUE NAME Last: Polk First: Renard Middle: Turman

ADDRESS NUMBER & STREET: 1325 NAY CT BLDG./APT. #:

CITY: LV STATE: NV ZIP: 89110

DATE OF BIRTH: 10/14/[illegible] RACE: B SEX: M HEIGHT: 5'9" WEIGHT: 160 HAIR: BLK EYES: BRO

SOCIAL SECURITY #: 587-38-4092 Speak English? ☒ Yes ☐ No PLACE OF BIRTH: NATCHEZ, MISS

LOCATION OF CRIME (# - Street - City - State - Zip): ARREST WARRANT ☐ LV Citizen Arrest Y N

LOCATION OF ARREST: 1325 NAY CT PCN #:

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	LV	JC	DC	OTHER
5083	SEX ASSLT W/ V < 16 BAIL $15,000.00	☐	☐	☒	WA	981024 1797	98F17396X	☐	☒	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

OTHER COURT:

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

Arresting Officer's Signature: [signature] (Print Name): FRENDLY PATRICK P #: 19831 Agency: FBI

Transporting Officer's Signature (Print Name) P # Agency

Time Stamp at BOOKING: LVMPD DSD RECORDS SECTION DEC 22 11 07 AM '98

INTAKE P #		RELEASE P #
6176	Scope	
	NCIC / CJIS	
	TCR / DOA P #	
4528	Money	
4528	Search	
4528	Property	
	Jails	
6176	Voucher	

PRE-BOOK P #:

NAME OF NEAREST RELATIVE: RELATIONSHIP: PROPERTY #: 0559 HOUSING UNIT: 2-2

ADDRESS: NO PHONE: ( )

CITY: STATE: ZIP:

CUSTODY RELEASED TO

NAME: POSITION:

AGENCY:

U.S. CITIZEN? YES ☐ NO ☐ IF NO, WHAT NATION

DO YOU WISH YOUR CONSULATE NOTIFIED? YES ☐ NO ☐

Time Stamp at RELEASE: L.V.M.P.D. D.S.D. RECORDS SECTION DEC 25 4 05 AM '98

P #:

LVMPD 22 (REV. 7-98) (3) DETENTION

1283

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Court Case: Recd in Rec 10-18-96 COURT SC

CLARK COUNTY

REGIONAL MISDEMEANOR CITATION/COMPLAINT

STATE OF NEVADA
COUNTY OF CLARK ss. Complaint/Affidavit
CITY OF _____

☐ In the Municipal Court of _____
☒ In the Justice Court of Clark County

A Code ☐☐☐ Event: 960817-1997
☐ Adult ☒ Juvenile ID #

☐ Traffic ☐ Parking ☒ Non-Traffic ☐ Accident ☐ Radar ☐ School Zone
Officer's Report ☐ Y ☒ N Crime Report ☒ Y ☐ N

1-0132517 A

THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF NEVADA

NAME (Last, First, Initial): POLK, RENARD
Res. Address: 1325 NAY CT. City: LV State: NV Zip: 89164 Home Phone: 452-6377
DOB: 101480 Orig: B Sex: M Ht: 5'6" Wt: 131 Hair: BLK Eyes: BRO S.S.#: 537-37-4092
Driver's License #: N/A State: Class: Exp. Date: Restrictions:
VIOLATION DATE On or about: Month 08 Day 17 Year 96 TIME 24 Hour: 2115 DATE OF ISSUANCE: Month 08 Day 05 Year 96
At Location: 1045 VAN ST APT LVN 89122 Name of Business (if Applicable)

☐ In the city of _____, County of Clark, State of Nevada.
☒ In the unincorporated area, County of Clark, State of Nevada.

DID OPERATE THE FOLLOWING VEHICLE MOTOR VEHICLE ON A PUBLIC HIGHWAY AND

Veh. Lic. #: Year: Month: State: Veh. Yr: Make: N/A Body Type: Color(s):
Reg. Owner's Name: Address:

DID THEN AND THERE COMMIT EACH OF THE FOLLOWING OFFENSES/INFRACTIONS:

1. Violation A— MDPP
State NRS: 206.310c ☐ City Ord. ☒ County Code: 1.08.010
to wit: DID MALICIOUSLY DESTROY/INJURE THE PERSONAL PROPERTY OF MELISSA HENDRICKS BY THROWING ROCKS AND BATTLE OF VITAMINS AT BACK WINDOW OF VEHICLE AND SHATTERING IT. (SEE NOTES)
Bail Amount:

2. Violation B—
State NRS: ☐ City Ord. ☐ County Code:
to wit:
Bail Amount:

I certify (or declare under penalty of perjury under the laws of the state of Nevada that I have reasonable grounds/probable cause to believe and do believe the above named person committed the above infraction(s) and/or offense(s) contrary to law.

Officer Complainant's PRINTED Name: D. THOMAS
Officer/Complainant's Signature: [signature]
P/S: 3394 Bureau: DET.

Clark County Justice Court 200 S. Third St Las Vegas, NV 89155 455-4425	Clark County Justice Court NLV Township 1916 N. Bruce St NLV, NV 89030 455-7801	Clark County Juvenile Court Zenoff-Hall Bldg. #9 3401 S. Bonanza Las Vegas, NV 89101 455-5200	Las Vegas Municipal Court 400 E. Stewart Las Vegas, NV 89101 229-6497	Henderson Municipal Court 243 Water St. Henderson, NV 89015 565-2075	N. Las Vegas Municipal Court 2428 Civic Center Dr. N. Las Vegas, NV 89030 657-2324	Laughlin Justice Court PO Box 2305 101 Civic Way Laughlin, NV 89029 298-4572

Township: Justice Court:

You are hereby ordered to appear on the 26 day of SEP 19 96 at 1300 a.m./p.m. to answer the above charges.

Without admitting/denying committed each of the above infraction/offenses, I promise to appear as directed on this notice and waive my right to be taken immediately before a magistrate.

Total Bail Amount:

☐ Interpreter Needed? LANGUAGE:

X Renard Polk

SUSP CLAIMS THAT VICT HAS VENDETTA AGAINST HIM BECAUSE THEY USED TO DATE (HE IS 15, SHE IS 21) AND HIS GRANDMOTHER TOLD HER THAT IF SHE DID NOT LEAVE HIM ALONE, SHE WOULD HAVE HER ARRESTED FOR STATUTORY RAPE. HE ALSO SAYS SHE CLAIMS HE STOLE $50.00 FROM HER RENT MONEY. IN THE CRIME REPORT, VICTIM CLAIMS HE WAS THROWING ROCKS, IN VOLUNTARY SHE SAYS HE THREW HIS BOTTLE OF VITAMINS. I HAVE SINCE BEEN UNABLE TO CONTACT VICTIM AS HER PHONE IS DISCONNECTED.

HENDRICKS, MELISSA 4645 VANST #A LVNS9122 342-3265

SAME

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Exhibit _____

ENNYY C. GUINN
Governor

DISTRICT OFFICES

1301 CORDONE AVENUE
ENO, NEVADA 89502
(775) 688-1000

A. CAMPOS BUILDING
216 E. BONANZA ROAD
VEGAS, NEVADA 89158
(702) 486-3001

3920 E. IDAHO STREET
LKO, NEVADA 89801
(775) 738-4088

119 E. LONG STREET
SON CITY, NEVADA 89701
(775) 687-5045

Nevada Department of **Public Safety**

RICHARD KIRKLAND
Director

R. WARREN LUTZOW
Chief

PAROLE AND PROBATION
1445 Hot Springs Road, Suite 104
Carson City, Nevada 89706
Telephone (775) 687-5040 Fax (775) 687-5402
www.ps.state.nv.us

NAME: RENARD TURMAN POLK

SS#: 587-38-4092 (ALSO USES: 587-37-4092)

CC#: C166490

THE HON: JOSEPH T. BONAVENTURE

J/DIS: 8TH **DEPT:** VI **COUNTY:** CLARK

COUNSEL: CHRISTOPHER R. ORAM, RETAINED

DIST ATTY: MARY KAY HOLTHUS, CHIEF DDA

CO-DEF: NONE

DATE: 03-11-2002

R/NR: R

SENTENCE DATE: 03-15-2002

OFSE DATE: BETWEEN 1998 AND 03-12-1999

ARREST DATE: 02-23-2000

SECOND AMENDED INFORMATION DATE: 01-07-2002

CONVICTED: 01-10-2002, BY JURY VERDICT

OFFENSE/NRS: COUNT I-ATTEMPT SEXUAL ASSAULT OF A MINOR UNDER 14 YEARS OF AGE (CATEGORY B FELONY) NRS 199.330, 200.344, 200.366: By imprisonment in the Nevada Department of Corrections for a maximum term of TWENTY (20) years with a minimum parole eligibility after TWO (2) years has been served.

COUNT II-SEXUAL ASSAULT OF A MINOR UNDER 14 YEARS OF AGE (CATEGORY A FELONY) NRS 200.344, 200.366: By imprisonment in the Nevada Department of Corrections for LIFE with a minimum parole eligibility after TWENTY (20) years has been served.

PLEA NEGO: NONE. Guilty by Jury Trial.

ADD: 1325 Nay Court
Las Vegas, Nevada 89110

DOB: 10-14-1980 **AGE:** 21

POB: Natchez, Mississppi

FBI#: 862 664 JB5

SID#: NV02776894

LVMPD#: 1521718

PCN: 09820416

RACE/SEX: BMA **HT/WT:** 5'09"/140

HAIR/EYES: Black/Brown **ALIEN:** No

TATTOOS/SCARS: None **ILLEGAL:** N/A

REG#: N/A

COUNTRY: N/A

CUSTODY STATUS: In Custody Clark County Detention Center

AKA's: Renard Turman Edwards; Bernard Polk

JAIL CREDIT: ~~692~~ 691 Days 02-23-00 to 03-15-02 (CCDC/Lakes Crossing)

PRIOR RECORD AS DETERMINED BY DIVISION OF PAROLE AND PROBATION

ARRESTS: 3 **OUTSTANDING WARRANTS:** 0

STATES: N/A

CONVICTIONS:	**FEL:** 0		**GM:** 0		**MISD:** 1		
	PRISON: 0				**JAIL:** 1		
PROBATIONS:	**ACTIVE:** 0		**REVOKED:** 0				
	DISCHARGES: 0	**HONORABLE:** 0		**DISHONORABLE:** 0		**OTHER:** 0	
PAROLES:	**ACTIVE:** 0		**REVOKED:** 0			**ACTIVE:** 0	
	DISCHARGES: 0	**HONORABLE:** 0		**DISHONORABLE:** 0		**OTHER:** 0	

CRIMINAL HISTORY:

Records of the Las Vegas Metropolitan Police Department, Clark County Juvenile Court Services and the Clark County District Attorney's Office reflect the following information:

JUVENILE:

ARREST DATE	OFFENSE	DISPOSITION
06-03-93 (LVMPD)	Trespass	06-29-93, Warn and Release.
10-14-94 (LVMPD)	Battery	11-14-94, Warn and Release.
12-16-95 (LVMPD)	Petty Larceny	02-22-96, Warn and Release.

03-31-96 (LVMPD)	Curfew	05-20-96, Community Service Work.
10-13-97 (LVMPD)	1. Robbery With Use of a Deadly Weapon 2. Intimidate an Officer with Force/Threat 3. Grand Larceny 4. Petty Larceny	12-09-97: 1 and 2. Dismissed. 3 and 4. Suspended commitment/formal probation.
09-19-98 (LVMPD)	1. Battery 2. Battery With Substantial Bodily Harm 3. Attempt Robbery Bench Warrant 02-08-99	03-03-99. Formal probation.

Additionally, the defendant was detained by the Division of Family and Youth Services for the following: Neglect/Substance Abuse of Parent, Abuse/Beating, Battery, Malicious Destruction of Private Property, Neglect/Parent in Custody, Neglect/Alcohol Abuse by Parent, Neglect/Substance Abuse by Parent, Neglect/Lack of Necessities, Attempt Burglary, Trespass.

ADULT:

ARREST DATE	OFFENSE	DISPOSITION
12-22-98 (LVMPD)	Sexual Assault Victim Under 16(F) (Defendant allegedly sexually assaulted a 17 year old female with force by placing his penis into her vagina)	CC#98F17396X. Remanded to Juvenile Court. No further disposition noted.
11-24-99 (LVMPD)	Possession Stolen Vehicle(F) FTA-08-17-01	CC#99F18650X. On 01-29-02, the defendant pled guilty to Joyriding(M). Sentenced 6 months Clark County Detention Center.

02-23-00 (LVMPD)	1. Sexual Assault Victim Under 16(F), 2 Counts 2. Obstructing a Police Officer(M) Remanded 03-06-00 3. Sexual Assault Victim Under 16(F) Remanded 11-08-00 4. Sexual Assault Victim Under 14(F), 3 Counts	CC#C166490. Instant Offense. On 01-10-02, the defendant was found guilty by Jury Verdict of Count I- Attempt Sexual Assault With A Minor Under 14 Years Of Age (F), and Count II- Sexual Assault With A Minor Under 14 Years Of Age (F). Rendition of Sentence 03-15-02 in Department VI.

OFFENSE REPORT: Records of the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On March 12, 1999, the then nine-year-old female sister of the defendant became the victim of sexual assaults perpetrated by the defendant. The defendant is identified as Renard Turman Polk. The victim was interviewed and she stated that the defendant has been engaging in anal intercourse with her since she was five years of age. These instances would occur when the victim would be caught alone by the defendant. The defendant would take her to the bedroom or bathroom and instruct her to remove her clothing. He would remove his clothing and have her lay on the floor. The defendant would then insert his penis into her rectum. On other occasions, he would have the victim sit on his penis while he sat in a chair. During these assaults, the defendant would place his hand over her mouth to prevent her from crying out. The defendant told the victim that he would kill her if she told anyone about the assaults.

On or about January 1999, the nine-year-old victim's stepsister, dob 08-28-86, became the victim of a sexual assault perpetrated by the defendant. This incident occurred when the defendant took her into the bathroom and forced her to remove her clothing and lay on the floor. The defendant then placed his penis into her rectum against the victim's will and with the use of force.

On March 16, 1999, an affidavit was executed and a warrant was obtained. The defendant was arrested on February 23, 2000, and transported to the Clark County Detention Center where he was booked accordingly.

DEFENDANT STATEMENT: On February 21, 2002, the defendant was interviewed at the Clark County Detention Center and declined to offer a written statement for the Court's consideration. He denies committing the instant offense.

VICTIM INFORMATION: On January 17, 2002, a Victim Impact package was forwarded to the parents of the victims in the instant offense at their last known address and has not been returned (VC2123876/VC2123877). Contact with Clark County Social Services reveals a monetary expenditure of $1,493.40 for medical expenses (VC2105711). Contact with Victims of Crime reveals negative contact. It is unknown to the Division of Parole and Probation if the victim or her parents will attend sentencing. The Division of Parole and Probation has not had contact with the victims, however, if information becomes available, it will be forwarded to the Court.

RESTITUTION: $1,493.40

SOCIAL HISTORY:

The following social history is as related by the defendant and is unverified unless otherwise noted.

Significant Family Information: (Yes) The defendant reports that his mother was heavily into the use of alcohol and illicit narcotics while he was a youth. The defendant state that his father is an alcoholic and he is presently in custody at the Clark County Detention Center for Burglary. The defendant also stated that he was abused as a child, however, does not recall by whom indicating, "I try to forget."

Marital Status: (Single)

Number of Children: None

Child Support: (No) **Amount:** N/A **Current:** N/A

Significant Health Information: (No)

Significant Mental Health Information: (Yes) The defendant was evaluated for competency at Lakes Crossings, Nevada, and found competent during a competency hearing before the Court of Record.

Alcohol Abuse: (Yes) The defendant admits to the daily use of alcohol until his present incarceration. He has not attended substance abuse counseling.

Controlled Substance Use: (Yes) The defendant admits to the daily use of marijuana. He began the use narcotics at 14 years of age. He has used marijuana, methamphetamine and LSD. The defendant has not participated in substance abuse counseling.

Education: The defendant dropped out of High School in 1996 after completing the 10th grade.

Military: (No) **Branch/Discharge:** N/A

Residential: (Unstable) **Time in Community:** Life

Present Employer: (Unemployed)

Previous Employment: The defendant has been employed as a busperson and construction laborer.

Income: None **Additional Sources:** None

Financial Assets: None **Debts:** None

Community Supervision Plan: When released from custody the defendant plans to do "many things." He desires to complete his education, travel, become an activist/minister and a civil rights activist.

EVALUATION: Before the Court for rendition of sentence is the defendant, BERNARD TURMAN POLK, who has been found guilty by Jury Trial of Count I-Attempt Sexual Assault With A Minor Under 14 Years Of Age, and Count II-Sexual Assault With A Minor Under 14 Years Of Age.

The defendant has sustained several negative violent type as well as theft-related infractions with law enforcement beginning as a juvenile at age 13. He has sustained six juvenile sanctions including formal probation. He has one misdemeanor conviction for Joyriding which resulted in a six month jail term. Parental neglect and abuse are also noted as part of his juvenile history.

The defendant is a 21-year-old male who did not complete his formal education. He has never married nor fathered any children. He reports a problematic childhood. His physical health is fair. The defendant was evaluated at Lakes Crossings for competency and found to be competent to stand trial. He has not participated in mental health counseling. The defendant admits to the daily consumption of alcohol and illicit narcotics prior to his arrest in the present offense. He has not participated in substance abuse counseling. He has not served in the United States Military. He is a lifetime resident of Las Vegas, Nevada. He is unemployed without assets or debts.

The defendant began his criminal career as a 13-year-old and has continued with this behavior up to and including the instant offense. He has had the privilege of community supervision as a juvenile which did not change his anti-social behavior. His graduation into the adult system began with an arrest for Sexual Assault Under 16 and culminated with a jury's finding of guilty in the instant offense. In the present offense the defendant sexually assaulted his younger sisters and threatened to kill them if they reported his crimes. The defendant has apparently made a conscious effort to engage in sexually motivated criminal conduct and impact his victim's lives extensively. Therefore, the following recommendation is respectfully submitted for the Court's consideration.

RECOMMENDATION: In addition to the $25 Administrative Assessment and the $250 DNA testing fees payable to the Clark County Clerk, it is the recommendation of the Division of Parole and Probation that the defendant, BERNARD TURMAN POLK, be sentenced as follows:

COUNT I - ATTEMPT SEXUAL ASSAULT OF A MINOR UNDER 14 YEARS OF AGE: To a maximum term of ONE-HUNDRED-TWENTY (120) months with the minimum parole eligibility of FORTY-EIGHT (48) months in the Nevada Department of Corrections and pay $1,493.40 restitution.

The Court shall include a special sentence of LIFETIME supervision commencing upon completion of any grant of probation, term of imprisonment or period of release on parole reference Counts I and II. The defendant shall submit to testing to determine genetic markers.

COUNT II - SEXUAL ASSAULT OF A MINOR UNDER 14 YEARS OF AGE: To a maximum term of LIFE with the minimum parole eligibility of TWO-HUNDRED-FORTY (240) months in the Nevada Department of Corrections. Count II to be served Consecutively to Count I.

Respectfully submitted:

R. WARREN LUTZOW, CHIEF

By [signature]
George K. Johnson/357, Officer
Division of Parole and Probation
District IV, Las Vegas, Nevada

APPROVED:

[signature]
Dennis E. Gilmore/344, Unit Manager
Court Services Unit V

GKJ
N:\92376.wpd

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Exhibit _____

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,

Defendant.

CASE NO. 98F17396X

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), in the manner following, to-wit: That the said Defendant, on or about the 18th day of July, 1998, at and within the County of Clark, State of Nevada, did then and there wilfully, unlawfully, and feloniously sexually assault and subject FREDA WHITE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by inserting his penis into the vagina of the aid FREDA WHITE, against her will, or under conditions in which Defendant knew, or should have known, that the said FREDA WHITE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

12/11/98

1/23/98 OFD JS P/e

PH 1/6/99 8:30

Bail set at $1,000

98F17396X/lks
LVMPD EV#9810241797
SX ASSLT - F
(TK7)

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

~~BERNARD~~ RENARD POLK #~~1675~~1521758 88,

Defendant.

A/A case no. 00-C-166940-C

CASE NO. 99F18650X

DEPT. NO. 6

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273), in the manner following, to-wit: That the said Defendant, on or about the 24th day of November, 1999, at and within the County of Clark, State of Nevada, did then and there wilfully, unlawfully, and feloniously possess a stolen motor vehicle wrongfully taken from WILLIAM CRANE, to-wit: a 1994 Plymouth, bearing Nevada License No. 566EUM, which Defendant knew, or had reason to believe, had been stolen.

All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

12/14/99

81

99F18650X/lks
LVMPD EV#9911190746;
9911242560
PSV - F
(TK6)

Con. Pag. Non
10Pgs.

Exhibit _____

2A

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
RENARD T. POLK	72439	2-B / 80B	1/3/03

4.) REQUEST FORM TO: (CHECK BOX)

___ CASEWORKER ___ MEDICAL ___ MENTAL HEALTH ___ CANTEEN
___ EDUCATION ___ VISITING ___ LAW LIBRARY ___ DENTAL
___ LAUNDRY ___ PROPERTY ROOM ___ SHIFT COMMAND
X OTHER PHONE REQUEST

5.) NAME OF INDIVIDUAL TO CONTACT: _____

6.) REQUEST: (PRINT BELOW) I would like a copy of the telephone criteria in order that it may be assessed what phone numbers are restricted and also what numbers qualify for legal assistance or attorney phone calls.
I have already discussed this matter with the case worker however would rather recieve a copy of the regulations instead of just being told verbaly.
Attached hereto is another phone kite the third (3) asking that these numbers be appropriated to the requestee's phone list.
Thank You.

7.) INMATE SIGNATURE R. Polk DOC # 72439

8.) RECEIVING STAFF SIGNATURE C/O P. [illegible] DATE 1/3/4

9.) RESPONSE TO INMATE

Caseworker must provide - T/A does not have access to atorne.
Telephone criteria / legal calls can be found in the law library under AR # 722
MCI pin person would not no this, next time contact your caseworker

10.) RESPONDING STAFF SIGNATURE [illegible] DATE 01/08/04

DOC – 3012 (REV. 7/01)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
RENARD T. Polk	72439	2-B 80 B	12/18/03

4.) REQUEST FORM TO: (CHECK BOX)

___ MENTAL HEALTH ___ CANTEEN

___ CASEWORKER ___ MEDICAL ___ LAW LIBRARY ___ DENTAL

___ EDUCATION ___ VISITING ___ SHIFT COMMAND

___ LAUNDRY ___ PROPERTY ROOM ✓ OTHER Phone Ser.

5.) NAME OF INDIVIDUAL TO CONTACT: _____

6.) REQUEST: (PRINT BELOW) Attached is a phone kite. At this time I would request to be "informed" as to which phone number meet the criteria for (Attorney) category of phone number appropriation.
Thank You In Advance

7.) INMATE SIGNATURE Rd Polk DOC # 72439

8.) RECEIVING STAFF SIGNATURE C/O Ray Burkhart DATE 18 DEC 03

9.) RESPONSE TO INMATE

Ask Caseworker to explain.

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

DOC – 3012 (REV. 7/01)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Reinard T. Polk	72439	2-A 46/B	2/4/04

4.) REQUEST FORM TO: (CHECK BOX)

___ MENTAL HEALTH ___ CANTEEN

___ CASEWORKER ___ MEDICAL ✓ LAW LIBRARY ___ DENTAL

___ EDUCATION ___ VISITING ___ SHIFT COMMAND

___ LAUNDRY ___ PROPERTY ROOM ___ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Mrs. Balinger

6.) REQUEST: (PRINT BELOW) Per my last request for the N.A.C the requests are made in furtherance of the same: 1.) Chapter 41, Torts 10-86 2.) 62 Juvenille Courts 9-96 3.) 233 Nevada Equal Rights Comm 1-97 4.) Public officer and Employees 7-96 5.) 707 Telephones and Telegraph 6.) Crimes Against Public Safety 1-97 7.) 380 Law Library 10-86

Thank You In Advance

7.) INMATE SIGNATURE [signature] DOC # 72439

8.) RECEIVING STAFF SIGNATURE S/O [signature] DATE 2-4-04

****

9.) RESPONSE TO INMATE

You may order these items from the Nevada Supreme Court Law Library. Use the attached order form. Complete both pages and submit same to the law library. It will be forwarded for consideration. The LCC law library does not have the NACs, so you must implement the attached form if you wish to receive the specific NACs you seek.

10.) RESPONDING STAFF SIGNATURE [signature] DATE 5 FEB 04

DOC – 3012 (REV. 7/01)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
RENARD T. POLK	72439	2-A 57-B	10/06/03

4.) REQUEST FORM TO: (CHECK BOX)

___ CASEWORKER ___ MEDICAL ___ MENTAL HEALTH ___ CANTEEN

___ EDUCATION ___ VISITING ___ LAW LIBRARY ___ DENTAL

___ LAUNDRY ___ PROPERTY ROOM ___ SHIFT COMMAND

✓ OTHER Phone Tec.

5.) NAME OF INDIVIDUAL TO CONTACT: _____

6.) REQUEST: (PRINT BELOW) At this time I would like to request a transcribed copy of the conversation between my attorney and the above named requestee on September 11, 2003 at (702) 384-5563 @ 2:30 p.m. on the Phase One Yard Phones the fourth (4) phone from the administration bldg.

Thank you In Advance

7.) INMATE SIGNATURE Rd Polk DOC # 72439

8.) RECEIVING STAFF SIGNATURE C/O L M Smith DATE 11-5-2003

9.) RESPONSE TO INMATE

We don't transcribe phone calls for inmates and we don't record approved Attorney phone calls.

Request denied.

10.) RESPONDING STAFF SIGNATURE [signature] DATE 11-10-03

DOC – 3012 (REV. 7/01)

Capt. Hall.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

INMATE REQUEST/GRIEVANCE

Name: (last) Polk	(first) [illegible]	(middle initial)	Floor	Housing Unit	Bed

ID Number	Prop Number
[illegible]	[illegible]

Date 1/17/02

☐ REQUEST ☐ GRIEVANCE

(All grievances must be submitted within 72 hours of incident.)

Apparently there has been a little snafu with the mail. I've previously mailed important documents to a class of law advocates but wishes to say they have not to receive any of the pertinent information.

Now at this time I'm not attributing any allegations to anyone it was probably a misunderstanding or the mail courier lost the relevant information.

However at this time I will make you aware that tampering, delaying, failure to appropriate the mail to the postal service or not allowing legal information to be sent out is a FEDERAL OFFENSE!

I truly hope this is the last kite of utmost urgency I have to write dealing with this problem. Thank You.

Inmate's Signature: [illegible] 1/14 — Date

Staff Person Receiving: PIERCE 6A67 — Date/Time: 1-14-02 1400

Issue has been resolved as follows: How long ago did you mail them and did you use the proper amount of postage?

Signature of employee who resolved the Request/Grievance Problem: [illegible] 1/14 — Date/Time: 1/14/02 1216

ORIGINAL—INMATE FILE YELLOW—RETURNED TO INMATE WITH RESPONSE PINK—INMATE KEEPS

LVMPD DSD 11 (REV. 10-91)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
RENARD T. Polk	72439	2-A 48-B	1/30/04

4.) REQUEST FORM TO: (CHECK BOX)

___ MENTAL HEALTH ___ CANTEEN

___ CASEWORKER ___ MEDICAL ✓ LAW LIBRARY ___ DENTAL

___ EDUCATION ___ VISITING ___ SHIFT COMMAND

___ LAUNDRY ___ PROPERTY ROOM ___ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Ms. Balinger

6.) REQUEST: (PRINT BELOW) Because it is anticipated that my most recent request for specific material (N.A.C.) will be hindered, delayed or avoided, as evidenced by the last request for material with no response, the requestee hereby goes on record formaly and asks for the requested material by way of the inmate Kite system. This is not a grievance it is just a matter of making a record that this requestee has asked the Law librarian to furnish a copy of the following: 1.) Nevada Adm. Code and again the reason being because the inmate seeks relief in, "Equity."

7.) INMATE SIGNATURE Rd Polk DOC # 72439

8.) RECEIVING STAFF SIGNATURE [illegible] SC/O SHERMAN DATE 1/26/04

9.) RESPONSE TO INMATE

We can help you if you give us the specific NAC standard if it is inmate accessible (Bring a list)

10.) RESPONDING STAFF SIGNATURE [illegible] DATE 1/27/04

(P.S.) your date is off

DOC – 3012 (REV. 7/01)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
RENARD Polk	72439	2B 24A	12/20/02

4.) REQUEST FORM TO: (CHECK BOX)

___ CASEWORKER ___ MEDICAL ___ MENTAL HEALTH ___ CANTEEN

___ EDUCATION ___ VISITING ___ LAW LIBRARY ___ DENTAL

___ LAUNDRY ___ PROPERTY ROOM ___ SHIFT COMMAND

✓ OTHER Mail Room

5.) NAME OF INDIVIDUAL TO CONTACT: _____

6.) REQUEST: (PRINT BELOW) This an inquiry as to why the above mentioned person's mail was not appropriated into the U.S. Postal service. Said individuals discontment is based upon the fact two legal envelopes where sent of on Dec 4. 2002. yet the mentioned person only recieved one reciept even though two legal correspondence were sent off with two reciept. This is also a forewarning that if any such further facts present themselves a grievance will follow and any litigation if neccessary. Thank You.

7.) INMATE SIGNATURE R. Polk DOC # 72439

8.) RECEIVING STAFF SIGNATURE C/O Vallasty III DATE 12-23-02

9.) RESPONSE TO INMATE

You can grieve all you want to and feel free to litigate if you see fit. Be sure to blame the U.S. Postal Service and not the Mailroom. After we deliver the mail to Post Office we have nothing more to do with it. You bitch & with then not with LCC, we did our job by evidenced by log the legal mail getting to its destination.

10.) RESPONDING STAFF SIGNATURE C/O Sartin DATE 12/24/02

DOC – 3012 (REV. 7/01)

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS

ALLOWED NUMBERS LIST

NAME OF FACILITY: Lovelock Correctional Center DATE: 12/15/03

INMATE NAME: RENARD Polk ID# 72439 - 66 TWO DIGIT NUMBER

UNIT/CELL: 2-B 80 upper B

( ) Personal Identification Number

Ten personal numbers are allowed. Attorney numbers are to be listed and will be verified as business phone numbers to a state licensed Attorney. The form will be returned to you after numbers are entered into the database. Submit this form when requesting additions/deletions.

OF PERSONAL TELEPHONE NUMBERS ALLOWED: 10 – Refer to AR 718 for further information.

List personal numbers below:

	Area Code		Relationship
1.	(702) 438	- 5084	Aunt
2.	(502) 272	- 7779	Grandfather
3.	(702) 366	- 9310	Investigator
4.	(702) 457	- 7922	Uncle
5.	(775) 358	- 4509	Friend
6.	(323) 660	- 7366	Uncle
7.	( )	-	
8.	( )	-	
9.	( )	-	
10.	( )	-	

already on list!!

Can't add the phone-list is full

Legal Telephone Numbers:

	Area Code		Name of Attorney
1.	(702) 687	- 3538	* Attorney General (Nev.)
2.	(702) 384	- 5563	Chris Oram
3.	(702) 455	- 4711	Doug Herndon
4.	(702) 671	- 0050	* Judicial Compl Committee
5.	(775) 687	- 4017	* Nev Jud Disc
6.	(702) 455	- 3156	* Clerk's office
7.	(702) 385	- 1281	* F.B.I.
8.	(702) 455	- 5200	Steve Barber

(* None of these meet criteria for legal database & will not be added all others must have addresses listed)

DEC 17 2003

DOC-3031 (3/02

-Please delete all existing numbers and add the following.-

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS

ALLOWED NUMBERS LIST

NAME OF FACILITY: Lovelock Correctional Ctr. DATE: 12/18/03

INMATE NAME: Renard Truman Polk ID# 22439 - 66 (TWO DIGIT NUMBER)

UNIT/CELL: 2-B-80 B:upper

( ) Personal Identification Number

Ten personal numbers are allowed. Attorney numbers are to be listed and will be verified as business phone numbers to a state licensed Attorney. The form will be returned to you after numbers are entered into the database. Submit this form when requesting additions/deletions.

OF PERSONAL TELEPHONE NUMBERS ALLOWED: 10 – Refer to AR 718 for further information.

List personal numbers below:

	Area Code		Relationship
1.	(702) 438	- 5084	Aunt
2.	(502) 792	- 7789	Grandpa
3.	(702) 366	- 9310	Investigator
4.	(702) 457	- 7922	Uncle
5.	(725) 358	- 4509	Friend
6.	(323) 660	- 7366	Uncle
7.	(702) 687	- 3538	Att. Gen
8.	(702) 671	- 0050	Ind. Comp. Commit.
9.	(702) 455	- 3156	Clerk's Office
10.	(702) 385	- 1281	Fed. Bur. Inv.

This is your new list except for

Legal Telephone Numbers:

	Area Code		Name of Attorney
1.	(775) 687	- 4017	* Name + Addresses please!
2.	(702) 384	- 5563	Chris Oram * Already in database
3.	(702) 671	- 4017	Michelle Wright * Address
4.	(702) 455	- 5200	Steve Barber Address
5.	(702) 455	- 4211	Doug Herndon Address
6.	( )	-	
7.	( )	-	
8.	( )	-	

DOC-3031 (3/02)

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS

ALLOWED NUMBERS LIST

NAME OF FACILITY: L.C.C. DATE: 1/3/03

INMATE NAME: RENARD T. POLK ID# 72439

UNIT/CELL: 2-B/80-B

TWO DIGIT NUMBER

Personal Identification Number

Ten personal numbers are allowed. Attorney numbers are to be listed and will be verified as business phone numbers to a state licensed Attorney. The form will be returned to you after numbers are entered into the database. Submit this form when requesting additions/deletions.

OF PERSONAL TELEPHONE NUMBERS ALLOWED: 10 – Refer to AR 718 for further information.

ALREADY ON LIST

List personal numbers below:

	Area Code		Relationship
1.	(702) 438	- 5054	Aunt
2.	(502) 772	- 7779	Grandpa
3.	(702) 366	- 9310	Investigator
4.	(702) 457	- 7922	Uncle
5.	(725) 358	- 4509	Friend
6.	(323) 660	- 7366	Uncle
7.	( )	-	
8.	( )	-	
9.	( )	-	
10.	( )	-	

Legal Telephone Numbers:

	Area Code		Name of Attorney
1.	(702) 384	- 5563	Chris Oram*
2.	(702) 455	- 4211	Doug Herndon 200 South Third St. LV, NV 89101
3.	(702) 455	- 5200	Steve Barber 601 North Pecos Rd. LV, NV 89101
4.	(702) 385	- 1281	F.B.I. *Agent Montoya 200 E Charleston Blvd LV, NV 89104
5.	(702) 455	- 3156	Shirley Parraguirre 200 South Third St LV, NV 89101
6.	(702) 681	- 4017	Michelle Wright 3476 Executive Pointe Way Carson City NV 89706
7.	(702) 366	- 9310	Rolando Larraz
8.	(702) 382	- 2206	Rob W. Bare 201 Las Vegas Blvd South St 200 LV, NV 89101

DOC-3031 (3/02)

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5995.

X

Exhibit _____

DOCUMENT INDEX

TAB NO.	DOCUMENT DESCRIPTION	DATE FILED
1	NOTICE TO PLACE ON CALENDAR	N/F
2	AMENDED CRIMINAL COMPLAINT	3/6/00
3	MOTION FOR DEFENSE COUNSEL TO WITHDRAW AND FOR APPOINTMENT OF COUNSEL	3/15/00
4	GUILTY PLEA	N/F
5	ORDER AUTHORIZING PSYCHOLOGICAL EVALUATION	5/2/00
6	ORDER AUTHORIZING PSYCHOLOGICAL EVALUATION	7/12/00
7	ORDER (COMMITMENT)	N/F
8	MOTION TO DISMISS COUNSEL	N/F
9	MOTION FOR DISCOVERY	1/23/01
10	NOTICE OF WITNESSES AND NOTICE OF EXPERT WITNESSES	N/F
11	MOTION IN LIMINE RE: PRIOR BAD ACTS PETROCELLI HEARING REQUESTED	3/12/01
12	EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND FOR PAYMENT OF EXPENSES	3/12/01
13	EX PARTE ORDER GRANTING EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND PAYMENT FOR EXPENSES	3/21/01
14	MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL	4/13/01
15	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST, OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL	N/F
16	MOTION TO ENDORSE DEFENDANT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF INFORMATION	7/13/01
17	AMENDED NOTICE OF WITNESSES AND NOTICE OF EXPERT WITNESSES	N/F
18	NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS AND WRONGS	N/F
19	DEFENDANT'S RESPONSE TO NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS AND WRONGS	7/24/01
20	MOTION TO CONTINUE TRIAL SETTING	N/F
21	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO ENDORSE DEFENDANT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF INFORMATION	N/F

DOCUMENT INDEX

22	MOTION TO ENDORSE DEFENDANT'S MEMORANDUM OF NOTICE IN SUPPORT OF DISMISSAL		

DATE: 04/02/02 I N D E X TIME 2:10 PM
CASE NO. 00-C-166490-C JUDGE:Bonaventure, Joseph

STATE OF NEVADA [ ] vs Polk, Renard T [ ]

001 D1 Renard T Polk 000824 Schieck, David M.
NO. 1 Schieck & Derke
302 E Carson #918
Las Vegas, NV 89101

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	04/12/00	CBO	/CRIMINAL BINDOVER Fee $0.00				
0002	04/12/00	ARRN	/INITIAL ARRAIGNMENT	001		04/18/00	
0003	04/13/00	INFO	/INFORMATION	001		04/18/00	
0004	04/18/00	PET	/FILING OF AMENDED INFORMATION	001		04/25/00	
0005	04/18/00	ARRN	/ARRAIGNMENT CONTINUED	001		04/25/00	
0006	04/25/00	MOT	/ALL PENDING MOTIONS 4/25/00	001		04/25/00	
0007	04/25/00	OCAL	/FURTHER PROCEEDINGS: PSYCHOLOGICAL	001		08/01/00	
			EVALUATION	001			
0008	05/02/00	ORDR	/ORDER AUTHORIZING PSYCHOLOGICAL	001			
			EVALUATION	001			
0009	05/30/00	ORDR	/ORDER AUTHORIZING PSYCHOLOGICAL	001			
			EVALUATION	001			
0010	05/30/00	ORDR	/ORDER ALLOWING CONTACT VISIT	001			
0011	07/12/00	ORDR	/ORDER AUTHORIZING PSYCHOLOGICAL	001		07/11/00	
			EVALUATION	001			
0012	08/04/00	TRAN	/REPORTER'S TRANSCRIPT OF UNCONDITIONAL	001		04/11/00	
			WAIVER OF PRELIMINARY HEARING	001			
0013	08/17/00	ORDR	/ORDER COMMITMENT	001			
0014	09/27/00	ORDR	/ORDER	001			
0015	10/19/00	HEAR	/AT THE REQUEST OF COURT ADMINISTRATION:	001		11/02/00	
			STATUS CHECK	001			
0016	10/19/00	ORDR	/ORDER	001			
0017	11/02/00	OCAL	/NEGOTIATIONS AND/OR TRIAL SETTING	001		11/22/00	
0018	11/02/00	OTTE	/ORDER TO TRANSPORT DEFENDANT	001		11/02/00	
0019	11/02/00	JUDG	/FINDINGS OF COMPETENCY	001		11/02/00	
0020	11/22/00	CALC	/CALENDAR CALL	001		03/22/01	
0021	11/22/00	JURY	/TRIAL BY JURY VJ 3/22/01	001	VC	03/26/01	
0022	11/22/00	INFO	/AMENDED INFORMATION	001		11/22/00	
0023	12/15/00	MOT	/DEFT'S MOTION FOR DISCOVERY	001	OC	12/27/00	
0024	01/23/01	ROC	/RECEIPT OF COPY	001		12/15/00	
0025	03/12/01	MOT	/POLK'S MOTION IN LIMINE PRIOR BAD ACTS	001	VC	03/26/01	
			VJ 3/22/01	001			
0026	03/12/01	LIST	/NOTICE OF WITNESSES AND NOTICE OF EXPERT	001			
			WITNESSES	001			
0027	03/12/01	REQT	/EX-PARTE MOTION FOR APPOINTMENT OF	001			
			COUNSEL AND FOR PAYMENT OF EXPENSES	001			
0028	03/12/01	ROC	/RECEIPT OF COPY	001		03/12/01	
0029	03/22/01	CALC	/CALENDAR CALL	001		07/26/01	
0030	03/22/01	JURY	/TRIAL BY JURY VJ 7/26/01	001	VC	07/30/01	
0031	04/13/01	MOT	/DEFT'S MOTION FOR O.R. RELEASE OR BAIL	001	DN	04/18/01	
			REDUCTION	001			
0032	04/13/01	ROC	/RECEIPT OF COPY	001		04/13/01	
0033	04/17/01	OPPS	/STATES OPPOSITION TO DEFENDANTS MOTION	S			Y
			FOR OWN RECOGNIZANCE RELEASE FOR	S			

HOUSE ARREST OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL

(Continued to page 2)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/RER	C
0034	04/24/01	ORDR/	ORDER DENYING DEFENDANTS MOTION FOR OWN RECOGNIZANCE RELEASE FOR HOUSE ARREST OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL	001	HG	04/18/01	Y
0035	07/13/01	MOT /STATE'S MOTION: ADMIT EVIDENCE OF OF OTHER CRIMES ACTS AND WRONGS		001	GR	08/08/01	
0036	07/10/01	LIST/AMENDED NOTICE OF WITNESSES AND NOTICE OF EXPERT WITNESSES		001			
0037	07/26/01	CALC/CALENDAR CALL		001		10/04/01	
0038	07/26/01	JURY/TRIAL BY JURY		001		10/08/01	
0039	07/26/01	ARGU/ARGUMENT/DECISION		001	DN	08/08/01	
0040	07/26/01	MOT /ALL PRETRIAL MOTIONS		001		08/08/01	
0041	07/26/01	MOT /MTN TO ENDORSE DEFT'S MTN OF PRE-TRIAL WRIT OF HC FOR DISMISSAL OF THE INFO		001	DN	08/08/01	
0042	07/26/01	MOT /ALL PENDING MOTIONS 7/26/01		001		07/26/01	
0043	07/24/01	RSPN/DEFENDANTS RESPONSE TO STATES NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS OR ACTS		001			Y
0044	08/01/01	ROC /RECEIPT OF COPY		001		07/25/01	
0045	08/01/01	ROC /RECEIPT OF COPY		001		07/18/01	
0046	08/02/01	OPPS/STATES OPPOSITION TO DEFENDANTS MOTION TO ENDORSE DEFENDANTS MOTION OF PRE-TRAIL WRIT OF HABEAS CORPUS FOR DISMISSAL OF THE INFORMATION		001			Y
0047	08/06/01	REQT/MOTION TO ENDORSE DEFENDANTS MEMORANDUM OF NOTICE IN SUPPORT OF DISMISSAL		001			Y
0048	08/09/01	LIST/NOTICE OF WITNESSES		001			
0049	03/21/01	ORDR/EX PARTE ORDER GRANTING EXPARTE MOTION FOR APPOINTMENT OF COUNSEL AND FOR PAYMENT OF EXPENSES		001			Y
0050	08/08/01	MOT /ALL PENDING MOTIONS 8/8/01		001		08/08/01	
0051	10/04/01	HEAR/PETROCELLI HEARING/ DEFT'S WRIT OF MANDAMUS VJ 1/03/02		001	VC	01/07/02	
0052	10/04/01	ORDR/ORDER ALLOWING CONTACT VISIT		001			
0053	10/08/01	CALC/CALENDAR CALL		001		01/03/02	
0054	10/08/01	JURY/TRIAL BY JURY		001		01/10/02	
0055	10/08/01	MOT /ALL PENDING MOTIONS 10-8-01		001		10/08/01	
0056	01/03/02	PET /PRETRIAL PETITION WRIT OF HABEAS CORPUS		001			
0057	01/07/02	INFO/SECOND AMENDED INFORMATION		001		01/07/02	
0058	01/07/02	TRB /TRIAL BEGINS					
0059	01/07/02	JLST/DISTRICT COURT JURY LIST		001			
0060	01/07/02	INFO/SECOND AMENDED INFORMATION		001		01/07/02	
0061	01/07/02	CINF/INFORMATION CORRECTED IN OPEN COURT		001		01/09/02	
0062	01/10/02	TRE /TRIAL ENDS		001			
0063	01/10/02	SENT/SENTENCING		001	GR	03/14/02	
0064	01/11/02	NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT				01/07/02	
0065	01/10/02	INST/INSTRUCTIONS TO THE JURY (INSTRUCTION NO 1)		001			
0066	01/10/02	VER /VERDICT		001		01/10/02	
0067	01/29/02	REQT/EX PARTE MOTION FOR ORDER TO APPOINT INVESTIGATOR AND ORDER FOR EXCESS INVESTIGATIVE FEES		001			Y
0068	01/31/02	ORDR/ORDER GRANTING EX PARTE MOTION TO APPOINT PRIVATE INVESTIGATOR		001		01/31/02	

(Continued to page 3)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER C
0069	03/14/02	MOT	/CHRISTOPHER ORAM'S MOTION TO WITHDRAW AS COUNSEL / APPOINT APP. COUNSEL	001	GR	03/20/02
0070	03/20/02	CSCL	/CASE CLOSED	001		
0071	03/26/02	ORDR	/ORDER APPOINTING COUNSEL			03/20/02
0072	04/01/02	JMNT	/ADMINISTRATION/ASSESSMENT FEE	001		
0073	04/01/02	JMNT	/GENETIC TESTING FEE	0001		04/02/02
0074	04/01/02	JMNT	/JUDGMENT OF RESTITUTION	0001		04/02/02
0075	04/01/02	JUDG	/JUDGMENT OF CONVICTION - PLEA OF GUILTY	0001		04/02/02
				001		04/01/02

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5pgs.

Y

Exhibit _____

CHRISTOPHER R. ORAM
Attorney at Law

July 20, 2001

Renard Polk
Clark County Detention Center
330 South Casino Center Blvd.
Las Vegas, Nevada 89155

Re: State of Nevada v. Renard Polk

Dear Renard:

I am in receipt of your letter dated July 8, 2001. I would like to make the following response to several of your statements listed in this letter. You indicate that it has become ridiculous telling me how to do my job. You state that I have failed to look into the matter of double jeopardy. Unfortunately, we investigated the issue of double jeopardy. You have indicated that you feel that this matter is double jeopardy because you were punished under the juvenile system and sentenced to thirty (30) days in jail. You have indicated that you were not on probation, and therefore, you could not have been under the jurisdiction of the juvenile court. Hence, the juvenile court by sentencing you to thirty day in jail previously punished you. You would be correct in your assertion if you had not been on probation. As you are aware, I spoke with your juvenile probation officer. Thereafter, we gained possession of the juvenile documents. I have previously informed you on several occasions that a simply review of these documents demonstrates that you were clearly on probation and that a warrant had been issued for absconding. In response, you have indicated that the probation paperwork is fraudulent. You have questioned the signatures of the people on the paperwork, including the Court Clerk.

Renard, I am unable to argue that you were not on probation because a clear review of the paperwork demonstrates that you were on juvenile probation. You have indicated that you want the paperwork sent to the FBI for handwriting samples. I can only tell you at this point that the appearance and paperwork demonstrates that you were on probation and therefore, this could not be considered double jeopardy. I have informed you of this personally during a contact visit and pursuant to a phone conversations. You desire that I file this motion yet, I feel that at this point it frivolous. I can not file a motion saying that you were not on probation based upon the fact that the very documents you requested demonstrates that you are on probation. In the event that you have some evidence that this paperwork is fraudulent, then of course we would continue to look into this matter. Until a time when there is some evidence of fraud I can only assume that the Court documents are accurate.

You indicate that I have let the State get away with many things. I am not sure what you think I have let the State get away with. I have filed a discovery motion. I have filed a bail motion as you requested and the same was denied. Unfortunately, the State has possession of a statement provided by you which is extremely incriminating.

520 SOUTH FOURTH STREET, SECOND FLOOR • LAS VEGAS, NEVADA 89101 • TELEPHONE 702/384-5563

Your letter generally has the tone that you will eventually seek some form of action against me. Specifically, you state that "I write this letter, in that, should the question arise in Federal Court what means of relief was sought and other questions stemming from a lawyers responsibility, you will be added into the equation. Eventually the predator becomes the pray. Guess what? I am tired of being hunted." I would let you know that I am concerned that this is the second time you have informed me that you do not feel that I have represented you in adequate manner. I have advised you to accept the plea offer that has been provided. My position has always been that in the event of a trial, you will probably be convicted based upon your statement that you provided to the police. You indicated that you want me to file several motions, I have no opposition to filing motions that have merit. However, the rules of professional responsibility do not permit me to file motions that are clearly erroneous or contrary to established facts. For example, I can not ethically file a motion saying that you were not on probation when the evidence that has been provided to me clearly demonstrates that you were on probation.

Regarding your statement that we have blocked the phones, at relevant times in your case. I have previously sent you a letter stating that our whole building lost phone service for a nine (9) day period. We sent you this letter to inform you that we were not ignoring you. Thereafter, I waited for your phone call but since you did not call I personally came to see. It appears to me that you are dissatisfied with my services because I will not tell you what you want to hear. You want me to inform you that some court will dismiss this case and let you walk free based upon double jeopardy. My legal advise is that every court will review the same documents I have seen and find that you were clearly on probation. If you want me to argue otherwise or you want me to tell you otherwise, then I would be lying to you. I cannot deceive you and so I have informed you to the best of my abilities. I have spoken with you numerous times telephonically. I have come to visit you periodically and I have told you what I think the eventual outcome of the case will be in a trial. You had informed me that you do not care that you will be convicted because you will win on appeal or you will win in your civil lawsuit filed in Federal Court.

Regarding pre-arraignment delay, you have sent me a motion laying out your argument. I had indicated to you that I would file this argument for you. You indicated that when I say it, it appears to be meritless. I do not agree that it is meritless, however, I believe that it has little if no chance of success. I have tried to explain to you at length as to why your confession, and other evidence will result in an extremely lengthy prison sentence for you. You simply want to ignore this advise. When you state that you are telling me how to do my job, it seems that what you really are telling me is that you do not like my advise and you want me to give advise consistent with your beliefs. I do not believe that this is in your best interest. I believe that I have represented you to the best of my ability. It simply seems that you will not follow my advise.

You state, "I was hoping I wouldn't have to seek other legal parameters in order to get you to do your job, but you give me no alternative." Renard, if you are not satisfied with my services and believe that someone else would be better suited to represent you, I am more than happy to file a motion to withdraw. Alternatively, if you are of the belief that you want to represent yourself then I will assist you in that endeavor. However, I believe that you should not attempt to represent yourself. It seems that you have lost (or never had) all confidence in my legal advise. If it is your desire for me to withdraw so that you can be represented by another attorney I will assist you in that endeavor. Please advise me as to all of these matters.

Lastly, you state that I should represent you even if I despise you. I do not despise you, I actually like you. However, the fact that I may like you does not negate the fact that I must follow my professional responsibility in providing you advise. Hopefully, you will realize that you should consider the dilemmas I have discussed with you. You have indicated in a visit that you have talked to other inmates who seem to have a good understanding of the law. It appears, that you may be following their advise to your detriment. I would never make any attempt to hurt you or any other client. Therefore, if I am to continue on representing you, you should consider my advise, as opposed to me being part of a conspiracy to "prey on you".

Sincerely,

CHRISTOPHER R. ORAM, ESQ.

CRO/fn

David M. Schieck

Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
Fax (702) 386-2687
(702) 382-1844

October 14, 2002

Renard Polk, No. 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, NV 89419

Re: Polk v. State

Dear Mr. Polk:

After our phone conversation of October 14, 2002 I pulled out your file and found that I had not sent you a copy of the appendix. It is enclosed herewith.

With respect to the issues you complain were not raised on direct appeal:

1. Double jeopardy – see letter of Oram dated July 20, 2001 (enclosed). I can add nothing to his explanation.

2. Forced medication -- the only allegation I find refers to a brief period in August -- September, 1999, long before trial. The medication cases only deal with medication during trial. This is not an issue on direct appeal challenging what happened at trial.

3. Speedy trial -- there was no delay in prosecution once charges were filed. No prejudice can be established for any time period. The alleged mental health records are of no help as there was no possible insanity defense to these charges.

I raised the issues that I thought could win a reversal. If the appeal is denied feel free to claim that I was ineffective for not raising these other frivolous issues.

Very truly yours,

DAVID M. SCHIECK, ESQ.

DMS: kf
Enclosure

Cum. Pag. Num

2 Pgs.

Z

Exhibit _____

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
5

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

C166490 STATE OF NEVADA vs. RENARD T. POLK

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Shirley B. Parraguirre
CLERK

Original

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PORCEEDINGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on October 8, 2001
At 8:30 a.m.

APPEARANCES:
For the State: TAMARA M. PETERSON, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

1 Las Vegas, Nevada, October 8, 2001

2

3 * * * * *

4 THE COURT: Page 12, Polk.

5 MR. ORAM: The Court may remember last week I asked
6 for a continuance based upon matters I was trying to get
7 resolved, specifically 6161 West Charleston. We really felt we
8 needed a continuance. However, the Court stated we would be
9 going to trial. My understanding is now the State has some
10 logistical problems getting their witnesses here until Friday,
11 specifically the two accusers. I know we could proceed to
12 trial, but based upon the fact they are not going to be able to
13 get them here until Friday, I think, under the abundance of
14 caution, we should continue this matter so I could do the rest
15 of my investigation and the case doesn't go into trial the next
16 week and I believe the State wants to do that, so I don't
17 believe there's any objection. We would ask for a stipulated
18 continuance.

19 MS. PETERSON: That's right, it's a stipulated
20 continuance because we can't get our witnesses here until this
21 Friday and Mr. Oram indicated he needed a couple weeks.

22 THE COURT: With that being said, I can't
23 accommodate, I got other trials coming up, Thursday calendar
24 call, so my hands are tied on this. If it's a stipulated
25 continuance I'll grant it.

1 Let's vacate the trial and reset it. When do you
2 want it?
3 MR. ORAM: If we could make January 7 to start
4 trial a firm date.
5 THE COURT: Any objection by the State?
6 MS. PETERSON: No objection.
7 THE COURT: So ordered, so we'll have calendar
8 call with a trial for January 7.
9 THE CLERK: Calendar call January 3, 8:30. Jury
10 trial January 7, 9:30.
11
12
13 ATTEST: Full, true and accurate transcript of
14 proceedings.
15
16 THOMAS D. MERCER, C.C.R. No. 33
17
18
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92

9

CASE NO. C166490

DEPT. NO. VI

FILED

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DISTRICT COURT

CLARK COUNTY, NEVADA

Shirley B. Parraguirre
CLERK

-oOo-

Original

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK aka RENARD TRUMAN POLK, Defendant.	REPORTER'S TRANSCRIPT OF CALENDAR CALL

BEFORE THE HON. JOSEPH T. BONAVENTURE, DISTRICT JUDGE

Thursday, July 26, 2001

8:50 A.M.

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.

RECEIVED
MAY 22 2002
COURT CLERK

Reported by: SHAWN E. OTT, CCR NO. 577

1 LAS VEGAS, CLARK COUNTY, NV, THURS. JULY 26, 2001
2 8:50 A.M.
3 -oOo-
4 P R O C E E D I N G S
5
6 THE COURT: The Polk matter. This is on
7 for calendar call. Where is Mr. Polk?
8 THE DEFENDANT: Right here.
9 THE COURT: This was on for calendar call
10 and a few motions that were filed. What's the deal
11 on this?
12 MR. ORAM: Your Honor, we were preparing
13 for Mr. Polk. I visited him numerous times over the
14 last two weeks to talk about possible resolutions to
15 the case. However, he wanted to proceed to trial.
16 We had not sent over a witness list because we had no
17 witnesses. The State has offered a statement that
18 they say is a confession. Page 1 of that does appear
19 to be incriminating.
20 Yesterday in the newspaper I read that the
21 Supreme Court had overturned our statute saying --
22 precluding us from introducing an insanity defense.
23 Mr. Polk went up to Lakes Crossing. We had one
24 doctor who indicated he suffered from delusions.
25 Based on that I think that I need to put on an

1 insanity defense.

2 I cited in my motion Zollie Dumas versus

3 State which indicates that if counsel has no defense

4 they must put on a psychological defense. And based

5 upon that, Your Honor, I'd ask for a short

6 continuance, two, three weeks, just so that I can get

7 my doctors ready. The State can perhaps get an

8 independent expert if they want ready, and we can

9 proceed.

10 MS. HOLTHUS: I haven't seen the motion to

11 continue.

12 THE COURT: I got a courtesy copy. You

13 got a copy for Ms. Holthus?

14 MR. ORAM: We faxed a copy yesterday to

15 Ms. Holthus.

16 MS. HOLTHUS: I got two witness lists but

17 no motion. I can't dispute it, Judge.

18 THE COURT: Are you aware of this new

19 case?

20 MS. HOLTHUS: I am.

21 THE COURT: I read the paper myself.

22 MS. HOLTHUS: I am.

23 THE COURT: What is your position on

24 that?

25 MS. HOLTHUS: He's probably right, but I

1 can't do it in two weeks. I'm in trial right now.
2 I've just gotten their notice of expert.
3 THE COURT: I can't do it in two weeks
4 either. I got other cases.
5 MR. ORAM: I'm just trying to tell the
6 court I'm not doing this for the purposes of delay.
7 THE COURT: Did you discuss this with
8 Mr. Polk?
9 MR. ORAM: Yes, I went yesterday.
10 THE COURT: What is your position? You
11 want a continuance?
12 THE DEFENDANT: Fine with me, Your Honor.
13 THE COURT: All right.
14 MR. ORAM: Your Honor, I do believe --
15 THE COURT: Until we get the case, the
16 actual case, I'll reread it, and we'll vacate the --
17 vacate the trial, reset it in -- I don't know -- 60
18 days or something like that, 45 days, 60 days?
19 MR. ORAM: That's fine, Your Honor.
20 THE COURT: Miss Clerk.
21 THE CLERK: 60 days, calendar call,
22 September 13 at 8:30. Jury trial, September 17 at
23 9:00.
24 MS. HOLTHUS: Can we just get it back --
25 THE CLERK: You want it before that?

1 THE COURT: Yes, before that.
2 MS. HOLTHUS: Can we get it after that? I
3 know that September is ugly.
4 THE COURT: All right. After that.
5 THE CLERK: First week October?
6 MR. ORAM: No, second week in October. I
7 have another one with them, the sexual assault team.
8 THE CLERK: Calendar call October 4th with
9 a jury trial October 9th.
10 MS. HOLTHUS: Thank you.
11 THE COURT: So that resolved the motion to
12 continue. There is a State's motion to admit
13 evidence of other acts. I just received an
14 opposition.
15 You can sit down, Mr. Polk.
16 I just received an opposition by Mr. Oram
17 this morning. I didn't really have a chance to read
18 it. I just got it. There is also a proper person --
19 not a proper person. It's a motion that Mr. Oram
20 filed regarding a motion to dismiss that apparently
21 was -- it was prepared in proper person, but you
22 asked me that I hear this; is that correct?
23 MR. ORAM: That's correct, Your Honor.
24 THE COURT: And goes on to manifest
25 injustice the defendant has sustained. It goes on to

1 say that maybe -- I don't know -- double jeopardy.
2 That's a very unusual thing. But double jeopardy as
3 a juvenile. I don't understand. I don't have all
4 the facts in front of me, Mr. Oram.
5 That he gave a statement. I'd like to
6 resolve that statement too. It's a second
7 prosecution by double jeopardy standards. It
8 requires an evidentiary hearing. Then he has dupe
9 dismissal for unnecessary delay. He cites certain
10 cases. The State blatantly told His Honorable Court
11 that no statement existed. Now you have a
12 statement. He's on antipsychotic medication. It
13 goes on and on.
14 I want to resolve it. I don't want to --
15 I hate these last-minute motions. I really hate
16 them. I don't know why attorneys -- and even the
17 DA, they file a last-minute motion on a motion to
18 admit evidence of other acts. That is not fair,
19 Ms. Holthus.
20 The defendant has a right -- if this case
21 was going on Thursday, he has a right a month or so
22 notice for them to check these witnesses out if I
23 grant it. I'm going to stop granting motions if
24 they're done at the last minute. I'm just going to
25 say it's too late, it's unfair, and that's the end of

1 it. You got to get these motions in on time.
2 Now that being said, I want to set a
3 scheduling order. I want to argue these motions.
4 Any other motions you have to be produce, please do
5 so. I don't want these last-minute motions. Look at
6 the packed courthouse. I can't be doing these
7 last-minute motions. All right. So we'll put about
8 two weeks or so for -- you file an opposition,
9 whatever you want --
10 MS. HOLTHUS: Okay.
11 THE COURT: -- to the motion for pretrial
12 writ of habeas corpus or dismissal of the
13 information. You got two weeks to file any
14 opposition. You already filed your opposition on the
15 motion to admit evidence, and a couple of days after
16 that, I'll make -- argument and decision on any of
17 those motions, and any other motions you want to
18 file, do so. All right. All right. Thanks.
19 THE CLERK: Oppositions to be filed by
20 August 9th, and argument, decisions will be on
21 August 14 at 8:30.
22 MS. HOLTHUS: I'm going to be out of the
23 jurisdiction between the 10th and the 25th of
24 August.
25 THE CLERK: So before that, Judge?

THE COURT: Yes, before

THE CLERK: So the oppositions will be due by August 6th, and we'll have the argument, decision August 8th, 8:30.

MS. HOLTHUS: Thank you. May I inquire? I assume they agree that we are entitled to an independent psychological evaluation. I won't need to file a motion on that?

MR. ORAM: I agree

THE COURT: Thank you.

-oOo-

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

Shawn E. Ott

Shawn E. Ott, CCR No. 577

CASE NO. C166490

DEPT. NO. VI

FILED

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DISTRICT COURT

CLARK COUNTY, NEVADA

CLERK

-oOo-

Original

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK aka RENARD TRUMAN POLK, Defendant.	REPORTER'S TRANSCRIPT OF SENTENCING

BEFORE THE HON. JOSEPH T. BONAVENTURE, DISTRICT JUDGE

Thursday, March 14, 2002

9:17 A.M.

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

Parole and Probation

For the Defendant: CHRISTOPHER ORAM, ESQ.

Reported by: SHAWN E. OTT, CCR NO. 577

1 LAS VEGAS, CLARK COUNTY, NV, THURS. MARCH 14, 2002
2 9:17 A.M.
3 -oOo-
4 P R O C E E D I N G S
5
6 THE COURT: Renard Polk. Is this ready
7 for sentencing?
8 MS. HOLTHUS: Yes.
9 THE COURT: You can sit down a minute,
10 Mr. Polk, and then I'll ask you if you want to stand
11 up and address me. That's fine.
12 This is the time set for entry of
13 judgment, imposition of sentence as to Renard Polk.
14 Does the Department of Parole and Probation want to
15 add anything?
16 PAROLE OFFICER: Your Honor, I think the
17 credit for time served was overcalculated by one day
18 based on sentencing of tomorrow. How that happened,
19 I can't say, but it should be -- I believe the
20 correct is 691 days.
21 THE COURT: Does the State want to say
22 anything?
23 MS. HOLTHUS: Yes, Judge. I know you sat
24 through the whole trial, but just a couple things. I
25 was a little surprised by P and P's recommendation.

1 I know the jury only found him guilty on the attempt
2 sex as to the one child. I think when all is said
3 and done the easiest thing here is to go kind of
4 through his confession.
5 I would note he admitted to anally raping
6 Anna from the time she was about five years old until
7 she was ten years old numerous times. I grant we
8 only charged him with one count, and that's fine, but
9 I'm just saying if this guy isn't the high end, if he
10 is not the maximum, who is? We have got two victims
11 that he's abusing, one of them over a period of a
12 number of years.
13 These weren't teenagers. These were
14 little kids. Five years old is very young. If you
15 remember, the child, the girls remembered that time
16 when Anna was, I think, four or five and something
17 went on in the bathroom and they were asked to leave,
18 and they weren't sure, but something was wrong. And
19 so as far back as they can remember, there was a
20 problem with their brother.
21 And these kids, they had a tough time
22 anyway. We know victims are victims for a reason.
23 The parents were a problem. He was kind of like
24 their father figure. He was supposed to be there for
25 them. They trusted him. They cared for him. They

1 loved him. It was very difficult for them to have to
2 come in here and tell you what happened to them.
3 So I'm just surprised that P and P didn't
4 max him out on the attempt since by all accounts of
5 what happened he actually did anally rape his other
6 sisters as well.
7 Additionally, he does come to you with a
8 prior arrest for sex assault. I know Your Honor
9 heard that victim. At one point it was prosecuted
10 here in front of Your Honor. He had pled guilty by
11 way of the Alford decision to a coercion. Before
12 sentencing we found out he was actually only a
13 juvenile, so it had to go back to juvenile court.
14 I'm sure that based on our conviction here juvenile
15 won't pursue that charge and it will just kind of
16 die, but what could they do to him?
17 But I would note that he has had other
18 occasions, not just his own family members, but other
19 women out there in the community as well that he has
20 been a danger to. I know he had a tough life. I
21 know he was abused and screwed up and stuff, and I
22 wish we had other options for people like this
23 because it's a tragedy all the way around. But the
24 bottom line is victims beget victims.
25 The only way I know to stop the cycle at

1 this point is by putting him away as long as we can
2 and therefore I would ask you to impose the mandatory
3 sentence as to Count II and also the maximum sentence
4 of 96 to 240 on Count I. Obviously my position, two
5 victims would warrant consecutive time. To do
6 otherwise just gives him free license as to the one
7 child. And with that, I'll submit it.
8 THE COURT: All right. Mr. Oram.
9 MR. ORAM: Your Honor, again, the Court's
10 heard the whole trial and heard every one of the --
11 as I call them alleged victims testified. Under the
12 circumstances, I would like the Court to remember
13 that Mr. Polk was up in Lakes Crossing for some
14 time. Mr. Polk obviously, I think the Court has to
15 see, has some serious mental problems, though perhaps
16 he's not insane. We didn't even raise that defense,
17 but I think there are issues as to his mental
18 instability.
19 There were two psychiatrists. One said he
20 was incompetent at one time. One said that it was a
21 borderline. Out of the abundance of caution, we sent
22 him up to Lakes Crossing. Eventually he was
23 determined to be competent.
24 Mr. Polk gave a statement to the police as
25 this Court heard on the tape recorder, and

1 essentially their case was based around that
2 particular statement the State would call a
3 confession.
4 I would suggest to the Court that based
5 upon his problems and mental problems, based upon his
6 youth, based upon his -- I mean, I understand he has
7 a little bit of a prior criminal history, but it's
8 not too extreme -- I would ask the Court to consider
9 the fact that Mr. Polk's going to have to wait 20
10 years before he even comes up before the parole board
11 on Count II.
12 That is a long time for Mr. Polk. He may
13 not get paroled and probably won't. Usually with sex
14 offenders they don't parole them right away. That
15 seems like sufficient punishment to me for what he
16 has done.
17 And so I would request that the Court
18 consider sentencing him on Count II to the mandatory
19 sentence, and perhaps -- and I don't mean to insult
20 the Court at all. I just think 20 years is
21 sufficient -- to running Count I concurrently. If
22 the Court is not inclined to do that, to follow the
23 recommendation of parole and probation. Obviously
24 they have looked into his past. And I would submit
25 it on that.

1 THE COURT: Thank you, Mr. Oram.
2 Mr. Polk, would you like to stand up and
3 say anything?
4 THE DEFENDANT: If I may say something
5 after you sentence me, Your Honor?
6 THE COURT: No, it can't be after I
7 sentence. It's got to be now, sir. You know, I say
8 the last word. I sentence, and then I walk off the
9 bench, so, no. You could say anything you want now,
10 but it can't be after the sentencing. I've never
11 heard of --
12 Mr. Oram, I've never heard of a request
13 like that. He can call me a son of a bitch when I
14 sentence him, and then if he said that, I might have
15 given him more time, so I don't like that. You know
16 what I mean?
17 MR. ORAM: Yes, Your Honor.
18 THE COURT: I think somebody called me
19 that in a murder case when I sentenced him, and I
20 could have gave him more. I don't know. I'm making
21 a point here, Mr. Oram, and then he said, you Italian
22 son of a bitch and then the other thing, but he
23 impugned my Italianness and that got me real mad.
24 And if I would have -- if he would have done that
25 before sentencing, I might have adjusted my sentence

way up there.

Give me a reason why you want to say after sentencing. What reason do you want to tell me something after sentencing?

THE DEFENDANT: Well, in the hope that -- because my attorney feels that David Schieck should be my appealing attorney. In the hope that he would be appointed, he wanted me to say something after you sentence me.

THE COURT: About an appellate attorney?

THE DEFENDANT: Right.

THE COURT: You could tell me now.

THE DEFENDANT: It's not so much about appellate attorney. It's about getting him appointed.

THE COURT: That's fine. Let's discuss that now. You are not going to get probation because you can't get probation.

MR. ORAM: Maybe I could address it now. I informed Mr. Polk -- I know Mr. Polk wants to make certain allegations, I believe, against me and perhaps against the State of Nevada, and so I advised him that maybe that could be done after an appellate attorney was appointed.

There was a conflict with the public

1 defender's office, and I was appointed. I would ask
2 the Court to relieve me of my duties after sentencing
3 and appoint appellate counsel. I would ask the Court
4 to consider appointing David Schieck. I don't mean
5 to be presumptuous.
6 THE COURT: I mean, that's like -- let me
7 see. I'm going to show my age now, but I don't know
8 of an attorney in town that I could -- that's like in
9 New York or something saying we got to appoint
10 Clarence -- remember Clarence Darrow? You ever heard
11 of him? That's really beyond the realm of --
12 MR. ORAM: No. I think Mr. Schieck --
13 THE COURT: He is one of the best. He is
14 one of the best appellate attorneys. Why should I
15 give him -- you know, it doesn't make sense to me.
16 MR. ORAM: The only reason is because
17 during the trial -- you know, I converse with
18 Mr. Schieck quite often. We talk about our cases, so
19 he has some familiarity with the cases. I told him
20 what I considered to be perhaps some issues. So he
21 has some knowledge of the case.
22 And he is not the kind of attorney who is
23 going to run up the county's bill. I think he gives
24 fair bills, and I think he does a good job, and so
25 that's why -- again without being presumptuous,

1 that's why I'm requesting the Court to appoint
2 Mr. Schieck.
3 THE COURT: Does the State want to say
4 anything regarding -- I don't know who's raising
5 their hand there.
6 MOTHER OF DEFENDANT: I am Bernard's
7 mother.
8 MS. HOLTHUS: Based on what he just said,
9 it sounds to me like there may actually be a conflict
10 if, in fact, there is going to be an assertion of
11 ineffectiveness of counsel and he consulted
12 Mr. Schieck right along. Mr. Schieck may, in fact,
13 be a witness potentially to any kinds of motions like
14 that. I'm thinking that's completely inappropriate
15 at this point, and I think -- don't we have just the
16 way we go through, and that seems like how we should
17 do it, an appointment list.
18 THE COURT: We have an appointed list, and
19 it's not like I can pick and choose.
20 Ma'am, did you want to say something about
21 this appointed counsel?
22 MOTHER OF DEFENDANT: I just wanted to
23 say --
24 THE COURT: What is your name, by the
25 way?

1 MOTHER OF DEFENDANT: My name is Anna Lisa
2 Emers (phonetic). My maiden name is Polk. I'm
3 Renard's mother, and I'm the kids' mother, all the
4 children mother. I'm not saying that I condone
5 Renard for what he did, and the children, them, they
6 going to counseling and I am going to counseling.
7 And I have been in a drug program for over a year,
8 about 15 months now.
9 And I'm just saying that I -- I have
10 talked to the pastor, my pastor at Victory Outreach,
11 and I asked him can Renard come there, if it takes
12 like five to ten years to be there at Victory
13 Outreach. I'm just asking -- I don't think Renard --
14 I really believe something is mentally wrong with
15 Renard. His age is a man, but mentally to me -- I
16 been going to visit Renard, and his mind is really
17 not at the age of 22. To me, when I talk to Renard,
18 it's around about 12 years old.
19 I'm not condoning what he did at all, you
20 know, but I don't feel that Renard should spend so
21 much time in prison.
22 THE COURT: That's the mandatory
23 sentence. I got no control over the 20 years.
24 He has to be given by statute; right? Is
25 that correct, Mr. Oram?

1 MR. ORAM: Yes.
2 THE COURT: He has to be given by me life
3 in prison with eligibility after 20 years, and
4 Ms. Holthus, the DA, wants me to tack on an extra 240
5 months, 96 months which is eight years. Mr. Oram
6 doesn't want me to do that, at least follow the
7 recommendation, give him concurrent. So I have to
8 give him -- he has to do time. You understand that?
9 MOTHER OF DEFENDANT: Yes, I understand
10 that, but I'm just asking if you do, when you make
11 your decision could you run them together so he
12 wouldn't have to do --
13 THE COURT: Well, the answer to that is --
14 you know, that's why when somebody -- when I hear a
15 trial, I get the facts burnt in my mind. I remember
16 seeing those two beautiful little girls who
17 apparently looked up to him. I think one of them
18 said while crying, telling about how he anally raped
19 her, that he was my role model, I looked up to my big
20 brother Renard.
21 It's burnt in my memory forever. The day
22 I die, I'll remember Anna and Jahala -- how could a
23 man -- how could a young man do that to his sisters
24 who loved him? You could see they idolized him, and
25 he paid off that trust and that idolization by raping

1 her, raping them in the anal cavity.
2 It's a sicking thing, and I didn't really
3 want to get into it emotionally. It happened. I got
4 to do my job. I'm going to really speak calm on this
5 case, but thank you very much for your comments. All
6 right. And I hope you get better.
7 MOTHER OF DEFENDANT: The girls now asked
8 me -- I know that they love their brother, and they
9 asked me when they first came out of court that day
10 when you heard all that because they want to be able
11 to write him, and they did tell me that they still
12 love him.
13 THE COURT: I'm sure they do, and they
14 said on the stand they still love him. I know that,
15 but how could a man live with himself? I mean, if I
16 was him, I don't know how I could live every day.
17 You know, thank you. I understand the facts, and I
18 certainly appreciate you coming to court, and I hope
19 you get better too. All right. Thank you very
20 much.
21 MOTHER OF DEFENDANT: I have Jesus now.
22 THE COURT: Good, good.
23 Yes, sir, I'll hear from you now regarding
24 sentencing.
25 I guess all I can do on this -- if you

1 want -- I'm not going to do it here. If you want to
2 make a motion to be relieved of the case, file a
3 motion. I'll put it on Monday or Tuesday. We'll
4 hear it, and then I'll decide who to appoint. All
5 right?
6 MR. ORAM: All right.
7 THE COURT: Wednesday? This will be back
8 Wednesday, and we'll address the motion for you to
9 withdraw, and we will pursue who to appoint on that.
10 Yes, Mr. Polk.
11 THE DEFENDANT: First, I'd just like to
12 put a couple things on the record. Pertaining to
13 NRS Statute 199.210, offering falsified evidence,
14 when it came time of the bail reduction hearing,
15 Mary Kay, Miss Mary Kay, District Attorney Mary Kay
16 Holthus introduced the first statement that was
17 transpired from the original tape during the
18 juvenile -- the arbitrary juvenile proceedings.
19 Now, at that time we came here -- I forget
20 what date it was -- for an O.R. bail reduction
21 motion. Now, before that we had motioned twice for
22 discovery about her giving up that statement which
23 she said she never had. Now, when it came time to
24 hear the O.R. bail reduction motion, she -- suddenly
25 the statement mysteriously appears, but it's not even

1 one that was -- the appropriate statement, the one
2 that was correctly transcribed.
3 THE COURT: What does this have to do with
4 sentencing? Appeal or something, if you want to
5 appeal it, bring all of that stuff up. That's fine.
6 THE DEFENDANT: I got to establish my
7 record. They will never allow me to -- you
8 understand?
9 THE COURT: That's not correct.
10 THE DEFENDANT: I have to establish my
11 court record before I can --
12 THE COURT: Everything is a matter of
13 record. Everything that is said in here, what we did
14 is a matter of record. There are transcripts to be
15 transcribed and everything. I don't want you to go
16 spouting the law here for a half hour. You
17 understand that?
18 THE DEFENDANT: I haven't spouted for a
19 half hour.
20 THE COURT: How long you going to spout it
21 for?
22 THE DEFENDANT: Not much longer.
23 THE COURT: What?
24 THE DEFENDANT: Not much longer.
25 THE COURT: Go ahead.

1 THE DEFENDANT: And then also pursuant to
2 NRS Statute 199.120, perjury, Detective Moniot sat on
3 the stand and told the jury that he had nothing to do
4 with the statement beforehand, the one that was
5 correctly -- the one that was falsely transcribed.
6 Excuse me. Strike that.
7 During -- when he sat on the stand, he
8 said that the transcript that he had transcribed and
9 the statement that he had nothing to do with
10 beforehand. They had never seen the statement, but
11 yet his signature is affirmed on the first thing that
12 was transcribed. That was falsely introduced in
13 evidence.
14 Now, also pursuant to NRS 199.210, my old
15 primary probation officer also put falsified
16 probationary documents into the court proceedings in
17 order to make it seem like I was on probation, but I
18 was not on probation, thereby making it a double
19 jeopardy issue, but I believe was a conspiracy to
20 conceal the fact that I wasn't on probation.
21 Now, aside from all this law-saying stuff,
22 Your Honor, as far as sentencing goes, I always was
23 under the understanding that the quid pro quo of the
24 law was that in essence of the DA or the State
25 derelictions or errors that you could come to a

1 mutual compromise or a mutual agreement.
2 Now, the only reason that I didn't take
3 the deal is because of the fact that throughout the
4 duration of this case I have seen so many different
5 falsified documents and different evidence introduced
6 that it's not even funny.
7 Now, aside from the concurrent and
8 consecutive, I would ask that you run the time
9 concurrently because I don't understand how it's the
10 fact that -- okay, maybe in essence I'm presumed to
11 be an animal maybe because I was incapable of this
12 kind of mentation back when I was a younger man. But
13 now being that -- I hate to say it, but sometimes
14 incarceration is a prerequisite to enlightenment.
15 So now that I've come again to a place of
16 mental stability, I'm punished for this. I am
17 punished for the fact that I've once again come to a
18 place where I am able to read and comprehend stuff
19 where I couldn't comprehend at first.
20 So it's not the fact that I'm asking you
21 to run the charges concurrently because of any
22 grandiose thing I did, but it's just the fact that
23 why would you punish me for something that I've
24 improved on myself.
25 The system talks about retribution and

1 rehabilitation. Now, what kind of rehabilitative
2 purposes does it serve when you try to sift out the
3 criminals -- what rehabilitative purposes does it
4 serve when you try to -- to sift the criminals that
5 you sift out you end up making because of the fact
6 that people tend not to go by the law or people
7 sometimes use abusive discretion.
8 So I'm just asking that you run the
9 charges concurrently. That maybe I might be able to
10 get out of prison, or if not in the event of me not
11 coming back on appeal, that I may be able to help
12 other people in situations such as mine with mental
13 health problems, I guess you could say.
14 And with that, I ask you to run the
15 charges concurrently.
16 THE COURT: Also part of the system of
17 sentencing is to make sure you don't do this again.
18 What you did was -- I can't think of a good word. I
19 don't want to pursue. You know what you did. You
20 terrorized your sisters Anna and Jahala. Your raped
21 them in the anal area. And part of sentencing is so
22 you don't do it again.
23 In addition however concurrent is out of
24 the question because there are two victim in this
25 case. I would be remiss if I didn't sentence him to

1 consecutive, but I want Anna to have justice, and I
2 want Jahala to have justice.
3 MOTHER OF DEFENDANT: Jahala.
4 THE COURT: Jahala, excuse me.
5 Mispronounced it. All right. Excuse me. Is that a
6 big sin to mispronounce a name? Jahala, all right.
7 MOTHER OF DEFENDANT: Want to get it right
8 on the documents; right?
9 THE COURT: No. It's J-a-h-a-l-a.
10 MOTHER OF DEFENDANT: J-a-h-a-l-a.
11 Jahala.
12 THE COURT: Take her out of here. She is
13 starting to upset me now.
14 But I think the Department of Parole and
15 Probation gives justice to both of them, so I'm going
16 to follow the recommendation as outlined in the
17 department.
18 In additional to the $25 administrative
19 assessment and the $250 DA analysis test payable to
20 the Clark County clerk, I'm going to sentence
21 defendant to, Count I, attempt sexual assault with a
22 miner under 14, a maximum of 120 months with a
23 minimum of 48 months in Nevada state prison plus
24 1,493.40 restitution.
25 He will have lifetime supervision

commencing upon completion of any grant of probation, term of imprisonment, or period of release on parole regarding Count I and II. And he shall submit to a test to determine genetic markers.

Count II, sexual assault of a minor under 14, to a maximum term of life with a minimum eligibility after 240 months or 20 years in the Nevada Department of Corrections. Count II will be served consecutive to Count I.

He is to receive 691 days credit for time served. I think that completes it, and we will address that other issue down the road.

THE CLERK: March 20th at 8:30.

-oOo-

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

Shawn E. Ott

Shawn E. Ott, CCR No. 577

ORIGINAL

9

ORDR
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TRUMAN POLK

FILED
MAY 1 9 01 AM '03
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TRUMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER AUTHORIZING PAYMENT FOR FEES FOR PSYCHOLOGICAL EVALUATION

The above entitled mater having come on for hearing before this Court on the 25th day of April, 2000, CHRISTOPHER R. ORAM, ESQ., being present, and a representative of the District Attorneys Office appearing on behalf of the State; the Court being fully advised in the premises, and good cause appearing;

IT IS HEREBY ORDER, ADJUDGED AND DECREED that DR. JOHN PAGLINI, be appointed to perform a psychiatric examination of the Defendant, RENARD POLK.

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

S3

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that expert fees in the amount of $750.00 are approved by the Court, for DR. JOHN PAGLINI. That Dr. Paglini has notified this office that he has an outstanding bill for the evaluation completed on Mr. Polk January 8, 2002.

DATED and DONE: April, 30th, 2003.

DISTRICT COURT JUDGE

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD TURMAN POLK

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

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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

2003 SEP 23 PM 12:04

RENARD T. POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 39457

District Court Case No. C160490

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "ORDER this matter AFFIRMED WITH LIMITED REMAND to the district court to correct the judgment to reflect the jury's guilty verdicts."

Judgment, as quoted above, entered this 25th day of August, 2003.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 19th day of September, 2003.

Janette M. Bloom, Supreme Court Clerk

By: J. Richards
Chief Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD T. POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39457

FILED

AUG 2 5 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY [signature]
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE WITH LIMITED REMAND FOR CORRECTION OF JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction pursuant to a jury verdict of sexual assault on a minor under fourteen years of age and attempted sexual assault on a minor under fourteen years of age. On appeal, Polk makes the following arguments: (1) the district court committed reversible error by allowing Polk's testimony on cross-examination regarding prior drug use; and (2) the district court abused its discretion by denying Polk's motion for mistrial after the State asked Polk about his failure to raise an insanity defense during cross-examination.

FACTS

Polk lived in Las Vegas with his four younger siblings and his grandmother. In January 1999, eighteen-year-old Polk attempted to anally penetrate his twelve-year-old sister. Polk managed to penetrate her enough to cause her pain. Polk later apologized for his actions. His victim told only her ten-year-old sister what took place.

Several months later, Polk's ten-year-old sister remained at home with Polk while her two older sisters went to the store. Polk forced his sister into his room, which was across the hall from his ailing grandmother. Once inside his room, Polk pushed her to the floor on her hands and knees and anally penetrated her. When she asked him to stop, Polk decided instead to put a pillow over her head to cover her mouth.

03-14215

The victim told her older sisters what happened, as both sisters were aware Polk had molested the victim before.

The children's aunt called the police, but Polk fled before police arrived. Las Vegas Police Department Detective David Dunn investigated the assault by interviewing all three sisters. The sexual abuse investigative team examined both victims but at separate times. Dunn submitted the case to the district attorney several days later.

Several months after Polk's attack, Officer Newton responded to a call from an individual wanting to surrender. Polk, the caller, incorrectly thought there was an outstanding sexual assault warrant for his arrest. Polk told Newton he was ashamed of sexually assaulting his sister six months earlier and wanted to surrender. Newton took Polk into custody.

Although there was no outstanding warrant for Polk, Detective Timothy Moniot interviewed Polk based on a brief narrative in the police database. The interview took place in the office of a juvenile hall employee. Moniot provided Polk a card with Miranda rights printed on it; Polk signed a form acknowledging he received his Miranda warnings.

Next, Moniot recorded an interview with Polk regarding the sexual assaults. During the interview, Polk admitted raping his little sister on several occasions since 1996. Specifically, Polk told Moniot he "did her [his sister] in the booty." Polk stated he was "high and drunk" when the rapes occurred. He also admitted attempting to anally penetrate his other younger sister as well. Police released Polk after the interview because there was no outstanding arrest warrant. The record is silent as to why police failed to arrest Polk at that time.

The State filed an amended complaint charging Polk with three counts of sexual assault with a minor under fourteen years of age. Polk waived his preliminary hearing and negotiated a plea agreement with the State. At the arraignment, however, Polk changed his mind and wanted to proceed to trial. The district court ordered Polk to undergo psychological evaluation to determine competency. Pursuant to NRS 178.425, the district court remanded Polk to a secure mental health facility. Doctors found Polk competent to stand trial, so the district court set the matter for trial.

The Legislature statutorily prohibited Polk from pleading not guilty by reason of insanity when initially charged. When this court found that prohibition unconstitutional, however, Polk's counsel asked for and was granted a continuance to prepare an insanity defense. At trial, Polk pleaded not guilty without raising insanity as a defense.

In his opening statement, Polk's counsel raised concern over Polk's mental stability. Polk was the defense's only witness. Throughout direct examination, Polk's counsel questioned Polk's mental health. One of the first questions Polk's counsel asked was, "I know you said you were a little mentally unstable, but how is it you wouldn't know that?" Notably, Polk had not testified as to his mental health prior to that question.

On cross-examination, the State asked Polk about his discussions with the court-appointed doctor, Dr. Paglini. Polk's counsel did not object to these questions. The State continued questioning Polk about his mental stability and suicidal thoughts. The State also attempted to clarify Polk's defense.

Polk's counsel did not contemporaneously object to the State's questioning, except for objecting to the phrasing of the question. Polk's

counsel did, however, move for a mistrial outside the presence of the jury at the conclusion of the trial the following day. The district court denied the motion, finding Polk opened the door during direct examination regarding his mental health.

After a three-day trial, the jury returned guilty verdicts on one count of attempted sexual assault with a minor under fourteen and one count of sexual assault with a minor under fourteen. The jury found Polk not guilty on the third count of sexual assault with a minor under fourteen. This appeal followed.

DISCUSSION

1. Prior drug use testimony

Polk argues the State improperly inquired about past drug use during Polk's cross-examination. Further, Polk contends his testimony about illicit drug use tainted his ability to receive a fair trial. We conclude Polk's argument lacks merit.

Generally, character evidence is inadmissible if introduced to show the defendant acted in a manner consistent with the character trait.[1] An exception to the rule allows the prosecution to offer rebuttal evidence to character evidence introduced by the accused.[2]

The State argues the drug use testimony was relevant because defense counsel "opened the door" by stating Polk lacked education and was mentally unstable. The inference is that Polk's voluntary confession is unreliable due to mental instability; therefore, testimony regarding

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[1]NRS 48.045(1).

[2]NRS 48.045(1)(a).

drug use is relevant to rebut such a claim. We agree and conclude the district court properly admitted the State's rebuttal evidence.

In addition, failure to raise a contemporaneous objection at trial normally precludes appellate review.[3] When the issue involves admission of prior bad act evidence, however, the burden is not solely on the defendant.[4] The State has a duty to ask for a limiting instruction regarding the use of prior bad act evidence.[5] "Moreover, when the prosecutor fails to request the instruction, the district court should raise the issue sua sponte."[6]

In Tavares v. State, we eliminated plain error review for the absence of a limiting instruction.[7] Instead, we review a case "for error under NRS 178.598, which provides that '[a]ny error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.'"[8] We further concluded that failure to give a limiting instruction regarding prior bad act evidence was a nonconstitutional error.[9] Therefore, the test "is whether the error 'had substantial and injurious effect or influence in determining the jury's verdict.'"[10] Notably, we held that because "of the

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[3]McCullough v. State, 99 Nev. 72, 74, 657 P.2d 1157, 1158 (1983).

[4]Tavares v. State, 117 Nev. 725, 731, 30 P.3d 1128, 1132 (2001).

[5]Id.

[6]Id.

[7]Id.

[8]Id. at 731-32, 30 P.3d at 1132.

[9]Id. at 732, 30 P.3d at 1132.

[10]Id. (quoting Kotteakos v. United States, 328 U.S. 750, 776 (1946)).

potentially highly prejudicial nature of uncharged bad act evidence . . . it is likely that cases involving the absence of a limiting instruction . . . will not constitute harmless error."[11]

The primary reason prior bad acts are generally inadmissible is that the jury might be prejudiced by the evidence and convict the defendant simply "because it believes the accused is a bad person."[12] Evidence of past drug use, however, seems unlikely to prejudice a jury faced with hearing a voluntary confession by an older brother who anally rapes his younger sisters.

Here, there is overwhelming evidence of Polk's guilt; thus, his testimony regarding past drug use did not impact the jury's verdict. First, Polk called the police to turn himself in. He gave a voluntary, detailed, and recorded statement to police regarding the anal rape of one sister and the attempted anal rape of his other sister. Polk's confession is supported by the testimony of the two victims, his own sisters.

"The Constitution guarantees a fair trial, not necessarily a perfect one."[13] The issue of guilt in this case is not close because overwhelming evidence supported the jury's verdict. Thus, we conclude the lack of a limiting instruction was harmless error.

2. Insanity defense

Polk contends the State impermissibly shifted the burden of proof when it inquired about an insanity defense during cross-

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[11]Id. at 732-33, 30 P.3d at 1133.

[12]Id. at 730, 30 P.3d at 1131.

[13]Ross v. State, 106 Nev. 924, 927, 803 P.2d 1104, 1105 (1990) (citing Lutwak v. United States, 344 U.S. 604, 619 (1953)).

examination. Although Polk's counsel did not object contemporaneously, he moved for a mistrial the following day. In addition, Polk argues the inquiry violated attorney-client privilege. We conclude the State improperly questioned Polk about an insanity defense; however, we hold the error was harmless.

Despite failing to object, "[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court."[14] Plain error affects a "defendant's substantial rights, if the error either: '(1) had a prejudicial impact on the verdict when viewed in context of the trial as a whole, or (2) seriously affects the integrity or public reputation of the judicial proceedings.'"[15] "'To be plain, an error must be so unmistakable that it is apparent from a casual inspection of the record.'"[16]

A. Prejudicial impact

When the trial is examined as a whole, two things become clear. First, the defense, while not claiming Polk was insane, attempted to portray Polk as mentally unstable. Second, overwhelming evidence supports the jury's verdict that Polk anally raped one of his sisters and attempted to anally rape another sister.

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[14]NRS 178.602, quoted in Cordova v. State, 116 Nev. 664, 666, 6 P.3d 481, 483 (2000).

[15]Rowland v. State, 118 Nev. 31, 38, 39 P.3d 114, 118 (2002) (quoting Libby v. State, 109 Nev. 905, 911, 859 P.2d 1050, 1054 (1993), vacated on other grounds, 516 U.S. 1037 (1996)).

[16]Richmond v. State, 118 Nev. ___, ___, 59 P.3d 1249, 1256 (2002) (quoting Garner v. State, 116 Nev. 770, 783, 6 P.3d 1013, 1022 (2000), cert. denied, 532 U.S. 929 (2001)).

Polk's mental instability defense began with his counsel's opening statement. Polk's counsel encouraged the jury to examine Polk closely. He told the jury, "Mr. Polk looks fine . . . but he's not. He's not fine. You will learn he has some problems. Not to the level of he doesn't understand what's happening here, but he has some great difficulties." Polk's counsel concluded his opening statement by stating, "And again, I want to reiterate that although he may look very straight forward to you, he doesn't have to testify, but if he does, you'll see that he's not quite altogether there."

When Polk testified, his counsel almost immediately questioned his mental health. Specifically, Polk's counsel asked, "How is it that you don't know? I know you said you were a little mentally unstable, but how is it you wouldn't know that?" Notably, Polk had not previously testified as to his mental health.

Later, Polk testified on direct examination that "I know I'm not right in the head." Polk's counsel then inquired at length about Polk's mental problems, including hospitalization, suicide attempts, and prescription drug treatment for mental illness.

On cross-examination, the State asked Polk several questions pertaining to an insanity defense. Specifically, the State asked Polk, " You have not entered a not guilty by reason of insanity, is that correct?" After an objection by Polk's counsel asking for clarification only, the State asked Polk, " Did you enter a plea of not guilty by reason of insanity?" Polk answered, "That was my lawyer's choice." Finally, the State repeated its original question by asking, "Have you entered a plea of not guilty by reason of insanity?" As stated previously, this exchange took place

without objection by Polk's counsel. The following day, however, Polk's counsel moved for a mistrial.

The State's response to Polk's mistrial motion was that Polk opened the door for questions about his mental stability on cross-examination. Further, the State argued the questions about Polk's defense did not shift the burden of proof to Polk. We hold the district court did not err in finding that the defense testimony on direct examination allowed for the State's questions on cross-examination.

Moreover, overwhelming evidence supported Polk's guilt. Polk voluntarily called the police to turn himself in and gave a voluntary, detailed, and recorded statement regarding the anal rape and attempted anal rape of his younger sisters.

We hold the State's questions regarding insanity had no impact on the verdict "'when viewed in context of the trial as a whole.'"[17] As stated previously, questions regarding Polk's sanity could do little to prejudice a jury confronted with an adult brother who anally raped his younger sisters.

B. Judicial proceedings

It is impermissible for the State to shift the burden of proof to the defendant through improper questioning about defenses not raised.[18] Such conduct would preclude the defendant from receiving a fair trial and warrant reversal.[19]

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[17]Rowland, 118 Nev. at 38, 39 P.3d at 118 (quoting Libby, 109 Nev. at 911, 859 P.2d at 1054, vacated on other grounds, 516 U.S. 1037 (1996)).

[18]See Barron v. State, 105 Nev. 767, 778, 783 P.2d 444, 451 (1989).

[19]Id.

In the instant case, the State did not shift the burden of proof to Polk. Polk's counsel portrayed Polk as mentally unstable and begged the jury to see "he's not quite altogether there." The State's questions, while improper, did not affect the integrity of the proceedings. The State's questioning did not affect Polk's substantial rights; thus, any error was harmless.

C. Attorney-client privilege

NRS 49.095 states, "A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications . . . [b]etween himself . . . and his lawyer." In addition, NRS 49.055 defines a communication as confidential "if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication."

The attorney-client privilege is a rule of evidence, not a constitutional right.[20] That said, "government interference with the confidential relationship between a defendant and his counsel may implicate Sixth Amendment rights."[21] Interference violates the Sixth Amendment "only when it substantially prejudices the defendant."[22]

Polk's counsel intimated several times that he intended to plead an insanity defense. First, Polk's counsel asked for a continuance to prepare an insanity defense. Second, Polk's counsel asked for psychiatric records from the court-ordered mental facility. Finally, the continued

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[20]Clutchette v. Rushen, 770 F.2d 1469, 1471 (9th Cir. 1985).

[21]Id.

[22]Id.

references to Polk's mental instability at trial suggest the communications were not confidential.

Polk contends the State's inquiries into his failure to plead insanity violated his right to a fair trial because he could not answer the questions without revealing privileged information. We conclude Polk waived the attorney-client privilege regarding his mental instability.

3. Judgment of conviction

The judgment incorrectly indicates Polk pleaded guilty when, in fact, a jury convicted Polk after a three-day jury trial. Thus, while we affirm the judgment of conviction, it must be remanded and corrected to reflect the jury's guilty verdicts.

Accordingly, we

ORDER this matter AFFIRMED WITH LIMITED REMAND to the district court to correct the judgment to reflect the jury's guilty verdicts.

_____, J.
Rose

_____, J.
Gibbons

cc: Hon. Joseph T. Bonaventure, District Judge
David M. Schieck
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

MAUPIN, J., concurring:

I concur in the result only.

_____, J.
Maupin

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD T. POLK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 39457

District Court Case No. C166490

REMITTITUR

TO: Shirley Parraguirre, Clark County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: September 19, 2003

Janette M. Bloom, Clerk of Court

By: J. Richards
Chief Deputy Clerk

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
David M. Schieck

RECEIPT FOR REMITTITUR

Received of Janette M. Bloom, Clerk of the Supreme Court of the State of Nevada, the REMITTITUR issued in the above-entitled cause, on 9-22-03.

DEPUTY NORRETA CALDWELL
County Clerk

03-14381

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ORIGINAL

EXPR
DAVID M. SCHIECK, ESQ.
NEVADA BAR NO. 0824
302 E. CARSON, STE. 600
LAS VEGAS, NV 89101
702-382-1844
ATTORNEY FOR POLK

FILED
DEC 5 12 43 PM '03
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA, Plaintiff, vs. RENARD POLK, Defendant.	CASE NO. C 166490 DEPT. NO. VI EX PARTE ORDER GRANTING ATTORNEY'S FEES IN EXCESS OF <u>STATUTORY LIMIT AND COSTS</u> DATE: N/A TIME: N/A

Based on the application of District Court Administration who has determined that the amount of fees requested is reasonable and necessary, the Court being fully advised in the premises, and good cause appearing

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that attorney's fees in excess of the statutory limit in the amount of $4,822.50 and costs in the amount of $322.41 are granted to David M. Schieck, Esq. for a total amount of $5,144.91.

DATED and DONE: 11-24-03

DISTRICT COURT JUDGE

SUBMITTED BY:

DAVID M. SCHIECK, ESQ.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

ORIGINAL

NOTC
DAVID M. SCHIECK, ESQ.
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302 East Carson Ave., #600
Las Vegas NV 89101
702-382-1844

Attorney for POLK

FILED
DEC 11 2 36 PM '03
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,	)	CASE NO. C 166490
	)	DEPT NO. VI
Plaintiff,	)	
	)	
vs.	)	NOTICE OF WITHDRAWAL
	)	AS ATTORNEY OF RECORD
RENARD POLK,	)	
	)	
Defendant.	)	DATE: N/A
	)	TIME: N/A

Pursuant to Supreme Court Rule 46, DAVID M. SCHIECK, ESQ. hereby withdraws as attorney of record for RENARD POLK, the final determination or judgement having been made in this matter. (Remittitur was issued on September 19, 2003.)

DATED this 9 day of December, 2003.

RESPECTFULLY SUBMITTED

DAVID M. SCHIECK, ESQ.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 10 day of December, 2003, I deposited in the United States Post Office at Las Vegas, Nevada, a copy of the foregoing Notice of Withdrawal as Attorney of Record, postage prepaid, addressed to the following:

DISTRICT ATTORNEY'S OFFICE
200 S. Third Street
Las Vegas NV 89155

Renard Polk, No. 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, NV 89419

An employee of David M. Schieck, Esq.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

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FILED

DEC 17 2 18 PM '03

District Court
Clark County Nevada

CLERK

The State of Nevada
-Plaintiff-

vs:
Mary K. Holthus
200 South Third St.
Las Vegas, Nevada, 89101
-Defendant-

Case No. C166490
VI

"Affidavit of Complaint"

I, RENARD TRUMAN POLK, being first duly sworn, having personal Knowledge of all matters contained herein, state that the following is true, accurate and correct.

From in or about the Fall of 1999 and continuing thereafter upto December 31, 2002 in the city of Las Vegas, the state of Nevada, the county of Clark, the above-named defendant being employed by the state of Nevada as a prosecuting attorney, acting under color of office and the law did willfuly, unlawfuly and feloniously obstruct, impede, pervert, corrupt, delay or hinder public justice or the due administration of the law by committing the following crimes and offenses.

That on December 27, 2000 and again on or about January 10, 2001 the named defendant did knowingly make and represent a false statement of a material fact to a tribunal thereby unlawfuly obstructing another party's access to evidence or other material having potential evidentiary value in violation of W.R.S. 199.200 Supreme Court Rules 173(1) and 173(4)

Then on or about January 8, 2002 the defendant did suborn another person after the same had taken a lawful oath or made affirmation in a judicial proceeding to make an unqualified statement or swear or affirm in such a manner in violation of W.R.S. 199.120 (3).

Based upon the following facts and in the following manner to-wit:

That on December 27, 2000 the complainant through his attorney Christopher Oran petitioned the defendant by way of discovery to disclose or produce a transcription of a recorded interview pertaining to the complainant's case upon which the defendant had been allocated to prosecute conducted by Detective Timothy Moniot of which transcription contained exculpatory and inculpatory representations that had been on record with the Metropolitan Police Department records division since August 22, 1999.

That on the above mentioned date the defendant told the court and the complainant that they were not in possession of such a statement (transcription) or was

even aware that such evidence existed. [see Exhibit A pg. 3 highlighted.]

This discovery matter was brought before the 8th Judicial District Court Department 6 (2) two weeks later on January 10, 2001 again the defendant told the court and the complainant they did not have such evidence in thier possession.

On March 26, 2001 the complainant was to go to trial, however trial was rescheduled to July 30, 2001 at this time the defendant still chose not to disclose the evidence.

On April 18, 2001 the complainant came before the 8th Judicial District Court on an O.R. Bail Reduction Motion

That on this day the evidence the complainant was trying to obtain is conveniently located. Needless-to-say the same day the defendant was made aware that the complainant could possibly released on O.R. or Bail.

Showing that the defendant could easily comply to the complainant's discovery request or at least when it was convenient to the defendant. [see Exhibit A pg. 3 highlighted.]

That then on or about January 8 2002 Janila Chathen during the complainants jury trial was to testify that she saw alleged misconduct the complainant is accused of after having taken a lawful oath as supported by the arrest warrant and the subornee's statement given to Detective David Dunn.

However, the defendant told the subornee not to say what the subornee was going to testify to.

All of which conduct is contrary to the force, form and effect of the Nevada Revised Statutes made and provided and against the peace and dignity of the State of Nevada.

I Rd Polk make this declaration under the penalty of perjury.

KELLY R. BELANGER
NOTARY PUBLIC · NEVADA
Appt. Recorded in PERSHING CO.
No.02-75241-15 My Appt. Exp. July 13, 2006

Rd Polk 12/09/03
RENARD Polk #72439
Lovelock Correctional Ct.
Lovelock Nevada 89419

Exhibit A

CRIMINAL COURT MINUTES

C 168490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 0

CUSTODY

11/22/00 8:30 AM NEGOTIATIONS AND/OR TRIAL SETTING

11/22/00 08:30 AM 00 NEGOTIATIONS AND/OR TRIAL SETTING

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA
003814 Holthus, Mary Kay

001 D1 Polk, Renard T
004349 Oram, Christopher R.

Court advised has declared Deft. competent. Mr. Oram requested to set a trial date because he wanted to talk with the Deft. Ms. Holthus moved to file an Amended Information. After review of it, Mr. Oram advised he thought this was a robbery. Ms. Holthus advised if there is a problem she can file another one. CONFERENCE AT THE BENCH. AMENDED INFORMATION FILED IN OPEN COURT. Upon Court's inquiry, Deft. advised his TRUE MIDDLE NAME is TRUMAN. COURT SO ORDERED. DEFENDANT POLK ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

3/22/01 8:30 AM CALENDAR CALL

3/26/01 9:30 AM JURY TRIAL

12/27/00 08:30 AM 00 DEFT'S MOTION FOR DISCOVERY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: SHARRY FRASCARELLI, Relief Clerk
CARRIE HANSEN, Reporter/Recorder

PARTIES: STATE OF NEVADA
005873 Benedict, Susan M.

001 D1 Polk, Renard T
004349 Oram, Christopher R.

Mr. Oram advised he talked with Ms. Holthus regarding information he is seeking on statements the Deft may have made concerning this case. Further, the Deft states he has previously been charged with this identical charge.

CONTINUED ON PAGE: 00

Mr. Oram advised as long as the information he is requesting is provided within two weeks, he will take this motion off calendar. COURT SO ORDERED and advised matter can be placed back on calendar if necessary. FURTHER ORDERED, trial date STANDS.

CUSTODY

03/22/01 08:00 AM 00 CALENDAR CALL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CAROLE D'ALOIA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA
003814 Holthus, Mary Kay

001 D1 Polk, Renard T
004349 Oram, Christopher R.

Upon Court's inquiry, Ms. Holthus advised she will not be ready for trial until Tuesday of next week since she is in trial. Mr. Oram advised he does not object to matter being continued as he has his investigator out looking for witnesses. Mr. Oram also advised he filed a motion that is calendared for Monday and will need to supplement that motion. COURT ORDERED, TRIAL DATE VACATED AND RESET AND 3/26/01 DATE VACATED.

CUSTODY

7/26/01 8:30 AM CALENDAR CALL

7/30/01 9:30 AM JURY TRIAL

CRIMINAL COURT MINUTES

CASE/CHARGE: STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE:

04/18/01 08:00 AM 00 DEFT'S MOTION FOR O.R. RELEASE OR BAIL REDUCTION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CAROLE D'ALOIA, Court Clerk
JANICE LISTON, Reporter/Recorder

PARTIES: STATE OF NEVADA
003776 Monroe, Vicki J.
003814 Holthus, Mary Kay

001 D1 Polk, Renard T
004349 Oram, Christopher R.

Discussion between Court and Mr. Oram regarding a statement made by Defendant. Ms. Holthus explained she has been looking for the statement and it was finally located and she just received a copy from Metro Records and presented a copy to Mr. Oram. Statements by Court regarding the history of this case. COURT ORDERED, motion DENIED, BAIL STANDS AS SET. Statements by Defendant.

CUSTODY

07/23/01 08:30 AM 00 STATE'S MOTION: ADMIT EVIDENCE OF OF OTHER CRIMES ACTS AND WRONGS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Carole D'Aloia, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES: STATE OF NEVADA

001 D1 Polk, Renard T

COURT ORDERED, matter CONTINUED FOR JUDGE BONAVENTURE'S DECISION.

CUSTODY

CLERK'S NOTE: CLERK NOTIFIED MS. HOLTHUS VIA E-MAIL REGARDING THE 7/26/01 CONTINUANCE DATE. CLERK ALSO PHONED MR. ORAM'S OFFICE AND LEFT A MESSAGE ON HIS VOICEMAIL WITH THE 7/26/01 CONTINUANCE DATE. CD

CONTINUED TO: 07/26/01 08:30 AM 01

99

District Court
Clark County, Nevada

FILED

2004 FEB 25 A 10: 20

CLERK

CASE NO. C166490
Dept No. VI

The State of Nevada
~Plaintiff~

vs:

D. Newton #5278,
T. Beck #5472,
400 Stewart Ave
Las Vegas, Nevada. 89101
~ Defendant(s)~

"Affidavit of Complaint"

I, RENARD T. POLK being first duly sworn, having personal knowledge of all matters contained herein, state that the following is true, accurate and correct.

From in or about the "Fall of 1999 and continuing thereafter upto December 31, 2002 in the city of Las Vegas, county of Clark, state of Nevada the above-named defendant(s) being employed by the state of Nevada as law enforcement officials acting under the color of law and office did willfully, unlawfully and feloniously obstruct, impede, pervert, corrupt, delay, circumvent or hinder public justice or the due administration of the law by committing the following crimes and offenses.

///

///

That the defendants did willfully and knowingly make, false, fictitious or fraudulent statements and representations in violation of 18.U.S.C. 1001 N.R.S. 199.200 and U.R.S. 197.200 category C felonies with lesser inclusive.

Based upon the following facts and in the following manner to-wit:

That the complainant on or about August 14, 1999 turned himself in for a warrant he believed was out for his arrest by calling emergency number 911 at which time officers Newton and Beck were dispatched to the complainant's location.

Upon the arrival and during the complainant being transported to the Juvenille Family and Youth Services facility the only words exchanged between the complainant and said defendants is that the complainant asked as to, "who he was being taken to the juvenille facility," at which time the defendants responded, "you know why."

No other words were exchanged after this.

However the police report that followed after the complainant was taken into custody stated and represented a false fact that the complainant, "was ashamed of what he had done," by the defendants officers Newton and Beck.

When in truth and in fact the complainant made no such statement or representation to the defendants.

All of which is contrary to the force form and effect of the Nevada Revised Statutes made and provided and against the peace and dignity of the State of Nevada.

I [signature] the complainant do hereby make this declaration under the penalty of perjury pursuant to N.R.S. 208.165

Dated this 21st day of January 2001

[signature]

Ranard T. Polk 22429
L.C.C. P.O. Box 359
Lovelock Nevada 89419

MEGAN McCLELLAN
NOTARY PUBLIC · NEVADA
Appt. Recorded In PERSHING CO.
No.02-76240-15 My Appt. Exp. June 10, 2006

[signature]
6/22/01

To The Clerk:

At this time I would like a filed stamp copy of the enclosed instruments.

Again this is now my (third) request for a docketing sheet pursuant to case number C166490.

His Copious Grace.

Rd Polk

RENARD T. POLK 72439
L.C.C. P.O. Box 359
Lovelock, Nevada. 89419

10

In The 8th Judicial District Court

Clark County

FILED

2004 MAR 11 P 2:54

CLERK

Case no. C166490

Dept no. VI

The State of Nevada
~ Plaintiff ~

vs:

Steve Barber
Timothy Monist
Scott Kaucas
David Newton
T. Beck #5172
Mary Holthus
Joseph Bonaventure
Nora Pena
Christopher Oram
John Doe
~ Defendants ~

"Affadavit of Complaint."

Reward T. Polk #22159
L.L.L. P.O.B. 359
Lovelock NV. 89419

* * * *

RECEIVED
MAR 11 2004
COUNTY CLERK

S14

"Affidavit of Complaint."

I REWARD T. Polk #72439 the affiant herein after referred to as the complainant being first duly sworn deposes and says that the following is true accurate and correct.

Beginning in the spring of 1999 and continuing thereafter upto the present date the following persons herein after referred to as the defendants specified by name.

1. Steve Barber 601 North Pecos Rd Las Vegas Nevada 89101
2. Timothy Moriot #4664 400 Stewart Ave Las Vegas Nevada 89101
3. Scott Kavens 330 South Casino Ct. Dr. Las Vegas Nevada 89101
4. David Newton #5278 400 Stewart Ave Las Vegas Nevada 89101
5. T. Beck #5472 400 Stewart Ave Las Vegas Nevada 89101
6. Mary Holthus #00 8814 200 South Third St. Las Vegas Nevada 89101
7. Joseph Bonaventure 200 South Third St. Las Vegas Nevada 89101
8. Nora Pena 200 South Third St. Las Vegas Nevada 89101
9. Christopher Oram 520 South Fourth Street Las Vegas Nevada 89101
10. John Doe 400 Stewart Ave Las Vegas Nevada 89101

acting under the color of office and the law being employed by the state of Nevada county of Clark city of Las Vegas as government officials or employees or a subdivision thereof did willfully unlawfully and feloniously obstruct pervert corrupt hinder or circumvent public justice or the due administration of the law by committing the following crimes and or offenses against the same.

That the defendant Steve Barber did on or about January 1999 willfully destroy mutilate forge conceal erase obliterate or falsify a record or paper apertaining to his office in violation of N.R.S. 239.300 a category C felony gross misdemeanor inclusive.

Then on about or after the above mentioned date did willfully and unlawfully offer or procured to be offered a false or forged instrument to be filed or registered in a public office in violation of N.R.S. 239.300

Which did then thereby effect the false imprisonment of the complainant without sufficient legal authority in violation of N.R.S. 200.460 a category C felony. gross misdemeanor inclusive.

Based upon the following facts and in the following manner to wit:

That on March 3, 1999 the complainant was unconditionaly released from the family and Youth Services facility after being accredited time served pursuant to case number J24117 having been found guilty for Battery from the original petition by the juvenille courts charging the complainant Robbery and Battery with substantial Bodily Harm.

That is to say that on the aforesaid date the Juvenille Court found and concluded that since the complainant was over (19) eighteen years of age had been detained cumulatively for (4) four months and on house arrest for (2) two months and had a serious felony case pending in the Adult Criminal Justice System that Juvenille Wardship should terminate and the formalities of the same was to be carried out by the defendant Steve Barber.

That the case the complainant is currently incarcerated on has been procedurally affected by the defendant failing to carry-out the termination of Juvenille Wardship or Jurisdiction.

That is to say that because the defendant Steve Barber derelicted

Pg. 2

to terminate juvenille wardship the current charges the complainant is currently imprisoned on would have been charged under juvenille jurisdiction

So in order to cover up the defendant Steve Barber's of duty dereliction false probationary documents were appropriated into the complainant's juvenille record as bourne out by the following:

1.) The Formal Probation order validating the complainant's appropriation to probation specifies that a Parental Consent Decree has been completed and signed by the complainant's legal gaurdian to make the Matter binding See Exhibit (L) Pg. 2 line.

However in truth and in fact this document cannot and will not be located in the complainant's juvenile record.

2.) The dispositional report recommending the complainant be put on Probation written up by the defendant Steve Barber Filed on January 11, 1999 represents that the complainant was to go before the Adult Criminal Justice System for a Preliminary Hearing on January 27, 1999 See Exhibit (L) Pg. 3 line. 21

The complainant asserts that this information could not have been known to the defendant Steve Barber at that time due to the fact that the complainant did not recieve the Preliminary Hearing date of January 27, 1999 until (3) three days after the Dispositional Report was filed for the fact that the complainant fled from the first Preliminary Hearing date on January 9, 1999 and was not arrested again until January 14, 1999 See Exhibit (L) Pg.

3.) That the termination of wardship order for the juvenille courts was recieved by the county clerk and filed on January 13, 2000 by the same.

Yet the signatures completing the document were signed on January 14, 2000.

Which leaves the question that how could the above stated document be filed by the county clerk before it was completed.

It is unclear as to who these documents were implemented into the complainant's juvenille record. but as a result the complainant was imprisond for 30 thirty days for a false or manufactored juvenille probation allocation violation and revokation.

When in truth and in fact the complainant was not on juvenille probation or supervised release.

That the defendant Timothy Moniot #4664 did on or about August 14 1999 and again on January 7, 2002 knowingly and willfully take off discharge remove withdraw conceal destroy obliterate or erase a book paper document writing issue record instrument or thing in violation of N.R.S. 239.300 and 199.220 category C felony gross misdemeanor inclusive.

Then having taken a lawful oath or an affirmation in a judicial proceeding or any other matter where by an oath affirmation or attestation is required swore attested or affirmed falsely in violation of N.R.S. 199.120 category D felony or gross misdemeanor inclusive.

That on August 22, 1999 and again on or about January 7, 2002 did willfully and unlawfully upon trial hearing inquiry investigation or other proceeding authorized by law offered or procured to be offered into evidence as genuine a book paper document record or other thing in writing knowing the same to have been forged false or fraudulently altered in violation of N.R.S. 239.320; 199.210 category C and D felony.

That the defendant Timothy Moniot #4664 did on January 7, 2002 having taken a lawful oath or an affirmation in a judicial proceeding or any other matter whereby an oath or affirmation is required swore or affirmed falsely in violation of N.R.S. 199.120 category D felony.

Based upon the following facts and in the following manner to-wit:

That the defendant Timothy Moniot is employed by the state of Nevada and or the county of clark as a detective or law enforcement officer and conducted an interview of which was record on a microcassette of the complainant giving a statement pursuant to case number 00-C-166990-C, on August 14, 1999.

That after the interview was finished the detective transcribed the interview from the microcassette recording.

That during the transcription of the recording the defendant Timothy Moniot #4664 made insertions and omissions inconsistent with the interview

That is to say that the defendant Timothy Moniot 4664 left out on page (27) Exhibit (Y) that the complainant asked the defendant for, "Psychiatric help."

That on pages (19) of Exhibit (Y) the defendant Timothy Moniot 4664 omitted his inferences to a lie detector test. See Exhibit

Then the defendant Timothy Moniot 4664 attested to the truth accuracy and correctness of the transcription by endorsing the document with his signature knowing that omissions and insertions had been made during the transcription. See Exhibit (Y) Pg. 30

Then on August 22, 1999 the defendant Timothy Moniot #4664 filed the above stated transcription of the recorded interview with the Metropolitan Police Department.

That on January 7, 2002 the defendant Timothy Moniot #4664 stated he was giving the court a more accurate version of the transcription of the aforesaid interview. See Exhibit (V) Pg. 13

However in truth when the microcassette recording was played during the complainants jury trial on the above stated date the detective made additional insertions and omissions which insertions and omissions were material or of Psychiatric importance as the complainant was trying to put forth an insanity defense.

That on the above mentioned date the defendant Timothy Moniot #4664 stated to the court jury and after taking an oath that there was no warrant out for his the complainant arrest when the complainant first turned himself in on August 14 1999. See Exhibit

When in truth and in fact there was a warrant issued at that time See Exhibit (J). Pg. 2-3

That the defendant Tinothy Moniot #4664 did willfully and unlawfully having the custody and control of the body or liberty of a person under arrest did extort from a person incriminating statements or a confession by the use of violence intimidation indignity or threats without physical force in violation of N.R.S. 199.460 category D felony gross misdemeanor inclusive.

Based upon the following facts and in the following manner to-wit:

That the defendant Tinothy Moniot #4664 on August 14, 1999 was called to investigate the possible apprehension of an individual wanted for questioning pursuant to case number 00-C-166490-C.

That when the above named defendant arrived at the location the complainant was being held in custody at 601 North Pecos Rd Las Vegas Nevada 89101 the above-named defendant asked the complainant would he like to give a statement pursuant to case number 00-C-166490-C.

That before the complainant could respond the defendant Tinothy Moniot gesticulated toward his gun holster.

The complainant then quietly consented or acquiesced to give the defendant a statement.

That during questioning when the complainant would become less non-compliant or the above-stated defendant believed the complainant to be lieing he the defendant would then make inference of a lie detector test and motion toward his gun holster. See Exhibit (Y) Pg. 19

That the defendant Scott Kavcos did from in about or between the Fall of 2000 and continuing upto April 11 2002 in the city of Las Vegas county of Clark state of Nevada above named defendant being employed by the aforesaid soverieanty as a public official or Mail Room Supervisor at the Clark County Detention Center acting under color of office and the law and with the complicity of fellow co-workers unlawfully secreted destroyed detained delayed hindered or opened the contents a legal correspondance which letters and thier contents had been entrusted to the above-stated defendants possession intended to be conveyed by Mail to the following locations:

1. Judicial Compliance Committe 3476 Exec. Pointe Way Carson City NV 89706
2. Nevada State Bar P.o. Box 3363 Carson City NV 89702
3. A.C.L.U. 3255 S. Third St Las Vegas NV 89101
4. N.A.A.C.P. 4805 Mt. Hope Drive Baltimore MD 21215
5. Internal Affairs 400 Stewart Ave Las Vegas NV 89101

Based upon the following facts and in the following manner to-wit:

That during the complainants stay at the Clark County Detention Center the complainant tried to correspond with the above stated law advocates or legal entities.

However when the above-named defendant recieved the material to be conveyed entrusted to his care the defendant did not incorparate the mail into the U.S. Postal Service.

That when the complainant attempted to correspond with a news publication the defendant Scott Kavcos would return the correspondance to the complainant and ascribe some unrelated rule as to why the complainant could not correspond with the above-stated entity.

That when an associate who was also housed at the detention center Jauquin Perry Edwards followed the same manner to correspond with the news

Publication under the same financial ethnic and social conditions and circumstances the mail conveyed was sent with little or no trouble. See Exhibit (R)

Defendants conduct being in violation of Title 18 U.S.C. sections 1701-1709.

That the defendant David Newton #32278 on January 7, 2002 having taken a lawful oath or made an affirmation in a Judicial Proceeding or any other matter whereby law an oath or affirmation is required swore or affirmed falsely in violation of N.R.S. 199.120 a category D felony

Based upon the following facts and in the following manner to-wit:

That on January 7, 2002 the above-named defendant being employed by the state of Nevada or the county of clark as a Public official or law enforcement agent during the complainants jury trial after taking a lawful oath testified and stated that after talking to the complainant for a short period of time that the complainant "wanted to turn himself in because he felt ashamed of what he had done and believed there was a warrant out for his arrest."

Thereby swearing affirming or stating falsely.

Because in truth and in fact the complainant made no such statement or representation to the above-named defendant.

That the defendants D. Newton 5278 and T. Beck 5472 did willfully and knowingly make a false fictitious or fraudulent statement or representation in an official Police report in violation of N.R.S.

Based upon the following facts and in the following manner to-wit:

That the defendants D. Newton 5278 and T. Beck 5472 are employed by the State of Nevada or the county of clark as public officials that being law enforcement officers.

That on or in August 14, 1999 the complainant turned himself in for a warrant he believed was out for his arrest pursuant to case number 00-C-166490-C by calling emergency 911 number at which time the above stated defendants were dispatched to the complainants location.

Upon the arrival of the above-stated defendants and during the complainant being transported to the Juvenille Facility the only words exchanged between the complainant and the defendants D. Newton 5278 and T. Beck 5472 was in that the complainant asked as to why he was being transported to the juvenille facility at which time the above stated defendants replied. You know why.

No other words were exchanged after this.

However the official police report pursuant to the above stated case makes and represents the statement made by the above-stated defendants that the complainant turned, "himself in because he was ashamed of what he had done."

When in truth and in fact the complainant made no such remark or statement to the above-stated defendants.

That the defendant Mary K Holthus did on January 8, 2002 suborn another person to make such an unqualified statement or to swear or affirm in such a manner the person having taken a lawful oath or made an affirmation in a judicial proceeding or in any other matter where by law an oath or affirmation is required or used threat force intimidation or deception with the intent to influence cause or induce a person called as a witness in an official proceeding to give false testimony or to withhold true testimony category C felony in violation of N.R.S. 199.120(3) and 199.240(2)

Based upon the following facts and in the following manner to wit:

That on January 8, 2002 Janila Chatman during the complainant's jury trial was going to testify that the afore-said person saw the alleged crime taking place that the complainant is currently convicted of pursuant to case number 00-C-166490-C.

as supported by the arrest warrant and Janila Chatman's statement given to Detective David Dunn. See Exhibit (AB) Pgs. 2-4

However the defendant Mary K Holthus bar number 003814 decieved influenced suborned or intimidated Janila Chatman to testify that she did not see the alleged crime the complainant is currently convicted of take place.

That the defendant Joseph T. Bonaventure did with the complicity of Nora Pena willfully and unlawfully remove withdraw conceal take off avoid destroy steal or resist a book record paper document issue process or other thing filed or deposited in a public office or with a public officer by authority of law in violation of N.R.S. 199.220; 199.290 and 239.300-239.320 category C felony 1000 misdemeanors inclusive.

Based upon the following facts and in the following manner to-wit:

That Joseph Bonaventure is employed by the state of Nevada or the County of Clark as an elected judge in Department 6 of the 8th Judicial District Court and that Nora Pena is the court clerk of the same.

That on November 29, 2000 Nora Pena at the behest of defendant Joseph Bonaventure failed to file a document with the force of power to effect a judicial inquiry deposited in her office and appertaining to the same.

That is to say that on about or before November 29, 2000 the complainant deposited a document (Ineffective Assistance of Counsel) by conveyance of mail to invoke a judicial inquiry into counsel of record Christopher Oram's means and adequacy of representation pursuant to case number 00-C-166490-C.

That when Nora Pena received the document she did not forward or file the above-stated document but instead sent it to the defendant Joseph Bonaventure at his behest.

That when the defendant Joseph Bonaventure recieved the above-stated document to be filed from Nora Pena he then gave it to counsel of record Christopher Oram upon whom the inquiry was to be conducted on at which time the document was then thrown away or destroyed and never filed.

That the defendant Christopher Oram bar number did ask or recieve directly or indirectly compensation gratuity or reward or a promise thereof upon an agreement or understanding that he would compound recieve relieve comfort assist aid abet counsel command induce procure or conceal a crime violation of a statute offense or felony or abstain from testifying thereto delay hinder or prevent a prosecution therefor or did not as soon as possible make known to a judge or other person having authority to execute the law the commission thereof in violation of N.R.S. 199.290 ranging from category C felonies gross misdemeanor inclusive.

Based on the following facts and in the following manner to-wit:

That on November 29 1999 counsel of Record Christopher Oram pursuant to case number 00-C-166490-C failed to report Joseph T. Bonaventure and Nora Pena commission of an offense or crime failing to file a legal document with authority of law.

That is to say that when Nora Pena recieved a document to be filed that was convened to her office by mail on or about November 29 1999 to make a judicial determination as to counsel's or defendant above-stated level or adequacy of representation.

That when Nora Pena recieved the document she then gave it to Joseph Bonaventure the 8th Judicial District Judge in Department 6 instead of forwarding or filing the above-stated document.

That when Joseph Bonaventure recieved the document he then gave it to Christopher Oram where then and there the document was thrown away or destroyed and never filed.

That the defendant Christopher Oram did not report or make known as soon as possible or practicable to an officer the misdeeds commission of a crime or offense or misconduct of Joseph Bonaventure and Nora Pena.

That the defendant Christopher Oran failed to report the extortion of a confession.

That is to say that when the complainant related the facts that the detective Tinothy Moniot 4664 used the inference of a lie detector test and motionedtoward his gun holster when he was called to conduct an investigation pursuant to case number 00-C-166490-C. in order to illicit a statement from the complainant.

That he told the complainant that being the defendant Christopher Oran that he did not want to open another can of worms and furthermore that he did not believe the complainant anyway.

That the above stated defendant did not or failed to make known as soon as possible or practicable to an officer or person having authority to execute the law. the commission of the above stated offense or crime.

That the defendant detective John Doe a white officer about ≤ 11 allocated to conduct an investigation for Malicious Destruction of Private Property Pursuant to L.V.M.P.D. event or referrence number 9608171997 did ask or recieve directly or indirectly compensation gratuity or reward or a promise thereof upon an agreement or understanding that he would compound recieve relieve comfort assist aid abet counsel command induce conceal or procure a crime violation of a statute offense or felony that being statutory sexual suduction the ordinary sexual intercourse anal intercourse cunnilinous or fellatio committed by a person 18 eighteen years of age or older with a person under 16 years of age or any other sexual penatration committed by a person 18 eighteen of age or older with a person under 16 years of age with the intent of arousing appealing to or gratifying the lust or passions or sexual desires of either persons or abstain from testifying thereto delay hinder or prevent a prosecution therefor or did not as soon as possible make known to a judge or other person having authority to execute the law the commission thereof in violation of N.R.S. 199.240 raniing from category B felony gross misdemeanor inclusive.

Based upon the following facts and in the following manner to-wit:

That on or about July of 1996 the complainant RENARD T. Polk at that time and date was 15 years of age or under 16 years of age was staying at the residence of Mellissa Hendricks a person at that time and date 22 years of age or over 18 years of age.

That during the complainant's stay at the above stated persons residence the complainant RENARD Polk and Mellisa Hendricks were engaging in sexual intercouse.

That sometime after the above mentioned date the complainant and Ms. Hendricks got into an argument where the complainant then broke the

car window that belonged to Ms. Hendricks at which time the previously stated person pressed charges and an investigation ensued conducted by John Doe the defendant.

That when the complainant was called to the detectives bureau to give a statement in relevance to the destruction of Ms. Hendricks car window the complainant related to the defendant John Doe that he the complainant had been staying with Ms. Hendricks were boyfriend and girlfriend and had been engaging in sexual intercourse for some time.

The detective then asked the complainant how old he was and did he know how old Ms. Hendricks was.

At which time the complainant was 15 years of age and that the person he was staying with at that time was 22 years of age Mellisa Hendricks.

That the detective then ceased questioning the complainant and dismissed the complainant from the defendant's office

That the defendant John Doe detective did not as soon as possible or practicable report the possible commission of statutory sexual seduction to a judge or person having authority to execute the law.

That the defendant David Dunn did ask or recieve directly or indirectly compensation gratuity or reward or a promise thereof upon an agreement or understanding that he would compound conceal recieve relieve comfort assist aid abet counsel command induce procure or failure to report a crime violation of a statute offense or felony or abstain from testifying thereto delay or hinder or prevent a prosecution therefor or did not as soon as possible make known to a judge or other person having authority to execute the law the commission thereof in violation of N.R.S. 199.290 and 18 U.S.C. section ranging from category A felony gross misdemeanor inclusive.

Based upon the following facts and in the following manner to-wit:

That on March 13 1999 a person named Anna Polk in her statement given to detective David Dunn the defendant accused Darryl and Dorrian Bryant of sexually assaulting above-said person to-wit: by inserting thier penis or other parts of thier body into the vaginal or anal opening against said persons will or under conditions said person Anna Polk was mentally or physically incapable of resisting or understanding the conduct of Darryl and Dorrian Bryants conduct in violation of N.R.S. 200.364-200.366 felony

That is to say that on March 13 1999 when Anna Polk was questioned about the crime that took place the said person Anna Polk not only accused the complainant of the alleged conduct he is convicted of but also two other perpatrators that being Darryl and Dorrian Bryant see Exhibit(Z)pg.(7)

That the persons Darryl and Dorrian Bryant also sexually assaulted said person Anna Polk.

However the defendant upon recieption of this information failed or dereliction to conduct an investigation or report to a judge or person having authority to execute the law. the persons Darryl and Dorrian Bryants misconduct.

All of which conduct is contrary to the force form and effect of the Nevada Revised Statutes Made and Provided and against the Peace and dignity of the State of Nevada.

I _____ the complainant do hereby make this declaration under the Penalty of Perjury.

/S/ _____

REVARD T. DOLK #72439
L.C.C. P.O. Box 359
Lovelock Nevada 89419

"Certificate Of Service By Mail."

The undersigned does herby certify that I Mailed a true and correct copy of the foregoing _____ to the below addresses on this ____ day of _____ 200__. by delivering the same to an official at Law Library with the purpose of being conveyed by Mail in accordance and pursuant to N.R.C.P. 5:

United States Attorney
Department of Justice
701 East Bridger Suite 800
Las Vegas Nevada 89101

Chief Dis. Att. Doug Herndon
200 South Third St.
Las Vegas Nevada 89101

Attorney General Brian Sandoval
100 N. Carson Street
Carson City Nevada 89701

8th Jud. Dist. Court Clerk
200 South Third St.
Las Vegas Nevada 89101

Renard T. Polk
Lovelock Correctional Cnt.
L.C.C. P.O. Box 359
Lovelock Nevada 89419

To The Clerk:

At this time I would request a copy of the following:

1.) Court transcripts or tape recording on the hearing date of December 27 2000 @ 8:30 a.M. Pursuant to case 00-C-166490-C

2.) Court transcripts or tape recording on the hearing date of April 18 2001 @ 8:00 a.M. Pursuant to case 00-C-166490-C

3.) A Docketing sheet Pursuant to case number 00-C-166490-C

Lastly Please return a filed or received stamped copy of these instruments to the correspondant/requestee.

Thank You In Advance

His Copious Grace:

/s/ Renard Polk

RENARD T. POLK #72439

L.C.C. P.o. Box. 359

LoveLock Nevada 89419

Renard Polk #7439
L.C.C. P.O. BOX 359
Lovelock, Nevada. 89419
Motion in Pro-Se

FILED
MAY 4 7 01 AM '04
Shirley B. Parraguirre
CLERK

In the 8th Judicial District Court
Clark County, Nevada

Renard T. Polk,
Movant
Vs:
State Of Nevada,
Real Party at Interest.
Plaintiff.

Case No: C166490
Dept No: VI
5-17-04

"Motion to Extend Prison Copywork Limit For State Habeas Corpus Action."

Comes Now, the Movant, Renard T. Polk, In his Proper Person and Pro-Se, who hereby submits his Motion and Moves this Honorable Court for and order Extending movant's copywork limit for purposes of the State Habeas Corpus Action that will be timely filed in the forseeable future, pursuant to any applicable Local Rules Governing and N.R.S. 34 on Writs and Civil Rules of Procedure.

This Motion is further made and based on Movant's Motion to Pproceed In Forma Pauperis and the attached monthly statement of finances, as well as the points and authorities herein.

Dated this 27th day of April 2004.

Renard T. Polk #72439
L.C.C. P.O. Box 359
Lovelock, Nevada. 89419

"Statement of Facts."

Movant is an indigent inmate who will exceed the ($100) one hundred dollar prison copy-work limit allowed per N.D.O.P. A.R. 720 upon the request for copy-work in reference to the Petition for Writ of Habeas Corpus that will be filed in the forseeable future.

Furthermore, the movant will not be able to copy the extensive amount of exhibits unless this Court enters such an order.

Movant believes and alleges that he is entitled to redress in the afore-said application that will be timely filed. The movant will need to prepare and serve copies of all pleadings in this action upon the Court and the Respondents pursuant to Local Rules 7-2 and F.R.C.P. 5 (d) and the movant will need a copy of these pleadings for his own use.

Movant believes this request will best serve the interest of judicial economy and time, for without such an order it is likely the pleadings will have to be served by the Court.

Movant does not know what pleadings he will need to file, but lists the following possible pleadings for this action:

1.) Any statement of additional claims pleadings for this action.

2.) Any possible opposition to the States motion to dismiss with supporting exhibits if necessary to show "fair" presentation exhaustion cause prejudice and equitable relief and tolling ect., in this action.

3.) Any reply traverse to the States answer or opposition to the Petition for Writ of Habeas Corpus.

4.) Any request for expansion of record if necessary with exhibits if needed in this action.

5.) Any motion, opposition or reply that maybe necessary in

this action.

6.) Any request for production of documents, admissions, interrogatories and leave of the Court for the same in this action.

7.) Any request for Judicial Notice in this action.

8.) Any appeal documents should the movant need to appeal such as a certificate of appealability ect,. in this action.

9.) Any motion, application or instrument to alter amend supplement or further judgment in this action.

10.) Objections to any report, recommendation of the judge in this action.

The foregoing in illustrative as the movant does not know what pleadings will be necessary in this action.

Movant's liberty interest are at stake in this action and the Movant believes the above related proceedings and pleadings are necessary in the instant action, because for obvious reasons they they will go to the very issue to be presented before this court and will allow the Movant to present his claims properly and in a meaningful manner and time.

Movant will be unable to do the such if the court does not order of his copy-work limit.

see.generally (Gluth v. Kangas 951 F.2d 1504 @ 1510 9th Cir; limiting copy work to those copies required to be filed served and one copy for the inmates record.)

Movant swears under the penalty of perjury under the laws of the United States of America and pursuant to N.R.S. 208.165 that the following is true accurate and correct.

"Conclusion and Relief Sought."

Wherefore the Movant prays that this court enter an order directed to the Nevada Department Of Corrections Lovelock Correctional Center directing authorities to allow the Movant to make the necessary copies of his pleadings and extend the copy-work limit in this action and case until the conclusion of the same.

Dated this 27th day of April 2004.

Respectfully Submitted:

Rd Polk

Renard Polk 72439

P.O. Box 359

Lovelock, Nevada. 89419

Certificate of Service By Mail.

The under -signed does hereby certify that I mailed a true and accurate copy of the foregoing to the addresses on this 27th day of April 2004 by delivering the same to an official at the LawLibrary with the purpose of being conveyed by mail in accordance and pursuant to N.R.C.P. (5):

Stewart Bell
200 South Third St.
Las Vegas Nevada 89101

Mary K Holthus
200 South Third St.
Las Vegas Nevada 89101

Clerks Office
200 South Third St
Las Vegas, Nevada, 89101

Rd Polk

Renard T. Polk
LoveLock Correctional Ctr
L.C.C. P.O. Box 359
LoveLock, Nevada. 89419

139

CASE NO: C166490

DEPT NO: VI

FILED

MAY 4 7 01 AM '04

Shirley B. Parraguirre
CLERK

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

The State of Nevada,
-Plaintiff-

vs.

RENARD T. POLK,
-Defendant-

AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

I, RENARD T. POLK, first being duly sworn, depose and say that I am the Movant in the above-entitled action; that in support of my Motion for Leave to Proceed in Forma Pauperis without being required to prepay fees, costs, or give security therefor; I state because of my poverty, I am unable to pay the costs of said proceedings or to give security therefor; that I am entitled to relief.

I X do request an attorney appointed to me.

I ____ do not request an attorney to be appointed to me.

I further swear that the responses wich I have made to questions and instructions below are true and correct to the best of my knowledge

1. Are you presently employed? YES ____ NO X

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer: N/A

b. If the answer is no, state the date of last employment and the amount of salary and wages per month you received: N/A

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?

YES ____ NO X

b. Rent payments, interest or dividends?

YES ____ NO X

c. Pensions, annuities or life insurance payments?

YES ____ NO X

d. Gifts or inheritances?

YES ____ NO X

e. Any other sources?

YES ____ NO X

If the answer to any of the above is "YES" describe each source of money and state the amount received from each during the past twelve months: N/A

3. Do you own cash or equivalent prison currency, or do you have money in a checking account?

YES ____ NO X

If the answer is "YES" stat the total value of the items: N/A

4. Do you own any real estate, stocks, bonds, notes automobiles, or other

valuable property (excluding ordinary household furnishings and clothing)?

YES_____ NO X

If your answer is "YES" describe the property and state its approximate value: N/A

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: N/A

UNDER THE PENALTY OF PERJURY, pursuant to NRS 208.165, the above afficavit is true and correct to the best of affiants personal knowledge.

DATED this 27th day of April, 2004.

By: RENARD POLK /s/ Rd Polk

NDOP# 72439
Lovelock Correctional Center
Post Office Box 359
Lovelock, Nevada 89419-0359

CASE NO. C166[redacted]OC

DEPT. NO. VI

FILED

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

MAY 4 7 01 AM '04

Shirley B. Parraguirre

CLERK

The State of Nevada,

-Plaintiff-

vs.

RENARD T. Polk,

-Defendant-

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

5-17-04

Comes now the Movant, in properia persona, pursuant to NRS 12.015, and respectfully moves this Court for an order granting RENARD T. Polk leave to proceed in the above-entitled action in forma pauperis without requiring sucurity for the payment of costs of prosecuting this action.

This motion is made and based upon the attached affidavit and certificate of inmate's institutional account.

Respectfully Submitted,

Rd Polk

NDOP # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419-0359

RENARD T. POLK # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant in Pro Se

FILED
MAY 4 7 01 AM '04
CLERK

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

THE STATE OF NEVADA, Plaintiff, -vs- RENARD T. POLK, Defendant.	Case No. C-166490-C Dept. No. VI Date of Hearing: 5-17-04 Time of Hearing:

NOTICE OF MOTION AND MOTION FOR WITHDRAWAL
OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS

COMES NOW Defendant, RENARD T. POLK, in pro se, and submits his Notice of Motion and Motion for Withdrawal of Attorney of Record and Transfer of Records, moving this Court to Order that David Sheike ESQ, counsel of record in the above-entitled action, be withdrawn as counsel of record herein, and that said counsel deliver to Defendant all Documents, Pleadings, Papers and Tangible Personal Property in counsel's possession and control to Defendant, at counsel's expense, to the above address.

This motion is based upon NRS 7.055, Nevada Supreme Court Rules 46 & 166, this Court's Local Rule of Practice corresponding to this Motion, as well as the attached points and authorities and affidavit supporting same.

NOTICE OF MOTION

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for hearing before the above-entitled Court and

Department Number, on the date and time set forth on the caption above, or soon thereafter as the matter may be heard.

Dated this 27th day of April, 2004.

In Proper Person
REYNARD T. POLK # 72939
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant In Pro Se

POINTS AND AUTHORITIES

Although an attorney may not withdraw as counsel of record if doing so would adversely affect the client's interest, Madrid v. Gomez, 150 F.3d 1030, 1038-39 (9th Cir. 1998), the client may terminate his counsel's representation at any time, Kashefi-Zihagh v. I.N.S., 791 F.2d 708, 711 (9th Cir. 1986). See NRS 7.055.

Upon being discharged by his client,

> [The] attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

NRS 7.055(1)(emphasis added). See also Nevada Supreme Court Rule (SCR) 46 & 166; Second Judicial District Court Rule 23(1); and Eighth Judicial District Court Rule 7.40(b)(2)(ii).

As the judgment of conviction has been entered in this case, with appeal, if any, having been perfected, counsel's services are no longer required in this criminal matter. Defendant has, pursuant to the mandates of NRS 7.055(3) directed counsel to forward to him all documentation generated in this action and to withdraw as counsel of record, but counsel has failed to comply. See Affidavit in support of instant motion.

Counsel's refusal to withdraw himself and forward said documentation to Defendant violates the letter and spirit of SCR 166(4), which directs a discharged attorney to "protect a client's interests" by "surrendering papers

and property to which the client is entitled." Id. This rule governing attorney conduct is a basic one of which the American Bar Association has recognized by requiring of all attorneys within Canon 2 of the Code of Professional Responsibility, EC2-32, and Disciplinary Rule 2-110(A)(2). The Nevada Supreme Court has likewise adopted this rule within SCR 150. See, e. Jones, Waldo, Holbrook, Etc. v. Dawson, 923 P.2d 1366, 1376 (Utah 1996).

Counsel herein has no legal basis for withholding Defendant's papers in this matter, as Defendant owes counsel NO fees which would permit counsel to maintain said papers under a general or retaining lien. Figliuzzi v. District Court, 111 Nev. 338, 340-41, 890 P.2d 798, 800-02 (1995).

Therefore, this Court is moved to exercise its jurisdiction in this matter and ORDER counsel to be withdrawn as counsel of record and to deliver to Defendant the entirity of documentation generated in the instant case, as Defendant has no other remedy at law to compel counsel to do so.

Dated this 27th day of April, 2004.

In Proper Person
BERNARD T. BIK # 22439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant In Pro Se

/ / /

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/ / /

/ / /

/ / /

RENARD T. POLK # 72429
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant In Pro Se

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

THE STATE OF NEVADA, Plaintiff, -vs- RENARD T. POLK, Defendant.	Case No. C-166496-C Dept. No. VII

AFFIDAVIT IN SUPPORT OF MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS

STATE OF NEVADA)
) ss:
COUNTY OF PERSHING)

COMES NOW, RENARD T. POLK, who being first duly sworn and under the penalty of perjury, do hereby depose and state the following:

(1) I am the Defendant in the above-entitled action.

(2) I mailed a letter to David Sheike Esq on the ____ day of 19th April, 2004, which was at least five (5) days prior to the date indicated below, wherein I gave notice to said counsel of his termination as counsel of record and instructed said counsel to so withdraw himself and forward to me my case files herein pursuant to NRS 7.055.

(3) I have received no response from said counsel, nor his office, as to my said instruction. I am therefore submitting the instant motion in good faith, as I have no other remedy than this Court's power to enforce my

statutory rights under NRS 7.055 to cause counsel to be withdrawn and to se me my said case files.

Dated this 27th day of April, 2004.

In Proper Person
REYNARD T. Polk # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant/Affiant In Pro Se

VERIFICATION UNDER PENALTY OF PERJURY

I do verify under the penalty of perjury that the above affidavit is tr and correct and is stated to the best of my knowledge, and is made without benefit of a notary pursuant to NRS 208.165, as I am an incarcerated person.

Renard T. Polk #72439

Defendant In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF MOTION AND MOTION FOR WITHDRAWAL OF COUNSEL OF RECORD AND TRANSFER RECORDS to the below addresses on this ____ day of April, 2004, by placing same into the U.S. Mail via prison law library staff, in compliance with N.R.C.P. 5:

DISTRICT ATTORNEY
Clark County
Mary K Holthus
200 South Third St
Las Vegas NV, Nevada
89101

Attorney for Plaintiff

David Ohiele
302 East Carson
Suite #600
Las Vegas, Nevada
89101

Attorney of Record

In Proper Person
REYNARD T. Polk # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant In Pro Se

Renard T. Polk, # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

April, 2004

In Proper Person
Renard T. Polk #72439
Lovelock Correctional Cnt
Lovelock Nevada, Nevada 89419

RE: STATE v. Polk Renard, Case No. C-166490-C
YOUR TERMINATION AS COUNSEL AND DELIVERY TO ME OF ALL CASE MATERIALS PURSUANT TO NRS 7.055

Dear Counsel,

Be advised that as of this date your authority and authorization as attorney of record in the above-entitled case is terminated and all professional relationship is ended. It is noted that I owe you no fees as you were appointed to represent me due to my indigence.

Pursuant to NRS 7.055 I am demanding immediate delivery to me at the above address of ALL papers, documents, pleadings and items of tangible property which belong to me or were prepared for me in relation to the above-entitled case.

Be advised that in the event I do not receive the requested materials in a timely manner as required by the statute, i.e., five (5) days from the date above, I will file a motion with the court to obtain an order directing your compliance with the statutory requirements as requested herein.

Thank you for your attention to this matter. I await your prompt response.

Sincerely,

Rd T. Polk

cc: file

Reward T. Polk # 72439
Lovelock Correctional Center
P.O. Box 359
Lovelock, Nevada 89419

Defendant In Pro Se

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

* * * * *

THE STATE OF NEVADA, Plaintiff, -vs- Reward T. Polk, Defendant.	Case No. C-166490-C Dept. No. VI

O R D E R

THIS MATTER, having been duly considered by the Court, it is hereby ORDERED that the Defendant's proper person Motion for Withdrawal of Attorney o Record and Transfer of Records is hereby GRANTED.

Counsel David Sheike shall be withdrawn as counsel of record in the above-entitled action, and is directed to forthwith send to Defendant, at the Lovelock Correctional Center, all Pleadings, Papers, Documents and other Tangible Personal Property in and related to the above-entitled action which are in counsel's possession and control. Such mailing or other form of delivery is to be affected at counsel's expense.

IT IS SO ORDERED.

Dated this _____ day of April, 200__.

DISTRICT COURT JUDGE

2A 48 LOC

CASE NO. C166490

DEPT. NO. VI

IN THE 8th JUCICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

The State of Nevada,
Plaintiff,

vs.

RENARD T. Polk,
Defendant.

CERTIFICATE OF INMATE'S INSTITUTIONAL ACCOUNT

I, the undersigned, hereby certify that RENARD T. Polk, # 72439, Plaintiff above named has a balance of $ .03 on account to his credit at the Lovelock Correctional Center, Lovelock, Nevada, where he is presently confined.

I further certify that the said Plaintiff owes Departmental Charges in the amount of $ 151.52 and that he has ~~no~~ $43.00 securities to his credit according to our records.

DATED this 22nd day of APRIL, 2004

Rocky Acct Tech II
Institutional Officer's Signature and Title

Submitted by: Renard Polk # 72439

Date Submitted: _____

107

Renard T. Polk #72439
L.C.C. P.O. Box 359
LoveLock, Nevada. 89419
InProper Person

FILED

District Court JUL 1 11 16 AM '04

Clark County, Nevada

CLERK

Renard T. Polk

Petitioner,

VS.

Craig Farwell, Warden,

The State of Nevada, real party in interest.

Respondent.

Case No: C166490

Dept No: VI

Docket No:

Affidavit in Support of Petition for Writ of Habeas Corpus (Post-Conviction).

I, RENARD T. POLK do hereby swear under the penalty of perjury pursuant to N.R.S. 208.165 that the foregoing is true, accurate and correct:

RECEIVED
JUL 01 2004
COUNTY CLERK

That on or in the Summer of 1996 Polk was (15) fifteen years of age and staying at the residence of Mellisa Hendricks, who was (22) twenty-two years of age at that time.

During Polk's saty at Ms. Hendricks residence Polk and Ms. Hendricks were engaging in sexual intercourse for approximately (3) three weeks.

Sometime later Ms. Hendricks and Polk had a confrontation where Polk thenbroke Ms. Hendrick's car window by throwing a bottle of daily supplement through the same.

Ms. Hendricks then pressed charges against Polk for **Malicious Destruction of Private Property.**

An investigation was conducted by detective John Doe.

Polk was then summoned to the detectives bureau to give a statement for the alleged misconduct.

During Polk's reciting of what took place, Polk related to the detective that Polk and Ms. Hendricks had been dating and that Polk and Ms. Hendricks had been engaging in sexual intercourse for somtime, thus the reason he was staying with Ms. Hendricks.

After this, said detective ceased from questioning Polk and told him he was free to leave the bureau.

After Polk left the bureau no action was taken on Ms. Hendricks behalf or Polk's.

The charges against Polk were then dismissed based upon insufficient evidence.

On March 3, 1999 Polk was **unconditionaly released** from the Family and Youth Services Facility after being accredited time served pursuant to case number J241117, where upon release juvenille

wardship should have terminated.

That is to say that, on September 21, 1998 Polk was charged with **robbery with substantial bodily harm** case number 524117.

During the normal course of court proceedings Polk was found guilty of battery and scheduled to be sentenced on January 13, 1999.

Also, at this time Polk had an adult charge pending in the adult court system and was scheduled to go before the court on a preliminary hearing on Janury 9, 1999 pursuant to case number 98F17396X.

Polk failed to appear in both jurisdictions and an arrest warrant was issued in both cases.

On Jauary 14 , 1999 Polk was apprehended for the above-stated arrest warrants and sent to the Clark County Detention Center where another preliminary hearing was scheduled pursuant to case 98F17396X for January 27, 1999.

After some fact finding proceedings the adult court system dismissed case 98F17396X and remanded the case back to the court based upon the fact Polk had not been certified as an and did not therefore have jurisdiction to prosecute Polk.

Polk was then sent back the juvenille facility on February 7, 1999.

On February 8, 1999 Polk's sentencing date was rescheduled for March 3, 1999 pursuant to casenumber

On March 3, 1999 the juvenille court found and concluded that since Polk was over the age of (18) eighteen years old, had been detained cumulatively for (4) months and still had a serious case pending upon the conclusion of the afore-said matter, juvenille wardship should terminate.

This was to be carried out by Steve Barber, Polk's primary

juvenille probation officer, who had been allocated as such on a previous matter.

However, Steve Barber failed to carry out the order of thecourt and failed to terminate the first probationery term.

That on March 13, 1999 the victim Anna Polk in her statement to detective David Dunn, the above-stated person accused Darryl and Dorrian Bryant of sexually assaulting Anna Polk by inserting their penius or other parts of Darryl and Dorrian into the vagina or anal opening against Anna Polk's will orunder conditions Anna Polk was mentally or physicaly incapable of resisting or undstanding the conduct of Darryl and Dorrian Bryant.

That is to say that when Anna Polk was questioned about the crime Polk is currently convicted of Anna Polk not only accused Polk of the crime, but also Darryl and Dorrian Bryant of the same **see exhibit** "C" pg. 7.

On March 14, 1999 an arrest warrant was issued against Polk for this case now before this court.(00-C-166490-C), **see exhibit**

On April 8, 1999 detectives attempted to apprehend Polk pursuant to case number 00-C-166490-C, but to no avail.

On April 15, 1999 an arrest warrant was issued by Gail Lassitter at the behest of Steve Barber for Polk's arrest for failing to abide by the conditions and terms of juvenille probation.

However Polk was not on supervised release for the juvenille courts.

Yet it would appear so due to the fraudulent documents on file at the juvenille courts bourne out by the following:

1.) The Formal Probation Order assigning Polk to probation specifies that Parental Consent Decree has been completed and signed by Polk's legal gaudian to make Polk's probation binding **see exhibit** "I" pg. 6

However, in truth and in fact this document cannot and will no be located in Polk's juvenille record or file.

2.) The Dispositional Report recommending Polk be put on probation written up by Steve Barber filed on January 11, 1999 represents the fact that Polk was to go before the adult court system for a preliminary hearing pursuant to case 98F17396 on January 27, 1999. **see exhibit** "I" pg: 3

Nevertheless, there is no possible way this information could have been known to Steve Barber at that time, due to the fact Polk did not receive the scheduled hearing for that case until (3) three days after the report was filed, when Polk was re-arrested on January 14, 1999 for case 98F17396X.

see exhibit "Z" pg: 1

3.) The Termination of Wardship Order was received by the county clerk on January 12, 2000. **see exhibit** "I" pg: 10

However, the signatures completing the document were affixed to the document on January 13, 2000.

That on April 18, detectives again tried to apprehend Polk when they were made aware as to his location at that time, but again to no avail.

That in or on June or July of 1999 Polk was involuntarily committed to the Oasis Mental Health Facility after Polk attempted suicide.

Durings Polk's stay at the mental health facility, Polk was diagnosed with split personality disorder, schyzophrenia and bipolaria.

Also, the case worker asigned to Polk niether checked or researched to see whether Polk had any warrants in the criminal justice system.

Approximately (3) three weeks after, POlk was released and

prescribed anti-psychotic medication to be re-filled after depletion.

On August 14, 1999 Polk turned himself in by having an operator dispatch a patrol unit to his location.

During being transported Polk noticed he was being taken to the juvenille facility at which time he asked officers T. Beck #5472 and David Newton #5278, "Why was he being taken to the juvenille facility."

The officers then answered Polk by saying,"You know why."

That after this, no other words were exchanged.

However, the official police report pursuant to this case make and represents the statement, made by the afore-said officer that, "Polk turned himself in because he was ashamed of what he had done."

When in truth and in fact Polk **never** made such a statement to officers T. Beck and David Newton.

That after Polk was booked in at the juvenille facility detective Timothy Moniot #4664 was called to investigate the possible apprehension of a person wanted for questioning.

When the afore-said detective introduced himself to Polk, he then asked if Polk would like to give a statement pursuant to case number 00-C-166490-C, this case now before this court.

That before Polk could respond Detective Timothy Moniot motioned or gestured toward his gun holster.

Polk then quietly consented to the detectives questioning.

Still before questioning began Polk again asked, "why he was at the juvenille detection center."

Detective Moniot then told Polk for this case now before this court.

However, when the issue was brought to Polk's attention later

in court proceedin[illegible], [illegible]t was assessed that the[illegible]re[illegible]on Polk was at the juvenille facility was for a probation violation and revokation.

Agian Polk was **not** on supervised release for the Juvenille Courts at that time.

The Detective then proceeded to question Polk and recorded the interview on a microcassette recorder.

That each time the detective beleived POlk to be lieing or was becoming less compliant he would make inferrence of a lie detector test and motion toward his gun holster.

see exhibit "F" pgs: 19 & 27

That after the interview was over or completed, the detective did with the complicity of another make insertions and ommissions inconsistent with the recording of the interview.

That is to say that, the transcription of the interview left out on page 19 and 27 that Polk asked the afore-said detective for, "psychiatric help." **see exhibit** "F"

That on pages 18 and 11 the detective inserted that, "POlk could remember what he had done."

The detective then swore to the truthfullness and accuracy of the transcription and filed the same with the Metropolitan Police Department on August 22, 1999.

On August 16, 1999 Polk was sentenced to (30) thirty days county time for a manufactured probation allocation, violation and revokation. (J241117)

During Polk's stay at the Clark County Detention Center, POLk was being forced to take anti-psychotic medication against his will and better judgement.

That is to say that, upon arrival at the detention center psychiatrists asked Polk if he had any prior mental health

history or had he been prescribed medication in the past.

At which time Polk told the psychiatrists, "yes."

The doctors then asked Polk if he felt he needed to be administered medication at this time, Polk replied, "no."

Then on August 24, 1999 Dr. Mantis, a psychiatrist at the detention center, conducted an evaluation at the request of a correctional officer at the facility.

Dr. Mantis found that Polk was suffering from paranoid dellusions, hallucenations and had trouble communicating and that Polk should be administered psychotropic medication.

Polk was then sent to the "psyche floor" at the facility.

During Polk's stay on the "psyche floor" Polk made vehement refusals to be administered psychotrpic medication, but to no avail.

That when Polk would refuse to take the prescribed medication officers would then hold Polk down and administer it introvenously.

On September 15, Polk was released from the Clark County Detention Center and never charged with case 00-C-166490-C, even though an arrest warrant had been issued (7) months prior to Polk being in custody.

On October 21, 1999 detectives tried to apprehend Polk when they were made aware to his location, but with no success.

On October 28, 1999 Dr. Alli, Polk's child psychiatrist, moved his practice to a different location.

On November 8, 1999 Polk was cited and detained for **possession of a stolen vehicle**, case number 991860X for approximately (5) five days.

The state chose not to pursue the above-mentioned case niether case 00-C-166490-C, the same case authorities had been trying to

previously apprehe[illegible] Polk on.

On January 13, 2000 Juvenille Wardship was terminated by the juvenille courts.

However, the order terminating juvenille wardship was filed before it was completed.

That is to say that, the county clerk filed the document to terminate juvenille wardship on January 12, 2000 and the official's signatures were affixed to the document on January 13, 2000.

That also on January 12, 2000 the complaint pursuant to this case was written up.

On February 23, 2000 Polk was stopped for a disterbance in the nieghborhood Polk was located at, at which time the officer dispatched to the disturbance noticed Polk had a warrant out for his arrest.

Polk was then sent to the Clark County Detention Center and the prosecution of this case, (00-C-166490-C,) ensued.
While in custody at the detention center from Febraury 23, 2000 until, upto and about April 11, 2002, Scott Kavcos did with the complicity of other persons secret, destroy, detain, delayed, hindered or opened the contents of legal corraspondances, which letters had been entrusted into his and their possession to be conveyed by mail.

That is to say that when Polk tried to correspond with the following agencies: 1.) Judicial Compliance Committee 3476 Executive Pointe Way, Carson City, Nevada. 89706. 2.) A.C.L.U. 3255 S. Third Street Las Vegas, Nevada. 89101. 3.) Nevada Bar Association P.O. Box 3363 Carson City, Nevada. 89702. 4.) N.A.A.C.P. 4805 Mt. Hope Dr. Baltimore, Maryland. 21215. 5.) Internal Affairs 400 Stewart Ave Las Vegas, Nevada. 89101.

the agencies told Polk that they had never received any materiaL or letters from Polk.

Even though letters had been given to the mail room to be conveyed to the stated agencies.

see exhbit "AK".

That when Polk attempted to get in contact with a news publication, officials at the detention center would not let Polk talk to the publication that had come to interview Polk.

That is to say that, when the Tribune requested an interview with Polk through an associate of Polk's the Clark County Detention would not allow the publication to see POlk.

That when the News Publications asked if there was a way to schedule an interview with Polk.

The officials at the detention center gave no comment and told the news publication to leave.

That also while Polk was at the detetion center phone numbers to the following agencies were blocked: 1.) F.B.I. Las Vegas Division (702) 385-1281;2.) Nevada Attorney Genaral 3.) Nevada State Bar (702)382-2200;4.)Department Of Justice (702)388-6336: 5.) Internal Affairs (702) 229-3422.

During the course of court proceedins On November 21, 2000 Polk sent to the eigth judicial district court a motion of ineffective assistance of counsel to dismiss counsel of record Christopher Oram as the attorney representing Polk.

On November 29, 2000 Nora Pena or Chryste Domingo at the behest of Joseph T. Bonaveture failed to file the motion Polk sent to the courts on the twenty-first of that month.

That is to say that, when Polk deposited the afore=said document to be filed, to invoke a judicial inquiry into counsel

of record means and compentency of representation.

The document was not forwarded for filing or filed directly by the court.

That is to say that, when Nora Pena or Chryste Domingo received the document to be filed it was sent to Joseph T. Bonaventure, the judge in department six, who was residing over Polk case, at his behest, in the eigth judicial district court.

That when the afore-said judge received the document, it was then sent to Christopher Oram, the attorney upon the inquiry was to be invoked.

Where it was then thrown away or destroyed and never filed.

That it has become common practice for the Clark County Clerk's office to **not** file certain documents that would be detrimental to government officials outside the endorsement of one who is represented by counsel.

On December 27, 2000 Polk through his attorney motioned for discovery to obtain the coerced statement given to detective Timothy Moniot during the arbitrary juvenille proceeedings from Mary K. Holthus, the prosecutor appointed to Polk's case.

That on the above mentioned date the prosecutor told Polk and the court that, " she did not have the statement or was even aware that one existed."

On January 10, 2001 this discovery matter was brought before the court again, at which time the prosecutor said, "they did not possess a statement from Polk."

On March 26, Polk was scheduled to go to trial, however trial was continued to a later date due to unforeseen circumstances.

On April 18, 2001 judge Joseph T. Bonaventure initiated, permitted, considered or conducted an ex parte communication

at the request of the prosecutor, Mary K. Hurthus, (10) ten minutes before Polk was to come before the court on a Bail Reduction or O.R. Hearing.

That during this time the prosecutor produced the statement Polk had been trying to obtain (4) four months before that hearing took place.

When the hearing convened the prosecutor was asked why there was so much of a delay inlocating the statement, at which time the prosecutor told the court and Polk that," she had just received a copy the day before the hearing."

When in truth and in fact the statement had been in the state's possession since August 22, 1999 and the prosecutor possession since March 13, 2001. **see exhibit** "F" pgs: 1-31

The judge then ordered that Polk be held without bail and said," he could **not** possibly let anybody out into society who had given such an incriminating statement."

On July 8, 2001 Polk told Christopher Oram, counsel of record, to take action about the violations that he had sustained thus far.(i.e. coerced statement, failure to file Polk's motion and fraudulent documents on file at the juvenille court.)

However, counsel did not take action or report the crimes.

That is to say that, when Polk related the fact that detective Tiomthy Moniot #4664 made the inferrence of a lie detector test to solicit a statement by motioning toward his gun holster from Polk counsel of record Christopher Oram told Polk that the detectives action was not a valid issue to bring before the court and that Polk might be retaliated on if he did bring forth that allegation if it was unfounded.

That Christopher Oram said to Polk that, "he did not beleive the detective would do such a thing anyway."

On September — 2001 Polk entered a plea of NOT GUILTY BY REASON OF INSANITY, through counsel or record.

On October 4 ,2001 the psychiatrist appointed by the court to assess whether Polk could put on an insanity defense niether questioned Polk about events that lead upto the alleged crime, tape recorded the interview or asked Polk any psychiatric questions, but relied wholy on the evaluations conducted at the Lakes Crossing Facility in making his determination of Polk's mental stability or frame of mind.

On December 4, 2001 Polk sent in a Petition for Writ of Habeas Corpus (2) two to (3) three weeks before the next pre-determined court hearing date.

That when the county clerk received the document he/she then sent it to thejudges chambers of Joseph T. Bonaventure in department six where the afore-said judge with-held filing the document until December 24, 2001, and then repremanded Polk for filing last minute applications to the court.

On January 7, 2001 Chistopher Oram informed Polk and the court that the defense would **not** be bringing forth the issue of insanity and told Polk if he contested what was being done openly in front of the jury pool or act in any way it would look bad to the jury and the judge would hold him in contempt and send Polk to the hole or disciplinary segragation indefinitely.

On January 7, 2002 detective Timothy Moniot informed the court that he would be giving the court a better transcription of the statement Polk had given back on August 14, 1999.

However, on the following pages, the following statements were left out or ommitted: see ground (e) .

During trial on the afore-said date David Newton testified that while talking to Polk before he was taken to the juvenille facility Polk stated that , "he was ashamed of what he had done."

When intruth and in fact Polk **never** made such a statement to officer David Newton.

That on January 8, Jamila Chatmen was going to testify that she had seen Polk committ the crime he is currently convicted of.

As supported by the afore-said person's statement given to detective David Dunn. **see exhibit** "C" pgs: 3-4.

However the prosecutor Mary K. Holthus deceived, influenced or intimidated Jamila Chatmen to testify to just the opposite **see exhibit** "E" pgs: 1-39

On or about June 14, 2003 Polk asked direct appaelate attorney David Shieke to include in the oppening brief issues that Polk had prevred during trial, at which time counsel told Polk that the issues were mertiless and that he dod not want to occupy the court times with frivilous claims.

Upon being tried, I did face an all white jury.

I am an American of African Decent, and refered to an Afican American Male.

I do not believe that I was tried by a fair and impartial jury, not simply because the jury was all white, but because the jury commisioner;s office keeps no record of race and has no such safe gaurd by which to prevent an individual from going to trial with a jury that is representitive of a fair cross-section of the community.

I belive further that I was entitled to have on the jury panel, a panel that consisted of not only whites but also, asians, hispanics, and other minority groups that make up

the racial dynamics of clark county--Las Vegas, Nevada.

I also do hereby assert that I was a witness called to testify in the State of Nevada v. Brent H. Sheridan case number C-166156, department IV, and make and represent that the above-stated person had an all black jury, or a jury panel that consisted of only "blacks".

I therefore believe that the sysytem is fundamentally flawed since the jury pooling or process, a random process intentionaly or unintentionaly excludes minority groups.

RENARD T. POLK
Inmate No. 72439
L.C.C. P.O. Box #359
Lovelock, Nevada. 89419

FILED

JUL 1 11 16 AM '04

CLERK

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

RENARD T. POLK,
Petitioner

vs.

STATE OF NEVADA,
Respondent.

Case No. C166490

EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING

COMES NOW Petitioner RENARD T. POLK, in Proper Person, and moves this Court for its order allowing the appointment of counsel for Petitioner and for evidentiary hearing. This motion is made and based in the interest of justice.

Pursuant to NRS 34.750(1),

A petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. If the court is satisfied that the allegation of indigency is true and the petitioner is not dismissed summarily, the court may appoint counsel to represent the petitioner. In making its determination, the court may consider, among other things, the severity of the consequences facing the petitioner and whether:

(a) The issues presented are difficult;

(b) The petitioner is unable to comprehend the proceedings, or

(c) Counsel is necessary to proceed with discovery.

Petitioner is presently incarcerated at Lovelock Corr. Cent., Lovelock, Nevada, where he is unemployed, indigent and unable to retain private coun-

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sel to represent him.

Petitioner is unlearned and unfamiliar with the complexities of Nevada state law,particulary state post-conviction proceedings.Further Petitioner alleges that the issues in this case are complex and require an evidentiary hearing.Petitioner is unable to factually develop and adequately present the claims without the assistance of counsel.Counsel is unable to adequately present the claims without an evidentiary hearing.

Petitioner hereby respectfully requests that the Court appoint counsel set a date for evidentiary hearing for the reasons stated above.

DATED this 24 day of June ,2004.

Respectfully submitted,

Petitioner RENARD T. Polk

CERTIFICATE OF SERVICE BY MAIL

I, Ronald T. Polk, hereby certify pursuant to N.R.C.P.5(b), that on this 24 day of June, 2004, I handed to a prison official for mailing a true and correct copy of the foregoing REQUEST FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING addressed to:

District Attorney's office
200 South Third St.
Las Vegas, Nevada. 89101

Clerk's office
200 South Third St.
Las Vegas, Nevada. 89101

Attorney General's Office
100 North Carson St.
Carson City, Nevada 89701

Renard T. Polk #72439
L.C.C. P.O. Box 359
In Proper Person
LoveLock, Nevada. 89419

FILED

JUL 1 11 16 AM '04

Shirley B. Parraguirre
CLERK

District Court

Clark County, Nevada

Renard T. Polk
Petitioner

VS.
The State of Nevada
Respondent,
Craig Farwell, Warden.
Real Party in Interest.

Case No: C166490
Dept No: VI
Docket No:

Memorandum Of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction.)

Comes Now:

Petitioner Renard T. Polk., and files this memorandum of exhibits in support of the instant petition writ of habeas corpus.

Respectfully Submitted:

R. Polk 6/24/04

Renard T. Polk #72439
L.C.C. P.O. Box 359
LoveLock, Nevada. 89419

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Com. Pag. Nom.
16 Pgs.

Exhibit _____ A

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

04/18/00 08:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
003814 Holthus, Mary Kay Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

Mr. Oram advised the matter was negotiated, however, Defendant now wishes to proceed to trial. Negotiations stated by Ms. Holthus. COURT ORDERED, matter CONTINUED for Arraignment and filing of an Amended Information.

CUSTODY

4/25/00 8:00 AM ARRAIGNMENT CONTINUED & FILING OF AMENDED INFORMATION.

04/25/00 08:00 AM 00 ALL PENDING MOTIONS 4/25/00

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
004630 Hendricks, Craig L. Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

FILING OF AMENDED INFORMATION...ARRAIGNMENT CONTINUED

Mr. Oram advised matter was negotiated in Justice Court, the deft. has indicated reservations and moved to have his client psychologically evaluated but he does not want the plea offer to go away. Mr. Hendricks advised he did not have the file but had no objection to going along with it. Court directed counsel to have deft. evaluated by a doctor and ORDERED, matter set for further proceedings.

CUSTODY

5/23/00 8:00 AM FURTHER PROCEEDINGS: EVALUATION

CONTINUED ON PAGE: 002

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 001

05/23/00 08:30 AM 00 FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
003814 Holthus, Mary Kay Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

Mr. Oram advised he received the order back and requested more time for a psychological evaluation. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/13/00 08:30 AM 01

06/13/00 08:30 AM 01 FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
003814 Holthus, Mary Kay Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

Mr. Oram advised the psychological evaluation is not yet completed and requested another ten days. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/27/00 08:30 AM 02

CONTINUED ON PAGE: 003

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 002

06/27/00 08:30 AM 02 FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
DEBRA VAN BLARICOM, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Mr. Oram advised this is from a special unit with Mary Kay Holthus, he has a report that recommends the Deft. be sent to Lakes Crossing and has heard nothing from the State. Upon Court's inquiry, Mr. Oram agreed he would need a second psych report. Deft's mother present, asked for an O.R. release. Court stated "no" because the Court needs to be satisfied with Deft's mental status. Mr. Oram requested 3 weeks. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 07/18/00 08:30 AM 03

07/18/00 08:30 AM 03 FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
004630	Hendricks, Craig L.	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Mr. Oram advised he doesn't have the report, the doctor saw the Deft. yesterday, he will call the doctor this morning to get the report and requested one week continuance. COURT ADMONISHED MR. ORAM regarding 6 continuances and ORDERED, matter continued.

CUSTODY

CONTINUED TO: 08/01/00 08:30 AM 04

CONTINUED ON PAGE: 004

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 003

08/01/00 08:30 AM 04 FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
003814 Holthus, Mary Kay Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

Mr. Oram advised pursuant to Dr. Jurasky's report he would need more time to exam the Deft. and states he is mentally ill. However Mr. Oram requested Deft. be sent to Lakes Crossing. Ms. Holthus concurred with Mr. Oram and noted the doctor came up with weird conclusions. Pursuant to NRS 178.425, COURT ORDERED, defendant REMANDED to the custody of the Administrator of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.

CUSTODY - LAKES CROSSING

11/02/00 08:30 AM 00 AT THE REQUEST OF COURT ADMINISTRATION: STATUS CHECK

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
005218 Peterson, Tamara M. Y

001 D1 Polk, Renard T N
004349 Oram, Christopher R. Y

Ms. Peterson advised deft is not present but at Lakes Crossing and moved to file ORDER OF FINDINGS OF COMPETENCY AND ORDER TO TRANSPORT DEFENDANT IN OPEN COURT. Orders executed in open court. Ms. Peterson advised Deft. waived before negotiations then was going to back out, she asked to file the amended information but can wait pursuant to Court's suggestion. Mr. Oram advised the Deft. has had an opportunity to have a psych evaluation and may come down and want the deal. No objection by Ms. Peterson and advised the deal is still open. COURT ORDERED, Deft. found competent and Deft. to be transported; matter set for negotiations and/or trial setting.

CONTINUED ON PAGE: 005

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 004

CUSTODY

11/22/00 8:30 AM NEGOTIATIONS AND/OR TRIAL SETTING

11/22/00 08:30 AM 00 NEGOTIATIONS AND/OR TRIAL SETTING

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Court advised has declared Deft. competent. Mr. Oram requested to set a trial date because he wanted to talk with the Deft. Ms. Holthus moved to file an Amended Information. After review of it, Mr. Oram advised he thought this was a robbery. Ms. Holthus advised if there is a problem she can file another one. CONFERENCE AT THE BENCH. AMENDED INFORMATION FILED IN OPEN COURT. Upon Court's inquiry, Deft. advised his TRUE MIDDLE NAME is TRUMAN. COURT SO ORDERED. DEFENDANT POLK ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

3/22/01 8:30 AM CALENDAR CALL

3/26/01 9:30 AM JURY TRIAL

12/27/00 08:30 AM 00 DEFT'S MOTION FOR DISCOVERY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: SHARRY FRASCARELLI, Relief Clerk
CARRIE HANSEN, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
005873	Benedict, Susan M.	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Mr. Oram advised he talked with Ms. Holthus regarding information he is seeking on statements the Deft may have made concerning this case. Further, the Deft states he has previously been charged with this identical charge.

CONTINUED ON PAGE: 006

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 005

Mr. Oram advised as long as the information he is requesting is provided within two weeks, he will take this motion off calendar. COURT SO ORDERED and advised matter can be placed back on calendar if necessary. FURTHER ORDERED, trial date STANDS.

CUSTODY

03/22/01 08:00 AM 00 CALENDAR CALL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CAROLE D'ALOIA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Upon Court's inquiry, Ms. Holthus advised she will not be ready for trial until Tuesday of next week since she is in trial. Mr. Oram advised he does not object to matter being continued as he has his investigator out looking for witnesses. Mr. Oram also advised he filed a motion that is calendared for Monday and will need to supplement that motion. COURT ORDERED, TRIAL DATE VACATED AND RESET AND 3/26/01 DATE VACATED.

CUSTODY

7/26/01 8:30 AM CALENDAR CALL

7/30/01 9:30 AM JURY TRIAL

CONTINUED ON PAGE: 007

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 006

04/18/01 08:00 AM 00 DEFT'S MOTION FOR O.R. RELEASE OR BAIL REDUCTION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CAROLE D'ALOIA, Court Clerk
JANICE LISTON, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003776	Monroe, Vicki J.	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Discussion between Court and Mr. Oram regarding a statement made by Defendant. Ms. Holthus explained she has been looking for the statement and it was finally located and she just received a copy from Metro Records and presented a copy to Mr. Oram. Statements by Court regarding the history of this case. COURT ORDERED, motion DENIED, BAIL STANDS AS SET. Statements by Defendant.

CUSTODY

07/23/01 08:30 AM 00 STATE'S MOTION: ADMIT EVIDENCE OF OF OTHER CRIMES ACTS AND WRONGS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Carole D'Aloia, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
001 D1	Polk, Renard T	Y

COURT ORDERED, matter CONTINUED FOR JUDGE BONAVENTURE'S DECISION.

CUSTODY

CLERK'S NOTE: CLERK NOTIFIED MS. HOLTHUS VIA E-MAIL REGARDING THE 7/26/01 CONTINUANCE DATE. CLERK ALSO PHONED MR. ORAM'S OFFICE AND LEFT A MESSAGE ON HIS VOICEMAIL WITH THE 7/26/01 CONTINUANCE DATE. CD

CONTINUED TO: 07/26/01 08:30 AM 01

CONTINUED ON PAGE: 008

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 007

07/26/01 08:30 AM 00 ALL PENDING MOTIONS 7/26/01

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Shawn Ott, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS, OR WRONGS...CALENDAR CALL

Mr. Oram advised matter cannot be resolved and Defendant wants to proceed to trial. Ms. Holthus stated she has not received a witness list from defense counsel. Statements by Mr. Oram regarding the Supreme Court overturning the statute precluding the insanity defense. Court noted Mr. Oram filed a motion to continue the trial, which Ms. Holthus stated she did not receive. COURT ORDERED, TRIAL VACATED AND RESET. Court further noted Mr. Oram filed a motion to dismiss and, upon Court's inquiry, Ms. Holthus advised she needed two weeks to respond. Court admonished counsel for filing all these last minute motions stating they should have been filed a while ago and not the week before trial. COURT ORDERED, Ms. Holthus to file an opposition by 8/6/01, and instructed counsel to file any other motions by that same date, and matter set for ARGUMENT/DECISION.

CUSTODY

8/8/01 8:30 AM ARGUMENT/DECISION: MOTION TO DISMISS

8/8/01 8:30 AM ALL PRETRIAL MOTIONS

10/4/01 8:30 AM CALENDAR CALL

10/9/01 9:30 AM JURY TRIAL

CONTINUED ON PAGE: 009

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 008

08/08/01 08:30 AM 00 ALL PENDING MOTIONS 8/8/01

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

ARGUMENT/DECISION MOTION TO ENDORSE DEFT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF THE INFORMATION...STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS, OR WRONGS...ALL PRETRIAL MOTIONS

Court noted this matter was to have gone to trial but defense had filed a motion for additional time to seek out a different plea and inquired if a decision had been made. Mr. Oram advised he was going forward with an insanity defense. Discussion between Court and counsel regarding Defendant entering another plea, and it was decided that could be done at Calendar Call. As to Defendant's Motion to Endorse Defendant's Pre-Trial Writ of Habeas Corpus for Dismissal of the Information, Court noted this was prepared by the Defendant and Mr. Oram filed the motion with the proper endorsement. Statements by Defendant in support of his motion, Ms. Holthus stated her oppositions and Court stated its findings and, ORDERED, motion DENIED. Defendant presented a Memorandum of Notice Supporting Documents and, COURT ORDERED, motion DENIED and advised Defendant all motions should be filed by his attorney. As to State's Motion to Admit Evidence of Other Crimes, Acts, or Wrongs, COURT ORDERED, motion GRANTED with the caveot that the State present clear and convincing evidence in support of their motion. Court instructed Ms. Holthus to have Freda White present at Calendar Call and it will conduct a brief Petrocelli Hearing. Statement by Defendant. COURT FURTHER ORDERED, TRIAL DATE STANDS.

CUSTODY

CONTINUED ON PAGE: 010

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 009

10/04/01 08:30 AM 00 CALENDAR CALL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: GEORGETTE BYRD/GB, Relief Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	N
000477	Bell, Stewart L.	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Mr. Oram stated he is ready for trial, however in September he heard the defendant was in a mental facility where there was a form with boxes checked indicating they did not know who this person is. Subsequent to that, we received jail records from 1999 and it mentions 6161 W. Charleston which leads me to believe the defendant is accurate to his statement. We are requesting to obtain those records for the psychiatrist and further requested a continuance.

Ms. Benedict DDA stated she is ready for trial and further stated counsel is only talking about a couple weeks of records, they may not even be available. The doctor should be able to evaluate the defendant bases on what he has. Ms. Benedict further stated she is having logistical problems. The victims are in foster care and the foster parents have stated they cannot bring the kids to Nevada and we will have to go through the case worker. We are still waiting for that information from the case worker.

Court noted this is a three year old case, and the facts presented do not convince the court that there are any records and the doctor should go with what he has.

Mr. Oram stated the defendant prepared a Pro Per Writ Mandamus yesterday without his knowledge and he is requesting to address it to the Court. Counsel approached. Upon Court's inquiry, the defendant stated he does not have a copy for the Court. COURT ORDERED, it will address defendant's writ on Monday afternoon after the petrocelli hearing. FURTHER ORDERED, trial will proceed on Monday at 9:30 where a jury will be picked. Counsel to present clear and convincing evidence at the petrocelli hearing calendared for 1:00PM on Monday.

CUSTODY

10/08/01 9:30 AM TRIAL BY JURY

10/08/01 1:00 PM PETROCELLI HEARING/DEFT'S WRIT MANDAMUS

CONTINUED ON PAGE: 011

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 010

10/08/01 08:30 AM 00 ALL PENDING MOTIONS 10-8-01

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Keith Reed, Relief Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
005218	Peterson, Tamara M.	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

JURY TRIAL...PETROCELLI HEARING: DEFT'S WRIT OF MANDAMUS

Mr. Oram noted the State is having witness problems, specifically with the two accusers and he would have no objection and stipulate to continuing the trial for him to perform additional investigations. Ms. Peterson concurred stating she could not have her witnesses here until Friday. Upon stipulation of counsel, COURT ORDERED, trial VACATED and RESET; Petrocelli Hearing and Deft's Writ of Mandamus CONTINUED.

CUSTODY

1-3-02 8:30 AM CALENDAR CALL

1-7-02 9:30 AM JURY TRIAL...PETROCELLI HEARING: DEFT'S WRIT OF MANDAMUS

01/03/02 08:30 AM 00 CALENDAR CALL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Nora Pena, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
005218	Peterson, Tamara M.	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

DEFT'S PRETRIAL PETITION WRIT OF HABEAS CORPUS FILED IN OPEN COURT

Parties announced ready for trial. Court advised it didn't have the Writ of Mandamus and ORDERED, Writ OFF CALENDAR.

DEFT'S PRE-TRIAL PETITION FOR WRIT OF HABEAS CORPUS: Matter submitted by Mr. Oram. Ms. Holthus advised the Court previously ruled on the Deft's Pre-Trial

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 011

Writ of Habeas Corpus and she has not responded to the Writ filed today. Court advised it finds no double jeopardy violation, the Deft. has not been subjected to pre-arraignment delay nor has his first amendment rights have been violated due to forced medication and ORDERED, Renewed Petition of Writ DENIED and Trial STANDS for Monday at 9:30 AM.

STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS OR WRONGS: Argument by Ms. Holthus regarding the Deft's arrest by Metro Police and the sexual assault allegations by Freda White; she advised there are other issues of allegations by two other victims in another event which the State wishes to introduce as to the Deft's bad acts and she will have both children present for Mr. Oram to question. Ms. Holthus indicated the Court's Order expires Monday night. Mr. Oram advised after the jury is picked he can talk with the young ladies during lunch with Ms. Holthus present then they can argue the matter later. Court advised it will accommodate any way counsel request. Witness Officer John W. Schutt, sworn and testified. Argument by Ms. Holthus regarding the Deft. giving a false name to the Officer. Opposition by Mr. Oram and requested limiting instructions to the Officers testimony. Court stated it's findings and ORDERED, motion GRANTED and State precluded from allowing testimony by the Officer regarding any fight with Lopez or the Deft's prior juvenile arrest. Witness Freda A. White, sworn and testified. Argument by Ms. Holthus. Opposition by Mr. Oram to admit bad acts. Reply by Ms. Holthus. Court stated it's findings based on direct testimony and cross examination ORDERED, motion DENIED as to Freda White.

Mr. Oram advised he wanted the record to reflect he advised his client of the offer by the State but the Deft. wanted to invoke his right and proceed to trial, he also advised his client of the ramifications. Ms. Holthus advised she will withdraw the offer today with the State having the right to argue.

Court read a letter received by the Deft. and acknowledged his issues with no avail; further directed Mr. Oram to have his client dressed out and be prepared for a possible Miller Hearing.

CUSTODY

1/07/02 9:30 AM JURY TRIAL

CONTINUED ON PAGE: 013

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 012

01/07/02 09:30 AM 00 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
005218	Peterson, Tamara M.	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Jury panel sworn. Introductions by counsel. Jury of twelve plus one alternate selected and sworn. Court invoked exclusionary rule. OUTSIDE THE PRESENCE OF THE JURY, Ms. Peterson moved to file Second Amended Information. Over the objections of Mr. Oram, COURT ORDERED, Second Amended Information FILED IN OPEN COURT. Miller Hearing, OUTSIDE THE PRESENCE OF THE JURY, to determine if prior allegations of sexual assault or abuse of victims is relevant in this matter. After hearing testimony, COURT ORDERED, motion DENIED. JURY PRESENT. Opening statements by counsel. Testimony and exhibits presented (see worksheet). OUTSIDE THE PRESENCE OF THE JURY, Court noted there was a disturbance in the hallway in front of the jury and admonished Ms. Leola Grays. Second Amended Information AMENDED BY INTERLINEATION on line page one, line 27, to reflect "...sixteen years..." Jury admonished and recessed for the evening.

CUSTODY

CONTINUED TO: 01/08/02 09:30 AM 01

01/08/02 09:30 AM 01 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
005218	Peterson, Tamara M.	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Jury present. Testimony and exhibits continued (see worksheet). OUTSIDE THE PRESENCE OF THE JURY, Mr. Oram stated his objection to the discussion of Defendant's medical records. Court instructed counsel to have jury

CONTINUED ON PAGE: 014

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 013

instructions ready by tomorrow. Court advised Defendant of his constitutional right to not take the stand and asked Defendant if he understood, to which Defendant responded yes. Mr. Oram advised Defendant will probably testify. Testimony and exhibits continued (see worksheet). State rests. Defense witness testifies (see worksheet). Defense rests. Jury admonished and recessed for the evening.

CONTINUED TO: 01/09/02 09:30 AM 02

01/09/02 09:30 AM 02 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
005218	Peterson, Tamara M.	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

OUTSIDE THE PRESENCE OF THE JURY, Mr. Oram moved for a mistrial and stated his reasons. COURT ORDERED, motion DENIED. Instructions settled. Second Amended Information AMENDED BY INTERLINEATION on page 1, line 25 and page 2, line 4 to reflect "...did on or between..." Jury present. Court instructed jury. Clsing arguments by counsel. At the hour of 11:15 AM the jury retired to deliberate. Court thanked and excused the alternate.

CONTINUED TO: 01/10/02 08:30 AM 03

CONTINUED ON PAGE: 015

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 014

01/10/02 08:30 AM 03 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Tom Mercer, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
004286 Herndon, Douglas W. Y
003649 Kephart, William D. Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

Jury returned at 8:30 AM to continue deliberations. At the hour of 11:15 AM, the jury returned with a verdict of GUILTY of COUNT I - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN (F), GUILTY OF COUNT II - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN (F) and NOT GUILTY of COUNT III. Jury polled. COURT ORDERED, matter set for SENTENCING in SIXTY (60) DAYS. Court thanked and exused the jury.

CUSTODY

3/14/02 8:30 AM SENTENCING

03/14/02 08:30 AM 00 SENTENCING

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Alona Candito, Court Clerk
Shawn Ott, Reporter/Recorder

PARTIES:
STATE OF NEVADA Y
003814 Holthus, Mary Kay Y

001 D1 Polk, Renard T Y
004349 Oram, Christopher R. Y

P & P represented by Officer Lizura. Pursuant to the jury verdict, Defendant POLK ADJUDGED GUILTY OF - COUNT I - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN (F) AND COUNT II - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Statements by counsel and Defendant. Mr. Oram requested to be relieved as counsel after sentencing and Mr. Schieck be appointed. Opposition by Ms. Holthus. Statements by Defendant's mother and the Court. Statement by Defendant.

COURT ORDERED, in addition to $25. Assessment Fee and $250. D.N.A. Fee, Defendant POLK SENTENCED TO A TERM OF:
COUNT I - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of

CONTINUED ON PAGE: 016

CRIMINAL COURT MINUTES

00-C-166490-C STATE OF NEVADA vs Polk, Renard T

CONTINUED FROM PAGE: 015

FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC) and Defendant is Ordered to pay $1,493.40 Restitution. COURT ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment. Additionally, the Deft. is ORDERED to submit to a blood or saliva test to determine genetic status.
COUNT II - a MAXIMUM of LIFE in the NDC with a MINIMUM of TWO HUNDRED FORTY (240) MONTHS; COUNT II TO RUN CONSECUTIVELY TO COUNT I.

691 days credit for time served.

FURTHER, matter CONTINUED for Mr. Oram's Motion to Withdraw as Counsel / Appoint Appellate Counsel.

03/20/02 08:30 AM 00 CHRISTOPHER ORAM'S MOTION TO WITHDRAW AS COUNSEL / APPOINT APP. COUNSEL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Melissa Davis, Relief Clerk
Tom Mercer, Reporter/Recorder

PARTIES:

	STATE OF NEVADA	Y
003814	Holthus, Mary Kay	Y
001 D1	Polk, Renard T	Y
004349	Oram, Christopher R.	Y

Mr. Oram advised his duties have been completed on this case and requested Mr. Schieck be appointed as appellate counsel. Objection by the State as to who will be appointed to represent Defendant on appeal. Upon Court's inquiry, Defendant waived any conflict with Mr. Schieck being appointed. COURT ORDERED, Mr. Schieck appointed as counsel, clerk to notify. Defendant inquired of the credit or time served he was given at sentencing. Court advised Defendant that a motion must be filed addressing that issue.

NDC

CLERK'S NOTE: Clerk called and advised Mr. Schieck's office of the appointment of counsel./md

00-C

Cum. Pay. Nom
1995.

B

Exhibit _____

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED
APR 25 12 14 PM '02
CLERK
Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PROCEEDINGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on August 8, 2001
At 8:30 a.m.

APPEARANCES:
For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER Oram, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

CE05

RECEIVED
APR 25 2002
COUNTY CLERK

1 Las Vegas, Nevada, August 8, 2001
2
3 * * * * *
4
5 THE COURT: Page five, Renard Polk.
6 This was supposed to go to trial but defense
7 wanted additional time to check out some different plea; is
8 that correct?
9 MR. ORAM: Yes.
10 THE COURT: Have you made a decision or still
11 thinking?
12 MR. ORAM: We plan on going forward with the
13 insanity defense, Mr. Polk wants to do that.
14 THE COURT: How do we do that, take another plea?
15 MR. ORAM: I believe at some point he probably
16 will need to be re-arraigned and enter a plea of not guilty by
17 reason of insanity.
18 THE COURT: You let me know when you want to do
19 that.
20 MR. ORAM: Maybe it would be easy to do that
21 today if the Court has the time. I think we can do it right
22 before trial, it's no secret what the defense is going to be,
23 we have made it perfectly clear.
24 THE COURT: Do you have any comments on that?
25 MS. HOLTHUS: Truthfully, I don't know.

1 THE COURT: Why don't you check it out and we'll
2 do it maybe at calendar call.
3 MS. HOLTHUS: Sure.
4 THE COURT: But we are here on, looks to me like
5 three matters. The first one is the Defendant's motion for
6 pretrial writ of habeas corpus or dismissal of the Information.
7 I note from reading the pleadings it seems to me it was really
8 a proper person motion and Mr. Oram put a cover sheet on it and
9 it says through attorney Christopher Oram, he endorses the
10 defendant's motion of a pretrial writ of habeas corpus to
11 dismiss the information. I have that in front of me, it was
12 filed July 13, 2001. The State filed an opposition to that.
13 Do you have a copy of that, Mr. Oram?
14 MR. ORAM: Yes, Your Honor.
15 THE COURT: How do you want to proceed? Do you
16 want to make a comment? I'll hear from Mr. Polk.
17 MR. ORAM: I'll be very brief. My understanding
18 of Mr. Polk's argument is he was on probation or -- in juvenile
19 court apparently there was an allegation against him unrelated
20 to this case. Mr. Polk indicates he was not on probation. And
21 subsequently he gave a statement in this case and he was
22 sentenced to 30 days in jail by juvenile court for a revocation
23 of his probation.
24 THE COURT: On another unrelated case?
25 MR. ORAM: Right. Mr. Polk contends that he was

1 actually punished for this crime in juvenile court because he
2 was given 30 days in jail and he says they could not do that to
3 him because he was not on probation. I went and got the
4 records and it appears to me from juvenile court that he was on
5 probation, at least that's what the records reflect. However,
6 Mr. Polk indicates he believes those records are forged and he
7 believes the signature of Miss Shirley Paraguirre is incorrect.
8 I went so far yesterday at Mr. 'Polk's instruction to fax a
9 copy of one of those juvenile records to Miss Paraguirre and
10 with that, I believe it's Mr. Polk's contention if he's not on
11 probation they continue to punish him for this crime and,
12 therefore, it's double jeopardy.
13 THE COURT: The records show he was on probation.
14 MR. ORAM: What the records I have show, yes, but
15 he believes it's forgery.
16 THE COURT: Mr. Polk, do you want to say anything
17 regarding this writ?
18 THE DEFENDANT: Yes, Your Honor. My attorney, he
19 didn't get the records, okay. I went by my own means to get
20 the records in order to reflect things. I have some documents
21 I would like to show you if possible.
22 Now, at the time I wasn't on probation, Your
23 Honor, I don't know if it was Shirley B, or whoever it was, but
24 somebody erroneously put these documents in there. If you
25 look at E-A-1, the disposition report filed January 11, date of

1 hearing January 13, do you see that?
2 THE COURT: Uh-huh.
3 THE DEFENDANT: I wasn't arrested again for --I
4 believe I had a preliminary hearing for a matter of Frida
5 White incident, probably it was scheduled to go to your court
6 on the 2nd of -- let me gain my composure.
7 It was scheduled for initial arraignment in your
8 court on February 2, '99. Now, before that I had a preliminary
9 hearing. My P.O. prepared this disposition report on the 11th,
10 or somewhere in between there and the 13th. I wasn't arrested
11 again until the 14th to be on that preliminary hearing, because
12 I -- do you understand what I'm saying?
13 THE COURT: I'm trying to digest what you're
14 saying.
15 THE DEFENDANT: The disposition report was
16 prepared on the 11th. If you'll turn to page five, where it
17 says, I guess the arrest inquiry, logging sheet at CCDC, E-A-5.
18 As you can see, I was booked in on the 14th of '99, 1-14-99.
19 My P.O., or supposedly my probation officer prepared the
20 disposition report on the 11th. He stipulates in the report,
21 as I have highlighted on the report, I had the preliminary
22 hearing scheduled for January 27. I wasn't given that hearing
23 until the 14th when I was arrested again.
24 So how could he know I had a preliminary coming up
25 if he was preparing the report on the 11th? Because he

1 wouldn't have known, because any time after the 14th he would
2 have known when the preliminary was scheduled.
3 Not only that, it also says in the formal
4 probation that the parental decree should be attached. That's
5 nowhere in the files.
6 The thing about it is all I'm asking is for an at
7 least evidentiary hearing to see, at least establish or make
8 this concrete allegation, make this allegation concrete because
9 I wasn't on probation.
10 And the thing about it is I wasn't on probation,
11 okay. They took me to the juvenile courts. I turned myself
12 in. I declared inadequacy, do you understand? I didn't go
13 against the judicial system, I turned myself in; even went so
14 far to give a statement because the detective told me the
15 reason I was at juvenile courts was because of the sexual
16 assault case. I gave him the statement thinking I'm going to
17 get the charges that's going to be adjudicated in the juvenile
18 courts. They sentenced me to 30 days for erroneous probation
19 revocation.
20 I have a civil case filed, because I don't know
21 who is allocated in this thing but I know my P.O. was part of
22 it. I got sentenced 30 days to the CCDC, at which time they
23 forced giving me medication. I can't even remember half the
24 stuff they did to me, this is the only thing that's clear on my
25 conscience right now that I can remember.

1 When they was force giving me medication, the
2 thing about it is I'm walking the streets thinking the charges
3 that got adjudicated was sexual assault. I wasn't trying to
4 run from justice, I was trying to bring it about expeditiously,
5 do you understand?
6 So I'm asking you grant this motion on the facts
7 stipulated in the habeas corpus and prearrest delay.
8 Even if you don't understand the double jeopardy
9 issue which I'm trying to bring forth, the pre-arrest delay in
10 itself requires dismissal. Because in the pre-arrest delay,
11 which should have been post arrest delay because I was arrested
12 twice but the State chose not to prosecute. I was arrested for
13 erroneous probation violation, sentenced 30 days. Arrested
14 again for G.T.A. charge, they didn't prosecute then.
15 The Tartaglia (ph) case says the reason for delay
16 will weigh more heavily against the prosecution if they can't
17 come up with a reason to wait so long to file the motion.
18 The Autrey case says if the State tries to gain
19 advantage over me that requires dismissal because, I guess,
20 they say tactical advantage, recklessly or intentionally
21 doesn't matter, it's just the fact as you saw when we went for
22 the discovery motion we asked the prosecutor about the
23 statement I had gave, at which time they told us they didn't
24 have the statement. So we filed the bail reduction motion, I'm
25 not going to say erroneously, they did it properly, but it was

1 a tactical advantage, do you understand? They did it in order
2 to procure I wouldn't get released on O.R. when they told us
3 they didn't have the statement. But the same day they became
4 aware, the statement mysteriously pops up.
5 After that, not only that, but also in the Berman
6 case says if your constitutional rights have been violated
7 between this pre-arrest delay, that's automatic dismissal
8 because it's due process violations all in itself. And bring
9 it under the outrageous government conduct, which is Helus (ph)
10 versus State, or something like that, I don't know, I'm a
11 layman, I don't understand law too well, but I know what I
12 read.
13 All these due process violations, I had no ad
14 litem guardian when I was down at juvenile. They erroneously
15 put me on probation. The State failed to file, which they had
16 ample opportunity to file the charges.
17 Not only that, but everything I'm presenting to
18 you right now is by my own means. My lawyer is not even on my
19 side. As much as he tries to admit, this motion I prepared, he
20 didn't prepare, he's telling me its frivolous, meritless.
21 Maybe it is, but that's for you to decide.
22 So in conclusion, I just ask you grant this motion
23 because I wasn't trying to avoid justice.
24 And at the end of my motion it talks about the
25 pecking order and food chain. When an animal has declared

1 inadequacy, the other animal should not usurp, how do you say,
2 superiority over the animal because he's declared inadequacy.
3 It teaches you in nature and society. That when I'm in
4 subjection to you and I declare inadequacy, why do you have to
5 fight against me? I told you I need help, do you understand?
6 But I come before you now a changed man and it's not because of
7 no medication they was giving me, it's because I sat down and
8 thought about it in self reflect, looked on my own objectively
9 and subjectively. So I just submit the motion.
10 THE COURT: Thank you.
11 Miss Holthus?
12 MS. HOLTHUS: He says he wasn't on probation but
13 he had a probation officer. There's no double jeopardy. It is
14 a frivolous motion. There's no basis for anything he has
15 alleged.
16 We've proceeded as swiftly as we can. The fact we
17 didn't have that statement earlier worked to his benefit
18 because I made him an offer at preliminary hearing, not knowing
19 I had a confession, that I would never have made him had I had
20 a confession. And I have still left that offer on the table.
21 So, actually, it's worked to his benefit. If I had a benefit
22 at preliminary he would be looking at 20-to-life right now and
23 he's not. So he's actually had a benefit. As soon as I got
24 that statement, I'd been looking for it, as soon as I got it
25 they got it.

1 I don't remember what his other stuff was but he's
2 never been administered any medication that we are aware of.
3 THE COURT: All right. I don't mind anybody
4 filing motions, and if I grant the motion or deny the motion
5 it's always good to have a motion on record because I'm not
6 saying that you're going to be convicted, Mr. Polk, that's not
7 up to me, it's up to a jury of 12 people, not me. So you're
8 either going to be found not guilty and walk out of the
9 courtroom or found guilty, not by me but a jury, and I'm going
10 to have to sentence you.
11 But if you have motions like this on file its a
12 good checks and balance matter because the supreme court, if it
13 goes bad your way, the supreme court always has the last word
14 on this, they can look at it and determine all the facts that
15 you presented and perhaps give you a different result, I don't
16 know, that's up to the supreme court.
17 As I said, I'm not even thinking it's going to be
18 on appeal, you might be found not guilty and so be it. But you
19 have this motion on file, I did review it and I find, in my
20 humble opinion, there's no double jeopardy violation as to the
21 instant matter.
22 And the previous matter, of which the defendant
23 cites to involve different victims and occurred at different
24 times, this Court finds that the defendant has not been
25 subjected to prearraignment delay either, as the defendant's

1 preliminary hearing was set within the time so allowed by
2 statute. And additionally, the defendant argues that his First
3 Amendment rights were violated due to being forced to take
4 medication. There's no evidence in the record to support this
5 allegation. There's no evidence in the report submitted to the
6 Court by the three doctors who evaluated Mr. Polk's that any
7 medications were administered to him. However, if such
8 medications were given the defendant, the United States Supreme
9 Court has allowed the compulsion of medication to prison
10 inmates.
11 So I read everything and based upon this
12 foregoing, I'm not going to grant the motion for pretrial writ
13 of habeas corpus for dismissal. I'm going to deny it and don't
14 see the need for an evidentiary hearing. The facts are here
15 and I'll attach this memorandum of notice of supporting
16 documents to the motion, Miss Clerk, and make sure this is a
17 matter of record if it's appealed. File it with his motion,
18 all right.
19 As far as the State's motion to admit evidence of
20 other crimes, acts or wrongs, Miss Holthus filled a motion on
21 that. Mr. Oram opposed that. I'll hear from you, Miss
22 Holthus, on that.
23 MS. HOLTHUS: Judge, with respect to the one
24 incident obstructing a police officer, obviously that wasn't a
25 situation where he gave fake identification to police officers.

1 It's our position that would be evidence of consciousness of
2 guilt. We are not offering it for any improper purpose, but
3 rather the fact he was aware he was wanted for sexual assault
4 and it's kind of the guilty-mind argument.
5 I would also suggest our motion, in light of his
6 not guilty by reason of insanity defense, is even more
7 compelling with respect to that, in terms of his knowledge of
8 what he knew right from wrong and how he was thinking, what his
9 intent was. That carries over into the Frida White incident.
10 That was '98, that was in 1998, all three young women, all
11 three being forced to have sex with this young man. His
12 intent, the fact this was not an accident or mistake are all in
13 issue. Now with his insanity plea, that would be that much
14 more important to the jury.
15 Based upon that and the supreme court ruling in
16 these cases where the State can offer for sexual aberration
17 rather than just bad character, in this case clearly he has an
18 emotional propensity for sexual aberration, that is raping
19 young women and should be admissible.
20 THE COURT: I might want to hear from Frida White
21 down the road, because there was no conviction.
22 MS. HOLTHUS: He was initially prosecuted in the
23 district court, eventually he was to plead guilty to coercion,
24 he may be right it may be in here and at sentencing we realized
25 he was 17.

1 THE COURT: She's available to testify if I needed
2 to show by clear and convincing evidence that it happened?
3 MR. ORAM: Right. I'll make her available for the
4 Petrocelli hearing at the Court's convenience.
5 THE COURT: I'm just saying, whatever my ruling
6 is.
7 MR. ORAM: There's no need for evidentiary
8 hearing in this motion. First of all, this is an adult lady.
9 According to the allegation, assuming the facts the State has
10 put forward, this young lady, who is approximately Mr. Polk's
11 age, is what I would call -- they were kissing together and
12 then the young lady claims it went too far, she didn't want to
13 go any farther than kissing. That's completely different than
14 what they have charged in the instant case. What they are
15 charging in the instant case, as the Court knows, is two young
16 sisters, very young sisters, that apparently allege they were
17 being molested by Mr. Polk. That's completely different.
18 First of all, they are young females, versus a female his age,
19 an adult female.
20 Secondly, in the instant case Mr. Polk is accused
21 of sexually molesting his natural sisters. This was an
22 incident where it was sort of a couple. They were on a bed and
23 kissing and she was consenting to that.
24 Under the cases cited by the State and in my
25 opposition, there has to be a common scheme or plan. In the

1 Willet case, for example, there was a same criminal act
2 occurring by the defendant at the Eddie Lee Boys Home. What's
3 happening is they are bringing in the prior bad acts of maybe a
4 guy charged with sexually molesting some children from that
5 home, apparently he had done something similar previously and
6 therefore they found that was a common scheme or plan.
7 In the Allen case the same thing, the defendant
8 would show young children pornographic movies then molest them.
9 There's no common scheme or plan here. I don't understand how
10 the State thinks they can get this in under 48.056. All they
11 are trying to do is show look, Mr. Polk was previously charged
12 with something of a sexual nature, therefore, he's a bad guy,
13 you should find him guilty and shouldn't find him insane.
14 With that I would ask the motion be denied.
15 THE COURT: Any response to that, Miss Holthus?
16 It's not a common plan, scheme?
17 MS. HOLTHUS: The common plan or scheme is not a
18 necessary requirement. What the supreme court says is we don't
19 want bad character. The fact he robbed a bank ten years ago to
20 somehow affect our ruling in the trial in a sex case when you
21 have specific emotional propensity for sexual aberration, in
22 this case his sexual aberration is forced sex with young women.
23 That's the common plan or scream. Its less likely someone is
24 going to be three times accused of having sex with a young
25 woman against her will than if it happens one time. It makes

1 perfect sense and the supreme court said they will uphold it
2 and the prejudice is outweighed by the probative value.
3 Again, I would reiterate the fact he's putting his
4 mental state at issue opens up a whole other argument for that
5 bringing in Frida White. Because he's going to say he was
6 insane when he raped his sisters, but I suspect Frida, who will
7 be a little older because she was probably 18 at the time, can
8 articulate better where the defendant was coming from. So for
9 that reason I would ask the Court to allow the evidence.
10 THE COURT: All right. The State again wishes to
11 introduce this evidence of the defendant's past sexual acts
12 committed upon an adult to show a common scheme or plan. The
13 defense argues that because the prior bad acts were committed
14 on an adult and the present case involves children, they are
15 not similar, I believe that's what you argue. Additionally,
16 the State wishes to introduce the defendant's giving of false
17 information to the police to show consciousness of guilt. In
18 the instant case the defendant gave false information to the
19 police, the defense claims it would only tend to show
20 prohibited character evidence of the defendant, I got that from
21 the brief, I believe.
22 The Nevada Supreme Court has long held that
23 evidence of previous criminal conduct will be more liberally
24 admitted in cases of aberrant sexual conduct. McMichael versus
25 State, 94 Nevada 184, 1978 case. Here the defendant has

1 demonstrated a propensity for sexual aberration and has
2 developed and used a common plan or scheme to sexually assault
3 women no matter what their age. In both instances the
4 defendant, without consent and against the victims' will,
5 undressed himself and victim, restrained the victim and
6 penetrated the victim.
7 Additionally, the State wishes to introduce the
8 defendant's prior giving of false information to the police.
9 Donnell versus state, 92 Nevada, 680, a 1976 case, held proof
10 of relevant intent is allowed by means of prior bad acts.
11 Here the defendant's conduct, I believe it was on
12 February 23, 2000, where the State claims he knowingly,
13 intentionally gave false information to the police, is
14 indicative of the defendant's consciousness of guilt and
15 intent. Therefore, based on the foregoing, the State's motion
16 to admit evidence of other crimes, acts or wrongs is hereby
17 granted, with the caveat that the Court wants to be convinced
18 by clear and convincing evidence by Frida White. I'd like to
19 hear her on the witness stand. So if you have her available,
20 perhaps at calendar call or whatever, we can have a short
21 Petrocelli hearing to convince the Court there's clear and
22 convincing evidence. And, of course, Mr. Oram will have a
23 right to cross examine and we'll go from there. All right?
24 MS. HOLTHUS: Sure.
25 THE COURT: There was one other that I seen in the

1 file, Mr. Oram, it was filed August 6 at 1:56 p.m. it's sort
2 of a motion to endorse defendant's memorandum of notice in
3 support of dismissal.
4 And again, it's your cover sheet with proper
5 person memorandum of notice in support of dismissal. The
6 defendant argues again outrageous government conduct. He again
7 says something about fraudulent documents, maybe the same thing
8 he showed me here, and he threatened civil suits to everybody,
9 he's going to sue everybody, sue everybody involved with civil
10 suits for many derelictions and constitutional violations
11 sustained by the defendant.
12 Of course, that's his right to do, I don't care
13 what he does but it's nothing to me. Did you want to add
14 anything to that? I don't see any difference.
15 MR. ORAM: I believe it was just an extension
16 from the other one.
17 THE COURT: I just wanted to clarify that. So,
18 for the record, pursuant to my previous order, this motion
19 that's styled a motion to endorse defendant's memorandum notice
20 in support of dismissal, will also hereby be denied.
21 I just want to clear the record up and I want to
22 preserve any rights that Mr. Polk has, I want everything
23 preserved and filed. As I said, I'm not saying he's going to
24 be convicted of this, even though his confessions and -- but if
25 he is, at least he received his rights. I'm not predicting. A

1 lot of defendants think when I say "appeal" they think I'm
2 predicting. I'm just a referee here, we hear the evidence, the
3 jury of his own peers will decide whether or not he's guilty or
4 not guilty, and whatever decision is I'll abide by it, of
5 course, and do the appropriate thing. So I don't want to give
6 anybody the wrong impression.
7 So that being said, I think we've resolved all
8 these issues. I know you have a preliminary hearing to go to
9 Miss Holthus.
10 MS. HOLTHUS: I do.
11 THE COURT: I'm sorry I held you here but I wanted
12 to give Mr. Polk an opportunity to say whatever he wants.
13 MR. ORAM: Mr. Miss Peterson is here.
14 MS. HOLTHUS: She's here to get me.
15 MR. ORAM: A statement was made by Mr. Polk that
16 I'm not on his side. I think I need to make a record. In fact
17 he's correct, he's said I made a statement I believed the
18 motion was frivolous. I did make that statement. However,
19 I've been working with him, going to see him especially before
20 the trial. I'm going to be asking the Court in an ex parte
21 order to appoint an expert psychiatrist to see him and I'll be
22 going forward and doing the best I can pursuant to the
23 Strickland standard, trying to meet the Strickland standard,
24 and I wanted that to be on the record.
25 THE COURT: Mr. Polk, I consider Mr. Oram one of

1 the best criminal attorneys in town. In fact, I think that's
2 all he does is criminal law. The last trial I had he got a
3 verdict of not guilty. The man is experienced, I mean, I
4 couldn't imagine the trials this man's had. He's sharp, he's
5 good in front of a jury and you're very, very, very lucky to
6 have a man of Mr. Oram's caliber on your side. You're
7 extremely lucky. Try to get along with him the best you can
8 and he's going to try to get along with you and do the best he
9 can. I know you have to go. I could stay here all morning but
10 I know you're busy and I think we resolved these things.
11 MR. Oram: Thank you, Your Honor.
12 ATTEST: Full, true and accurate transcript of
13 proceedings.
14
15
16 THOMAS D. MERCER, C.C.R. No. 33
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Exhibit _____

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 1

EVENT: 990313-0217

SPECIFIC CRIME SEXUAL ASSAULT ON A MINOR

DATE OCCURRED **TIME OCCURRED**

LOCATION OF OCCURRENCE

CITY OF LAS VEGAS **CLARK COUNTY**

NAME OF PERSON GIVING STATEMENT POLK, ANNA LISA

DOB:	11-10-88	SOCIAL SECURITY #:	530-37-5602
RACE:	BLACK	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. Dunn, P# 385, LVMPD Sexual Abuse Juvenile Detail, on March 13, 1999, at X hours. Present during the interview is the Anna Polk's aunt, Susan Polk.

Q. Can you tell me how old you are, are right now?

A. How old I am?

Q. Yeah.

A. Ten.

Q. Ten years old? What school do you go to?

A. Walter V. Long.

EVENT: 990313-0217
STATEMENT OF: ANNA LISA POLK

Q. And what grade are you in?

A. Fourth.

Q. Okay. And you're here because you had a problem with somebody.

A. Yeah.

Q. Okay. Who is that?

A. Renard (phonetic spelling).

Q. Okay. And who's Renard?

A. My brother.

Q. All right. How old is Renard?

A. Eighteen.

Q. All right. Is -- what is his last name?

A. Polk.

Q. Okay. So it's the same as yours?

A. Yeah.

Q. Okay. And when was the last time you had a problem with him?

A. Uhm... (pause) before he went in jail.

Q. Before he went in jail?

A. Yeah.

Q. Okay. So when, when was the very last time that you had a problem with him?

A. Yesterday.

Q. Okay. And where was that?

A. Uhm, in his room.

Q. In his room? At your house?

A. Yeah.

Q. Okay. And where's your house? What's the address?

A. Uhm, 1325 Nay Court.

Q. Okay. And, and what happened yesterday? Do you remember what time it was approximately?

A. Probably like four-thirty.

Q. Okay. In the afternoon?

A. Yeah.

Q. All right. And, and what happened that day? What'd he do?

A. (Clicking tongue) Uhm, he brought me in his room. He made me sit down on his chair. He sat down on his chair first, then he made me sit on top of him. And I wasn't doin' nothin', then he made me get on the floor, and then he made my back straight, and that's when he stuck it in me.

Q. Okay. You say he stuck it in you. What'd he stick in you?

A. Uhm, his dick (slight laugh).

EVENT: 990313-0217
STATEMENT OF: ANNA LISA POLK

Q. Okay. And where did he stick it in you?

A. My butt.

Q. Okay. Is that the first time he's done that?

A. No.

Q. When -- how old were you when he started doing this?

A. About five.

Q. About five years?

A. Yeah.

Q. Okay. And how many times do you think he does it? Does he do it --

A. Mm...

Q. -- a certain number of times a week? Or --

A. Uhm, I don't know.

Q. No? You don't know? How many times would you say he's done it since you were five?

A. Mm... (pause) I don't know.

Q. A lotta times?

A. (No audible response)

Q. Okay. Yesterday was the last time. Do you remember the time before that?

A. Mm-hmm.

EVENT: 990313-0217
STATEMENT OF: ANNA LISA POLK

Q. (Coughs) When was that?

A. Oh! Nope.

Q. You don't remember the time before that? Okay. All right. Would he do the same thing to you each time?

A. Uhm, ... sometimes yes. Sometimes he makes me sit on the... _____ makes me sit on top of him. Or sometimes he makes me lie on the floor.

Q. Okay. When you lie on the floor, are you on your back or on your stomach?

A. Uhm, I'm on my knees with my, uhm, butt sticking up. That's how he makes me sit.

Q. All right. And do you have your clothes on?

A. No.

Q. How do your clothes get off?

A. He takes 'em off.

Q. All right. Does he take his off too?

A. Yes.

Q. ____. And, and, uh, have you ever seen him do anything to anybody else?

A. Yeah.

Q. Who?

A. My sister.

Q. Okay. Which sister? What's her name?

A. Jahala (phonetic spelling).

Q. Jahala? And how old is Jahala?

A. Twelve.

Q. And what did you see him doing to Jahala?

A. Uhm, mm -- me, me and my sister looked under the door, and my sister was on the floor with him on top of her.

Q. Okay. Did she have clothes on?

A. No.

Q. Did he have clothes on?

A. No.

Q. Could you tell what he was doing to her?

A. Mm, no. Like just on top of her.

Q. Okay. That's all right. Did he ever do anything else to you?

A. Mm...

Q. Other, other than that. Other than putting his, his dick in your butt?

A. No.

Q. No? Did he ever have you touch him?

A. No.

Q. Okay. Did he ever touch you any place else?

A. Mm... no.

Q. Okay. All right. Uh, ... is there anything else that you can tell me about what happened?

A. Mm... (pause) mm-mm (negative).

Q. Uh-uh? Has anybody else ever done this to you?

A. Yeah. Uh, my... cousin Darrell (phonetic spelling). I mean, my brother's friend Darrell and Dorin (phonetic).

Q. What's his name?

A. Darrell and Dorin.

Q. Darrell and Dorin? So there was, there was two other guys that did this to you?

A. Mm-hmm.

Q. And, and was, was your, was your brother there when this happened?

A. No.

Q. No. So Darrell -- how old are Darrell and Dorin?

A. They're about --

SP. Nineteen.

A. Nineteen.

Q. Okay. All right. Are they, are they brothers?

A. Yeah. They're twins.

SP. Darrell and Dorin are brothers. They're twins.

Q. Okay. All right. How many times have they done this to you?

A. About five.

Q. About five times. Okay. Did they, did you know if they did it to anybody else?

A. No. -- Yeah, my, my sister.

Q. Which one?

A. Jameela (phonetic spelling).

Q. Jameela?

A. Yeah.

Q. Okay. All right. And did you see them do something to Jameela?

A. Yeah, the same night they did something to me.

Q. All right. Were you in the same room?

A. Nn...no.

Q. Okay. All right. And, and when was the last time that they did something to you?

A. Mm... the last time I came over to their house.

SP. That was --

Q. Was it before, before Christmas?

SP. -- that was a while back.

Q. Oh, it was a while ago? Okay. Were you still, still, uh, -- how old are you now?

A. Ten.

Q. Ten. Were you still ten when they did it?

A. No. About eight.

Q. About eight years old? Okay. Have they done it since you were eight years old?

A. No.

Q. All right.

SP. Uh, Anna, you at least had to have been about six. Or seven. Not eight. Couldn't been eight. You're takin' a wild guess, ain't you?

A. (Slight laugh)

SP. Aren't you? Yes or no?

A. Yeah.

Q. Okay. So, so you -- it's possible you were six or seven?

A. Yeah.

Q. All right. Okay. How did, how did they know that they could do this to you?

A. I don't know.

Q. Okay. All right. Is there anything else you wanna tell me?

A. Mm-mm (negative) (tape skips)

Q. Did you ever tell anybody what happened?

A. Uh, my sister did today.

EVENT: 990313-0217

STATEMENT OF: ANNA LISA POLK

Q. Okay. But before this, have you ever told anybody?

A. No.

Q. How come?

A. 'Cause I was scared.

Q. Okay. And, and why were you scared? What'd he do to make you afraid?

A. 'Cause -- 'cause, uhm, he said that if I told somebody, he's gonna kill me.

Q. Okay. Did you think he would?

A. Yeah.

Q. All right. Okay. Is there anything else?

A. No.

Q. Okay. That'll be the end of the statement. Same persons present, Anna Polk and this detective. Date and time is March 13, 1999, at approximately 0600 hours.

I HAVE READ THIS STATEMENT CONSISTING OF 10 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT COLUMBIA SUNRISE HOSPITAL ON THE 13TH DAY OF MARCH, 1999, AT 0600 HOURS.

WITNESS: _____

WITNESS: _____

_____
SIGNATURE OF PERSON GIVING STATEMENT

DD:cml
990798

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT OF A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: CHATMAN, JAHALA MATISHA

DOB:	8/28/86	SOCIAL SECURITY #:	530-17-2223
RACE:	BLACK JUVENILE	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. DUNN, P# 385, LVMPD SEXUAL ABUSE Detail, on 3/15/99. Person being interviewed is JAHALA MATISHA CHATMAN.

Q. Jahala, how old are you right now?

A. Twelve.

Q. O.K. And what school do you go to?

A. Fremont.

Q. Fremont Junior High. O.K. And what grade are you in there?

A. Seventh.

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

Q. All right. And you know why you're here today?

A. Yeah.

Q. O.K. Why is that?

A. Because my brother had did me.

Q. O.K. Because your brother had did you in the bootie?

A. Hm Hm (positive)

Q. O.K. What's your brother's name?

A. Renard.

Q. And how old is Renard?

A. Eighteen.

Q. And how, how old were you when he did this to you?

A. Twelve.

Q. All right. How long ago was it?

A. In January.

Q. Of this year?

A. Yeah.

Q. And where did it take place?

A. In the downstairs bathroom.

Q. All right. How did you know to go into the bathroom? Did he take you in the bathroom?

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

A. Yeah.

Q. O.K. What'd he say to ya?

A. He didn't say nothing.

Q. O.K. So he took you in the bathroom, and then what happened?

A. He laid me on the floor and then covered my mouth.

Q. All right. Did he take your clothes off? Huh?

A. Yeah.

Q. All your clothes?

A. Yeah.

Q. O.K. What about his clothes?

A. He, he didn't have no shirt on, he just had on pants.

Q. O.K. Did he take those off?

A. Yeah.

Q. All the way off?

A. Yeah.

Q. O.K. And then, and then he'd put you down on the floor?

A. Yeah.

Q. Were you on your back or on your stomach?

A. Stomach.

Q. And then what did he do?

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

A. He stuck his thing in my bootie.

Q. He stuck his thing in your bootie. How many times has he done that to you?

A. Once.

Q. That was the only time?

A. Yes.

Q. Did he say anything to you?

A. No.

Q. And you said that when he did that, he put his hand over your mouth?

A. Yes.

Q. O.K. Did that hurt you when he did that?

A. Yes.

Q. Did he put anything on his, his penis before he did that?

A. No.

Q. And that was the only time?

A. Yes.

Q. And how long do you think it lasted?

A. Ten minutes.

Q. O.K. Has anybody else ever done these things to you?

A. No.

Q. No. O.K. Is there anything else you want to tell me?

EVENT #: 990313-0217

STATEMENT OF: JAHALA MATISHA CHATMAN

A. No.

Q. O.K. That will be the end of the statement. Ah, persons present are Jahala Chatman, this detective, date and time of this statement is, ah, 3/15/99 at approximately 0925 hours.

DD:lp:990807

I HAVE READ THIS STATEMENT CONSISTING OF 5 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT ON THE 15TH DAY OF MARCH, 1999 AT 0925 HOURS.

WITNESS: _____

WITNESS: _____

_____

990313-0217

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT OF A MINOR

DATE OCCURRED: TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: CHATMAN, JAMILA

DOB:	6/20/85	SOCIAL SECURITY #:	
RACE:	BLACK JUVENILE	SEX:	FEMALE
HEIGHT:		WEIGHT:	
HAIR:		EYES:	
WORK SCHEDULE:		DAYS OFF:	
HOME ADDRESS:	1325 NAY COURT LAS VEGAS, NV 89104	HOME PHONE:	452-0377
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 D. DUNN, P# 385, LVMPD SEXUAL ABUSE Detail, on 3/15/99. Person being interviewed is JAMILA CHATMAN.

Q. Jamila, how old are you right now?

A. Thirteen.

Q. Thirteen. And you're...

A. I'll be 14 in four more months.

Q. O.K. And what school do you go to?

A. Fremont, J.C. Fremont Middle School.

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

Q. All right. And you're here because of a situation involving your brother, Renard.

A. Yeah, with my sisters.

Q. O.K. Did you ever see him do anything to either one of your sisters?

A. Hm, once when I lived on Perry Street.

Q. Hm Hm.

A. Ahm, he was, he was, ahm, he grabbed her and put her on her bed. He had took her and ate her out.

Q. And ate her out. O.K. What sister was that?

A. Anna.

Q. O.K. How old was Anna at that time?

A. Five, three, four, one of those.

Q. Since then, have you ever seen him do anything to her?

A. Yeah.

Q. When?

A. Friday.

Q. O.K. What Friday are we talking about?

A. Ah, what was the day .... it was, ah, it was the 12th of this month.

Q. O.K. 12th of March?

A. Yeah.

Q. O.K. And what did you see him do that time?

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

A. Ah, it was like around, it was like around five, four, like five or four.

Q. O.K. In the afternoon or in the morning?

A. In the, ah, afternoon.

Q. O.K. And, and where were they?

A. They were up in his room.

Q. All right. And what did you see happen?

A. He had _____ her.

Q. He what?

A. He pee pee'd in her.

Q. He pee pee'd in her. In her where?

A. In her private.

Q. Which private?

A. Her private.

Q. O.K. She's got two. She's got a front private and a back private.

A. Well, the back private.

Q. O.K. And you actually saw him do this? Hm?

A. Yes.

Q. O.K. Did she have clothes on or not?

A. Well, he told her to take off her clothes, well he forced her to take off her clothes, and she did.

EVENT #: **990313-0217**

STATEMENT OF: **CHATMAN, JAMILA**

Q. O.K. And what about him?

A. He just took off his shirt and his pants.

Q. O.K. And was she, was she standing up, laying down?

A. No, she was up in the chair or she was on the floor, it's one of those two, cause he got a big gray chair up in his room.

Q. Hm Hm.

A. And then the floor is his floor.

Q. O.K. Now did you actually see him do this to her?

A. Yeah. And I knew this was gonna happen cause I had a bad feeling, and I went to the store and I came back, and she was still in the room with him.

Q. All right. O.K. Is there anything else you can tell me about him?

A. He's abusive.

Q. O.K. Physically? Physically abusive?

A. Like what?

Q. Like punching, hitting, slapping..

A. Yeah.

Q. Beating.

A. Hm Hm (positive)

Q. Yeah.

EVENT #: 990313-0217

STATEMENT OF: CHATMAN, JAMILA

A. And he, and ah, what else.... he's sick in the mind because what he did to my brother's ____ not my brother's, but my sisters, and he's nasty.

Q. O.K. All right. That will be the end of this statement. Same persons present, Jamila Chatman, this detective, date and time of this statement is 3/15/99 at approximately 9:35 hours.

DD:lp:990808

I HAVE READ THIS STATEMENT CONSISTING OF 5 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT ON THE 15TH DAY OF MARCH, 1999 AT 0935 HOURS.

WITNESS: _____

WITNESS: _____

_____
CHATMAN, JAMILA

C.M. Pag. Nom.
21 pgs.

D

Exhibit ✓

1 Q. Have you ever known him to be hospitalized with
2 mental problems?
3 A. No.
4 MR. ORAM: Nothing further.
5 MS. HOLTHUS: No.
6 THE COURT: Thank you so much for testifying.
7 You're excused. Next witness.
8 MS. HOLTHUS: Officer Newton.
9
10 (Whereupon, the witness was duly sworn.)
11
12 THE COURT: Have a seat, sir.
13 State your name and spell your last name.
14 THE WITNESS: David Newton, N-e-w-t-o-n.
15
16 DIRECT EXAMINATION
17
18 BY MS. HOLTHUS:
19 Q. Officer Newton, you work with the Las Vegas
20 Metropolitan Police Department?
21 A. Yes.
22 Q. How long have you been with Metro?
23 A. Five years.
24 Q. Assigned to?
25 A. Currently canine.

1 Q. Prior?
2 A. Patrol.
3 Q. Specifically on August 14, 1999, did you respond
4 to 6380 Pinehill Avenue?
5 A. Yes, I did.
6 Q. What was the purpose of going there?
7 A. The purpose was the caller stated that they wanted
8 to turn themselves in because they thought they had a sexual
9 assault warrant.
10 Q. About what time was it?
11 A. About three o'clock in the morning.
12 Q. What did you find when you got there?
13 A. When we arrived we found --
14 Q. You went with someone else?
15 A. Correct, I had a partner at that time. Because we
16 always go to calls in pairs.
17 Q. Officer Beck?
18 A. Correct.
19 Q. You were uniformed?
20 A. Correct. We arrived and made contact with Mr.
21 Polk and his aunt at the house.
22 Q. Somebody identified himself as Mr. Polk?
23 A. Correct.
24 Q. Did you, prior to going out there, know you were
25 looking for a Mr. Polk?

1 A. To my recollection I believe it was in the details
2 in the call.
3 Q. Do you see Mr. Polk here in court?
4 A. Yes, I do.
5 Q. Would you point to him and tell me where he's
6 sitting?
7 A. Right there.
8 MS. HOLTHUS: Record reflect identification of the
9 defendant?
10 THE COURT: The record will so reflect
11 BY MS. HOLTHUS:
12 Q. What happened when you got there?
13 A. We got there and I was sort of talking to Mr. Polk
14 and he stated he was ashamed of what he did and he had sexually
15 assaulted his sister six months prior, and he thought he had a
16 sexual assault warrant so he wanted to turn himself in.
17 Q. What did you do?
18 A. We did a records check on Mr. Polk and --
19 Q. You, in fact, took him into custody?
20 A. No, we didn't take him into custody because we
21 wanted to make sure he had a warrant or not. We found out he
22 didn't have.
23 THE COURT: Just a minute.
24
25 BY MS. HOLTHUS:

1 Q. That's all I wanted.
2 Did you at some point take him to be interviewed
3 by someone regarding the sexual assault?
4 A. We did take him into custody.
5 Q. Okay. That's enough?
6 MS. PETERSON: Court's indulgence.
7 I'll pass the witness.
8 THE COURT: Cross?
9 MR. ORAM: Nothing.
10 THE COURT: Thank you so much.
11 State will call their next witness.
12 MS. PETERSON: State calls Detective Tim Moniot.
13
14 (Whereupon, the witness was duly sworn.)
15
16 THE COURT: Have a seat and state your name and
17 spell your last name, for the record.
18 THE WITNESS: Detective Timothy Moniot, M-
19 o-n-i-o-t
20
21 DIRECT EXAMINATION
22
23 BY MS. PETERSON:
24 Q. Detective, how are you employed?
25 A. I'm employed as a detective with the Las Vegas

1 Metropolitan Police Department, sexual assault and sexual abuse
2 unit.
3 Q. How long have you been with Metro?
4 A. Eight years.
5 Q. You said you're with the sexual assault and sexual
6 abuse unit now. How long have you been with that unit?
7 A. Close to two years.
8 Q. Before you were with the sexual assault unit where
9 were you assigned to before that?
10 A. It was a detective position called general
11 assignment squad working late nights.
12 Q. Were you assigned to the general assignment
13 division of the Las Vegas Metropolitan Police Department back
14 on August 14, 1999?
15 A. Yes, I was.
16 Q. Can you tell me, detective, what does it mean to
17 be a detective with general assignment in Metro?
18 A. General assignment is like a major case squad.
19 The majority of what we do, we work after hours late nights,
20 any event that comes up with a need for investigative
21 assistance. Normally death investigations, homicides, suicides
22 and questionable deaths, as well as child molestation, sexual
23 assaults, shootings and stabbings where there are life
24 threatening injuries.
25 Q. General assignment detectives kind of respond to

1 everything?
2 A. Yes.
3 Q. Now as a sexual assault sexual abuse detective you
4 only do those kind of cases?
5 A. That is correct.
6 Q. Back when you were working general assignment were
7 you on duty August 14,'99?
8 A. Yes, I was.
9 Q. Did you respond to a call on that day?
10 A. Yes.
11 Q. And can you tell me what the call was at the time?
12 A. I received a telephone call from Officer Newton.
13 He advised me he was on a call where he needed investigative
14 assistance.
15 Q. What were the details of the call that you had
16 received?
17 A. He told me that Mr. Renard Polk had called up
18 dispatch wanting to turn himself in believing he had a warrant
19 and he said they couldn't find a warrant.
20 Q. Let me stop you there. Did Detective Newton say
21 at that time there was no sexual assault warrant with regards
22 to Renard Polk?
23 A. Correct.
24 Q. They were asking you what to do?
25 A. Yes.

1 Q. And did you ultimately interview someone named
2 Renard Polk at the Clark County juvenile hall?
3 A. Yes.
4 Q. And do you see Renard Polk here in the courtroom
5 today?
6 A. Yes, he's sitting here with glasses on and a gray
7 shirt on.
8 Q. Detective --
9 THE COURT: The record will reflect identification
10 of the defendant.
11 MS. PETERSON: Thank you, Judge.
12 Detective, as you're going to go meet the
13 defendant to do further investigation, do you know anything
14 about this case at all?
15 A. None whatsoever.
16 Q. Had you talked to Detective Dave Dunn about this
17 case at all?
18 A. No.
19 Q. Were you able to get any information at all before
20 you sat down and talked to the defendant?
21 A. Very limited. The officers had told me they
22 couldn't find an outstanding for the sexual assault.
23 Q. Let me stop you there. Did you look at any --
24 did you try to find any kind of records with regards to someone
25 named Renard Polk and a case that had been submitted?

1 A. Yes. I went back to to the office and checked in
2 our data base where we keep the files and information on
3 pending cases or any situation where a citizen files a report
4 for any reason. You can search by name, date and a lot of
5 different things, it's a complete data base.
6 Q. So you were able to find something for Renard
7 Polk?
8 A. Yes.
9 Q. And was it just a brief narrative is all you had?
10 A. Very limited information, correct.
11 Q. Did you have any printed transcripts of
12 interviews?
13 A. None.
14 Q. Did you have any tapes that you could listen to?
15 A. No.
16 Q. Did you interview any kids before you went over
17 and talked to the defendant?
18 A. No.
19 Q. So you just had some bare-bones information on
20 this case?
21 A. That's correct.
22 Q. And when you went in to interview him tell me what
23 you did then with that interview?
24 A. I believe he was in holding at that time where he
25 had already been booked in.

1 Q. I'm sorry, detective, when you first contacted him
2 is this in a room or is it out with a number of people? Are
3 you alone or what?
4 A. He was pulled out from a holding unit and I talked
5 to him in somebody's office there inside juvenile hall.
6 Q. There's peoples' offices just all along there?
7 A. That's correct.
8 Q. They are kind of closed, like windows on the
9 doors?
10 A. Yes. It was early in the morning. We usually
11 talk to people when there's nobody around because they don't
12 have formal interviews there.
13 Q. So you're just in somebody's office?
14 A. That's correct.
15 Q. Is there anybody else in there with you?
16 A. No.
17 Q. What do you tell him then when you speak to him?
18 A. I approached him, I said I understood that he had
19 turned himself in, that he was wanting to talk about something
20 that happened regarding some molestation or sexual assault
21 charges. And I told him I was a detective and I was here to
22 talk to him if he wanted to talk to me.
23 Q. What did he say?
24 A. He said he did. He was currently in custody so I
25 provided him with his Miranda rights, which he said he

1 understood. He signed an acknowledgements of Miranda rights
2 and after that I conducted a taped interview with him.
3 Q. Okay. And you said that you gave him Miranda
4 rights. Can you tell me, you read that off of a card?
5 A. I provided him with the card, it has it printed on
6 it.
7 Q. And did you have him read it out loud or do you go
8 ahead and --
9 A. I don't remember if I had him read it out loud but
10 before I provided him with a card I made sure he knew how to
11 read. He told me he did and I actually had him read an excerpt
12 out of a book we have on criminal offenses, just opened it up
13 to a page and asked him to read it out loud. He read it with
14 no problem.
15 Q. He didn't have any problem reading at all?
16 A. No.
17 When you said at some point you gave him a rights
18 of persons card, is that right.
19 A. That's correct.
20 Q. I'm showing you now what's been marked for
21 identification as State's Proposed Exhibit No. 9. Do you
22 recognize that?
23 A. Yes.
24 Q. What's that?
25 A. That's the rights of persons arrested card, where

1 it outlines Miranda rights.
2 Q. And is your name on that?
3 A. That's correct, my name is on it.
4 Q. And there's a number by it. What's that number?
5 A. The case number associated with this case, my name
6 and badge number, the date and time and Mr. Polk's signature.
7 Q. And he actually signed that?
8 A. Yes.
9 Q. And he signed that in your presence?
10 A. Yes, he did.
11 Q. Can you go ahead and read me what is read on that
12 card?
13 THE COURT: You want to admit it first.
14 MS. PETERSON: I'd move to admit State's 9.
15 MR. ORAM: No objection.
16 THE COURT: Nine will be admitted. Now you can
17 read it.
18 THE WITNESS: "You have the right to remain
19 silent. If you give up that right to remain silent anything
20 you say can be and will be used against you in a court of law.
21 You have the right to speak to an attorney before answering any
22 questions and to have an attorney present with you while you
23 answer any questions. If you cannot afford an attorney, an
24 attorney will be appointed for you by the Court at no cost to
25 you and you need not answer any questions until that attorney

1 has been appointed for you. If you decide to answer questions
2 now you may stop at any time and ask to talk to an attorney
3 before any questioning continues. If you decide to stop
4 answering questions once you have begun all questioning will
5 stop."
6 Q. And did the defendant understand those rights?
7 A. Yes.
8 Q. And did he speak to you then?
9 A. Yes, he did.
10 Q. Tell me, if you can, give me an overview of how
11 you go about interviewing someone. Do you tape it?
12 A. Yes, we tape all of our statements. I brought my
13 tape recorder out, put a tape in it, turned it on, gave the
14 header information, which would include his name, my name,
15 date, time, location, case number. And just start talking. I
16 ask him questions, kind of a back-and-forth. It's mainly a
17 conversation between me and him with a tape recorder capturing
18 all of what we said.
19 Q. And later on is that tape transcribed?
20 A. Yes.
21 Q. Detective, when you came to court today did you
22 bring some evidence at my request?
23 A. Yes, I did.
24 Q. What did you bring today at my request?
25 A. I brought the original tape and the envelope that

1 I filled out, which is we fill the envelopes out with the
2 information, it goes to transcription, the little tape in here
3 on the Microcassett they transcribe to a typed format. That
4 would be this tape. And the bigger tape to be played here
5 today.
6 Q. That's actually a copy, the bigger tape is a copy
7 of that Microcassett so you can actually play it in a regular
8 recorder?
9 A. Yes.
10 Q. Now, detective, you mentioned that the
11 Microcassett actually goes for transcription. Did you get a
12 transcript back from Metro when it got transcribed?
13 A. Yes.
14 Q. Did you compare that transcript with the tape that
15 I asked you to listen to?
16 A. Yes.
17 Q. And when you were going over and listening to that
18 tape, did you actually fill in some blanks that you couldnt
19 hear that the transcriber didn't take down?
20 A. Yes.
21 Q. I ask you that because there's some lines in the
22 transcript. Did you hear the words and fill in some of the
23 words that you could hear?
24 A. Yes.
25 Q. I'm going to show you what's been marked for

1 identification as State's Proposed Exhibit No. 10. Do you
2 recognize that exhibit? Could you go through some of the pages
3 and tell me if you recognize that?
4 A. Yes, it's Mr. Polk's statement that he made to me.
5 Q. Is that your handwritting there on that statement
6 filling in some of the blanks?
7 A. Yes, where there are voids where the transcriber
8 couldn't hear what was being said I filled in after listening
9 to it.
10 Q. And, for the record, Judge I'm showing defense
11 counsel what's been marked for identification as State's 11 and
12 12.
13 Detective, I'm showing you what's been marked for
14 identification as State's Proposed 11 and State's Proposed
15 Exhibit 12; do you recognize those?
16 A. Yes.
17 Q. Those are the things I asked you to bring to court
18 today?
19 A. Yes.
20 Q. State's Proposed Exhibit 11 is actually the
21 microcassette from your cassette recorder that you used in the
22 actual interview?
23 A. Correct.
24 Q. State's Proposed 12 is a regular sized tape copy
25 of this?

1 A. That's correct.
2 Q. You had a chance to listen to State's Proposed 12
3 in its entirety, is that correct?
4 A. Yes.
5 Q. Is that a true and accurate copy of the interview
6 that you had with the defendant?
7 A. Yes.
8 Q. Does it match up then with this transcript that's
9 State's Proposed Exhibit No. 10?
10 A. Yes.
11 MS. PETERSON: At this time I'd move to admit
12 State's 10 and 12.
13 THE COURT: Not 11?
14 MS. PETERSON: Not 11, that's correct, that's just
15 the Microcassett.
16 MR. ORAM: No objection.
17 THE COURT: You're not going to be offering to
18 admit 11.
19 MS. PETERSON: No.
20 THE COURT: Ten and 12 will be admitted, the
21 State's not offering 11.
22 MS. PETERSON: At this time, Judge, I'd ask to
23 publish 12 and play that for the jury.
24 THE COURT: Publish the tape?
25 MS. PETERSON: Yes, if I could play that. In

1 addition, I have some photocopies of Exhibit No. 10, if I could
2 pass those out to the jury.
3 THE COURT: You want the jury to have the
4 transcription of what Mr. Polk's statement is, is that correct,
5 so they can follow along with the tape?
6 MS. PETERSON: That's correct.
7 THE COURT: Any objection?
8 MR. ORAM: No, Your Honor.
9 THE COURT: So ordered.
10 Now we are going to play the tape?
11 MS. PETERSON: Yes, Judge.
12 THE COURT: How long is this tape about?
13 MS. PETERSON: Roughly 30 minutes.
14 THE COURT: All right.
15 MS. PETERSON: Detective, before I start this tape,
16 when you listened to this tape is that your voice on there and
17 is the defendant's voice on there.
18 A. Yes.
19 Q. And the room you're in, is it kind of hard to
20 listen to the tape a little bit? Is there voices changing in
21 volume?
22 A. It was extremely hard. It wasn't the best
23 interview environment. We did it in an office where there's
24 very little privacy, off an area where officers are bringing
25 juvenile suspects to be booked in. There's background noise,

1 reverberation.
2 Q. Is there parts in the tape where you ask to have
3 the defendant actually spoke up so you could hear him on the
4 tape?
5 A. Yes. During the interview he spoke very, very
6 softly and slowly. It was very hard, several times I had to
7 ask him to speak up.
8 Q. Okay.
9
10 (Whereupon, the tape was played.)
11
12 MS. PETERSON: Judge, at this time Mr. Oram and I
13 did have a stipulation that the defendants birthday is October
14 14, 1980?
15 MR. ORAM: That's correct, Your Honor.
16 THE COURT: All right. That stipulation regarding
17 Mr. Polk's birth date will be entered into the regard.
18 MS. PETERSON: Thank you, Your Honor.
19
20 (Tape resumes.)
21
22 MS. PETERSON: Detective, I'm sorry, I need to cut
23 that tape off. Judge, can we approach briefly?
24 THE COURT: Yes.
25

1 MS. PETERSON: They were only marked.
2 THE COURT: You have 6 through 13 admitted, except
3 for 11, and you're not going to move admit one through five?
4 MS. PETERSON: That's correct.
5 THE COURT: All right, ladies and gentlemen. The
6 State has now rested their case.
7 Mr. Oram, what is you're pleasure?
8 MR. ORAM: I believe the prosecutors wanted to
9 approach on something before we started our case.
10 THE COURT: Yes
11
12 (off the record discussion at bench).
13
14 THE COURT: All right. Mr. Oram, what is your
15 pleasure now on behalf of the defense?
16 MR. ORAM: Your Honor, we would call one witness.
17 At this time we would call Mr. Polk.
18
19 (Whereupon, the witness was duly sworn.)
20
21 THE COURT: Have a seat. State your name and
22 spell your last name, for the record. You can put the
23 microphone closer.
24 THE WITNESS: Renard Truman Polk, P-o-l-k.
25

1 (Off the record discussion at Bench.)
2
3 THE COURT: We are going to take a ten minute
4 recess. We'll come back and finish the officer.
5
6 (Whereupon, the jury was duly admonished.)
7
8 THE COURT: We'll take ten minutes.
9
10 (Recess)
11
12 THE COURT: Counsel stipulate to the presence of
13 the jury?
14 MS. PETERSON: Yes, Judge.
15 THE COURT: All right. Finish up on this officer.
16 MS. PETERSON: I just have a couple questions.
17 Detective, you heard the whole tape but I want to
18 ask you a couple general questions about the defendant when you
19 interviewed him.
20 did he have any trouble understanding you or your
21 questions or anything?
22 A. None whatsoever.
23 Q. Was he talking in complete sentences?
24 A. Yes, he was.
25 Q. At any time before or during the interview did you

1 threaten him?
2 A. No.
3 Q. At any time before or during the interview did you
4 tell him what to say?
5 A. No.
6 Q. And just so I'm clear, Detective, after you
7 finished interviewing him you did not arrest him for sexual
8 assault on a minor, is that right? You actually forwarded the
9 paperwork on but you didn't arrest him for sexual assault on a
10 minor?
11 A. That's correct.
12 MS. PETERSON: No further questions, Judge.
13 THE COURT: Thank you.
14 Cross?
15 MR. ORAM: Briefly
16
17 CROSS EXAMINATION
18
19 BY MR. ORAM:
20
21 Q. Detective, at the break just now we had an
22 opportunity to listen to a little portion of that tape again,
23 is that correct?
24 A. Yes, we did.
25 Q. I'm referring to page 27 and you're asking

1 about -- you were telling Mr. Polk he gets to tell his side of
2 the story. Then you say, "Do you want to get some help?" Did
3 you hear what he said on there?
4 A. Yes.
5 Q. What did he say?
6 A. He said "psychiatric help."
7 Q. That was something that wasn't included because
8 this is a better tape recording than you had been listening to
9 previously?
10 A. Yes.
11 Q. But he clearly said he wanted psychiatric?
12 A. Yes, sir.
13 MR. ORAM: Nothing further.
14 THE COURT: Thank you, Officer for testifying.
15 You're excused.
16 Next witness?
17 MS. PETERSON: Judge, I've had the clerk mark the
18 next exhibit, it's marked for identification as State's
19 Proposed Exhibit 13, I showed it to defense counseling, it's a
20 certified copy of a birth certificate of the defendant. I'd
21 move to admit State's 13.
22 MR. ORAM: No objection.
23 THE COURT: Thirteen will be admitted.
24 MS. PETERSON: Judge, the State rests.
25 THE COURT: You've got one through fives exhibits.

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39 pgs.

E

Exhibit

1 Las Vegas, Nevada, January 8, 2002

2

3 * * * * *

4

5 THE COURT: Counsel stipulate to the presence of
6 the jury?
7 MS. PETERSON: Yes, Judge.
8 MR. ORAM: Yes, Judge.
9 THE COURT: Good morning, ladies and gentlemen;
10 thanks for your indulgence. The State's still on their case.
11 Call your next witness.
12 MS. PETERSON: Jamila Chatman.
13 Again, any witnesses in this case are hereby
14 excluded from this courtroom and admonished not to discuss
15 their testimony with any other witness.
16
17 (Whereupon, the witness was duly sworn.)
18
19 THE COURT: Please have a seat: Please state your
20 name and spell your last name, for the record. Spell your
21 first name, too.
22 THE WITNESS: Jamila J a-m-i-l-a, Chatman, C-h-
23 a-t-m-a-n.
24 THE COURT: Thank you.
25 Miss Holthus.

1

2 DIRECT EXAMINATION

3

4 Q. (By Ms. Holthus) Jamila, how old are you?

5 A. 16.

6 Q. And what's your date of birth?

7 A. 6-20-85.

8 Q. Where do you live?

9 A. In L.A., California.

10 Q. With whom do you live?

11 A. Marjorie Denard and Tony Denard.

12 Q. Who are they?

13 A. They are my foster parents.

14 Q. How long have you been in foster care?

15 A. Two years and a month.

16 Q. Do you know when you went in to foster care, the

17 date?

18 A. Yeah, June of 1999, June 7th or 8th, I think.

19 Q. How is it you remember June of '99?

20 A. Because I remember my auntie took me out to

21 Pamona, California.

22 Q. And you've been in foster care ever since?

23 A. Yes.

24 Q. Did your auntie take you out alone?

25 A. No, they took my sisters and brothers with me.

1 Q. Which sisters, which brothers?
2 A. Javan, Richard, Jahala and Anna.
3 Q. Do you know if they are in California as well?
4 A. Yes.
5 Q. Do you live with any of them?
6 A. I only live with Jahala.
7 Q. Was there a time you were living with Anna?
8 A. Yes, I was living with her.
9 Q. In California?
10 A. Uh-huh. We just got split up recently.
11 Q. Do you know why you were split up?
12 A. They say Anna --
13 MR. ORAM: Objection, relevance.
14 THE COURT: I don't know if this is relevant or
15 not. I'm going to sustain the objection unless you want to
16 approach, tell me the relevancy u.
17 MS. HOLTHUS: If we may approach.
18
19 (Off the record discussion at Bench.)
20
21 THE COURT: You can proceed with your question,
22 Miss Holthus.
23 Q. (By Ms. Holthus) Without telling me what anybody
24 said, do you, yourself, know, have you seen why Anna was taken
25 out of your foster home?

1 A. I only -- they said --
2 MR. ORAM: Objection to what they said.
3 THE COURT: Sustained.
4 MS. HOLTHUS: I don't want you to tell me what
5 anybody said. Did you see anything personally with Anna?
6 A. Yes.
7 Q. What did you see?
8 A. Anna, she has attitude.
9 Q. Was there a time that you lived with Anna here in
10 Las Vegas?
11 A. Yes.
12 Q. When?
13 A. Years ago.
14 Q. Where did you live before you went in June '99 to
15 foster care in California?
16 A. 1325 Nay Court.
17 Q. Is that here in Las Vegas?
18 A. Uh-huh.
19 THE COURT: You have to say yes and no, because
20 the court reporter has to take everything down.
21 Proceed
22 BY MS. HOLTHUS:
23 Q. Who did you live on Nay Court with?
24 A. My grandmother Gloria.
25 Q. Who else?

1 A. My three brothers and two sisters.
2 Q. The same kids that you said went to California
3 with you and one more brother?
4 A. Uh-huh.
5 THE COURT: Is that a "yes"?
6 THE WITNESS: Yes
7 BY MS. HOLTHUS:
8 Q. Which is the brother that's not in California?
9 A. Renard Polk.
10 Q. Do you see Renard here in court?
11 A. Yes.
12 Q. Would you point to him and tell me where he's
13 sitting and what he's wearing?
14 A. A gray shirt and blue pants.
15 THE COURT: The record will show the
16 identification of the defendant, Renard Polk.
17 BY MS. HOLHUS:
18 Q. How long did you live with your brothers and
19 sisters and grandmother, Gloria Polk?
20 A. I lived with them for 13 years.
21 Q. With all your brothers and sisters?
22 A. Yes.
23 Q. Where was your mom?
24 A. She was not with me. She was out in the streets.
25 Q. Did you get to see your mom?

1 A. Sometimes. Not always.
2 Q. So you just -- was Grandma Gloria, is that your
3 mom's mom?
4 A. Uh-huh.
5 Q. Yes?
6 A. Uh-huh.
7 Q. I'm sorry, I need you to say yes or no?
8 A. Yes.
9 Q. Was there a time that your mom couldn't take care
10 of you guys, that's why you went to grandma's?
11 A. Yes.
12 Q. And you knew there were problems with your mom?
13 A. Yes.
14 Q. Did you and your sisters and brothers see problems
15 with your mom?
16 MR. ORAM: Objection to what anybody else would
17 have seen.
18 THE COURT: Rephrase it
19 BY MS. HOLTHUS:
20 Q. Did you, yourself, see mom having problems?
21 A. Yes.
22 Q. What kind of problems did you see?
23 A. Drug problems, abusive problems.
24 Q. Did you see -- did you see these problems in front
25 of your brothers and sisters as well?

1 A. Yes.
2 Q. Who was in charge of the house?
3 A. My grandma, Gloria Polk.
4 Q. Your brother was five years older than you?
5 A. Which one?
6 Q. Renard?
7 A. Yes.
8 Q. The other brothers are younger, aren't they?
9 A. Uh-huh.
10 Q. Yes?
11 A. Yes.
12 Q. So was he kind of in charge too?
13 MR. ORAM: Objection, leading.
14 THE COURT: Overruled. But don't lead the
15 witness. You can answer
16 By MS. HOLTHUS:
17 Q. Was Renard in charge as the older brother?
18 A. Yes.
19 Q. How did you guys all get along?
20 A. We did okay.
21 Q. Did there come a time that you found out one of
22 your sisters was having a problem?
23 A. With what?
24 Q. With your older brother, Renard?
25 A. Yes.

1 Q. When did that happen?
2 A. Anna believed something she told Jahala.
3 MR. ORAM: Objection, as to Anna telling Jahala.
4 THE COURT: All right.
5 BY MS. HOLTHUS:
6 Q. Do you remember when it was that you found out?
7 A. No.
8 Q. Was it before you went into foster care?
9 A. Yes.
10 Q. You went into foster care in June of 1999?
11 A. Uh-huh.
12 Q. That's a "yes"?
13 A. Yes.
14 Q. Do you know how long before that it was?
15 A. It was off and on.
16 Q. Okay. When did you find out?
17 A. The last time?
18 Q. Right.
19 A. It was a Friday in February or March.
20 Q. What happened that Friday in February or March?
21 A. Me and Jahala went to the store and Anna wanted to
22 go but Renard had told her to -- Renard told her to stay
23 because all of us walking to the store, it was getting late
24 anyway.
25 When we came back, because my grandma needed a

1 couple things from the store --
2 Q. Let me stop you there. How was grandma doing at
3 that point?
4 A. She was really sick. She was really sick.
5 Q. Who was taking care of grandma?
6 A. Almost everybody. Nurses would come in, home
7 nurses would come in, take care of her.
8 Q. Did any other adult live in the house?
9 A. My Auntie Susan, mostly all my aunties, my uncles.
10 Q. They would come, were they living with you or just
11 coming to help take care of everybody?
12 A. Come help take care of us.
13 Q. Was any other adult living in the house?
14 A. Yes. At the time it was my Uncle Alvin.
15 Q. And at that point Renard was 18 too, is that
16 right?
17 A. I don't know.
18 Q. Okay. I'm sorry, I interrupted you. You went to
19 the store for your gramother?
20 A. Uh-huh. And we had got back and Anna was in our
21 room crying. And Jahala asked her what was the matter with
22 her.
23 MR. ORAM: Judge, objection as to any conversation
24 between Jahala and Anna.
25 THE COURT: She was present, is that correct?

1 MR. ORAM: Yes, that's true, but it's still
2 hearsay.
3 MS. HOLTHUS: At this point we know they went to
4 the store, we have enough background in the case to determine
5 what happened earlier and I believe this comes in as an excited
6 utterance.
7 THE COURT: I'm going to overrule your objection.
8 You can proceed.
9 BY MS. HOLTHUS:
10 Q. You said Anna was crying, she was in the bedroom,
11 you just got back from the store, Jahala asked her what's
12 wrong. What did Anna say?
13 A. Anna shook her head, and I knew she didn't want me
14 to hear.
15 Q. Shook her head which way?
16 A. She was like, when you cry, you don't want people
17 to know so you just shake your head like nothing is the matter.
18 Q. Okay.
19 A. So before I got to the room I said you sure
20 nothing's the matter with you? She say yes. But when I walked
21 up to our room I closed the door.
22 Q. Why did you do that?
23 A. Because I want to hear what happened.
24 Q. Did you think she was going to tell Jahala and not
25 you?

1 A. Uh-huh. She told Jahala but not me. And I heard
2 her talking.
3 Q. Were Anna and Jahala close?
4 A. Yeah. They still is.
5 Q. Did you stand right outside the door?
6 A. Yeah.
7 Q. Were you able to hear what Anna told Jahala?
8 A. Yes.
9 Q. What did you hear her say?
10 A. All she said was "He did it again."
11 Q. What happened then?
12 A. Then I went and Jahala said what you mean he did
13 it again? She was like what he did to you. And so Renard's
14 room is next to us.
15 MR. ORAM: Can I just ask for a continuing
16 objection.
17 THE COURT: Yes, a continuing objection, Mr. Oram.
18 The record will so reflect
19 BY MS. HOLTHUS:
20 Q. What happened then?
21 A. I went to Renard's room and I called my Auntie
22 Susan.
23 Q. How long were you and your sister at the store?
24 A. I don't really know.
25 Q. How far is the store from your house?

1 A. A couple blocks.
2 Q. Do you know about how long it takes you to get
3 there?
4 A. 20, 25 minutes.
5 THE COURT: Is that walking or?
6 THE WITNESS: Walking
7 BY MS. HOLTHUS:
8 Q. 20 to 25 minutes there and 20 to 25 minutes back?
9 A. Uh-huh.
10 Q. Is that yes?
11 A. Yes.
12 Q. So you would have been gone about 50 minutes, plus
13 however much time you dod shopping?
14 A. Uh-huh -- yes.
15 Q. Do you happen to remember what you bought that
16 day?
17 A. No.
18 Q. Was it a lot of groceries or . . .
19 A. In the middle.
20 Q. Something that both you and your sister were able
21 to carry back from the store?
22 A. Yes.
23 Q. So you came back and you called your Auntie Susan.
24 Why did you call Auntie Susan?
25 A. I called her because that's something that came to

1 my head, just to call my Auntie Susan.
2 Q. What happened then?
3 A. I called Auntie Susan and she said that she going
4 to come right over and she came right over.
5 Q. Did you talk to Renard?
6 A. No, Renard wasn't in the house at the time.
7 Renard was gone.
8 Q. Was he there when you got home from the store?
9 A. No.
10 Q. What happened when Auntie Susan got there?
11 A. She pulled in and asked what happened.
12 MR. ORAM: Objection.
13 THE COURT: I'm not going to allow. I'm going to
14 sustain that objection.
15 MS. HOLTHUS: I'm sorry, what was the objection?
16 MR. ORAM: Hearsay
17 BY MS. HOLTHUS:
18 Q. I don't want anything Auntie Susan said, just what
19 did everybody do?
20 THE COURT: Maybe clarify the question
21 BY MS. HOLTHUS:
22 Q. What did Auntie Susan do when she got there?
23 A. She asked Anna questions.
24 Q. After she asked Anna the questions, did Anna give
25 answers?

1 A. Yes.
2 Q. What happened? What did Auntie Susan do then?
3 A. She talked to all of us.
4 Q. All of us being?
5 A. Me, Jahala and Anna, in our room.
6 Q. And what happened after she talked to all of you?
7 A. She went in my grandma's room and talked to my
8 grandma.
9 Q. What happened after that?
10 A. We just waited until Renard got home.
11 Q. Did he come home?
12 A. Yes.
13 Q. What happened when Renard got home?
14 A. I was sleeping at the time and they were
15 downstairs playing, I think "64" and they were down there and
16 they woke me up and told me Renard was here. And my Auntie
17 Susan pulled me in my grandma's room and my grandma just talked
18 to Renard in front of all of us and she told him.
19 MR. ORAM: Objection -- I'll withdraw that.
20 THE COURT: Go ahead.
21 THE WITNESS: She talked to Renard with all of us
22 in the room and she told Renard she can't have this in her
23 house and she said he may have to go live with his grandma.
24 BY MS. HOLTHUS:
25 Q. What did Renard say?

1 A. Renard said it wasn't true.
2 Q. And what happened then?
3 A. Then him and my auntie got into a big argument and
4 auntie said she was going to call the cops and he said, "Okay,
5 call the cops, I don't care."
6 And we exited out of my grandma room and she had
7 her fiance then, her fiance was there and he was -- they was
8 downstairs talking and then Renard ran out the front door.
9 Q. And do you know if anybody called the police?
10 A. Yes, my auntie did. She was calling the police at
11 the time.
12 Q. When Renard ran out the door?
13 A. Yes.
14 Q. Did the police come that night?
15 A. Yes.
16 Q. Was that the last time you saw -- that Renard
17 lived with you?
18 A. Uh-huh, yes.
19 Q. Did you talk to the police that night?
20 A. Yes. They asked me what happened that Friday.
21 Q. Had you you ever seen Renard do anything to Anna?
22 A. No.
23 Q. Have you ever seen him do anything to Jahala?
24 A. No.
25 Q. Have you ever seen something unusual between

1 Renard and Jahala?
2 A. No.
3 Q. Was there a time that you saw -- that you were
4 looking for Jahala when you knew where she was?
5 A. Yes.
6 MR. ORAM: I'd object, Judge. The question was
7 asked and answered twice, did you see the defendant do
8 anything, she said no. Now I think it's leading.
9 THE COURT: Overruled. Go ahead
10 BY MS. HOLTHUS:
11 Q. About when was that that you saw Jahala and yet
12 you went looking for her?
13 A. I don't remember the date.
14 Q. Do you remember about how long it was before the
15 police came that last night?
16 A. Friday night?
17 Q. Friday.
18 A. No.
19 Q. Was it years before? Months before? Weeks
20 before?
21 A. Months.
22 Q. What was going on before you went looking for
23 Jahala?
24 A. We were all in the kitchen playing and wrestling.
25 Q. Who is we?

1 A. Me, Renard, Jahala and Anna. And we clean up on
2 Saturdays, so we were all in the kitchen wrestling and playing
3 and dancing. And I went upstairs and I don't know where Anna
4 went, I think Anna went downstairs. We was upstairs and my
5 grandma called me and she said Jamila, go get Jahala, and I
6 said okay. So I went to get Jahala and I was looking for her
7 and I heard like a little scream and I knocked on the door and
8 that's when I said Renard is Jahala in there? He said no.
9 Q. What door did you knock on?
10 A. Our downstairs bathroom.
11 Q. Why did you knock on that door?
12 A. Because she was not upstairs.
13 Q. Was the door closed?
14 A. Yes.
15 Q. Did you try to open it? Was it locked?
16 A. I didn't try to open it, I don't remember if I
17 tried to open it.
18 Q. All right. So you talked through the door?
19 A. Yes. And he said she wasn't in there.
20 Q. What happened then?
21 A. Then I looked under the door and it was just black
22 and I knew she was laying on the floor.
23 Q. How did you know that?
24 A. Just by looking.
25 Q. Just by looking in just black you knew it was

1 Jahala laying on the floor?
2 A. Before I looked under the door she screamed a
3 little scream.
4 Q. Where was the scream coming from?
5 A. The downstairs bathroom.
6 Q. Have you looked under the bathroom door before?
7 A. Before?
8 Q. Any other times have you ever looked under the
9 bathroom door?
10 A. No.
11 Q. What was it about being black under the bathroom
12 door that made you think she was in there?
13 A. Because she was nowhere else. She was nowhere
14 else so I just looked under the bathroom door.
15 Q. Was anybody with you when you looked under the
16 bathroom door?
17 A. No.
18 Q. What happened then?
19 A. Then I told Anna, because my grand -- I said she's
20 nowhere to be found. And my grandma said go check at Tommy's
21 house, Katrina's house and some other girl house, I forgot her
22 name. She don't believe in God. And we was on our way over to
23 Tommy house and we stopped and I said you know where she's at?
24 And she said yes, I do, she's in the bathroom with Renard.
25 MR. ORAM: Can I ask who said that?

1 THE COURT: Yes.
2 BY MS. HOLTHUS:
3 Q. Who said -- what did you say?
4 A. I stopped the bike and I say you know where Jahala
5 is at? And she say she's in the bathroom with Renard.
6 Q. Anna said she's in the bathroom with Renard?
7 A. Yes. And I said okay and when we got to the house
8 Jahala was fixing some noodles.
9 Q. If you knew Jahala was in the bathroom why did you
10 go looking for her somewhere else?
11 A. Because.
12 Q. Because why?
13 A. I didn't want to tell my grandma.
14 Q. Why not?
15 A. I don't know.
16 Q. Did you talk to Jahala after that about what was
17 going on?
18 A. Yes. We went upstairs to eat our noodles in our
19 room.
20 MR. ORAM: Object, Judge, hearsay.
21 MS. HOLTHUS: I just wanted to know if you did.
22 THE COURT: All right.
23 THE WITNESS: Yes
24 BY MS. HOLTHUS:
25 Q. Was Jahala acting normal?

1 A. She cried. That's about it, she cried.
2 Q. Did she seem upset?
3 MR. ORAM: Objection to the question, asked and
4 answered.
5 THE COURT: Overruled
6 BY THE WITNESS: I really don't know.
7 BY MS. HOLTHUS:
8 Q. What did she tell you?
9 MR. ORAM: Objection what she would have said.
10 MS. HOLTHUS: Excited utterance.
11 THE COURT: Objection sustained.
12 MS. HOLTHUS:
13 Q. Did you ever see your brother do anything else to
14 Jahala?
15 A. No.
16 Q. What kind of brother was your brother?
17 A. He was a caring person, he was my role model.
18 Q. Did you love him?
19 A. Yes. I still do.
20 Q. Do you know what kind of student he was?
21 A. Yes, he got good grades.
22 Q. So other than these things that were going on with
23 Anna and Jahala, he was a good brother?
24 A. Yes.
25 MS. HOLTHUS: Pass the witness.

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
4

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C166490 STATE OF NEVADA vs. RENARD T. POLK

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1 Q. And you would agree that telling the police that
2 you saw Renard Polk actually assaulting your sister is
3 different than it is to say that you just heard about it. You
4 would agree that's different, isn't it?
5 A. Yes.
6 Q. Are you making these things up?
7 A. No.
8 Q. I want to move on to this incident you've told us
9 about where you talk about how you saw Jahala under the door.
10 Do you remember telling us that day?
11 A. Yes.
12 Q. You didn't tell that to the police, did you?
13 A. Because they didn't ask.
14 Q. Would you have told them if they had asked?
15 A. Yes.
16 Q. Now, this situation with Jahala happened and we
17 heard yesterday a little bit about this incident. There was
18 some wrestling going on and then your grandmother tells you to
19 find Jahala, is that correct?
20 A. Yes.
21 Q. And you went down and you looked under the door,
22 right?
23 A. Yes.
24 Q. And you saw black, right?
25 A. Yes.

1 Q. Like it was dark or black, like something black
2 underneath the door?
3 A. The light was on.
4 Q. So when you say black, what did you see that was
5 black?
6 A. I seen -- okay, it's a girl on the floor laying
7 down. So when you look under the door you will only see her
8 body.
9 Q. Did you see her body laying across the floor or
10 could you see-- were you looking at her head or looking at her
11 feet?
12 A. Just from here, the stomach part of her body.
13 Q. You didn't see her feet and Renard's feet, you
14 just saw the stomach part of her, is that right?
15 A. Yes. Yes.
16 Q. And at that point you decide that you're going
17 to -- your grandmother tells you to go to Tommy's house, right?
18 A. Yes.
19 Q. So you remember this incident well, don't you?
20 A. Yes.
21 Q. And the first place you went after the bathroom
22 was to Tommy's house, right?
23 A. No.
24 Q. Where was the first place you went?
25 A. Katrina's.

1 Q. What happened there?
2 A. She said she wasn't there.
3 Q. Did you ask her if she was there?
4 A. Yes.
5 Q. Were you surprised to hear that she wasn't there?
6 A. No, I wasn't.
7 Q. Why?
8 A. Because I heard a little scream in the bathroom.
9 Q. Where did you go after Katrina's house?
10 A. We didn't go all the way to Tommy's house, I
11 stopped the bike.
12 Q. Is that the only house you went to?
13 A. Yes.
14 Q. So you were going to go to Tommy's house but you
15 decided not to because you already knew where Jahala was,
16 right?
17 A. Yes.
18 Q. You didn't go to Katrina's house a little ways
19 down to another house to ask, right?
20 A. Yes.
21 Q. You did not?
22 A. No.
23 Q. And you had already told Anna where Jahala was
24 before you had gone back; is that right?
25 A. Yes.

1 Q. And when you got back, Jahala was out of the
2 bathroom, wasn't she?
3 A. Yes.
4 Q. So you didn't go back to that bathroom along with
5 Anna and look under that door and see her feet, did you,
6 because she was already out of the bathroom?
7 A. When I got back, yes.
8 Q. She was already out?
9 A. Yes.
10 Q. How often have you talked about this with your
11 sisters?
12 A. We don't talk about it.
13 Q. Did you talk about it last night?
14 A. No.
15 Q. Not at all?
16 A. No.
17 Q. Did you talk with the prosecutors last night?
18 A. I wasn't with no prosecutors last night.
19 Q. You just went home and you haven't talked to
20 anybody about this, correct?
21 A. No.
22 Q. Is that right?
23 A. Yes.
24 Q. And it's your testimony today that besides that
25 incident with Jahala and seeing her under the door, that's the

1 only time you actually saw anything, right?
2 A. Yes.
3 Q. You heard her scream under the bathroom door?
4 A. It was a little scream. It wasn't like she was
5 screaming for a long time.
6 Q. And you didn't tell anybody?
7 A. No.
8 Q. On the night when the police were coming, you
9 indicated that your aunt had a conversation with Renard,
10 correct?
11 A. In the room. They argued.
12 Q. Your aunt was pretty angry?
13 A. Yes.
14 Q. You told your aunt what you had seen or heard?
15 A. Yes.
16 Q. Is that what you told her, what you heard?
17 A. Yes, on the phone.
18 Q. Did your aunt strike Renard? Do you know what I
19 mean by that?
20 A. Hit?
21 Q. Yes.
22 A. I'm not sure.
23 Q. Now, you talked about another gentleman who was in
24 the house who was also talking with Renard and then Renard ran
25 away?

1 A. His name was Barry.
2 Q. Barry was pretty angry, right?
3 A. I don't remember. He didn't act angry.
4 Q. You described Renard as a caring brother who got
5 good grades, correct?
6 A. Yes.
7 Q. Did you notice whether or not Renard had mental
8 problems?
9 A. No.
10 Q. You never noticed that?
11 A. No.
12 Q. Did you -- are you aware whether he ever went to a
13 mental facility?
14 A. You mean, like counseling?
15 Q. We'll start with that, counseling.
16 MS. HOLTHUS: I'm going to object. I'm not
17 convinced she has any personal knowledge of this at all.
18 MR. ORAM: I'll lay a better foundation.
19 THE COURT: All right.
20 Q. (By Mr. Oram) do you have knowledge, personal
21 knowledge as to whether Renard received counseling?
22 A. Yes.
23 Q. And was that for mental problems?
24 A. I really don't know.
25 Q. Do you have personal knowledge as to whether

1 Renard was ever in any type of mental facility?
2 A. No, I only know about counseling.
3 Q. When did that occur?
4 A. Probably in '98 or '99. I really don't know.
5 Q. Sometime in that two-year period?
6 Is that a "yes"?
7 A. Yes.
8 Q. How long did the counseling go on for, if you
9 know?
10 MS. HOLTHUS: Judge, at this point what we need to
11 do is approach.
12 THE COURT: Approach the Bench.
13
14 (Off the record discussion at bench).
15
16 THE COURT: Proceed, Mr. Oram.
17 MR. ORAM: Thank you.
18 You indicated that Anna has attitude, I think you
19 said.
20 A. Yes.
21 Q. When did that occur?
22 A. She always have attitude, ever since I been
23 knowing her.
24 Q. So that's not a change, you're saying Anna always
25 had attitude?

1 A. Always had attitudes.
2 Q. It wasn't something that just happened after March
3 12, 1999?
4 A. No.
5 Q. I want to ask you one final question. Why did you
6 tell the police that you had seen your brother sexually assault
7 Anna when you're saying you cannot remember?
8 A. I don't remember telling the police I saw it.
9 MR. ORAM: Nothing further.
10 THE COURT: Anything else?
11
12 REDIRECT EXAMINATION
13
14 BY MS. HOLTHUS:
15 Q. Jamila, you met with Tammy and I, didn't you,
16 before trial?
17 A. Yes.
18 Q. When was it?
19 A. Sunday.
20 Q. And Sunday morning we gave you a copy of your
21 voluntary statement that Mr. Oram has been showing you, is that
22 right?
23 A. Yes.
24 Q. Let you read it over?
25 A. Yes.

1 Q. Then you came in to my office and we talked?
2 A. Yes.
3 Q. And one of the first things you said was there was
4 some stuff in there that wasn't true?
5 MR. ORAM: Object to leading, Judge.
6 THE WITNESS: Yes.
7 THE COURT: All right. Try not to lead the
8 witness, but proceed.
9 THE WITNESS: When you told me you had it on tape.
10 MR. ORAM: Objection what the prosecutor may have
11 said.
12 MS. HOLTHUS: This is not offered for the truth of
13 the matter asserted, but the effect on her and what she then
14 said.
15 THE COURT: Overruled. Proceed.
16 THE WITNESS: When I came in your office and told
17 you that this wasn't true, you told me that it was on tape and
18 that's when I told you that I don't remember, I might have said
19 it but I don't remember saying that. I really don't
20
21 BY MS. HOLTHUS:
22 Q. But in my office, what was it that you told me
23 you didn't remember saying?
24 A. That Renard on Perry Street, about eating Anna out
25 and.

1 Q. What you're talking about is where Mr. Oram showed
2 you, and the question was did you ever see him do anything to
3 one of your sisters, and you responded once when I lived on
4 Perry Street, is that right?
5 A. Uh-huh.
6 Q. And then you said he was -- he grabbed her, put
7 her on the bed, he took her and ate her out. That's what the
8 statement says you said?
9 A. That's what the statement says.
10 Q. And the first thing you said was I don't remember
11 seeing it or saying it?
12 A. No.
13 Q. What about the parts about what you saw him do to
14 Anna? Did you tell us you didn't remember saying that or
15 seeing that as well?
16 A. Yes, I told you I don't remember seeing nothing.
17 All -- I don't see nothing. All I said was only hearing them
18 talking.
19 Q. So anything that you told the detectives you saw
20 was actually what you were describing you heard?
21 MR. ORAM: I'd object, that's leading.
22 THE COURT: Rephrase it
23 BY MS. HOLTHUS:
24 Q. If you said to the detective that you saw that
25 Renard had peepeed in her, meaning in Anna?

1 A. Uh-huh.
2 Q. That information was information you got from
3 where?
4 A. I must have heard it from Anna because that's the
5 only person that I could have heard it from.
6 Q. When he asked you was it front private or back
7 private you said back private. You didn't see that?
8 MR. ORAM: Objection, leading.
9 THE COURT: I don't think she's leading. Let's
10 finish this up
11 BY MS. HOLTHUS:
12 Q. In fact, you told us Sunday you didn't see that?
13 A. Yes.
14 Q. The only thing was that's probably what you heard
15 Anna say?
16 A. Yes.
17 Q. How old are your brothers Richard and Javan?
18 A. Javan is nine.
19 Q. Javan, I'm sorry.
20 A. Javan is nine and Richard is seven.
21 Q. So back in March of '99 they would have been five
22 and sevenish?
23 A. Richard was a little baby.
24 Q. And he's how old now?
25 A. Seven.

1 Q. And you were 13?
2 A. 13.
3 Q. Jahala was 12?
4 A. 12. And Anna was, I think nine -- no, ten or 11.
5 MS. HOLTHUS: Nothing else.
6 THE COURT: Anything else.
7 MR. ORAM: Yes.
8
9 RE-CROSS EXAMINATION
10
11 BY MR. ORAM:
12 Q. Do you remember that you were describing what you
13 said you had seen to the police, and the police say on page
14 three, "okay, and you actually saw him do this?"
15 Answer: Yes.
16 Then again on page four, the policeman asks you,
17 "okay, now, did you actually see him do this to her," "and you
18 answered yeah. Do you remember telling the police twice that
19 you had seen it?
20 A. No.
21 Q. Was that true? Let's assume that you made this
22 statement. Was it true that you had seen it, yes or no?
23 A. No, I did not see it.
24 MR. ORAM: Nothing further.
25 THE COURT: Anything else.

1 MS. HOLTHUS: Nothing else judge.
2 THE COURT: Thank you very much for testifying.
3 You're excused.
4 Call your next witness.
5 MS. PETERSON: May we check the hallway.
6 THE COURT: Yes.
7 MS. PETERSON: Our next witness is Phyllis Suiter.
8
9 (Whereupon, the witness was duly sworn.)
10
11 THE COURT: Have a seat, state your name and spell
12 your last name, for the the record.
13 THE WITNESS: Phyllis Suiter, S-u-i-t-e-r.
14 THE COURT: Miss Peterson.
15 MS. PETERSON: Thank you, Judge.
16
17 DIRECT EXAMINATION
18
19 BY MS. PETERSON:
20 Q. Miss Suiter, what is your profession?
21 A. I'm a board certified family and pediatric nurse
22 practitioner.
23 Q. Can you tell me a little about your educational
24 background?
25 A. I graduated from San Diego State University in

1 1972 with my bachelors degree in nursing. I have graduated
2 from the University of California, San Diego, primary care
3 nurse practitioner program in 1977 and obtained my Master's
4 degree in 1983.
5 Q. Your Master's degree in primary care nursing?
6 A. I have a Master's degree in counseling.
7 Q. Did you have any further educational background?
8 A. Not formalized educational background in any sort
9 of institution. I have continued to update my educational
10 experience through conferences and through training programs .
11 I went through a one-week intensified training program at the
12 children's Center in San Diego on sexual abuse in 1994, January
13 of 94, where I learned how to examine children that have been
14 sexually abused.
15 Q. And is that the kind of work that you're doing
16 now?
17 A. That's part of the work that I'm doing. I also
18 maintain a practice with the University School of Medicine
19 Family Practice Department, where I see patients of all ages
20 also, as well as I work at a program called the SAINT program,
21 which is the Sexual Abuse Investigative Team, which is part of
22 the Child Advocacy Center here in Las Vegas.
23 Q. Can you give me an idea of your professional
24 background since school?
25 A. Since school I have attended once a year

1 conferences to keep my certification, my board certification
2 updated. I attend continuing medical education courses and
3 classes and conferences every year to maintain both my
4 pediatric and my family practice certifications.
5 Q. And at what point -- you mentioned the SAINT
6 clinic here. Could you tell me again what that is?
7 A. That is a program that's associated with the Child
8 Advocacy Center that's located over on Pecos and Bonanza here
9 in town. The program is called the SAINT program, which is the
10 Sexual Abuse Investigative Team. And it composes three nurse
11 practitioners. It's a multi-disciplinary approach towards
12 assessing children who have allegedly been sexually abused.
13 The program is in coordination with law enforcement officers
14 and C.P.S. officers.
15 Q. And how long have you been working there?
16 A. I have been working there since 1994.
17 Q. Have you ever qualified as an expert in sexual
18 abuse exams of children?
19 A. Yes, I have.
20 Q. And is there anything other than what you've
21 already told us that qualifies you as an expert for that?
22 A. I have completed close to a thousand exams on
23 children through the SAINT program in the last eight years. I
24 have attended conferences every year to increase my skills and
25 obtain C.M.E. or continuing medical education certificates in

1 that field, specifically in the field of sexual abuse of
2 children.
3 MS. PETERSON: Judge, at this time I'd ask you
4 accept Nurse Suiter as an expert in the field of sexual abuse
5 of children.
6 MR. ORAM: No objection.
7 THE COURT: She can so testify.
8 Q. (By Ms. Peterson) can you tell me a little bit
9 about what you do when someone is presented for a sexual abuse
10 exam?
11 A. When the children come into our facility, they are
12 given an orientation to what's going to happen to them. And
13 this is done by a trained volunteer or one of the staff members
14 of the SAINT program. At that point I, depending upon the age
15 of the child, I'll introduce myself both to the children and to
16 the guardian or parent that brings the child in. The children
17 are then taken into the exam room, their height and weight are
18 obtained, they are explained basically about the exam by one of
19 our staff.
20 The exam is like a medical exam as they would get
21 in any doctor's office. The difference is, and it's explained
22 to them, we will be looking at their private areas also. And
23 we do that with an instrument to aid us called a Colposcope.
24 This Colposcope is a light source and a magnifying device. It
25 does not touch the child, it does not go anywhere inside the

1 child. It allows us to project on to a monitor in the room
2 what we are looking at at their genital area, magnify that so
3 the children can also see what we are doing so they know we are
4 not going to do anything to hurt them.
5 What I usually do at the time that this is
6 explained to the children, I may talk to the parent to get
7 medical history on the child. If the children are teenage or
8 seem to be pretty comfortable, or they are in with someone that
9 may not know a lot of medical history, I'll get that medical
10 history from the child themselves.
11 After we obtain the medical history from them, I
12 will specifically ask them why they are here today and then go
13 into what we call a history of the presenting complaint or
14 presenting illness, just as your doctor would do when you go in
15 and complain of something.
16 Q. When you do that is that just you and the child,
17 or is there anybody else in the room, when you ask them why
18 they are here today?
19 A. When I ask them that, I --99.9 percent of the time
20 it's by themselves. There are times that I have had a couple
21 of cases where the parents have been insistent upon being
22 there. But most of the time we try to talk to the children by
23 themselves without anyone else in the room.
24 Q. And then when you ask those questions, what
25 happens then?

1 A. I will record exactly what they say to me. I
2 start off usually asking very vague questions, do you know why
3 you had to come here today or why are you getting a checkup
4 today? And I'll write down what they say. If the children
5 don't respond to that or shrug their shoulders or say they
6 don't know, I'll get a little more specific. You usually have
7 most of the teenage have a good idea why they are there and I
8 don't have any problem not getting an answer to that question.
9 Q. And once you go through those initial history
10 questions with the child, what do you do after that?
11 A. I usually start from when I do the medical
12 history, I usually start asking them simple questions like do
13 you have any allergies? Have you been hospitalized? Those
14 sorts of questions. Then we go into asking about behavior
15 questions, have you had any stomachaches, headaches, have you
16 had trouble sleeping? I go through a whole checklist which is
17 on my medical exam form.
18 Then I go into asking them questions on why are
19 they there today and write down the response.
20 At that point I go back to asking specific yes or
21 no questions about what they told me, basically on why they are
22 there today. So that is listed on the second page of our
23 medical form. Those are essentially yes or no questions.
24 Q. Do you basically have a form report that you'll
25 fill out and go through with any child who comes in?

1 A. Yes, we do.
2 Q. And then once you got all that history and go
3 through those questions, what do you do then?
4 A. After we get the history I allow the children to
5 get undressed. We have like hospital gowns that they get
6 dressed into. So they change their clothes completely. They
7 get a complete medical exam.
8 With the teenagers what I do is I will go from
9 head to toe. If they haven't been taught how to do a breast
10 exam, I a lot of times will explain about doing a breast exam
11 with them. I'll listen to their heart and lungs, look in their
12 ears, take a feel on their abdomen, check their range of
13 motion, check their reflexes. Just like a normal physical exam
14 that you would get when you go into a doctor's office.
15 And at that point when I get done with that, I'll
16 tell the kids okay, we need to now look at your private area,
17 or I'm going to look at your private area; at which time I lay
18 the children down or have them lay down on our exam table in
19 what we call a lithotomy position. It's a position like a
20 woman would have to do when she's getting a Pap smear done. So
21 we have stirrups on the table and the legs are in the stirrups
22 and they are on their back.
23 We do an exam in that position and after we look
24 at the genital area with a colpascope, I have them turn over
25 into what we call a knee-chest position and we explain it to

1 the kids like when you see a kitty cat getting up from a nap
2 and stretching, their butts are up in the air. That's how we
3 explain that's the position we want them in. And that is a
4 position that we do the majority of the time to look at the
5 genital area, both at the vaginal opening, as well as the
6 rectal area.
7 And after we do the knee chest position, pretty
8 much that completes the exam and I usually talk to the
9 children, ask them if they have any questions for me, if
10 there's anything else they want to say to me and then allow
11 them to get dressed.
12 Q. Is the exam that you do of the vaginal and rectal
13 area, is that similar to like a gynecological exam, or is it
14 different?
15 A. The position certainly is similar to it. However,
16 on the majority of the teenagers I do not do what we call a
17 speculum exam on these children. The most that I would do on
18 most of the children -- excuse me, usually what I do on most of
19 the children is just looking at the genital area just by
20 touching them, separating the tissues and looking at the
21 opening of the vaginal area and then also looking at the
22 opening of the anus.
23 The older children, if there are some issues with
24 possible sexually transmitted diseases or if they complained of
25 a discharge or some other history that might warrant it, I may

1 do a speculum exam on them but not necessarily.
2 The younger kids we never, ever do a speculum exam
3 and never stick anything inside the vagina of younger kids --
4 excuse me, I shouldn't say "never," except in some instances if
5 we are looking for infection, I may use a very small Q-tip.
6 But again, I don't use a speculum to do that.
7 Q. Now, I want to talk to you about a exam on Jahala
8 Chatman. Did you do an exam on a patient by the name of Jahala
9 Chatman?
10 A. Yes, I did.
11 Q. Can you tell me when that exam was?
12 A. I did that in March of 1999.
13 Q. And where did you do this exam?
14 A. I did this exam at the SAINT program, child
15 advocacy center.
16 Q. Does it say the date on your report?
17 A. Yes, at the top of the first page on the left hand
18 side.
19 Q. What was the date again?
20 A. March 15, 1999.
21 Q. And can you tell me what happened when Jahala
22 Chatman presented herself there at the SAINT office?
23 A. Jahala came in with her sister and --
24 Q. Do you know which sister?
25 A. Yes, Jamila Chatman. And she came in and we went

1 through the process of explaining the exam to her. Then I came
2 in and sat down with her and got her medical history from her
3 about her allergies, about everything, like a regular medical
4 history.
5 Q. Was she referred by someone to come there?
6 A. She was referred by the police department, Metro.
7 Q. Okay. Detective Dunn?
8 A. Yes, that's correct.
9 Q. So you were saying -- it was just she and her
10 sister. Were there any other adults there, do you know?
11 A. You know what, I can't say, I don't remember.
12 Usually on the form I write down on the form who is there with
13 them; if they're from Child Haven I'll write down Child Haven
14 or another parent came in. All I wrote down on the form was
15 the sister was there. I do not remember if there was another
16 adult.
17 Q. Okay. And you were starting to tell me that you
18 had started getting some mystery from Jahala Chatman, is that
19 right?
20 A. Yes, that's correct.
21 Q. And is her sister present when you're getting that
22 history from Jahala?
23 A. No.
24 Q. What did Jahala tell you in terms of medical
25 history?

1 A. Pretty much we went through about her allergies,
2 which I noted on the bottom of the second page that she's
3 allergic to cats. We went through whether she'd had any broken
4 bones, if she'd been hospitalized, anything like that.
5 Q. How old is Jahala when you're talking to her?
6 A. She was 12 years 7 months old.
7 Q. Do you normally get this kind of information from
8 the child or from a adult?
9 A. It all depends upon the child. If the child
10 knows, says they know most of their medical history or there is
11 not an adult present that I can get that history from,
12 12-year-olds are sometimes very savy about what happened to
13 them, so if there were places that I did not get that
14 information, then I would leave that blank and I would go back
15 and see if I could find some adult if there was an adult
16 present to ask that information. Or it may just be information
17 that I could not obtain.
18 Q. Did she give you any other significant medical
19 history?
20 A. On the -- when I go through and ask them on the
21 third page where I talk about review of systems, we go through
22 basic history about have you ever had any problems with your
23 eyes? Do you wear glasses? She told me she wears glasses for
24 reading. She told me at age 11 she had broken her wrist.
25 Under the last system, breast and reproductive system, if the

1 kids have started their menstrual cycle I'll take a menstrual
2 history, how old they were when they started their menstrual
3 cycle, whether they are sexually active, if they use pads or
4 tampons and I'll go through that. I didn't go into that with
5 her because she gave me no history, she told me she'd not
6 started her periods yet so I noted no menses yet.
7 Then I go into the second page and I take a
8 history on asking her about any presenting symptoms that have
9 happened to her more recently, if she's having any stomach pain
10 or pain in her pelvic region. And she had told me once in a
11 while she was having some pain in her stomach.
12 I asked her if she's ever noticed any vaginal
13 discharge. I go through a whole list of if she had headaches,
14 ever had a bladder infection or complained of any burning when
15 she goes to the bathroom.
16 All of those answers were negative until I asked
17 about a discharge from her vagina. She said she noticed a
18 yellow discharge that she had. She also commented that, when I
19 asked her about whether or not she had any problems with
20 constipation, yes, she had had some problems with constipation.
21 Then I go through behavioral types of symptoms that the kids
22 may or may not experience, go through asking about if they had
23 any trouble sleeping or eating.
24 She had mentioned in about the last four days she
25 hadn't been very hungry. Then go through questions about

1 whether she had ever run away from home or she has ever
2 threatened suicide, to look at any sort of behavioral changes
3 that might be evidence with kids that we know are common that
4 have possibly been sexually abused.
5 Q. After you went through those behavioral symptoms,
6 what did you do at that point?
7 A. At that point I go back and ask them can you tell
8 me why you had to come in to SAINT today? Why you had to get a
9 checkup today? Which I did ask her that.
10 Q. Do you actually write down the questions and
11 answers that the child gives you on the report?
12 A. When I get to this part, what I do, I write down
13 specific question I ask and exactly what the child says to me.
14 Because this is like your presenting complaint. These are
15 pertinent information about exactly why she had to be there
16 that day. So I write down exactly what I say to them and what
17 they say back to me as an answer.
18 Q. And so what is your first question to her then?
19 A. Tell me why you had to come to SAINT today."
20 Q. What is her response?
21 A. "My brother did me in my bootie."
22 Q. Do you at any point talk about what "bootie" means
23 or do you just go and listen to what they say?
24 A. I may not at this point ask. I depends on the age
25 of the child. Sometimes I do, sometimes I don't. It depends

1 on the term they use also. If it's a term I've never heard of
2 or something that's not common usage for that area of the body
3 yes, I'll go ahead and ask them what do you mean by that?
4 Q. Bootie fairly common usage?
5 A. Yes, it is. We hear it a lot referring to the
6 bottom, the anus area.
7 Q. And after she tells you that her brother had did
8 her in the bootie, what do you do then?
9 A. I usually try to get them to elaborate a little
10 more on what they mean by that. And I asked her, "what exactly
11 do you mean?"
12 And her answer to me was that "He took me in the
13 bathroom, pushed me down on the floor, took off my pants and
14 panties, and hurt and covered my mouth with his hands and
15 unzipped his pants and put his dick inside both my vagina and
16 my bootie."
17 Q. And when you put that down, vagina and bootie are
18 her words?
19 A. Her exact words.
20 Q. Then what happened?
21 A. I asked her when this happened and her answer was
22 in December or January, sometime around there.
23 Q. At this point, when you get that general
24 information and you write down those answers, do you go on and
25 ask more specific questions?

1 A. Yes, I do. Usually at this point when I get done
2 asking that or if the kids begin to get antsy and don't want to
3 talk very much, I say I'll need to ask you some yes or no
4 answer type questions; could you please tell me about did he --
5 and I usually, when I ask these questions, I use the words that
6 the kids use. She used the word "dick" so my question would be
7 did he stick his dick inside your vagina? And those questions
8 are on the check-off list on the second page on the right hand.
9 So I just go down that list. Anything that she says yes to I
10 mark as a "yes." I mark as a no if she says no to me. If she
11 gives me anything other than a yes or no answer I'll write it
12 in there also.
13 Q. Okay. So what did she tell you when you were
14 going down that checklist?
15 A. She told me yes, he -- this was the second time.
16 The first time, of course, was when I asked her the general
17 question. So this gets back specifically then.
18 Q. Even if she says something the first time you go
19 back and ask that specific question the second time?
20 A. Yes, I do.
21 So I go through and asked her about sticking his
22 dick inside her vagina, she answered yes.
23 Then I say, "Did he try to stick his finger inside
24 your vagina? "
25 No.

1 "Did he try to stick anything else inside your
2 vagina?"
3 No.
4 Then I ask, "your bootie? Did he stick his dick
5 inside your bootie," and she said yes.
6 "Did he try to stick his finger inside your
7 bootie," and she said no.
8 "Did he try to stick anything else inside your
9 bootie," and she said no.
10 The next checkoff has to do with oral copulation.
11 Usually --
12 Q. When you say "oral copulation," is that any kind
13 of oral genital contact?
14 A. That's correct. What I'll do is ask the kids if
15 he -- did he put his mouth down around your -- I'm sorry, your
16 vagina? And she said yes. And I said, "Did he have you put
17 your mouth on his dick?" And she said no.
18 Then I will usually say then did he put his mouth
19 around your bootie, your butt area? And she said yes, but then
20 answered no to the fact did he have her put his mouth on his
21 butt. So there were yes questions towards her, but no
22 questions for her doing it to him.
23 Q. When you asked her if he had put his mouth near
24 her bootie did she give you any other details?
25 A. She told me that he was licking it.

1 Q. And after you asked those questions, are there any
2 other questions that you asked her?
3 A. Pretty much I just go down the list and asked
4 about did he rub on your vagina with his hand? Did he have you
5 rub on his dick with your hand? Those were both no. Did she
6 ever see anything come out of his dick at any time? She said
7 no. Did he ever try to use any foam, any lotion or put a
8 condom on? And if they don't -- if they look at me funny or
9 sometimes they will say, "a rubber," or anything over the
10 outside of the penis, and she said no.
11 Then I ask whether or not he touches or kisses,
12 kissed you anywhere else on your body; she said no. Then I get
13 down to two questions at the bottom, the last two questions I
14 usually ask the kids is was there any time that he -- you felt
15 like he forced you to do this? That he held you down in order
16 to do any of this? And her answer was no. And did he ever --
17 Q. I'm sorry, what was her answer?
18 A. Her answer -- I'm sorry. Her answer was yes, she
19 felt he did force her. And when I asked her if there was
20 anything that he verbally or physically threatened her in any
21 way, and she said to me the only thing he said was to keep it a
22 secret.
23 Q. So she told you he told her to keep it a secret?
24 A. That's correct.
25 Q. Those last two questions when you asked her about

1 force being used or any threats or anything that were made, did
2 you actually check off the box yes, it was described by that
3 patient?
4 A. I check it off as she answers me, yes.
5 Q. And they are checked off here?
6 A. Yes.
7 Q. After you go through that whole checklist with
8 Jahala, what's the next part of your exam?
9 THE COURT: Before we get there. Let's take a
10 ten-minute recess
11 (Whereupon, the jury was duly admonished.)
12
13 We'll take ten minutes.
14
15 (Brief recess).
16
17 THE COURT: Counsel stipulate to the presence of
18 the jury?
19 MS. PETERSON: Yes, Judge.
20 THE COURT: All right. Let's finish up
21 BY MS. PETERSON:
22 Q. Nurse Suiter, right before the break we had
23 finished talking about all the questions you went through with
24 Jahala. After you went through those questions did you do the
25 exam?

1 A. Yes, I did.
2 Q. Can you tell me what your findings were and what
3 the exam was?
4 A. My findings were that there it was a normal exam
5 of both the vaginal area as well as the anal area.
6 Q. I want to ask you just a couple questions about
7 your findings with regard to the anal area, that it was a
8 normal exam.
9 What specifically are your findings with regard to
10 that exam? When you say a normal exam, what does that mean?
11 A. What we are looking at is we are looking at the
12 area surrounding the opening of the anus. We are looking at
13 what we call sphincter control, which is there are two muscles
14 that control the opening and closing of the anal area. You
15 have the external sphincter, which is the exterior-most
16 sphincter, and the internal sphincter, which is an involuntary
17 or responds mostly to involuntary responses. What that means
18 is that the internal sphincter will dilate, or open up when
19 there is stool behind it. It's a reflex-type of reaction so
20 that when you go to evacuate your bowels, the pressure of the
21 stool against that will open the internal sphincter.
22 The external sphincter, which is the outter-most
23 one, is the one we have voluntary control over. So you can
24 relax that sphincter yourself and allow stool to pass out.
25 Q. Nurse Suiter, as you describe your findings with

1 regards to the anal exam of Jahala and as you describe external
2 and internal sphincter, would it help you if you had a diagram
3 so you could explain that to the jury?
4 A. Yes, it would
5 MS. HOLTHUS: Madam clerk, what's the next number.
6 THE CLERK: I believe it's Exhibit 7.
7 Q. (By Ms. Peterson) this would be exhibit marked
8 for identification as No. 7. Will this help you explain to the
9 jury what your exam was with regards to Jahala and explain the
10 external sphincter and internal sphincter muscles that you were
11 describing?
12 A. Yes, that would.
13 Q. At this time I'd ask to you step off the podium
14 and come over here?
15 THE COURT: You're not going to admit it?
16 MS. PETERSON: No, this is demonstrative evidence.
17 It's going to be marked for identification as Exhibit 7.
18 THE WITNESS: If you look at this picture, what
19 this is is a cross section, kind of dividing you down this way
20 across the body.
21 Q. You say "this way," like front to back?
22 A. Straight down like this.
23 Q. Cutting you in the middle straight down?
24 A. Dividing front and back. So this has been cut
25 down this way. So what we are looking at then is this part

1 back here, what would be your buttocks, your butt area.
2 Q. You're pointing to the bottom?
3 A. Yes. The cheeks of the buttocks are down here.
4 Then this is actually the anal opening in through here. So
5 what you see with this is it shows you where the internal and
6 external sphincter muscles are. So this is the external.
7 Essentially you think about there is another part of it over
8 here that's been cut in half, so it's a round-type of muscle
9 that surrounds the opening of the anus that we have taken in
10 this picture and essentially cut in half, so you're seeing half
11 of it. It goes around this way and the other half would be
12 this way. It's a round muscle.
13 Q. So the sphincter itself is a round muscle?
14 A. That's correct, all the way around. If you take
15 your fist it opens up and closes down in that manner.
16 Q. When you were just pointing to the sphincter here
17 you were actually pointing to the external sphincter?
18 A. Yes. And inside that is the internal sphincter,
19 which is the involuntary sphincter. So your voluntarily
20 sphincter is the one that you can tighten up yourself and keep
21 closed.
22 Q. And the internal sphincter, you have no control
23 over that?
24 A. Pretty much no, it responds to reflexes and there
25 really isn't any way to totally either tighten that or relax it

1 on your own.

2 Q. Consciously?

3 A. Consciously, that's right. There is maybe a very

4 little bit, like when there's stool in here, because of the

5 presence of the stool in there, or if there is pressure put

6 against like when we examine the kids and my fingers are down

7 here on the buttocks at the anal opening and when I gently

8 stretch open that anal opening to look at this area that we are

9 talking about right in here, this is just right around the

10 external sphincter and just slightly inside the external

11 sphincter. Sometimes, especially if there's stool in here,

12 that reflex is enough that the internal sphincter will open up.

13 The external sphincter will open with pressure. If the kids are

14 not relaxed it will just clamp down. What I'm looking at by

15 gently stretching open the external sphincter is this area

16 here.

17 Q. Now, when you examined Jahala, when you said you

18 had a normal exam anally, what did that mean?

19 A. What we look for when we are looking at the anus

20 and there's allegedly been penetration of something through the

21 anus, we are looking at these folds around the external

22 sphincter. And we are looking to make sure these skin folds

23 are symmetrical. In other words, they are pretty much lined up

24 on both sides and equal on all sides of the sphincter. If

25 there was a situation where there had been trauma and some sort

1 of penetration or trauma to the anal area, we may see a
2 flattening of these folds or may see a situation where there's
3 actually scar tissue that's there.
4 Q. Now, when you talk about trauma to the anal area,
5 how much time has to pass before you don't see anything, or how
6 recent do you have to have the exam to see trauma?
7 A. For the most part this area here usually heals
8 very rapidly. When someone could have like, for instance, when
9 you have constipation and you're passing a large stool through
10 the anus, sometimes that hurts because there can be a little
11 superficial tear on this tissue here. That superficial tear
12 can heal, depending how superficial it is, within a matter of
13 hours to three days. So usually if you have very minor trauma
14 in that area with a superficial tear, you'll get healing,
15 complete healing usually within what we consider 72 hours. So
16 if an exam is done on a child that had been allegedly
17 penetrated after -- or the exam is done after those 72 hours
18 you probably will not see any results of any sort of trauma.
19 Q. Of if there had been were -- you said superficial.
20 What happens if there had been substantial injury to the anus?
21 A. If there was substantial injury, even if it had
22 healed you may or may not see anything. If there was a
23 significant enough tear in the skin down into the layer
24 underneath the skin, you may see a scar. And what that will
25 appear like is an irregular rectal fold that does not flatten

1 out when you stretch it out because it's scar tissue that's in
2 there.
3 Q. But again, if time has passed even a more
4 substantial injury you may not see anything?
5 A. You may not. Sometimes it can heal fine without
6 any evidence of a scar.
7 Q. Knowing that when Jahala told you that something
8 had happened to her in December or January of that year and she
9 actually presented herself in mid March, is that consistent
10 with your findings?
11 A. Yes, that is consistent.
12 Q. Why is that?
13 A. Because the time frame from the time she said that
14 the abuse had occurred to when I saw her was several months.
15 So again, even if there had been any sort of superficial
16 tearing or any sort of injury to any of these tissues in here,
17 probably would have been healed up by then.
18 Q. Have you had, in fact, other cases where you've
19 either testified or examined where a child also complained of
20 some sort of anal penetration and you had no findings?
21 A. Yes, that's usually more the rule, that the
22 findings are usually normal. This area of the body is
23 remarkable in that this can dilate. These muscles can open up
24 quite large, and if anybody has a child that has stopped up a
25 toilet when they been constipated and see how big the stool is

1 that can pass through that, it's obvious other things could go
2 through the other way and not necessarily cause any significant
3 trauma, because these muscles can relax.
4 Q. You're saying an object like a penis?
5 A. Like a penis, that's correct.
6 Q. Nurse Suiter, I want to ask you, if an object were
7 to enter the anus, at what point would it cause pain to the
8 anus?
9 A. If there was some sort of object going to be going
10 through this area, probably the pain would result when that
11 object hit the external sphincter. So if this muscle is
12 tightened up and something is coming in this way with force and
13 the child is tightening up that muscle which she or he has
14 voluntary control of, if there's any force against those
15 tissues there, that force would cause a stretching with the
16 muscle being tight and would cause pain. So anything that
17 would be going through here with a child tightening up that
18 muscle could cause pain.
19 Q. So you're saying that if a child were tightening
20 up their muscle trying not to have anything happen to them but
21 something did pass through or hit that external sphincter,
22 that's what would cause the pain?
23 A. That's correct.
24 Q. And in spite of this pain, if there's enough time
25 you don't see any kind of scarring or bruising or anything?

1 A. What we find in a lot of kids that have been
2 sexually abused over a chronic period of time, because you can
3 voluntarily relax that external sphincter, these kids learn to
4 allow that sphincter to allow a penis to go through so it
5 doesn't hurt. And as soon as the penis would get past the
6 external sphincter, because there is pressure against the
7 internal sphincter, that is a reflex and that would relax also.
8 So that were allow something like a penis to go through there
9 without causing significant pain.
10 Q. You're saying if something kept -- I don't mean to
11 be crude, but if something kept going towards the anus, inside
12 the anus, eventually the kid is going to learn to relax so it
13 doesn't hurt?
14 A. That's correct.
15 Q. When they do that they are relaxing the external
16 sphincter?
17 A. That's correct.
18 Q. You mentioned something about long term abuse
19 cases. Do you see something significant with long term abuse
20 cases with regards to the external sphincter?
21 A. A lot of times when I'm examining children that
22 have been chronically anally penetrated, one of the things we
23 look for when we do our exams is as soon as I put my fingers on
24 their buttocks next to the anus and just slightly stretch those
25 tissues, immediately there's dialation of the external and

1 internal sphincters, because they have learned to relax the
2 external sphincter. So we get dilation of that and you can see
3 right into what's called the ambula, or this part of the bottom
4 of the rectum.
5 Q. So if a child learns to relax their external
6 sphincter because it hurts every time somebody is doing that to
7 them, do you see any bruising or marks or lacerations on the
8 external sphincter?
9 A. Again, depending on the time from the abuse, no,
10 not necessarily. If it's more than from a few hours, if it's
11 superficial you may not see anything. Again, other abuse after
12 72, hours even if there's a little more deeper tear in the
13 tissue, you may not see anything if it's after 72 hours.
14 Q. So is it unusual if you have a child complaining
15 of long term anal abuse not to see any findings on the external
16 sphincter or anywhere?
17 A. No, it's not unusual to not see any findings.
18 Q. And you're saying that's because they basically
19 learned that when it hurts you need to relax so it doesn't hurt
20 anymore?
21 A. That's correct.
22 Q. I want to go back now to Jahala's exam. She had
23 told you -- how many times did she tell you this had happened?
24 Did she give you a time or . . .
25 A. No, I don't believe I asked her that, how many

1 times.

2 Q. Now, if she had said, if she testified that it

3 actually hurt when someone did this, at what point are you

4 saying there would have been contact externally into the anus?

5 A. At this point, at the external sphincter.

6 Q. Because she would have been contracting those

7 muscles and it would have hurt, is that what you're saying?

8 A. That's correct.

9 Q. Is there any other way that something could enter

10 the anus, maybe through lubrication or something else, and it

11 wouldn't hurt?

12 A. Again, it depends upon certainly the size of

13 whatever it is going in there, how much the kid is relaxing, if

14 there was any sort of lubrication. If there was a Vaseline

15 used or, you know, even lubricated condoms will have enough

16 slipperiness that it may go in without causing any pulling or

17 tearing of the rectal tissues.

18 Q. If there were pain, would there be any sort of

19 visible outward signs of injury to a child or to a parent who

20 might see the child? Would there be any kind of outward signs

21 after pain was present?

22 A. At what point afterwards? If we are talking

23 immediately afterwards, possibly yes, there could be some

24 superficial tearing, maybe a little bit of blood, spotting in

25 the underwear. They may complain of it burning a little bit or

1 just some irritation around there. Just that it hurts.
2 Q. So you're saying there could be, not necessarily
3 even if there were pain?
4 A. That's correct.
5 Q. And then again if there was enough time you
6 wouldn't expect to see anything?
7 A. That's right.
8 Q. I'll have you take your seat. Thank you very
9 much.
10 Nurse Suiter, you had indicated you did about a
11 thousand exams of kids over the years, is that right?
12 A. That's correct.
13 Q. And in each one you take some sort of general
14 history from the child and then go through the exam as you
15 described?
16 A. Basically I do exactly the same thing on every
17 child when I do a history and exam.
18 Q. In your experience, is it unusual for a child to
19 be a victim of maybe multiple people doing something to them?
20 A. Yes, that occurs once in a while.
21 Q. So you have seen that in your practice?
22 A. Yes.
23 MS. PETERSON: I'll pass the witness.
24 THE COURT: Cross.
25 MR. ORAM: Thank you.

1

2 (CROSS EXAMINATION)

3

4 Q. (By Mr.Oram) You were just asked about multiple
5 victims. It's your testimony it's not unusual to see a victim
6 who has been attacked several times by different people, is
7 that what you're saying?
8 A. I'm not sure what you're asking.
9 Q. You were just asked on direct examination is it
10 unusual to see a victim who has had several different
11 perpetrators?
12 A. It's not unusual. I wouldn't say it's common but
13 it does happen.
14 Q. Is it unusual, in that same scenario, to think
15 that three different people would have, three separate people,
16 what I mean by that is not all at the same time, do you
17 understand what I mean, separate attacks?
18 A. Okay.
19 Q. Penetrating the rectum, no penetration of the
20 vagina and all three individually covering the mouth? Do you
21 think that's unusual in your experience?
22 A. I don't know that I can answer that, give you an
23 answer to that because --
24 Q. You've never seen it?
25 A. Well, each case is specific. Certainly if they

1 give me that history I would write that history down. I don't
2 know I've ever run across a case that said exactly the same
3 thing with three different instances.
4 Q. You've never seen that?
5 A. I don't think so, no.
6 Q. So that would be unusual?
7 A. That would probably be unusual.
8 Q. You were asked if Jahala told you how many times
9 this occurred?
10 A. Yes.
11 Q. If you could go to page two of your report. I'm
12 just going to reiterate what you discussed. You ask her what
13 exactly do you mean, and she describes an incident where she's
14 pushed down in the bathroom floor?
15 A. That's page one.
16 Q. Is that page one of yours? I'm sorry.
17 On that particular scenario she only described one
18 incident, correct?
19 A. That's correct.
20 Q. That was an incident that we just heard took place
21 two, three months, approximately, before, correct?
22 A. That's correct.
23 Q. So would it be fair to say she did tell you that
24 this had happened once and she didn't describe anything else to
25 you?

1 A. That's correct, she did not describe anything else
2 to me.
3 Q. She wasn't saying this was happening on a constant
4 basis?
5 A. No, she did not say that.
6 Q. With regard to the questions that were asked of
7 you on direct examination about whether the sphincter would
8 open up on command or for protection, those questions really
9 don't apply to Jahala because she didn't say she was being
10 constantly sexually assaulted, correct?
11 A. No, not with Jahala it did not -- probably would
12 not be something that she would have learned to do, unless
13 there had been multiple chronic abuse going on.
14 Q. And she didn't complain of that?
15 A. She did not complain of that.
16 Q. Now, you oftentimes examine children, young
17 adults?
18 A. Yes.
19 Q. Who are complaining of sexual abuse to the rectum,
20 correct?
21 A. That's correct.
22 Q. And a lot of times you find injury, right?
23 A. No. Most of the time I do not find injury.
24 Q. It's your testimony that most of the time injury
25 goes away within 72 hours, correct?

1 A. If there is an injury there and it's a very
2 superficial injury, the time frame that we see in some of the
3 long term followup studies that are done is that within 72
4 hours most superficial injuries have healed.
5 Q. How about substantial ones?
6 A. No, substantial ones take longer to heal.
7 Q. How long?
8 A. It varies upon the child, the degree of the
9 injury. It can take sometimes up to a week or maybe a little
10 longer to heal up.
11 Q. Could it take months or years?
12 A. Not generally months or years, no.
13 Q. Did you analyze or examine Anna Polk?
14 A. No, I did not.
15 Q. But you are an expert and you've been determined
16 to be an expert in this Court. If I gave you a hypothetical of
17 a young lady who was chronically abused to the rectum, made the
18 allegation, who had an internal exam and the internal sphincter
19 at approximately six o'clock had an old, healed scar, how long
20 would something like that take to get rid of?
21 A. I'm not sure I exactly understand what you're
22 saying, how long would it take to heal that injury that you
23 would see a scar?
24 Q. Here would be my question. If somebody had seen
25 that on a patient who had again complained of chronic abuse,

1 had seen that on a patient, an old, healed scar, in your
2 opinion how long would that old, healed scar have been there?
3 A. More than 72 hours.
4 Q. But that's it?
5 A. At this point that's all I can testify to, in that
6 when we see these kids, within 72 hours most of the injuries,
7 that's kind of the cutoff we use. Most of the acute injuries
8 heal within the 72 hours. So we use a 72-hour time frame on
9 what we are looking at. So that old, healed injury, all I can
10 tell you it's more than 72 hours old.
11 Q. More than 72 hours and up to?
12 A. It could be up to years after that.
13 Q. So an injury then, an old injury can last in the
14 anal cavity for up to years?
15 A. That's correct. It has to be healed.
16 Q. Right. But you could see it?
17 A. You could see it, that is correct, after that.
18 Q. And you didn't see any injury like that?
19 A. Not on Jahala, no.
20 Q. In fact, you didn't see anything?
21 A. I saw a normal exam.
22 Q. Because you also described how, when people are
23 constantly abused, they immediately-- you were talking about
24 when you hold the cheeks and then the anal cavity would dilate,
25 do you remember saying that?

1 A. Yes.
2 Q. And that didn't happen here, did it?
3 A. That's correct.
4 Q. Now, I want to ask you about the hyman on Jahala.
5 Was that intact?
6 A. Yes. I don't like using the word intact, I
7 describe it as being a normal, I describe what I see. It was
8 slightly estrogenized and there was significant amount of
9 tissue there so it was a normal finding.
10 Q. If somebody had been, a young lady had been
11 sexually assaulted in her vaginal area, her hymen, would that
12 be -- I want to say intact but?
13 A. Would it be a normal exam?
14 Q. Yes.
15 A. The majority of kids that we see that have been
16 penetrated vaginally are normal exams.
17 Q. How about any tearing to the hyman?
18 A. In response to if they have been penetrated?
19 There may or may not be findings.
20 Q. There may or may not be?
21 A. There may or may not be. There's been quite a bit
22 of study recently on looking -- with Joyce Adams and some of
23 the other experts in the field who have done this type of work
24 for years and years and years that find the majority of cases
25 that we see when we examine these kids, even when they have

1 been penetrated into the vagina, is that we have normal
2 findings there.
3 Q. Isn't it true that it could be very well a normal
4 finding because nothing happened?
5 A. That's correct.
6 Q. So what you saw on Jahala was a person that may
7 have been telling the truth and may not have based upon your
8 findings, your scientific findings, correct? Do you understand
9 my question? I'll rephrase it.
10 A. Okay.
11 Q. You're saying it's possible, based upon your
12 scientific knowledge, that a person who had been penetrated
13 vaginally and anally with normal exams could in fact have been
14 sexually assaulted, correct?
15 A. That's correct.
16 Q. And would it also be true that a person who
17 complained of sexual assault who had normal exams could be
18 lying?
19 A. Generally the kids, by the time they get to us,
20 probably are not lying.
21 Q. Wait a second. Wait a second. I asked you a
22 question, is it just as true that if somebody complains of
23 sexual assault and you have no findings, normal findings, that
24 it could be just as true they are not telling the truth?
25 MS. PETERSON: Objection asked and answered.

1 THE COURT: Overruled. Just answer one more time
2 as you want.
3 THE WITNESS: Thank you sir.
4 Generally, by the time the kids get through where
5 they come to see me, talking to me, they -- I have talked to
6 them quite a bit and pretty much know whether or not they are
7 telling the truth. You know, yes, I'm not going to say
8 absolutely children do not lie because children do lie, they do
9 recant at times. But generally by the time they get to me and
10 we go through all this stuff explaining the exam, most of these
11 kids are not going to lie about it.
12 Q. So just the very fact they have come to you?
13 A. Generally they're telling the truth.
14 Q. Somebody is guilty of doing this, right, in your
15 opinion?
16 MS. PETERSON: Your Honor, I have to object to
17 that question.
18 THE COURT: Go ahead. I want them to stop
19 talking.
20 MS. PETERSON: My objection is that goes to the
21 ultimate issue in this case. She can't testify as an expert
22 about that.
23 THE COURT: He asked her and she said generally
24 they don't lie. I don't think you should have asked that, Mr.
25 Oram, but let's proceed from there. You should go to a

1 different topic.

2 MR. ORAM: I still never really got the question I

3 wanted answered.

4 The fact there's a normal exam is consistent with

5 nothing happening, that's one way you could look at it,

6 correct.

7 A. No. Generally you can have a normal exam and have

8 something that happened. The kids that come to me, there's

9 already been an alleged possible sexual abuse. So I'm not

10 going to see a child that is saying there has never been any

11 allegation made. I have kids that will say to me nothing has

12 happened and I find findings or I find a normal exam. That may

13 or may not mean something has happened.

14 Q. She told you that she had had penetration of her

15 vagina, correct?

16 A. That's correct.

17 Q. And then she told you, on the very next page, you

18 checked off there was penetration of the vagina, correct?

19 A. That's correct.

20 Q. What if I told you she came in here and testified

21 nothing happened to her vagina. Would that be consistent with

22 somebody who told you the truth regarding penetration of the

23 vagina?

24 A. I can tell you she was 12 years old when I

25 examined her.

1 Q. No, my question is, I'll rephrase it.
2 If she testified in here that there was no
3 penetration of her vagina, just an attempt penetration of the
4 anal cavity, would that right there be consistent with what she
5 told you? Yes or no?
6 A. No.
7 Q. So it's your testimony today that other than what
8 she told you, there was absolutely not a shred of physical
9 findings to corroborate what she was saying, correct?
10 A. No. I'm saying there was a normal exam. And even
11 though there was a normal exam that does not preclude the fact
12 there could or could not have been sexual abuse.
13 Q. If you examined a child that same age that had
14 never been sexually assaulted --
15 MS. PETERSON: I'm going to object to that
16 hypothetical. The nurse has said her cases that come to them
17 there's already been an allegation of sexual abuse. They have
18 already told somebody or some revelation of sexual abuse. I
19 don't think she can satisfy --
20 MR. ORAM: I'm just asking a hypothetical.
21 THE COURT: I didn't hear the question. Let me
22 hear the question and if you have an objection I'll rule on it.
23 Don't you answer until I hear the question and
24 don't make an objection until I hear the question. Does that
25 make sense?

1 Q. (By Mr. Oram) if a child had come you to, let's
2 say, who had never been sexually assaulted. You are just in
3 some kind of training or experiment to see if you can find
4 these things out. The child has not been sexually assaulted.
5 Would your findings be as consistent that it is a normal exam
6 just like with Jahala?
7 THE COURT: Is there an objection to that?
8 MS. PETERSON: No, Judge.
9 THE COURT: All right. You can answer the
10 question.
11 THE WITNESS: The findings would be consistent
12 with the history.
13 Q. So the only thing that you have with regard to
14 Jahala to establish, the only evidence you can give us
15 regarding a possible sexual assault is what she told you
16 happened, correct? You have no scientific findings you can
17 tell us about, correct?
18 A. That's correct, there's no physical findings.
19 Q. You told us that 12-year-olds, and I believe you
20 used the words are "pretty savy" about what's happened?
21 A. I said some 12 year olds can be pretty savy about
22 their medical history. In other words, pretty much give me a
23 good, consistent detailed medical history.
24 Q. In your opinion was Jahala pretty savy about her?
25 A. Medical history, yes.

1 Q. And she seemed -- she was able to speak with you
2 quite clearly?
3 A. That's correct.
4 Q. She was able to tell you in detail what happened?
5 A. Correct.
6 Q. She was able to distinguish a difference between
7 an anal cavity and a vagina, correct?
8 A. Correct.
9 Q. And everything you put in here, you were
10 meticulous in writing it down; in other words, you didn't just
11 write this down two, three weeks later trying to remember what
12 somebody said weeks ago, correct?
13 A. Correct, I did not.
14 Q. You were doing it as you were talking to her?
15 A. Correct.
16 Q. So your bottom conclusion is, with regard to
17 Jahala, that you have a person who has alleged sexual abuse but
18 you are without findings, physical findings, right?
19 A. That's correct.
20 Q. And right below that box, I believe this is your
21 last page, you have what would be termed a box where you could
22 check off "Alleged sexual abuse victim exam reveals physical
23 findings compatible with," do you see that?
24 A. Yes, sir.
25 Q. Then you go through oral trauma, is that correct?

1 A. That's correct.
2 Q. Can you say that next one?
3 A. Paraneal trauma, hymenal trauma, genital trauma,
4 cervical trauma, anal trauma, physical trauma, history from
5 alleged victim.
6 Q. And none of that is checked?
7 A. That's correct.
8 MR. ORAM: Nothing further.
9 THE COURT: Anything else.
10 MS. PETERSON: Court's indulgence.
11 No further questions.
12 THE COURT: Thank you very much. You're excused.
13 Call your next witness.
14 MS. HOLTHUS: Doctor Mark O'Connor.
15 MS. PETERSON: Judge, at this time I would ask to
16 move State's Exhibit No. 7 in, the diagram.
17 MR. ORAM: No objection.
18 THE COURT: Exhibit 7 will be admitted.
19
20 (Whereupon, the witness was duly sworn.)
21
22 THE COURT: Have a seat, state your name spell
23 your last name,.
24 THE WITNESS: Mark, M a-r-c, O'connor, O,
25 apostrophe C-o-n-n-o-r.

1

2 DIRECT EXAMINATION

3

4 Q. (By Ms. Holthus) Doctor, where you work?

5 A. Sunrise Hospital, children's pediatric emergency

6 room,. I'm a pediatric emergency room physician.

7 Q. How long have you been?

8 A. I've been there since 1993.

9 Q. Would you describe your experience, training and

10 education in the area of pediatric medicine?

11 A. I trained at New York Medical College in New York.

12 I did three years pediatric residency, then I went to

13 Children's Hospital in Los Angeles in pediatric emergency

14 medicine.

15 Q. How long have you been in pediatric medicine?

16 A. Including residency?

17 Q. Right?

18 A. Residency, probably 14, 15 years.

19 MS. HOLTHUS: I'd offer him as an expert in the

20 area of pediatric medicine, unless counsel wants more.

21 MR. ORAM: That's fine.

22 THE COURT: He can so testify

23 BY MS. HOLTHUS:

24 Q. As part of your duties do you do examinations of

25 children who are allegedly sexual abuse victims?

1 A. Yes.
2 Q. Do you have any particular experience or training
3 in that area?
4 A. Mostly my experience, initial training was
5 Pediatric Children's Hospital in Los Angeles.
6 Q. And about how many exams would you say you have
7 performed on children?
8 A. Probably average about ten a month. So over a
9 nine-year period or ten-year period, probably close tok a
10 thousand.
11 Q. Is that because Sunrise is kind of the place?
12 A. Sunrise is actually the only place that I know of
13 that does children six and under.
14 Q. Specifically examinations for sexual abuse?
15 A. Correct.
16 Q. Directing your attention to March 13, 1999, did
17 you do an examination of a child named Anna Polk?
18 A. Yes.
19 Q. If you can, we kind of heard before, if you could
20 give us a summary how the exam process works?
21 A. Basically we have a child, a therapist prepares
22 the child for examination. When they have the child prepared I
23 go in and we do a video colposcopy, a video of the genital area
24 and depending on the case, a sexual assault evidence kit.
25 Q. In the case of Anna Polk, would you have been

1 provided a medical history in terms of allegations what you
2 were looking for?
3 A. I, myself, the physician, do not get into the
4 history very much. We just ask the officer or child basically
5 what kind of penetration, where and what actually happened. We
6 don't go into depth as far as, you know.
7 Q. But you get from someone who has interviewed the
8 child so you're prepared to do the exam?
9 A. Correct. So I know what cultures to get and where
10 to get them from.
11 Q. In this case what cultures were you getting?
12 A. Basically we were getting cultures both for our
13 own hospital and sexual assault kit. We did cultures from the
14 vaginal and anal area.
15 Q. Was your information rectal or vaginal in terms of
16 the area of the abuse?
17 A. Rectal.
18 Q. What were your findings?
19 A. My findings under the video colposcopy exam, which
20 was a magnification, I noticed a scarring at six o'clock with
21 the patient on her back, in the rectal area.
22 Q. Specifically where in the rectal area?
23 A. Inferior six o'clock. The patient is laying on
24 her back, six o'clock would be the inferior portion of the
25 rectal area.

1 Q. We have a little picture right there, can you see
2 that?
3 A. Yes.
4 Q. Can you tell me where on that the injury would
5 have been?
6 A. Basically the extent of her injury was extending
7 through here into that area. And again this is a patient
8 laying on her her back, so this is kind of a lateral view of
9 the rectal area so they would be laying down. Six o'clock
10 extended internal.
11 Q. WHen you say "internal," are we talking internal
12 sphincter?
13 A. Right. Correct.
14 Q. And you said it was a healed scar?
15 A. It's hard to tell. There was definitely, I didn't
16 see any bruising or bleeding but it was definitely a scar.
17 Q. When you're talking about a scar, were you able to
18 date a scar?
19 A. Not really, no.
20 Q. So it could have been a week old?
21 A. Could have been.
22 Q. Could have been years old?
23 A. Sure.
24 Q. Is it unusual for you to have no findings when you
25 have a child who presents with an alleged anal rape? Again,

1 the rectal area is very vascular so it heals very well. Unless
2 there's a chronic kind of trauma to the area, or acute and it
3 depends on force, size and friction, depending on the force of
4 injury, but you can actually have a person that possibly has no
5 findings physically in the rectal area.
6 Q. So is it possible to be raped anally and make no
7 injury?
8 A. It depends on what you mean by raped. Digital,
9 possible and not have any findings.
10 Q. What about penile?
11 A. Again, size, friction and force. But usually you
12 would have some kind of finding.
13 Q. Would it make a difference if the abuse were
14 chronic or ongoing, repeated?
15 A. Sure. Because again, the force and friction
16 depends on the participant too. If it's a chronic ongoing kind
17 of force, then possibly the victim may not be in that much of
18 distress to have that forceful contraction to the rectal area.
19 Q. Meaning, I know what's going to happen, I'm going
20 to learn to relax and accept?
21 A. Correct.
22 Q. I assume that you couldn't tell from the scar
23 whether it was put there by one person or another person?
24 A. Correct.
25 Q. Could you tell if it was put there by a finger or

1 a penis?
2 A. No.
3 Q. There's no scar fingerprints. If this child was
4 abused by three people we can't put that scar with anyone?
5 A. Correct.
6 MS. HOLTHUS: I will pass the witness, Judge.
7 THE COURT: Thank you. Cross.
8 MR. ORAM: Thank you
9
10 CROSS EXAMINATION
11
12 Q. (By Mr. Oram) Is it fair to say, Doctor, if
13 somebody has been sexually assaulted anally, say a young lady,
14 that you're probably going to see some type of evidence of
15 injury to the anal cavity?
16 A. Depending on the type of sexual assault.
17 Q. If it was with a penis?
18 A. Correct.
19 Q. So you would probably find something?
20 A. Correct.
21 Q. So if someone came into this Court and said oh, we
22 almost never find it, would that be fair to say?
23 A. Well, again, you have to consider the forces of
24 the nature, the geometry, the size, friction, whether there was
25 lubrication and other factors that are involved.

1 Q. When you examined Anna, you wrote up a report,
2 correct?
3 A. Correct.
4 Q. You've had a chance to review that, haven't you?
5 A. Yes.
6 Q. And you wrote in there the words "at approximately
7 six o'clock an old healed scar," those are your words?
8 A. Yes.
9 Q. When you say old healed scar, you didn't mean old
10 because it was earlier on in the day, did you?
11 A. Again, it's hard to.
12 Q. Gauge?
13 A. Right. Gauge the event when the scar was
14 produced.
15 Q. Could have been years old?
16 A. Sure.
17 Q. If it was years old or months old, hypothetically,
18 Doctor, as an expert, if somebody had this kind of injury that
19 you've described at six o'clock and then that same person was
20 sexually assaulted again hours before they saw you, in the anal
21 cavity, you would expect that to cause some injury to the old
22 scar?
23 A. It depends on the age of the scar and the
24 chronicity of the scar, because basically if you're constantly
25 having friction in that area that scar is going to be so scared

1 its going to be very difficult to reopen that scar.
2 Q. Was it in that kind of a condition?
3 A. From what I remember, yes.
4 Q. That could have been caused by a finger?
5 A. I can't really say that. Again, probably not.
6 Q. I thought you indicated on direct examination that
7 it could be caused by either a finger or penis?
8 A. Correct.
9 Q. So you just can't tell?
10 A. Right.
11 Q. When I asked you that last question, I'm not
12 asking you if you know what caused that?
13 A. Okay.
14 Q. It was something?
15 A. Right.
16 Q. You didn't find any bruising on Anna at all, did
17 you?
18 A. That I recall from my notes, no.
19 Q. Other than what you described, you found nothing
20 out of the ordinary, did you?
21 A. Just the rectal scar.
22 Q. Did you observe or swab for semen?
23 A. I believe we swabbed for semen, from what I
24 recall, from the nodes from the vaginal area and we did swab
25 for ghonnerhea, chlidimia vaginal and rectal and did the sexual

1 assault kit, which involves rectal and vaginal. And I don't
2 know exactly what happend to the slides from the sexual assault
3 kit. But myself I do not recall doing a semen or prep from the
4 rectal area.
5 Q. But you did take the necessary steps so it could
6 be analyzed, correct?
7 A. I believe from the sexual assault evidence kit.
8 Q. And as you sit here today you have nothing to tell
9 us about semen, do you?
10 A. No.
11 Q. Did you comb for pubic hairs?
12 A. Again, that part of the sexual assault evidence
13 kit is not my area. Usually the nurse in charge with me does
14 the combing, I just do the specimen swab.
15 Q. You never do the combing or . . .
16 A. No, I don't.
17 Q. As an expert you would know why that is done,
18 correct?
19 A. Correct.
20 Q. And you comb pubic hair because you're looking for
21 foreign pubic hair?
22 A. Correct.
23 Q. WHen I say "foreign," you're trying to prove that
24 someone else has left their pubic hair there?
25 A. Correct.

1 Q. And that's the same with semen, correct?
2 A. Correct.
3 Q. Did you take pictures of Anna?
4 A. No, I don't know if our video coposcopy exam had
5 the photo capabilities at that time. At one time we had the
6 video capabilities and also photos, but I don't believe we had
7 the photo capabilities at that time.
8 Q. No bleeding was noted?
9 A. Correct.
10 MR. ORAM: Nothing further.
11 THE COURT: Anything else.
12
13 REDIRECT EXAMINATION
14
15 BY MS. HOLTHUS:
16 Q. You swabbed rectally for basically veneral
17 disease, is that what you said?
18 A. Correct, and also the sexual assault kit.
19 Q. Would the findings of any swabbing be affected by
20 the fact in the medical history it indicated the victim had
21 bathed or showered since the assault?
22 A. Possible.
23 Q. Changed clothes?
24 A. Yes.
25 Q. Defecated or urinated?

1 A. Defecated.
2 Q. It talks about 72 hours on the paper. What is
3 magical about 72 hours?
4 A. Well, it's been shown your yield for a positive
5 result collecting semen versus any other evidence is more prone
6 to not show up in a 72 hour period. Therefore, as far as the
7 sexual assault kit, if it's greater than 72 hours we usually
8 don't do a sexual assault evidence kit.
9 Q. Are you familiar with the child advocacy center
10 and the SAINT program?
11 A. Very peripherally.
12 Q. Are you aware you would get the within 72-hour
13 acute case versus the longer term SAINT program?
14 A. We get both but we would get the more acute
15 because I don't believe SAINT does the sexual assault evidence
16 kit. I'm not sure, don't quote me.
17 Q. Would that make sense if they are seeing exams
18 outside of 72 hours, therefore --
19 A. Sure. Because it would not tie up the emergency
20 room with cases that are ongoing longer than 72 hours.
21 MS. HOLTHUS: Nothing further.
22 THE COURT: Anything else?
23 MR. ORAM: Just briefly
24
25 RECROSS EXAMINATION

1

2 BY MR ORAM:

3 Q. When you were asked just now about changing

4 clothes, showers, baths, all those things, do you have that

5 noted or is that just something --

6 A. Again, that's not part of my history. Mine is

7 basically the physical exam and obtaining specimens.

8 Q. You have no knowledge whether there was a change

9 of clothes, whether somebody went to the bathroom, this is

10 something that could be a factor?

11 A. Correct.

12 Q. Regarding Anna, she didn't tell you she had done

13 any of that?

14 A. We try to avoid, because its a traumatic event, we

15 don't want to interview the child by five different people so

16 we limit it to the nurse, and basically I come in and do the

17 physical exam.

18 Q. The fact she complained about an attack within 24

19 hours, is that what caused you to take the rape kit?

20 A. Right, the sexual assault evidence kit.

21 MR. ORAM: Thank you.

22 THE COURT: That completes the testimony?

23 MS. HOLTHUS: One question.

24 THE COURT: One question, come on.

25

1 FURTHER REDIRECT EXAMINATION

2

3 BY MS. HOLTHUS:

4 Q. Will you look through and verify those are an

5 accurate copy of the medical records regarding this child?

6 A. Yes.

7 Q. A true and accurate copy of the medical records of

8 Anna Polk for that date?

9 A. Yes.

10 MS. HOLTHUS: If I could have this marked as

11 State's 8 for identification.

12 Is this in fact a medical history of Anna Polk is

13 records.

14 A. It appears to be. I can't really read the

15 signature.

16 Q. Why don't you just look through it.

17 I'd move to admit it.

18 THE COURT: Any objection?

19 MR. ORAM: Just one second.

20 No.

21 THE COURT: Exhibit 8 will be admitted.

22 Anything else?

23 MR. ORAM: One question. On that same sheet that

24 you were just asked about, the portion where it says was

25 suspects mouth on patient and you indicated no.

1 THE WITNESS: That's not my.
2 MR. ORAM: This isn't yours? Then I object to it
3 coming into evidence.
4 THE COURT: Do you have any other questions of
5 this doctor, yes or no?
6 MR. ORAM: No.
7 MS. HOLTHUS: No.
8 THE COURT: You're excused, Doctor, go about your
9 business.
10
11 (WHEREUPON, the jury was duly admonished.)
12
13 THE COURT: One o'clock. Be back at one o'clock.
14 We'll be at ease in the jury leaves.
15 All right, what about this medical record?
16 MR. ORAM: I thought he had done that himself.
17 THE COURT: It's ordinary course medical records.
18 It's not like he's going to do every single one.
19 MR. ORAM: Fine. I understand it that way when
20 you say it. I was just sort of taken aback, I thought he
21 filled it out.
22 THE COURT: So you have no objection?
23 MR. ORAM: No, that's fine.
24 THE COURT: Exhibit 8 will be admitted.
25 How many witnesses left?

1 MS. PETERSON: Just three witnesses, two officers
2 real quick then the detective -- I'm sorry, we have four. The
3 aunt and two officers who are real quick, then the detective
4 that the defendant confessed to. We are going to play that
5 tape, the tape is roughly 30 minutes. We are going to finish
6 this afternoon.
7 MR. ORAM: I'll be ready. I'm ready.
8 THE COURT: You'll have your instructions
9 tomorrow?
10 MS. PETERSON: Yes.
11 THE COURT: I better put this on the record.
12 Stand up, Mr. Polk.
13 Before a defendant takes or refuses to take the
14 stand the following statute should be read to you outside the
15 presence of the jury. "The Court should further advise counsel
16 to confer with his client with the view of having the defendant
17 voluntarily make a knowing and understanding waiver of his
18 right against self incrimination by testifying if he so
19 desires. Or he may refuse to waive his constitutional right
20 and not take the stand.
21 "NRS 175.172, in a trial of all indictments,
22 complaints and other proceedings against persons charged with
23 commission of crimes or offenses, the person so charged shall,
24 at his own request but not otherwise, be deemed a competent
25 witness, the credit to be given his testimony being left solely

1 to the jury under the instructions of the the Court, but no
2 special instructions shall be given relating exclusively to the
3 defendant.
4 "175.181, no instruction shall be given relative
5 to the failure of the person charged with commission of crime
6 or offenses to testify except upon the request of the person so
7 charged. The Court shall instruct the jury that in accordance
8 with a right guaranteed by the constitution, no person can be
9 compelled in a criminal action to be a witness against himself.
10 Nothing herein contained shall be construed as compelling any
11 such person to testify."
12 You understand, Mr. Polk under the Constitution --
13 are you listening to me.
14 THE DEFENDANT: Yes, sir.
15 THE COURT: You understand under the Constitution
16 of the United States and under the Constitution of the State of
17 Nevada you cannot be compelled to testify in this case; do you
18 understand that?
19 THE DEFENDANT: Yes, sir.
20 THE COURT: And you may at your own request give
21 up this right and take the witness stand and testify. And if
22 do you you'll be subjected to cross examination by the district
23 attorney and anything that you may say, on direct or
24 cross-examination, will be subject to fair comment when the
25 district attorney speaks to the jury in its final argument. Do

1 you understand that?
2 THE DEFENDANT: Yes, sir.
3 THE COURT: If you choose not to testify the Court
4 will not permit the district attorney to make any comments to
5 the jury because you have not testified; do you understand
6 that?
7 THE DEFENDANT: Yes, sir.
8 THE COURT: If you elect not to testify the Court
9 will instruct the jury, but only if your attorney specifically
10 requests, as follows: "The law does not compel a defendant in
11 a criminal case to take the stand and testify and no
12 presumption may be raised and no inference of any kind may be
13 drawn from the failure of the defendant to testify."
14 Do you understand what I just told you?
15 THE DEFENDANT: Yes, sir.
16 THE COURT: Do you have any questions of your
17 rights?
18 THE DEFENDANT: No, sir.
19 THE COURT: And if you have a felony conviction
20 within the past ten years it could come before the jury, but I
21 don't hear any felonies so that's not a problem.
22 Do you understand your rights?
23 THE DEFENDANT: Yes, sir.
24 THE COURT: Have you explained these rights to
25 him, Mr. Oram?

1 MR. ORAM: In detail.
2 THE COURT: Is the defendant going to testify?
3 You haven't made a decision.
4 MR. ORAM: Quite frankly, I believe he's going to.
5 THE COURT: But you explained his rights and
6 you've talked to Mr. Oram about this?
7 THE DEFENDANT: Yes, sir.
8 THE COURT: Thank you. One o'clock.
9
10 (Noon recess.)
11
12 THE COURT: Counsel stipulate to the presence of
13 the jury?
14 MS. PETERSON: Yes, Judge.
15 MR. ORAM: Yes, Your Honor.
16 THE COURT: Good afternoon, ladies and gentlemen,
17 we are going to continue with the State's case now.
18 The State will call their next witness.
19 MS. PETERSON: Thank you. The State calls Officer
20 Schutt.
21
22 (Whereupon, the witness was duly sworn.)
23
24 THE COURT: Have a seat, Officer, and state your
25 name and spell your last name, please.

1 THE WITNESS: Officer John Schutt, S-c-h-u-t-t.
2
3 DIRECT EXAMINATION
4
5 Q. (By Ms. Peterson) Officer, how are you employed?
6 A. I'm employed as a police officer with Las Vegas
7 Metro Police Department.
8 Q. How long have you been with Metro?
9 A. Three years.
10 Q. Officer, I want to direct your attention now to
11 February 23, of last year, 2000. Actually, two years ago,
12 February 23, 2000. Were you on duty that day?
13 A. Yes, I was.
14 Q. Were you with another officer by the name of
15 Officer Dockendorf?
16 A. Yes, I was.
17 Q. Were you and Officer Dockendorf dispatched to the
18 area of St. Louis and Gateway?
19 A. Yes, we were.
20 Q. Is that location here in Las Vegas, Clark County,
21 Nevada?
22 A. Yes it is.
23 Q. Were you dispatched there because there was a
24 report someone had been maced, possibly injured?
25 A. Yes, ma'am.

1 Q. When you got to that area did you come in contact
2 with an individual?
3 A. Yes, I did.
4 Q. And do you see that individual here in the
5 courtroom today?
6 A. Yes, I do.
7 Q. Could you point to that person and tell me what he
8 or she is wearing?
9 A. Yes, sitting at the table in the gray shirt.
10 MS. PETERSON: May the record reflect the witness
11 has identified the defendant?
12 THE COURT: The record will so reflect.
13 Q. (By Ms. Peterson) When you got to that area and
14 the defendant, what was the first thing you and Officer
15 Dockendorf did?
16 A. We went up and wanted to check him out because his
17 eyes were watering, and since the report was someone might have
18 been sprayed with mace or pepper spray, we wanted to make sure
19 he got medical attention.
20 Q. Did you call for medical attention for him?
21 A. Yes, we did.
22 Q. And as part of your duties did you try to
23 ascertain what his name was?
24 A. Yes.
25 Q. Did you ask him his name?

1 A. Yes, we did.
2 Q. When you asked him his name what was the name that
3 he gave you?
4 A. He gave the name of Renard Alli.
5 Q. How do you spiel Alli?
6 A. A-l-l-i.
7 Q. And when you asked him his name did you also ask
8 for a date of birth?
9 A. Yes, I did. He stated 10-14-80.
10 Q. Did you look, then, in your records to see if
11 there was anyone in your records by the name of Renard Alli?
12 A. Yes, we did. We ran him on the computer inside
13 the car.
14 Q. When you did that did you find a name named Renard
15 Alli with that date of birth?
16 A. No, it showed negative in scope and all the NCIC,
17 all the terminals showed no one by that name or date of birth.
18 Q. You ran that name through all the computers you
19 could?
20 A. Yes, when you run it it automatically searches all
21 data bases.
22 Q. Did the defendant have any identification on him?
23 A. No, he didn't.
24 Q. Did you ask him whether or not he had a Social
25 Security number?

1 A. Yes, I asked him and he said he didn't know it.
2 Q. He said he didn't know his social?
3 A. Yes.
4 Q. How long was it that you asked him questions
5 trying to figure out what his name was and who he was?
6 A. It was approximately 45 minutes.
7 Q. And was there some kind of information that you
8 received from someone else that tipped you off as to what his
9 true name was?
10 A. Yes. Someone walking up the street asked how we
11 were doing. I said we would be doing better if we knew who
12 this person was, and he said I know who he is.
13 Q. What did that person say?
14 A. That person said his name was Renard Polk.
15 Q. When you got that name, Renard Polk, did you look
16 that up in your records in your computers?
17 A. Yes, we did. We ran it and used the same date of
18 birth originally given to us.
19 Q. And was there a Renard Polk with the birth date
20 that this defendant gave you?
21 A. Yes, there was.
22 Q. And when you look at your records does it show
23 like a height and weight and give a physical description of a
24 person?
25 A. Yes, height, hair color, eye color, if there's

1 tattoos, the whole description of the person.
2 Q. And did that physical description in your records
3 for Renard Polk with that date of birth, did that match the
4 physical description of the defendant?
5 A. Yes, it did.
6 Q. And what did you notice when you saw the records
7 for Renard Polk?
8 A. The computer came back with an active warrant.
9 Q. What does that mean, active warrant?
10 A. It showed an arrest warrant for his arrest.
11 Q. So Renard Polk had an arrest warrant for his
12 arrest?
13 A. Yes, ma'am.
14 Q. But Renard Alli, that wasn't in your computers at
15 all?
16 A. Correct.
17 Q. So what did you do when you saw there was an
18 active arrest warrant for the defendant?
19 A. At that time we placed him in handcuffs to further
20 question him, just in case this was indeed Renard Polk. We
21 wanted to have him already in custody.
22 Q. What was the warrant for?
23 A. The warrant was for sexual assault.
24 MS. PETERSON: I'll pass the witness.
25 THE COURT: Cross.

1 MR. ORAM: No.
2 THE COURT: Thank you so much, officer. You're
3 excused.
4 Next witness.
5 MR. ORAM: Before we do that can we approach?
6 THE COURT: Yes.
7 THE COURT: Call your next witness.
8 MS. HOLTHUS: Susan Sims.
9
10 (Whereupon, the witness was duly sworn.)
11
12 THE COURT: Have a seat. I'd like to you state
13 your name and spell your last name, for the record.
14 THE WITNESS: Susan Sims, S-i-m-s.
15
16 DIRECT EXAMINATION
17
18 BY MS. HOLTHUS:
19 Q. Miss Sims, do you know Renard Polk?
20 A. Yes, I do.
21 Q. How do you know him?
22 A. He's my nephew.
23 Q. Do you see him here in court?
24 A. Yes, I do.
25 Q. Point to him, tell me where he's sitting, what

1 he's wearing.

2 A. Wearing a gray and blue shirt.

3 THE COURT: The record will reflect the

4 identification of the defendant, Renard Polk

5 BY MS. HOLTHUS:

6 Q. You say he's your nephew; you are related to his

7 mother?

8 A. Yes.

9 Q. Sisters?

10 A. Yes.

11 Q. Do you know Renaud's brothers and sisters?

12 A. Yes, I do.

13 Q. How long have you known the kids?

14 A. Ever since they were born.

15 Q. Have you been a part of their lives since they

16 were born?

17 A. Yes.

18 Q. Your mother was Gloria Polk?

19 A. Yes.

20 Q. Were you around when they were living with your

21 mom?

22 A. Yes.

23 Q. Did you visit them often?

24 A. Yes.

25 Q. Directing your attention specifically to March of

1999, did there come a time that you were called over to your mom's house?

A. Yes.

Q. How did that happen?

A. My niece, one of my nieces, the oldest one called, Jamila.

Q. Jamila called you?

A. Yes.

Q. As a result of the phone call from Jamila, what did you do?

A. I was shocked and I went over there trying to see if anything had happened and I found out what happened.

Q. When you got there, what did you find?

A. My niece, all three of my nieces up in the bedroom and my youngest one was crying and telling me everything and I couldn't believe it and I went over and told my mom.

Q. Which one is the youngest one?

A. Anna.

Q. How old was she then?

A. She's 13 now. About 11; 10 or 11.

Q. From the time you first got the call from Jamila until you got to the house, how much time passed?

A. I couldn't tell you. My mind just blanked, it shocked me when they called me and told me. As far as hours and stuff, I couldn't tell you.

1 Q. Did you go directly to the house?
2 A. Yes.
3 Q. How far away were you living?
4 A. Do you know where Sunrise Mountain is at? I'm not
5 a very good --
6 Q. Did you drive there?
7 A. No, my daughter's friend brought me.
8 Q. You went by car?
9 A. By car.
10 Q. And you were over by Sunrise Mountain?
11 A. That's where I live at.
12 Q. And you don't know about how long it took you to
13 get to Nay Court?
14 A. No.
15 Q. But you went directly there?
16 A. Yes.
17 Q. You got there and you found Anna crying?
18 A. Yes.
19 Q. Was she upset?
20 A. Very.
21 Q. What did she tell you happened?
22 MR. ORAM: Objection as to what she told her
23 happened.
24 MS. HOLTHUS: Pure excited utterance, Judge.
25 THE COURT: Again, I've ruled on that before. We

1 know the testimony so I'm going to overrule the objection and
2 allow it as an exception to the hearsay rule. So you can
3 answer.
4 THE WITNESS: What was the question?
5 BY MS. HOLTHUS:
6 Q. What did Anna tell you?
7 A. That Renard had messed with her.
8 Q. Did she tell you specifically, or just the word
9 messed with her?
10 A. She said he did it to her. And I'm like, what are
11 you talking about? I didn't know exactly what she mean by he
12 did it to her. But I thought she was talking about he did it
13 the other way. And then I found out later on it was the other
14 way that he did it.
15 Q. When you said you thought he did it one way, what
16 are you talking about?
17 A. Her vagina.
18 Q. So you believed he had sex with her vaginally?
19 A. Right.
20 Q. How much later did you find out it was something
21 else?
22 A. When the policeman came.
23 Q. That would have been?
24 A. In the house.
25 Q. How much time passed after that?

1 A. The police, after the police came, I went, they
2 told me to go downstairs. I went downstairs and they was up
3 there talking by themselves and that's when I found out, I
4 overheard. They didn't specifically came and told me but I
5 overheard which way he did it. And I'm like -- I couldn't
6 believe it.
7 Q. After she told you that he did it to her, what did
8 you do?
9 A. I went and told my mom.
10 Q. Where was your mom?
11 A. My mom was in her bedroom.
12 Q. What was she doing in her bedroom?
13 A. She was laying down. WHen I went and told her.
14 Q. Do you know about what time it was?
15 A. No, I really don't.
16 When I went to her room and I told her, actually I
17 told Anna to tell her because I had took her with me so my mom
18 can hear it come from her, not just only me. Because my mom --
19 Renard was my mom favoritism at the time. And I wanted her to
20 hear from the girl.
21 And then when she say wait until Renard come home
22 because I was going to take Anna to the hospital, so we could
23 verify, see if it was the truth. And when Anna was telling
24 momma, she said let's wait until Renard come in. We waited
25 until Renard came in and when Renard came in my mom called him

1 upstairs.
2 Q. Let me stop you there. When you first got to the
3 house Renard was not there?
4 A. No.
5 Q. How long did it take before Renard got there?
6 A. Maybe a good 30 minutes, maybe 20, 30 minutes
7 after I found out everything and was talking to my mom.
8 Q. Then mom called Renard in?
9 A. My mom called Renard in and I told my niece, I say
10 now tell momma exactly what happened. And Renard stood there,
11 said you know those kids lying on me Goo-goo.
12 Q. Who's Goo-goo?
13 A. My mother, that's what her nickname is. You know
14 how they lie on me, they just trying to get me in trouble.
15 I told Renard, Renard, if it isn't true you ain't
16 got nothing to worry about. But I'm going to take Anna to the
17 hospital to see if it's true. And if it's not you ain't got
18 nothing to worry about.
19 And when I called myself, I think it was the
20 paramedics or police or something, and I can't remember, and
21 after I caught myself getting the phone over by my mom he
22 called saying he's going downstairs to get a drink of water.
23 And I told my friend to follow him downstairs. At the time
24 they were going downstares Renard took and broke out the front
25 door and I say he's guilty already.

1 Q. When was the next -- that night, then, did you go
2 to the hospital with Anna?
3 A. Yes, I did.
4 Q. And stayed with her while she was interviewed by
5 the police?
6 A. Yes, I did.
7 Q. After that when was the next time you saw Renard?
8 A. After my mom died.
9 Q. Mom died in May of '99?
10 A. May 16,'99.
11 Q. Where were you when you saw Renard?
12 A. I was at home. He called me on the phone and I
13 told him to come over.
14 Q. Where were you living?
15 A. 6380 Pinehill.
16 Q. And did he come over?
17 A. Yes.
18 Q. And did you talk to him?
19 A. I didn't say that much but he told me he needed
20 help and stuff. And I told him there's nothing I could do, you
21 got to do something, turn yourself in.
22 Q. Did you see -- was that the end of the
23 conversation with him?
24 A. No, he was talking about Jesus and how much
25 trouble he in and stuff.

1 Q. And then did he leave?
2 A. No. He called the police. He wanted me to call
3 but I said no, be a man and do it yourself.
4 Q. Did you threaten him?
5 A. No.
6 Q. Did you force him to call?
7 A. No. I told him that's his decision that he had to
8 make.
9 Q. But he called in your presence?
10 A. Yes.
11 Q. Then did the police come over?
12 A. Yes.
13 MS. HOLTHUS: I pass the witness.
14 THE COURT: Thank you Miss Holthus.
15 Mr. Oram, cross?
16
17 CROSS EXAMINATION
18
19 BY MR. ORAM:
20 Q. Miss Sims, on March 12,'99, that's the day that
21 you were informed that this was all happening?
22 A. Okay.
23 Q. You said that you didn't have a good understanding
24 of time because you were kind of in shock?
25 A. Yeah.

1 Q. It obviously must have shocked you hearing these
2 type of allegations?
3 A. Yes.
4 Q. And it upset you?
5 A. It did.
6 Q. You said it made you angry? Understandably so?
7 A. Really made me confused because I couldn't
8 understand why he would do something like that to his sisters.
9 Q. Did you speak with Renard that evening?
10 A. Yeah, I did, telling him about if he didn't do it
11 he don't have nothing to worry about if I take Anna to the
12 hospital.
13 Q. Were you angry with him when you were speaking to
14 him?
15 A. I probably was.
16 Q. Very angry?
17 A. I probably was. I'm not sure.
18 Q. I don't mean to belabor it but were you furious?
19 A. No.
20 Q. You described it as very angry?
21 A. I was shocked. Basically shock.
22 Q. Now, I thought I heard you say when you first
23 arrived over there Anna said something about being sexually
24 assaulted in her vagina, did I misunderstand you?
25 A. No, I thought -- when she said he did it to her, I

1 thought it was the vagina part.
2 Q. Just a couple more areas.
3 You know -- obviously you've known Anna, Jamila
4 and Jahala their whole lives,?
5 A. Yes.
6 Q. You know whether they are truthful people,
7 correct?
8 A. Basically, all people is not always truthful.
9 Q. So you just generally say -- some people are less
10 truthful than others, would you agree with me?
11 A. Uh-huh.
12 Q. For the record, is that yes?
13 A. Yes.
14 Q. Do you have an opinion as to whether they are
15 truthful, those three?
16 MS. PETERSON: Judge, I'm sorry, I have to object
17 to that. I don't think she can give an opinion as to that.
18 MR. ORAM: I think the rules of evidence permit me
19 to ask if she knows their reputation in the community. Maybe
20 I'll lay a better foundation.
21 THE COURT: Yes, reputation in the community. I
22 don't know if she knows that, they're young kids. That's
23 grouping them all together.
24 MR. ORAM: I'll break it down.
25 With regard to Anna, do you know whether or not

she's a truthful person.

A. You know --

MS. PETERSON: Judge, I'm sorry. Are you limiting this to reputation questions?

THE COURT: Yes. That's what the statute says, reputation in the community.

Q. (By Mr. Oram) Do you know her reputation whether she's truthful or not?

A. Well, all kids, everybody --

Q. Let me move on. With regard to Renard, you've known him all of his life?

A. Yes.

Q. And you've been able to observe him?

A. Right.

Q. Did he do well in school?

A. Renard was a great student in school.

Q. Very studious?

A. I don't understand.

THE COURT: Studied a lot?

THE WITNESS: Yes.

Q. (By Mr. Oram) did you know him to have any type of mental problems?

A. No.

Q. You've never known him to have mental problems?

A. No.

1 Q. Have you ever known him to be hospitalized with
2 mental problems?
3 A. No.
4 MR. ORAM: Nothing further.
5 MS. HOLTHUS: No.
6 THE COURT: Thank you so much for testifying.
7 You're excused. Next witness.
8 MS. HOLTHUS: Officer Newton.
9
10 (Whereupon, the witness was duly sworn.)
11
12 THE COURT: Have a seat, sir.
13 State your name and spell your last name.
14 THE WITNESS: David Newton, N-e-w-t-o-n.
15
16 DIRECT EXAMINATION
17
18 BY MS. HOLTHUS:
19 Q. Officer Newton, you work with the Las Vegas
20 Metropolitan Police Department?
21 A. Yes.
22 Q. How long have you been with Metro?
23 A. Five years.
24 Q. Assigned to?
25 A. Currently canine.

1 Q. Prior?
2 A. Patrol.
3 Q. Specifically on August 14, 1999, did you respond
4 to 6380 Pinehill Avenue?
5 A. Yes, I did.
6 Q. What was the purpose of going there?
7 A. The purpose was the caller stated that they wanted
8 to turn themselves in because they thought they had a sexual
9 assault warrant.
10 Q. About what time was it?
11 A. About three o'clock in the morning.
12 Q. What did you find when you got there?
13 A. When we arrived we found --
14 Q. You went with someone else?
15 A. Correct, I had a partner at that time. Because we
16 always go to calls in pairs.
17 Q. Officer Beck?
18 A. Correct.
19 Q. You were uniformed?
20 A. Correct. We arrived and made contact with Mr.
21 Polk and his aunt at the house.
22 Q. Somebody identified himself as Mr. Polk?
23 A. Correct.
24 Q. Did you, prior to going out there, know you were
25 looking for a Mr. Polk?

1 A. To my recollection I believe it was in the details
2 in the call.
3 Q. Do you see Mr. Polk here in court?
4 A. Yes, I do.
5 Q. Would you point to him and tell me where he's
6 sitting?
7 A. Right there.
8 MS. HOLTHUS: Record reflect identification of the
9 defendant?
10 THE COURT: The record will so reflect
11 BY MS. HOLTHUS:
12 Q. What happened when you got there?
13 A. We got there and I was sort of talking to Mr. Polk
14 and he stated he was ashamed of what he did and he had sexually
15 assaulted his sister six months prior, and he thought he had a
16 sexual assault warrant so he wanted to turn himself in.
17 Q. What did you do?
18 A. We did a records check on Mr. Polk and --
19 Q. You, in fact, took him into custody?
20 A. No, we didn't take him into custody because we
21 wanted to make sure he had a warrant or not. We found out he
22 didn't have.
23 THE COURT: Just a minute.
24
25 BY MS. HOLTHUS:

1 Q. That's all I wanted.
2 Did you at some point take him to be interviewed
3 by someone regarding the sexual assault?
4 A. We did take him into custody.
5 Q. Okay. That's enough?
6 MS. PETERSON: Court's indulgence.
7 I'll pass the witness.
8 THE COURT: Cross?
9 MR. ORAM: Nothing.
10 THE COURT: Thank you so much.
11 State will call their next witness.
12 MS. PETERSON: State calls Detective Tim Moniot.
13
14 (Whereupon, the witness was duly sworn.)
15
16 THE COURT: Have a seat and state your name and
17 spell your last name, for the record.
18 THE WITNESS: Detective Timothy Moniot, M-
19 o-n-i-o-t
20
21 DIRECT EXAMINATION
22
23 BY MS. PETERSON:
24 Q. Detective, how are you employed?
25 A. I'm employed as a detective with the Las Vegas

1 Metropolitan Police Department, sexual assault and sexual abuse
2 unit.
3 Q. How long have you been with Metro?
4 A. Eight years.
5 Q. You said you're with the sexual assault and sexual
6 abuse unit now. How long have you been with that unit?
7 A. Close to two years.
8 Q. Before you were with the sexual assault unit where
9 were you assigned to before that?
10 A. It was a detective position called general
11 assignment squad working late nights.
12 Q. Were you assigned to the general assignment
13 division of the Las Vegas Metropolitan Police Department back
14 on August 14, 1999?
15 A. Yes, I was.
16 Q. Can you tell me, detective, what does it mean to
17 be a detective with general assignment in Metro?
18 A. General assignment is like a major case squad.
19 The majority of what we do, we work after hours late nights,
20 any event that comes up with a need for investigative
21 assistance. Normally death investigations, homicides, suicides
22 and questionable deaths, as well as child molestation, sexual
23 assaults, shootings and stabbings where there are life
24 threatening injuries.
25 Q. General assignment detectives kind of respond to

1 everything?
2 A. Yes.
3 Q. Now as a sexual assault sexual abuse detective you
4 only do those kind of cases?
5 A. That is correct.
6 Q. Back when you were working general assignment were
7 you on duty August 14,'99?
8 A. Yes, I was.
9 Q. Did you respond to a call on that day?
10 A. Yes.
11 Q. And can you tell me what the call was at the time?
12 A. I received a telephone call from Officer Newton.
13 He advised me he was on a call where he needed investigative
14 assistance.
15 Q. What were the details of the call that you had
16 received?
17 A. He told me that Mr. Renard Polk had called up
18 dispatch wanting to turn himself in believing he had a warrant
19 and he said they couldn't find a warrant.
20 Q. Let me stop you there. Did Detective Newton say
21 at that time there was no sexual assault warrant with regards
22 to Renard Polk?
23 A. Correct.
24 Q. They were asking you what to do?
25 A. Yes.

1 Q. And did you ultimately interview someone named
2 Renard Polk at the Clark County juvenile hall?
3 A. Yes.
4 Q. And do you see Renard Polk here in the courtroom
5 today?
6 A. Yes, he's sitting here with glasses on and a gray
7 shirt on.
8 Q. Detective --
9 THE COURT: The record will reflect identification
10 of the defendant.
11 MS. PETERSON: Thank you, Judge.
12 Detective, as you're going to go meet the
13 defendant to do further investigation, do you know anything
14 about this case at all?
15 A. None whatsoever.
16 Q. Had you talked to Detective Dave Dunn about this
17 case at all?
18 A. No.
19 Q. Were you able to get any information at all before
20 you sat down and talked to the defendant?
21 A. Very limited. The officers had told me they
22 couldn't find an outstanding for the sexual assault.
23 Q. Let me stop you there. Did you look at any --
24 did you try to find any kind of records with regards to someone
25 named Renard Polk and a case that had been submitted?

1 A. Yes. I went back to to the office and checked in
2 our data base where we keep the files and information on
3 pending cases or any situation where a citizen files a report
4 for any reason. You can search by name, date and a lot of
5 different things, it's a complete data base.
6 Q. So you were able to find something for Renard
7 Polk?
8 A. Yes.
9 Q. And was it just a brief narrative is all you had?
10 A. Very limited information, correct.
11 Q. Did you have any printed transcripts of
12 interviews?
13 A. None.
14 Q. Did you have any tapes that you could listen to?
15 A. No.
16 Q. Did you interview any kids before you went over
17 and talked to the defendant?
18 A. No.
19 Q. So you just had some bare-bones information on
20 this case?
21 A. That's correct.
22 Q. And when you went in to interview him tell me what
23 you did then with that interview?
24 A. I believe he was in holding at that time where he
25 had already been booked in.

1 Q. I'm sorry, detective, when you first contacted him
2 is this in a room or is it out with a number of people? Are
3 you alone or what?
4 A. He was pulled out from a holding unit and I talked
5 to him in somebody's office there inside juvenile hall.
6 Q. There's peoples' offices just all along there?
7 A. That's correct.
8 Q. They are kind of closed, like windows on the
9 doors?
10 A. Yes. It was early in the morning. We usually
11 talk to people when there's nobody around because they don't
12 have formal interviews there.
13 Q. So you're just in somebody's office?
14 A. That's correct.
15 Q. Is there anybody else in there with you?
16 A. No.
17 Q. What do you tell him then when you speak to him?
18 A. I approached him, I said I understood that he had
19 turned himself in, that he was wanting to talk about something
20 that happened regarding some molestation or sexual assault
21 charges. And I told him I was a detective and I was here to
22 talk to him if he wanted to talk to me.
23 Q. What did he say?
24 A. He said he did. He was currently in custody so I
25 provided him with his Miranda rights, which he said he

1 understood. He signed an acknowledgements of Miranda rights
2 and after that I conducted a taped interview with him.
3 Q. Okay. And you said that you gave him Miranda
4 rights. Can you tell me, you read that off of a card?
5 A. I provided him with the card, it has it printed on
6 it.
7 Q. And did you have him read it out loud or do you go
8 ahead and --
9 A. I don't remember if I had him read it out loud but
10 before I provided him with a card I made sure he knew how to
11 read. He told me he did and I actually had him read an excerpt
12 out of a book we have on criminal offenses, just opened it up
13 to a page and asked him to read it out loud. He read it with
14 no problem.
15 Q. He didn't have any problem reading at all?
16 A. No.
17 When you said at some point you gave him a rights
18 of persons card, is that right.
19 A. That's correct.
20 Q. I'm showing you now what's been marked for
21 identification as State's Proposed Exhibit No. 9. Do you
22 recognize that?
23 A. Yes.
24 Q. What's that?
25 A. That's the rights of persons arrested card, where

1 it outlines Miranda rights.
2 Q. And is your name on that?
3 A. That's correct, my name is on it.
4 Q. And there's a number by it. What's that number?
5 A. The case number associated with this case, my name
6 and badge number, the date and time and Mr. Polk's signature.
7 Q. And he actually signed that?
8 A. Yes.
9 Q. And he signed that in your presence?
10 A. Yes, he did.
11 Q. Can you go ahead and read me what is read on that
12 card?
13 THE COURT: You want to admit it first.
14 MS. PETERSON: I'd move to admit State's 9.
15 MR. ORAM: No objection.
16 THE COURT: Nine will be admitted. Now you can
17 read it.
18 THE WITNESS: "You have the right to remain
19 silent. If you give up that right to remain silent anything
20 you say can be and will be used against you in a court of law.
21 You have the right to speak to an attorney before answering any
22 questions and to have an attorney present with you while you
23 answer any questions. If you cannot afford an attorney, an
24 attorney will be appointed for you by the Court at no cost to
25 you and you need not answer any questions until that attorney

1 has been appointed for you. If you decide to answer questions
2 now you may stop at any time and ask to talk to an attorney
3 before any questioning continues. If you decide to stop
4 answering questions once you have begun all questioning will
5 stop."
6 Q. And did the defendant understand those rights?
7 A. Yes.
8 Q. And did he speak to you then?
9 A. Yes, he did.
10 Q. Tell me, if you can, give me an overview of how
11 you go about interviewing someone. Do you tape it?
12 A. Yes, we tape all of our statements. I brought my
13 tape recorder out, put a tape in it, turned it on, gave the
14 header information, which would include his name, my name,
15 date, time, location, case number. And just start talking. I
16 ask him questions, kind of a back-and-forth. It's mainly a
17 conversation between me and him with a tape recorder capturing
18 all of what we said.
19 Q. And later on is that tape transcribed?
20 A. Yes.
21 Q. Detective, when you came to court today did you
22 bring some evidence at my request?
23 A. Yes, I did.
24 Q. What did you bring today at my request?
25 A. I brought the original tape and the envelope that

1 I filled out, which is we fill the envelopes out with the
2 information, it goes to transcription, the little tape in here
3 on the Microcassett they transcribe to a typed format. That
4 would be this tape. And the bigger tapo to be played here
5 today.
6 Q. That's actually a copy, the bigger tape is a copy
7 of that Microcassett so you can actually play it in a regular
8 recorder?
9 A. Yes.
10 Q. Now, detective, you mentioned that the
11 Microcassett actually goes for transcription. Did you get a
12 transcript back from Metro when it got transcribed?
13 A. Yes.
14 Q. Did you compare that transcript with the tape that
15 I asked you to listen to?
16 A. Yes.
17 Q. And when you were going over and listening to that
18 tape, did you actually fill in some blanks that you couldnt
19 hear that the transcriber didn't take down?
20 A. Yes.
21 Q. I ask you that because there's some lines in the
22 transcript. Did you hear the words and fill in some of the
23 words that you could hear?
24 A. Yes.
25 Q. I'm going to show you what's been marked for

1 identification as State's Proposed Exhibit No. 10. Do you
2 recognize that exhibit? Could you go through some of the pages
3 and tell me if you recognize that?
4 A. Yes, it's Mr. Polk's statement that he made to me.
5 Q. Is that your handwritting there on that statement
6 filling in some of the blanks?
7 A. Yes, where there are voids where the transcriber
8 couldn't hear what was being said I filled in after listening
9 to it.
10 Q. And, for the record, Judge I'm showing defense
11 counsel what's been marked for identification as State's 11 and
12 12.
13 Detective, I'm showing you what's been marked for
14 identification as State's Proposed 11 and State's Proposed
15 Exhibit 12; do you recognize those?
16 A. Yes.
17 Q. Those are the things I asked you to bring to court
18 today?
19 A. Yes.
20 Q. State's Proposed Exhibit 11 is actually the
21 microcassette from your cassette recorder that you used in the
22 actual interview?
23 A. Correct.
24 Q. State's Proposed 12 is a regular sized tape copy
25 of this?

1 A. That's correct.
2 Q. You had a chance to listen to State's Proposed 12
3 in its entirety, is that correct?
4 A. Yes.
5 Q. Is that a true and accurate copy of the interview
6 that you had with the defendant?
7 A. Yes.
8 Q. Does it match up then with this transcript that's
9 State's Proposed Exhibit No. 10?
10 A. Yes.
11 MS. PETERSON: At this time I'd move to admit
12 State's 10 and 12.
13 THE COURT: Not 11?
14 MS. PETERSON: Not 11, that's correct, that's just
15 the Microcassett.
16 MR. ORAM: No objection.
17 THE COURT: You're not going to be offering to
18 admit 11.
19 MS. PETERSON: No.
20 THE COURT: Ten and 12 will be admitted, the
21 State's not offering 11.
22 MS. PETERSON: At this time, Judge, I'd ask to
23 publish 12 and play that for the jury.
24 THE COURT: Publish the tape?
25 MS. PETERSON: Yes, if I could play that. In

1 addition, I have some photocopies of Exhibit No. 10, if I could
2 pass those out to the jury.
3 THE COURT: You want the jury to have the
4 transcription of what Mr. Polk's statement is, is that correct,
5 so they can follow along with the tape?
6 MS. PETERSON: That's correct.
7 THE COURT: Any objection?
8 MR. ORAM: No, Your Honor.
9 THE COURT: So ordered.
10 Now we are going to play the tape?
11 MS. PETERSON: Yes, Judge.
12 THE COURT: How long is this tape about?
13 MS. PETERSON: Roughly 30 minutes.
14 THE COURT: All right.
15 MS. PETERSON: Detective, before I start this tape,
16 when you listened to this tape is that your voice on there and
17 is the defendant's voice on there.
18 A. Yes.
19 Q. And the room you're in, is it kind of hard to
20 listen to the tape a little bit? Is there voices changing in
21 volume?
22 A. It was extremely hard. It wasn't the best
23 interview environment. We did it in an office where there's
24 very little privacy, off an area where officers are bringing
25 juvenile suspects to be booked in. There's background noise,

1 reverberation.

2 Q. Is there parts in the tape where you ask to have

3 the defendant actually spoke up so you could hear him on the

4 tape?

5 A. Yes. During the interview he spoke very, very

6 softly and slowly. It was very hard, several times I had to

7 ask him to speak up.

8 Q. Okay.

9

10 (Whereupon, the tape was played.)

11

12 MS. PETERSON: Judge, at this time Mr. Oram and I

13 did have a stipulation that the defendants birthday is October

14 14, 1980?

15 MR. ORAM: That's correct, Your Honor.

16 THE COURT: All right. That stipulation regarding

17 Mr. Polk's birth date will be entered into the regard.

18 MS. PETERSON: Thank you, Your Honor.

19

20 (Tape resumes.)

21

22 MS. PETERSON: Detective, I'm sorry, I need to cut

23 that tape off. Judge, can we approach briefly?

24 THE COURT: Yes.

25

1 (Off the record discussion at Bench.)
2
3 THE COURT: We are going to take a ten minute
4 recess. We'll come back and finish the officer.
5
6 (Whereupon, the jury was duly admonished.)
7
8 THE COURT: We'll take ten minutes.
9
10 (Recess)
11
12 THE COURT: Counsel stipulate to the presence of
13 the jury?
14 MS. PETERSON: Yes, Judge.
15 THE COURT: All right. Finish up on this officer.
16 MS. PETERSON: I just have a couple questions.
17 Detective, you heard the whole tape but I want to
18 ask you a couple general questions about the defendant when you
19 interviewed him.
20 did he have any trouble understanding you or your
21 questions or anything?
22 A. None whatsoever.
23 Q. Was he talking in complete sentences?
24 A. Yes, he was.
25 Q. At any time before or during the interview did you

1 threaten him?
2 A. No.
3 Q. At any time before or during the interview did you
4 tell him what to say?
5 A. No.
6 Q. And just so I'm clear, Detective, after you
7 finished interviewing him you did not arrest him for sexual
8 assault on a minor, is that right? You actually forwarded the
9 paperwork on but you didn't arrest him for sexual assault on a
10 minor?
11 A. That's correct.
12 MS. PETERSON: No further questions, Judge.
13 THE COURT: Thank you.
14 Cross?
15 MR. ORAM: Briefly
16
17 CROSS EXAMINATION
18
19 BY MR. ORAM:
20
21 Q. Detective, at the break just now we had an
22 opportunity to listen to a little portion of that tape again,
23 is that correct?
24 A. Yes, we did.
25 Q. I'm referring to page 27 and you're asking

1 about -- you were telling Mr. Polk he gets to tell his side of
2 the story. Then you say, "Do you want to get some help?" Did
3 you hear what he said on there?
4 A. Yes.
5 Q. What did he say?
6 A. He said "psychiatric help."
7 Q. That was something that wasn't included because
8 this is a better tape recording than you had been listening to
9 previously?
10 A. Yes.
11 Q. But he clearly said he wanted psychiatric?
12 A. Yes, sir.
13 MR. ORAM: Nothing further.
14 THE COURT: Thank you, Officer for testifying.
15 You're excused.
16 Next witness?
17 MS. PETERSON: Judge, I've had the clerk mark the
18 next exhibit, it's marked for identification as State's
19 Proposed Exhibit 13, I showed it to defense counseling, it's a
20 certified copy of a birth certificate of the defendant. I'd
21 move to admit State's 13.
22 MR. ORAM: No objection.
23 THE COURT: Thirteen will be admitted.
24 MS. PETERSON: Judge, the State rests.
25 THE COURT: You've got one through fives exhibits.

1 MS. PETERSON: They were only marked.
2 THE COURT: You have 6 through 13 admitted, except
3 for 11, and you're not going to move admit one through five?
4 MS. PETERSON: That's correct.
5 THE COURT: All right, ladies and gentlemen. The
6 State has now rested their case.
7 Mr. Oram, what is you're pleasure?
8 MR. ORAM: I believe the prosecutors wanted to
9 approach on something before we started our case.
10 THE COURT: Yes
11
12 (off the record discussion at bench).
13
14 THE COURT: All right. Mr. Oram, what is your
15 pleasure now on behalf of the defense?
16 MR. ORAM: Your Honor, we would call one witness.
17 At this time we would call Mr. Polk.
18
19 (Whereupon, the witness was duly sworn.)
20
21 THE COURT: Have a seat. State your name and
22 spell your last name, for the record. You can put the
23 microphone closer.
24 THE WITNESS: Renard Truman Polk, P-o-l-k.
25

1 DIRECT EXAMINATION

2

3 MR. ORAM:

4 Q. Mr. Polk, you've listened to this trial, is that

5 correct?

6 A. Yes, sir.

7 Q. We've just heard a statement given by you where

8 you have made mention to the allegations. Were you telling the

9 truth when you told the police that you had done this?

10 A. I don't necessarily know.

11 Q. I'm sorry?

12 A. I don't necessarily know.

13 Q. What do you mean you don't know?

14 A. Well, little --

15 Q. You called the police, we've heard that, is that

16 true?

17 A. Yes, sir.

18 Q. Why did you call the police?

19 A. My auntie wanted me to.

20 Q. But your Auntie wasn't present when you waived

21 your Miranda rights, was she?

22 A. No.

23 Q. Did you waive your Miranda rights?

24 A. I guess so. If the cars's signed I guess I waived

25 them.

1 Q. Have you had an opportunity to see your statement?
2 A. Yeah. The first one they gave me.
3 Q. Was this, when we heard you today, was that you on
4 the tape?
5 A. I believe so.
6 Q. Did you sexually assault Anna?
7 A. I can't answer that question, I necessarily don't
8 know either.
9 Q. How is it that you don't know? I know you said
10 you were a little mentally unstable, but how is it you wouldn't
11 know that?
12 A. I mean, besides the facts, I mean, I guess you
13 could say short-term long-term-memory concepts or something, I
14 don't know. I just forget certain stuff.
15 Q. Have you ever been hospitalized for any mental
16 instability?
17 A. Yeah.
18 Q. With regard to Jahala, at first you said on the
19 tape that you had done nothing with her, and then you indicated
20 that you attempted to penetrate her. Did you in fact attempt
21 to penetrate Jahala?
22 A. Don't know.
23 Q. What do you mean you don't know?
24 A. Because I just don't know, I can't remember back
25 then.

1 Q. Did you, at the time that you gave this statement,
2 did you have a memory of what you were telling the police
3 officer?
4 A. Not really.
5 Q. You were describing in some detail what had
6 occurred. If you didn't have a memory of it how did you
7 describe it?
8 A. Because my auntie told me, plus other relatives
9 were telling me what I had done.
10 Q. Why didn't you say that you hadn't done it?
11 A. Why would my relatives lie to me? I expect them
12 to be truthful.
13 Q. Did you ever -- did you see the part on the tape
14 and on the transcript where it talked about Jamila?
15 A. Yes.
16 Q. Did you ever touch her?
17 A. It says so but I don't necessarily know.
18 Q. Did you have any independent knowledge -- do you
19 remember any of these incidents, if they occurred or if they
20 didn't occur?
21 A. No.
22 Q. Well, I think the question that's most important,
23 Mr. Polk, is why are we here if you don't know?
24 A. Because I believe I didn't do it.
25 Q. You believe you did not do it?

1 A. Yeah.
2 Q. Why do you believe you did not do it?
3 A. I got to checking records and researching this
4 stuff and the stuff just didn't add up.
5 Q. Why didn't it add up?
6 A. Apart from the documentary evidence, I guess you
7 could say, apart from that, I mean it just didn't make sense.
8 I don't consider myself over protective or nothing but I know,
9 just like -- I know I'm not right in the head, so if they told
10 me I had this, then I was going to believe them. Because I
11 have no preconceived notions because they are my family.
12 Q. Yes or no, did you know anything about a Dorian
13 and Darrell?
14 A. Yeah.
15 Q. You did?
16 A. Yeah.
17 Q. You knew who they were?
18 A. Yeah.
19 Q. Why did you run away from the house on March 12,
20 1999?
21 A. Because I came home, my family said I had did
22 something.
23 Q. Was your family -- did they appear to be angry?
24 A. I guess you could say they were angry.
25 Q. I want it to come out, what did you perceive?

1 Were they happy? Angry? Furious? What?
2 A. I guess there was a bunch of mixed emotion.
3 Q. And did they ask you if you did it at that time?
4 A. I think they did.
5 Q. And do you remember what you said?
6 A. No.
7 Q. You don't remember what you said?
8 A. I says -- well, not really. Not necessarily me
9 from what other people have said.
10 Q. So as you sit here today, you indicate that you
11 don't think you're guilty?
12 A. Yeah.
13 Q. Is it your testimony before this jury that you
14 have done nothing wrong?
15 A. Yeah.
16 Q. And is that why you wanted to proceed to trial?
17 A. Yeah.
18 Q. Even given the facts we've heard in that
19 statement?
20 A. Yeah.
21 Q. Lastly, you said that you'd been hospitalized --
22 strike that. How did you feel during this period of time when
23 your family has told you what's happened and sometime after you
24 turned yourself in? How did you feel?
25 A. I can't necessarily say. Asking me if I knew my

1 emotions back at that time, I can't tell you.
2 Q. Did you do anything specifically that would
3 cause -- did you do anything specifically that caused you to be
4 hospitalized?
5 A. Yeah.
6 Q. What did you do?
7 A. Tried to commit suicide.
8 Q. Why did you try to commit suicide?
9 A. Well, I guess you could say, they call it
10 hari-kari or whatever in the Chinese tradition or Japanese,
11 some people call it "Sonichi."
12 Q. You wanted to kill yourself?
13 A. Yeah.
14 Q. Why did you want to kill yourself?
15 A. Because people told me I had to do something about
16 it.
17 Q. Was that -- how long were you hospitalized?
18 A. About a week.
19 Q. Is that the only time you've been hospitalized
20 psychiatric?
21 A. Hospitalized, yes; counseled, no.
22 Q. You've never been anywhere else?
23 A. Oh, Lakes Crossing, that's right.
24 Q. Have you ever been prescribed prescription drugs
25 for mental problems?

1 A. Yeah.
2 MR. ORAM: That concludes direct examination.
3 THE COURT: Thank you.
4 Cross-examination?
5 BY MS. HOLTHUS:
6 Q. Mr. Polk, when were you born?
7 A. 10-14-80.
8 Q. Where?
9 A. Nachez, Mississippi.
10 Q. Do you know when you moved to Las Vegas?
11 A. Well, it was like an off-and-on thing, kept going
12 back and forth, Mississippi to Vegas.
13 Q. Who was your dad?
14 A. Darrell Edwards.
15 Q. Were your folks married?
16 A. They are still married.
17 Q. Are they still together?
18 A. No.
19 Q. How long have they been apart?
20 A. Since I was little, like -- they still saw each
21 other but, I think since is was like three they have been
22 separated.
23 Q. But you still had contact with your dad?
24 A. Yeah, every now and then he would pop up
25 sometimes.

1 Q. How often?
2 A. Usually when I was getting in trouble.
3 Q. Did you spend time with him?
4 A. Yes, we associated.
5 Q. And at some point you stopped living with your
6 mom?
7 A. Yeah.
8 Q. How old were you when you stopped living with mom?
9 A. I think I was like six maybe.
10 Q. Were you in school at the time you stopped living
11 with mom?
12 A. I don't know.
13 Q. Who did you go to live with after you left your
14 mom?
15 A. My grandma.
16 Q. Gloria Polk?
17 A. Yes.
18 Q. Did you start school as soon as you started living
19 with your grandma?
20 A. I suppose I did.
21 Q. Do you remember?
22 A. Not really.
23 Q. Where did you live at first when you first started
24 living with your grandma?
25 A. I couldn't tell you.

1 Q. Do you know, was it in Las Vegas?
2 A. Yes.
3 Q. Do you remember if it was a house or apartment?
4 A. Can't tell you.
5 Q. Do you remember any of the places that you lived
6 with your grandmother?
7 A. Perry Street and Nay Court, 1325.
8 Q. Perry Street and?
9 A. Nay Court, it's a cul-de-sac.
10 Q. 1325 Nay Court?
11 A. Yes.
12 Q. How long ago was it that you lived there?
13 A. Three, four years ago.
14 Q. How long ago did you live on Perry Street?
15 A. Probably about six.
16 Q. Six years ago?
17 A. Yes.
18 Q. Who else lived with you besides you and your grand
19 mother on Perry Street?
20 A. Me and my younger siblings.
21 Q. How many younger siblings?
22 A. Two brothers and three sisters.
23 Q. What are their names and how old are they?
24 A. Jamila is 16, Jahala, she's 15; Anna, she's 13;
25 Javan, he was nine or ten or something, and then my younger

1 brother Richard should be 7, I guess. And my younger sister at
2 this time, but she wasn't staying on Nay Court.
3 Q. Those are the ages of your siblings now?
4 A. Yeah.
5 Q. Did you see your mom while you were living with
6 grandma?
7 A. She came around every now and then.
8 Q. Was she involved in your life?
9 A. To an extent.
10 Q. What was she doing all those years you were living
11 with your grandmother?
12 A. Getting into trouble.
13 Q. What kind of trouble?
14 MR. ORAM: Objection, relevance, Judge.
15 THE COURT: I'll sustain that
16 BY MS. HOLTHUS:
17 Q. Would it be true you lived with your grandmother
18 while you were in second grade?
19 A. I suppose so.
20 Q. If you don't know don't tell me. You don't know?
21 A. No.
22 Q. Did you finish high school?
23 A. No.
24 Q. When did you leave?
25 A. Probably like second semester of my tenth grade

1 year.

2 Q. What kind of grades did you get before you dropped

3 out of school?

4 A. Before I dropped out?

5 Q. Uh-huh?

6 A. Fs.

7 Q. Was there a time when you were doing well in

8 school?

9 A. When I was younger.

10 Q. When did you start doing poorly?

11 A. I don't necessarily know.

12 Q. Do you have any idea why you started doing poorly?

13 A. School got boring.

14 Q. Do you remember talking to a Dr. Paglini?

15 A. Yes.

16 Q. Do you recall telling him that you lost your

17 passion to learn when you began using drugs in the 9th grade?

18 A. I suppose so, yeah.

19 Q. And that you said you had tried acid infrequently,

20 as well as crystal, but your primary drug of choice was

21 marijuana?

22 A. Yeah.

23 Q. Is that true?

24 A. Yeah.

25 Q. And you reported that up to eighth grade you were

1 a very good student?
2 A. Okay, yeah.
3 Q. Do you recall that?
4 A. Yeah.
5 Q. And that your life went downhill once you began
6 using drugs in the 9th grade?
7 A. Yeah.
8 Q. Do you -- how did you try to kill yourself?
9 A. I drank a whole bottle of isoprobol rubbing
10 alcohol.
11 Q. When was that?
12 A. I think it was sometime between the accusation and
13 when I turned myself in.
14 Q. So before August 14, 1999?
15 A. Yeah.
16 Q. Did you tell Dr. Panini you tried to kill
17 yourself, and I think you referred to it before, "get Sonichi"?
18 A. Yeah.
19 Q. What did that mean to you?
20 A. It goes on to talk about integrity and a man's
21 word and his ability to learn.
22 Q. Did you, in fact, tell Dr. Paglini if you lose
23 honor you cleanse your soul by killing your physical body?
24 A. Something like that.
25 Q. You have entered a not guilty plea in this case,

1 is that correct?
2 A. Yeah.
3 Q. You have not entered a not guilty by reason of
4 insanity, is that also correct?
5 A. No.
6 Q. No, it's not correct?
7 A. As of right now?
8 Q. Right.
9 MR. ORAM: Judge, if there could be some
10 clarification.
11 MS. HOLTHUS: Too many negatives.
12 Did you enter a plea of not guilty by reason of
13 insanity?
14 A. That was my lawyer's choice.
15 Q. Have you entered a plea of not guilty by reason of
16 insanity?
17 A. As of right now?
18 Q. As of right now.
19 A. It was just a not guilty plea.
20 Q. What exactly did your auntie tell you that you did
21 to your sisters that you needed to call the police for?
22 A. She said sister, just one she told me.
23 Q. Which one was that?
24 A. Anna.
25 Q. What did she tell you you did to Anna that you

1 needed to call the police and tell?
2 A. Anally raped.
3 Q. How many times did she tell you you anally raped
4 her?
5 A. She said it's been going on for a while.
6 Q. How long?
7 A. I don't necessarily know.
8 Q. Did she tell you how long it had been going on?
9 A. She just said a long time.
10 Q. So in your statement when you said since she was
11 five or six, where did you get that number from?
12 A. Because that's when she came out to Vegas. I
13 mean, speculation.
14 Q. She didn't tell you you did anything to Jahala?
15 A. No.
16 Q. How did you know to say that you did something to
17 Jahala?
18 A. I didn't. Until after the detective or whatever
19 told me she said I had done something.
20 Q. He told you that you did something so you figured
21 you must have?
22 A. I suppose so.
23 Q. Why didn't you say you had been doing Jahala for a
24 number of years?
25 A. I don't necessarily know.

1 Q. Why is it you said you only did Jahala once?
2 A. I mean, that's speculation.
3 Q. Why is it you said you didn't penetrate all the
4 way in Jahala, you tried to but it wouldn't go all the way in?
5 A. I don't know.
6 Q. Just came to you?
7 A. Even then the statement didn't say that, it said
8 something about playing around her buttocks or something.
9 Didn't say nothing about me penetrating her.
10 Q. And when he tried to get you to say you did
11 something to Jamila, did you say you penetrated her?
12 A. I don't think so.
13 Q. Why not? He was trying to get you to say it,
14 wasn't he?
15 A. Yeah.
16 Q. How come, when he tried to get you to say it about
17 Jahala you said it but Jamila you didn't?
18 A. I don't know.
19 Q. Maybe because you didn't do it to Jamila but you
20 did to Jahala?
21 A. I don't necessarily know.
22 Q. You didn't say you did anything to Javan or
23 Richard or anybody else, did you?
24 A. No.
25 Q. But he was trying to get you to say you did,

1 didn't he?
2 A. I guess so.
3 Q. So the only time you let him convince you was on
4 Jahala?
5 A. Yeah.
6 Q. And Anna you knew because your auntie told what
7 you did to her?
8 A. Yeah.
9 Q. And she told you it was a long time, so you
10 figured it must have been when she was five or six?
11 A. I suppose so.
12 Q. Why would Anna say you did these things to her?
13 A. She's had other people do things to her before.
14 Q. Why would Anna say you did this to her? Did you
15 have a good relationship with Anna?
16 A. Yeah.
17 Q. Did you love her?
18 A. Yeah.
19 Q. Did she love you?
20 A. Yeah.
21 Q. Were you the older brother?
22 A. Yeah.
23 Q. Did you take care of your sisters and brothers?
24 A. Yeah.
25 Q. Mom and dad weren't around a lot, so does that

1 leave you kind of the man in charge?
2 A. Yes.
3 Q. All of you have the same mother, is that right?
4 A. Yeah.
5 Q. Do you all have the same father?
6 A. Not all of us.
7 Q. Do any of you?
8 A. I think the one-year-old and my youngest brother.
9 Q. But the six older that were living with your
10 grandmother, none have the same father?
11 A. Richard we were led to believe.
12 Q. We know your dad wasn't around much. Were any of
13 the other kids' dads around much?
14 A. Not really.
15 Q. You were the man of the house?
16 A. Yeah.
17 Q. And your sisters looked up to you?
18 A. Yeah.
19 Q. Did they listen to you?
20 A. Yeah.
21 Q. Did you tell them what to do?
22 A. Yeah.
23 Q. You said that you expect your family to be
24 truthful. Which members of your family do you expect to be
25 truthful?

1 A. The adults.
2 Q. And not the kids?
3 A. No, not really. Except if they are -- I don't
4 know. Sometimes they can be, sometimes they can't be.
5 Q. So you didn't believe Anna and Jahala that you had
6 raped them?
7 A. Not until my auntie told me.
8 Q. But you figured auntie wouldn't lie?
9 A. No.
10 Q. Did it occur to you auntie would only know if your
11 sisters told her?
12 A. Yeah.
13 Q. Because you're a smart guy, aren't you?
14 A. I wouldn't say smart, I don't know.
15 Q. You heard Officer Schutt testifying about the day
16 that you were maced?
17 A. Yeah.
18 Q. Where were you when the officers contacted you?
19 A. The day I was maced?
20 Q. Right.
21 A. Whatever address they said I was at.
22 Q. What part of town is that?
23 A. That's Charleston and Lamb.
24 Q. And when the police officers came up to you, why
25 did you give them a fake name?

1 A. Because usually they take you to jail if you don't
2 have no I.D.
3 Q. Why not give them your real name?
4 A. I felt no need to because if you give them a real
5 name, I didn't have no I.D., it was past curfew, nine times out
6 of ten if you don't have no I.D. they will take you to jail.
7 Q. Is there a curfew if you're 18 or older?
8 A. I don't think so.
9 Q. And how old were you August 14, 2000?
10 A. I was locked up.
11 Q. I'm sorry, February 23, 2000, how old were you?
12 A. 18.
13 Q. So you weren't really in violation of any curfew?
14 A. No.
15 Q. So maybe that wasn't what you were afraid of,
16 huh?
17 A. They still take you to jail if you don't have no
18 I.D.
19 Q. Especially if you give them a fake name, huh?
20 A. No, not usually.
21 Q. Did you know you had a warrant for sexually
22 assaulting your sister?
23 A. No.
24 Q. When was it that your auntie told you what you
25 did?

1 A. Probably minutes before I turned myself in.
2 Q. Minutes before? Before that you had no I.D. what
3 you were being accused of?
4 A. At that time, no.
5 Q. What about that night in your grandmother's
6 bedroom?
7 A. That's what I don't recall.
8 Q. Would you try for a minute. Did they tell you
9 what you did that night?
10 A. Obviously from documentary --
11 Q. I'm not talking about documentary support, did
12 Anna, did Auntie Susan, did Goo-goo, did anybody say that night
13 what did you do to her, or tell you what you did to her?
14 A. I don't remember.
15 Q. Are you sure?
16 A. Yeah.
17 Q. And why did you leave that night?
18 A. I don't remember.
19 Q. Do you remember leaving?
20 A. Yeah.
21 Q. What other kind of things don't you remember?
22 A. Lots of stuff.
23 Q. You said you have short term and long term memory
24 loss?
25 A. Yes, because after I had -- tried to commit

1 suicide or whatever, I was asleep for like two days or
2 whatever. When I came to, it's hard to remember stuff. I'm
3 only going off of what people have told me.
4 Q. So maybe you did rape Anna?
5 A. I don't necessarily know.
6 Q. If you don't remember you don't know if you did or
7 didn't, do you?
8 A. No.
9 Q. Can you think of any reason why Anna would say you
10 did?
11 A. Excuse me?
12 Q. Can you think of a reason why Anna would want to
13 say that you did if you didn't?
14 A. She's accused people before.
15 Q. Is that a reason that she would say you did if you
16 didn't?
17 A. I suppose so. Not only that but, I mean, I wasn't
18 a strict brother or nothing but I was -- I don't know.
19 Q. Did you do anything to her on March 12, 1999, that
20 would make her say you did something to harm her?
21 A. Did I do anything that day?
22 Q. Yes.
23 A. To her?
24 Q. Yeah.
25 A. I don't know.

1 Q. Can you think of anything that you did to her as a
2 brother that would make her want to go through what she's gone
3 through?
4 A. Yeah, not let them associate with some of the
5 people they wanted to associate with.
6 Q. So because you didn't let her hang out with kids
7 she wanted to hang out with you think she went to the hospital
8 when she was ten years old and had put her feet in the stirrups
9 and had people looking up her private parts?
10 A. I don't know what people do these days.
11 Q. What about Jahala? What did you do to her that
12 would make her say something so terrible about about the
13 brother she loved?
14 A. Didn't let here associate with certain people.
15 Q. So it's your position they made the whole thing up
16 because of that?
17 A. I mean, that's just speculation. You're asking me
18 to comment on my, I guess mental veracity why would they do
19 something. You're asking me to tell you why would they
20 necessarily do, why they would do this. I don't necessarily
21 know, it's just speculation.
22 Q. But you didn't do it?
23 A. Say again?
24 Q. You didn't do it?
25 A. Don't know.

1 Q. Will you agree if you did it it was wrong?
2 A. Yes. Because of that fact I should be punished if
3 I did it. I sure believe I didn't do it.
4 Q. You said you tried to commit suicide sometime
5 after this but before you turned yourself in?
6 A. Yeah.
7 Q. So it would have been before August 14?
8 A. Yeah.
9 Q. And that was the first time you'd ever been
10 hospitalized?
11 MR. ORAM: May I have clarification for whether it
12 would be anything other than psychiatric?
13 THE COURT: Yes
14 BY MS. HOLTHUS:
15 Q. For psychiatric?
16 A. I believe so.
17 Q. And then the only other time was when you went to
18 Lakes Crossing?
19 A. I believe so.
20 Q. And you were found competent and released from
21 Lakes Crossing?
22 A. Yeah.
23 MS. HOLTHUS: I'll pass the witness.
24 THE COURT: Anything else.
25 MR. ORAM: Yes.

1 Just a few comments, Your Honor.
2
3 REDIRECT EXAMINATION
4
5 BY MR. ORAM:
6 Q. You were asked about a Dr. Paglini. Do you know
7 if he was a psychologist or psychiatrist, or if you know?
8 A. I don't know the difference.
9 Q. How many psychiatrists or psychologists, mental
10 doctors, have you seen?
11 A. I can't even tell you.
12 Q. You were asked about Lakes Crossing and that you
13 were found competent at Lakes Crossing. Why did you go to
14 Lakes Crossing?
15 A. Because I was found incompetent before.
16 Q. Regarding Jamila, Miss Holthus asked you why
17 didn't you admit to doing something to her in your statement to
18 the police, do you remember that question?
19 A. Yes.
20 Q. Did you hear the tape?
21 A. Yeah.
22 Q. Did you hear yourself talk about messing around
23 with Jamila but didn't penetrate her? Did you hear yourself
24 say that?
25 A. Yeah.

1 Q. So on tape you were saying something was going on
2 with Jamila, is that right?
3 A. Yeah.
4 Q. Was there?
5 A. I don't know.
6 MR. ORAM: That concludes.
7 THE COURT: Anything else?
8 MS. HOLTHUS: Yes
9
10 RECROSS EXAMINATION
11
12 BY MS. HOLTHUS:
13 Q. In preparation for trial did you talk to other
14 doctors about presenting an insanity defense?
15 MR. ORAM: Your Honor, I would just object to the
16 phrasing of the question did you talk. That sounds like he
17 went to doctors and -- almost like what would be my job.
18 THE COURT: Maybe you could rephrase it.
19
20 BY MS. HOLTHUS:
21 Q. In preparation for trial after your release from
22 Lakes Crossing, you were released from Lakes Crossing?
23 A. Okay.
24 Q. Found competent, a panel of doctors determined
25 that you were in fact competent?

1 A. Yeah.
2 Q. Set for trial. After they found you competent did
3 you talk to other doctors?
4 A. Yeah, at the beginning, Paglini, or whatever.
5 Q. From the time that you were released from Lakes
6 Crossing until yesterday's trial date you spoke with other
7 doctors?
8 A. Yeah.
9 Q. And yet you've never entered a plea of not guilty
10 by reason of insanity? It's a yes or no?
11 A. I don't think so.
12 MS. HOLTHUS: Nothing else.
13 THE COURT: Anything else?
14 MR. ORAM: No.
15 THE COURT: You can resume your seat.
16 Anything else, Mr. Oram?
17 MR. ORAM: Your Honor, at this time the defense
18 rests.
19 THE COURT: State?
20 MS. PETERSON: Nothing further, Judge.
21 THE COURT: All right, ladies and gentlemen, the
22 evidence is now concluded and what I have to do now is work
23 diligently and get the jury instructions, instructions of law
24 to you.
25 Rather than you waiting around, it will take me a

1 couple hours, I'd rather you go home now and tomorrow morning
2 we'll reconvene and then we'll read the instructions of law and
3 hear brief closing arguments and the case will be submitted to
4 you, hopefully, by 12, one o'clock tomorrow. That's the game
5 plan. I want to thank you very much for your patience. I'm
6 going to read the admonition to you again and we'll see you
7 tomorrow -- could counsel approach the Bench.
8 We'll reconvene again the same time, nine-thirty
9 tomorrow and at nine thirty I'll read the instructions and
10 we'll hear brief closing arguments and you'll have the case by
11 noon.
12 That being said, thank you very much.
13 (Whereupon, the jury was duly admonished.)
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CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
JURY TRIAL

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE
VOLUME IV

Taken on January 9, 2002
At 9:30 a.m.

APPEARANCES:
For the State: TAMMY PETERSON, ESQ.
MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
520 South Fourth Street

1 Reported by: TOM MERCER, CCR No. 33
Las Vegas, Nevada, January 9, 2002
2
* * * * *
3
4 THE COURT: This is outside the presence of the
5 jury. Did you get the verdict form?
6 MS. PETERSON: I sure did, Judge.
7 THE COURT: And Instruction No. 5?
8 MS. PETERSON: Yes. What I did, I'm going to give
9 you the original. What I did, Judge, I put together an
10 instruction so that it talks about a lesser included offense.
11 In the very bottom it says what an attempt is, because I think
12 the jury needs to know.
13 THE COURT: Is that satisfactory to you?
14 MR. ORAM: Fine.
15 THE COURT: Just for the record, Mr. Oram, you're
16 the one that requested a lesser included crime of attempted
17 sexual assault, is that correct?
18 MR. ORAM: That's correct.
19 THE COURT: What's the State's position?
20 MS. HOLTHUS: We are not opposing it, Judge.
21 THE COURT: That's why I brought it in.
22 MS. PETERSON: There's one more matter as well --
23 two more. I have a verdict form that added a choice for Count
24 I.
25 THE COURT: Is this satisfactory to you, Mr. Oram?

1 MR. ORAM: It is, Your Honor.
2 THE COURT: All right.
3 MS. PETERSON: There's one more matter that I
4 have. It's with regards to Instruction No. 3, where it
5 actually reads the Information. I have changed that because
6 I'm going to be asking to amend by interlineation the
7 Information where it says, "did on or about January 1, and it
8 should say "on or between."
9 THE COURT: You have a new instruction?
10 MS. PETERSON: I do, I have a new instruction that
11 covers that.
12 THE COURT: Any objection to that?
13 MR. ORAM: No, Your Honor.
14 MS. HOLTHUS: We need to amend the original.
15 THE COURT: This is the first page?
16 MS. PETERSON: That's correct, the second page
17 does not change.
18 MS. PETERSON: So that it's clear, I'm moving to
19 amend by interlineation the Information to actually read that
20 as well.
21 THE COURT: Any objections to that?
22 MR. ORAM: No, Your Honor.
23 THE COURT: So the Information is going to be
24 changed.
25 THE CLERK: In each count where it says "on or

1 about."

2 MS. PETERSON: It should be Count I and Count II.

3 THE COURT: Count I or II, on or between.

4 MS. PETERSON: That's correct, Judge.

5 THE COURT: No objection. So I'll initial it.

6 MS. PETERSON: Lastly, Judge --

7 THE COURT: Let me settle instructions.

8 This is the time for settlement of instructions

9 outside the presence of the jury.

10 Does the State object to any of the instructions

11 that the Court has indicated will be given?

12 MS. PETERSON: No, Judge.

13 THE COURT: Defense object to any of the

14 instructions the Court has indicated --

15 MR. ORAM: No, your Honor.

16 THE COURT: Does the State request the giving of

17 any instructions in addition to those the Court has indicated

18 will be given?

19 MS. PETERSON: No, Your Honor.

20 THE COURT: Does the defense request the giving of

21 any instructions?

22 MR. ORAM: No, your Honor.

23 THE COURT: Counsel stipulate we have settled

24 those instructions here in open court outside the presence of

25 the jury and we can give them before the argument?

1 MS. PETERSON: Yes, Your Honor.
2 MR. ORAM: Yes, Your Honor.
3 THE COURT: All right. Anything else to come
4 before the Court on behalf of the defense.
5 MR. ORAM: Yes, Your Honor. I have three matters
6 that I need to put on very briefly.
7 These are matters that I'm concerned in the event
8 of a conviction of any of the charges in an appeal the supreme
9 court has always said if there's no objection at the time, then
10 the issue is waived. I don't want to see that happen in this
11 particular case so I'm now putting on the record, although I
12 agree, I should have done it contemporaneously when it was
13 happening. I object to both the nurse and, I believe it was
14 Miss Sims, who indicated that the defendant was guilty -- it
15 wasn't Miss Sims, it was one of the children who said the
16 defendant is guilty or should be guilty. With the nurse what
17 I'm quoting on is when she said --
18 THE COURT: I'm not clear. You said three items.
19 Give me the first item.
20 MR. ORAM: This is the first item, these two
21 together, a combination of when the nurse said by the time they
22 get to me they are usually, words to the effect guilty, or they
23 have culpability by the time the children come and complain
24 there's usually an allegation. I think that's objectionable,
25 it goes to the heart of the case, so I object to that.

1 THE COURT: And you didn't object at the time?
2 MR. ORAM: No, I did not.
3 THE COURT: So I had no chance to rule on it.
4 MR. ORAM: That's correct.
5 THE COURT: What am I supposed to do now?
6 MR. ORAM: I think, actually, I was questioning
7 her and if I'm not mistaken, I think the State objected to it
8 and it became the ultimate -- the State put it on she was
9 saying the ultimate conclusion of the case.
10 THE COURT: Did I sustain the objection?
11 MR. ORAM: I believe you did, Your Honor. I'm
12 just putting it on the record.
13 THE COURT: That's number one.
14 MR. ORAM: That's correct.
15 MS. HOLTHUS: That was our concern, it was in
16 cross-examination that it was occurring and we were concerned
17 he was eliciting that type of testimony and pointed out she's
18 attempting to testify to an ultimate issue that belongings
19 solely with the trier of fact. And if I'm not mistaken Mr.
20 Oram asked the question again, so.
21 THE COURT: What did she say?
22 MS. HOLTHUS: She was basically saying that by the
23 time the kids get to her there's been an allegation of sexual
24 abuse.
25 THE COURT: An allegation. Didn't she say it's

usually true, or something like that?

MS. HOLTHUS: I think she was saying something to that effect.

THE COURT: I don't know what to do now. You don't want me to do anything right now, you just want to make a record?

MR. ORAM: I do.

THE COURT: What else can I do?

MR. ORAM: At the end I'm going to ask, for the record, for a mistrial.

The second issue, before we go on, I had asked the lady if a child comes to you and complains of sexual assault and has a normal exam, couldn't that be consistent with somebody who hadn't been sexually? Assaulted and she determined that question should result in the answer we are talking about now. So my opinion is I didn't open the door to that.

I'll move on to the second one. I believe I objected continuously to all hearsay statements. There were several hearsay statements, many the Court sustained when I objected, several for different exceptions to the hearsay rule; the Court overruled my objections. I want to state I believe a lot of hearsay came into this trial so I object, although I had already previously objected.

THE COURT: You have a record on that.

1 MR. ORAM: The last one, I know there was no
2 malicious intent, I think it was just in questioning, but
3 yesterday during the questioning of Renard Polk, a question
4 came out about how come there was no insanity defense raised or
5 plea raised? Again, I don't think, I know the prosecutor just
6 did it for the purpose of cross-examination, however I believe
7 inadvertently it switched the burden to Mr. Polk that he
8 somehow should have raised an insanity defense. I did not have
9 an insanity defense, my doctors said they could not testify to
10 that effect. However, once that was raised in front of the
11 jury, I believe now the jury may believe why didn't we raise an
12 insanity defense. So with that, I object to that as well.
13 THE COURT: Was the question --
14 MS. PETERSON: The question was you plead not
15 guilty, you didn't plead not guilty by reason of insanity.
16 THE COURT: It wasn't how come you didn't raise an
17 insanity defense?
18 MS. PETERSON: No.
19 MR. ORAM: It's what Miss Peterson is saying.
20 Again, I would agree it was just done inadvertently.
21 THE COURT: With that, you ask for a mistrial?
22 MR. ORAM: I'm asking for a mistrial.
23 MS. PETERSON: Well, Judge, with regards to the
24 first issue about the nurse and what she said, I think at the
25 time the State objected, you ruled on it. The defense didn't

1 ask for any kind of curative instruction. We have to presume
2 when an objection is sustained that's where it lies.
3 THE COURT: Now Mr. Oram is still not asking for
4 any curative instruction, is that correct?
5 MR. ORAM: That's correct.
6 MS. PETERSON: With regards to the second issue,
7 hearsay, you were ruling on all of those as they came up and he
8 had a continuing objection, you noted it and overruled it. Our
9 position was it was an excited utterance, all of those
10 statements he was talking about; I think there's only like two
11 or three really. With regards to the last one, Judge, the
12 question was asked to the defendant, it was asked in that form,
13 you plead not guilty, didn't plead not guilty by reason of
14 insanity.
15 THE COURT: And you had a right to cross examine
16 on that because he brought it up.
17 He opened the door.
18 MS. PETERSON: That's right. We didn't change the
19 burden.
20 THE COURT: They opened the door in their direct
21 testimony. That's my ruling, with all due respect Mr. Oram,
22 you did a tremendous job, I don't think you did anything wrong.
23 In any event, your motion for mistrial is denied
24 on those points.
25 Anything else by defense?

1 MR. ORAM: No, Your Honor.
2 THE COURT: The State?
3 MS. PETERSON: The Microcassett that I believe is
4 State's Exhibit No. 8, I'd like that to be a court exhibit.
5 The reason is the Microcassett is the whole tape of the
6 interview. We redacted a number of portions.
7 THE COURT: I don't think you have any objection?
8 MR. ORAM: No.
9 MS. PETERSON: The jury can't have it.
10 THE COURT: Any objection?
11 MR. ORAM: No.
12 THE COURT: What exhibit is that, Miss Clerk, the
13 Microcassett of the Defendant's statement.
14 MS. PETERSON: We redacted it at the request of
15 Mr. Oram.
16 THE COURT: All right, is that correct, they
17 redacted it to your satisfaction?
18 MR. ORAM: They did, yes.
19 THE CLERK: Are you sure it's not No. 11.
20 MS. HOLTHUS: It is 11.
21 MS. PETERSON: It was the Microcassett.
22 THE COURT: All right. That being said, 11 will
23 be made a court exhibit, not to be given to the jury.
24 Bring in the jury.
25 Counsel stipulate to the presence of the jury?

1 MS. PETERSON: Yes, Judge.
2 MR. ORAM: Yes, Your Honor.
3 THE COURT: All right, ladies and gentlemen. This
4 is the time I'm about to instruct you what the law is on this
5 case. I'd like to instruct you orally, but each word on these
6 instructions are of such importance I better read them to you
7 because they are significant and I think it's necessary for me
8 to read them, these carefully prepared written instructions.
9 Some are long and complicated, but bear in mind you're going to
10 be able to take these instructions, along with all the exhibits
11 admitted in evidence, to the jury room with you. So I'm going
12 to read the instructions of law. After that we are going to
13 have brief arguments from counsel.
14 The State still has the burden of proof, they have
15 like two bites of the apple. The State will give their opening
16 argument, Mr. Oram has one chance to talk to you and he'll give
17 his argument, and then the State is allowed to give a rebuttal
18 argument. So there's three arguments and that will conclude
19 it. That being said, I'm going to read the instructions and
20 then we'll get to the argument.
21
22 (Whereupon, the instructions were
23 read to the jury.)
24
25 THE COURT: That completes the instructions of

1 law, ladies and gentlemen. We are going to hear the arguments
2 now. Who will begin?
3 MS. PETERSON: I will, Judge.
4 THE COURT: Miss Peterson.
5 Mr. Bailiff, will you get the podium, please.
6 MS. PETERSON: At the beginning of the case I told
7 you that the State would be bringing in witnesses who would
8 tell you about what this defendant did to them. The State
9 brought in two sisters who told you what their brother did to
10 them in this case. We brought in Jahala, who is 15 now. She
11 told you about a time when she was 12 years old that she was in
12 the kitchen playing with her sisters when the Defendant took
13 her into the bathroom.
14 She told you about that time the Defendant took
15 her into the bathroom and covered her mouth and put her down on
16 the floor and took her clothes off and he put his penis in her
17 anal opening. She told you he put his thing in my butt. And
18 she told -- she told you when he did that it hurt. And she
19 told you that she couldn't call out because her mouth was
20 covered. And she tried to get him to stop. She said she took
21 her hand and she could reach back there and touch his thing and
22 try to move his thing, and she said it didn't go all the way in
23 but it went in. And she told you that he licked her down there
24 and he tried again, and she told you then he sat on the toilet
25 and pulled her over the toilet and said "just act like you're

1 taking a dump."

2 And the State then brought in Anna, another

3 sister, Anna Polk. And Anna got up on the witness stand and

4 she told you that she's 13 now and she was ten years old last

5 time something happened to her with the Defendant. And she

6 told you it had been going on for a long time.

7 She told you about a first time where something

8 happened when they lived on Perry Street and she told you about

9 that time when she was taking a bath and the Defendant did

10 something to her butt and she was really young and didn't

11 remember what it was that happened to her butt, but she said

12 she remembered that, she remembered the bath.

13 And then she told you about the last time, the

14 time when everybody found out about what was going on. She

15 told you about that last time on March 12, 1999, where her

16 sisters went to the store and she wanted to go but her brother,

17 the Defendant, said no you can't all three go, you stay here.

18 And she told you about how she was sitting in her

19 room and the Defendant came in the room and said his -- and

20 pulled her into his room. And she said he made her get on the

21 chair first, but that wasn't working and he had her undress and

22 made her lie down on the ground. And she described for you how

23 he touched her stomach and moved her stomach up so her butt was

24 in the air. And how the Defendant put his penis in her butt.

25 She said, "He put his dick in my butt."

1 And she told you there were other times between
2 that first and the last time. She said the longest period of
3 time where something didn't happen was like a month or two, it
4 was going on.
5 Those are the things that this defendant did to
6 these kids. And when you go back to the jury room you're going
7 to see that there's three counts the State has charged, and the
8 judge read you the instructions and you'll have a copy of those
9 instructions to follow along. You'll see there's three counts
10 listed in the Information, three counts the State charged. I
11 just want to explain briefly about those three counts first and
12 then I'll go into more detail.
13 You'll see there's three counts and there's one
14 count with regards to what happened to Jahala. And in that
15 count it gives you a date, it says on or between January 1 and
16 January 31, 1999, and here's the reason. Jahala, when she was
17 talking about what was going on, she said it was sometime in
18 January 1999. There's instruction that the judge just read to
19 you that you have an a copy of, it's Instruction No. 9 that
20 says the State doesn't have to prove a specific date of
21 something that happened and it really makes sense. The
22 instruction says kids can't remember exactly what date
23 something happened, that makes sense. So the State doesn't
24 have to prove an exact date. All we have to do is say sometime
25 in June, because that's what Jahala told you. So that's about

1 the first count.

2 Then there's two counts with regards to Anna. And

3 one of the counts with regards to Anna is the one that she

4 talked about that happened on March 12. She didn't say March

5 12, but you know it was March 12 because all the other

6 witnesses came in and said we called the police, and Dave Dunn

7 said he came by the early morning hours of March 13th, so you

8 know it was March 12 when all those things happened. She said

9 that was the last time anything ever happened. So we have that

10 one count for March 12 with regards to Anna.

11 Then you'll see that there's another count with

12 regards to Anna. And for that count there's a period of time,

13 it's October 14, 1998 to -- up and to March 12, 1999. The

14 reason we came up with that October 14 date is because that's

15 when the Defendant turned 18. You remember yesterday we had a

16 stipulation, Mr. Oram agreed yes, that's his birthday. In

17 fact, there's even a birth certificate in evidence that you'll

18 have. He turned 18 on October 14, 1998. So there's this

19 period of time for the second count with regards to Anna from

20 October 14, 98 until March 12.

21 And the reason it's like that is because Anna told

22 you that this happened a lot. She told you that the most

23 amount of time that ever went by was a month or two. The State

24 could have come in and we could have charged one for October 14

25 to November 14, one from November 14 to December 14, one from

1 December 14 to January 14, we didn't. We put it all into one
2 count and wracked it up to account for all those times Anna was
3 saying it was going on. That's what you need to understand
4 with regards to the dates of the three counts.
5 I want to talk first, then, about just the count
6 involving Jahala. The judge read you an instruction about what
7 is a sexual assault on a minor. That's the counts that the
8 State's charging in this case for the things that happened to
9 Jahala. It's Instruction No. 4, it tells you what the State
10 has to prove to prove a sexual assault on a minor. And you
11 have to understand something, the State does not have to prove
12 if the moon was out, if it was a crescent moon; the State just
13 has to prove what's listed in this instruction.
14 The instruction says a person who subjects another
15 person to sexual penetration against the victim's will or under
16 conditions in which the perpetrator knows or should know the
17 victim is mentally or physically incapable of resisting or
18 understanding the nature of his conduct is guilty of sexual
19 assault.
20 There's basically several things the State has to
21 prove. One, that it's a minor. Well, Jahala was 12 years old
22 at the time. The instruction says a minor is someone under 14.
23 The State proved that Jahala is a minor.
24 The other element that the State has to show is
25 that there was some kind of sexual penetration, however slight,

1 and that it was against that person's will.
2 I'm going to talk about sexual penetration and
3 what that means. That same instruction, No. 4, tells you that
4 sexual penetration means any intrusion, however slight, of any
5 part of a person's body or any object manipulated or inserted
6 by a person into the genital or anal opening of the body of
7 another.
8 What they are talking about in this instruction is
9 any object, a penis, into any part of the genital or anal
10 opening, like the anal opening that we are talking about with
11 Jahala. And it says "however slight."
12 That's important because Jahala told you, she
13 testified that it didn't go all the way in, that was her words.
14 The State does not have to prove, to prove a sexual assault on
15 a minor, the State does not have to prove that the Defendant's
16 penis went all the way in, that's not what it is, its however
17 slight.
18 That's one of the reasons the State brought in
19 that diagram with regards to the anus, to show you once you
20 cross that line, once you cross that plain, no matter how far
21 or how deep or anything, once you cross that line that's what
22 we mean by sexual penetration. Once you cross that line.
23 There's no -- doesn't have to be anything that the Defendant
24 has to ejaculate before something happens or anything, it's
25 once you cross that line, that plain, that's sexual

1 penetration.

2 The State brought in the nurse in this case to
3 explain about the anus and the structure of it because,
4 remember, Jahala said something important, she said it hurt.
5 She said it hurt. And the nurse explained you're only going to
6 have it hurt when you pass that external sphincter, that's the
7 only time you're going to have it hurt. So the State wanted to
8 show and explain to you that this was sexual penetration. And
9 Jahala told you, she said it went in but it didn't go all the
10 way in. Sexual penetration, however slight.

11 And you know we are talking about the anal
12 opening, of course, because the Defendant tries to pull her
13 over, pull Jahala over and says "just act like you're taking a
14 dump."

15 Now, you need to understand something, there's
16 something in the instructions with regards to an attempt sexual
17 assault. And when you see the verdict form in this case you'll
18 see that under the first count, the count for Jahala, there's a
19 couple choices. There's a choice for guilty of sexual assault,
20 there's a choice for guilty of attempt sexual assault or a
21 choice for not guilty. So you have to understand what an
22 attempt sexual assault is because you have to understand if
23 that comes into play at all with Jahala.

24 An attempt to do something is when you have the
25 intent to do something, when you do some act towards it, but

1 you don't end up doing it. If the Defendant, while he was in
2 the bathroom, covered her mouth, put her down on the ground,
3 said he was going to do something but didn't, that would be an
4 attempt. If the Defendant pulls her into the bathroom, got
5 undressed, put something on his penis so it would be lubricated
6 and stopped, that would be an attempt. But once you cross that
7 plain, once you cross that line, it's not an attempt anymore,
8 it's a sexual penetration. Jahala told you it went in, it
9 didn't go all the way in, it went in. So when you look at that
10 it's not an attempt in this case, it's a sexual penetration.
11 The other element that the State has to prove to
12 prove the crime of sexual assault is that the crime was against
13 the victim's will. There's a couple of instructions that come
14 into play with that, and its number 7 and 8. And it says first
15 of all that physical force is not a necessary ingredient in the
16 crime of sexual assault. The question isn't whether the victim
17 was penetrated by physical force, but whether the act was
18 committed without her consent, or the victim was incapable of
19 giving her consent or understanding the nature of the act. And
20 then the next instruction says the victim of a sexual assault
21 is not required to do more than her age, strength, the
22 surrounding facts and attending circumstances to manifest her
23 opposition.
24 Jahala was 12 years old. She tried to tell the
25 Defendant no. She pushed him away; she struggled with him.

1 You know what, she didn't have to do any of that. She didn't
2 have to do any of that to manifest her opposition, to say this
3 is not what I want to do. She didn't have to do any of that
4 but she did. It's clear this was not something she wanted to
5 do. She even told you no, I didn't want to do that.
6 So with those three things, Jahala is under 14,
7 there was sexual penetration and it was against her will, she
8 did not want to do that, the State has proved the crime of
9 sexual assault on a minor.
10 Now I want to stalk talk about the two counts for
11 Anna. I'm going to talk about first the count that we charged
12 with regards to what happened on March 12, 1999. Anna told you
13 that on that day her sisters went to the store. She wanted to
14 go to the store but her brother said no, so she stayed at home
15 and she stated her brother called her into his room, said psst,
16 come on in.
17 She told you he had her lie down on the ground and
18 she told you he was undressed and he lifted up her stomach and
19 put his penis, she said "his "dick" into her bootie. Again,
20 with those same three things that the State has to prove, was
21 she under 14? She told you, now she's only 13, for heaven's
22 sake, she was ten years old at the time. Was there sexual
23 penetration? She told you, he put his dick in my bootie. And
24 was it against her will? She told you she didn't want that.
25 And remember, this instruction, when you think

1 about something being against her will, the victim of a sexual
2 assault is not required to do more than her age, strength and
3 surrounding facts and circumstances. She didn't have to fight
4 with her brother, she didn't have to sit up and say no, I don't
5 want to do that to manifest her opposition. She didn't have to
6 do any of that. This was her brother, her brother who told her
7 to stay home and not go to the store. This was her brother who
8 told her, you know, to go to Tommy's house. This was her
9 brother who told her lie down on your stomach and get undressed
10 for me, with those three things the State has proved a sexual
11 assault with regards to Anna.
12 Lastly, I want to talk about the second count with
13 regards to Anna, the one for that period of time. Anna told
14 you that this was going on for a while, and she told you that
15 there was not a month or two that went by that something like
16 this didn't happen. So for that second count we charged, we
17 charged it for the same thing, to represent what kind of
18 conduct this defendant was doing with Anna. So the State has
19 proven that crime.
20 Now, there's a very important instruction that we
21 actually talked to you about in voir dire, and it's Instruction
22 No. 10. It says there is no requirement that the testimony of
23 a victim of sexual assault be corroborated. And her testimony
24 standing alone, if believed beyond a reasonable doubt is
25 sufficient to sustain a verdict of guilty. Standing alone.

1 And that's important because, you know what? We could have put
2 just Jahala on the stand here and we could have put just Anna
3 on the stand here and we would have been done. We would have
4 carried our burden, we would have been done. Because if you
5 believe them that's all you need. You don't need to
6 corroborate Anna when she says that her sisters went to the
7 store. We didn't need to bring in Jamila and ask Jahala did
8 you go to the store that day? We didn't need to corroborate
9 anything that Anna said.
10 When Anna talked about how later on they called
11 Auntie Susan and she came over, we didn't need to bring in
12 Auntie Susan to say that's what happened. When Anna said she
13 told Detective Dunn what was going on we didn't need to bring
14 in Detective Dunn to say Anna told me what was going on, Jahala
15 told me what was going on. There is no requirement that the
16 testimony of the victim of sexual assault be corroborated.
17 There is no requirement that we corroborated any of that. Her
18 testimony standing alone is sufficient.
19 Mr. Oram, when he was questioning some of the
20 witnesses, tried to point out that sometimes kids lie. Well,
21 doesn't take a brain to figure that out, sometimes kids lie.
22 Sometimes adults lie. That's not a big thing, sometimes kids
23 lie, everybody knows that. But when you think about what he
24 was trying to do, sometimes kids lie, there's another
25 instruction you need to look at, Instruction No. 18. And it

1 talks about the credibility or believability of a witness; what
2 you have to look for when you're looking at the credibility or
3 believability of a witness. That should be determined, it says
4 right here, by his manner upon the stand, his relationship to
5 the parties, fears, motives, interests or feelings. The
6 credibility or believability of a witness, motives, interests
7 or feelings.
8 What motive would Anna and Jahala have to come in
9 here and say all these things if they were lying? What
10 possible reason would they have to come in here and say all
11 these things if they were lying? You know, when the Defendant
12 was on the stand Miss Holthus even asked why would they say
13 this? Remember, they loved their brother. This is their
14 brother. The family got broken up after all this came out.
15 What motive or reason would they have to lie? It hurt them to
16 talk about it when they were up here. They had to talk about
17 what happened, they couldn't believe their brother would do
18 this to them. He was the man of the house, this one they
19 looked up to, the role model. He was taking care of them
20 because their grandmother was sick and their mother was not in
21 the picture. This was their brother. What motive, what reason
22 did they have to come in here? You know why they came in here?
23 Because it's true.
24 And that instruction, there's no requirement that
25 the testimony of a victim of sexual assault be corroborated,

1 and her testimony standing alone is enough. We could have put
2 on Jahala and Anna and been done. We didn't have to
3 corroborate anything, didn't have to put on any other evidence,
4 but we did. We put on something very interesting. We put on
5 the Defendant's confession. We didn't have to do anything else
6 but the Defendant confessed. He confessed to anally raping his
7 two sisters. He says with regards to Anna, I raped my little
8 sister. He said I did her in the bootie. The detective said
9 did she say anything? He said she said no. You heard the
10 tape. The detective says when she said no, what did you do?
11 And he said I just kept on going. That's what he said, "I just
12 kept on going."
13 The detective said how many times did this happen?
14 So many times I just can't remember.
15 The detective asked him about Jahala, what about
16 Jahala? And he said well, I had my penis inside her butt
17 checks and she said no. He said Jahala said no. And the
18 Defendant said well, he said I didn't penetrate. He says that
19 to Detective Moniot.
20 I submit to you, I want you to look at the
21 transcript and the tape that are in evidence. Because there's
22 some lines in the transcript where it couldn't be made out. I
23 submit to you on that tape you can hear him say at one point
24 where the transcriber didn't write it down, I was, like, in but
25 I stopped. That's exactly what Jahala said, he didn't go all

1 the way in.

2 This defendant confessed to anally raping his two

3 sisters.

4 Now, in this case you heard the Defendant testify.

5 The Defendant is just like any other witness in this case. You

6 have to look at Instruction No. 18 when you look at his

7 testimony. The credibility or believability of a witness

8 should be determined by his manner on the stand, his

9 relationship to the parties, his fears, his motives, his

10 interests, his feelings, the reasonableness of his statements.

11 What are his motives? What are his fears? He has a lot to

12 lose here. He has a lot to lose. He's going to be labeled

13 something. He has a lot to lose here. You have to evaluate

14 his testimony just like you would any other witness. He has a

15 lot to lose.

16 And isn't it interesting how his whole manner

17 changes depending on where he's at? Do you remember how the

18 State brought in an officer, officer by the name of Scutt, who

19 talked about something that when he came across the Defendant

20 in February of 2000, and then you have to think about the other

21 evidence we brought in about the Defendant with Detective

22 Moniot and he confessed to doing this. Think about and

23 evaluate what he does when he's in certain situations. When he

24 goes in to Detective Moniot he feels guilty about what he's

25 done, he's open, he tells Detective Moniot this is what it is,

1 I feel bad, I'm going to lay it all out.
2 When Officer Schutt encounters him, when Officer
3 Schutt encounters him he doesn't remember his Social Security
4 number. He gives a fake name. Social Security number, when
5 you hear that tape he rattles that off to Detective Moniot like
6 nothing, spits it out. But when Officer Schutt runs into him,
7 I don't know my Social Security number and my name is Renard
8 Alli. Interesting, isn't it, that's when the warrant for
9 sexual assault is out on Renard Polk. And when he gives that
10 name, my goodness, now he's in trouble.
11 Isn't it interesting how things, depending on
12 where he's at, tells you how he responds. When he's in trouble
13 this is what he does. When he feels guilty about something
14 this is what he does. But what's he doing in here with his
15 motives, his interests, his feelings?
16 He says here that he doesn't remember. He doesn't
17 remember or he doesn't want to remember?
18 Ladies and gentlemen, there are only two ways
19 someone can be convicted of a crime. There's just two ways.
20 One is if you come in, you plead guilty, boom, you're convicted
21 of a crime. The other is if you plead not guilty, we have a
22 trial and you, the jury, say you're guilty. That's the only
23 other way you can be convicted of a crime. We could have 77
24 witnesses say that this defendant did it and he could still
25 plead not guilty and come in and have a trial, that's his

1 right. We can have the crime on video tape and a defendant can
2 still come in and plead not guilty and have a trial, that's his
3 right. Mr. Oram even asked when the Defendant was testifying
4 why are we here? We are here because every defendant, no
5 matter how guilty they are, every defendant has that same
6 right. They have the right to have a trial and the State has
7 to bring in their evidence and put it all on. They have that
8 right.
9 Ladies and gentlemen, when we put on our evidence
10 in this case we could have just stopped with Jahala and stopped
11 with Anna, but we didn't. We corroborated what they said. We
12 went further. We corroborated and we even gave you the
13 Defendant's confession where he confessed to raping both Jahala
14 and Anna. Evidence in this case is overwhelming. There is no
15 doubt in this case that this defendant is guilty of these three
16 crimes and the State asks you to return verdicts of guilty on
17 these three crimes. Thank you.
18 THE COURT: Thank you, Miss Peterson.
19 We are going to take a ten minute recess, stretch
20 our legs and be back.
21
22 (Whereupon, the jury was duly admonished.)
23
24 THE COURT: Counsel stipulate to the presence of
25 the jury?

1 MS. PETERSON: Yes, Judge.
2 MR. ORAM: Yes, Your Honor.
3 THE COURT: Mr. Oram.
4 MR. ORAM: Your Honor, ladies and gentlemen, Miss
5 Peterson, Miss Holthus and Renard Polk:
6 Ladies and gentlemen, when we started this trial
7 the other day I pretty much, I think, gave you a pretty good
8 evaluation of some of the things you were going to hear.
9 Specifically, I told you about the confession, and I think
10 during voir dire I talked a little bit about a confession. I
11 told you this was an unusual trial because usually when you
12 come as a juror, picked as a juror, you hear a case, doesn't
13 matter what kind case, where, let's say, the State says the
14 light is red and defense says no, the light is green and it's
15 up to you to decide was the light red, yellow or green? Here
16 it was different. The State said the light was red. Mr. Polk
17 said the light was red. And now here we are at trial with the
18 State saying the same thing. The only difference is now Mr.
19 Polk says it's not red, it's different. What I said was not
20 accurate.
21 So if you really start at the basis of this case
22 and looking at what this case was really about from the very
23 beginning, if you look at it, the State says the evidence was
24 overwhelming. And I would suggest to you that each and every
25 one of you, each and every one of you heard the opening

1 arguments and thought perhaps the State is right, overwhelming
2 evidence. And perhaps as you sit here today you thought
3 overwhelming evidence. You know, he had his right to a trial.
4 Everybody has that right. He wanted a jury to decide this.
5 And as the State points out, I asked him why are
6 we here? He said because I don't think I did it. And so we
7 look at what happens in the trial, because no matter what,
8 opening argument is not evidence and nothing towards a
9 conviction. But what I'm trying to impress upon you is as we
10 said in opening argument the case did not look good for the
11 defense, I think we can all agree on that. So we heard the
12 case. And do you know what? We knew, we knew that Jamila was
13 going to come in here with a five page statement. We read
14 these things, that file is not as thick today but you've seen
15 it over there, it's pretty thick. We knew some of the stuff
16 that was going to be said.
17 Specifically, Jamila was going to come in here and
18 she had previously stated that she had seen Renard Polk, her
19 words were "eat out" her sister Anna. We knew we were going to
20 hear that kind of testimony. We also knew she was going to say
21 that on March 12, 1999, that Renard Polk, she saw Renard Polk,
22 her older brother, sexually assault her sister and then
23 urinate.
24 You know, at the beginning of the trial you could
25 see, or we could, because you didn't know that evidence. It's

1 coming like a train and the defense table is right on the train
2 tracks, it's coming at us.
3 So let's take a look at the trial. You know what?
4 They didn't prove this case. They didn't prove it. Why? Oh,
5 Mr. Oram, there's a confession. There's a confession. Well,
6 Renard Polk says I don't think I did this. I did say I did it
7 but I don't think I did it. And, obviously, most people would
8 think that's ludicrous. Did he really? Yes, he confessed to
9 the things that you've heard, but does that confession really,
10 when you analyze it, make much sense? And here's what I mean.
11 Let's take a look at the three sisters. Jamila
12 comes into court, we saw that train coming. And what did she
13 say? She had made a statement to the police and essentially
14 only said two things, that she had twice seen her brother
15 sexually assault Anna, twice seen it with her own eyes. I
16 asked her on that witness stand, didn't you in your statement
17 say twice that you had actually seen it?
18 Well, now she's changed a little? Oh, no. Oh,
19 she didn't change a little. She had a completely different
20 story to tell. She told us that she -- remember, she went to
21 the room and she heard and she listened and she heard her
22 sister Anna crying. And she was telling Jahala what had
23 occurred. And that's gut wrenching, to think some young lady
24 would hear a conversation like that, it's gut wrenching, isn't
25 it?

1 But you ask her, that's the one thing you never
2 told the police. Oh, yes, I did, I told them, they just didn't
3 put it in the report. Nonsense, those police did a good job.
4 They would have put it in the report had it been said. It
5 wasn't said. What was said we have already gone over. And I
6 asked her about it, I said didn't you say these things? Didn't
7 you see these things? No, I didn't see these things. And I
8 didn't say it to the police. I don't remember saying it to the
9 police, I don't think she said she didn't say it to the police,
10 she said words to the effect I don't remember saying that to
11 the police.
12 Now, wait a second. I asked her was that
13 traumatic, what you heard at the door? Yes, she said. Yes,
14 she said. But we are to believe that she witnessed her sister
15 being sexually assaulted on two occasions and now she can't
16 remember it. She didn't remember saying that to the police and
17 we are supposed to believe her?
18 Now, Miss Peterson said in her closing argument
19 that Mr. Oram's trying to elicit maybe children lie. She's
20 right. Maybe they lie sometimes, maybe they don't. Adults do
21 the same thing. There are children that tell the truth all the
22 time. There are adults that tell the truth all the time. But
23 I would suggest to you that the evidence shows that when she
24 gets up, Jamila, and completely changes her testimony, that
25 that is not anywhere near the truth. There's nothing close to

1 the truth on that. And I feel -- strike.
2 I would submit to you that essentially Mr. Polk,
3 who they say has confessed and now wants to change his mind,
4 that that's ludicrous. How much more ludicrous is it than what
5 Jamila did? You cannot say I am young so I thought I saw a
6 school shooting, I told the police I saw a school shooting, I
7 told them twice I seen it but I didn't see it and I don't
8 remember ever telling them that. But the guy who did the
9 school shooting, he confessed to it, that's my new statement.
10 That's nonsense and not to be believed.
11 Jury Instruction No. 18 says the credibility or
12 believability of a witness should be determined by his, but it
13 should be "his and her" manner upon the stand, his and her
14 relationship to the parties, fears, motives, interests and
15 feelings. But the important part is if you believe that a
16 witness has lied about any material fact in the case, you may
17 disregard the entire testimony of the witness or any portion of
18 his or her testimony which is not proved by other evidence.
19 Do you think that what Jamila said was absolutely
20 true? You are the fact finders, you can go back there and say
21 yes, I believed her for whatever reason. But I would suggest
22 to you that it doesn't make any sense.
23 Let's move on.
24 Jahala. Jahala, in Count Number I, tells the
25 nurse, you remember, the good nurse, the woman who spends her

1 days helping victims, examining them, coming to court. But she
2 told her a long time ago that Renard Polk inserted his penis
3 into her vagina and into her bootie. His dick is what she
4 said. She told the nurse that twice. How do we know she said
5 it twice? Because the nurse wrote down the actual questions
6 and answers. Then there was another page and we talked about
7 those boxes the nurse was checking off and it said vaginal
8 penetration.
9 I asked the nurse, the nurse essentially was
10 saying once they get to her, it's a done deal. Well, that's
11 not fair. That really isn't fair. If somebody comes in and
12 says they were raped vaginally and anally, that is something
13 that no person, no man, no woman -- you're not going to forget
14 these things. You're not going to forget these things. Think
15 with your own common sense of a bad thing that happened to you,
16 maybe not as an adult, maybe as a young child. Could you
17 reiterate it today? Could you stand on that witness stand and
18 say this is what happened, I was walking down the street, the
19 man came up and had a gun, took my purse? Or would you now
20 think it was a burglary or maybe he took the gun out. You
21 don't forget things like this.
22 How did she forget that? Why did she tell the
23 nurse that she had been sexually assaulted vaginally? Why did
24 she say that? And then turn around on the witness stand and
25 say-- because remember I asked her that question, remember I

1 pulled out the nurse's report when Jahala was on the stand and
2 I said what if you told the nurse that you were sexually
3 assaulted vaginally? She acted like I didn't say that. Well,
4 who's making up stories? Or is that just a simple mistake of a
5 relatively young child? A simple mistake? I think she was 12
6 years 7 months when she made that statement. If this man is
7 guilty then just come to court and tell the same story. Don't
8 change it. Don't let me go from opening argument where the
9 train is coming to what's going on here.
10 Let's take a look at Anna. Anna tells a story, a
11 horrendous story of abuse. A person who would have been abused
12 for that long by their beloved older brother, that's a bad
13 story. But there's some problems with the story. She says
14 this was going on. She reported it. And you know what?
15 That's the one piece of science that's in this case. Because
16 do you remember the doctor came in and he talked about a six-
17 o'clock thing. How are we going to explain that? Isn't that
18 sort of another train coming at us? Because before you came in
19 here Anna had been on the witness stand and we asked Anna do
20 you know anything about a Dorian and Darrell? No. Nothing to
21 say about it. Well, we are stuck then, aren't we? From the
22 defense point of view we are stuck with that little bit of
23 science.
24 And all of a sudden, I think whether you saw it or
25 not, one of the most shocking parts of this trial was at the

1 end, Miss Holthus hearing the same thing that I heard outside
2 your presence, asked her, nobody hurt your bottom but Renard
3 Polk? And what did she say, no, that's not right. And she
4 blurts out Darrell and Dorian, the same people she denied hours
5 before. And she says, because now it's important, what
6 happened with Dorian and Darrell? She says they would take me
7 in a living room, I'm not sure if it was Darian's house or
8 Darrell's house, we don't even know what these people's last
9 names are. But they would penetrate her digitally in her anus
10 and cover her mouth.
11 So in my questioning I said both at the same time?
12 No, no, one would be upstairs or away or somewhere else and one
13 would come down and do it. I asked those questions
14 specifically, did they cover your mouth? Yes, they would hold
15 their hand over my mouth. Then the other would come and take a
16 turn. Is that unusual? Is that unusual? I would argue it was
17 unusual. But why listen to me, I'm the defense attorney.
18 Let's listen to the nurse. Would you say it was unusual? Do
19 you remember, I asked her those questions. Would it be
20 unusual? And she sort of queried me on that and said three
21 people? Doing it in a sort of identical fashion? Now, I would
22 agree Anna said there was penetration by Renard's penis where
23 the other two said it was digital penetration. But even the
24 nurse said yes, I have never seen that in the thousand cases;
25 she had never seen it. And she told us earlier in her

1 testimony she had had a thousand cases and she had never seen
2 that. Never. And she admitted it was unusual.
3 Do you know why it's unusual? Because the chances
4 of that -- now a young lady, could she be sexually assaulted
5 three times by three separate people? Yes. Look at the
6 society we live in. Unfortunately, those kind of things can
7 happen, even the nurse said sometimes multiple perpetrators
8 she's seen. But three in the same manner? Why was she not
9 telling us this? Why didn't she tell the State this and me
10 this when she was on the witness stand? Why?
11 Because something's messed up about that
12 testimony. Did she forget? Did she forget? She forgot that
13 was happening? Or am I just picking on little inconsistencies?
14 I would suggest these are not little inconsistencies, I would
15 suggest they are huge. And the State must deal with them.
16 We look at that evidence and then we can compare
17 Jahala to Jamila for a second. Do you remember they saw this
18 incident in the bathroom where they were going to look
19 underneath the door. Did you catch it? I want to tell you a
20 very quick story and I'm make it as quick as possible. There
21 is a famous story, Biblical, where a woman is accused back in
22 those times of adultery, two accusers say we saw her commit
23 adultery. So the questioning becomes, and this is sort of the
24 reason for the exclusionary rule where we exclude witnesses
25 from the courtroom so they can't hear what each other are

1 saying. So when the lady is on trial, they bring the first
2 witness and separate the other witness and ask the first
3 witness what did you see? He says I saw the woman commit
4 adultery. Where did this happen? It happened over by the
5 cherry tree, I saw it, I did. I saw it. Okay?
6 We know we've got a guilty party now so they take
7 that witness away and bring in the new witness. Did you see
8 something? Yes, I saw the woman commit adultery. You saw
9 this? Yes, I saw this. Where did you see it? I saw her doing
10 this by the oak tree. The old oak tree? Yes.
11 The point should be clear, that's the reason for
12 the exclusionary rule. If witnesses will tell the truth then
13 the truth will come out. Maybe one witness says it was 10;55,
14 maybe another witness says 11:30. Those are little
15 discrepancies. But what about that bathroom incident? Did you
16 catch it? The one sister, and they are two sisters, I'm not
17 going to tell you which one said which, you took notes, you
18 listened. But one sister said she looked originally when she
19 went to find Renard and her sister Jahala, she looked under the
20 bathroom, she knew she was there, she saw thd side of her. The
21 side of her. But she went off to a house, Katrina's house.
22 The other sister describes it very differently. Didn't Jamila
23 tell us that by the time she'd gotten back from the houses
24 Jahala was already out of the bathroom? Well, if you listen to
25 what Anna had said, Anna essentially said that she had gone off

1 to two homes, come back ten minutes, however long she said it
2 would have taken her, and then at some point she looked under
3 the bathroom, after she went back home. After she'd gone out.
4 She's already out of the bathroom according to Jamila. But she
5 said looked under and she saw her feet. Her feet? If the one
6 looked under first and saw her side, how did they look under
7 and see her feet? There were discrepancies all throughout
8 those questions. And I hope that you caught that, because they
9 exist.
10 Now, you can say well, now, what you're really
11 doing is you are attacking the credibility of the three
12 sisters. But it is your client, Mr. Polk, who has changed what
13 he has said.
14 Maybe that's true. He indicates that he doesn't
15 think that he did this. But if anything dishonorable occurred,
16 when Miss Holthus asked him the question what do you think
17 should happen to you if you did do it, did you hear what he
18 said? I should be punished. He's not in here saying I didn't
19 do it, I just made it up for the police. He's not saying that.
20 You have a person with mental problems. And there was some
21 questioning about the insanity defense. He's not insane.
22 Insane means that you do not understand the difference between
23 right and wrong; that you don't know what you're doing to be in
24 error, to be a legal error.
25 We are not saying that nor have we ever. The man

1 has problems, he had psychiatric help for as long back as until
2 he was about 18 when this was happening. He tried to drink
3 that stuff, rubbing alcohol I think he said, try to kill
4 himself, they put him in a hospital. He's being questioned,
5 the prosecutors have psyche reports on him, we've heard all
6 this stuff. The man has some problems, he's been found
7 competent to stand trial, which means at some point he was
8 found incompetent to stand trial. He had been told this
9 happened. He didn't believe his sisters because he was in the
10 house saying I didn't do it, I didn't do it. But his Auntie
11 who he loves told him you did it, you've been doing it.
12 So he went down and he made a statement. Does the
13 statement make sense? I'm going to show you, prove to you, you
14 heard it, he was confessing to some things we know didn't
15 happen. Did you see that? Let me show you that. They have
16 charged that he has sexually assaulted Jahala, sexually
17 assaulted Anna and that was it. Jamila testified, you didn't
18 hear anything, not a shred of evidence of anything, any
19 wrongdoing with Jamila. The only evidence that there was any
20 wrongdoing with Jamila is what he said.
21 He said something, you've got the transcripts, he
22 says something, starts talking about yeah, I think I touched
23 Jamila. You read it, it's in evidence. He starts talking
24 about how he had done something with Jamila. Did he openly say
25 that? In other words, did he come to the police and say I

1 raped my three sisters? Oh, no, he came in and said he raped
2 his sister. Do you remember the first officer asked him why
3 are you coming? He says base I raped my sister. Then he tells
4 the investigating detective I raped my sister and that's what
5 he agrees to, I've been raping her, and he sort of tells you a
6 generic statement as the detectives asks him questions. What
7 about Jamila? Oh, no, she'd be lying. What if I told you she
8 says you did? Oh, yeah, I tried, I went in the bathroom and
9 all this stuff?. What about Jamila? No, I didn't do that. Are
10 you sure?
11 Then I can't remember, maybe Jamila. The only
12 thing he doesn't agree to are his brothers. I suggest to you,
13 ladies and gentlemen, if his brothers had been sisters and
14 there was questioning about that he probably would have given
15 into that.
16 But it was his right to say I don't think so. He
17 knew this was going to come out in front of you. I don't think
18 so. Make them prove it.
19 So if you look at the entire scenario, ladies and
20 gentlemen of the jury, there's a situation where we are now
21 able to say look at what they are saying, it makes no sense.
22 Without a confession, without a confession I would suggest
23 after hearing those witnesses, if there was no confession that
24 you would acquit very quickly. There's a confession, that's
25 problematic. So why don't we take away for a second all of the

1 talk, all of it talk of Renard, the talk of the sisters and
2 just for a second put it over there. Because there's one thing
3 that does not lie. Science does not lie, does it? Does
4 science lie to us? Does science lie? No, it does not lie.
5 And with these type of allegations it should be a slam dunk for
6 the State. Because science in 2002, and this was 1999, is very
7 sophisticated. Use your common sense, we hear people convicted
8 a long time ago, find DNA; no, they are not guilty. We are
9 dealing in a society of DNA, dealing in a society where we can
10 look at semen and compare it. We are dealing in a society that
11 you can comb for pubic hair and then compare it by DNA.
12 You know, the State doesn't really want to talk
13 about it because it doesn't make sense. Why doesn't it make
14 sense? Here's why: You know, Anna says that she was sexually
15 assaulted over and over and over again. And whether we like it
16 or not, and I mentioned you didn't like it, this was sort of a
17 seminar in the anatomy of the rear end and we learned a lot
18 about it. One thing the nurse informed us of is if -- the
19 diagram was over there. If you grab the cheeks of somebody
20 that has been sexually assaulted over and over and over anally,
21 when you grab those cheeks the anal cavity will open. Why is
22 that important? Because she didn't analyze Anna. The doctor
23 didn't. And the doctor didn't say that. When he examined Anna
24 he didn't say when I examined her it opened up. Why? If she'd
25 been sexually assaulted that way over and over and over since

1 she was six or seven, why didn't she do what science would have
2 dictated would have happened? Why? Shouldn't it have? Or is
3 there another explanation for that?
4 Why, when he examined Anna, Anna had just been
5 brutally raped, she's just a young girl, anally raped. Not a
6 single shred of new evidence, nothing. Nothing. All we had
7 was that old scar. And she had been anally raped within a
8 24-hour period. How is that possible? Did you hear the
9 doctor? I asked him about the rape kit, was there a rape kit?
10 Yes, there was a rape kit done. That means that stuff was
11 taken, they are looking for evidence, pubic hair, semen and
12 that was the end. We never heard another word, not a boo,
13 nothing. Is that not important? It's not important? Why
14 didn't they prove it with science? Because they couldn't prove
15 it with science. They couldn't. They did not prove it.
16 I would suggest that none of you could go back in
17 that room and say well, science proved this case. You
18 couldn't. You may say to yourself the three young sisters and
19 the confession proved the case, but not science. Science
20 defies the case. Science tells you know, that's not what
21 happened. Otherwise there would have been evidence of it.
22 There would have been semen. They had underwear. They can
23 find these things. There's no trauma, no bruising, no nothing
24 to Anna. Nothing.
25 And on the same hand the nurse looked at Jahala.

1 Normal exam. Well, I would suggest to you, ladies and
2 gentlemen, that a person who has a normal exam, man or woman,
3 if the person was sexually assaulted, maybe they were but
4 science does not prove it and maybe they weren't. Because
5 science is disproving it. Proving it didn't happen. How come
6 they have no evidence? Is that just something that's not
7 important?
8 We heard the confession, that's it, end of story.
9 I would suggest not because we live in a modern society in
10 America, we have science. And when they can't produce science
11 you better be suspect. You better be suspect. And then look
12 back, since there is no science, look back at some of the
13 statements that were made.
14 You know, before I forget, Renard Polk turned
15 himself in. And the State went to lengths, because Miss
16 Peterson told you they don't have to call people, and that's
17 right. They called a patrol officer who told you that I came
18 up to Renard Polk, gave me a false name. Are we missing
19 something here? Did you see that? He had confessed to them in
20 their custody months and months and months before. Then he's
21 out on the street? Who's fault is that? Did you wonder that,
22 how do you get from confessing to being out on the street?
23 Don't blame him for that, he's the one that went in. He should
24 get some reasonable credit for going in. But then to turn
25 around and say he lied, he tried to run away, tried to deceive

1 the police. I don't know if that's accurate.
2 Ladies and gentlemen of the jury, I will not read
3 it to you because although its been three days, I imagine its
4 emotionally draining for you. The reasonable doubt
5 instruction. This is a beautiful thing. It's a beautiful
6 thing because in our society in our country for two hundred
7 years we have used instructions just like this. Judges like
8 Judge Bonaventure, whether you're in Pioche, Nevada; New
9 Orleans, Louisiana, they give this instruction. This means
10 that we have no burden of proof, that we could sit there and
11 twiddle our thumbs and not do anything. I could sit there and
12 not do anything for Renard. And if they don't prove it and
13 you're catching all the things I'm saying, and thinking to
14 yourself why is that guy sleeping over there, you should come
15 back in here and return a verdict of not guilty if there is a
16 doubt that is reasonable. If there is not a doubt that is
17 reasonable, then you know what the verdict is as well.
18 I would suggest to you that they did not prove
19 this case because their witnesses were in conflict with each
20 other; they conflicted with themselves. And they are as
21 conflicting as what Renard Polk did. So throw it away and look
22 at science. If you throw it away and just look at it, you will
23 see that the verdict should be not guilty.
24 You know, Anna said one of the most revealing
25 things in the trial. She said that she had to go to the doctor

1 to find out if it was true, then the doctors -- these were her
2 words, came in and told her it was true. Then she knew? What?
3 That she wasn't lying. She knew she wasn't lying then. She
4 knew she wasn't lying.
5 Come on. What does that mean? Was it just a
6 little mistake? Was it just a little mistake?
7 Ladies and gentlemen of the jury, they didn't
8 prove the case. They didn't prove it beyond a doubt that's
9 reasonable. And I would ask you to return a verdict of not
10 guilty. And I would also suggest to you that even Jahala said
11 this wasn't a sexual assault, that it was an attempt.
12 Ladies and gentlemen of the jury, thank you very
13 much for listening.
14 THE COURT: Thank you, Mr. Oram.
15 Miss Holthus.
16 MS. HOLTHUS: Thank you.
17 Ladies and gentlemen, counsel, ladies and
18 gentlemen of the jury:
19 Mr. Oram suggests you throw out our whole case
20 because there was something missing. I would suggest to you it
21 is not look for what we don't have, look for what we do have.
22 Science does not tell you about this case. There's no DNA for
23 whatever reason. Whether it could have been found from Anna by
24 the time the hospital or not, it's not there, it's not before
25 you and you don't know either way if it was or wasn't.

1 With respect to Jamila, we wouldn't have expected
2 that to be there, she was months after the assault. He didn't
3 ejaculate, he didn't even get all the way in. We wouldn't
4 expect there to be anything.
5 Nurse Suiter told you a number of times even
6 injuries that existed would have healed up maybe within hours,
7 certainly within days and absolutely within months unless it
8 was a significant injury, like we did see in Anna's case. Anna
9 had an injury. Anna has been penetrated, science will tell you
10 that.
11 But you know what? In this case it doesn't really
12 tell you a whole lot either because Anna told you there were at
13 least three people that penetrated her. And one of the really
14 sad things in our society is that's not unusual. Victims are
15 often times victims for a reason. Because of who they are and
16 where they grow up and their environment and what-not. It's
17 not surprising that there are guys in and out of the house or
18 different uncles or different cousins and you take a child from
19 the time she's five years old and condition her to believe it's
20 appropriate for older men and older relatives to throw her on
21 the floor and stick things up her butt, she doesn't know if
22 it's right or wrong, and it's not uncommon to happen over and
23 over again.
24 To the fact Anna told you she was molested by
25 someone else is no surprise, no big deal. A big deal only

1 insofar as I cannot stand up here and tell you Dr. O'connor's
2 finding supports the case necessarily. Because in reality, we
3 don't know. Theoretically that tear could have been put inside
4 her rectum by one of the cousins. But it's there, so we gave
5 you everything that we have so you could consider it.
6 Everyone knew that was out there. Anna, for
7 whatever reason, chose not to remember it in the hearing
8 outside of your presence. Mr. Oram is correct, nobody expected
9 her to say she did remember. In fact nobody knew what kind of
10 abuse she suffered in her cousins' hands. It wasn't until she
11 came in front of you and said that was also anal. Anal in a
12 child is not that unusual. It's a good place to molest a kid
13 because you take away the pregnancy fear. Get the same effect
14 as a vaginal rape but you don't have to worry you're going to
15 impregnate the child and then leave the ultimate evidence for
16 trial.
17 So there's no DNA, no science. So he's right. If
18 you want to take everything away, all of the legitimate, valid
19 evidence and just look at science it's not going to get you
20 everything, although it explains to you why in some cases you
21 don't. Doctor O'connor told you, and Nurse Suiter told you
22 probably a little more. Nurse Suiter, basically her whole
23 thing is doing this kind of stuff. That's what she does all
24 the time. Doctor O'connor does that in conjunction with his
25 other responsibilities at the pediatric emergency room. And

1 she told you about conditioned responses, she told you that
2 kids can learn and in fact sometimes it's such a learned
3 response as soon as you separate the butt checks it's an
4 automatic response. It doesn't mean that's in every case.
5 What it means is she could learn.
6 And if her brother takes her by the hand down her
7 hallway and throws her on the floor and pulls her stomach and
8 pulls her butt towards him that may condition her response of
9 opening her rectal area so she has as little pain as possible.
10 She's had five years to learn how to react.
11 Mr. Oram said we have a confession. Normally the
12 State says the light's red, the Defendant says the light's
13 green but now the Defendant says the light is not red when he
14 did before agree with the State. Actually, he has never said
15 to you the light wasn't red. He said I don't specifically
16 recall if the light was red. There is no evidence before you,
17 none, zero, that it didn't happen. Even the Defendant, with
18 his changed, updated version, can't tell you it didn't happen.
19 He says I don't remember. I don't think it would happen.
20 Just a couple things with our witnesses. In terms
21 of Jamila and what she said to the police back when, she's the
22 non-victim. And she said she saw what he did. She described
23 in great detail what the Defendant did to her sister. She
24 described seeing her on the floor or on the chair. She
25 described him putting his thing in her sister's butt. She

1 described him pee-peeing in her.
2 I suggest to you she never could have seen him
3 pee-peeing in her. What probably happened, she heard a lot
4 more than she remembers now hearing. Is it because it's been
5 two years? That's a long time. You try and think back three
6 years from day the exact details, even of traumatic events.
7 You'll remember the gist of it, you'll remember the thing in
8 the butt. But the details and other stuff are going to get
9 fuzzy.
10 Now you take that, and it's a kid, and remember 20
11 percent of your lifetime ago and give me the same details in
12 the same order. If these kids came in here like little robots
13 and all told you the same story they told three years ago and
14 they all matched, Mr. Oram would be up here saying to you,
15 rightfully so, how could anybody remember that specifically,
16 that detailed? These kids have been comparing their stories,
17 written it down, now coming in spitting it out to you.
18 That's not what happened. Because you heard the
19 natural, normal inconsistencies of anybody telling a story.
20 And again, you have kids and you have kids who that's a
21 lifetime ago. That's the difference between an adult at 16 and
22 a child at 12. It's a difference between a 13-year-old
23 teenager and a little kid ten years old.
24 These cases are hard when it takes this long
25 because now you're seeing the kid so much later that they are

1 not the little kids they were. It's not five year old Anna in
2 the bathroom with her brother doing bad things to her butt.
3 It's a 13-year-old who's got the wisdom now, been around the
4 block, who knows a lot more than she knew then and it makes it
5 a lot harder. It also makes remembering hard. But the high
6 points you remember.
7 Jamila told the police she saw it. Jamila, the
8 first thing she said when she came into my office was I read
9 through that statement you gave me, I didn't see that. I don't
10 remember telling the police I saw it, if it says it there, I
11 said it but I don't remember. Jamila, 13 years old, the police
12 come to her and say what happened? Did she put a kid's spin on
13 it? Her sister told her so graphically what happened and it
14 would fit with what happened because it would fit with the
15 description of a ten-year-old when the Defendant would
16 ejaculate in her, not knowing ejaculation, he pee-peed in her
17 butt. That would be consistent with the reports of a child at
18 the time. And that Jamila overheard it and was she anxious to
19 do the right thing? Was she anxious to corroborate her sister?
20 Did she have a little big sister guilt? Everything indicates
21 these sisters knew what was going on. It's not clear who
22 recorded what and when, but when Anna says to Jahala he did it
23 again, everybody knew what he did. Jamila, Jahala, they all
24 knew what "He did it again," meant.
25 Anna had told before. Don't know who, don't know

1 what, don't know where or somehow they all figured out and
2 everybody knew what was going on. Whether Jamila as the oldest
3 sister couldn't protect her sister because she was a little
4 sister to this guy too.
5 And maybe there's guilt. Maybe there's blocking
6 out, maybe there's, you know what, I didn't help so long now
7 I'm going to go the extra mile. But when it came time to take
8 the oath and face you folks and tell the truth she had to come
9 clean even before she came in and say I didn't actually see it.
10 I don't know why I said I saw it, but I didn't.
11 Her telling the police that she saw the Defendant,
12 don't know if she saw it, don't know if Anna told her about it,
13 it's equally likely she did see it years ago when she was a
14 little kid. That would have been fairly sophisticated for her
15 to have known three years ago.
16 We know from Jahala's testimony one of the things
17 the Defendant would do when he was having a difficult time
18 getting his penis into the little girl's anus is to lick her
19 there. So maybe Jamila walked in on a lubricating session, or
20 maybe just Anna told her about it. But in light of that she
21 didn't come in here, she didn't try to embellish her story. In
22 fact, she told you less. She knew what she said to the police,
23 she knew what the statement said when she came to my office.
24 She wanted to just tell you a lie, stay with the statement.
25 She's a smart kid, she's in high school, she knows what she's

1 doing, she knows what she said to who and the first thing she
2 said was this I didn't say and this I didn't see. She was
3 trying to be honest.
4 Jahala, the only inconsistency with her that Mr.
5 Oram was concerned about was well, the good nurse said that he
6 put his penis in her vagina and bootie. I don't know. We
7 didn't charge it. Is it because at that age she doesn't know
8 what holes he's going in, just knows he's going in holes down
9 there? But certainly its a physical reality you're going to be
10 more aware of a penis going in the bootie than a vagina even at
11 that young age. That would have been the memorable one. Did
12 he go in the vagina? We don't know. We didn't charge it, you
13 don't have to be worried about it.
14 Is it possible that he did? Is it possible when
15 he was poking around in there he poked in there too and that's
16 what she remembered closer in time? That was a few months
17 after and now two, three years later that's somehow
18 trivialized. What's important is he was trying to put it in
19 her bootie.
20 The other part that Mr. Oram talked about was the
21 unlikelihood of three people in an identical fashion. I talked
22 about that a little bit, but I'll try not to belabor it. If
23 you are raping a child in a house where other people are
24 sleeping, you're going to put your hand over her mouth. If
25 this guy is raping a child in a house where other people are

1 sleeping he's going to put his hand over her mouth. Nurse
2 Suiter said she'd never seen that before. Nurse Suiter doesn't
3 see those details. She says who did what to you with what part
4 of their body to what part of your body? She doesn't say what
5 was the program, did he put his hands over your mouth? That's
6 not a detail she gets. But it's absolutely how would you rape
7 a child when grandma or Auntie or somebody else's sleeping in
8 the next bedroom?
9 Jahala and Jamila, and we got the story of the
10 adultery by the cherry tree and oak tree. First of all, maybe
11 if there were two trees maybe it was committed in both places.
12 Again, the fact these inconsistencies come out shows you these
13 kids weren't comparing their stories. The bathroom incident,
14 those are perfect inconsistencies to show you the kids remember
15 whose houses they went to, they went to Katrina's house, the
16 lady whose name I don't remember, the lady who don't believe in
17 God. They have a detailed memory of going to those houses.
18 Anna told you she could see Jahala under the door. Jahala said
19 I know, I could see blackness but I knew it was her because I
20 heard her scream.
21 If they want to get together they'd tell their
22 stories, we saw the Defendant underneath, we saw the Defendant
23 straddling her and putting it in. We couldn't check.
24 Renard Polk has mental problems. We'll take that,
25 he said so. He knows his own mind. Some people would argue

1 that anybody who maliciously rapes a five-year-old or six-year-
2 old or seven-year-old, ten-year-old, and her older sister has
3 mental problems.
4 This is a sad case. There's no winners here.
5 Renard Polk had a lousy life, he had a lot of problems. His
6 sisters had a tough time, mom wasn't there, dad wasn't there.
7 We don't even know who some of their dads were. Drugs were
8 involved. He turned to drugs, mom was on drugs.
9 It's a tough life. But he was smart, he was a
10 good student, he was older, he should have been there for those
11 girls. Should have been there protecting them and helping him.
12 They are doing okay, they survived the stuff he did, they
13 didn't rape. They got together, cared for each other and
14 protected each other.
15 Whatever his excuses and whatever tough life he
16 had he made it a lot worse for those kids. And things that
17 they could have outgrown and moved on and forgotten about and
18 lived with and dealt with, they may never because he's taken
19 from them something, trust; he's taken from them innocence, far
20 greater than anything anybody else could have done to them.
21 He's not insane, he knows right from wrong. He's
22 sophisticated. He knew the answers to give on the stand. He
23 knew the important times to say I don't remember, I don't know.
24 He wasn't coming right out telling you a lie, I didn't do it,
25 just don't remember doing it.

1 Why did he say he didn't rape Jahala initially?
2 Because in his mind it wasn't a full rape, he tried to put it
3 in, it only went in a little bit. To a lot of people a sexual
4 assault, put it in and out, in and out until you ejaculate,
5 that's a completed act. Something short of that might not be.
6 At that time he probably wasn't familiar with the technicality
7 of the law, a slight penetration is a completed act. So in his
8 mind he didn't anally rape her. So when he called he said I
9 called to say I raped my sister.
10 He admits best case scenario would have told about
11 Anna. He had too many details in that statement not to have
12 been there when Anna was raped.
13 His sister Jahala, he's the one that says to the
14 police once. Jahala says once. Nobody told him anything about
15 Jahala, its his story I only said I did Jahala because that's
16 what the cop wanted me to say. How he knew those details, he
17 said speculation, I think.
18 It's phenomenal that this one sister I've done for
19 five or six years, this other sister I only did one time and it
20 was really only a try because I couldn't get it in and then he
21 tells about Jamila who he says nothing happened and I don't
22 know. There are kids that never report. The percentage we
23 find out --
24 MR. ORAM: Your Honor, I'd object to what the
25 percentage is.

1 THE COURT: It's argument, but sustained.
2 Proceed. It's just argument.
3 MS. HOLTHUS: Maybe she was, maybe she wasn't.
4 Based upon what he said actually occurred, that there was some
5 fondling of the buttocks and his penis got hard, she may have
6 been molested and not know it. He may have been wrestling, got
7 a couple gropes in that she wasn't aware of, became erect and
8 enjoyed that and Jamila might not know. Or she may have
9 blocked it out because some kids don't like to remember, not
10 surprisingly.
11 Doesn't agree to the brothers, no indication that
12 ever happened. Mr. Oram said if they'd have been sisters he
13 probably would have given to that. I suggest that if they'd
14 been sisters they probably would have been molested.
15 If you have any doubts, and as Miss Peterson told
16 you he has a right to trial. Testimony in the case is
17 overwhelming. It could have been stopped with the two girls,
18 it could have stopped with the girls all corroborating each
19 other, including seeing some of the stuff, and obviously it
20 didn't.
21 We gave you more, we gave you the patrol officers
22 who had different contact with him because of this, I-have-
23 mental-problems-kind-of-thing, so you could see he is
24 sophisticated.
25 You heard the language he used. He's very

1 articulate, very bright. Doing well in school. He knows the
2 answers to give you. You see the details, why did you come to
3 the police station? I'm feeling guilty about molesting my
4 little sister. Why did you turn yourself in? I feel guilty.
5 What did you do? I raped my little sister. Had been going on
6 for a while, since '96. Started when she came out to Vegas. I
7 did her in the bootie with my penis. How many times do you
8 think you did it? I was high and drunk.
9 Notice, even at the time he's offering some
10 excuses for his behavior, he was drinking and drunk at the
11 time. That's detail Auntie wouldn't have given him. That's
12 what a guilty mind came up with when he's offering excuses to
13 this officer when he's done horrible things. You'll remember
14 being drunk or high or having mental problems does not excuse
15 and is no defense.
16 He knew he was staying on Nay Court when he did
17 it. He knew it was about February when he did Jahala, she said
18 January, the last time was March with Anna. He believed Anna
19 was six or seven when it started, it used to happen in the
20 bathroom or other times, sometimes when she was getting out of
21 the shower, sometimes she'd be walking around the house.
22 What kind of position was she in? Would Aunt
23 Susan really tell him all the details, she was on her stomach?
24 He knew that. Speculation, I suspect he'll tell us.
25 Did you ever ejaculate inside her? Uh-huh. So

1 many times I can't remember. No, because I was drunk. She
2 didn't say anything, she cried. She said no. She said no.
3 Just kept on going. That's why I turned myself in.
4 Now he's had some time from August 14 to sit
5 around, and all of a sudden maybe his guilty feelings, his
6 remorse are not so strong he's got different feelings,
7 self-preservation kind of feelings. He told you he tried to
8 commit suicide. Is that because his aunt said he did
9 something? Because that's how he cleanses his soul for doing
10 bad things.
11 We don't want to kill him, we just want to punish
12 him for what he did, and the evidence is overwhelming. There's
13 no doubt, there's nothing to say he didn't do it, everything
14 points to him molesting these kids and we ask you to find him
15 guilty.
16 Thank you.
17 THE COURT: Thank you, Miss Holthus.
18 The clerk will swear in the officer to take charge
19 of the jury.
20
21 (Whereupon, the officer was duly sworn.)
22
23 THE COURT: Ladies and gentlemen, the case is now
24 submitted to you. Our bailiff Gino will be in charge of your
25 deliberations. Why don't you go with him and he'll take you

1 into the jury room and take all the instructions and exhibits
2 with you.
3 Miss Brock, would you remain in the courtroom.
4 Miss Brock, as you know, you were the alternate
5 juror. Thank God nobody got sick or anything, but it still
6 might happen if they don't come to a verdict. I'll allow them
7 to go home tonight. There might be a possibility I'll call you
8 back, that's a possibility. I'd rather not you have to stay
9 around.
10 What I'd like you to do, I'll give you the
11 admonishment and then you'll go to the clerk and give some
12 phone numbers where you can be reached tomorrow just in case.
13 And then go about your business. Go down to Room 1013 to fill
14 out your form. You'll probably never hear from me again but I
15 want to thank you for being an alternate juror.
16 Why don't you just come around this way, give my
17 clerk a couple phone numbers and then go down to Room 1013 and
18 sign your vouchers.
19 Thank you, Miss Brock.
20 All right, anything else to come before the Court
21 before we take our recess and a await the jury verdict on
22 behalf of the defense?
23 MR. ORAM: No, your Honor.
24 THE COURT: On behalf of the State?
25 MS. PETERSON: No, Judge.

1 THE COURT: All right. Be available.

2

3 (Whereupon, the Court stood in recess.)

4 ATTEST: Full, true and accurate transcript of proceedings.

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7 THOMAS D. MERCER, C.C.R. No. 33

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1 Las Vegas, Nevada, January 10, 2002, ten, 11:55 a.m.
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3
4 THE COURT: You selected a foreperson, ladies and
5 gentlemen?
6 Who is the foreperson?
7 Stand up, sir.
8 Have you arrived at a verdict?
9 THE FOREMAN: Yes, we have.
10 THE COURT: Please hand the verdict to the
11 bailiff.
12 Would you, Mr. Foreman, please read the verdict
13 aloud, starting from the top on down.
14 THE FOREMAN: Line 15, Your Honor?
15 THE COURT: Yes.
16 THE FOREMAN: "We, the jury in the above-entitled
17 case, find the defendant as follows:: Count I, sexual assault
18 with a minor under 14, guilty of attempt sexual assault with a
19 minor under 14.
20 "Count II, sexual assault with a minor under 14,
21 guilty of sexual assault with a minor under 14.
22 "Count III, sexual assault with a minor under 14,
23 not guilty."
24 THE COURT: Mr. Bailiff, would you hand that to
25 the clerk.

1 Miss Clerk, would you read the verdict aloud and
2 inquire of the jury if that is their verdict.
3 THE CLERK: C-166490, Department No. VI, District
4 Court, Clark County, Nevada. State of Nevada, plaintiff,
5 versus Renard Polk, defendant. Verdict: We, the jury in the
6 above entitled case, find the defendant as follows:
7 Count I, sexual assault with a minor under 14,
8 checked guilty of attempt sexual assault with a minor under 14.
9 Count II, sexual assault with a minor under 14,
10 checked guilty of sexual assault with a minor under 14.
11 Count III, sexual assault with a minor under 14,
12 checked not guilty.
13 Dated this 10th day of January, 2002, Christopher
14 Mangiopone, foreperson.
15 THE COURT: All right. Would anybody like the
16 jury polled? State.
17 MS. HOLTHUS: I think it's a good idea.
18 MR. ORAM: We would ask for it.
19 THE COURT: Would you poll the jury, Miss Clerk.
20 THE CLERK: Juror No.1, are those your verdicts as
21 read?
22 JUROR NO. 1: Yes.
23 THE CLERK: Juror No. 2, are those your verdicts
24 as read?
25 JUROR NO. 2: Yes.

1 THE CLERK: Juror No. 3, are those your verdicts
2 as read?
3 JUROR NO. 3: Yes.
4 THE CLERK: Juror No. 4, are those your verdicts as
5 read?
6 JUROR NO. 4: Yes.
7 THE CLERK: Juror No. 5, are those your verdicts
8 as read?
9 JUROR NO. 5: Yes.
10 THE CLERK: Juror No. 6, are those your verdicts
11 as read?
12 JUROR NO. 6:Yes.
13 THE CLERK: Juror No. 7, are those your verdicts
14 as read?
15 JUROR NO. 7: Yes.
16 THE CLERK: Juror No. 8, are those your verdicts
17 as read?
18 JUROR NO. 8: Yes.
19 THE CLERK: Juror No. 9, are those your verdicts as
20 read?
21 JUROR NO. 9: Yes.
22 THE CLERK: Juror No. 10, are those your verdicts
23 as read?
24 JUROR NO. 10: Yes.
25 THE CLERK: Juror No. 11, are those your verdicts

1 as read?

2 JUROR NO. 11: Yes.

3 THE CLERK: Juror No. 12, 1 are those your verdicts

4 as read?

5 JUROR NO. 12: Yes

6 THE COURT: All right. In view of the fact the

7 jury has found the defendant guilty of Count I and ii, the

8 Court enters into the minutes a judgment of guilty on Count I

9 and II and the defendant is remanded to the custody of the

10 sheriff without any bail. And we'll set a sentencing date,

11 Miss Clerk.

12 THE CLERK: Sentencing date will be March 14, 8:30

13 a.m.

14 THE COURT: All right, ladies and gentlemen, I

15 want to thank you very much. You really worked hard on this

16 case, you worked all afternoon yesterday until about six, you

17 worked all morning, you were hear at 8:30 and I commend you for

18 the service that you did to your community.

19 But for a jury we can't resolve a lot of these

20 issues. Sometimes defendants plead guilty and I handle the

21 sentencing, the defendant has a right to exercise his right to

22 trial and Mr. Polk did that and we gave him a trial and you saw

23 fit the find him guilty of two counts and not guilty of one

24 count. This is what our whole system is all about.

25 Some judge said, "Jury service honorably performed

is as important in the defense of our country, its constitution and laws and ideals and standards for which they stand as the service that is rendered by the soldier on the field of battle in time of war."

You rendered service to your community. Thank you so much. You're excused. Gino will tell you where to go to sign your vouchers. You're released from my admonition. Sometimes the lawyers want to talk to you, if you want to talk to them you can talk to them, if you don't, you don't, that's your business. I want to thank you so much.

Is there anything else to come before the Court on behalf of the State?

MS. HOLTHUS: No, Judge.

THE COURT: Anything else to come before the Court on behalf of the defendant?

MR. ORAM: No, your Honor.

THE COURT: I made all those notes, they are part of the record. Thank you.

ATTEST: Full, true and accurate transcript of proceedings.

THOMAS D. MERCER, C.C.R. No. 33

FILED
APR 25 12 25 PM '02
Original

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA)
Plaintiff,)
vs.)
RENARD TRUMAN POLK,)
Defendant.)

Case No. C166490
Dept. No. VI

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE

March 20, 2002

Reporter's Transcript of

PROCEEDINGS

APPEARANCES:

For the State: MARY KAY HOLTHUS ESQ.
Deputy District Attorney
200 South Third Street
Las Vegas, Nevada 89101

For the Defendant: CHRISTOPHER ORAM ESQ.
540 South Fourth Street
Las Vegas, Nevada 89101

REPORTED BY: TOM MERCER, C.C.R. NO. 33

7 1 Las Vegas, Nevada, March 20, 2002.

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6 THE COURT: Page 8, Polk.

7 This is your motion to withdraw?

8 MR. ORAM: I was appointed in this Court and

9 actually in justice court to represent him at trial. I have

10 completed that, sentencing has been completed. I would ask

11 since, I think I've completed my duties, that I be permit to

12 withdraw.

13 I would suggest to the Court the Court appoint

14 appellate counsel. He needs appellate counsel and I would ask

15 it be Mr. Schieck?

16 MS. HOLTHUS: The only concern I would have, I

17 believe the State supreme court now -- is this excluded from

18 fast track?

19 MR. ORAM: Yes.

20 THE COURT: There might be a conflict. He might be

21 attacking Mr. Oram. I think it is excluded from the fast track.

22 MR. ORAM: Yes, it is.

23 THE COURT: Whoever I appoint the County has to

24 pay?

25 MR. ORAM: Correct.

8

MS. HOLTHUS: I assume Your Honor has an appointment list. I have concerns where the defendant gets to pick who he wants. As a taxpayer I'm paying for his lawyer, now I'm paying for a lawyer of his choice. You want to pick your lawyer, pay your lawyer.

Also, the additional argument being a potential conflict. If he's consulted on the trial, Mr. Schieck will ultimate likely be a witness as well.

MR. ORAM: I don't believe there's any conflict and I know he would waive any conflict. I only consulted with Mr. Schieck as I do trials my trials, as he does with me, asking him advice and running something by him.

THE COURT: We don't make this a habit.

You waive have any conflict Mr. Schieck may have?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Make sure he files all the appropriate papers.

MR. ORAM: I'll notify him today.

THE DEFENDANT: Your Honor, one more thing. At sentencing I was credited for 691 days for time served. It should be roughly like 750.

THE COURT: That's not what they told me. We went through that. You talk to Mr. Oram and if he wants to file another motion, but I can't resolve that now.

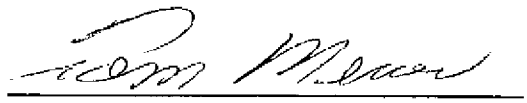
MR. ORAM: I will.

8

THE COURT: You think he deserves more, you have to check it out, but the department of parole and probation told me in no uncertain terms that was his credit for time served. So that's all I am going by. If he says no, I have 2,000 days I'm not going to believe him, unless you check it out and find out?

MR. ORAM: Thank you, Your Honor.

ATTEST: Full, true and accurate transcript of proceedings.



TOM MERCER, C.C.R. NO. 33

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ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE

THURSDAY, NOVEMBER 2, 2000

RECORDER'S TRANSCRIPT RE:
AT THE REQUEST OF COURT ADMINISTRATION:
STATUS CHECK

APPEARANCES:

For the State: TAMARA PETERSON, ESQ.
Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

C605

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LAS VEGAS, NEVADA; THURSDAY, NOVEMBER 2, 2000; 8:30 A.M.

THE COURT: Page 5, Polk.

MR. ORAM: Good morning, Your Honor. Mr. Oram on behalf of Mr. Polk.

THE COURT: Is Mr. Polk present or is he in Lakes Crossing?

MS. PETERSON: He's still in Lakes Crossing, Judge. If you would like to find him competent –

THE COURT: Yes.

MS. PETERSON: – I have a proposed order? I also have an order to transport him, Judge, so we can bring him in.

THE COURT: All right. Any objection to that?

MR. ORAM: No, Judge.

THE COURT: All right. Why don't I sign that, Ms. Peterson.

MS. PETERSON: In addition, Judge, this was originally a case where he had waived up on negotiations, and before he had pled guilty we had sent him to Lakes Crossing. He was going to back out of the deal, so I'd like to file an Amended Information at this time, and then he'd be arraigned on that when we bring him in.

THE COURT: Well, maybe he's seen the error of his way now, because now he's completely competent now after a week and a half at Lakes Crossing.

MS. PETERSON: We can wait, Judge. That's fine.

THE COURT: He miraculously got better and maybe he saw the light

1 and he wants to take the deal. I mean, I don't know. You could tell us
2 more than that, Mr. Oram.
3 MR. ORAM: Your Honor, we were very close and at some point
4 during negotiations I felt that it was appropriate to have him psychologically
5 evaluated. I think the Court may be right. He may come down and want
6 that deal.
7 THE COURT: Well, you could certainly file your Amended if you
8 want, then we could use one or the other when he comes down, determining
9 what he wants when Mr. Oram talks to him. Do you want to do that?
10 MS. PETERSON: That's fine, Judge. I'll file the Amended and then –
11 THE COURT: All right. Just file it, but the deal is still open for him,
12 is that correct, until when he comes down?
13 MS. PETERSON: Judge, that's my understanding, yes.
14 THE COURT: All right. So, the deal is still open, you can take your
15 pick when he comes down, all right. So, we'll – we declare that he's
16 competent now pursuant to the doctor's reports, and we're going to have
17 him transported down here for – either to negotiate or set a trial date,
18 all right.
19 MR. ORAM: Yes, Your Honor.
20 THE COURT: And how long do you need, two weeks?
21 MS. PETERSON: Two or three weeks, Judge.
22 THE CLERK: That will be November 22nd, 8:30.
23 . . . . .
24 . . . . .
25

MR. ORAM: Thank you, Judge.

MS. PETERSON: Thank you, Judge.

(Proceedings concluded)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

ELIZABETH GARCIA
Court Transcriber

DISTRICT COURT

CLARK COUNTY, NEVADA

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Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PROCEEDINGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on October 4, 2001
At 8:30 a.m.

APPEARANCES:
For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

1 Las Vegas, Nevada, October 4, 2001

2

3 * * * * *

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5 THE COURT: Page one, Polk.

6 MR. ORAM: My understanding is trial it set for

7 9:30 30 Monday. We are going to be ready; however, I'd like to

8 make a little bit of a record.

9 Your Honor, in early September I had had word from

10 Mr. Polk that he had been at a mental health facility at 6161

11 West Charleston. We issued a subpoena upon 6161.

12 THE COURT: What is that?

13 MR. ORAM: It's a mental health facility .

14 THE COURT: Charleston mental health?

15 MR. ORAM: Yes, state run facility.

16 We received what I would call a letterhead with a

17 form and the box is checked, essentially, we do not know who

18 this individual is. Based upon that I thought there was no

19 background to give to my psychiatrist on 6161 West Charleston.

20 Subsequently, we received jail records with regard

21 to Mr. Polk. These jail records indicate specifically and

22 these jail records are from 1999, it mentions in there 6161

23 West Charleston, which led me to believe Mr. Polk was accurate

24 as to his --

25 THE COURT: Do you have a copy of the jail

1 records?

2 MR. ORAM: It's a survey and I can tell the Court

3 it appears to be somebody filling it out based upon what Mr.

4 Polk would have told them.

5 THE COURT: So he might have said to them it was

6 at 6161, they just put it down in the jail log and you got a

7 cop?y.

8 MR. ORAM: Correct.

9 THE COURT: So he perhaps told the jail he was at

10 6161 West Charleston then he told you definitely he was at 6161

11 west Charleston, you tried to check that out with your

12 investigator, they have no record.

13 MR. ORAM: Right. And I have a letter in the

14 file that establish that.

15 However, I would point out this was in 1999, well

16 before the insanity defense was available. And based upon

17 that, my investigator wanted to go back and try to obtain these

18 records from 6161 West Charleston. He's still attempting to do

19 that as we speak. My psychiatrist wanted a complete background

20 of Mr. Polk, so based on that we would have asked for a

21 continuance and I believe the Court will not permit that.

22 THE COURT: What's the State's position?

23 MS. HOLTHUS: Our position is we have been ready

24 a hundred times on this case. He has -- there may or may not

25 be records there, maybe they are lost, maybe he never went,

1 maybe went under another name, in the past he's used a
2 different name when he feels the need.
3 My understanding is we are only talking about a
4 couple weeks worth of records back at the time. I would think
5 Dr. Pagline, who I understand they are using, should be able to
6 evaluate him based on, we've got -- he spent several months up
7 at Lakes Crossing. He's been seen by at least five different
8 doctors during that time period. It would seem to the State,
9 although maybe Dr. Paglini would like to have everything, in a
10 perfect world he would, he should be able to make an
11 appropriate based evaluation based on what he's had since then
12 . There's a whole bunch of stuff out there amongst various
13 doctors, three doctors found he's competent and our position is
14 they should be able to go forward. This case has been set a
15 number of times.
16 Just one caveat. We have having some logistical
17 problems. The child victims are in California in foster care.
18 It's my understanding the authorities have said the foster
19 parents cannot bring them to Nevada for the trial, that we have
20 to go through their case workers and stuff. So there's some
21 legalities going on that the lawyers are reviewing to see which
22 case workers will bring them or whatnot and they still have yet
23 to get back to us. We've been calling every day. We are in
24 contact, we know where the kids are, the foster mom is willing
25 to bring them, she just needs to get the authority. That's the

1 only problem we have at this point.
2 THE COURT: Submitted?
3 MR. ORAM: Submitted.
4 THE COURT: This case has been going on for a long
5 time, Mr. Oram. This is almost three years old. It was
6 January, '99, was the sexual assault, or alleged sexual
7 assault. We have young children here, people forget, they
8 disappear and this is why they say "Justice delayed is justice
9 denied."
10 This man unconditionally waived preliminary
11 hearing originally back in April of 2000, he was going to take
12 a deal and I think that was an excellent offer.
13 MS. HOLTHUS: He was offered two five-to-twenties
14 and five-to-life. It would be up to the judge whether they ran
15 consecutive or concurrent. In best case scenario he could get
16 one five-to-life. He's already done a lot of time. Worse case
17 15 years. If convicted at trial his best hope would be 20 to
18 life. These children were minors well under 14 when he raped
19 them and to one of them he confessed to multiple counts.
20 THE COURT: Confessed to the police?
21 MS. HOLTHUS: To the police.
22 THE COURT: Did you explain this to Mr. Polk?
23 MR. ORAM: I have, Your Honor.
24 THE COURT: He apparently was convinced that was
25 in his best interest back in April to unconditionally waive his

1 preliminary hearing, but I understand, I know he has some
2 problems. His initial arraignment was here in April of 2000.
3 He's had two or three continuances on this trial. We sent him
4 up to Lakes Crossing to be convinced that his mental status was
5 appropriate to stand trial and he did get some treatment up
6 there and they indicated he's competent to stand trial now.
7 You've had an investigator in this case. Back in
8 March you said your investigator is looking into this matter,
9 checking witnesses.
10 This is not something the Court is rushing you or
11 trying to rush this case. I've never had a case, not even the
12 Binion case or Ruden case gone three years. And it's been
13 going on and on. Arraignment in 2000 in this Court. It's just
14 not that complicated, Mr. Oram. This is really not a
15 complicated rocket science case. The girl's going to say he
16 did it or didn't do it and you're going to present testimony
17 and a few doctors. But no, the facts that you present to me,
18 I'm not convinced there are any records at the 6161 West
19 Charleston and even if they were you had an opportunity to try
20 to get them, they're not available. They say they have no
21 records and you have, as Mr. Holthus points out there,
22 voluminous doctors results and results of tests on Mr. Polk.
23 So no, you go with what you have now. I'm not going to
24 continue this again.
25 MR. ORAM: Your Honor, Mr. Polk has filed a pro

1 per writ of mandamus, I'm not quite sure.
2 THE COURT: Is this something new?
3 MR. ORAM: I became aware of it from Mr. Polk, he
4 indicated yesterday when I saw him he would like to briefly
5 address the Court because I do not have knowledge, I don't
6 have.
7 THE COURT: I don't know. I've had other proper
8 person motions from him and some weird writ of habeas corpus
9 about public jeopardy. I tried to accommodate Mr. Polk, I try
10 to do the best I can but there comes a time, come on, we are
11 going to trial on this or resolve it or some other proceeding
12 but I can't keep on these writ of mandamus and this and that.
13 I'd be here all day.
14 Where is it? Is there a copy around? Get a copy
15 from him.
16 MR. ORAM: May I also approach? Dr. Paglini
17 would like to come in at 12:30.
18 THE COURT: Yes.
19 What is this writ of mandamus, Mr. Polk? I'm not
20 going to take a lot of time with your proper person writs .
21 You have an attorney, he's doing a good job for you and I can't
22 be having double team. What is the writ?
23 THE DEFENDANT: I don't have a copy right now.
24 THE COURT: I can't resolve it. You get a copy,
25 I'll figure it out next week or next Monday but we are going to

1 trial Monday, we are going to pick a jury Monday nine-thirty.
2 THE DEFENDANT: I apologize being argumentative
3 but I sent the mandamus up there because when I filed the writ
4 of habeas corpus in proper person you denied it on the relevant
5 argument, you said every everything ran normal course.
6 THE COURT: You got a right to argue the writ, I
7 heard you and denied it. For whatever reason I denied it it's
8 on the record, I don't want to revisit that, I don't want you
9 to talk about the writ anymore, its done.
10 If you get convicted of this and I give you life
11 in prison three times or whatever I do, you have a right to
12 appeal my denial of the writ to the supreme court of Nevada. I
13 don't want to revisit that anymore. I asked you a specific
14 question. A writ of mandamus, I asked you if you have a copy
15 of it, you either have it or you don't. Do you have one now?
16 THE DEFENDANT: No, sir.
17 THE COURT: If you get one I'll look at it Monday
18 and if you want to make a record on it I'll allow you to make a
19 record Monday but I don't want to revisit anything. You don't
20 want to take that offer?
21 THE DEFENDANT: No, sir.
22 THE COURT: Good. We'll go to trial Monday,
23 nine-thirty. You better get your witnesses here.
24 MS. HOLTHUS: We are going to pick the jury here
25 at nine-thirty. Shall I have witnesses for the Petrocelli

1 hearing at one?

2 THE COURT: That evidence of other bad acts I

3 heard argument on it and -- sit down or somebody is going to go

4 to jail. I'm going to have my bailiff --

5 MS. POLK: I'm his mother.

6 THE COURT: I don't care who you are. Don't

7 interrupt my courtroom. Don't interrupt it.

8 You want to say something, you go through the

9 lawyer, Mr. Oram, and he'll present it to me. This is not a

10 baseball game here where we all get up.

11 MS. POLK: I apologize.

12 THE COURT: I granted the -- I think it's

13 certainly relevant and the prejudicial value is not -- it

14 doesn't outweigh the probative value. So all I wanted to do is

15 have clear and convincing evidence. I don't want to argue it.

16 The only argument will be Your Honor, this is not clear and

17 convincing, do you understand?

18 MS. HOLTHUS: Right.

19 THE COURT: Who are you going to present to me if

20 we go in the afternoon?

21 MS. HOLTHUS: It would be Frida White, is the

22 other victim, and I believe I have a police officer. One of

23 the things we were seeking was at the time of his arrest on

24 this case he gave false I.D. It is our position that's

25 consciousness of guilt, he knew there was a warrant for his

arrest on these charge and particularly in light of his insanity defense that would be relevant.

THE COURT: They will be available at one o'clock, 1:30?

MS. HOLTHUS: Sure.

THE COURT: What we'll do Monday is pick a jury at nine-thirty, get the jury in place, then any evidentiary hearings, the Petrocelli and writ of mandamus, if you have something on that I'll rule on any other legal issues Monday afternoon and then we'll begin opening statements and witnesses on Tuesday at nine-thirty.

MR. ORAM: That's fine. And the State's indicated they are going to get me discovery on Frida White .

MS. HOLTHUS: I will.

THE COURT: If this is not available you call me up Friday. I want to be made aware what's happening with the witnesses and everything is set to go.

MR. ORAM: Thank you.

THE COURT: Thank you so much.

ATTEST: Full, true and accurate transcript of proceedings.

Tom Mercer

THOMAS D. MERCER, C.C.R. No. 33

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
3

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
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C166490 STATE OF NEVADA vs. RENARD T. POLK

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1 THE JUROR: I do work part time at Thomas and Mack
2 so we do work with Metro and the university.
3 THE COURT: What do you do at Thomas & Mack?
4 THE JUROR: Security supervising.
5 THE COURT: That's a part-time job?
6 THE JUROR: Part time.
7 THE COURT: Once in a while they call you?
8 THE JUROR: Scheduled events, basketball games.
9 THE COURT: Do you have a law enforcement
10 background?
11 THE JUROR: No.
12 THE COURT: The fact you're a part time security
13 officer is not going to affect your deliberation in this case?
14 THE JUROR: No.
15 THE COURT: You understand you're not to give
16 greater or lesser weight to a police officer's testimony simply
17 because?
18 THE JUROR: Absolutely.
19 THE COURT: Have you ever been the victim of a
20 case?
21 THE JUROR: Occasional burglary.
22 THE COURT: Did you ever have to appear in court?
23 THE JUROR: No.
24 THE COURT: That's not going the affect your
25 deliberation?

1 THE JUROR: No.
2 THE COURT: You or anyone closely associated with
3 you ever been arrested for a crime?
4 THE JUROR: I had a best friends at Thanksgiving
5 arrested on probation violation for something I guess he did 14
6 years ago. That's the only thing I know.
7 THE COURT: That's not going to affect your
8 deliberation?
9 THE JUROR: No.
10 THE COURT: You don't hold that against the police
11 or D.A.?
12 THE JUROR: Absolutely not.
13 THE COURT: Have you ever served on a jury before?
14 THE JUROR: I was called to Federal court but I
15 didn't serve.
16 THE COURT: Any reason you couldn't be fair and
17 impartial?
18 THE JUROR: None whatsoever.
19 THE COURT: Questions?
20 BY MS. HOLTHUS:
21 Q. Where does your wife teach?
22 THE JUROR: Mary Hill campus, Durango and
23 Tropicana.
24 MS. HOLTHUS: Pass for cause.
25 THE COURT: Questions?

1 MR. ORAM: Questions.
2 Q. Do you ever watch those science shows?
3 A. Once in a while, not very often.
4 Q. With credibility of children or credibility of me
5 or any other adult, are you pretty good telling when somebody
6 is giving you a snow job?
7 A. I hope so. I would think so.
8 Q. If I told you look, I'm going to tell you
9 something and the light is red and you looked up and saw the
10 light was green you wouldn't believe me?
11 A. Probably not.
12 Q. Because there no corroboration?
13 A. In that instance.
14 Q. Do you think you can be fair juror in this case?
15 A. Yes.
16 Q. Do you want to be on this jury?
17 A. Yes.
18 Q. Promise him a fair trial?
19 A. Yes.
20 MR. ORAM: Pass for cause.
21 THE COURT: All right. We went through the
22 initial questioning of the jury.
23 We have in law what we call peremptory challenges,
24 each side has a certain number of peremptory challenges, they
25 can exercise their peremptory challenge or waive. We are going

1 to go through that now and go through the peremptory
2 challenges.
3 I just want to take, just to give everybody a
4 quick, ten-minute recess. Be outside in ten minutes and the
5 bailiff with escort you in. Make sure you take your same
6 seats. And don't talk about this case while you're outside.
7 Just take a ten-minute recess, don't be late and be back in ten
8 minutes, then we'll discuss the peremptory challenges.
9 Outside the presence of the jury. I notice a
10 second amended information on my desk that you filed.
11 MS. PETERSON: That's correct, Judge, we did file
12 that this morning. I've spoken to Mr. Oram about this case.
13 Basically there's just one change. The counts have not been
14 changed. There is one change on the date. It's Count II.
15 Originally we had actually -- the way we plead it we said the
16 date in the first amended information, we said the date of all
17 of 1998. The problem is on October 14, 1998, the defendant
18 turned 18 so we can't charge him for all those things that
19 happened before October 14, '98. So all we did was make sure
20 the date reflected when he turned 18. So we plead it October
21 14 to March 12, 1999.
22 THE COURT: So it's, in effect, helping the
23 defendant. You're not going into the things when he was 17.
24 Any objection we file this?
25 MR. ORAM: We would object, for the record, Your

1 Honor.

2 THE COURT: I think the State, this is certainly

3 not prejudicial to the defendant and doesn't change any of the

4 facts of the case and the statutes say the State can amend the

5 information even after trial. So I'm going to allow that to be

6 filed.

7 We talked about the Miller matter. Hopefully

8 we'll come back --

9 MS. PETERSON: What were going to suggest to Mr.

10 Oram was maybe Mr. Oram could come up and speak to the kids in

11 the victim witness center and decide from there. We can put

12 on a quick hearing, but at least Mr. Oram will have all the

13 information and decide.

14 THE COURT: I don't want to keep the jury waiting.

15 I'd rather tell them come back later.

16 MS. PETERSON: The kids are going to be in our

17 office at one o'clock.

18 MR. ORAM: I'll come up at lunch and go through

19 it. What I was wondering, we'll get through picking the jury

20 and opening statements. If they have other witnesses that they

21 can put on besides the kids today maybe they can put them on

22 and in the morning maybe we can have them here to have --

23 MS. PETERSON: I don't think this hearing, if it

24 happens is going to take longer than 20 minutes anyway. So we

25 do have witnesses that are coming in this afternoon but very

1 short, it's primarily the kids.
2 THE COURT: All right. I'll accommodate you any
3 way you want. I know there's a time limit here. If I have to
4 work until 7 o'clock I'll do it.
5
6 (Brief recess).
7
8 THE COURT: The State can exercise their first
9 peremptory challenge.
10 MS. PETERSON: Thank you, Your Honor.
11 The State would thank and excuse Mr. John Bart,
12 Number 143.
13 THE COURT: Please report to Room 1013.
14 The clerk will call another prospective juror .
15 THE CLERK: Maxine Gries.
16 THE COURT: Miss Gries, take that same seat there.
17 How long have you been in Las Vegas.
18 THE JUROR: Eight years.
19 THE COURT: What do you do for a living?
20 THE JUROR: I'm an insurance broker.
21 THE COURT: Are you married?
22 THE JUROR: Yes.
23 THE COURT: What does your husband do?
24 THE JUROR: He's retired.
25 THE COURT: What did he do?

1 THE JUROR: He was a produce manager.
2 THE COURT: Children?
3 THE JUROR: Seven.
4 THE COURT: What do they do for a living if they
5 are old enough to work?
6 THE JUROR: They are all old enough to work. My
7 oldest son is a bartender. My second son is a butcher, the
8 third is University of Illinois graduate student, physical
9 therapy. The fourth son is in refrigeration school right now,
10 he was in desert storm so he's going on the GI Bill. I have
11 one son that's deceased. I have a daughter.
12 THE COURT: Was it natural causes?
13 THE JUROR: No, a child was playing with a gun. So
14 I lost him when he was 11. I have a daughter who is an
15 administrative assistant and I also have a daughter who is a
16 veterinarian tech.
17 THE COURT: Nice family. Have you ever been in
18 the military?
19 THE JUROR: No.
20 THE COURT: Are you acquainted with anybody in law
21 enforcement?
22 THE JUROR: No, I'm not.
23 THE COURT: Have you ever been the victim of a
24 crime?
25 THE JUROR: Yes, we had a burglary.

1 THE COURT: In your house?
2 THE JUROR: The apartment. I'd been here two
3 weeks and got burglarized.
4 THE COURT: Years ago?
5 THE JUROR: Eight years ago.
6 THE COURT: That's not going to affect your
7 deliberation?
8 THE JUROR: No.
9 THE COURT: Have you or anyone closely associated
10 with you ever been arrested for a crime?
11 THE JUROR: My oldest son was.
12 THE COURT: When was that?
13 THE JUROR: He was arrested -- it was a
14 combination, domestic fight so both of them were arrested.
15 THE COURT: What were the results of that?
16 THE JUROR: Both of them were put on probation and
17 put into anger management.
18 THE COURT: You think they were treated fairly?
19 THE JUROR: Yes.
20 THE COURT: You don't hold that against the State
21 or police?
22 THE JUROR: No, I believe they got what should
23 happen.
24 THE COURT: That's the extent of it then?
25 THE JUROR: Yes.

1 THE COURT: Have you ever served on a jury before?
2 THE JUROR: Yes, I have, twice.
3 THE COURT: They are in Las Vegas?
4 THE JUROR: No, in Seattle.
5 THE COURT: The first time you served on a jury
6 were you picked as a juror?
7 THE JUROR: Yes, I was.
8 THE COURT: Were you picked as foreperson?
9 THE JUROR: No, I was not.
10 THE COURT: You deliberated the case?
11 THE JUROR: Yes.
12 THE COURT: Was it a civil or criminal case?
13 THE JUROR: Criminal.
14 THE COURT: What was the charge, if you remember?
15 THE JUROR: Drug possession and dealing.
16 THE COURT: Without telling me what the verdict
17 was, did the jury reach a verdict?
18 THE JUROR: Yes.
19 THE COURT: The second time was it a civil or
20 criminal case?
21 THE JUROR: Criminal.
22 THE COURT: What was the charge, if you remember?
23 THE JUROR: Arson.
24 THE COURT: And you were picked as a juror?
25 THE JUROR: Yes.

1 THE COURT: Were you picked as foreperson?
2 THE JUROR: No.
3 THE COURT: You deliberated the case?
4 THE JUROR: Yes.
5 THE COURT: Without telling me what the verdict
6 was, did the jury reach a verdict?
7 THE JUROR: Yes.
8 THE COURT: Any reason you couldn't be a fair and
9 impartial juror?
10 THE JUROR: I don't believe -- I believe I would
11 listen to all the evidence, but it is one of those crimes it's
12 a real tough one for me to listen to.
13 THE COURT: But you could set that aside, Judge
14 this case solely by what you hear on stand and make the best
15 decision you could?
16 THE JUROR: Yes, sir.
17 THE COURT: Questions? Pass for cause?
18 BY MS. HOLTHUS:
19 Q. You said it's tough because of the nature of the
20 charges, because you have children and -- nobody likes bad
21 things happening to kids, so its a bad thing for everyone, as
22 moms maybe a little worse. But beyond that you understand as
23 he sits there he didn't do anything until we prove it?
24 THE JUROR: That's right.
25 MS. HOLTHUS: Nothing else. Pass for cause.

1 THE COURT: Mr. Oram.
2 MR. ORAM: Briefly, Judge.
3 Q. You ever watch those science shows?
4 A. Yes, I do.
5 Q. Do you enjoy them?
6 A. Yes, I do.
7 Q. You realize we are living in 2001, not 1700s?
8 THE COURT: Its 2002, now, Mr. Oram.
9 MR. ORAM: I'm living back last year.
10 You heard all the constitutional concepts we've
11 gone over. Do you have any problems with any of those?
12 A. No, I don't.
13 Q. Although you're going to hear, you know this is
14 messy, the charges are messy, everything about this is messy.
15 Do you still think you'll keep an open mind?
16 A. Yes, I do.
17 Q. Until the end, and then you get to make the
18 determination, do you understand that?
19 A. I would say us as a group would make the
20 determination.
21 Q. Correct. You have your independent judgment?
22 A. Right.
23 Q. Can you consider the charge independently?
24 A. Yes, I can.
25 Q. You understand the prosecutors are going to stand

1 up, because they are prosecutors, are going to stand up and say
2 someone is guilty of something, you understand that?
3 A. Yes.
4 Q. I'm going to argue whoever they charged was not
5 guilty, right?
6 A. Yes.
7 Q. And you and 11 other fair minded people will make
8 the determination, correct?
9 A. Correct.
10 Q. You think you can do that?
11 A. Yes, I do.
12 Q. Any problems whatsoever?
13 A. No.
14 MR. ORAM: Pass for cause.
15 THE COURT: The defense can exercise its first
16 peremptory challenge if it sees fit.
17 MR. ORAM: We would like to thank and excuse Badge
18 148, Mr. Ratigan.
19 THE COURT: Please report back to Room 1013.
20 THE CLERK: Isabel Tapia.
21 THE COURT: What do you do for a living?
22 THE JUROR: Tele-communications.
23 THE COURT: You work for a company?
24 THE JUROR: Caesars Palace.
25 THE COURT: Are you married?

1 THE JUROR: Yes.
2 THE COURT: Does your husband work?
3 THE JUROR: Yes, construction.
4 THE COURT: Do you have any children?
5 THE JUROR: One.
6 THE COURT: How old?
7 THE JUROR: 24.
8 THE COURT: What does the child do? Boy or girl?
9 THE JUROR: He's a boy. He works also, married.
10 THE COURT: What does he do?
11 THE JUROR: Construction.
12 THE COURT: Have you ever been in the military?
13 THE JUROR: No.
14 THE COURT: Are you acquainted with anybody in law
15 enforcement?
16 THE JUROR: No, I'm not.
17 THE COURT: Have you ever been the victim of a
18 crime?
19 THE JUROR: Burglary and shooting at home.
20 THE COURT: Was that the same time, the burglary
21 and shooting?
22 THE JUROR: They tried to steal our car so my
23 husband caught them and they started shooting at the house.
24 THE COURT: How long ago was that?
25 THE JUROR: About five years.

1 THE COURT: Did you have to go to court?
2 THE JUROR: No, never caught the guys.
3 THE COURT: Serious thing when a shooting occurs.
4 But that's not going to affect your deliberation in this case?
5 THE JUROR: Not at all.
6 THE COURT: You don't hold that against the police
7 or D.A. for not catching them and prosecuting them, do you?
8 THE JUROR: No.
9 THE COURT: Have you or anyone closely associated
10 with you ever been arrested for a crime?
11 THE JUROR: My son, domestic violence.
12 THE COURT: When was that?
13 THE JUROR: Probably four years.
14 THE COURT: What were the results of that?
15 THE JUROR: I think the girlfriend dropped the
16 charges, he paid a fine.
17 THE COURT: Do you think he was treated fairly ?
18 THE JUROR: Yes.
19 THE COURT: It's not going to affect your
20 deliberation?
21 THE JUROR: No.
22 THE COURT: You're not going to hold that against
23 the State for trying to prosecute?
24 THE JUROR: No.
25 THE COURT: Have you ever served on a jury before?

1 THE JUROR: No.
2 THE COURT: Any reason you couldn't be fair and
3 impartial?
4 THE JUROR: No.
5 THE COURT: Questions?
6 BY MS. PETERSON:
7 Q. With regards to your son who you said was accused
8 of domestic violence, do you know if it was my office who
9 prosecuted or the city or . . .
10 A. I don't know, I couldn't tell you.
11 Q. How long ago was that?
12 A. Like four years ago. Maybe more.
13 Q. Is he still with the same girlfriend, or do you
14 know?
15 A. No, he's married now. It's a different girl.
16 Q. You said you had a shooting, burglary and shooting
17 at your house?
18 A. Yes, it was the middle of the night.
19 Q. Did the police respond to that?
20 A. Yes.
21 Q. Were you happy with how they handled everything?
22 A. Yes.
23 MS. PETERSON: I'll pass for cause.
24 THE COURT: Questions? Pass for cause, Mr. Oram?
25 MR. ORAM: Few questions.

1 Q. Is there anything you've heard so far, because
2 there's been lots and lots of questions; anything with regard
3 to the Constitution and the law that's been discussed that you
4 had some substantial problem with?
5 A. No, not at all.
6 Q. Do you think you can be fair?
7 A. Yes.
8 Q. Are you open minded?
9 A. I think I am, yes.
10 Q. Do you consider yourself a leader or follower?
11 A. Both.
12 Q. Do you think you can hear the graphic nature of
13 what this case is about and still listen, not just shrug away
14 from it?
15 A. Yes.
16 Q. You understand the State gets to present their
17 evidence first?
18 A. Yes.
19 Q. And after each witness they have questioned I get
20 to get up and ask THE JUROR questions?
21 A. Right.
22 Q. You wouldn't just make up your mind before I even
23 got up and asked the questions?
24 A. Oh, no, wouldn't be fair.
25 Q. But do you understand I don't have to ask any

1 questions, its up to the State to prove their case?
2 A. Yes.
3 MR. ORAM: Pass for cause.
4 THE COURT: State can exercise its next peremptory
5 challenge if it sees fit.
6 MS. PETERSON: Can we approach briefly, Judge?
7 THE COURT: Yes.
8 MS. PETERSON: The at this time we'll waive our
9 second.
10 THE COURT: The defense can exercise it's next
11 peremptory challenge if it sees fit.
12 MR. ORAM: Yes, Your Honor, we would like to thank
13 and excuse Badge No. 136, Miss Jones.
14 THE COURT: Please report back to Room 1013.
15 THE CLERK: Denise Wilcox.
16 THE COURT: How long you been in Las Vegas?
17 THE JUROR: 22 years.
18 THE COURT: What do you do for a living?
19 THE JUROR: I work for Choices Group.
20 THE COURT: That's like insurance?
21 THE JUROR: I do financial stuff for them. They
22 are associated with drug court.
23 THE COURT: Okay, are you a county employee or is
24 that an independent company?
25 THE JUROR: We are contracted by county.

1 THE COURT: So you work for Choices, that's like a
2 drug program?
3 THE JUROR: We are the drug rehab center for drug
4 court.
5 THE COURT: What do you do there?
6 THE JUROR: Financial paperwork.
7 THE COURT: All right. Are you married?
8 THE JUROR: Yes.
9 THE COURT: What does your husband do?
10 THE JUROR: He's in banking.
11 THE COURT: Children?
12 THE JUROR: Two.
13 THE COURT: Any old enough to work?
14 THE JUROR: They are both in college in
15 California.
16 THE COURT: Have you ever been in the military?
17 THE JUROR: No.
18 THE COURT: Are you acquainted with anybody in law
19 enforcement?
20 THE JUROR: Acquainted, not friends.
21 THE COURT: That's not going to affect your
22 deliberation in this case?
23 THE JUROR: No.
24 THE COURT: You understand you're not to give
25 greater or lesser weight to a police officer's testimony simply

1 because they are a police officers, do you understand that?
2 THE JUROR: Yes.
3 THE COURT: Have you ever been the victim of a
4 crime?
5 THE JUROR: No.
6 THE COURT: You or anyone closely associated been
7 arrested for a crime?
8 THE JUROR: No.
9 THE COURT: Have you ever served on a jury before?
10 THE JUROR: Picked, but it settled.
11 THE COURT: Never deliberated?
12 THE JUROR: No.
13 THE COURT: Any reason you couldn't be fair and
14 impartial?
15 THE JUROR: No.
16 THE COURT: Questions?
17 MS. PETERSON: Couple questions.
18 Q. You said that you work for Choices. Do you see
19 clients or anything?
20 A. Yes, they come in all the time.
21 Q. But you don't talk to them about their case, you
22 just handle finances?
23 A. No, I don't really have contact with them unless
24 someone's on vacation and I have to take a payment from them.
25 THE COURT:

1 Q. Do you do any intake work?
2 A. No.
3 Q. Is there anything about the subject matter of this
4 case that would make it hard for you to be a juror in this
5 case?
6 A. I don't think so.
7 Q. Can you go back to the jury room and talk about
8 these charges of a sexual nature? Can you talk about that with
9 your fellow jurors?
10 A. Yes.
11 Q. There's been a lot of talk this morning from Mr.
12 Oram about constitutional rights and everything. Obviously,
13 you believe someone should have the right to a fair trial?
14 A. Yes.
15 Q. Do you understand even if there is just a lot of
16 evidence, if the crime's on video tape a defendant still has a
17 right to a fair trial, you understand that?
18 A. Yes.
19 Q. And it's the State's burden to bring all those
20 people in and put them on the stand, do you understand that?
21 A. Yes.
22 Q. Will you give the State of Nevada a fair trial in
23 this case?
24 A. Yes.
25 MS. PETERSON: Thank you. Pass for cause.

1 THE COURT: Questions?
2 MR. ORAM: Very briefly. She did my job asking
3 her about those constitutional questions.
4 Q. You have no problems with any of them?
5 A. No.
6 Q. Is there anything about this case that would cause
7 you to make up your mind before the end of the evidence? In
8 other words, if you heard allegations early on in the trial,
9 would you think to yourself I've heard it, that's all I'm going
10 to listen to?
11 A. No.
12 Q. Keep an open mind throughout this trial?
13 A. Yes.
14 MR. ORAM: Pass for cause.
15 THE COURT: State can exercise its next
16 peremptory.
17 MS. PETERSON: We'll waive our next peremptory.
18 THE COURT: Defense can exercise its next
19 peremptory.
20 MR. ORAM: We would like to thank and excuse Juror
21 No. 152, Miss Gries.
22 THE CLERK: Christopher Mangiopane.
23 THE COURT: How long have you been in Las Vegas?
24 THE JUROR: Going on eight years.
25 THE COURT: What do you do for a living?

1 THE JUROR: I'm a teacher.
2 THE COURT: What grade?
3 THE JUROR: This year six, seventh and eighth
4 graders.
5 THE COURT: What school?
6 THE JUROR: J.D. Smith.
7 THE COURT: Special ed?
8 THE JUROR: Yes.
9 THE COURT: Are you married?
10 THE JUROR: No.
11 THE COURT: Children?
12 THE JUROR: No.
13 THE COURT: Have you ever been in the military?
14 THE JUROR: No.
15 THE COURT: Are you acquainted with anybody in law
16 enforcement?
17 THE JUROR: No.
18 THE COURT: Have you ever been the victim of a
19 crime?
20 THE JUROR: No.
21 THE COURT: Have you or anyone closely associated
22 with you ever been arrested?
23 THE JUROR: If you're counting youthful
24 indiscretions.
25 THE COURT: You, when you were a juvenile?

1 THE JUROR: Yes, 18, disorderly conduct.
2 THE COURT: What happened to that case? What were
3 the results? You paid a fine?
4 THE JUROR: Paid a fine, yes.
5 THE COURT: That's not going to affect --
6 THE JUROR: No.
7 THE COURT: You don't hold that against the police
8 or State of Nevada?
9 THE JUROR: No.
10 THE COURT: That's when you were 18 years old?
11 THE JUROR: Yes.
12 THE COURT: Have you ever served on a jury before?
13 THE JUROR: No.
14 THE COURT: Any reason you couldn't be fair and
15 impartial?
16 THE JUROR: No.
17 THE COURT: Questions? Pass for cause?
18 BY MS. HOLTHUS:
19 Q. You strictly teach special ed?
20 A. No, I don't. This year and last year was regular
21 kids.
22 Q. Do you always stay within the sixth or eighth
23 grade?
24 A. That depends what you're teaching and no. Last
25 year was strictly sixth graders.

1 Q. Do you sometimes teach high schools?
2 A. No, middle school only.
3 MS. HOLTHUS: Pass for cause.
4 THE COURT: Questions?
5 BY MR. ORAM:
6 Q. With regard to your teaching, you've dealt with
7 children all your life, or at least your adult life?
8 A. Yes, part of it, sure.
9 Q. Do you have disputes between children as to one
10 says the other kid hit me?
11 A. Sure.
12 Q. Are you pretty good at who's telling you the
13 truth?
14 A. You never know the -- you get a feel for the kids
15 after you've had them for a while, so you kind of know what to
16 keep and what to discard. But yes, sometimes you get lucky and
17 you're able to do it. Other times they slip one by you.
18 Q. Can you be fair in this case?
19 A. Sure.
20 Q. Can you promise him a fair trial?
21 A. Yes, I can.
22 Q. Did you have any problems with the constitutional
23 concepts we've talked about?
24 A. No.
25 Q. You understand we don't have to prove anything?

A. Right.

Q. I don't have to be asking you these questions?

A. Yes.

MR. ORAM: Pass for cause.

THE COURT: State can exercise its next peremptory.

MS. PETERSON: We'll waive our next.

THE COURT: Defense can exercise its next peremptory if it sees fit.

MR. ORAM: We would like to thank and excuse Badge Number 140, Mr. Anderson.

THE COURT: Mr. Anderson, please report back to Room 1013.

THE CLERK: Raymond Murphy.

THE COURT: How long you been in Las Vegas?

THE JUROR: 78 years.

THE COURT: What do you do for a living?

THE JUROR: Retired mail carrier.

THE COURT: Are you married?

THE JUROR: No.

THE COURT: Children?

THE JUROR: Yes, one son, 34.

THE COURT: What does your son do for a living?

THE JUROR: He's a mechanic.

THE COURT: Have you ever been in the military?

1 THE JUROR: Yeah, 1951 to '54, Navy.
2 THE COURT: Nothing to do with military police or
3 court martial?
4 THE JUROR: Shore patrol, that's all.
5 THE COURT: You're going to listen to my
6 instructions rather than what you remember about shore patrol,
7 is that correct.
8 THE JUROR: Sure.
9 THE COURT: Are you acquainted with anybody in law
10 enforcement?
11 THE JUROR: I had friends back home.
12 THE COURT: But that's not going to affect your
13 deliberation?
14 THE JUROR: No.
15 THE COURT: You understand you're not to give
16 greater or lesser weight to a police officer's testimony simply
17 because they're a police officer, do you understand that?
18 THE JUROR: Sure.
19 THE COURT: Have you ever been the victim of a
20 crime?
21 THE JUROR: No, sir.
22 THE COURT: Have you ever served on a jury before?
23 THE JUROR: No.
24 THE COURT: You or anyone closely associated with
25 you ever been arrested for a crime?

1 THE JUROR: I had D.W.I. in 1981.
2 THE COURT: Where?
3 THE JUROR: New York.
4 THE COURT: What were the results of that?
5 THE JUROR: Probation.
6 THE COURT: That's not going to affect your
7 deliberation?
8 THE JUROR: No.
9 THE COURT: You don't hold that against the police
10 or D.A.?
11 THE JUROR: No.
12 THE COURT: Any reason you couldn't be fair and
13 impartial in this case?
14 THE JUROR: No reason.
15 THE COURT: Questions? Pass for cause?
16 MS. HOLTHUS: Back home, is that New York.
17 THE JUROR: Yes.
18 MS. HOLTHUS: Pass for cause.
19 THE COURT: Questions?
20 BY MR. ORAM:
21 Q. When you were asked if you could be fair you kind
22 of hesitated a little bit. Was that just you were thinking
23 about it, or is there some hesitation in your mind?
24 A. I can weigh all the factors.
25 Q. Are you a little bit concerned just because of

1 what you heard so far, there's going to be allegations of
2 sexual assault against children?
3 A. Yes, I understand what it is about, yes.
4 Q. You still think you can be fair?
5 A. Yes, I can use my intellect. If they prove the
6 case.
7 Q. If they don't prove the case?
8 A. I can use it either way. I'll make my own
9 decision.
10 Q. You'll listen to other jurors?
11 A. I would weigh everything equal.
12 Q. I know your son is now grown. Was he ever
13 deceptive with you when he was young?
14 A. No. Never had a problem.
15 Q. Pretty straight shooter?
16 A. He was very good boy. Better than me probably.
17 Q. Can you look at him and promise him a fair trial?
18 A. Yes, I could.
19 MR. ORAM: Pass for cause.
20 THE COURT: State can exercise its next peremptory
21 challenge.
22 MS. PETERSON: State would thank and excuse Juror
23 Number 151, Miss Drenske.
24 THE COURT: Please report back to Room 1013.
25 THE CLERK: Erika Geiser.

1 THE COURT: How long you been in Las Vegas?
2 THE JUROR: 17 years.
3 THE COURT: What do you do for a living?
4 THE JUROR: Vice president of marketing and
5 development for Christopher Homes.
6 THE COURT: Are you married?
7 THE JUROR: Yes.
8 THE COURT: What does your husband do?
9 THE JUROR: Works at Southwest Gas.
10 THE COURT: Children?
11 THE JUROR: Two.
12 THE COURT: Not old enough to work?
13 THE JUROR: No.
14 THE COURT: Have you ever been in the military?
15 THE JUROR: No.
16 THE COURT: Are you acquainted with anybody in law
17 enforcement?
18 THE JUROR: No.
19 THE COURT: Ever been a victim of a crime?
20 THE JUROR: No.
21 THE COURT: You or anyone closely associated with
22 you ever been arrested for a crime?
23 THE JUROR: No.
24 THE COURT: Every serve on a jury before?
25 THE JUROR: Yes.

1 THE COURT: You deliberated a case?
2 THE JUROR: No.
3 THE COURT: You understand if you're picked as a
4 juror I'll instruct you what the law is on the case, do you
5 understand that?
6 THE JUROR: Yes.
7 THE COURT: You'll follow my instructions?
8 THE JUROR: Yes.
9 THE COURT: One of my instructions would be Mr.
10 Polk is here by what we call an information, it's a mere
11 charging document. The clerk will read the information to the
12 jury, but you've got to understand it's a mere charging
13 document and not evidence in this case, do you understand that?
14 THE JUROR: Yes.
15 THE COURT: It's encumbent upon the State of
16 Nevada to prove Mr. Polk guilty beyond a reasonable doubt. He
17 sits here with the presumption of innocence. Knowing that lot
18 of people expect and think a defendant has to testify, that's
19 not the rule of law, I don't know if he is or not, that doesn't
20 matter. I'm talking about the instruction that a defendant
21 doesn't have to say anything in court. Mr. Oram made that
22 perfectly clear, do you understand that?
23 THE JUROR: I do.
24 THE COURT: You're not to think anything bad about
25 that, okay?

1 THE JUROR: Okay.
2 THE COURT: Any reason you couldn't be a fair and
3 impartial juror in this case?
4 THE JUROR: No.
5 THE COURT: Questions?
6 BY MS. PETERSON:
7 Q. What are the ages of your two kids right now?
8 A. Six and three.
9 Q. And you did say you were on a jury before but you
10 didn't deliberate?
11 A. Yes.
12 Q. Was the jury here in Las Vegas?
13 A. Yes.
14 Q. Was it a criminal or civil case?
15 A. It was civil. The judge dismissed the case.
16 Q. That's why you didn't deliberate?
17 A. Correct.
18 Q. Did you hear any evidence in that case?
19 A. Yes.
20 Q. So you began but didn't get to finish?
21 A. Yes.
22 Q. This is a criminal case, it's a different burden
23 of proof, the State has to prove beyond a reasonable doubt, not
24 beyond all doubt, do you understand the difference?
25 A. Yes.

1 MS. PETERSON: Pass for cause.
2 THE COURT: Questions?
3 BY MR. ORAM:
4 Q. Your two children, are they boys or girls?
5 A. The six-year-old is a boy and the girl is three.
6 Q. You don't think that's going to play on your mind
7 as you hear this case?
8 A. I have children, I'm a mom and a parent, but I
9 feel I can listen to evidence and then make a decision based on
10 the evidence.
11 Q. Are you a fair minded person in your opinion?
12 A. Yes.
13 Q. You work for Christopher Homes?
14 A. Yes.
15 Q. What area again?
16 A. I'm a Vice President of the company. Vice
17 President in marketing and product development.
18 MR. ORAM: Pass for cause.
19 THE COURT: Defense can exercise its next
20 peremptory challenge if it sees fit.
21 MR. ORAM: We'd like to thank and excuse Badge
22 Number 146, Mr. Murphy.
23 THE COURT: Please report back to Room 1013.
24 THE CLERK: Jennifer O'Brien.
25 THE COURT: How long have you been from Las Vegas?

1 THE JUROR: Two years.
2 THE COURT: Where did you come from?
3 THE JUROR: California.
4 THE COURT: What did you do in California?
5 THE JUROR: I was a courtesy clerk at Raley's.
6 THE COURT: What do you do now?
7 THE JUROR: I'm a lead at Merk Medco.
8 THE COURT: Are you married?
9 THE JUROR: No.
10 THE COURT: Children?
11 THE JUROR: No.
12 THE COURT: Military?
13 THE JUROR: No.
14 THE COURT: Do you know anybody in law
15 enforcement?
16 THE JUROR: No.
17 THE COURT: Ever been a victim of a crime?
18 THE JUROR: No.
19 THE COURT: You or anyone closely associated with
20 you ever been arrested for a crime?
21 THE JUROR: No.
22 THE COURT: Ever serve on a jury?
23 THE JUROR: No.
24 THE COURT: Any reason you couldn't be. . .
25 THE JUROR: No.

1 THE COURT: Questions?
2 BY MS. PETERSON:
3 Q. You said you were a lead at Merk Medco. What is a
4 lead?
5 A. We have the people that do the work, I'm there not
6 as a supervisor but as a step-between on the floor where the
7 supervisors deal with the paperwork, hiring and firing.
8 Q. Do you oversee anybody? Do you have any employs
9 who respond directly to you?
10 A. I'm sort of the liaison between the employees and
11 the supervisors. The supervisors are directly involved.
12 Q. Do you ever resolve disputes that might happen?
13 A. No.
14 Q. What made you move out here to Las Vegas?
15 A. My mom was here.
16 MS. PETERSON: Pass for cause.
17 THE COURT: Questions?
18 BY MR. ORAM:
19 Q. You have no problems with any of the
20 Constitutional problems we talked about?
21 A. No.
22 Q. You've heard about the word "confession"?
23 A. Yes.
24 Q. Somebody in any catalog, not talking about the
25 facts of this case, have you ever heard of somebody saying they

1 did something that, in essence, they didn't do?
2 A. Yes.
3 MR. ORAM: Pass for cause.
4 THE COURT: State can exercise next peremptory if
5 it sees fit.
6 MS. PETERSON: We'll waive our next peremptory.
7 THE COURT: Defense can exercise --
8 MR. ORAM: Your Honor, defense would like to thank
9 and excuse Miss Calhoon.
10 THE COURT: Please report back to Room 1013.
11 THE CLERK: Robin Crawley.
12 THE COURT: How long have you been in Las Vegas?
13 THE JUROR: Almost 13 years.
14 THE COURT: What do you do for a living?
15 THE JUROR: I work for a wholesale grocer,
16 supervisor, I've been with them 19 years.
17 THE COURT: Are you married?
18 THE JUROR: No.
19 THE COURT: Children?
20 THE JUROR: Yes, I have a ten-year-old son.
21 THE COURT: Have you ever been in the military?
22 THE JUROR: No.
23 THE COURT: Acquainted with anybody in law
24 enforcement?
25 THE JUROR: A lot of people. My brother-in-law is

1 secret service, my best girlfriend is undercover. I used to
2 work at two police departments in Florida.
3 THE COURT: What did you do?
4 THE JUROR: At Lighthouse Pointe Police Department
5 I was a station house officer, I processed and fingerprinted
6 prisoners.
7 THE COURT: You were a civil employee?
8 THE JUROR: Yes. And at Boca Raton Police
9 Department I did paperwork.
10 THE COURT: In Florida?
11 THE JUROR: Yes.
12 THE COURT: The fact you know some police officers
13 and you were in a civil division or civil employee, is that
14 going to affect your deliberation in this case?
15 THE JUROR: No.
16 THE COURT: You understand you're not to give
17 greater or lesser weight to a police officer's testimony
18 because they are a police officer, do you understand that?
19 THE JUROR: Yes, sir.
20 THE COURT: Have you ever been a victim of a
21 crime?
22 THE JUROR: Yes. My brother's girlfriend took her
23 car and was ramming me. I was in the car and she took a U-Haul
24 truck and started ramming me. She was a violent person.
25 THE COURT: Had something against you or

1 something?

2 THE JUROR: Brother/sister.

3 THE COURT: Trying to take her anger out on you?

4 THE JUROR: Yeah.

5 THE COURT: What happened to that case, do you

6 know? Did you ever have to appear in court?

7 THE JUROR: I got a T.P.O. against her.

8 THE COURT: You got a T.P.O. against her and

9 that's it?

10 THE JUROR: Yes.

11 THE COURT: That's not going to affect your

12 deliberation?

13 THE JUROR: No.

14 THE COURT: You or anyone closely associated with

15 you ever been arrested for a crime?

16 THE JUROR: No, sir.

17 THE COURT: Any reason you couldn't be fair and

18 impartial?

19 THE JUROR: No.

20 THE COURT: Questions? Pass for cause?

21 MS. PETERSON: Pass for cause.

22 THE COURT: Questions?

23 By MR. ORAM:

24 Q. Can you be fair?

25 A. Yes.

1 Q. If I don't get out of my chair that means it's
2 fair. You can be fair with no problems?
3 A. Yes.
4 MR. ORAM: Pass for cause.
5 THE COURT: State can exercise its 7th peremptory
6 if it sees fit.
7 MS. PETERSON: We'll waive or 7th.
8 THE COURT: Thank you. Defense can exercise its
9 next peremptory if it sees fit.
10 MR. ORAM: Court's indulgence.
11 Your Honor, with regard to the 7th, the defense
12 would waive on their 7th.
13 THE COURT: State can exercise its 8th and final
14 peremptory if it sees fit.
15 MS. PETERSON: We'll waive our 8th, Judge.
16 THE COURT: Defense can exercise its 8th and final
17 peremptory if it sees fit.
18 MR. ORAM: Court's indulgence.
19 With regard to the 8th, Your Honor, defense will
20 waive it.
21 THE COURT: Thank you, Mr. Oram.
22 We are going to have one alternate juror. The
23 clerk will call one alternate juror, please.
24 THE CLERK: Linnet Brock.
25 THE COURT: How long you been in Las Vegas?

1 THE JUROR: Ten months.
2 THE COURT: Where do you come from?
3 THE JUROR: Southern California.
4 THE COURT: What did you do there as far as work?
5 THE JUROR: I worked for an insurance company.
6 THE COURT: What do you do here?
7 THE JUROR: Insurance company.
8 THE COURT: Are you married?
9 THE JUROR: Yes.
10 THE COURT: What does your husband do?
11 THE JUROR: He's a police officer.
12 THE COURT: What's his name?
13 THE JUROR: Mike Brock.
14 THE COURT: What division is he in?
15 THE JUROR: He's just a patrol officer.
16 THE COURT: The fact your husband is a police
17 officer, is that going to affect your deliberations?
18 THE JUROR: No.
19 THE COURT: You understand you're not to give
20 greater or lesser weight to a police officer's testimony
21 because they are a police officer, do you understand that?
22 THE JUROR: Yes.
23 THE COURT: Have you ever been in the military?
24 THE JUROR: No.
25 THE COURT: Do you have kids?

1 THE JUROR: No.
2 THE COURT: Have you ever been the victim of a
3 crime?
4 THE JUROR: No.
5 THE COURT: You or anyone closely associated with
6 you ever been arrested?
7 THE JUROR: No.
8 THE COURT: Any reason you couldn't be fair and
9 impartial?
10 THE JUROR: No.
11 MS. PETERSON: Couple questions.
12 Q. Do you understand you're going to be an alternate
13 juror in the case. That means if something happens to one of
14 the other jurors you're going to be called to serve.
15 Are you going to be able to listen to everything
16 and pay close attention to it even though you might not be able
17 to serve as a juror but you might be called?
18 A. Yes.
19 Q. And your husband Officer Brock, did you know any
20 of the officers that we mentioned?
21 A. No, I didn't.
22 MS. PETERSON: I'll pass for cause.
23 THE COURT: Questions.
24 MR. ORAM: A few questions.
25 Q. Your husband, how long has he been a Metro

1 officer?

2 A. Just one year.

3 Q. Is that why you moved out here?

4 A. Yes.

5 Q. Does he bring his work home?

6 A. If it's a bad night he'll talk to me about it.

7 Q. Does he ever have a good night?

8 A. Yes.

9 Q. In Las Vegas?

10 A. Yes.

11 Q. Do you think you'll be fair?

12 A. Yes.

13 Q. Even though you're husband is a police officer, if

14 you sat on a jury, any case you can think of, if you returned a

15 verdict of not guilty do you think that would cause friction at

16 the home with your husband saying what did you do, we arrested

17 somebody and --

18 A. No.

19 Q. No? You can consider everything equally, there

20 would be no bias in your mind?

21 A. Right.

22 Q. Can you give equal consideration to all three

23 counts here?

24 A. Yes.

25 MR. ORAM: Pass for cause.

1 THE COURT: Any preempt on behalf of the State?
2 MS. PETERSON: No, we'll waive it.
3 MR. ORAM: Waive, Your Honor.
4 THE COURT: That constitutes the jury. Ladies and
5 gentlemen behind the railing, thank you so much. Please report
6 back to Room 1013.
7 I'm going to ask the clerk to swear in the jury.
8 I'll swear the alternate juror in separately.
9 Could the jury please stand up.
10
11 (Whereupon, the jury was duly sworn.)
12
13 THE COURT: Could you please stand up and raise
14 your right hand and be sworn.
15
16 (Whereupon, the alternate juror was duly sworn.)
17
18 THE COURT: Ladies and gentlemen, I should read
19 this to you, you're admonished no juror may declare to a fellow
20 juror any facts relating to this case as of his own knowledge.
21 If any juror discovers during the trial or after the jury has
22 retired that he or any other juror has personal knowledge of
23 any fact in controversy in this case, please disclose that
24 situation to me in the absence of the other jurors.
25 This admonition means, basically, if you learn

1 during the trial you are acquainted with the facts of this case
2 or the witnesses and you've not previously told me of the
3 relationship, you must disclose that fact to me. You
4 communicate to me by way of my bailiff Geno.
5 I'm going to say a few words about your conduct as
6 jurors. First, do not talk to each other about this case or
7 about anyone who has anything to do with it until the end of
8 the case when you go the jury room to decide on your verdict.
9 Second, do not talk with anyone else about this
10 case or about anyone who has anything to do with it until the
11 trial has ended and you have been discharged as jurors.
12 "Anyone else" includes members of your family and your friends.
13 You may tell them that you are a juror but don't tell them
14 anything about the case until after you have been discharged by
15 me.
16 Third, do not let anyone talk to you about the
17 case or about anyone who has anything to do with it. If
18 someone should try to talk to you please report that to me
19 immediately.
20 Fourth, during the course of this trial, attorneys
21 for both sides and all court personnel other than the bailiff
22 Geno are not permitted to converse with members of the jury.
23 These individuals are not being anti-social, they are bound by
24 ethics and the law not to talk to you. Do not -- to do so
25 might contaminate the verdict, so don't hold that as an affront

1 if you want to say hello to Miss Peterson or Mr. Oram, don't
2 hold that as affront, they don't want to curry favor with the
3 jury.
4 Fifth, do not read any news story or articles or
5 listen to radio reports about the case or anybody that has
6 anything to do with it.
7 Six, please do not do any research, such as
8 consulting dictionaries, going on-line or other reference
9 materials and do not make any investigation about the case on
10 your own. You can individually take notes but don't let that
11 distract you from what you hear from our witness stand.
12 Seventh, if you need to communicate with me,
13 simply give a signed note to our bailiff Geno and he'll give it
14 to me.
15 Eighth, do not make up your mind about what the
16 verdict should be until after you have gone to the jury room to
17 decide this case and you and your fellow jurors have discussed
18 the evidence. And please keep an open mind until then.
19 The clerk will read aloud the information and the
20 plea that was made thereto by the defendant.
21 Miss Clerk.
22 THE CLERK: Case No. C 166490, Department No. 6,
23 docket B.
24 Second amended information, filed in open court
25 January 7, 2002, by Shirley Paraguirre, clerk.

1 State of Nevada, plaintiff, versus Renard Truman
2 Polk, defendant. State of Nevada, County of Clark. Stewart L.
3 Bell, district attorney within and for the County of Clark,
4 State of Nevada, in the name and by the authority of the State
5 of Nevada, informs the Court that Renard Truman Polk, the
6 defendant above named, having committed the crime of sexual
7 assault with a minor under 14 years of age, felony NRS 200.364,
8 200.366, on or between 1998 and March 12, 1999, within the
9 County of Clark, State of Nevada, contrary to the form, force,
10 and effect of statutes in such cases made and provided and
11 against the peace and dignity of the State of Nevada: Count I,
12 did on or about January 1, 1999, and January 31, 1999, then and
13 there wilfully, unlawfully, feloniously sexually assault and
14 subject Jahala Chatman, a female child under 16 years of age,
15 to sexual penetration, to wit, anal intercourse, by inserting
16 his penis into the anal opening of said Jahala Chatman against
17 her will or under conditions which the defendant knew or should
18 have known the said Jahala Chatman was mentally or physically
19 incapable of resisting or understanding the nature of the
20 defendant's conduct.
21 Count II, did on or about October 14, 1998, and
22 March 12, 1999, then and there wilfully, unlawfully,
23 feloniously sexually assault and subject Anna Polk, a female
24 child under 16 years of age, to sexual penetration, to wit:
25 Anal intercourse, by inserting his penis into the anal opening

1 of said Anna Polk against her will or under conditions which
2 defendant knew or should have known that the said Anna Polk was
3 mentally or physically incapable of resisting or understanding
4 the nature of Defendant's conduct.
5 Count III, on or about March 12, 1999, then and
6 there wilfully, unlawfully, feloniously sexually assault and
7 subject Anna Polk, a female child under 16 years of age, to
8 sexual penetration, to wit, anal intercourse, by inserting his
9 penis into the anal opening of the said Anna Polk against her
10 will or under conditions which defendant knew or should have
11 known that the said Anna Polk was mentally or physically
12 incapable of resisting or understanding the nature of
13 Defendant's conduct.
14 Stewart L. Bell, District Attorney, by Mary Kay
15 Holthus, Deputy District Attorney, to which the defendant has
16 entered pleas of not guilty.
17 THE COURT: Thank you, Miss Clerk.
18 That completes the reading of the information.
19 What we are going to do now is take our lunch break, be back
20 and hear opening statements and then the State will present
21 witnesses.
22 That being said, it's very important before every
23 recess I read to you this admonition, and take it serious, it
24 causes lots of problems if you don't listen to me. During this
25 recess it is your duty not to converse among yourselves or with

1 anyone else on any subject connected with this trial or read,
2 watch or listen to any report or commentary on the trial by any
3 person connected with the trial or any medium of information,
4 including without limitation, newspaper, television, radio and
5 you are not to form or express an opinion on any subject
6 connected with this trial until the cause is finally submitted
7 to you.
8 During the recess you can go out and talk about
9 the weather or whatever, but don't talk about this trial and
10 don't form or express any opinion about this trial until you're
11 in the jury deliberation room. Of course, don't read or why
12 anything in the newspaper.
13 That being said, 1:30 we'll be back. I know you
14 got things to do so we'll see everyone back at 1:30. All
15 recesses just wait outside and don't come in individually.
16 Wait outside and the bailiff will bring you in all together.
17 That being said we'll be in recess until 1:30.
18
19
20
21 Pam Mercer
22
23
24
25

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
JURY TRIAL
VOL. II

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on January 7, 2002
At 9:30 a.m.

APPEARANCES:

For the State: TAMMY PETERSON, ESQ.
MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
520 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

1

2 INDEX OF WITNESSES

3 MILLER HEARING

4

1 Las Vegas, Nevada, January 7, 2002.
2
3 * * * * *
4 THE COURT: This is outside the presence of the
5 jury. What about this witness, the allegation?
6 MS. PETERSON: Judge --
7 MS. HOLTHUS: What we've talked about doing in
8 terms of time, we have the three victims -- two victims and a
9 sister and then the aunt. They all would be relevant to these
10 accusations.
11 THE COURT: We have four witnesses?
12 MS. HOLTHUS: I don't know if Mr. Oram is going to
13 want to go that far or not. I've told him what they have told
14 us so far. I'm assuming we can put them up and he can get
15 right to the heart of his questions.
16 THE COURT: Mr. Oram?
17 MR. ORAM: I'll be very quick.
18 THE COURT: You want all four witnesses?
19 MR. ORAM: They informed me about the aunt; I
20 believe she told me she has some knowledge they were false.
21 MS. PETERSON: I can tell you the substance of what
22 we are talking about.
23 THE COURT: I don't want to waste a lot of time, I
24 just want to get to the hearing and we'll discuss it.
25 Call your first witness. Who do you want?

1 MS. PETERSON: It's really your witness.
2 MR. ORAM: Let's put them on in order. Jahala.
3 MS. PETERSON: I'm sorry, there's a witness in
4 here, Anna Edwards, she's a potential witness in this case. We
5 are going to be invoking the exclusionary rule.
6 THE COURT: Any and all witnesses are excluded
7 from the courtroom and admonished not to discuss your
8 testimony. Please wait outside, you might be called as a
9 witness.
10 You're Jahala?
11 THE WITNESS: Jahala.
12 THE COURT: The jury is not here yet but we need
13 to put something on the record regarding some issue before the
14 jury comes in. So we are going to swear you in and there's
15 going to be a few questions they are going to ask you.
16 Please raise your right hand and be sworn by the
17 clerk.
18
19 (Whereupon, the witness was duly sworn.)
20
21 THE COURT: Have a seat. Would you set the
22 microphone for her, Mr. Bailiff.
23 I'd like to you state your name and spell your
24 first name and your last name.
25 THE WITNESS: Now what?

1 THE COURT: State your name and spell your first
2 name and spell your last name.
3 THE WITNESS: Okay, Jahala Chatman, J-a-h-a-l-a,
4 C-h-a-t-m-a-n.
5 THE COURT: How old are you?
6 THE WITNESS: Fifteen.
7 THE COURT: Do you go to school now?
8 THE WITNESS: Yes.
9 THE COURT: Mr. Oram is going to ask you a few
10 questions.
11
12 (DIRECT EXAMINATION)
13
14 Q. (By Mr. Oram) can I call you Jahala, is that okay?
15 A. Yes.
16 Q. I want to ask you about an incident that occurred
17 a little while ago with -- you're in foster care, correct?
18 A. Yes.
19 Q. Does your foster parents have a friend that made
20 some comments to you?
21 A. No.
22 Q. Is there somebody who told you, and I hate to use
23 this language, that he wanted to touch your breasts?
24 A. That wasn't my foster home where I am right now,
25 that was my old one.

1 Q. How long ago did that occur?
2 A. That was a year ago when we was in Pamona; we in
3 L.A. now.
4 Q. So sometime in 2001?
5 A. Yes. She was our legal guardian.
6 Q. Do you remember the person's name?
7 A. Bill.
8 Q. What did he say to you?
9 A. I asked him if I can flip the chicken. He said if
10 he can touch my tittie.
11 Q. Was that the extent of it?
12 A. That was it. And I told my sister.
13 Q. Did he actually touch you?
14 A. No.
15 Q. I also want to ask you about a Darrell and Dorian,
16 do you know who they are?
17 A. Those are my cousins.
18 Q. Did -- let's use Dorian first. Did he ever touch
19 you inappropriately?
20 A. No, he didn't.
21 Q. Never?
22 A. Never.
23 Q. How about Darrell?
24 A. No.
25 Q. Neither one of them ever touched you?

1 A. No.
2 Q. Did you ever tell Jamila, that's your sister,
3 right?
4 A. Yes.
5 Q. Did you ever tell her that the guy Bill, the guy
6 at the barbecue, that he actually touched you? Did you ever
7 tell her that?
8 A. No, I did not.
9 Q. Dorian and Darrell never touched you, and neither
10 did Bill?
11 A. No.
12 MR. ORAM: Nothing further.
13 THE COURT: Do you have anything?
14 MR. ORAM: I'm sorry, Jason, your cousin, did he
15 touch you?
16 A. Yes.
17 Q. What did he do?
18 A. He stuck his finger in me.
19 Q. When did this happen?
20 A. A long time ago, I don't know. When I was in Las
21 Vegas. When I was like 12.
22 Q. Did that cause any bleeding?
23 A. No.
24 Q. Cause any pain?
25 A. Yeah.

1 Q. Did you ever report that?
2 A. Yeah.
3 Q. To who?
4 A. My grandma.
5 Q. And what happened?
6 A. She believed me, but her momma -- Jason's momma
7 and my other Auntie didn't, but they didn't do nothing about
8 it. They just told him to stay away from me.
9 MR. ORAM: Nothing further.
10 THE COURT: Anything?
11 MS. PETERSON: Nothing, Judge.
12 THE COURT: Thank you, Jahala, we'll call you back
13 in a little while. Would you please go with Gino, the bailiff.
14 MR. ORAM: Jamila Chatman.
15 THE COURT: Who is Jamila?
16 MS. PETERSON: Jamila is the oldest sister.
17 THE COURT: I'd like to you remain standing up over
18 there. I'd like to you raise your right-hand and be sworn by
19 the clerk.
20 (Whereupon, the witness was duly sworn.)
21
22 THE COURT: Again, this is outside the presence of
23 the jury. We need just a little information from you about
24 what happened. Would you please state your name and spell your
25 first and last name.

1 THE WITNESS: My name is Jamila Chatman, J-
2 a-m-i-l-a, Chatman, C-h-a-t-m-a-n.
3 THE COURT: What is your relationship to Jahala?
4 THE WITNESS: My sister.
5 THE COURT: Your younger sister?
6 THE WITNESS: Yes.
7 THE COURT: How old are you?
8 THE WITNESS: Sixteen.
9 THE COURT: All right. Mr. Oram
10
11 DIRECT EXAMINATION
12
13 Q. (By Mr. Oram) Do you mind if I call you Jamila?
14 A. I don't mind.
15 Q. Did you talk to Jahala about a guy named Bill?
16 A. Yes. My recent guardian?
17 Q. The one in Pamona?
18 A. Yes.
19 Q. What did you learn from Jahala about Bill?
20 A. What did she tell me about Bill?
21 Q. Yes.
22 A. She told me he touched her chest.
23 Q. She actually said he touched her?
24 A. Yes. I was there.
25 Q. You saw him touch her?

1 A. Yes, we were in Las Vegas, we were visiting out
2 here and I seen -- we were by a grill and he called her over
3 there and he touched her chest. It was in July of last year.
4 Q. What did she do when that happened?
5 A. She came -- she moved his hand and she said-- she
6 called me because they had a backyard and she pulled me over to
7 the other side and told me what happened. Even though I seen
8 it, she asked me, "Did you see it?" And I told her no, but I
9 still seen it.
10 Q. Was that the only thing in regard to Bill?
11 A. Yes, for her.
12 Q. Was there something with you?
13 A. Yes.
14 Q. How about, and I'm talking about Jahala or Anna
15 now. How about Dorian and Darrell, do you know who they are?
16 A. Yes.
17 Q. Did either Anna or Jahala ever indicate to you
18 they'd been sexually assaulted?
19 A. Anna did.
20 Q. Said Dorian?
21 A. Touched her.
22 Q. How about Darrell?
23 A. Both, Dorian and Darrell.
24 Q. Do you know who Jason is?
25 A. My cousin?

1 Q. Yes.
2 Did you ever hear from Jahala or from Anna
3 anything in regard to Jason?
4 A. Yes. Jason, while we were living with my
5 grandmother, Jason and my aunt was living with my grandma too.
6 And she said her son had finger-banged her.
7 Q. With regard to Anna and Jahala, did they ever come
8 to you at some later point and tell you they had made up
9 stories regarding either Jason or Bill or Darrell or Dorian?
10 A. No, we haven't -- like, we haven't talked about
11 it, we don't really talk about that stuff.
12 MR. ORAM: Nothing further.
13 THE COURT: Anything?
14 MS. PETERSON: No, Judge.
15 THE COURT: Thank you so much. Why don't you
16 follow the bailiff. If we need you we'll call you a little
17 later.
18 MR. ORAM: Anna.
19 THE COURT: We just have a few questions to ask
20 you before the jury comes in, Anna.
21
22 (Whereupon, the witness was duly sworn.)
23
24 THE COURT: Have a seat.
25 I'd like to you state your name and spell your

1 last name.

2 THE WITNESS: My name is Anna, last name P-o-l-k.

3 THE COURT: All right

4

5 DIRECT EXAMINATION

6

7 Q. (By Mr. Oram) Anna, do you mind if I call you

8 Anna?

9 A. No.

10 Q. Is it okay?

11 A. Yes.

12 Q. Anna, do you know a man named Bill who may have

13 been around while you were in Pamona, California?

14 You have to say yes or no?

15 A. No, I don't remember.

16 Q. You don't remember a Bill?

17 A. No.

18 Q. Did you ever talk to Jamila or Jahala regarding

19 Bill?

20 A. Oh, yes, I know who you're talking about now, yes.

21 Q. You did talk to them?

22 A. Yeah.

23 Q. What did Jahala tell you about Bill?

24 A. That he used to say nasty stuff to her.

25 Q. Did she ever indicate that he touched her?

1 A. No.
2 Q. How about Jamila?
3 A. Yeah, she told me he touched her.
4 Q. So Jamila indicated that she had been touched by
5 Bill, correct?
6 A. Yes.
7 Q. How about Jason, your cousin, do you know him?
8 A. Yes.
9 Q. Did he ever come near you?
10 A. No.
11 Q. I need to go back. Did Bill ever bother you at
12 all?
13 A. No.
14 Q. And Jason never touched you, he's never hurt you
15 in any way?
16 A. No.
17 Q. How about Darrell and Dorian?
18 A. I don't remember them.
19 Q. You don't remember them?
20 A. Huh-uh.
21 Q. Do you know who I'm talking about when I say
22 Darrell and Dorian?
23 A. Yeah.
24 Q. And you don't remember whether or not they ever
25 touched you?

1 A. I only remember -- I don't remember what their
2 faces look like or nothing like that, but when my sister had
3 this thing she told me who it was.
4 MR. ORAM: Page 7.
5 I'm going to ask you if you could just very
6 quickly read to yourself from here to here.
7 A. Uh-huh.
8 Q. Have you had a chance to do that?
9 A. Yes.
10 Q. Do you remember telling the police that Dorian and
11 Darrell had done something to you?
12 A. No, I don't remember talking to nobody and writing
13 that stuff down or a tape player.
14 Q. You don't remember telling the police they had
15 done this?
16 A. No.
17 Q. Did you, when I asked you to read that portion,
18 did you read it?
19 A. Yes.
20 Q. You don't dispute that's what you said to the
21 police, do you?
22 A. I probably did, but I don't remember a police
23 asking me any questions like that.
24 Q. Here's really what my question is: You did tell
25 the police they had done something to you, right?

1 A. I don't remember.
2 Q. Do you remember reading the part where the police
3 asked you, "Has anybody else done this to you?" And you
4 indicate your cousin Darrell and Dorian?
5 A. No, I don't remember.
6 Q. You don't have any memory of saying that to the
7 police, right?
8 A. No.
9 Q. And you have no memory of them doing anything like
10 that to you, correct?
11 A. I know who they are but I don't remember nobody
12 writing that down or recording or me telling anybody that.
13 Q. Let me ask you a fresh question. Did Darrell and
14 Dorian do anything wrong to you, hurt you in any way?
15 A. Yes.
16 Q. How did they -- did they sexually assault you?
17 A. Yes.
18 Q. Both of them?
19 A. Yes.
20 Q. Did you report that?
21 A. I don't remember. I don't know.
22 Q. Do you know if Dorian or Daniel ever hurt anybody
23 else, any of your other sisters, specifically Jahala or?
24 THE COURT: You said Daniel. Darryl and Dorian?
25 MR. ORAM: I'm sorry. Darrell and Dorian, did

1 they ever do anything to your sisters Jahala and Jamila?
2 A. I don't know.
3 Q. You never talked about it with them?
4 A. No.
5 MR. ORAM: Nothing further.
6 THE COURT: Anything? Any questions by the State?
7 MS. PETERSON: Nothing, Judge.
8 THE COURT: Thank you. Please go back with the
9 bailiff.
10 Who else do you have?
11 MR. ORAM: Susan Sims.
12 THE COURT: Susan, would you please remain
13 standing and raise your right hand and be sworn. We are going
14 to ask you a few questions before the jury comes in.
15
16 (Whereupon, the witness was duly sworn.)
17
18 THE COURT: Have a seat, please and state your
19 name and spell your last name.
20 THE WITNESS: Susan Sims, S i-m-s.
21 THE COURT: Mr. Oram
22
23 DIRECT EXAMINATION
24
25 Q. (By Mr. Oram) Miss Sims, do you have constant

1 contact with Jamila, Jahala and Anna Polk?
2 A. At this present moment, no.
3 Q. When was the last time you had consistent contact
4 with them?
5 A. Say, last year. It was early last year.
6 Q. Do you know who a guy named Bill is?
7 A. Bill who?
8 Q. Bill, I don't know?
9 A. I know a lot of Bills.
10 Q. We've heard today some statements made that Bill
11 may have touched either or both Jahala and Jamila at a barbecue
12 while they were staying in Pamona, California.
13 A. Oh, I know who you're talking about. Ward. Bill
14 Ward.
15 Q. Did you ever discuss Bill Ward with Jamila, Jahala
16 or Anna?
17 A. In what way?
18 Q. With regard to any sexual nature?
19 A. Oh, no.
20 Q. They never said anything about him at all?
21 A. They never said nothing to me until the people
22 came took them out of the house. Then when I found out about
23 it is after I had -- they had stopped -- at the beginning they
24 wouldn't let me see the kids unless I had visitation rights --
25 not visitation rights, supervised. And then after I found out,

1 I was talking to the kids because they said I couldn't talk
2 about the case or anything to the kids, I could just say hi and
3 everything else. But later on I found out after I got through,
4 the judge in California stopped me from having --
5 Q. What did you find out from the kids regarding Bill
6 Ward?
7 A. The oldest one, Jamila, told me that Bill had
8 fondled with her breasts, touched her breasts. Jahala told me
9 that he asked could he touch her breasts.
10 Q. So Jamila was touched?
11 A. That's what Jamila told me. I don't know what
12 happened because I'm going to tell you the God's honest truth.
13 I've been going up there every week and I always talk to those
14 kids and those kids never mentioned anything to me until I came
15 back home that particular time before they got snatched out of
16 the house.
17 THE COURT: We need shorter answers. Get to the
18 point.
19 Q. (By Mr. Oram) did they ever tell you, any of the
20 three, that this was not true about Bill ward?
21 A. Anna and Jahala told me it wasn't the truth.
22 Q. That they had made it up?
23 A. Yes. They didn't say they made it up but they
24 said it wasn't true.
25 Q. When did they tell you that?

1 A. The courtroom, California.
2 Q. So Anna and Jahala told you that the three of them
3 had made that up?
4 A. No, they said Jamila did.
5 Q. And do you know Jason, their cousin?
6 A. Yes, that's my nephew.
7 Q. Did they ever talk about him sexually --
8 A. No.
9 Q. How about Darrell and Dorian?
10 A. That's the first time I heard.
11 Q. Today is the first time?
12 A. No, yesterday was the first time.
13 Q. Did they talk with you --
14 A. Not yesterday, was Wednesday is the first time I
15 heard.
16 Q. Did they talk to you about what Dorian and Darrell
17 had done?
18 A. I didn't hear from the kids, I heard it from a
19 grown person.
20 Q. Like a prosecutor or something?
21 A. Yeah.
22 Q. It was one of the prosecutors?
23 A. Yes.
24 Q. You never had conversations with them about
25 Darrell and Dorian?

1 A. No.
2 MR. ORAM: Nothing further.
3 THE COURT: Anything?
4 MS. PETERSON: Just to clarify. When we spoke to
5 you in our office the other day, we asked you did you ever hear
6 about Darrell and Dorian doing anything?
7 THE WITNESS: That's the time I heard about
8 Darrell and Dorian, and that's when they was playing cards and
9 this is when they was younger, not older. And this is when the
10 kids was staying on Perry Street when it happened. They was
11 playing cards and playing strip poker and the adults came in.
12 But nobody touched anybody or anything. They were just playing
13 cards when they was younger. That's what I brought up to her.
14 MR. ORAM: One quick follow-up.
15 THE COURT: Do you have any other questions?
16 MS. HOLTHUS: May I ask the questions?
17 THE COURT: Sure.
18
19 CROSS EXAMINATION
20
21 Q. (By Ms. Holthus) Did Jahala say Bill said nasty
22 things to her, or asked her about stuff?
23 A. No.
24 Q. So she never asked you anything about Bill saying
25 stuff to her?

1 A. Only thing she said, he was standing by the
2 barbecue pit saying can he feel her breast, he'll go -- she
3 asked him would you buy me some candy he said what are you
4 going to do for me? Are you going to let me feel on your
5 breast? This is what she told me.
6 Q. Did she tell you that wasn't true, that he didn't
7 really say that?
8 A. They wouldn't let me talk to them no more after I
9 found out.
10 Q. So Jahala never said it wasn't true?
11 A. She didn't say it wasn't true and didn't say it
12 was true.
13 Q. You said Jahala and Anna said --
14 A. It was none of their doing, it was all Jamila's
15 doing.
16 Q. And what happened to Jamila wasn't true?
17 A. I don't know, I can't say. I'm just going by when
18 I was there. None of them ever came and talked to me.
19 Q. Which child said what to you about the Bill
20 allegation not being true?
21 A. Anna and Jahala.
22 Q. What specifically did Jahala say?
23 A. It wasn't their doing, it was Jamila's doing.
24 Q. What did Anna say?
25 A. Anna said the same thing, it wasn't her.

1 MS. HOLTHUS: Nothing else judge
2
3 EXAMINATION
4 Q. (By Mr. Oram) Did they tell you the reason why
5 Jamila had made stuff up?
6 A. She didn't want to be there no longer at Liz's
7 house, because Liz had too many strict rules.
8 MR. ORAM: Thank you.
9 THE COURT: That's Jamila, that's not one of the
10 victims?
11 MR. ORAM: Right.
12 THE COURT: Thank you so much.
13 Anything else?
14 MR. ORAM: No.
15 THE COURT: That was the Miller hearing. What do
16 we have here?
17 MS. PETERSON: Judge, basically, what we have here
18 is we had this hearing because the State doesn't think those
19 questions need to be asked those witnesses when they are on the
20 stand. It's about 50.090, which talks about previous sexual
21 conduct of a victim.
22 The victims in this case are protected by that
23 rape shield law, they don't have to discuss anything else that
24 may have happened to them at any time. We had this hearing
25 because there's always the potential and we wanted to make a

1 record about this, that there could have been an issue about
2 some kind of false allegation.
3 But today I think, and so you know, it's the
4 Miller case, and basically in the case the defense has to show
5 by a preponderance of the evidence that accusations were made,
6 number one; accusations were made, number two, that they were
7 false; and number three, that they are more probative than
8 prejudicial.
9 With regards to the victims in this case, there's
10 not enough on this record to say that there's any false
11 allegations that they made against anybody else. They haven't
12 shown by a preponderance of the evidence there's any false
13 allegations out there anywhere with regards to the two victims.
14 I think the only thing that was even said was with
15 regards to Jamila, who's not a victim. And that's because
16 Susan Sims said Jamila told her that Bill actually touched her,
17 Jamila. And I think it was Anna who also said Jamila came up
18 and told her that Bill touched her, Jamila. But when Jamila
19 was on the stand, she didn't say anything about Bill doing
20 anything to her. So there's been, even with Jamila, there's
21 been no showing there was any kind of false allegation by a
22 preponderance of the evidence.
23 I think with this record, Judge, certainly any
24 questions that would be asked these witnesses along this line
25 would be far more prejudicial than probative, and the State

1 would ask that you exclude any kind of testimony like we just
2 had in this hearing.
3 MR. ORAM: Very briefly. That was very
4 inconsistent. Jahala testifies the guy wanted to touch her
5 breasts at some party but didn't touch her. Jamila gets up and
6 says I saw him touch her breast, I saw it with my own eyes, but
7 he never actually did anything to me. Then Anna gets up and
8 says Jamila told me that Bill had touched her, and we are
9 finding out that Jahala, who had said this, is now claiming,
10 along with Anna, that it was Jamila who made the whole thing
11 up, she didn't want it.
12 Well, Jahala is talking about this guy touching
13 her or asking to touch her, Jamila is saying I saw it happen
14 now Anna and Jahala are saying she just didn't want to live
15 there and made this up.
16 That sounds pretty close to a false allegation. I
17 don't know how they could say it was a positive allegation. I
18 think that's something that should come before the jury to show
19 there is a preponderance of evidence that these children, for a
20 particular reason in this case, I guess they didn't want to
21 live with the foster family they were with, would make up
22 allegations specifically to get someone in trouble regarding
23 sex crimes. Because that would be a lewdness crime and it
24 appears it's falsely made.
25 With that I would ask just solely the information

1 regarding this man Bill Ward be introduced into evidence.
2 With regard to Dorian and Darrell and also Jason,
3 I don't think we can establish that it was false at this time.
4 THE COURT: I don't think you can establish
5 anything here. The Miller case says if he proposes
6 cross-examination of the complaining witness about prior false
7 sexual assault or sexual abuse allegations, he must, prior to
8 such questioning, file a written notice of intent. That was
9 waived, is my understanding.
10 MR. ORAM: That's correct.
11 THE COURT: The trial court must then order a
12 hearing outside the presence of the jury to determine the
13 propriety of such questions and the admissibility of
14 corroborative evidence. In making such a determination the
15 defendant must establish, the defendant has to establish by a
16 preponderance of the evidence the accusations or accusation
17 were in fact made, the accusations were in fact false.
18 I don't see any of this, Mr. Oram, that testimony
19 is more probative than prejudicial. It's not a type of case
20 where it's some young girl made an allegation to a school
21 teacher that my stepfather raped me but then told somebody it
22 was false. This just doesn't level to that. And you didn't
23 show by a preponderance of the evidence, and I hold it's more
24 prejudicial than probative, so I think we better forget about
25 this. This is a mishmash. This is nothing of relevance to the

1 jury or to the trier of fact. So your motion is denied.
2 MR. ORAM: Just for the record, Your Honor, I was
3 informed of this late last week. That's why the Miller motion
4 was not filed.
5 THE COURT: Yes. It was waived. We touched on
6 it, there's no merit at all in it.
7 Juror number nine states she's diabetic, needs to
8 check blood pressure every couple hours. What does she want
9 from me?
10 THE BAILIFF: She wanted me to let you know.
11 THE COURT: You let me know. I don't know what to
12 do. Tell her you let the judge know. If she has a problem,
13 raise her hand. Can she check the blood pressure while she's
14 sitting there. How does she check it?
15 THE BAILIFF: I don't know.
16 THE COURT: Let me know. We are going to take
17 five minutes then come in and have opening statements.
18
19 (Brief recess.)
20
21 THE COURT: Counsel stipulate to the presence of
22 the jury?
23 MS. PETERSON: Yes, Judge.
24 MR. ORAM: Yes.
25 THE COURT: I'm sorry for the delay, ladies and

1 gentlemen, I had a legal issue to resolve, not a factual issue,
2 so I did that. We are ready to proceed.
3 The State will present an opening statement now.
4 Miss Peterson, do you want the podium?
5 MS. PETERSON: No, Judge, that's fine.
6 THE COURT: All right.
7 MS. PETERSON: Ladies and gentlemen, this
8 defendant anally raped his two little sisters. The State's
9 going to prove in this case that this defendant, Renard Polk,
10 took one of his sisters into the bathroom, his 12-year-old, put
11 his hand around her mouth so she couldn't call out, took off
12 her clothes, put her on the floor and put his penis into her
13 anal opening.
14 The State's going to prove that this defendant
15 took his ten-year-old sister into his room, had her undress,
16 laid her on the floor and put his penis in her rectal opening.
17 The State's going to bring in those two sisters,
18 they are going to tell you what this defendant did. And the
19 State's going to prove that this defendant did that to these
20 two girls, because the State's going to bring in the
21 defendant's confession where he confessed to raping his
22 sisters. That's the word he even used, he said, "I raped my
23 little sister, "and you'll hear it. He said, "I did her in the
24 bootie."
25 This is going to be a hard case to listen to

1 because of the facts, but the State's going to prove that it
2 happened.
3 Now, you need to know a little background for the
4 case. And the State is going to be calling in a number of
5 witnesses in this case, so as I'm talking feel free to take
6 notes or write down names so that when people come in here on
7 the witness stand you'll know who they are. Let me give you a
8 little background first.
9 This case took place in about late 1998, early
10 1999. And at that time this defendant was living with his
11 family here in a house in Las Vegas. Now, there are about six
12 kids in the family, and the defendant was the oldest, his name
13 is Renard Polk. And then there were three girls in the family.
14 I'll come back to the girls later, but their names are Jamila
15 and Jahala and Anna. And then there were two younger boys, and
16 they all lived in this house with their grandmother, who was a
17 woman by the name of Gloria. This was a two-story house, about
18 four bedrooms in the house. The grandmother had one bedroom,
19 the defendant had another bedroom at the end of the hall, and
20 the three girls all shared a room and the two younger boys had
21 a room as well.
22 The State's going to bring in the first witness,
23 Jahala Chatman, J-a-h-a-l-a. And Jahala is 15 now, but at the
24 time when this happened she was 12 years old. And she's going
25 to tell you about a time that happened back in January of 1999

she was 12. And she'll come in here and tell you she and her sisters were in the kitchen playing. I guess specifically they were wrestling in the kitchen and the defendant came into the kitchen and started wrestling and playing with them, and the defendant actually wrestled Jahala into the downstairs bathroom. That's when the play got a little more sinister.

Because Jahala will tell you that the defendant then covered her mouth so she couldn't talk out, had her undress, put her down on her stomach, so she laid on her stomach, and he put his penis into her anal opening.

Now, Jahala is 15 now, she was 12 at the time so she's still a kid. When she gets up on the stand she's not going to say sophisticated words like penis or anal opening, she's going to tell you in her on words. She as a couple words she uses for penis, he she'll say a man's thing, doesn't always call it a penis, a man's thing, or she'll say ding-dong, that's another word she uses. She won't say anal opening, she'll say her bootie. So when she tells you what happened she'll tell you the defendant put his thing in her bootie.

And she'll tell you and the State will prove that when he did this it hurt her. And she'll tell you as she was down on the ground, when he had his hands still on her mouth it was hurting her. She'll tell you she tried to push his thing away and try to get away. When she did that she felt it and it was hard. She tried to push it away and she was able to push

1 it away. That's how she knows he didn't get it all the way in
2 her bootie.
3 Well, the defendant, after he couldn't get it all
4 the way in her bootie then, she'll tell you he licked her
5 bootie and he tried again. And she'll tell you again he tried
6 to put his thing in her bootie and again she tried to push his
7 thing away. And then she'll tell you the defendant got up and
8 sat down on the toilet and pulled her back to the toilet and
9 said relax, just act like you're taking a dump. And she'll
10 tell you that she managed to get away and managed to get
11 dressed and get out of there.
12 Now, a little while later, Jahala was in the
13 kitchen and the defendant came up to her and he said "I'm
14 sorry." And Jahala, when she was in the kitchen, she'll tell
15 you when she heard this she thought maybe it's not going to
16 happen anymore, I'm not going to say anything. So she didn't
17 tell anybody about what happened to her in January of 1999.
18 She didn't tell anybody what happened to her in January of '99
19 until March of that year. Because in March, that's when
20 everything came out.
21 The State's going to bring in another witness by
22 the name of Jamila Chatman, J-a-m-i-l-a, and she's actually the
23 oldest of the three girls. She's another sister. And Jamila
24 was the oldest of the three and Jamila is going to tell you
25 about a day in March, March 12, 1999.

1 And Jamila will tell you all six of the kids lived
2 with their grandmother, but their grandmother was sick at the
3 time and Jamila had to go to the store, she had to do chores
4 and errands. And she had to go to the store so she was going
5 the go to Albertson's, and Jahala was going to come with her.
6 And Jamila will tell you their third sister, Anna, wanted to
7 come with them too. That's the third sister in the case, Anna
8 Polk.
9 And Jamila will tell you that the three of them
10 were going to go to the store but it was the defendant who made
11 sure that Anna didn't go. And the State will prove Anna didn't
12 go to the store that day when Jamila and Jahala went to the
13 store. They left Anna there because the defendant said all
14 three of you can't go to the store, Anna needs to stay here,
15 needs to stay in the house. So Jamila and Jahala went to the
16 store. And the State is going to bring in Anna Polk to tell
17 you what happened next.
18 In March of 1999 Anna was ten years old; she's 13
19 now. Anna will tell you after her sisters went to the store
20 she was up in her room, and she'll tell you the defendant came
21 into the room and took her back to his bedroom. And she'll
22 tell you he made her undress and made her lie down on her
23 stomach on the floor. And she'll tell you that he actually
24 lifted up on her stomach so her butt was in the air so she was
25 on her knees. And she'll tell you that the defendant put his

1 penis into her anal opening.

2 And again, like her sister, Anna doesn't say words

3 like penis or anal opening. She'll tell you the word penis to

4 her it's a dick, that's what she calls it. And she'll say the

5 defendant put his dick in her butt.

6 Well, Jamila and Jahala the two sisters came back

7 from the store and when they went back into the room where Anna

8 was they found their sister Anna just crying. And they said

9 what's wrong? What's going on? And Anna didn't want to talk

10 to both Jamila and Jahala, so she talked to Jahala and Jamila

11 kind of stood outside and overheard what she was saying. And

12 Jamila overheard Anna explain what the defendant had been doing

13 to her.

14 Well, when the sisters kind of heard this they

15 knew they had to get somebody else involved; they knew they had

16 to tell somebody else. And so they called their Auntie Susan.

17 Auntie Susan is Susan Sims, and she's going to testify in this

18 case. She's currently the aunt that everybody went to when

19 they had a problem.

20 So that's what they did, they called Auntie Susan.

21 And Auntie Susan came over to the house and that's when

22 everything came out, because Auntie Susan was there. And by

23 this time it's late at night and Auntie Susan was there and the

24 grandma was there and the defendant was there and Jahala was

25 there and Jamila was there and Anna, everybody was there. And

1 they said what's going on? What's going on? And Jamila was
2 the one who said my brother's been having sex with my sister.
3 And somebody said somebody get me the phone, I'm going to call
4 the cops. That's when the defendant ran out the door and the
5 sisters didn't see him again.
6 Well, the police responded. And you'll hear
7 another witness the State is going to bring in, a man by the
8 name of Dave Dunn, a detective with Metro. Detective Dunn came
9 to the house. By this time it's like three in the morning.
10 And he talked to Anna Polk, who was still awake. And he made
11 sure she was going to go to the hospital for an examination.
12 I'll talk about that in a minute.
13 The other two girls were asleep, they were still
14 asleep or went back to sleep at this time. So Det. Dunn
15 actually came back a couple days later and interviewed them.
16 And you'll find out he actually did a tape recorded interview
17 of all three kids to try to figure out what's going on. And
18 the detective took Anna and her Auntie Susan to Sunrise
19 Hospital so Anna could get checked out there by a sexual abuse
20 doctor. This happened at Sunrise Hospital. When the detective
21 took them there the detective spoke to Anna and interviewed her
22 and arranged an exam to be done on Anna. And later on, a
23 couple days, later the detective went back to talk to Jamila
24 and Jahala, and at that time the detective made sure that
25 Jahala also got a sexual abuse exam.

1 So you're going to hear a little bit of medical
2 testimony in this case, two people you're going to hear from
3 with regards to some medical testimony. You'll hear from a
4 nurse by the name of Phyllis Suiter. Phyllis Suiter is a nurse
5 who specializes in sexual abuse cases, probably done this for
6 ten or 11 years now. And she examined Jahala and she's going
7 to give you a little background medically about this case.
8 And in the course of this case you're going to
9 learn a little bit about the anatomy, as it were, of the anal
10 opening and the anus. Phyllis Suiter is going to tell you with
11 regards to the anus, the very edge of the outside of the anus
12 is something called the external sphincter. And the external
13 sphincter is actually a muscle in the anus, it can contract,
14 that means close, or it can open, relax. It's a muscle that
15 can do both of these things. And Phyllis Suiter will tell you
16 that it's very common in cases that you don't necessarily see
17 any kind of abrasions or bruises on the external sphincter if
18 there's been any time involved. If something was painful and
19 there's been a period of time involved you don't necessarily
20 see any kind of bruises or scars or anything on the anus; that
21 the sphincter can heal in those respects. You can't always see
22 things like that. So as you might expect with regard to Jahala
23 that she felt pain and it started to hurt, there were no marks
24 later on when she's looked at about two months down the line.
25 Phyllis Suiter will tell you something else about

1 the external sphincter. She'll tell you that in cases where
2 kids have been repeatedly anally abused, they see something
3 very interesting with regards to the external sphincter. And
4 again it's because it's a muscle.
5 She'll tell you in kids who have had something
6 enter their anus, it is painful and if it continues to happen
7 the muscle kinds of learns to relax when there's any kind of
8 pressure against it. So she'll tell you in cases where kids
9 have been abused for a period of time anally, that what happens
10 is the pressure against the external sphincter actually causes
11 it to relax so it doesn't hurt anymore. And she'll tell you in
12 cases where kids have been abused for a period of time like
13 this, you actually don't see any kind of injury to the external
14 sphincter because that muscle has learned to relax so it
15 doesn't hurt.
16 So as you might expect, when Anna was examined,
17 Anna being the victim of this defendant's acts for many years,
18 Anna didn't have any kind of huge abrasions or anything that
19 had been recently caused, although the doctor will tell you
20 that he saw something that looked like a possible old healed
21 scar in her internal sphincter.
22 Now, when the detective got all the information,
23 when he interviewed Anna and Anna explained how long this had
24 been going on, and when he talked to Jahala about the one time
25 in January and when he talked the to Jamila about everything

1 that happened that night, and when he arranged for the two
2 medical exams of the two kids, you'll learn a little bit about
3 how the criminal justice system works.
4 What the detective then did is put it in a packet,
5 writes out a packet and sends it on to the District Attorney's
6 Office. And that's all the detective in this case did. And
7 it's up to the District Attorney's Office at that point to do
8 something with the case.
9 Well, a period of time had passed and, you know,
10 Detective Dunn sent that in about March of 1999. And in the
11 meantime the defendant was still around. He wasn't at the
12 house with the other kids, but Auntie Susan would see him from
13 time to time. And Auntie Susan kept trying to say you turn
14 yourself in, turn yourself in.
15 So one day in August of 1999, August 14, 1999, the
16 Las Vegas Metropolitan Police Department got a phone call from
17 the defendant saying that he wanted to turn himself in for
18 sexually assaulting his sister.
19 So you're going to hear from another witness in
20 this case, a detective by the name of Tim Monoit, Detective
21 Monoit. Now, detective Monoit at the time was in general
22 assignment, he didn't know anything about this case. He was
23 told to respond to some guy who wanted to turn himself in for
24 some case, and he'll tell you he didn't know anything about
25 this case so he tried to get a little bit of information that

1 he could, little bit of the records that he could find and they
2 just Kind of fax'd him a couple sheets with just about ten
3 lines of information on it, kind of giving names of sisters and
4 that was it. And he said he never had a chance to go talk to
5 these girls himself, so all he did was go in to see what this
6 defendant was going to say. And he sat down with this
7 defendant and this defendant said that he felt guilty about
8 molesting his sister and he wanted to turn himself in. And he
9 told Detective Monoit that he raped his little sister, that's
10 the words he used, and he told him about what he'd done to Anna
11 and what he'd done to his sister Jahala.
12 And if you have any doubt that this defendant
13 would just walk in and say this to a detective, well the
14 State's going to put that to rest. Because when Detective
15 Monoit talked to this defendant he had a tape recorder on right
16 there on the table. And the State's going to bring in that
17 tape and you're going to hear the defendant in his own voice,
18 in his own words tell you that he felt guilty about molesting
19 his little sister. You're going to hear him say, "I raped my
20 little sister Anna." You're going to hear him say, "I did her
21 in the bootie." You're going to hear him say it was so many
22 times he just can't remember them all. You're going to hear
23 him say he tried to do something with his sister Jahala and he
24 made her lie on her stomach, but he couldn't do it. And you're
25 going to hear him say these things, and the State's going to

1 bring in that tape so you can hear the defendant in his own
2 voice say what he did to these two little girls.
3 You're going to hear from a lot of witnesses in
4 this case and the State's going to bring them all in. You're
5 going to hear from the detectives who spoke to him, you're
6 going to hear from the detective who first investigated the
7 case, you're going to hear from the doctors, you're going to
8 hear from Jamila, the oldest sister. And you're going to hear
9 Jahala and Anna, they are going to come in here and tell you
10 what the defendant did to them.
11 And as you might expect, the three sisters, they
12 have different personalities, they all react differently to
13 things, they are different ages. And as you might expect it's
14 going to be hard for them to come in here and talk about this
15 because they still love their brother, in spite of what he did
16 to them.
17 But they are going to tell you what he did, and at
18 the close of all of the evidence the State's going to ask that
19 you return verdicts of guilty on all counts.
20 THE COURT: Thank you, Miss Peterson.
21 Mr. Oram, do you want to present an opening?
22 MR. ORAM: May I use the podium?
23 THE COURT: Yes.
24 MR. ORAM: Your Honor, ladies and gentlemen,
25 counsel for the State, Mr. Polk: It's true much of what the

1 State tells you, there is a confession and I think you already
2 got that idea. Usually in a trial somebody says essentially
3 the light was red, the other side says the light was green and
4 we bring a jury in and you decide, was it red, yellow, green?
5 Here it is a little different, isn't it? The
6 State has made allegations through their alleged victims that
7 some sexual assaults have occurred. To that Mr. Polk went down
8 to a police station without counsel, and he waved his right to
9 an attorney, he waved his right to remain silent, and they
10 turned on a tape recorder and he proceeded to speak to them for
11 approximately 19 pages of transcript. You're going to get to
12 hear all of it, each and every part of it.
13 He does say that he feels bad about what's taken
14 place. He says that he has raped his sister. Not his sisters,
15 says he raped his sister. And he proceeds to say much of what
16 Miss Peterson has just gotten up to and told you. He tells the
17 police he has done this with regard to Anna Polk.
18 Now, when the police ask him about Jahala, he says
19 no, that's not what happened. The police push him a little
20 farther and -- without doing anything wrong, the police officer
21 says well, what if I told you that Jahala says that you have
22 done this to her? Then he says well, maybe I tried to do this.
23 Maybe I tried. And that's what Miss Peterson was talking about
24 that he explains he tried and maybe that's what he had done.
25 One thing that you'll learn in the trial is Mr.

1 Polk looks fine. You can look at him, he wears glasses, but
2 he's not. He's not fine. You will learn he has some problems.
3 Not to the level of he doesn't understand what's happening
4 here, but he has some great difficulties.
5 Mr. Polk went to that police station saying I feel
6 bad, I want some help. Now, it is Mr. Polk's position now that
7 he's not guilty, that he hasn't done this.
8 And you'll learn -- you remember there were some
9 family meetings that were discussed by the prosecutor, and at
10 one of these family meetings you can imagine Aunt Susan was
11 very cross, very angry, as anybody would be. Here are two
12 young ladies, sisters, saying this has occurred and she was
13 understandably furious. And she became furious with Mr. Polk.
14 Mr. Polk heard this. This upset him. And it's his position he
15 believed what she said, that he had done this, and at some
16 point he decides to turn himself in and make this statement.
17 But there's some things that don't make sense
18 about the statement. And one is that if a person is going into
19 give a full confession, to say they feel bad, why did he deny
20 it? These are questions I want you to keep in mind. Why did
21 he deny that he had in any way hurt Jahala? And then when the
22 police officer says yes, but she says that you did, then he
23 changes; says well, maybe I did. I tried.
24 And it's his position the reason he has done that
25 is because he wanted, if in fact this happened, he wanted some

1 help and he wanted somebody to do something about it and the
2 best way to do it would be to go down to the police station.
3 They talked a little bit about science in the
4 opening argument. Two young ladies have said that this
5 occurred, and Mr. Polk told the police it occurred. But where
6 is the evidence that it occurred? The State sort of breezed
7 over that, said well, you're going to hear often times you
8 won't find evidence of sexual assault, you won't find any type
9 of injury. That's because when the reports came back, these
10 two young ladies were taken down by some of the best doctors we
11 have. These are very experienced doctors, they deal with
12 sexual assault. And on Jahala when the examination comes back
13 it comes back normal, nothing wrong, nothing wrong.
14 And pretty much the same thing with Anna, too,
15 there's nothing wrong. Based on that, and Renard Polk's
16 understanding, he wants you to decide. You, trial by jury of
17 his peers, for you to make the ultimate determination whether
18 the State has proved anything beyond a reasonable doubt, or
19 whether he is not guilty and has actually said something that
20 wasn't true.
21 And again, I want to reiterate that although he
22 may look very straight forward to you, he doesn't have to
23 testify, but if he does, you'll see that he's not quite
24 altogether there. So based upon what his family had said to
25 him, the anger, he went down feeling terrible, feeling really

1 bad and fully confessed to raping my little sister, not
2 sisters. And then changes it.
3 Ladies and gentlemen, keep an open mind in this
4 particular case. I would ask that you listen to the evidence
5 carefully, that you give me an opportunity to cross examine
6 people and at the end to go back together and make a just
7 decision.
8 Thank you for listening.
9 THE COURT: Thank you Mr. Oram.
10 The State will call their first witness.
11 MS. PETERSON: Thank you, Judge. The State calls
12 Detective Dave Dunn
13
14 (Whereupon, the witness was duly sworn.)
15
16 THE COURT: Please state your name and spell your
17 last name, for the record
18 .
19 THE WITNESS: David Dunn, D-u-n-n.
20 THE COURT: Ms. Peterson
21
22 DIRECT EXAMINATION
23
24 Q (By Ms. Peterson) Detective, how are you
25 employed?

1 A. Employed by Las Vegas Metropolitan Police
2 Department.
3 Q. How long have you been with Metro?
4 A. Be 34 years this March.
5 Q. Detective, are you assigned to a particular
6 division in Metro?
7 A. I am.
8 Q. What division is that?
9 A. Crimes against children.
10 Q. How long have you been in the crimes against
11 children unit as a detective?
12 A. 22 years.
13 Q. What kind of crimes do you investigate in that
14 unit?
15 A. Sexual assault.
16 Q. Of children?
17 A. Of children.
18 Q. So if there's a call that comes in about possible
19 sexual assault of a child, you might be one of the detectives
20 responding to it?
21 A. Exactly.
22 Q. I want to direct your attention now in this case
23 to March 12, 1999. Were you on duty at that time and were you
24 asked to go to a residence at 1325 Nay Court?
25 A. It was actually early in the morning, March 13th.

1 Q. Okay. When you say early in the morning, like one
2 o'clock, two o'clock?
3 A. As I recall approximately 3:30 when they called
4 me.
5 Q. So 3:30 a.m. you go out to this house on Nay
6 Court?
7 A. Yes.
8 Q. Is that here in Las Vegas, Clark County, Nevada ?
9 A. Yes, it is.
10 Q. I said house, is it actually a house?
11 A. Yes, it is, it's a residence.
12 Q. And when you got there what did you do?
13 A. I tried to ascertain what had taken place. As
14 there were no other officers there, it was a little difficult.
15 After ascertaining that the child was at Sunrise Hospital I
16 responded there.
17 Q. And you said "child." Did you have any
18 information when you went over there about what had taken
19 place?
20 A. My understanding was it was a sexual assault of a
21 ten-year-old girl.
22 Q. And did you respond then to Sunrise Hospital?
23 A. Yes, I did.
24 Q. And did you speak to a girl there?
25 A. Yes, I did.

1 Q. What was her name?
2 A. Anna Polk.
3 Q. How old was she?
4 A. Ten years.
5 Q. And when you spoke to her, is that something that
6 you do on tape or what do you usually do?
7 A. Normally, yes, we would do it on a tape. We've
8 also done it where we talk to the child first to see if they
9 are able to describe to us or tell us. And if it's something
10 where we can tape it, then we do definitely tape it.
11 Q. Detective, do you have any idea in this kind of
12 case how you approach talking to a kid about this? If you have
13 any information in your head already, what do you do with the
14 child when you go there?
15 A. Normally we ask the child, explain to the child
16 who we are. We don't walk in with our guns hanging out and
17 badges hanging out.
18 Q. Do you wear a uniform at all when you talk to
19 kids?
20 A. No.
21 Q. Wear regular clothes?
22 A. Exactly.
23 Q. Why is that?
24 A. It makes the children more comfortable and we are
25 detectives, we are made to wear nonuniforms. So once we

1 contact the child, we ask them, I do anyway, I ask them, I
2 understand that you've had a problem with someone. And if they
3 are able to indicate to me that yes, they have, then I ask who
4 that person was and what took place.
5 Q. So you never come right out and say is this what
6 was going on?
7 MR. ORAM: Objection, leading.
8 MS. PETERSON: I'm just trying to understand.
9 THE COURT: I don't think it was leading.
10 Overruled at this time.
11 Q. (By Ms. Peterson) I'm trying to understand. You
12 never come out and just say this is what I understand, you ask
13 them "are you having a problem?"
14 A. Right.
15 Q. And then you go from there, depending on what they
16 say?
17 A. Exactly.
18 Q. And did you actually talk to Anna Polk then that
19 evening?
20 A. Yes, I did.
21 Q. Did she give you some information about another
22 individual?
23 A. Yes, she did.
24 Q. And when you spoke to her did you tape record that
25 conversation?

1 A. Yes, I did.
2 Q. And what's the purpose of tape recording that
3 conversation?
4 A. It's so that I don't have to try to remember
5 everything that was said during the interview. It's down on
6 tape and it's then transcribed.
7 Q. So somebody actually will take the tape and print
8 out everything that was said?
9 A. Exactly.
10 Q. Detective, did you bring some evidence with you to
11 court today at my request?
12 A. I brought the taped statements, yes.
13 Q. Those are the micro cassettes and the taped
14 statements as well?
15 A. Yes.
16 Q. Detective, can you pull out those micro cassettes
17 that you have there.
18 Detective, I notice that you just handed me, which
19 I handed the clerk, an envelope. Is there a micro cassette in
20 that envelope?
21 A. Yes, there is.
22 Q. Why do you keep it in the envelope there?
23 A. We keep it with the case file; when its returned
24 to us from transcription we run the tape and compare it with
25 the transcription as typed.

1 Q. Did you actually do that in this case, compare the
2 tape to the transcript?
3 A. Yes, I did.
4 Q. Then you would keep the tape in that little
5 envelope as well?
6 A. That's correct, as part of the file.
7 Q. Is there information on that envelope saying who
8 it was that you interviewed with regards to what case?
9 A. Yes.
10 MS. PETERSON: For the record, I'm showing defense
11 counsel what has been marked for identification as State's 1
12 and 2.
13 Detective, I'm showing you now what's been marked
14 for identification as State's Exhibit 1. Can you tell me what
15 that is right there?
16 A. That's a transcription of the tape. When we tape
17 record a conversation we send it to transcription, they then
18 transcribe it and send it back to us in typed form.
19 Q. That's the transcript of the conversation you had
20 with Anna Polk?
21 A. That's correct.
22 Q. I'm showing you now what's been marked for
23 identification as State's Proposed Exhibit No 2. Can you tell
24 me what that is?
25 A. This is an envelope that I filled out containing

1 the micro cassette.
2 Q. And the Microcassette of the interview you had
3 with Anna Polk in the hospital that morning?
4 A. That's correct.
5 Q. That Microcassette, does that fully and accurately
6 contain the substance of your interview with Anna Polk?
7 A. Absolutely.
8 Q. Is the transcript a transcription of your entire
9 interview with Anna Polk?
10 A. Yes, it is.
11 Q. Detective, did there come a time where you went
12 ahead and interviewed some other people in this case?
13 A. Yes, I did.
14 Q. Who were those people?
15 A. Jahala Chatman
16 and Jamila Chatman.
17 Q. And when did you go ahead and interview them?
18 A. I believe it was on the 15th of March, 1999.
19 Q. Was there a reason you didn't interview them that
20 night?
21 A. Normally at that time of the morning if the kids
22 are sleeping we let them sleep, rather than waking them up and
23 get a disjointed interview.
24 Q. So you came back to interview Jamila and Jahala?
25 A. That's correct.

1 Q. And when you interviewed them, where did that take
2 place, that interview?
3 A. I'm not sure if it took place in my office. I
4 believe it took place in my office, but it could have taken
5 place at the residence also.
6 Q. Again, you would have taped that interview as
7 well?
8 A. Absolutely.
9 Q. What's the reason for that again?
10 A. Just so it's down on tape and I don't have to try
11 and remember what was said or what took place.
12 Q. When you came to court today did you bring some
13 additional evidence in this case that I asked you to bring with
14 regards to the interviews of Jamila and Jahala?
15 A. Yes.
16 Q. What did you bring to court today?
17 A. I just gave it to you, the microdissects contained
18 in the envelope. If believe it's on one cassette.
19 Q. Both interviews are on one cassette?
20 A. I believe so.
21 MS. PETERSON: For the record, I'm showing defense
22 counsel what's been marked for identification as State's
23 Proposed Exhibit 3, 4 and 5.
24 Detective, I'm showing you what's been marked for
25 identification as State's Proposed 3. Do you recognize that.

1 A. Yes, I do; an envelope filled out by me at the
2 time of the interview. And this envelope was then, along with
3 the cassette, was sent over to transcription to be transcribed.
4 Q. That Microcassette has both interviews of Jamila
5 and Jahala?
6 A. Yes, it does.
7 Q. Does it indicate that on the envelope as well,
8 says Jamila and Jahala Chatman?
9 A. That's correct.
10 Q. Showing you what's been marked for identification
11 as State's Proposed Exhibit No. 4 and No. 5, do you recognize
12 those?
13 A. Yes, I do.
14 Q. What are those?
15 A. That's the typed transcription of the taped
16 interview.
17 Q. That you did with Jamila and Jahala?
18 A. That's correct.
19 Q. When you got the tape back after transcription,
20 did you get an opportunity to listen to that tape and compare
21 it to the two interviews you had with Jamila and Jahala?
22 A. Yes, I did.
23 Q. Were they true and accurate transcriptions of the
24 tape you heard?
25 A. Yes.

1 Q. Was the tape a true and accurate relation of the
2 interview you had with Jamila and Jahala?
3 A. Yes.
4 Q. Detective, I just want to ask you a couple general
5 questions about how you go ahead and submit cases to the
6 District Attorney's Office.
7 Can you tell me what it is that you do when you
8 submit a case to the District Attorney's Office?
9 A. Normally what we do is, we are assigned a case,
10 either by the sergeant who receives it in various ways, you can
11 receive it telephonically, you can receive it as a referral
12 through one of the other people in our unit, you can receive it
13 as a referral through Child Protective Services or through the
14 uniform field division. Once we are assigned a case we
15 interview the parties concerned, victims and suspects if the
16 suspects are available, and any other parties who may have an
17 interest. Also, if the children have not been examined and
18 there is some indication there was a penetrating injury, we
19 will have the child examined at the SAINT, which is the sexual
20 abuse investigative team. We have them examined there. If
21 it's an acute situation, in other words it just happened, we
22 will have them examined at Sunrise.
23 Q. Is that one of the reasons that Anna Polk was sent
24 to Sunrise right away?
25 A. That's correct. It was within 72 hours.

1 Q. Is that one of the reasons that Jahala later on
2 was actually taken to the SAINT link that you mentioned, sexual
3 assault investigative team?
4 A. That's correct.
5 Q. Once you get all that information, interviews and
6 medical stuff, what do you do? Do you take it to the District
7 Attorney's Office or . . .
8 A. We prepare it in a form that's determined by the
9 district attorney and we submit it to screening.
10 Q. And then screening makes up their mind and tells
11 you what's going on?
12 A. That's correct. Either they will issue a warrant
13 or they request additional information or they deny it.
14 Q. When did you actually submit this case to the
15 District Attorney's Office?
16 A. I don't recall the exact date.
17 Q. Did you actually fill out a declaration in this
18 case?
19 A. Yes, I filled out a declaration.
20 Q. Would that have a date on it as to when you
21 actually filled out all the information and gave it to the
22 District Attorney's Office?
23 A. It would have been on or about the 16th of March,
24 1999.
25 Q. That's roughly when you signed it, is that right?

1 A. Yes.
2 Q. And the things I just mentioned, the interview of
3 the three kids, the two medical exams, was there anything else
4 that you had included in your packet that you sent over to the
5 District Attorney's Office?
6 A. There was, I believe, the medical exam was
7 included as well. At least on Anna.
8 MS. PETERSON: I'll pass the witness.
9 THE COURT: Thank you. Cross?
10 MR. ORAM: Briefly, Your Honor
11
12 CROSS EXAMINATION
13
14 Q. (By Mr. Oram) Detective, you were talking about
15 submitting certain people or alleged victims for medical tests,
16 correct?
17 A. Correct, yes.
18 Q. Why do you do that?
19 A. Depending on what the child indicates to us has
20 happened we will either request a medical exam or not.
21 Q. And in this particular case you requested medical
22 exams based upon conversations you had with both Jahala and
23 Anna, correct?
24 A. Correct.
25 Q. And that was based upon your experience that if

1 you send them for medical exams, then either they can get some
2 kind of treatment for injuries and also there may be
3 evidentiary value to what is found, is that correct?
4 A. Correct.
5 Q. Now, I want to ask you about the first part. The
6 first part is for injury. They are seen for injury to make
7 sure if anybody, any adult or child has suffered injuries as a
8 result of a sexual assault obviously they need medical
9 attention, correct?
10 A. Correct.
11 Q. They also may need to use that evidence in a trial
12 such as this?
13 A. That's correct.
14 Q. So, based upon your training and experience as a
15 police officer for 34 years, you decided that you would send or
16 request medical examinations of both Anna and Jahala?
17 A. Anna was done or being done at the time I arrived
18 at the hospital. The latter was requested, yes.
19 Q. And the reason you do that is because there are a
20 lot of times where there is evidence found as a result of that
21 examination, correct?
22 A. Absolutely.
23 Q. Could be semen?
24 A. Correct.
25 Q. Could be pubic hair?

1 A. Correct.
2 Q. All things that could be tested for DNA?
3 A. Correct.
4 Q. Could be signs of significant injury?
5 A. Exactly.
6 Q. When you see signs of significant injury, that
7 corroborates a victims allegation, correct?
8 A. Yes.
9 Q. So you use it, besides the point they may need
10 medical attention, you use it as an investigative tool?
11 A. Exactly.
12 Q. Because when somebody complains about suffering
13 from a traumatic sexual assault, often times you're going to
14 receive the evidence necessary to obtain a conviction, or some
15 of the evidence necessary to obtain a conviction, correct?
16 A. Possibly, yes.
17 Q. And at the time you submitted this to the District
18 Attorney's Office on the 16th of March, 1999, did you have
19 those medical results?
20 A. I believe I had the results on Anna at the time I
21 submitted it.
22 Q. But not on Jahala?
23 A. No.
24 MR. GRAM: That concludes cross-examination.
25 THE COURT: Anything else?

1 MS. PETERSON: Nothing further.
2 THE COURT: Thank you so much. You can be
3 excused.
4 Next witness?
5 MS. PETERSON: The State calls Jahala Chatman.
6
7 (Whereupon, the witness was duly sworn.)
8
9 THE COURT: Have a seat. Please state your name
10 and spell your last name, for the record; your first name also.
11 THE WITNESS: Jahala, J a-h-a-l-a, C h-a-t-m-a-n.
12 THE COURT: Miss Peterson.
13 MS. PETERSON: Thank you, Judge
14
15 DIRECT EXAMINATION
16
17 Q. (By Ms. Peterson) Jahala, can you tell me how old
18 you are?
19 A. Fifteen.
20 Q. When is your birthday?
21 A. August 28, '86.
22 Q. 1986. What grade are you in right now?
23 A. Tenth.
24 Q. Tenth grade?
25 A. Yes.

1 Q. Where do you go to school?
2 A. In Washington, in Los Angeles.
3 Q. Do you live with some of your family in Los
4 Angeles?
5 A. No.
6 Q. Who are you living with right now in Los Angeles?
7 A. My foster parents.
8 Q. And do you have any brothers or sisters?
9 A. Yes.
10 Q. Give me their names.
11 A. Renard, Richard, Javan, Jamila and Anna. And
12 Gloria.
13 Q. Gloria, is she a brand new sister?
14 A. Yes.
15 Q. How old is she, do you know?
16 A. One.
17 Q. And you mentioned a whole bunch of other names.
18 Let me go through those. Are you living with any of your
19 sisters right now?
20 A. Yes.
21 Q. Who?
22 A. Jamila.
23 Q. Is Jamila older or younger than you?
24 A. Older.
25 Q. How old is she?

1 A. A year and, like, four months. She's 16.
2 Q. Where do she go to school?
3 A. Washington.
4 Q. Goes to the same school as you do?
5 A. Uh-huh.
6 Q. Is that a "yes"?
7 A. Yes.
8 Q. Is she in a different grade?
9 A. Yes.
10 Q. What grade is she in?
11 A. Eleventh.
12 Q. You mentioned another sister, Anna?
13 A. Yes.
14 Q. And how old is Anna?
15 A. Thirteen.
16 Q. She's 13?
17 A. Yes.
18 Q. Does Anna live with you?
19 A. No.
20 Q. Where is Anna living right now?
21 A. On, like Manchester, in Crenshaw.
22 Q. Do you get to talk to Anna?
23 A. Yes.
24 Q. Is she living in another foster home there, or do
25 you know?

1 A. Yes. In a foster home.
2 Q. And then you mentioned a couple brothers, Javan
3 and Richard. Who were they?
4 A. Those are my younger brothers.
5 Q. How old are they?
6 A. Richard is seven and Javan is ten.
7 Q. Where are Javan and Richard living right now?
8 A. In a group home.
9 Q. In what state?
10 A. They in Los Angeles, but -- they in California but
11 I don't know what city it is.
12 Q. Do you ever get to talk to Javan and Richard?
13 A. Yes.
14 Q. You also mentioned another brother, Renard?
15 A. Yes.
16 Q. Do you see Renard here in the courtroom?
17 A. Yes.
18 Q. Could you point to him and tell me who he is?
19 A. Right there.
20 Q. There's two people there. Tell me.
21 A. Renard, the one with his glasses on.
22 MS. PETERSON: May the record reflect the witness
23 has identified the defendant.
24 THE COURT: The record will so reflect.
25 Q. (By Ms. Peterson) Jahala, tell me, was there a

1 time when you and Renard and Anna and Jamila and Richard were
2 all living together in Las Vegas?
3 A. Yes.
4 Q. When was that?
5 A. Two, three years ago.
6 Q. And where were you guys living, do you remember
7 the address?
8 A. 1325 Nay Court.
9 Q. Nay Court?
10 A. Yes.
11 Q. Is that here in Las Vegas, Clark County, Nevada?
12 A. Yes.
13 Q. Jahala, did there come a time where you had a
14 problem with your brother?
15 A. Which one?
16 Q. Renard?
17 A. Yes.
18 Q. Tell me a little bit about that?
19 A. What do you want to know?
20 Q. When did it happen?
21 A. When I was 12.
22 Q. When you were 12 years old?
23 A. Yes.
24 Q. Tell me what happened when you were 12?
25 A. We were all in the kitchen. It was me and Jamila

1 and Javan and Anna and we were wrestling by the table. And
2 then we were playing, he wrestled me all the way to the
3 bathroom.
4 Q. Who wrestled you all the way to the bathroom?
5 A. Renard.
6 Q. As you were playing, is that right?
7 A. Yes.
8 Q. And then what happened when he wrestled you into
9 the bathroom?
10 A. He just -- seemed like he changed. He like laid
11 me on the floor and then he had my mouth covered. I wasn't
12 screaming yet but he had my mouth covered. Then he started
13 taking off my clothes.
14 Q. Was the door open or closed?
15 A. It was closed.
16 Q. You said he had his hand on your mouth?
17 A. Yes. I was laying on my stomach.
18 Q. Do you know which hand it was he had on your
19 mouth?
20 A. His right hand, yeah.
21 Q. Which side was it coming off of you from?
22 A. I was laying this way. Our bathroom was like
23 right here, and the bathroom door and the wall, and I was
24 laying on my stomach on the floor. And he had his right hand.
25 Q. His right hand was on your mouth?

1 A. Yes.
2 Q. You said you were laying. How were you laying?
3 A. On my stomach, just flat on my stomach.
4 Q. You said your clothes were off. How did they get
5 off?
6 A. He took them off.
7 Q. What were you wearing that day?
8 A. Probably -- I don't remember. Like a pants and
9 shirt.
10 Q. What happened after he took your clothes off?
11 A. He took off his pants. He might have already had
12 his shirt off because we was wrestling, I'm not sure. And
13 boxers. Then he took out his thing.
14 Q. Okay.
15 A. Then he tried to stick it in my butt but it
16 wouldn't go because it was hurting because I guess he stuck it
17 like -- it was hurting me. He couldn't do it because -- he
18 didn't get to do it because I was, like, moving his skin,
19 moving his thing with my other hand.
20 Q. Let me back you up. You said "thing." Do you
21 know any other names for thing?
22 A. His dingie-dong.
23 Q. Have you ever heard the word "penis"?
24 A. Yes, his penis.
25 Q. Is that what we are talking about?

1 A. Yes.
2 Q. Okay. And you said that he put it in your butt,
3 is that right?
4 A. He tried to but it wouldn't go.
5 Q. Tell me how he tried to?
6 A. He was like, he was on top of me, he was trying to
7 stick it in but I wouldn't let him. It went in far enough for
8 it to hurt me but I kept slapping it, like moving his thing
9 with my hand.
10 Q. When you say you were slapping it?
11 A. I was like moving it, because I was on my stomach
12 and my hand can still reach behind my back. And I was just
13 like moving it.
14 Q. Okay. When you moved it did you touch it?
15 A. Yes.
16 Q. What did it feel like when you did that?
17 A. It was hard.
18 Q. When you moved it, then what happened?
19 A. Nothing. He just kept trying to put it in me but
20 I kept moving it.
21 Q. Did you say anything when it hurt?
22 A. Yes, I told him it hurt.
23 Q. Then what happened?
24 A. Then we got up and then he sat on the toilet and
25 he was trying -- he told me to sit on it, and I told him no.

1 And he was just act like you're taking a dump and I told him no
2 and it was over.
3 Q. And you said --I want to ask you about his exact
4 words, what he said, but I want to back up.
5 You said he sat down on the toilet?
6 A. Yes.
7 Q. Where were you?
8 A. I was over in the corner of the bathroom.
9 Q. Were your clothes on by this time?
10 A. No, I was still naked.
11 Q. What was he doing then?
12 A. He was sitting on the toilet.
13 Q. Okay. Did you notice anything about his thing?
14 A. It was standing straight up.
15 Q. What was he doing then?
16 A. Nothing. Like pulling me to, like, sit on it. I
17 was like no.
18 Q. When you said he was pulling you?
19 A. Like grab, because the bathroom, the toilet, he
20 was like he can reach me, he was just like pulling me to sit on
21 it.
22 Q. Was he using both of his hands?
23 A. Yeah.
24 Q. Where was he grabbing you?
25 A. On my arm.

1 Q. Do you remember his exact words that he said?
2 A. Yes. He said "Just act like you're taking a
3 dump."
4 Q. "Just act like you're taking a dump?"
5 A. Uh-huh.
6 Q. What did you do when he said that?
7 A. I said no, because it was hurting. I said no.
8 Q. At any time did your brother put his mouth or
9 tongue or anything on you?
10 A. When we were laying on the ground.
11 Q. Tell me about that?
12 A. I guess, because it wouldn't go in, so he licked
13 down there. But I was still on my stomach so he licked.
14 Q. Tell me, you're on your stomach?
15 A. Yeah.
16 Q. Is this after he already tried to put his thing --
17 A. Uh-huh.
18 Q. Is that a "yes"?
19 A. Yes.
20 Q. And what does he do? Does he lick -- what does he
21 lick?
22 A. I guess licking my butt, I don't know. My butt.
23 Q. I have to ask you this, was he licking, like your
24 butt cheeks or licking, like, the butthole? What was he
25 licking?

1 A. I don't even know. I don't know. I can't
2 remember. He was licking it.
3 Q. And after he licked it what did he do then?
4 A. He tried to put it back in but I kept moving it.
5 Q. Did it hurt that time?
6 A. No, because I kept moving it. He didn't get it
7 back in.
8 Q. That time he didn't even get it in the hole?
9 A. No. The first time he stuck it in where it can
10 hurt me, but he didn't get it all the way in because I was
11 moving it. He tried to, but it didn't go in because I kept
12 moving it.
13 Q. After that, is that when he was on the toilet?
14 A. Yes.
15 Q. Jahala, where was everybody else when this was
16 going on in the bathroom?
17 A. My grandma was upstairs. She was looking for me,
18 I heard her calling me. My sisters was around the house
19 calling me because they didn't know where I was. My mom was
20 halfway asleep on the couch.
21 Q. Didn't they see you go into the bathroom when
22 Renard was wrestling with you in there?
23 A. Yes.
24 Q. How do you know they didn't know where you were
25 then?

1 A. I know they didn't come in there, but afterwards
2 they told me they heard me in the bathroom.
3 Q. Did you want your brother to do those things?
4 A. No.
5 Q. How did it make you feel?
6 A. I was kind of scared, kind of hurt at the same
7 time.
8 Q. How come you were scared?
9 A. Because he was my brother.
10 Q. How come you were hurt?
11 A. Because, like I say, he was my brother and I
12 didn't think he would do something like that.
13 Q. Jahala, did your brother ever talk to you about
14 that afterwards?
15 A. Like a few weeks he told me he was sorry and he
16 wasn't going to do it no more.
17 Q. And what did you do when you heard him say that?
18 A. I just looked at him.
19 Q. Did you tell anybody about what happened that day?
20 A. Just my sister. Because they already knew because
21 they heard me in the bathroom.
22 Q. Which sister did you tell?
23 A. Anna.
24 Q. Do you know when this happened?
25 A. Like, in January 1999.

1 Q. Did there come a time when you told some adults
2 about what happened?
3 A. Uh-huh.
4 Q. Is that a "yes"?
5 A. Yes.
6 Q. Tell me who it was that you told?
7 A. My Auntie Susan.
8 Q. Who is your Auntie Susan?
9 A. She's not in here.
10 Q. Does she live here in Vegas?
11 A. Yes.
12 Q. How did you tell your Auntie Susan?
13 A. Well, afterwards my sister, she called my Auntie
14 Susan.
15 Q. Your older sister called?
16 A. Yes.
17 Q. That's Jamila?
18 A. Yes.
19 Q. How come you told your oldest sister and she
20 called Auntie Susan?
21 A. Because that day my grandma wanted us to go to the
22 store for her and we had -- Renard told all three of us didn't
23 need to go, so we just told her to stay there. And when we
24 came home Anna was crying and we asked her why she was crying.
25 MR. ORAM: Objection as to why Anna was crying.

1 THE COURT: Miss Peterson.
2 MS. PETERSON: Excited utterance, Judge.
3 THE COURT: I'm going to overrule the objection.
4 You can proceed.
5 Q. (By Ms. Peterson) When you came back and saw Anna
6 crying you asked what was wrong. What did she say?
7 A. She told us Renard was messing with her. So we
8 told -- that's when we called Auntie Sue back.
9 Q. Let me back up a little. You were saying you all
10 wanted to go to the store, is that right?
11 A. Uh-huh.
12 Q. Is that a "yes"?
13 A. Yes.
14 Q. Who ended up going to the store?
15 A. Only me and Jamila.
16 Q. Why didn't Anna go?
17 A. Renard said all three of us didn't need to go.
18 Q. And did Anna volunteer to stay back, or how was it
19 decided she would stay?
20 A. Because she was the youngest, so she just stayed.
21 Q. When you came back from the store, where was Anna
22 when you saw her?
23 A. She was in the room.
24 Q. In her room?
25 A. Our room.

1 Q. The room you all shared?
2 A. Yes.
3 Q. By the way, how many rooms were there in the
4 house?
5 A. Four.
6 Q. Whose was whose?
7 A. Me and Jamila and Anna slept in a room together.
8 Renard had his own room. My grandma had her own room and
9 Richard and Javan had their own room.
10 Q. Is this a two-story or one story?
11 A. Two-story house.
12 Q. When you came back from the store with your sister
13 Jamila, Anna was in you guys' room?
14 A. Yes.
15 Q. And do you remember her exact words that she told
16 you what was going on?
17 A. She just told me Renard was messing with her.
18 Q. And whose idea was it to call Auntie Susan?
19 A. All three of ours.
20 Q. Did Auntie Susan come over?
21 A. Yes.
22 Q. And what happened then?
23 A. She asked Anna and Anna told her.
24 MR. ORAM: Objection. Again, we are getting into
25 a lot of hearsay what Anna told her.

1 THE COURT: There's an objection.
2 MS. PETERSON: She hasn't said what it was.
3 THE COURT: He doesn't want her to say.
4 MS. PETERSON: I'll move on.
5 Auntie Susan came over. Don't tell me what she
6 said, but did she ask Anna what was going on?
7 A. Yes.
8 Q. Did Anna tell her some things?
9 A. Yes.
10 Q. Then what did Auntie Susan do?
11 A. She told my grandma.
12 Q. Then what happened?
13 A. Then we was just -- oh, they called the police.
14 They called the police.
15 Q. And what happened when they called the police?
16 A. The police came and they took Anna to the
17 hospital, I guess, and they examined her.
18 Q. And did there come a time where the police came
19 and talked to you?
20 A. No -- yes.
21 Q. Did a detective come and talk to you?
22 A. Afterwards, way afterwards.
23 Q. Couple days later?
24 A. Yeah.
25 Q. So he didn't talk to you that night?

1 A. No.
2 Q. And when he talked to you he asked you some
3 questions about what had been going on?
4 A. Yeah.
5 Q. Did he tape that conversation?
6 A. Yes, he did.
7 Q. Did he write it out?
8 A. Uh-huh -- yes.
9 Q. Did you have to have any kind of exam?
10 A. Yes, they examined me, too.
11 Q. Tell me a little bit about that.
12 A. My exam? She just asked -- they had me on a
13 machine.
14 Q. Did they have to put you on a machine?
15 A. I was laying down and they examined my vagina.
16 She didn't find anything.
17 Q. And did that happen with a nurse?
18 A. Yes, with a nurse.
19 Q. Jahala, did you have a chance to look at your
20 statement before you testified today?
21 A. Yes.
22 Q. The written one that you had?
23 A. Yes.
24 Q. Did you read it?
25 A. Yes.

1 Q. I'm going to show you what's been marked for
2 identification as Exhibit 5. Is that your statement that's
3 printed out there?
4 A. Yes.
5 Q. That's your name, Jahala Latisha Chatman?
6 A. Yes.
7 Q. That's what they wrote out when they talked to
8 you?
9 A. Yes.
10 Q. Jahala, when you were living with your grandma and
11 that night when the police came, where was your mom then?
12 A. She was in bed. I don't know where she was.
13 Q. Your mom wasn't living with you?
14 A. No.
15 Q. Do you know why?
16 A. Yes. Because she had a drug problem.
17 MR. ORAM: I'm not sure what the relevance of this
18 is, Your Honor.
19 THE COURT: She answered the question. Go ahead.
20 Proceed.
21 Q. (By Ms. Peterson) Jahala, when you talked to Anna
22 that day and then the police came, did you have any idea
23 something was going on with Anna before then?
24 A. No -- yes.
25 Q. You did have an idea?

1 A. Kind of. Sort of.
2 MR. ORAM: Your Honor, I'm going to object to
3 possible speculation, kind of, sort of.
4 THE COURT: She'll lay a foundation. How was she
5 aware of that?
6 MS. PETERSON: Thank you, Judge.
7 Jahala, I just want to ask you a couple questions
8 about, was there something you thought was suspicious.
9 A. Yes.
10 Q. Tell me about that, what you thought was
11 suspicious?
12 A. One time when we was on Perry Street our old
13 house, we were little and used to all take a bath together.
14 And I was running the water and Anna, somehow she was in the
15 bathroom by herself with Renard and we heard her crying. And
16 we asked Renard why was she crying? He said because the water
17 was too hot.
18 Q. Why did you think that was suspicious?
19 A. Because, why would she stay in water if the water
20 hot?
21 MR. ORAM: Your Honor, I would object, this is all
22 supposition.
23 THE COURT: Are you going to --
24 MS. PETERSON: I'm going to connect it later on.
25 I'll move on.

1 THE COURT: Go ahead.
2 Q. (By Ms. Peterson) Did you ever talk with Anna
3 about any of this before the police came that one day?
4 A. No, I didn't ask her about it.
5 MS. PETERSON: I'll pass the witness.
6 THE COURT: Thank you.
7 Cross-examination, Mr. Oram?
8 MR. ORAM: Yes, Your Honor.
9
10 CROSS EXAMINATION
11
12 Q. (By Mr. Oram) I can still call you Jahala?
13 A. Yes.
14 Q. If you need a break or anything just let me know,
15 okay? I'll just ask you a few questions.
16 You indicated this happened to you on one
17 occasion, is that right?
18 A. Yes.
19 Q. And that was sometime in January of 1999, is that
20 correct?
21 A. Yes.
22 Q. Are you sure of that time period?
23 A. No, not all the way. Yes, kind of.
24 Q. Approximately in that time period?
25 A. Uh-huh.

1 Q. We are not talking a year or two off, correct?
2 Sometime right around there?
3 A. Yes.
4 Q. You were wrestling with your brother?
5 A. Yes.
6 Q. And at that time it was just sort of playing
7 around wrestling, is that correct?
8 A. Yes.
9 Q. At some point you get down to the bathroom?
10 A. Yes.
11 Q. Going downstairs to get there?
12 A. No. It's the kitchen and we was already
13 downstairs. We had a bathroom upstairs and downstairs. And
14 it's like the kitchen, then it goes to the bathroom. There's
15 like a hallway then a bathroom.
16 Q. Was the bathroom upstairs that it happened or
17 downstairs?
18 A. Downstairs.
19 Q. And you indicated that Renard took your clothes
20 off, is that correct?
21 A. Yes.
22 Q. How did he do that? Did he rip clothes off?
23 A. No, he just took them off.
24 Q. Did you ask him why he was doing that?
25 A. No, I was -- no.

1 Q. Did you resist? Do you know what I mean by that?
2 Did you try to stop him at all?
3 A. Kind of, yes. Yes.
4 Q. You did?
5 How did he take your clothes off if you were
6 resisting?
7 A. Because I just let him, because he was going to do
8 it anyway. Because when I was trying to stop, like what are
9 you doing, he was still taking them off so I just --
10 Q. Now, there were adults upstairs, correct?
11 A. Yes, and one downstairs.
12 Q. And you didn't scream, did you?
13 A. Yes. He had his hand over my mouth.
14 Q. But at the time he was taking off your clothes and
15 you thought he was going to do it anyway, why didn't you
16 scream?
17 A. I was scared.
18 Q. So did you know what was going to happen?
19 A. No.
20 Q. What were you scared of?
21 A. Because why is he taking off my clothes?
22 Q. That's my question. So you had some idea
23 something was going to take place?
24 A. Yes.
25 Q. So you were scared, so that's why you didn't

1 scream?
2 A. Yes.
3 Q. Now, you indicated at some point he put you on
4 your stomach, correct?
5 A. I started off on my stomach.
6 Q. Is that the position you were in when your clothes
7 were being taken off?
8 A. Uh-huh, yes.
9 Q. And so he's covering your mouth, correct?
10 A. Yes.
11 Q. Did you ever scream while he was trying to cover
12 your mouth?
13 A. No.
14 Q. You never asked or yelled out for help or
15 anything?
16 A. No.
17 Q. And you've told us today that he attempted to
18 penetrate your anus, correct?
19 A. Yes.
20 Q. And that was all he tried to do, correct?
21 A. Yes.
22 Q. He didn't have you perform oral sex, correct?
23 A. No.
24 Q. He didn't try to sexually assault you in your
25 vagina, correct?

1 A. No.
2 Q. Did you tell a nurse he tried to sexually assault
3 you in your vagina?
4 A. No, I don't think so.
5 Q. You don't think you told the nurse that, or you
6 don't think he was trying to do that? Does my question make
7 sense?
8 A. Yes. I don't think I told -- I don't think he
9 tried to do that and I don't think I told the nurse that. I
10 told them that's wasn't true.
11 Q. You didn't tell the nurse, using your language,
12 "He put his dick inside both my vagina and my bootie"?
13 A. No.
14 Q. Do you remember what the nurse's name was?
15 A. No, I don't.
16 Q. If I said Nurse Phyllis, being her first name,
17 would that ring a bell?
18 A. No.
19 Q. But you're positive you never told her that?
20 A. Yes.
21 Q. Because --
22 A. Because I remember the nurse but I don't remember
23 her name.
24 Q. You wouldn't have told the nurse that he tried --
25 that he did in fact stick his dick inside your vagina, because

1 he didn't even try to do that, right?
2 A. He did try but it didn't go.
3 Q. I'm sorry. I mean, your vagina?
4 A. I don't know. Back then, 12 years old, I didn't
5 know if he was trying to stick it in there or the other way.
6 Q. So did you tell the nurse that, that he tried to
7 stick -- that he did in fact stick his dick in --
8 A. No, I don't remember telling her that.
9 Q. You were in a lot of pain, is that what you told
10 us, in the bathroom?
11 A. Yes.
12 Q. Did you bleed?
13 A. No.
14 Q. Did you ever get any treatment on that day or a
15 few days after, sometime in January of '99?
16 A. No.
17 Q. And you didn't tell nobody?
18 A. No, nobody but my sister.
19 Q. Which sister?
20 A. Anna.
21 Q. Jamila?
22 A. No. Because she already knew.
23 Q. Jamila already knew?
24 A. And Anna, because they heard me in the bathroom.
25 Q. How do you know they heard you in the bathroom?

1 A. Because they told me they did.
2 Q. How did they hear you in the bathroom if you
3 couldn't -- you're too scared to scream and your mouth was
4 covered?
5 A. Because, I was loud enough for them to hear me.
6 His hand must not have been covering my mouth all the way.
7 Cover your mouth and see if you can still hear
8 somebody scream.
9 Q. You were still screaming? It was like muffled?
10 A. No, I was screaming like it was hurting.
11 MR. ORAM: That concludes cross-examination.
12 THE COURT: Anything else?
13 MS. PETERSON: Couple follow-up, Your Honor.
14
15 REDIRECT EXAMINATION
16
17 Q. (By Ms. Peterson) Jahala, when the police asked
18 you about what had happened with your brother, was that a
19 couple months after it had happened?
20 A. Yes.
21 Q. Okay. And did you tell them what month it was
22 that it happened?
23 A. Yes.
24 Q. And would it have been more fresh in your mind
25 then about when it happened when you talked to the police?

1 A. Yes.
2 Q. Jahala, I want you to look at your statement here
3 on page two, Exhibit 5. I want you to tell me, did the
4 detective ask you about when it happened? Did he ask you how
5 long ago was it?
6 A. Yes.
7 Q. And did you answer that?
8 A. Yes.
9 Q. What did you tell him then?
10 A. In January.
11 Q. So you told the detective that it happened in
12 January 1999?
13 A. Yes.
14 Q. Jahala -- I'm showing defense counsel what's
15 marked for identification as State's Proposed No. 6.
16 I'm going to show you a photograph here, State's
17 Proposed Exhibit No. 6. Do you recognize what that photo is?
18 A. Yes, my stairs.
19 Q. Is that the house at Nay Court?
20 A. Yes.
21 Q. Is that what you were talking about where all this
22 stuff happened?
23 A. No. Over here, this little corner, that's the
24 kitchen and, like, the table is over here. Right there in that
25 corner is a bathroom.

1 Q. So this isn't a good picture because it just shows
2 the stairs, but it shows the kitchen, right?
3 A. Yes. Right there is the bathroom.
4 Q. Is the bathroom right there next to the kitchen?
5 A. Not right next, but it's right by it.
6 Q. Right by it?
7 A. Yes.
8 Q. And is this photo, does that show where the
9 kitchen is and where the stairs is and does it accurately show
10 your house how it looked back then?
11 A. Yes.
12 MS. PETERSON: Move to admit State's 6.
13 MR. ORAM: No objection.
14 THE COURT: Six will be admitted.
15 Q. (By Ms. Peterson) just so I'm clear, when you're
16 talking about the bathroom you're talking about the one right
17 there next to the kitchen?
18 A. Yes, the downstairs bathroom.
19 Q. Jahala, how old were you when that happened in the
20 bathroom?
21 A. Twelve.
22 Q. And how old was your brother, do you know?
23 A. Probably 17.
24 Q. Do you know when his birthday is?
25 A. October 14.

1 Q. Was he a lot older than you?
2 A. Yeah.
3 Q. If he told you to do something would you do it?
4 A. Yes.
5 Q. How come?
6 A. Because he's my oldest brother.
7 MS. PETERSON: Nothing further, Judge.
8 THE COURT: Anything else?
9 MR. ORAM: No, Your Honor.
10 THE COURT: All right. Thank you very much for
11 testifying Jahala, you're excused now.
12
13 We'll take a ten minute recess then we'll be back
14 with the next witness.
15
16 (Whereupon, the jury was duly admonished.)
17
18 THE COURT: Counsel stipulate to the presence of
19 the jury?
20 MR. ORAM: Yes, Your Honor.
21 THE COURT: Who's your next witness?
22 MS. HOLTHUS: Anna Polk.
23 THE COURT: There was some comments perhaps made
24 in the hallway I was apprised of. If any of the jury heard
25 anything, disregard anything that happened in the hallway.

1 That being said we'll proceed.
2
3 (Whereupon, the witness was duly sworn.)
4
5 THE COURT: Have a seat, please.
6 Please state your name and spell your last name.
7 THE WITNESS: My name is Anna, last name spelled
8 P-o-l-k.
9 THE COURT: Miss Holthus.
10
11 DIRECT EXAMINATION
12
13 Q. (By Ms. Holthus) Anna, how old are you?
14 A. Thirteen.
15 Q. What's your birthday?
16 A. 11-10-88.
17 Q. Where are you living now?
18 A. I don't know the address, I just moved there.
19 Q. You're not living in Las Vegas anymore?
20 A. Huh-uh.
21 Q. No?
22 A. No.
23 Q. See this guy, he's taking down everything you say
24 so I need you to keep your hand away from your mouth and answer
25 yes and no and not uh-huhs and huh-uhs, okay?

1 A. Yes.
2 Q. Thanks.
3 How many brothers and sisters do you have?
4 A. I have three brothers and three sisters.
5 Q. And can you tell me their James?
6 A. Jahala, Jamila, Gloria.
7 Q. Would you do me a favor. Would you grab a tissue
8 and spit out your gum, please.
9 Thanks?
10 A. Jahala, Jamila, Gloria, Javan and Richard and
11 Renard.
12 Q. Do you see your brother here in court?
13 A. Yes.
14 Q. Can you point to him and tell me where he's
15 sitting and what he's wearing?
16 A. He's wearing a gray shirt.
17 MS. HOLTHUS: Record reflect identification of the
18 defendant?
19 THE COURT: The record will reflect.
20 Q. (By Ms. Holthus) You're living now in California?
21 A. Yes.
22 Q. Who are you living with?
23 A. Mary Griffin.
24 Q. Are you in foster care?
25 A. Yes.

1 Q. Do you go to school in California?
2 A. Yes.
3 Q. What grade are you in?
4 A. Seventh.
5 Q. You just flew in for the trial?
6 A. Yes.
7 Q. Before you went to California, where were you
8 living?
9 A. In Vegas.
10 Q. Do you remember where?
11 A. 1315 Nay Court.
12 Q. Who were you living there with?
13 A. My sisters and brothers and grandma.
14 Q. All your brothers and sisters?
15 A. Yes.
16 Q. I think you said Gloria is one of your sisters but
17 she's your baby sister, is that right?
18 A. Yes.
19 Q. She's a year old?
20 A. Yes.
21 Q. Have you ever actually lived with Gloria?
22 A. No.
23 Q. Who does Gloria live with?
24 A. My mom.
25 Q. And then the rest of your sisters are also in

1 foster care in California?
2 A. Yes.
3 Q. And I think we heard you have two brothers in a
4 group home in California?
5 A. Yes.
6 Q. When you lived in Las Vegas, who did you live
7 with? Who was in charge of the house?
8 A. My grandma and my brother.
9 Q. Your brother Renard?
10 A. Yes.
11 Q. Was he the oldest?
12 A. Yes.
13 Q. Do you know how old he is?
14 A. Right now?
15 Q. Yes.
16 A. 21.
17 Q. And what was it that caused you to not live with
18 your grandmother and Renard anymore?
19 A. Because my grandma died.
20 Q. When did your grandma pass away?
21 A. May 18.
22 Q. Of?
23 A. '99.
24 Q. She had cancer?
25 A. Yes.

1 Q. Did you guys stay up with her while she was sick?
2 A. Yes.
3 Q. Then after that you had to find someplace else to
4 go?
5 A. Yes.
6 Q. Did you always live with grandma Gloria?
7 A. No.
8 Q. How long had you lived with her?
9 A. For, I think, seven years.
10 Q. Seven years?
11 A. Yes.
12 Q. Were you always on Nay Court?
13 A. No.
14 Q. Where did you live before that?
15 A. Perry Street.
16 Q. Do you remember when you moved from Perry Street
17 to Nay Court?
18 A. Yes.
19 Q. When was that? How old were you?
20 A. I don't know how old I was. I was in the second
21 grade.
22 Q. Did you -- were you at Perry Street when you went
23 to second grade, or did you move to Nay Court for second grade?
24 A. I was in second grade on Perry Street.
25 Q. And the same people all lived with you at Perry

1 Street?
2 A. Yes.
3 Q. What about your biological mom, where was she
4 living?
5 A. I don't know.
6 Q. She didn't live with you?
7 A. No.
8 Q. During the time that you lived with your grandma
9 and Renard, did you have problems with Renard?
10 A. Yes.
11 Q. Do you remember the very first time you had a
12 problem with Renard?
13 A. Yes.
14 Q. Where were you living then?
15 A. Perry Street.
16 Q. Tell me what you remember?
17 A. Me and my sisters, we were young so we used to
18 take a bath together. And it was two doors, one with a sink
19 and the mirror and one with the toilet and tub. And I was the
20 first one to get in the tub. And they was still getting all
21 dressed and my brother came in and he said he had to use the
22 bathroom and then he --
23 MR. ORAM: Your Honor, I will only object for one
24 reason, I'd like a better foundation as to where and when this
25 is occurring, what year.

1 THE COURT: If you could lay a better foundation.
2 Q. (By Ms. Peterson) you said you were living on
3 Perry Street, so before you were in second grade?
4 A. Yes.
5 Q. Do you know how old you were approximately?
6 A. About five or six.
7 Q. Okay. And you said your sisters hadn't gotten
8 into the bathroom yet and Renard?
9 A. Yes, they were in the bathroom but they wasn't
10 undressed yet.
11 Q. What happened then?
12 A. He knocked on the door, said he had to go to the
13 bathroom. Then my sisters had been in the other door with the
14 mirror and the sink and I was in the tub, so he just closed the
15 curtain.
16 Q. Closed what curtain?
17 A. The bath curtain.
18 Q. They were in the same room but you were in the tub
19 with the shower curtain?
20 A. Me and my sisters were not in the same room.
21 Q. Where were your sisters?
22 A. They were on the other side of the door.
23 Q. Where the sinks and mirror was?
24 A. Yes.
25 Q. That was separate from the bathtub?

1 A. Yes.
2 Q. What happened then?
3 A. I started to cry because my brother was-- I don't
4 remember what he was doing to me, but he made me cry. My
5 sisters asked me what was wrong and he said the water was too
6 hot.
7 Q. Was the water too hot?
8 A. No.
9 Q. How do you know?
10 A. Because the water wasn't even on.
11 Q. You said you don't know what your brother was
12 doing to you but he hurt you?
13 A. I can't remember.
14 Q. Do you remember what part of you he hurt?
15 A. My butt. I can't remember. It was so far back I
16 can't remember.
17 Q. Do you know if your brother had clothes on when he
18 did it?
19 A. No, he didn't have clothes on, because he had to
20 go to the bathroom.
21 Q. So did you have clothes on?
22 A. No, I was in the tub.
23 Q. Was there actually water in the tub?
24 A. Yes, there was.
25 Q. Was he inside the tub or outside the tub?

1 A. I think he had stepped in. I can't remember.
2 Q. But you know that he hurt your butt?
3 A. Yeah.
4 Q. And you didn't have clothes on and he didn't have
5 clothes on?
6 A. He had his shirt on but he didn't have his pants
7 on.
8 Q. Do you remember if you could see his private part,
9 his penis?
10 A. I can't remember.
11 Q. Did your sisters ask you about it?
12 A. Yes.
13 Q. And did you tell them?
14 A. No.
15 Q. Why not?
16 A. Because I was scared.
17 Q. Was that the last time you had a problem with
18 Renard?
19 A. No.
20 Q. Do you remember the next time you had a problem?
21 A. No.
22 Q. Was it a long time before anything happened again?
23 A. No.
24 Q. Was it -- do you remember if you were still in
25 second grade?

1 A. Huh?
2 Q. Do you remember what grade you were in the next
3 time you had a problem?
4 A. In second, I guess. I don't know, because it
5 wasn't a year. He didn't stop then do it a year later. It was
6 like two days after, or one.
7 Q. So is this something that Renard would do to you a
8 lot?
9 A. Yes.
10 Q. Starting from when you were five or six years old?
11 A. Yes.
12 Q. Do you remember the last time he did it to you?
13 A. Yes.
14 Q. When was that?
15 A. When I was at 1325 Nay Court.
16 Q. Do you remember the date?
17 A. No.
18 Q. Tell me what happened -- was that the last time
19 you saw your brother Renard?
20 A. Yes.
21 Q. What happened that day?
22 A. He had told my sisters to go to the store and I
23 wanted to go too and he said no, all three of us didn't need to
24 go, so he just let them go. So I had went up in my room and he
25 did this thing, like that, to get my attention and then --

1 Q. Why did you want to go to the store?
2 A. Because I wanted to go to the store.
3 Q. He told you not to go?
4 A. Yes.
5 Q. Did you want to stay home with him?
6 A. No.
7 Q. Were you afraid to stay home alone with Renard?
8 A. Yes.
9 Q. What happened then?
10 A. Then --
11 Q. What did he do to get your attention?
12 A. He did a thing like that at the door.
13 Q. At the door of where were you?
14 A. In my room.
15 Q. And what did you do?
16 A. He had called me up in there but I didn't move, so
17 he went up there and got me and brought me into his room.
18 Q. Was your room on the same floor or a different
19 floor from his room?
20 A. The same floor.
21 Q. So how did he get you to his room?
22 A. He pulled me in there.
23 Q. Did you want to go?
24 A. No.
25 Q. Did you try to stop him from taking you?

1 A. No, because I knew I would get in trouble or he
2 would hit me or something, or cover my mouth.
3 Q. And he had done this many times to you before?
4 MR. ORAM: Object, leading.
5 THE COURT: I don't think it was. Overruled.
6 THE WITNESS: Yeah.
7 Q. (By Ms.Holthus) He had done it many times to you
8 before?
9 A. Yes.
10 Q. So what happened when you got to his room?
11 A. He pulled down my pants and told me to -- he sat
12 on the chair and pulled me on top of him.
13 Q. What was he wearing?
14 A. I don't remember.
15 Q. Did he have clothes on?
16 A. When he sat down on the chair?
17 Q. Yes.
18 A. No.
19 Q. Do you remember what you were wearing?
20 A. No.
21 Q. Do you remember if you took your clothes off?
22 A. He didn't take my shirt off, he only took my pants
23 and panties off.
24 Q. When he was sitting in the chair he had nothing
25 on?

1 A. I think -- I don't know if he had a shirt on or
2 not because he walked around the house without a shirt on, just
3 pants.
4 Q. Do you know if he had pants on?
5 A. No, he pulled them down.
6 Q. And what happened after he sat in the chair?
7 A. He told me to get on top of him.
8 Q. And did you?
9 A. He didn't tell me, he pulled me toward him and sat
10 me down, pushed me down on him.
11 Q. Were you touching skin to skin?
12 A. Yes.
13 Q. What did he do then?
14 A. He was like -- he put his thingie in my butt and
15 kept on moving around. I guess it wasn't working and he told
16 me to get on the floor.
17 Q. When he put his thingie, do you have other names
18 for a thingie?
19 A. I call it the dick.
20 Q. Mens private part?
21 A. Yes.
22 Q. When you say he put it in your butt, did he put it
23 in your butthole? In your anal opening?
24 A. Yes.
25 Q. How did that feel when it went in?

1 A. Bad.
2 Q. You said he would move it around some and it
3 didn't work. What happened then?
4 A. He, like, pushed me on the floor by the chair
5 because it was a big gap between the chair.
6 Q. How were you on the floor? What way were you
7 faced?
8 A. The door.
9 Q. Were you on your back, or on your stomach?
10 A. I was on my hands and knees because he pushed,
11 like, my stomach.
12 Q. So you would be on your stomach and he pushed your
13 stomach up off the floor?
14 A. Uh-huh.
15 Q. Is that yes?
16 A. Yes.
17 Q. So when your stomach was up off the floor, where
18 was your butt?
19 A. In the air.
20 Q. Then what did he do?
21 A. He put his thing in my butt again.
22 Q. And again, are we talking about his private part?
23 A. Yes.
24 Q. And how did it feel when he did that?
25 A. Bad.

1 Q. Were you saying anything?
2 A. I was saying stop, but then he put the pillow over
3 my head. He put the pillow over my head because my face wasn't
4 on the floor enough, so he put the pillow over my head and
5 covered my mouth.
6 Q. Was there anybody else in the house?
7 A. My grandma was in there, in her room though.
8 Q. Where was her room?
9 A. Across the hall from his.
10 Q. So did you want to let him do that?
11 A. No.
12 Q. What happened then?
13 A. I think my sisters came. After they came from the
14 store.
15 Q. And how were you when they got home?
16 A. I was crying. I think they were in the room
17 already, I don't know, and I asked my sister did she already
18 know what happened? And Renard had left and my sister said I'm
19 calling Susan.
20 Q. Did you tell them what happened?
21 A. No, they already knew.
22 Q. Had you ever told them before what Renard had been
23 doing to you?
24 A. Yes.
25 Q. When did you tell them before?

1 A. The second time he did it to me, because the first
2 time he told me not to tell, just say the water was hot.
3 Q. And the second time, where were you living the
4 second time when you said you told? Were you still on Perry
5 Street?
6 A. Huh?
7 Q. You said you told somebody what he had been doing
8 to you?
9 A. I told my sisters.
10 Q. Where were you living when you told your sisters?
11 A. Perry Street, I think.
12 Q. After you told your sisters did they tell anyone?
13 A. No.
14 Q. Did Renard stop doing it to you?
15 A. No.
16 Q. When you moved to Nay Court did he stop doing it
17 to you?
18 A. No.
19 Q. What grade were you when you left Las Vegas?
20 A. Fourth.
21 Q. The last time he did it to you was in fourth
22 grade?
23 A. Yes.
24 Q. Did he do it to you the beginning of fourth grade?
25 A. Yes.

1 Q. Did he do it to you in the middle of fourth grade?
2 A. Yes.
3 Q. And right before you left in fourth grade?
4 A. Yes.
5 Q. Did he do it to you over summer vacation from
6 third to fourth grade?
7 A. Yes.
8 Q. Was there ever a time he stopped more than a month
9 or two?
10 A. No.
11 Q. Did you ever try to fight him off?
12 A. No.
13 Q. Why not?
14 A. Because he was stronger than me.
15 Q. The last time it happened, when you were in the
16 fourth grade, you would have been ten years old?
17 A. Yes.
18 Q. And Renard was 18?
19 A. I think, yes.
20 Q. How did it make you feel when he did that to you?
21 A. Bad.
22 Q. Did you ever try to talk to him and ask him to
23 stop?
24 A. No.
25 Q. Why not?

1 A. Because I was scared.
2 Q. Did you ever tell your grandma?
3 A. No.
4 Q. Why not?
5 A. Because I was scared.
6 Q. Did you ever see him do anything like this to your
7 sisters?
8 A. Jahala.
9 Q. What did you see?
10 A. I didn't see him, but we was looking for my
11 sister. My grandma told us to go find Jahala --
12 Q. Let me slow you down. When was this in relation
13 to the last time you saw Renard?
14 A. Huh? I don't understand.
15 Q. Do you remember when it was that you were looking
16 for Jahala?
17 A. The date?
18 Q. Right.
19 A. No.
20 Q. Was it a long time before the last time you saw
21 Renard, the last time he did it to you?
22 A. No.
23 Q. Are we talking days, weeks, months?
24 A. It was probably, like, a month before.
25 Q. A month before that?

1 A. Yeah.
2 Q. And what happened?
3 A. My grandma told us to go find Jahala, and me and
4 my sister went downstairs see if she was in the bathroom. And
5 somebody was in the bathroom and we knocked on the door and
6 Renard was like "huh?"
7 And we asked Renard is Jahala in there? And he
8 said no.
9 So we told our grandma she wasn't downstairs or
10 nowhere in the house because he said no, she wasn't.
11 Then we had went to our friend Katrina's house and
12 she wasn't there. So we have, like, our other friend's house
13 and she wasn't there. And Renard said to go to Tommy's house
14 to see where she was. And me and my sister looked under the
15 door and we seen my sister Jahala, she was laying down on the
16 floor.
17 Q. Under what door were you looking?
18 A. The bathroom door.
19 Q. Can you show me with your fingers how big the hole
20 under the door was?
21 A. Like this.
22 Q. About an inch, inch and-a-half?
23 Any objection?
24 THE COURT: The record will reflect she put her
25 fingers about an inch and-a-half. Is that okay, Mr. Oram?

1 MR. ORAM: That's fine
2 MS. HOLTHUS:
3 Q. So you were able to see under the door?
4 A. Yes.
5 Q. Which sister was with you?
6 A. Jamila.
7 Q. What could you see under the door?
8 A. My sister on the floor. I couldn't see her whole
9 body but I could see, like, her feet and stuff. She was laid
10 out on the floor.
11 Q. Could you tell if she had anything on?
12 A. No.
13 Q. No, you couldn't tell or . . .
14 A. She didn't.
15 Q. Were you able to see, was anybody in the bathroom
16 with her?
17 A. Renard, because first of all we heard his voice
18 and he said that she wasn't in there and she was. And we had
19 seen Renard's feet moving.
20 Q. Under the door?
21 A. Yes.
22 Q. Where were his feet?
23 A. By Jahala.
24 Q. Can you tell me how they were by Jahala?
25 A. They were by Jahala's feet, or a little bit before

1 hers.

2 Q. What did Renard say to you then?

3 A. That she wasn't in the bathroom.

4 Q. So what did you do then?

5 A. We went to go tell our grandma we didn't know

6 where she was. Then he told us to go look to see if she was

7 over Tommy's house, our friend. And we went over there, even

8 though we know where she was. We went over there and she

9 wasn't there. So we came back and we seen Jahala, she was out

10 of the bathroom.

11 Q. Why did you go to Tommy's house if you knew she

12 wasn't there?

13 A. Because I couldn't say Renard, we know where she's

14 at, she's under there, because I was scared.

15 Q. Did there come a time you finally did tell an

16 adult what was going on?

17 A. No.

18 Q. Did there come a time an adult found out what was

19 going on?

20 A. My mom. She tried to tell everybody else but they

21 didn't believe her.

22 MR. ORAM: Your Honor, I would ask that be

23 stricken.

24 THE COURT: That will be stricken. The jury is

25 asked to disregard that. Proceed.

1 MS. HOLTHUS:

2 Q. Did you ever tell your mom?

3 A. No.

4 Q. The last time Renard did it to you, were the

5 police called that night?

6 A. Yes.

7 Q. Do you know how that happened?

8 A. I think my aunt called them.

9 Q. Tell me what happened after Renard finished with

10 you and your sisters came in and you told them what happened.

11 A. My sister said she was calling Susan, my Auntie.

12 Q. Did Auntie Susan come over?

13 A. Yes.

14 Q. And did you talk to Auntie Susan?

15 A. Yes.

16 Q. Did you tell her what had been going on?

17 A. No, my sister did.

18 Q. Which sister?

19 A. Jamila.

20 Q. Did Jamila tell what had been going on with you,

21 too?

22 A. Yes, because I was scared and I told her to tell.

23 Q. How did Jamila know what was going on?

24 A. Because every time he did it I went back and told

25 her. Not every time, but sometimes she would see when I would

1 walk out of his room, see me zipping my pants.
2 Q. Did you hear what Jamila told Aunt Susan?
3 MR. ORAM: Objection.
4 THE COURT: It calls for a yes or no answer. If
5 you want to go into the conversation that might be an
6 objection.
7 Did you hear, yes or no?
8 THE WITNESS: Yes.
9 MS. HOLTHUS:
10 Q. Did she tell her the truth?
11 A. Yes.
12 Q. What happened after Aunt Susan found out?
13 A. She went up in the room with my grandma.
14 Q. Was grandma sick already by then?
15 A. Yes.
16 Q. What happened then?
17 A. She told my grandma then. She told me to come up
18 in there and I did. And then my grandma, she told me --
19 MR. ORAM: Objection what the grandmother would
20 have said.
21 THE COURT: Sustained
22 MS. HOLTHUS:
23 Q. Tell me what happened. Who else was there now?
24 Aunt Susan was there, your grandma came in?
25 A. Yes. She was already there.

1 Q. What room were you in?
2 A. Her room.
3 Q. Grandma's room?
4 A. Yes.
5 Q. Grandma, Aunt Susan, who else?
6 A. And my sisters.
7 Q. Both of them?
8 A. And my brothers.
9 Q. All three of them?
10 A. No, only Javan and Richard, my little brothers.
11 Q. Where was Renard?
12 A. He had left. He was already gone. He never did
13 come back after he left.
14 Q. When did he leave?
15 A. After my sisters had came back in after I walked
16 out of his room.
17 Q. And he never came back again?
18 A. Yes, he did come back but it was later that night.
19 Q. That same night?
20 A. Yes.
21 Q. Was everybody still there?
22 A. Yes. And my Auntie's boyfriend was over, too.
23 Q. What was his name?
24 A. I can't remember.
25 Q. When Renard came back, did anybody talk to him

1 about what was going on?
2 A. Yes.
3 Q. Were you there when it happened? When they talked
4 about it?
5 A. Yes.
6 Q. What did Renard say?
7 A. No, it didn't happen.
8 Q. What happened then?
9 A. We were still up in the room. We was all against
10 the wall but he was way over there, and my grandma kept on
11 talking to him about it, asking him or whatever. And my
12 Auntie's boyfriend was, "you lying, you lying."
13 And he ran out of the room. My Auntie's
14 boyfriend tried to catch him but he ran downstairs and ran out
15 the door.
16 Q. What happened then?
17 A. We didn't see him since.
18 Q. Was that when the police were called?
19 A. Yes.
20 Q. Do you remember the police coming to your house?
21 A. Yes.
22 Q. Do you remember what happened after that with the
23 police? Where did you go?
24 A. To the hospital.
25 Q. Who else went with you?

1 A. Susan.
2 Q. Anybody else?
3 A. No.
4 Q. What happened when you got to the hospital?
5 A. They made me sign this paper and then they
6 examined me to see if it was true. And they said it was true.
7 Q. Did you talk to any police officers at the
8 hospital?
9 A. I don't remember.
10 Q. Did your brother ever threaten you that if you
11 told something would happen?
12 A. I don't remember. All I know is the first time he
13 told me not to tell nobody, just say the water was hot.
14 Q. Do you ever remember having an injury to your
15 butt, to your rectal opening?
16 A. No.
17 Q. Do you ever remember having to go to the hospital
18 because you were bleeding from your rectal area?
19 A. No.
20 Q. So other than your brother Renard, has anyone ever
21 hurt your rectal opening?
22 A. Darrell and Dorian.
23 Q. Have you ever had any kinds of injuries anywhere?
24 A. No.
25 Q. Never hurt yourself?

1 A. No.
2 MS. HOLTHUS: Can we approach briefly?
3 THE COURT: Yes
4
5 (off the record discussion at bench).
6
7 THE COURT: A legal issue has come up.
8 We'll take about a ten minute recess.
9
10 (Whereupon, the jury was duly admonished.)
11
12 THE COURT: This is outside the presence of the
13 jury.
14 First of all, there was some ruckus outside the
15 courtroom during the last break. Miss Holthus, what's the
16 situation?
17 MS. HOLTHUS: We had a concern because there are
18 at least one supporter of the defendant that's coming up in the
19 hallway and discussing rather loudly the case.
20 THE COURT: Who was that, point it out.
21 THE WITNESS: This woman in the black.
22 THE COURT: Stand up. What is your name?
23 MS. BRACE: Leola Brace.
24 THE COURT: What is your purpose here? Are you an
25 aunt or something of anybody?

1 MS BRACE: Yes.
2 THE COURT: I don't mind you being here, you have
3 a right to be in this Court, it's an open courtroom, but you
4 open your mouth one more time outside and harass the D.A.s one
5 more time, or you talk in front of the jurors, you know where
6 you're going to go?
7 MS. BRACE: Yes, sir.
8 THE COURT: Where?
9 MS. BRACE: Outside.
10 THE COURT: You're go to go to prison, you're
11 going to go to jail. You're going to be in contempt of court,
12 do you understand that?
13 MS. BRACE: Yes, sir.
14 THE COURT: So don't do that. Please be polite.
15 You have a right to be here, I'm not going to chase you out,
16 but I don't want to hear that you're harassing the D.A.s, that
17 you're talking outside loud in front of those jurors. That's
18 not right, you understand that, don't you?
19 MS. BRACE: Yes, sir.
20 THE COURT: So you won't do that anymore, is that
21 correct?
22 MS. BRACE: No, sir.
23 THE COURT: Thank you. You could sit down.
24 Now, there was another issue that came up.
25 MS. HOLTHUS: Right.

1 MR. ORAM: If we are going to argue I'd rather we
2 not argue in front of the witness.
3 THE COURT: All right. If you would go with the
4 bailiff.
5 MS. HOLTHUS: We talked before about the physical
6 findings in this case with respect to Anna, there is what Dr.
7 O'connor calls a possible scar at six o'clock internally in the
8 rectal area. When I pre-trialed him he indicated it was his
9 belief there was some sort of penetrating injury, not caused by
10 a stool, and some sort of injury she would have been aware she
11 was suffering. She would have had lot of blood, would have
12 gone to the hospital, would have put something in there that
13 she was aware of hurting herself.
14 So trying to set up for Dr. O'connor's testimony I
15 was trying to get from her whether she'd ever suffered any.
16 When I asked her in my office she indicated she never had an
17 injury, never had anything and the only thing she was aware of
18 inside her butt was her brother's penis.
19 We also had the hearing outside the presence where
20 she indicated she had no recollection of Darrell and Dorian,
21 what they did to her. They may have molested her. In her
22 statement she said they molested her but she has no
23 recollection of it. So I was really floored when she said
24 Darrell and Dorian did something. I don't know if she now
25 remembers or if she's guessing they may have or if she's

1 talking about that area in general. But I was apprehensive, I
2 don't want to open that door, I don't know what she's going to
3 say. So I asked to approach so we could maybe pursue that
4 outside the presence. I don't know how Mr. Oram is going to
5 want to handle it. I guess, technically, I sort of opened the
6 door, sort of.
7 THE COURT: Unintentionally, but it's important.
8 Mr. Oram, I don't know, what do you want to do on this?
9 MR. ORAM: It goes to the source of injury, Your
10 Honor. She told me on cross-examination she didn't know
11 anything about Darrell and Dorian, couldn't remember talking
12 about them. I think she remembers quite a bit more than she's
13 admitting about then. But now she was asked a very clear-cut
14 question by the prosecutor is there anybody else who could have
15 caused injury, or words to that effect, and she says yes,
16 Darrell and Dorian.
17 I want to explore it but I don't want to get into
18 anything else, other than so it could have been caused by them.
19 THE COURT: Let's get her in here and explore that
20 outside the presence and see what she says.
21 MR. ORAM: I'd rather just do it in front of the
22 jury.
23 MS. HOLTHUS: I would like to do it outside the
24 presence.
25 THE COURT: I'll get her in. See what she means

1 and if you want to cross examine her on that point in front of
2 the jury, let's see what she says first.
3 All right. You're still under oath.
4 There was a question that Miss Holthus mentioned
5 to you and you mentioned Darrell and Dorian. We just want to
6 explore that outside the presence of the jury. Mr. Oram.
7 Q. (By Mr. Oram) Did both Darrell and Dorian hurt you
8 in your anal opening?
9 A. Yes.
10 Q. Both of them did it?
11 A. Yes.
12 Q. Did they stick their penises inside your anal
13 opening?
14 A. No.
15 Q. What did they do?
16 A. They would stick their finger, or sometimes they
17 would like switch off.
18 Q. Switch off? What do you mean?
19 A. Like one go up in the room and after that they
20 want to come back out, switch off. We would sleep up there
21 when we spend the night in their sister's room and the bathroom
22 is right by there.
23 Q. And they'd use their fingers?
24 A. Uh-huh.
25 Q. Is that a "yes"?

1 A. Yes.
2 Q. Did they use other objects?
3 A. No.
4 Q. Just their fingers? Did that cause you a lot of
5 pain?
6 A. Yes.
7 Q. Did you ever get an examination for that?
8 A. No.
9 MR. ORAM: Nothing further.
10 THE COURT: What time element was this? Was it
11 before.
12 Q. (By Mr. Oram) when was this happening with Dorian
13 and Darrell approximately?
14 A. I don't know. Every time we go over their house.
15 Q. How about at Nay Court? Do you remember when you
16 were living at Nay Court?
17 A. Yes.
18 Q. Was it happening then?
19 A. Yes -- I think the beginning.
20 Q. When did you first move in? Do you remember the
21 year?
22 A. 1994.
23 Q. So how many years did this continue on where
24 Darrell and Dorian were abusive to you?
25 A. It would be every time we go over to their house.

1 I don't know how it came up but somebody told my grandma they
2 was doing that to me and my grandma stopped us from going over
3 there, so it didn't happen no more.
4 Q. When was it that your grandmother made sure they
5 weren't hurting you? Do you know approximately what year?
6 A. No.
7 Q. You don't have any idea? Do you know how old you
8 were when your grandmother helped you out like that?
9 A. Eight, I think. I don't know.
10 Q. Tell me what year you were born again?
11 A. 11-10-88.
12 Q. Somewhere around '96, between '95, '96, '97,
13 somewhere around there?
14 A. Yes.
15 Q. How many years do you suppose they did this to
16 you, Dorian and Darrell?
17 A. Huh?
18 Q. How many years did this go on where they were
19 taking advantage of you like that?
20 A. It didn't go on for long because my grandma
21 stopped us from going over there.
22 Q. Maybe two weeks, two days, a year, six months?
23 A. Probably in months, but she stopped us from going
24 over there.
25 Q. So at least two months, maybe more?

1 A. More.
2 Q. More like six months?
3 A. About, probably. I can't remember.
4 Q. How often would you go over there?
5 A. Not every weekend. It wasn't a lot of times.
6 MR. ORAM: Nothing further.
7 THE COURT: State have anything?
8 Q. (By Ms. Holthus) How old were Darrell and Dorian
9 when this was going on, do you know?
10 A. I think they was 17 or 16.
11 Q. Teenagers?
12 A. Yes.
13 Q. Did the finger go all the way in, their fingers?
14 A. Sometimes they would but not all the time.
15 Q. Did you ever bleed after they did that?
16 A. No, not that I know of.
17 Q. We had a hearing before, and I think Mr. Oram was
18 asking you about Darrell and Dorian and you said you didn't
19 really remember anything.
20 A. I didn't, and I went outside and I thought about
21 it. And I asked my sister do she remember Darrell and Dorian,
22 and she told me yes, she do.
23 Q. Did she tell you what they did to you?
24 A. No, I figured that on my own because I was
25 thinking about it.

1 Q. So you just asked them if they knew Darrell and
2 Dorian, and your sister said yes and you thought about it for a
3 while?
4 A. Yes.
5 Q. And now you remember that happening?
6 A. Yes.
7 MS. HOLTHUS: I don't have anything further.
8 Q. (By Mr. Oram) which sister were you talking to
9 outside?
10 A. Jamila. Both of them, they were close.
11 Q. You were talking about what you guys had said?
12 A. No, we wasn't talking. All I did was say do you
13 remember Darrell and Dorian, and they say yeah.
14 THE COURT: Again, was it determined that the
15 finger went up the anal opening ?
16 MS. HOLTHUS: I think, in fairness to the defense,
17 we'll have to explore this, so I'll withdraw my not bringing
18 this in.
19 THE COURT: All right. Why don't you wait outside
20 a minute then. We'll call you back in five minutes, all right?
21 THE WITNESS: Yes.
22 THE COURT: So the bottom line is -- were you
23 finished with your direct examination?
24 MS. HOLTHUS: I was just winding down but I would
25 like to be able to explore this myself.

1 THE COURT: Then you'll cross. Anything else?
2 MR. ORAM: I would again renew my motion to bring
3 in the incident regarding Bill Ward. The only reason I'm doing
4 it now, Your Honor, this afternoon when we heard evidenco I
5 understand she went out and now she remembers all these
6 relevant questions, but boy, she told me she couldn't remember
7 saying it to the police, they hadn't touched her, nothing
8 happened. I'm quite concerned about this Bill Ward, for the
9 same arguments. I would ask the Court to reconsider and let me
10 introduce that.
11 MS. HOLTHUS: There wasn't anything to introduce
12 as to Bill and Anna. I don't think she ever said --
13 MR. ORAM: I would have recalled Jahala, is what I
14 would have done.
15 THE COURT: I don't see any reason to reconsider
16 my motion. I ruled on it, there's nothing to reconsider. I'm
17 allowing you to go into that item, I'm trying to be fair on
18 this. Anything else?
19 I notice the second amended information, you say
20 sexual assault with a minor under 14 in the caption but in the
21 body it says a female child under the age of 16.
22 MS. HOLTHUS: I apologize, Judge. If it is, it's
23 a typo.
24 THE COURT: All three counts say 16 but tho
25 caption says under 14.

1 MS. PETERSON: You're right judge, it should be
2 under 14.
3 THE COURT: Can we amend it by interlineation?
4 MS. PETERSON: Yes, Judge.
5 THE COURT: Any objection by the defense?
6 MR. ORAM: No.
7 THE COURT: Amend it by interlineation and I'll
8 initial it.
9 We'll be back in a few minutes.
10
11 (Recess)
12
13
14 THE COURT: Counsel stipulate to the presence of
15 the jury?
16 MS. PETERSON: Yes, Judge.
17 MR. ORAM: Yes, Judge.
18 THE COURT: Let's gets Anna back in. You have
19 some more questions to ask Anna?
20 MS. HOLTHUS: Yes, Judge.
21 THE COURT: Then we'll have cross-examination.
22 Anna, have a seat again. Miss Holthus has a few
23 more questions to ask you, then Mr. Oram has a few questions to
24 ask.
25 Q. (By Ms. Holthus) Anna, before we took the break

1 you said something about Darrell and Dorian did something to
2 you. Who are Darrell and Dorian?
3 A. My cousins.
4 Q. How old are they?
5 A. Right now?
6 Q. Well, as compared to you, older than you?
7 A. Yes.
8 Q. A lot older than you?
9 A. About five years older than me.
10 Q. And how old were you when they did stuff to you?
11 A. I don't remember.
12 Q. Can you tell me approximately?
13 A. About eight.
14 Q. Where were you living?
15 A. 1325 Nay Court.
16 Q. And did it happen at 1325 Nay Court?
17 A. No, it happened at their house.
18 Q. Did it happen more than one time?
19 A. Yes.
20 Q. You talk about them like they -- did they both do
21 stuff? Did one of them do stuff?
22 A. They both did, they would, like, switch off.
23 Q. Why would you go to their house?
24 A. To spend the night because they're my cousin.
25 Q. Would there be anybody else in the house when it

1 happened?

2 A. They would be asleep. Everybody would be in the

3 house that lived there, but they would be sleeping.

4 Q. Then what did Darrell and Dorian do to you?

5 A. To get me up?

6 Q. Yes, to get you up?

7 A. They would, like, keep turning the light on. Like

8 go in the bathroom and turn the light on and, like, pull my

9 foot or something. Or kiss me or something.

10 Q. What would they do then?

11 A. They take me to the living room.

12 Q. And what would they do in the living room?

13 A. Put their finger up my butt.

14 Q. Did they both put their finger up your butt?

15 A. Not at the same time.

16 Q. Do you know which finger they used?

17 A. No.

18 Q. Were they both in the room the whole time?

19 A. No, one would go -- one would stay, like, in the

20 living room and the other one would go back to the room, and

21 the other one come, and after they done the other one would

22 come out.

23 Q. Did you say or do anything?

24 A. They put their hand over my mouth.

25 Q. Did they ever put anything else up your butt?

1 A. No.
2 Q. Did they ever put their penis in your butt?
3 A. No.
4 Q. Any objects in your butt?
5 A. No.
6 Q. Ever more than one finger at a time?
7 A. No.
8 Q. Did you ever bleed from the rectum after they did
9 that to you?
10 A. No, not that I know of.
11 Q. How long did this go on?
12 A. For not like a year, because my grandma stopped us
13 from going over there.
14 Q. Why did she stop you from going over there?
15 A. Because, I don't know how it came up, but I came
16 home one day and they was asking about Darian and Darryl.
17 Their mom was, like, it's not true and she don't even know.
18 And my grandma say you're not going back over there.
19 Q. So did you ever go back over there again?
20 A. No.
21 Q. During the whole time Darrell and Dorian was doing
22 this to you, did your brother Renard stop doing it to you?
23 A. No.
24 Q. So you would go to your cousins' house and they
25 would do it there and you would come home and your brother

1 would do it?

2 A. If I go to my cousins' house and they would do

3 that, I would come home and then no, it's not like come up in

4 the room or whatever like that. It's like a night or the next

5 day or something.

6 MS. HOLTHUS: I'll pass the witness.

7 THE COURT: Cross, Mr. Oram?

8 MR. ORAM: Yes

9

10 CROSS EXAMINATION

11

12 Q. (By Mr. Oram) Okay if I call you Anna?

13 A. Yes.

14 Q. Anna, do you remember some time before I had an

15 opportunity in the presence of these two ladies over here to

16 ask you some questions, do you remember?

17 A. Huh?

18 Q. Some time before right now I was able to ask you a

19 few questions, do you remember, and the two ladies sitting here

20 were right there?

21 A. Yes.

22 Q. I asked you some questions about Darrell and

23 Dorian. Do you remember me asking you questions about them?

24 A. Yes.

25 Q. And I asked you if they had ever hurt you, do you

1 remember that?
2 A. Yes.
3 Q. And you said that you couldn't remember them ever
4 hurting you or doing anything to you, isn't that what you said?
5 A. I said I don't remember then.
6 What I said right now?
7 Q. No, I don't mean right now, I mean earlier today?
8 A. Yes, I said I don't remember that.
9 Q. But it's your testimony that since this morning
10 you now --
11 A. Yes, because I went outside and asked my sister
12 who was Darrell and Dorian, do they know Darrell and Dorian?
13 And they said yes. And I thought about it and they said
14 Sharon's son.
15 Q. These are your cousins, right?
16 A. Yes.
17 Q. Both of them, right?
18 A. I think.
19 Q. When I was asking you questions about them, you
20 didn't even remember anything about who these guys were?
21 A. No, because, first of all, you kept on saying some
22 other name, Daniel, and I was getting confused.
23 Q. But you did tell us, and I think you it ended with
24 you saying they hadn't done anything with you.
25 A. No, I said I don't remember then.

1 Q. And now you remember they both would take their
2 fingers and insert them in your rectum, correct?
3 A. Yes.
4 Q. And they would lie you down flat, wouldn't they,
5 when they did that to you?
6 A. Yes, in the living room.
7 Q. And cover your mouth so you couldn't scream?
8 A. Yes.
9 Q. Both of them would do that?
10 A. No, one of them would be up in the room.
11 Q. Okay. So one of them would be down and they
12 would -- one would go up into another room?
13 A. No, not another room, their room.
14 Q. And one -- where did this happen most of the time?
15 A. In the living room.
16 Q. And one would cover your mouth, correct?
17 A. Yes.
18 Q. Whoever was doing it to you, correct?
19 A. Yes.
20 Q. And then do with his fingers what you described,
21 correct?
22 A. Yes.
23 Q. And then they would take turns and one would go to
24 their room and the other would come to the living room and do
25 this?

1 A. It wouldn't be like four times off or anything
2 like that. Okay. One bring up in the living room and then
3 they do that and after the next one come, get down, get down,
4 whatever, then he goes out and the other one come up in there.
5 Q. Are they brothers?
6 A. Yes.
7 Q. And this went on for approximately one year?
8 A. Not one year.
9 Q. Six months?
10 A. I can't remember.
11 Q. How many times did Darrell insert his finger as
12 you've described? How many?
13 A. I only went over their house like two or three
14 times.
15 Q. I thought you told us just a little while ago that
16 you would go over there every weekend?
17 A. I said not every other weekend.
18 Q. Not every other weekend?
19 A. I say not every weekend.
20 Q. So tell me how many times with regard to Darrell?
21 A. I don't know. Every time I go over there. I went
22 over there like twice or three times, then my grandma stopped
23 us from going over there.
24 Q. And how about Dorian?
25 A. Twice or three times. Then my grandma stopped us

1 from going over there.
2 MR. ORAM: Court's indulgence.
3 How old were they when they were doing this to
4 you?
5 A. About 17 or 16.
6 Q. So it would be fair to say that during this
7 approximate time period we have been talking about today, three
8 separate people were inserting things in your rectum, correct?
9 A. Yes.
10 Q. And three separate people were covering your
11 mouth, correct, to stop you from screaming?
12 A. Yes.
13 Q. And you told adults about Dorian and Darrell right
14 away, correct?
15 A. I don't remember me telling nobody about Darrell
16 and Dorian.
17 Q. How did your -- was it your mother who made it so
18 you didn't have to go anywhere?
19 A. I don't know because I came home from school and
20 they brought me up in the room and asked me stuff about Darryl
21 and Dorian.
22 Q. Who asked you?
23 A. My grandma, and I don't know who else was over
24 there.
25 Q. Do you know how they would know this?

1 A. No, they didn't tell me nothing. All they did was
2 asked me about Darryl and Dorian and was it true.
3 Q. And did you say it was true?
4 A. Yes, because it was.
5 Q. Were there ever adults home when this was
6 happening with Darrell and Dorian over at the living room?
7 A. Was there ever adults home?
8 Q. Ever adults around?
9 A. It would be at nighttime. Everybody would be
10 sleeping if there are adults around, they are in their bed
11 asleep.
12 Q. Why didn't you report that?
13 A. Report what?
14 Q. Report what they were doing to you?
15 A. Darrell and Dorian?
16 Q. Yes.
17 A. I didn't report nothing, not even about Renard.
18 Q. I want to ask you for a second, when the
19 prosecutor, when Miss Holthus was asking you questions, you
20 described how you looked under a bathroom door and saw Jahala
21 with Renard on top of her, do you remember that?
22 A. I didn't say I seen Renard on top of her. I said
23 I seen Renard's feet and I seen Jahala with half her body laid
24 out.
25 Q. It was your grandmother who asked you to go find

1 Jahala?
2 A. Yes.
3 Q. Had there -- had you seen wrestling going on, play
4 wrestling between Renard and Jahala right before you looked
5 under the bathroom?
6 A. Were they play wrestling?
7 Q. Yes.
8 A. Yes.
9 Q. Did you see them wrestle all the way down into the
10 bathroom?
11 A. No, but I seen them by the stairs, which is by the
12 bathroom.
13 Q. And at some point you're asked to go find Jahala,
14 correct?
15 A. Yes, after I told my grandma I couldn't find her.
16 Q. At that point you couldn't find her and you
17 looked, right?
18 A. I looked in the house and couldn't find her.
19 Q. Then you knocked on the bathroom door. Is this
20 upstairs or downstairs bathroom?
21 A. Downstairs.
22 Q. You knock on the bathroom door and you talk to
23 Renard, right?
24 A. I talked to him.
25 Q. You asked if Jahala was in there or who was in

1 there?
2 A. I didn't talk to him, my sister did.
3 Q. And you heard Renard say she's not in here?
4 A. Yes.
5 Q. And to go look at Tommy's house?
6 A. He didn't say that at first.
7 Q. What did he say?
8 A. He said she's not in here.
9 Q. And so you hadn't been able to find her and at
10 some point Renard does tell you to go to Tommy's house?
11 A. Right after we come back. Because we had came
12 back, my grandma told her to go see if Renard knows where she
13 at and he said go to Tommy's house.
14 Q. So you go downstairs. I'm talking about the first
15 time?
16 A. No, we don't go downstairs because we already
17 downstairs.
18 Q. So you go to the bathroom and you say -- knock on
19 the door or something to that effect and say Renard, do you
20 know where Jahala is? Something like that?
21 A. The second time we knocked on the door?
22 Q. I'm confused, I'm sorry.
23 There's a first time you knock on the bathroom, is
24 that correct?
25 A. Yes.

1 Q. What is said, you tell us?
2 A. What did he say?
3 Q. What is said, what did you say, what did Renard
4 say?
5 A. My sister said -- I didn't say nothing, my sister
6 said is Jahala there? He said no. So then we went to go look
7 at Katrina's house.
8 Q. So you went to Katrina's house?
9 A. To see if she was there.
10 Q. Where is Katrina's house?
11 A. Down the street from ours.
12 Q. How long would it take you to get there from the
13 bathroom?
14 A. About four minutes, because we was on our bikes.
15 But it wasn't even that long.
16 Q. You went to Katrina's house. Did you talk to
17 anybody at Katrina's house?
18 A. We just said do you know where Jahala is? She
19 said no, she's not here.
20 Q. You then get back on your bikes, right?
21 A. Yes.
22 Q. And you go back to the home, your home?
23 A. No, we went to the girl that's down the street
24 from -- it's a girl, she was our friend and she says she wasn't
25 there either, so they came back.

1 Q. How long do you suppose it took you to get from
2 Katrina's house to this other person's house?
3 A. It wasn't long. It was like three houses from
4 Katrina's and it would be going back up toward our house.
5 Q. How long would it have taken you? Not long at
6 all? Two, three minutes?
7 A. Not long.
8 Q. Two, three minutes? A minute?
9 A. Yes.
10 Q. Did you talk to anybody there?
11 A. We knocked on the door and they said nobody's
12 here, nobody was there.
13 Q. Then where did you go?
14 A. We came back to the house.
15 Q. And you went and knocked on the door again?
16 A. What door?
17 Q. The bathroom door?
18 A. No, we went upstairs and told grandma we couldn't
19 find Jahala.
20 Q. From the time you talked to Renard and he said no,
21 she's not in here to the time you had gone to two houses, come
22 back, now you're going up to talk to your grandmother, right?
23 A. Yes.
24 Q. How long, 20 minutes?
25 A. How long would it take us to walk up the stairs

1 and --

2 Q. No, I'm sorry, I'm not being clear.

3 From the time you left the bathroom to go search

4 for Jahala, these two houses and then come back, go up to talk

5 to your grandmother, how long a period of time are we talking,

6 five minutes, 20 minutes? An hour?

7 A. About ten minutes, because it don't take us long

8 to do none of that.

9 Q. So, ten minutes?

10 A. And we didn't talk to our grandma. All we said

11 was we couldn't find Jahala. She said go tell Renard. So we

12 came down there, Jahala was already out.

13 Q. No, it couldn't be that way because you had to

14 have looked under the bathroom door and see her lying on the

15 floor.

16 A. We had went to the house, then we came back from

17 the two houses, Katrina and the girl that don't believe in God.

18 We came back to the bathroom door and we told Renard that we

19 couldn't find Jahala. And me and Jamila looked under the

20 bathroom door.

21 Q. Why did you do that?

22 A. Because she was downstairs. How could she just

23 disappear like that?

24 Q. You knew she was in the bathroom so you went out

25 to two other homes looking for her?

1 A. Okay, what am I supposed to say, Oh, no, Renard,
2 we know she's in there. What would you do? You're scared,
3 right?
4 Q. Did you really look under that bathroom door?
5 A. Yes, I did.
6 Q. Did you talk about what happened in the bathroom
7 to Jahala with Jahala?
8 A. No -- she had told us.
9 Q. When did she tell you?
10 A. Like, it wasn't long after she had done it. It
11 was when we all found out what happened. She told my grandma.
12 She didn't tell me, I was up in the room when she told.
13 Q. Was that before?
14 A. No, it was the same day my sister told about
15 Renard and me.
16 Q. If you knew Jahala was in the bathroom, why did
17 you need to look under the door?
18 A. Why did we need to look under the door?
19 Q. Yes.
20 A. Because the first time we didn't know Jahala was
21 in the bathroom, he had said no. Then we went to the house to
22 see if she was there. After we went to the houses she wasn't
23 there, so then we went back.
24 Q. And so now you're telling us, so I have this
25 straight, you talked to Renard in the bathroom, you can't find

1 Jahala, right? You don't know where she is, do you, at that
2 point?
3 A. The first time after we came back?
4 Q. No, the first time you are downstairs. You go to
5 the bathroom, say hey, Renard, where is Jahala? And he says
6 she's not here?
7 A. The first time he says she wasn't in there.
8 Q. At that point you don't know where she is?
9 A. No.
10 Q. So you go off to two other houses, correct?
11 A. Yes.
12 Q. To find her, correct?
13 A. Yes.
14 Q. You come back, tell your grandmother we can't find
15 her. She says go tell Renard, right?
16 A. Yes.
17 Q. You go downstairs to the bathroom to tell Renard,
18 correct?
19 A. Yes.
20 Q. And then you look under the bathroom?
21 A. No. He kept on saying she wasn't up in there.
22 Then we looked under the bathroom door to see if she was up in
23 there. And then he said to go to Tommy's house, see if she
24 was there. Then we went to Tommy's house and we came back and
25 she was in the house again.

1 Q. Is this the way it really happened?
2 A. Yes.
3 Q. You said, when the prosecutor asked you about you
4 went to the doctor to see if it was true and you said then they
5 came out, and said it was true, do you remember saying that?
6 A. Do I remember saying?
7 Q. Do you want me to repeat the question?
8 A. Yes.
9 Q. When Miss Holthus was asking you questions she
10 asked you if you went for a medical examination?
11 A. Yes.
12 Q. And you said one of the things was, words to the
13 effect you went and they were going to see if it was true and
14 then you were told it was true?
15 A. No, they didn't tell me it was true, they told my
16 Auntie it was true and my Auntie told me I wasn't lying.
17 Q. So because you were worried you were lying?
18 A. No, I wasn't worried I was lying.
19 Q. What did you mean you realized --
20 A. She told me I wasn't lying. I knew I wasn't
21 lying. When we was at the hospital and I got up from laying
22 down, she was looking on TV, she said you weren't lying. And I
23 knew I wasn't lying.
24 Q. So who told you that, that was your Auntie?
25 A. Yes.

1 Q. Did you ever find out what it was that the medical
2 people found out that shows that you were telling the truth?
3 Did you ever find out?
4 A. Did I ever find out?
5 Q. Your Auntie is saying well, it's true?
6 A. No, she didn't say nothing. I'm already up in the
7 room and so is she. I got up from the bed and turned off the
8 TV and she said, "You weren't lying."
9 Q. At that time had you told the doctor about Darrell
10 and Dorian?
11 A. No.
12 Q. Did the doctor ever ask you whether you had ever
13 had -- when I say sexual activity, I don't mean that willing,
14 but did the doctor or nurse ever say to you have you ever had
15 anybody penetrate you before?
16 A. I don't remember.
17 Q. You said when Miss Holthus was asking questions,
18 that Renard had put a pillow over your head, do you remember
19 saying that?
20 A. To who?
21 Q. That Renard had put a pillow over your head?
22 A. Who did I say that to.
23 Q. I thought you said that to Miss Holthus?
24 A. Yes, I said that then, because he did.
25 Q. Why did you ask me just now who?

1 A. You said some other word before and I asked you
2 what were you talking about.
3 Q. You say this all started when you were five or six
4 and you were in the bathtub, do you remember that?
5 A. Yes.
6 Q. And Renard told you don't tell anybody, you just
7 tell them that the water was hot, right?
8 A. Yes.
9 Q. And Miss Holthus asked you was the water hot and
10 you said there wasn't even water in the bathtub or . . .
11 A. I said the water wasn't on because the water was
12 already in the tub. I was already in the tub with water and
13 the water wasn't on.
14 Q. That's what you meant?
15 The reason that you never told anybody about this
16 is because you were scared, is that right?
17 A. Yes.
18 Q. But you told them about it when you were at the
19 hospital, right?
20 A. I don't remember. All I know is they told me to
21 sign a paper and I signed a paper.
22 Q. Did you talk with any detectives about this?
23 A. Probably. I don't remember.
24 Q. Lastly, I don't mean to keep rehashing, but I want
25 the best time estimate you have.

1 With the bathroom incidents with Jahala, from the
2 first time you're at the bathroom looking for her until the
3 time that you say you looked underneath the door, how long did
4 that whole time period take?
5 A. Not long because it was all close. It didn't take
6 more than five minutes to get to another point or another house
7 or up the stairs or down the stairs. It didn't take no more
8 than five minutes.
9 Q. Total to do everything you described?
10 A. It didn't take five minutes to get from a house to
11 another house.
12 Q. Anna, is everything you've told us today,
13 everything true?
14 A. Yes.
15 MR. ORAM: Nothing further judge.
16 THE COURT: Anything else?
17 MS. HOLTHUS:
18 Q. Anna, you getting tired?
19 A. No.
20 Q. Mr. Oram asked you if you're telling the truth.
21 Have you always told the truth since the first time you talked
22 about what Renard did to you?
23 A. Yes.
24 Q. How do you feel about your brother?
25 MR. ORAM: Objection, relevance.

1 MS. HOLTHUS: It's very relevant, goes to bias or
2 motive.
3 THE COURT: Overruled.
4 Q. (By Ms. Holthus) How do you feel about your
5 brother?
6 A. I still love him or whatever, but I think he needs
7 to pay his time or whatever.
8 MS. HOLTHUS: Nothing else.
9 THE COURT: Anything else?
10 MR. ORAM: Just one question-- no, nothing, Judge.
11 THE COURT: Thank you very much, Anna, for
12 testifying. You're excused now.
13 You want to call another witness or call it a day?
14 MS. HOLTHUS: I'd rather call it a day unless --
15 THE COURT: It's up to you. That's fine. I think
16 it's a good time to take our recess, it's been a long day, we
17 accomplished a lot.
18 We'll reconvene at nine-thirty tomorrow. So be
19 outside about nine-twenty, nine-thirty tomorrow. The bailiff
20 will escort you in. Thank you very much.
21
22 (Whereupon, the jury was duly admonished.)
23
24 THE COURT: That being said we'll be in recess
25 until nine-thirty tomorrow.

1
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3 ATTEST: Full, true and accurate transcript of proceedings.
4
5 THOMAS D. MERCER, C.C.R. No. 33
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DISTRICT COURT

CLARK COUNTY, NEVADA

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Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
JURY TRIAL
VOLUME III

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on January 8, 2002
At 9:30 a.m.

APPEARANCES:
For the State: TAMMY PETERSON, ESQ.
MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
520 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

1 Las Vegas, Nevada, January 8, 2002
2
3 * * * * *
4
5 THE COURT: Counsel stipulate to the presence of
6 the jury?
7 MS. PETERSON: Yes, Judge.
8 MR. ORAM: Yes, Judge.
9 THE COURT: Good morning, ladies and gentlemen;
10 thanks for your indulgence. The State's still on their case.
11 Call your next witness.
12 MS. PETERSON: Jamila Chatman.
13 Again, any witnesses in this case are hereby
14 excluded from this courtroom and admonished not to discuss
15 their testimony with any other witness.
16
17 (Whereupon, the witness was duly sworn.)
18
19 THE COURT: Please have a seat: Please state your
20 name and spell your last name, for the record. Spell your
21 first name, too.
22 THE WITNESS: Jamila J a-m-i-l-a, Chatman, C-h-
23 a-t-m-a-n.
24 THE COURT: Thank you.
25 Miss Holthus.

1

2 DIRECT EXAMINATION

3

4 Q. (By Ms. Holthus) Jamila, how old are you?

5 A. 16.

6 Q. And what's your date of birth?

7 A. 6-20-85.

8 Q. Where do you live?

9 A. In L.A., California.

10 Q. With whom do you live?

11 A. Marjorie Denard and Tony Denard.

12 Q. Who are they?

13 A. They are my foster parents.

14 Q. How long have you been in foster care?

15 A. Two years and a month.

16 Q. Do you know when you went in to foster care, the

17 date?

18 A. Yeah, June of 1999, June 7th or 8th, I think.

19 Q. How is it you remember June of '99?

20 A. Because I remember my auntie took me out to

21 Pamona, California.

22 Q. And you've been in foster care ever since?

23 A. Yes.

24 Q. Did your auntie take you out alone?

25 A. No, they took my sisters and brothers with me.

1 Q. Which sisters, which brothers?
2 A. Javan, Richard, Jahala and Anna.
3 Q. Do you know if they are in California as well?
4 A. Yes.
5 Q. Do you live with any of them?
6 A. I only live with Jahala.
7 Q. Was there a time you were living with Anna?
8 A. Yes, I was living with her.
9 Q. In California?
10 A. Uh-huh. We just got split up recently.
11 Q. Do you know why you were split up?
12 A. They say Anna --
13 MR. ORAM: Objection, relevance.
14 THE COURT: I don't know if this is relevant or
15 not. I'm going to sustain the objection unless you want to
16 approach, tell me the relevancy u.
17 MS. HOLTHUS: If we may approach.
18
19 (Off the record discussion at Bench.)
20
21 THE COURT: You can proceed with your question,
22 Miss Holthus.
23 Q. (By Ms. Holthus) Without telling me what anybody
24 said, do you, yourself, know, have you seen why Anna was taken
25 out of your foster home?

1 A. I only -- they said --
2 MR. ORAM: Objection to what they said.
3 THE COURT: Sustained.
4 MS. HOLTHUS: I don't want you to tell me what
5 anybody said. Did you see anything personally with Anna?
6 A. Yes.
7 Q. What did you see?
8 A. Anna, she has attitude.
9 Q. Was there a time that you lived with Anna here in
10 Las Vegas?
11 A. Yes.
12 Q. When?
13 A. Years ago.
14 Q. Where did you live before you went in June '99 to
15 foster care in California?
16 A. 1325 Nay Court.
17 Q. Is that here in Las Vegas?
18 A. Uh-huh.
19 THE COURT: You have to say yes and no, because
20 the court reporter has to take everything down.
21 Proceed
22 BY MS. HOLTHUS:
23 Q. Who did you live on Nay Court with?
24 A. My grandmother Gloria.
25 Q. Who else?

1 A. My three brothers and two sisters.
2 Q. The same kids that you said went to California
3 with you and one more brother?
4 A. Uh-huh.
5 THE COURT: Is that a "yes"?
6 THE WITNESS: Yes
7 BY MS. HOLTHUS:
8 Q. Which is the brother that's not in California?
9 A. Renard Polk.
10 Q. Do you see Renard here in court?
11 A. Yes.
12 Q. Would you point to him and tell me where he's
13 sitting and what he's wearing?
14 A. A gray shirt and blue pants.
15 THE COURT: The record will show the
16 identification of the defendant, Renard Polk.
17 BY MS. HOLHUS:
18 Q. How long did you live with your brothers and
19 sisters and grandmother, Gloria Polk?
20 A. I lived with them for 13 years.
21 Q. With all your brothers and sisters?
22 A. Yes.
23 Q. Where was your mom?
24 A. She was not with me. She was out in the streets.
25 Q. Did you get to see your mom?

1 A. Sometimes. Not always.
2 Q. So you just -- was Grandma Gloria, is that your
3 mom's mom?
4 A. Uh-huh.
5 Q. Yes?
6 A. Uh-huh.
7 Q. I'm sorry, I need you to say yes or no?
8 A. Yes.
9 Q. Was there a time that your mom couldn't take care
10 of you guys, that's why you went to grandma's?
11 A. Yes.
12 Q. And you knew there were problems with your mom?
13 A. Yes.
14 Q. Did you and your sisters and brothers see problems
15 with your mom?
16 MR. ORAM: Objection to what anybody else would
17 have seen.
18 THE COURT: Rephrase it
19 BY MS. HOLTHUS:
20 Q. Did you, yourself, see mom having problems?
21 A. Yes.
22 Q. What kind of problems did you see?
23 A. Drug problems, abusive problems.
24 Q. Did you see -- did you see these problems in front
25 of your brothers and sisters as well?

1 A. Yes.
2 Q. Who was in charge of the house?
3 A. My grandma, Gloria Polk.
4 Q. Your brother was five years older than you?
5 A. Which one?
6 Q. Renard?
7 A. Yes.
8 Q. The other brothers are younger, aren't they?
9 A. Uh-huh.
10 Q. Yes?
11 A. Yes.
12 Q. So was he kind of in charge too?
13 MR. ORAM: Objection, leading.
14 THE COURT: Overruled. But don't lead the
15 witness. You can answer
16 By MS. HOLTHUS:
17 Q. Was Renard in charge as the older brother?
18 A. Yes.
19 Q. How did you guys all get along?
20 A. We did okay.
21 Q. Did there come a time that you found out one of
22 your sisters was having a problem?
23 A. With what?
24 Q. With your older brother, Renard?
25 A. Yes.

1 Q. When did that happen?
2 A. Anna believed something she told Jahala.
3 MR. ORAM: Objection, as to Anna telling Jahala.
4 THE COURT: All right.
5 BY MS. HOLTHUS:
6 Q. Do you remember when it was that you found out?
7 A. No.
8 Q. Was it before you went into foster care?
9 A. Yes.
10 Q. You went into foster care in June of 1999?
11 A. Uh-huh.
12 Q. That's a "yes"?
13 A. Yes.
14 Q. Do you know how long before that it was?
15 A. It was off and on.
16 Q. Okay. When did you find out?
17 A. The last time?
18 Q. Right.
19 A. It was a Friday in February or March.
20 Q. What happened that Friday in February or March?
21 A. Me and Jahala went to the store and Anna wanted to
22 go but Renard had told her to -- Renard told her to stay
23 because all of us walking to the store, it was getting late
24 anyway.
25 When we came back, because my grandma needed a

1 couple things from the store --
2 Q. Let me stop you there. How was grandma doing at
3 that point?
4 A. She was really sick. She was really sick.
5 Q. Who was taking care of grandma?
6 A. Almost everybody. Nurses would come in, home
7 nurses would come in, take care of her.
8 Q. Did any other adult live in the house?
9 A. My Auntie Susan, mostly all my aunties, my uncles.
10 Q. They would come, were they living with you or just
11 coming to help take care of everybody?
12 A. Come help take care of us.
13 Q. Was any other adult living in the house?
14 A. Yes. At the time it was my Uncle Alvin.
15 Q. And at that point Renard was 18 too, is that
16 right?
17 A. I don't know.
18 Q. Okay. I'm sorry, I interrupted you. You went to
19 the store for your gramother?
20 A. Uh-huh. And we had got back and Anna was in our
21 room crying. And Jahala asked her what was the matter with
22 her.
23 MR. CRAM: Judge, objection as to any conversation
24 between Jahala and Anna.
25 THE COURT: She was present, is that correct?

1 MR. ORAM: Yes, that's true, but it's still
2 hearsay.
3 MS. HOLTHUS: At this point we know they went to
4 the store, we have enough background in the case to determine
5 what happened earlier and I believe this comes in as an excited
6 utterance.
7 THE COURT: I'm going to overrule your objection.
8 You can proceed.
9 BY MS. HOLTHUS:
10 Q. You said Anna was crying, she was in the bedroom,
11 you just got back from the store, Jahala asked her what's
12 wrong. What did Anna say?
13 A. Anna shook her head, and I knew she didn't want me
14 to hear.
15 Q. Shook her head which way?
16 A. She was like, when you cry, you don't want people
17 to know so you just shake your head like nothing is the matter.
18 Q. Okay.
19 A. So before I got to the room I said you sure
20 nothing's the matter with you? She say yes. But when I walked
21 up to our room I closed the door.
22 Q. Why did you do that?
23 A. Because I want to hear what happened.
24 Q. Did you think she was going to tell Jahala and not
25 you?

1 A. Uh-huh. She told Jahala but not me. And I heard
2 her talking.
3 Q. Were Anna and Jahala close?
4 A. Yeah. They still is.
5 Q. Did you stand right outside the door?
6 A. Yeah.
7 Q. Were you able to hear what Anna told Jahala?
8 A. Yes.
9 Q. What did you hear her say?
10 A. All she said was "He did it again."
11 Q. What happened then?
12 A. Then I went and Jahala said what you mean he did
13 it again? She was like what he did to you. And so Renard's
14 room is next to us.
15 MR. ORAM: Can I just ask for a continuing
16 objection.
17 THE COURT: Yes, a continuing objection, Mr. Oram.
18 The record will so reflect
19 BY MS. HOLTHUS:
20 Q. What happened then?
21 A. I went to Renard's room and I called my Auntie
22 Susan.
23 Q. How long were you and your sister at the store?
24 A. I don't really know.
25 Q. How far is the store from your house?

1 A. A couple blocks.
2 Q. Do you know about how long it takes you to get
3 there?
4 A. 20, 25 minutes.
5 THE COURT: Is that walking or?
6 THE WITNESS: Walking
7 BY MS. HOLTHUS:
8 Q. 20 to 25 minutes there and 20 to 25 minutes back?
9 A. Uh-huh.
10 Q. Is that yes?
11 A. Yes.
12 Q. So you would have been gone about 50 minutes, plus
13 however much time you dod shopping?
14 A. Uh-huh -- yes.
15 Q. Do you happen to remember what you bought that
16 day?
17 A. No.
18 Q. Was it a lot of groceries or . . .
19 A. In the middle.
20 Q. Something that both you and your sister were able
21 to carry back from the store?
22 A. Yes.
23 Q. So you came back and you called your Auntie Susan.
24 Why did you call Auntie Susan?
25 A. I called her because that's something that came to

1 my head, just to call my Auntie Susan.
2 Q. What happened then?
3 A. I called Auntie Susan and she said that she going
4 to come right over and she came right over.
5 Q. Did you talk to Renard?
6 A. No, Renard wasn't in the house at the time.
7 Renard was gone.
8 Q. Was he there when you got home from the store?
9 A. No.
10 Q. What happened when Auntie Susan got there?
11 A. She pulled in and asked what happened.
12 MR. ORAM: Objection.
13 THE COURT: I'm not going to allow. I'm going to
14 sustain that objection.
15 MS. HOLTHUS: I'm sorry, what was the objection?
16 MR. ORAM: Hearsay
17 BY MS. HOLTHUS:
18 Q. I don't want anything Auntie Susan said, just what
19 did everybody do?
20 THE COURT: Maybe clarify the question
21 BY MS. HOLTHUS:
22 Q. What did Auntie Susan do when she got there?
23 A. She asked Anna questions.
24 Q. After she asked Anna the questions, did Anna give
25 answers?

1 A. Yes.
2 Q. What happened? What did Auntie Susan do then?
3 A. She talked to all of us.
4 Q. All of us being?
5 A. Me, Jahala and Anna, in our room.
6 Q. And what happened after she talked to all of you?
7 A. She went in my grandma's room and talked to my
8 grandma.
9 Q. What happened after that?
10 A. We just waited until Renard got home.
11 Q. Did he come home?
12 A. Yes.
13 Q. What happened when Renard got home?
14 A. I was sleeping at the time and they were
15 downstairs playing, I think "64" and they were down there and
16 they woke me up and told me Renard was here. And my Auntie
17 Susan pulled me in my grandma's room and my grandma just talked
18 to Renard in front of all of us and she told him.
19 MR. ORAM: Objection -- I'll withdraw that.
20 THE COURT: Go ahead.
21 THE WITNESS: She talked to Renard with all of us
22 in the room and she told Renard she can't have this in her
23 house and she said he may have to go live with his grandma.
24 BY MS. HOLTHUS:
25 Q. What did Renard say?

1 A. Renard said it wasn't true.
2 Q. And what happened then?
3 A. Then him and my auntie got into a big argument and
4 auntie said she was going to call the cops and he said, "Okay,
5 call the cops, I don't care."
6 And we exited out of my grandma room and she had
7 her fiance then, her fiance was there and he was -- they was
8 downstairs talking and then Renard ran out the front door.
9 Q. And do you know if anybody called the police?
10 A. Yes, my auntie did. She was calling the police at
11 the time.
12 Q. When Renard ran out the door?
13 A. Yes.
14 Q. Did the police come that night?
15 A. Yes.
16 Q. Was that the last time you saw -- that Renard
17 lived with you?
18 A. Uh-huh, yes.
19 Q. Did you talk to the police that night?
20 A. Yes. They asked me what happened that Friday.
21 Q. Had you you ever seen Renard do anything to Anna?
22 A. No.
23 Q. Have you ever seen him do anything to Jahala?
24 A. No.
25 Q. Have you ever seen something unusual between

1 Renard and Jahala?
2 A. No.
3 Q. Was there a time that you saw -- that you were
4 looking for Jahala when you knew where she was?
5 A. Yes.
6 MR. ORAM: I'd object, Judge. The question was
7 asked and answered twice, did you see the defendant do
8 anything, she said no. Now I think it's leading.
9 THE COURT: Overruled. Go ahead
10 BY MS. HOLTHUS:
11 Q. About when was that that you saw Jahala and yet
12 you went looking for her?
13 A. I don't remember the date.
14 Q. Do you remember about how long it was before the
15 police came that last night?
16 A. Friday night?
17 Q. Friday.
18 A. No.
19 Q. Was it years before? Months before? Weeks
20 before?
21 A. Months.
22 Q. What was going on before you went looking for
23 Jahala?
24 A. We were all in the kitchen playing and wrestling.
25 Q. Who is we?

1 A. Me, Renard, Jahala and Anna. And we clean up on
2 Saturdays, so we were all in the kitchen wrestling and playing
3 and dancing. And I went upstairs and I don't know where Anna
4 went, I think Anna went downstairs. We was upstairs and my
5 grandma called me and she said Jamila, go get Jahala, and I
6 said okay. So I went to get Jahala and I was looking for her
7 and I heard like a little scream and I knocked on the door and
8 that's when I said Renard is Jahala in there? He said no.
9 Q. What door did you knock on?
10 A. Our downstairs bathroom.
11 Q. Why did you knock on that door?
12 A. Because she was not upstairs.
13 Q. Was the door closed?
14 A. Yes.
15 Q. Did you try to open it? Was it locked?
16 A. I didn't try to open it, I don't remember if I
17 tried to open it.
18 Q. All right. So you talked through the door?
19 A. Yes. And he said she wasn't in there.
20 Q. What happened then?
21 A. Then I looked under the door and it was just black
22 and I knew she was laying on the floor.
23 Q. How did you know that?
24 A. Just by looking.
25 Q. Just by looking in just black you knew it was

1 Jahala laying on the floor?
2 A. Before I looked under the door she screamed a
3 little scream.
4 Q. Where was the scream coming from?
5 A. The downstairs bathroom.
6 Q. Have you looked under the bathroom door before?
7 A. Before?
8 Q. Any other times have you ever looked under the
9 bathroom door?
10 A. No.
11 Q. What was it about being black under the bathroom
12 door that made you think she was in there?
13 A. Because she was nowhere else. She was nowhere
14 else so I just looked under the bathroom door.
15 Q. Was anybody with you when you looked under the
16 bathroom door?
17 A. No.
18 Q. What happened then?
19 A. Then I told Anna, because my grand -- I said she's
20 nowhere to be found. And my grandma said go check at Tommy's
21 house, Katrina's house and some other girl house, I forgot her
22 name. She don't believe in God. And we was on our way over to
23 Tommy house and we stopped and I said you know where she's at?
24 And she said yes, I do, she's in the bathroom with Renard.
25 MR. ORAM: Can I ask who said that?

1 THE COURT: Yes.
2 BY MS. HOLTHUS:
3 Q. Who said -- what did you say?
4 A. I stopped the bike and I say you know where Jahala
5 is at? And she say she's in the bathroom with Renard.
6 Q. Anna said she's in the bathroom with Renard?
7 A. Yes. And I said okay and when we got to the house
8 Jahala was fixing some noodles.
9 Q. If you knew Jahala was in the bathroom why did you
10 go looking for her somewhere else?
11 A. Because.
12 Q. Because why?
13 A. I didn't want to tell my grandma.
14 Q. Why not?
15 A. I don't know.
16 Q. Did you talk to Jahala after that about what was
17 going on?
18 A. Yes. We went upstairs to eat our noodles in our
19 room.
20 MR. ORAM: Object, Judge, hearsay.
21 MS. HOLTHUS: I just wanted to know if you did.
22 THE COURT: All right.
23 THE WITNESS: Yes
24 BY MS. HOLTHUS:
25 Q. Was Jahala acting normal?

1 A. She cried. That's about it, she cried.
2 Q. Did she seem upset?
3 MR. ORAM: Objection to the question, asked and
4 answered.
5 THE COURT: Overruled
6 BY THE WITNESS: I really don't know.
7 BY MS. HOLTHUS:
8 Q. What did she tell you?
9 MR. ORAM: Objection what she would have said.
10 MS. HOLTHUS: Excited utterance.
11 THE COURT: Objection sustained.
12 MS. HOLTHUS:
13 Q. Did you ever see your brother do anything else to
14 Jahala?
15 A. No.
16 Q. What kind of brother was your brother?
17 A. He was a caring person, he was my role model.
18 Q. Did you love him?
19 A. Yes. I still do.
20 Q. Do you know what kind of student he was?
21 A. Yes, he got good grades.
22 Q. So other than these things that were going on with
23 Anna and Jahala, he was a good brother?
24 A. Yes.
25 MS. HOLTHUS: Pass the witness.

1 THE COURT: Thank you.

2

3 CROSS EXAMINATION

4

5 Q. (By Mr. Oram) you okay?

6 A. Yes.

7 Q. I'm going to ask you some questions, can we do

8 that?

9 A. Uh-huh.

10 Q. Think you're okay to do that?

11 A. Yes.

12 Q. If you need a break just let the judge no, okay?

13 A. Uh-huh.

14 Q. I want to ask you a few questions about some of

15 the things you described today, okay?

16 A. Okay.

17 Q. The first thing I want to ask you about is If I

18 understand you correctly, the night that this is reported, some

19 time you said in February or March, you overheard conversation

20 when the door was shut between?

21 A. Jahala and Anna.

22 Q. And you were hearing Anna describe to Jahala

23 something that happened to her that was very bad, is that

24 right?

25 A. Yes.

1 Q. And that must have been very upsetting to you,
2 wasn't it?
3 A. Yes.
4 Q. Something you'd never forget, right?
5 A. Yes.
6 Q. And that was the first time that you knew that
7 something had happened to Anna that was bad in this regard, is
8 that right?
9 A. Yes.
10 Q. Up until the time you heard it at the door, you
11 didn't know anything bad had happened to Anna, did you?
12 A. No. I just thought she was crying.
13 Q. And that's something you'll never forget, isn't
14 that right?
15 A. Yes.
16 Q. And that's true, isn't it?
17 A. Yes.
18 Q. And Miss Holthus asked you if you had ever seen
19 anything happen to Anna, and you told us no, but you heard that
20 incident, right?
21 A. Yes.
22 Q. Do you have your statement in front?
23 A. No.
24 Q. I have your statement here and I'm going to ask
25 you first if you remember telling the police -- strike that.

1 You didn't tell the police in that statement that
2 you had overheard a conversation outside the door, did you?
3 A. No.
4 Q. You forgot to tell the police that thing that you
5 heard that was so horrible? Had you just forgotten?
6 A. I told them what happened that night --
7 Q. Listen to my question.
8 Wheh you failed to tell them on the tape-recorded
9 statement about the conversation you heard, did you just forget
10 or had you told them previously and they didn't put it in
11 there?
12 A. I told them before they even asked me any more
13 questions.
14 Q. Isn't it true what you told the police is that
15 you, on that day, witnessed Renard Polk on top of your sister
16 and you watched him urinate in her? Isn't that what you said?
17 A. No.
18 Q. That's your name, isn't it?
19 A. Uh-huh.
20 Q. Is that a "yes"?
21 A. Yes.
22 Q. Now, if you could read to yourself from page two,
23 the middle of page two, where it says -- just read the whole
24 page.
25 A. I read the statement.

1 Q. I want to go through that statement with you. Do
2 you need a copy to look at?
3 A. No.
4 Q. The police asked you, "Did you ever see him,"
5 speaking about Renard Polk, "ever see him do anything to either
6 one of your sisters?" And you indicate that you had seen him
7 grab her and, your words, "ate her out." Do you remember
8 saying that, yes or no?
9 A. No.
10 Q. You don't remember saying that?
11 A. No.
12 Q. Are you disputing -- you've had a chance to read
13 this statement, right?
14 A. Uh-huh.
15 Q. Is that a "yes"?
16 A. Yes.
17 Q. You don't dispute this is the statement you gave,
18 correct?
19 A. I don't remember saying that.
20 Q. You do?
21 A. I don't remember saying that.
22 Q. If you -- you would agree with me -- strike that.
23 You told us today that when you heard this
24 incident where Anna is upset, that that was very traumatic to
25 you, correct?

1 A. Uh-huh.
2 Q. Is that a "yes"?
3 A. Yes.
4 Q. And, obviously, if you had seen your sister, using
5 your words being "eaten out," that would also be terribly
6 upsetting to you, something you wouldn't forget, right?
7 A. Uh-huh.
8 Q. Is that a "yes"?
9 A. Yes.
10 Q. But you're telling us today that you forgot that
11 you ever made that statement?
12 A. I don't remember saying that that night.
13 Q. Well, let me ask it this way. Did that ever
14 happen?
15 A. I can't remember. It was on Perry Street, I was
16 only a little girl.
17 Q. Then you tell the police, they ask you, this is
18 Anna, and you indicate it is. And they ask you what had
19 happened just before they arrived. And you even say it was on
20 a Friday, the 12th of the month, the 12th of March? And you
21 say yeah, do you remember saying that?
22 A. Uh-huh.
23 THE COURT: Jamila, we say that for a reason. See
24 that young man, he takes down everything said. So every
25 sometime you say "uh-huh" it doesn't mean anything, so you have

1 to say yes or no. Don't get mad at the lawyers. I need you to
2 say yes or no, do you understand that?
3 THE WITNESS: It's a habit.
4 THE COURT: I know it, but how many times do I
5 have to tell you? Could you break the habit right now, or if
6 you can't if he says "yes," don't get mad at him, all right?
7 THE WITNESS: Uh-huh -- yes.
8 Q. (By Mr. Oram) they asked you what you saw on
9 March 12, -- strike that.
10 You gave your statement on March 15, 1999. Do you
11 remember reading that up there, 3-15-99.
12 A. Yes.
13 Q. So this is three days after you observed this
14 incidents, correct?
15 A. Yes.
16 Q. And you say it was about four or five o'clock in
17 the afternoon, correct?
18 A. Yes.
19 Q. And you went up to the room and you say he peed in
20 her. And the police officer says he peed in her? In where?
21 And you say in her private. And the police officer says which
22 private? And you say her private.
23 A little ways down the police officer says you
24 actually saw him do this? And you said yes. Do you remember
25 telling the police that?

1 A. No.
2 Q. Do you remember telling the police that she was on
3 a chair and he was on the floor and it was a big gray chair
4 that you saw this all happen on?
5 A. I overheard that with Jahala when --
6 Q. You're telling the police that you actually saw
7 him do this and then you're adding something that he actually
8 urinated in her. And you say you saw this. So did you see it
9 or didn't you see it?
10 A. I just said I don't know, I can't remember.
11 Q. But you remember hearing in detail what was being
12 said inside the room when the door was closed, is that correct?
13 A. Yes.
14 Q. And that's the one thing that you don't mention in
15 your statement, isn't that right?
16 A. Yes.
17 Q. Jamila, I have to ask you these questions, do you
18 understand that, Jamila?
19 A. Yes.
20 Q. If you'll just bear with me.
21 So what you're telling the ladies and gentlemen of
22 the jury is that you didn't actually see anything or don't
23 remember ever seeing anything, you just heard this
24 conversation, correct?
25 A. Yes.

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
2

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C166490 STATE OF NEVADA vs. RENARD T. POLK

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FILED IN OPEN COURT
JAN 10 2002 @ 11:15 AM
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia
CAROLE D'ALOIA DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TRUMAN POLK, Defendant.	Case No. C166490 Dept. No. VI

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

S15

INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

INSTRUCTION NO. 3

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that on or between 1998 and March 12, 1999, the Defendant committed the offense of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366).

It is the duty of the jury to apply the rules of law contained in these instructions to the facts of the case and determine whether or not the Defendant is guilty one or more of the offense(s) charged.

COUNT I

did, on or between January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or between October 14, 1998, and March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have

known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

INSTRUCTION NO. 4

A person who subjects another person to sexual penetration against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

As used in these instructions, "sexual penetration" means any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another.

INSTRUCTION NO. 5

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a lesser included offense.

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Sexual Assault with a Minor Under Fourteen with which the defendant is charged, necessarily includes the offense of Attempt Sexual Assault with a Minor Under Fourteen.

The elements of an attempt to commit a crime are:

1) the intent to commit the crime;

2) performance of some act towards its commission; and

3) failure to consummate its commission.

INSTRUCTION NO. 6

A minor is defined as any child, male or female, under the age of fourteen.

INSTRUCTION NO. 7

Physical force is not a necessary ingredient in the commission of the crime of sexual assault. The question is not whether the victim was penetrated by physical force, but whether the act was committed without her consent, or the victim was incapable of giving her consent or understanding the nature of the act.

INSTRUCTION NO. 8

The victim of a sexual assault is not required to do more than his age, strength, the surrounding facts and the attending circumstances to manifest his opposition.

INSTRUCTION NO. 9

Where a child has been the victim of sexual assault or lewdness with minor, and does not remember the exact date of the act, the State is not required to plead or prove a specific date but may plead and prove a time frame within which the act took place.

INSTRUCTION NO. 10

There is no requirement that the testimony of a victim of sexual assault be corroborated, and her testimony standing alone, if believed beyond a reasonable doubt, is sufficient to sustain a verdict of guilty.

INSTRUCTION NO. 11

Sexual Assault is a general intent crime. Therefore, any claim or evidence of drinking alcohol or voluntary intoxication by the defendant is no excuse for the criminal conduct and is no defense to a charge of Sexual Assault. In addition, any claim or evidence of diminished mental capacity of the Defendant is no excuse for the criminal conduct and is no defense to a charge of Sexual Assault.

INSTRUCTION NO. 12

The flight of a person after the commission of a crime is not sufficient in itself to establish his guilt, but is a fact which, if proved, may be considered by you in light of all other proven facts in deciding the question of his guilt or innocence. Whether or not evidence of flight shows a consciousness of guilt, and the significance to be attached to such a circumstance, are matters for your determination.

INSTRUCTION NO. 13

If you find a statement to be voluntary, you may consider it for all purposes in your deliberations.

If you find a statement was not voluntary, you may not consider it for any purposes in your deliberations.

INSTRUCTION NO. 14

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 15

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every material element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

INSTRUCTION NO. 16

You are here to determine the guilt or innocence of the Defendant from the evidence in the case. You are not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

INSTRUCTION NO. 17

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 18

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 19

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

INSTRUCTION NO. 20

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 21

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of the guilt or innocence of the Defendant.

INSTRUCTION NO. 22

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

INSTRUCTION NO. 23

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: _____
DISTRICT JUDGE

66

VER

FILED IN OPEN COURT
JAN 10 2002 @ 11:15AM 20
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia
CAROLE D'ALOIA DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TRUMAN POLK, Defendant.	Case No. C166490 Dept. No. VI Docket

VERDICT

We, the jury in the above entitled case, find the Defendant as follows:

COUNT I - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN

☐ Guilty of Sexual Assault with a Minor under Fourteen.

☑ Guilty of Attempt Sexual Assault with a Minor under Fourteen.

☐ Not Guilty.

COUNT II - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN

☑ Guilty of Sexual Assault with a Minor under Fourteen.

☐ Not Guilty.

COUNT III - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN

☐ Guilty of Sexual Assault with a Minor under Fourteen.

☑ Not Guilty.

DATED this 10th day of January, 2002.

FOREPERSON

S15

EXPT
CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED
JAN 29 9 04 AM '02
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

EX PARTE MOTION FOR ORDER TO APPOINT INVESTIGATOR AND ORDER FOR EXCESS INVESTIGATIVE FEES

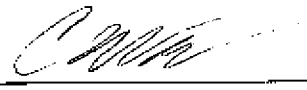
COMES NOW, Defendant RENARD TURMAN POLK, by and through his attorney CHRISTOPHER R. ORAM, ESQ., and moves this Court for an Order appointing RALPH DYMENT, of RALPH DYMENT AND ASSOCIATES, as private investigator to represent, investigate, and prepare the above styled case for the Court Appointed attorney in this matter, and for an Order authorizing payment to the investigator in excess of the statutory limit pursuant to N.R.S. 7.135(1). The nature of the case and laborious work involved justifies the excess fee of $1,000.00.

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

This Motion is made and based upon the Points and Authorities and Affidavit of Counsel attached hereto.

DATED this ____ day of January, 2002.

Respectfully Submitted,



CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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

POINTS AND AUTHORITIES

N.R.S. 7.135(1) states in pertinent part:

> "Reimbursement for expense; employment of investigation, expert, other services. The attorney appointed by a magistrate or district court to represent a defendant is entitled, in addition to the fees provided by N.R.S. 7.125 for his services, to be reimbursed for expenses reasonably incurred by him in representing the defendant and may employ, subject to the prior approval of the magistrate or the district court in an ex parte application, such investigative, expert or other services as may be necessary for an adequate defense. Compensation to any person furnishing such investigative, expert or other services must no exceed $300, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is:
>
> 1. Certified by the trial judge of the court, or by the magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration; and

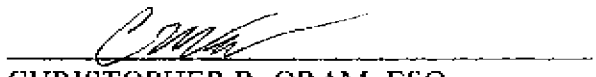
2. Approved by the presiding judge of the judicial district in which the attorney was appointed, or if there is no presiding judge, by the district court judge who holds seniority in years of service in office.

(Added to N.R.S. by 1975, 1155; A 1981, 875)."

Based on the foregoing, and the facts set forth in Counsel's affidavit, it is respectfully requested that RALPH DYMENT AND ASSOCIATES INVESTIGATIONS be appointed as investigator, and that $1,000.00, unless further ordered by the Court, be approved for investigative assistance.

DATED this ____ day of January, 2002.

Respectfully Submitted,



CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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

AFFIDAVIT OF CHRISTOPHER R. ORAM, ESQ.
IN SUPPORT OF EX PARTE MOTION
FOR ORDER TO APPOINT INVESTIGATOR
AND ORDER FOR EXCESS INVESTIGATIVE FEES

STATE OF NEVADA)
)
COUNTY OF CLARK)

CHRISTOPER R. ORAM, being first duly sworn, deposes and says:

1. That Affiant is an attorney duly licensed to practice law in the State of Nevada, and in such capacity has been appointed to represent Defendant RENARD TURMAN POLK

2. That there are a number of factual matters that must be investigated, in order to adequately prepare this case for trial, and Defendant is in need of the services of a private investigator pursuant to NRS 7.135.

3. That the Defendant in this matter has been charged with the crime of Sexual Assault.

4. That the laborious work involved justifies the excess fee of $810.55

FURTHER YOUR AFFIANT SAYETH NAUGHT.

CHRISTOPHER R. ORAM, ESQ.

SUBSCRIBED AND SWORN to before me
this 28 day of January, 2002.

NOTARY PUBLIC in and for said
County and State

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
KELLEY PETTIT HUFF
Appt. No. 99-56398-1
My Appt. Expires June 15, 2003

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

ORD
CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED

JAN 31 10 15 AM '02

CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER GRANTING EX PARTE MOTION TO APPOINT PRIVATE INVESTIGATOR

Based on the Ex Parte Motion to Appoint Investigator fees, a copy of which is attached hereto, the Court being fully advised in the premises, and good cause appearing therefore,

///

///

///

///

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

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that RALPH DYMENT & ASSOCIATES be appointed Investigator in this matter and fees and costs in the amount of $810.55 be granted.

DATED this 30 day of January, 2002.

DISTRICT COURT JUDGE

Submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD POLK

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

Dyment Investigations LTD.
10556 Riva Grande Court
Las Vegas NV 89135

Invoice submitted to:
Clark County District Court
Court Administrator
Las Vegas NV 89101

January 10, 2002
In Reference To: Renard Polk
Invoice #10044

Professional services

		Hrs/Rate	Amount
2-26-01	Agent Dennis Reefer - Picked up case from Attorney Oram's Office 2:45 - 3:45 PM	1.00 30.00/hr	30.00
2-27-01	Agent Dennis Reefer - Review and organize file 5:15 - 7:00 PM	1.75 30.00/hr	52.50
3-14-01	Agent Dennis Reefer - Traveled to Attorney Oram's Office to pick up discovery and CCDC letter 3:00 - 4:00 PM	1.50 30.00/hr	45.00
	Agent Dennis Reefer - Review file and write questions for interview with defendant tomorrow 9:00 - 9:30 PM		
3-15-01	Agent Dennis Reefer - Interviewed Renard Polk in CCDC 2:00 - 4:00 PM	3.25 30.00/hr	97.50
	Agent Dennis Reefer - Write report on Polk Interview 7:45 - 21:00 PM		

		Hrs/Rate	Amount
5-10-01	Agent Dyment - Call from defendant 4:15 - 4:30 PM	0.25 30.00/hr	7.50
5-14-01	Agent Dennis Reefer - Visit with defendant in CCDC, wants his JUV records, believes ones he has have been forged 12:30 - 1:30 PM	2.00 30.00/hr	60.00
	- Met with Attorney Oram re defendant's request - attorney advised to do nothing 2:00 - 3:00 PM		
	Agent Dyment - At attorney's office, return to office 1:45 - 3:00 PM	1.25 30.00/hr	37.50
5-30-01	Agent Dyment - Call from defendant 9:15 - 9:30 AM	0.25 30.00/hr	7.50
7-12-01	Agent Dennis Reefer - Talked to Attorney Oram re: case - he advised that Polk sent him a threatening letter 10:00 - 10:15 AM	0.25 30.00/hr	7.50
7-18-01	Agent Dennis Reefer - Phoned Attorney Oram re: visit to CCDC with him - went by himself 3:00 - 3:15 PM	0.25 30.00/hr	7.50
9-11-01	Agent Dennis Reefer - Met with Attorney Oram and defendant in CCDC - visited 6161 W. Charleston re: mental health records, picked up waiver form 1:30 - 4:15 PM	2.75 30.00/hr	82.50

		Hrs/Rate	Amount
9-12-01	Agent Dennis Reefer - Visited defendant in CCDC regarding signing a release waiver to obtain mental health records 1:00 - 2:30 PM	1.50 30.00/hr	45.00
9-13-01	Agent Dennis Reefer - Received phone call from Southern Nevada Mental Health Medical Records 2:00 - 2:15 PM	0.50 30.00/hr	15.00
	Phoned Attorney Oram and passed info along to him re: no record on Polk at SNMH 2:30 - 2:45 PM		
9-15-01	Agent Dennis Reefer - Wrote report on results of waiver served on Southern Nevada Adult Mental Health - made copies of waiver and reply 4:00 - 4:30 PM	0.50 30.00/hr	15.00
9-18-01	Agent Dyment - Report to attorney 1:30 - 1:45 PM	0.25 30.00/hr	7.50
9-28-01	Agent Dennis Reefer - Picked up two subpoenas at Attorney Oram's office - served at CCDC and Dr. Paglini - returned back to Attorney Oram's office 10:45 AM - 1:00 PM	2.25 30.00/hr	67.50
10-2-01	Agent Dennis Reefer - Phone call from Attorney Oram - cancelled meeting 1:15 - 1:30 PM	0.25 30.00/hr	7.50
10-3-01	Agent Dennis Reefer - Attended hearing in Judge Boneventure's Ct. - will not postpone trial 7:15 - 9:15 AM	2.00 30.00/hr	60.00

		Hrs/Rate	Amount
10-3-01	Agent Dennis Reefer - Phone call from Attorney Oram re: serving a subpoena on CCDC 1:15 - 1:30 PM	0.25 30.00/hr	7.50
10-4-01	Agent Dennis Reefer - Picked up subpoena At Attorney Orams Office and served on CCDC 8:15 - 9:30 AM	2.25 30.00/hr	67.50
	- Picked up subpoena info at CCDC and reviewed same 11:30 AM - 12:30 PM		
10-5-01	Agent Dennis Reefer - Received phone call from CCDC Medical Records re: subpoena 10:15 - 10:30 AM	1.25 30.00/hr	37.50
	- Picked up subpoena info from CCDC and dropped off at Attorney Oram's office 11:30 AM - 12:30 PM		
	For professional services rendered	25.50	$765.00
	Additional charges:		
2-26-01	Mileage - 12 Miles		4.14
3-14-01	Mileage - 6 Miles - @ .345 cents		2.07
5-14-01	Mileage - 16 Miles		5.52
9-12-01	Mileage - 9/11/01 - 24 Miles Mileage - 9/12/01 - 14 Miles		13.11
9-28-01	Mileage - 43 Miles		14.84
10-5-01	Mileage - 10/4/01 - 10 Miles Mileage - 10/5/01 - 7 Miles		5.87

	Amount
Total costs	$45.55
Total amount of this bill	$810.55
Balance due	$810.55

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
255 - 261
WILL FOLLOW VIA
U.S. MAIL

ORIGINAL

ORDR
DAVID M. SCHIECK, ESQ.
NEVADA BAR NO. 0824
302 E. CARSON, STE. 600
LAS VEGAS, NV 89101
702-382-1844

FILED
MAR 26 10 50 AM '02
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA, Plaintiff, vs. RENARD T. POLK, Defendant.	CASE NO. C 166490 DEPT. NO. VI ORDER APPOINTING COUNSEL DATE: 3-20-02 TIME: 9:00 A.M.

This matter having come on for hearing on the 20th day of March, 2002, CHRIS ORAM, ESQ. appearing on behalf of DAVID M. SCHIECK, ESQ. appearing, MARY KAY HOLTHUS, of the District Attorney's Office appearing on behalf of the State of Nevada, the Court being fully advised in the premises, and good cause appearing

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that DAVID M. SCHIECK, ESQ. is appointed as counsel to represent RENARD T. POLK on his appeal to the Nevada Supreme Court from his conviction and sentence.

DATED AND DONE: March 25, 2002

DISTRICT COURT JUDGE

SUBMITTED BY:

DAVID M. SCHIECK, ESQ.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

ORIGINAL

JOCP
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED
APR 1 2 40 PM '02
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court herein with counsel and entered a plea of guilty to the crime(s) of **COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (CATEGORY B FELONY) and COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (CATEGORY A FELONY)** in violation of NRS 200.364, 200.366, 193.330; thereafter, on or about the 14th day of March, 2002, the Defendant was present in court for sentencing with his counsel, CHRISTOPHER ORAM, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the $25.00 Administrative Assessment Fee, $250.00 DNA Analysis Fee and $1,493.40 Restitution. Defendant is sentenced as to COUNT I - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada

Department of Corrections. Defendant is sentenced to a special sentence of Lifetime Supervision is imposed to commence upon release from any term of probation, parole or imprisonment. Additionally, the Defendant is ORDERED to submit to a blood or saliva test to determine genetic status. Defendant is sentenced as to COUNT II - a MAXIMUM of LIFE in the Nevada Department of Corrections with a parole eligibility after a MINIMUM of TWO HUNDRED FORTY (240) MONTHS. COUNT II TO RUN CONSECUTIVELY TO COUNT I. Credit for time served of (691) served.

DATED this 29th day of March, 2002.

DISTRICT JUDGE

jr

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ORIGINAL

NCA
DAVID M. SCHIECK, ESQ.
NEVADA BAR NO. 0824
302 East Carson, #600
Las Vegas, NV 89101
702-382-1844
Attorney for Defendant

FILED
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Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,	)	CASE NO. C 166490
	)	DEPT. NO. VI
Plaintiff,	)	
	)	
vs.	)	CASE APPEAL STATEMENT
	)	
RENARD T. POLK,	)	
	)	
Defendant.	)	DATE: N/A
	)	TIME: N/A

1. Appellant is Renard Polk

2. The Judge was Joseph Bonaventure

3. Plaintiff was The State of Nevada
Defendant was Renard Polk

4. Appellant is Renard Polk
Respondent is The State of Nevada

5. Counsel for Appellant: David M. Schieck, Esq., Law Office of David Schieck, 302 E. Carson, #600, Las Vegas, NV 89101, 702-382-1844

Counsel for Respondent: Stewart Bell, Esq., District Attorney, 200 S. Third St., Las Vegas, NV 89155, 702-455-4711; and Frankie Sue Del Papa, Esq., Nevada Attorney General, 100 N. Carson St., Carson City, Carson City, NV 89701, 702-687-4170

6. Polk was represented by appointed counsel, Chris Oram, Esq., for his trial in District Court.

7. Polk is represented by appointed counsel, David Schieck, Esq. on appeal from his conviction and sentence.

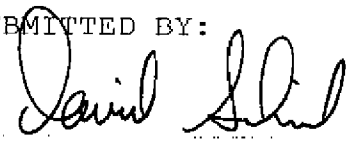
David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

8. Appellant was granted leave to proceed in forma pauperis and appellate counsel was appointed on March 20, 2002.

9. The Information was filed April 14, 2000.

Dated this 3 day of April, 2002.

SUBMITTED BY:



DAVID M. SCHIECK, ESQ.

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 3 day of April, 2002, I deposited in the United States Post Office at Las Vegas, Nevada, a copy of the Case Appeal Statement, postage prepaid, addressed to the following:

District Attorney's Office
200 S. Third Street
Las Vegas NV 89155

Nevada Attorney General
100 N. Carson
Carson City, NV 89701-4717

An employee of David M. Schieck, Esq.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 300
Las Vegas, NV 89101
(702) 382-1844

ORIGINAL

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CLERK

NOA
DAVID M. SCHIECK, ESQ.
NEVADA BAR NO. 0824
302 E. CARSON, STE. 600
LAS VEGAS, NV 89101
(702)382-1844
Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,	)	CASE NO. C 166490
	)	DEPT. NO. VI
Plaintiff,	)	
	)	
vs.	)	NOTICE OF APPEAL
	)	
RENARD T. POLK,	)	
	)	
Defendant.	)	DATE: N/A
	)	TIME: N/A

TO: THE STATE OF NEVADA, Plaintiff, herein;

TO: STEWART BELL, District Attorney, and

TO: DEPARTMENT SIX OF THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK:

NOTICE IS HEREBY GIVEN that RENARD T. POLK, by and through his attorney DAVID M. SCHIECK, ESQ., hereby appeals to the Supreme Court of the State of Nevada from his conviction and sentence.

Dated this 3 day of April, 2002.

SUBMITTED BY:

DAVID M. SCHIECK, ESQ.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382 1844

CERTIFICATE OF MAILING

The undersigned does hereby certify that on 4-3, 2002, I deposited in the United States Post Office at Las Vegas, Nevada, a copy of the Notice of Appeal, postage prepaid, addressed to the following:

District Attorney's Office
200 S. Third Street
Las Vegas NV 89155

Nevada Attorney General
100 N. Carson
Carson City, NV 89701-4717

Kathleen Fitzgerald
An employee of David M. Schieck, Esq.

David M. Schieck
Attorney At Law
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101
(702) 382-1844

CERT

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA Plaintiff, vs. RENARD TRUMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI

CERTIFICATE OF MAILING

I certify that I am an employee of the Eighth Judicial District Court, Department I, and that on this day, I deposited for mailing in the U. S. Mail at Las Vegas, Nevada, a true copy of the 8/1/00; 11/2/00; 12/27/00 & 4/18/01 hearing/trial in the above-entitled case and enclosed same in a sealed envelope/box upon which first class postage was prepaid to:

RECEIVED
APR 25 2002
COUNTY CLERK

Supreme Court of Nevada
Capitol Complex
201 South Carson Street
Carson City, Nevada 89710

David Schieck, Esq.
302 E. Carson Ave., Ste. 600
Las Vegas, NV 89101

District Attorney's Office
Appellate Division
200 So. Third St.
Las Vegas, NV 89155

DATED this 25th day of April, 2002.

Janice R Liston

JANICE R. LISTON, CERT. No. 209
Court Recorder
Eighth Judicial District Court
Department I
200 South Third Street
Las Vegas, NV 89155
(702) 455-4643

TRAN

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Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TRUMAN POLK, aka Renard Turman Polk, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE

WEDNESDAY, APRIL 18, 2001

RECORDER'S TRANSCRIPT RE:
DEFT'S MOTION FOR OWN RECOGNIZANCE RELEASE,
FOR HOUSE ARREST, OR FOR SETTING OF REASONABLE BAIL

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Chief Deputy District Attorney

VICKI MONROE, ESQ.
Chief Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

LAS VEGAS, NEVADA; WEDNESDAY, APRIL 18, 2001; 8:00 A.M.

THE COURT: Is the D.A. here on Polk?

MS. MONROE: Yes.

THE COURT: Renard Polk. Mr. Oram?

MR. ORAM: Yes, Your Honor. Present, he's in custody. Your Honor, I didn't know whether the D.A. was going to argue or just submit this on the pleadings that they filed.

THE COURT: I don't know, do you want me to ask them? I mean, what do you want? I'm asking you then I'm going to ask her.

MR. ORAM: Your Honor, we were a little bit surprised based upon their response yesterday. They referred to a statement in there. You may remember that I filed a motion in December of 2000 specifically asking for that statement. Up until yesterday afternoon, I was completely unaware that a statement –

THE COURT: Really? Because I never hear – I've seen the statement. Didn't Mr. Oram get a copy of that statement?

MS. MONROE: Your Honor, I apologize. This is Ms. Holthus' case. She was late getting here, so I'm just –

THE COURT: Oh, there she is now.

MS. MONROE: She's right here right now. I'll let her answer those questions.

THE COURT: All right.

MS. HOLTHUS: I've been looking for the statement because Mr. Polk

had said he made one. The detective that originally handled the case had moved on. I called him, he thought someone else was handling it. We've been e-mailing for the last few months trying to find it. Just when I was ordering everything up for trial, then ultimately we found it over at Metro records. It was taken by a detective not really related to anything, so –

THE COURT: So, basically you never had it, Ms. Holthus.

MS. HOLTHUS: Correct.

THE COURT: And as soon as you received it –

MS. HOLTHUS: Absolutely, we called him –

THE COURT: Mr. Oram has a copy of it now. And you attached it to your opposition to the bail motion.

MS. HOLTHUS: Exactly.

THE COURT: I mean, the trial is not until July, so I mean, you do have it. I mean, there is a statement.

MR. ORAM: Right. I just didn't want you to think that we were filing a motion without addressing that type of an issue.

THE COURT: Yeah, I was very – I just got it. In fact, Al handed it to me at ten to eight before I came down, and that's what I was doing, reading it. And I was a little surprised that there was a statement. I mean, apparently he unconditionally waived his Preliminary Hearing to take a deal, then he changed his mind, and now there's a statement he confessed to everything. So – but here it is and, you know, the trial date is not until July, so you've got plenty of time to look at it.

Would you like to say anything or not, because I've got to

1 hurry up, I can't –

2 MR. ORAM: Submit it. Submit it on that.

3 THE COURT: All right. You submit it, then?

4 MS. HOLTHUS: Submit it.

5 THE COURT: Well, you know, I remember this case and you know,
6 as I said, Mr. Polk originally unconditionally waived his Preliminary Hearing
7 back in April to take a deal. An offer was made to him, rather than to make
8 him go to life in prison, I guess they offered him some sort of a deal, I don't
9 know what it was. He originally didn't show up in Justice Court on January
10 13th when they issued him a summons, I guess, and it was a Bench Warrant
11 issued and then he was picked up on that. He subsequently was found that
12 he needed some medical help and I referred him to Lakes Crossing on August
13 1st. And I have many doctors' letters that I reviewed in this case last night,
14 and I reviewed the admissions by Mr. Polk this morning.

15 This is a very serious charge. I mean, any time somebody
16 takes advantage, a brother – an older brother takes advantage of his sisters
17 like that and anally penetrates them, young girls, for many, many years,
18 seems to me is a dangerous man. He refused an interview initially with the
19 Intake Services, and there's some statements that he threatened to kill the
20 sister if she told. And he – I just don't feel comfortable, Mr. Oram, in
21 releasing this man on any bail reduction or anything. Given all the facts
22 of it and the nature of the case, I'm going to deny your motion, in all due
23 respect. So, any bail that is set, it stands now and the trial date stands.

24 MS. HOLTHUS: Thank you.

25

1 THE DEFENDANT: Excuse me, Your Honor.
2 THE COURT: Yes, sir.
3 THE DEFENDANT: May I say something?
4 THE COURT: Yes, sir. I'm not going to change my mind, but you
5 can say something.
6 THE DEFENDANT: Well, back when I turned myself in on these
7 charges, Your Honor, it wasn't like I –
8 THE COURT: You better not make any statements, either. Mr.
9 Oram, tell him that – don't make any statements about this because it might
10 come back to haunt him. Everything is taken down.
11 THE DEFENDANT: It's not a statement.
12 MR. ORAM: Your Honor, I don't think he'll address –
13 THE COURT: All right. I mean, don't make any admissions about
14 this case, about the facts of the case, all right. That's all I'm saying.
15 THE DEFENDANT: It's not an admission.
16 THE COURT: All right.
17 THE DEFENDANT: I'm just supplicating, Your Honor, that I turned
18 myself in back in '99 on this case. Now, it's beyond me why the prosecutor
19 couldn't have found some way to prosecute as soon as I came from juvenile
20 courts, which I believe I should have been prosecuted expeditiously.
21 MR. ORAM: Well –
22 THE DEFENDANT: Hold on, Chris, please. Now, I don't understand.
23 You granting an O.R. release or a House Arrest release wouldn't be no more
24 negligent than what they did when I was here the first time, because I was
25

supposed to – as a matter of fact, in the medical records, I was a mental health case. I was a threat to my environment, also a threat to myself. Now, and also after I gave this incriminating statement, they still released me, so how – I mean, to me in my mind's eye, it wouldn't be no more negligent than what the prosecutor did or State did, Your Honor, at least to grant a House Arrest or O.R., whatever the situation may be.

THE COURT: You have a right to your opinion, Mr. Polk, and I respect your opinion, but I have a differing opinion, so I'm not going to do it, all right. But I respect your opinion. Thank you very much.

MS. HOLTHUS: Thank you.

(Proceedings concluded)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

Elizabeth Garcia

ELIZABETH GARCIA
Court Transcriber

TRAN

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE
TUESDAY, AUGUST 1, 2000

RECORDER'S TRANSCRIPT RE:
FURTHER PROCEEDINGS: PSYCHOLOGICAL EVALUATION

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
Chief Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

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LAS VEGAS, NEVADA; TUESDAY, AUGUST 1, 2000; 8:30 A.M.

THE COURT: Mr. Oram?

MR. ORAM: Your Honor, could you call on page 3, Renard Polk.

THE COURT: Renard Polk. I've got a report here that says he is competent and one – an older one that says he's not competent.

MR. ORAM: Yes, Your Honor. If I could just point to the Court, on Dr. Jurasky's, who indicates that he is competent. On the top of the second paragraph, second page: Obviously, Renard is disturbed, a mentally ill individual whose diagnosis will require more time and examination. I believe the first doctor did testing on Mr. Polk, found him to be incompetent. Dr. Jurasky, I know he does a fine job, however, it doesn't appear there was much testing, and from his impressions, he is mentally ill. What I would request from the Court is to send him to Lakes Crossing.

THE COURT: What's the State's position?

MS. HOLTHUS: Judge, I'm going to submit it. I agree with Mr. Oram that the report by Jurasky doesn't seem to be based on a whole lot and makes some weird conclusions. On one hand, he's competent and he's fine; on the other hand, if he's not supervised strongly, he's liable to commit suicide or hurt somebody. I mean, I'm not –

THE COURT: All right. I think we do need further evaluation. So, saying that, we're going to refer him to Lakes Crossing at this time.

. . . . .

. . . . .

MR. ORAM: Thank you, Your Honor.

MS. HOLTHUS: Thank you.

THE COURT: Thank you.

(Proceedings concluded)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

Elizabeth Garcia

ELIZABETH GARCIA
Court Transcriber

DISTRICT COURT

CLARK COUNTY, NEVADA

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Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PROCEEDINGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on August 8, 2001
At 8:30 a.m.

APPEARANCES:
For the State: MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER Oram, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

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1 Las Vegas, Nevada, August 8, 2001

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3 * * * * *

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5 THE COURT: Page five, Renard Polk.

6 This was supposed to go to trial but defense

7 wanted additional time to check out some different plea; is

8 that correct?

9 MR. ORAM: Yes.

10 THE COURT: Have you made a decision or still

11 thinking?

12 MR. ORAM: We plan on going forward with the

13 insanity defense, Mr. Polk wants to do that.

14 THE COURT: How do we do that, take another plea?

15 MR. ORAM: I believe at some point he probably

16 will need to be re-arraigned and enter a plea of not guilty by

17 reason of insanity.

18 THE COURT: You let me know when you want to do

19 that.

20 MR. ORAM: Maybe it would be easy to do that

21 today if the Court has the time. I think we can do it right

22 before trial, it's no secret what the defense is going to be,

23 we have made it perfectly clear.

24 THE COURT: Do you have any comments on that?

25 MS. HOLTHUS: Truthfully, I don't know.

1 THE COURT: Why don't you check it out and we'll
2 do it maybe at calendar call.
3 MS. HOLTHUS: Sure.
4 THE COURT: But we are here on, looks to me like
5 three matters. The first one is the Defendant's motion for
6 pretrial writ of habeas corpus or dismissal of the information.
7 I note from reading the pleadings it seems to me it was really
8 a proper person motion and Mr. Oram put a cover sheet on it and
9 it says through attorney Christopher Oram, he endorses the
10 defendant's motion of a pretrial writ of habeas corpus to
11 dismiss the information. I have that in front of me, it was
12 filed July 13, 2001. The State filed an opposition to that.
13 Do you have a copy of that, Mr. Oram?
14 MR. ORAM: Yes, Your Honor.
15 THE COURT: How do you want to proceed? Do you
16 want to make a comment? I'll hear from Mr. Polk.
17 MR. ORAM: I'll be very brief. My understanding
18 of Mr. Polk's argument is he was on probation or -- in juvenile
19 court apparently there was an allegation against him unrelated
20 to this case. Mr. Polk indicates he was not on probation. And
21 subsequently he gave a statement in this case and he was
22 sentenced to 30 days in jail by juvenile court for a revocation
23 of his probation.
24 THE COURT: On another unrelated case?
25 MR. ORAM: Right. Mr. Polk contends that he was

1 actually punished for this crime in juvenile court because he
2 was given 30 days in jail and he says they could not do that to
3 him because he was not on probation. I went and got the
4 records and it appears to me from juvenile court that he was on
5 probation, at least that's what the records reflect. However,
6 Mr. Polk indicates he believes those records are forged and he
7 believes the signature of Miss Shirley Paraguirre is incorrect.
8 I went so far yesterday at Mr. 'Polk's instruction to fax a
9 copy of one of those juvenile records to Miss Paraguirre and
10 with that, I believe it's Mr. Polk's contention if he's not on
11 probation they continue to punish him for this crime and,
12 therefore, it's double jeopardy.
13 THE COURT: The records show he was on probation.
14 MR. ORAM: What the records I have show, yes, but
15 he believes it's forgery.
16 THE COURT: Mr. Polk, do you want to say anything
17 regarding this writ?
18 THE DEFENDANT: Yes, Your Honor. My attorney, he
19 didn't get the records, okay. I went by my own means to get
20 the records in order to reflect things. I have some documents
21 I would like to show you if possible.
22 Now, at the time I wasn't on probation, Your
23 Honor, I don't know if it was Shirley B, or whoever it was, but
24 somebody erroneously put these documents in there. If you
25 look at E-A-1, the disposition report filed January 11, date of

1 hearing January 13, do you see that?
2 THE COURT: Uh-huh.
3 THE DEFENDANT: I wasn't arrested again for --I
4 believe I had a preliminary hearing for a matter of Frida
5 White incident, probably it was scheduled to go to your court
6 on the 2nd of -- let me gain my composure.
7 It was scheduled for initial arraignment in your
8 court on February 2, '99. Now, before that I had a preliminary
9 hearing. My P.O. prepared this disposition report on the 11th,
10 or somewhere in between there and the 13th. I wasn't arrested
11 again until the 14th to be on that preliminary hearing, because
12 I -- do you understand what I'm saying?
13 THE COURT: I'm trying to digest what you're
14 saying.
15 THE DEFENDANT: The disposition report was
16 prepared on the 11th. If you'll turn to page five, where it
17 says, I guess the arrest inquiry, logging sheet at CCDC, E-A-5.
18 As you can see, I was booked in on the 14th of '99, 1-14-99.
19 My P.O., or supposedly my probation officer prepared the
20 disposition report on the 11th. He stipulates in the report,
21 as I have highlighted on the report, I had the preliminary
22 hearing scheduled for January 27. I wasn't given that hearing
23 until the 14th when I was arrested again.
24 So how could he know I had a preliminary coming up
25 if he was preparing the report on the 11th? Because he

1 wouldn't have known, because any time after the 14th he would
2 have known when the preliminary was scheduled.
3 Not only that, it also says in the formal
4 probation that the parental decree should be attached. That's
5 nowhere in the files.
6 The thing about it is all I'm asking is for an at
7 least evidentiary hearing to see, at least establish or make
8 this concrete allegation, make this allegation concrete because
9 I wasn't on probation.
10 And the thing about it is I wasn't on probation,
11 okay. They took me to the juvenile courts. I turned myself
12 in. I declared inadequacy, do you understand? I didn't go
13 against the judicial system, I turned myself in; even went so
14 far to give a statement because the detective told me the
15 reason I was at juvenile courts was because of the sexual
16 assault case. I gave him the statement thinking I'm going to
17 get the charges that's going to be adjudicated in the juvenile
18 courts. They sentenced me to 30 days for erroneous probation
19 revocation.
20 I have a civil case filed, because I don't know
21 who is allocated in this thing but I know my P.O. was part of
22 it. I got sentenced 30 days to the CCDC, at which time they
23 forced giving me medication. I can't even remember half the
24 stuff they did to me, this is the only thing that's clear on my
25 conscience right now that I can remember.

1 When they was force giving me medication, the
2 thing about it is I'm walking the streets thinking the charges
3 that got adjudicated was sexual assault. I wasn't trying to
4 run from justice, I was trying to bring it about expeditiously,
5 do you understand?
6 So I'm asking you grant this motion on the facts
7 stipulated in the habeas corpus and prearrest delay.
8 Even if you don't understand the double jeopardy
9 issue which I'm trying to bring forth, the pre-arrest delay in
10 itself requires dismissal. Because in the pre-arrest delay,
11 which should have been post arrest delay because I was arrested
12 twice but the State chose not to prosecute. I was arrested for
13 erroneous probation violation, sentenced 30 days. Arrested
14 again for G.T.A. charge, they didn't prosecute then.
15 The Tartaglia (ph) case says the reason for delay
16 will weigh more heavily against the prosecution if they can't
17 come up with a reason to wait so long to file the motion.
18 The Autrey case says if the State tries to gain
19 advantage over me that requires dismissal because, I guess,
20 they say tactical advantage, recklessly or intentionally
21 doesn't matter, it's just the fact as you saw when we went for
22 the discovery motion we asked the prosecutor about the
23 statement I had gave, at which time they told us they didn't
24 have the statement. So we filed the bail reduction motion, I'm
25 not going to say erroneously, they did it properly, but it was

1 a tactical advantage, do you understand? They did it in order
2 to procure I wouldn't get released on O.R. when they told us
3 they didn't have the statement. But the same day they became
4 aware, the statement mysteriously pops up.
5 After that, not only that, but also in the Berman
6 case says if your constitutional rights have been violated
7 between this pre-arrest delay, that's automatic dismissal
8 because it's due process violations all in itself. And bring
9 it under the outrageous government conduct, which is Helus (ph)
10 versus State, or something like that, I don't know, I'm a
11 layman, I don't understand law too well, but I know what I
12 read.
13 All these due process violations, I had no ad
14 litem guardian when I was down at juvenile. They erroneously
15 put me on probation. The State failed to file, which they had
16 ample opportunity to file the charges.
17 Not only that, but everything I'm presenting to
18 you right now is by my own means. My lawyer is not even on my
19 side. As much as he tries to admit, this motion I prepared, he
20 didn't prepare, he's telling me its frivolous, meritless.
21 Maybe it is, but that's for you to decide.
22 So in conclusion, I just ask you grant this motion
23 because I wasn't trying to avoid justice.
24 And at the end of my motion it talks about the
25 pecking order and food chain. When an animal has declared

1 inadequacy, the other animal should not usurp, how do you say,
2 superiority over the animal because he's declared inadequacy.
3 It teaches you in nature and society. That when I'm in
4 subjection to you and I declare inadequacy, why do you have to
5 fight against me? I told you I need help, do you understand?
6 But I come before you now a changed man and it's not because of
7 no medication they was giving me, it's because I sat down and
8 thought about it in self reflect, looked on my own objectively
9 and subjectively. So I just submit the motion.
10 THE COURT: Thank you.
11 Miss Holthus?
12 MS. HOLTHUS: He says he wasn't on probation but
13 he had a probation officer. There's no double jeopardy. It is
14 a frivolous motion. There's no basis for anything he has
15 alleged.
16 We've proceeded as swiftly as we can. The fact we
17 didn't have that statement earlier worked to his benefit
18 because I made him an offer at preliminary hearing, not knowing
19 I had a confession, that I would never have made him had I had
20 a confession. And I have still left that offer on the table.
21 So, actually, it's worked to his benefit. If I had a benefit
22 at preliminary he would be looking at 20-to-life right now and
23 he's not. So he's actually had a benefit. As soon as I got
24 that statement, I'd been looking for it, as soon as I got it
25 they got it.

1 I don't remember what his other stuff was but he's
2 never been administered any medication that we are aware of.
3 THE COURT: All right. I don't mind anybody
4 filing motions, and if I grant the motion or deny the motion
5 it's always good to have a motion on record because I'm not
6 saying that you're going to be convicted, Mr. Polk, that's not
7 up to me, it's up to a jury of 12 people, not me. So you're
8 either going to be found not guilty and walk out of the
9 courtroom or found guilty, not by me but a jury, and I'm going
10 to have to sentence you.
11 But if you have motions like this on file its a
12 good checks and balance matter because the supreme court, if it
13 goes bad your way, the supreme court always has the last word
14 on this, they can look at it and determine all the facts that
15 you presented and perhaps give you a different result, I don't
16 know, that's up to the supreme court.
17 As I said, I'm not even thinking it's going to be
18 on appeal, you might be found not guilty and so be it. But you
19 have this motion on file, I did review it and I find, in my
20 humble opinion, there's no double jeopardy violation as to the
21 instant matter.
22 And the previous matter, of which the defendant
23 cites to involve different victims and occurred at different
24 times, this Court finds that the defendant has not been
25 subjected to prearraignment delay either, as the defendant's

1 preliminary hearing was set within the time so allowed by
2 statute. And additionally, the defendant argues that his First
3 Amendment rights were violated due to being forced to take
4 medication. There's no evidence in the record to support this
5 allegation. There's no evidence in the report submitted to the
6 Court by the three doctors who evaluated Mr. Polk's that any
7 medications were administered to him. However, if such
8 medications were given the defendant, the United States Supreme
9 Court has allowed the compulsion of medication to prison
10 inmates.
11 So I read everything and based upon this
12 foregoing, I'm not going to grant the motion for pretrial writ
13 of habeas corpus for dismissal. I'm going to deny it and don't
14 see the need for an evidentiary hearing. The facts are here
15 and I'll attach this memorandum of notice of supporting
16 documents to the motion, Miss Clerk, and make sure this is a
17 matter of record if it's appealed. File it with his motion,
18 all right.
19 As far as the State's motion to admit evidence of
20 other crimes, acts or wrongs, Miss Holthus filled a motion on
21 that. Mr. Oram opposed that. I'll hear from you, Miss
22 Holthus, on that.
23 MS. HOLTHUS: Judge, with respect to the one
24 incident obstructing a police officer, obviously that wasn't a
25 situation where he gave fake identification to police officers.

1 It's our position that would be evidence of consciousness of
2 guilt. We are not offering it for any improper purpose, but
3 rather the fact he was aware he was wanted for sexual assault
4 and it's kind of the guilty-mind argument.
5 I would also suggest our motion, in light of his
6 not guilty by reason of insanity defense, is even more
7 compelling with respect to that, in terms of his knowledge of
8 what he knew right from wrong and how he was thinking, what his
9 intent was. That carries over into the Frida White incident.
10 That was '98, that was in 1998, all three young women, all
11 three being forced to have sex with this young man. His
12 intent, the fact this was not an accident or mistake are all in
13 issue. Now with his insanity plea, that would be that much
14 more important to the jury.
15 Based upon that and the supreme court ruling in
16 these cases where the State can offer for sexual aberration
17 rather than just bad character, in this case clearly he has an
18 emotional propensity for sexual aberration, that is raping
19 young women and should be admissible.
20 THE COURT: I might want to hear from Frida White
21 down the road, because there was no conviction.
22 MS. HOLTHUS: He was initially prosecuted in the
23 district court, eventually he was to plead guilty to coercion,
24 he may be right it may be in here and at sentencing we realized
25 he was 17.

1 THE COURT: She's available to testify if I needed
2 to show by clear and convincing evidence that it happened?
3 MR. ORAM: Right. I'll make her available for the
4 Petrocelli hearing at the Court's convenience.
5 THE COURT: I'm just saying, whatever my ruling
6 is.
7 MR. ORAM: There's no need for evidentiary
8 hearing in this motion. First of all, this is an adult lady.
9 According to the allegation, assuming the facts the State has
10 put forward, this young lady, who is approximately Mr. Polk's
11 age, is what I would call -- they were kissing together and
12 then the young lady claims it went too far, she didn't want to
13 go any farther than kissing. That's completely different than
14 what they have charged in the instant case. What they are
15 charging in the instant case, as the Court knows, is two young
16 sisters, very young sisters, that apparently allege they were
17 being molested by Mr. Polk. That's completely different.
18 First of all, they are young females, versus a female his age,
19 an adult female.
20 Secondly, in the instant case Mr. Polk is accused
21 of sexually molesting his natural sisters. This was an
22 incident where it was sort of a couple. They were on a bed and
23 kissing and she was consenting to that.
24 Under the cases cited by the State and in my
25 opposition, there has to be a common scheme or plan. In the

1 Willet case, for example, there was a same criminal act
2 occurring by the defendant at the Eddie Lee Boys Home. What's
3 happening is they are bringing in the prior bad acts of maybe a
4 guy charged with sexually molesting some children from that
5 home, apparently he had done something similar previously and
6 therefore they found that was a common scheme or plan.
7 In the Allen case the same thing, the defendant
8 would show young children pornographic movies then molest them.
9 There's no common scheme or plan here. I don't understand how
10 the State thinks they can get this in under 48.056. All they
11 are trying to do is show look, Mr. Polk was previously charged
12 with something of a sexual nature, therefore, he's a bad guy,
13 you should find him guilty and shouldn't find him insane.
14 With that I would ask the motion be denied.
15 THE COURT: Any response to that, Miss Holthus?
16 It's not a common plan, scheme?
17 MS. HOLTHUS: The common plan or scheme is not a
18 necessary requirement. What the supreme court says is we don't
19 want bad character. The fact he robbed a bank ten years ago to
20 somehow affect our ruling in the trial in a sex case when you
21 have specific emotional propensity for sexual aberration, in
22 this case his sexual aberration is forced sex with young women.
23 That's the common plan or scream. Its less likely someone is
24 going to be three times accused of having sex with a young
25 woman against her will than if it happens one time. It makes

1 perfect sense and the supreme court said they will uphold it
2 and the prejudice is outweighed by the probative value.
3 Again, I would reiterate the fact he's putting his
4 mental state at issue opens up a whole other argument for that
5 bringing in Frida White. Because he's going to say he was
6 insane when he raped his sisters, but I suspect Frida, who will
7 be a little older because she was probably 18 at the time, can
8 articulate better where the defendant was coming from. So for
9 that reason I would ask the Court to allow the evidence.
10 THE COURT: All right. The State again wishes to
11 introduce this evidence of the defendant's past sexual acts
12 committed upon an adult to show a common scheme or plan. The
13 defense argues that because the prior bad acts were committed
14 on an adult and the present case involves children, they are
15 not similar, I believe that's what you argue. Additionally,
16 the State wishes to introduce the defendant's giving of false
17 information to the police to show consciousness of guilt. In
18 the instant case the defendant gave false information to the
19 police, the defense claims it would only tend to show
20 prohibited character evidence of the defendant, I got that from
21 the brief, I believe.
22 The Nevada Supreme Court has long held that
23 evidence of previous criminal conduct will be more liberally
24 admitted in cases of aberrant sexual conduct. McMichael versus
25 State, 94 Nevada 184, 1978 case. Here the defendant has

1 demonstrated a propensity for sexual aberration and has
2 developed and used a common plan or scheme to sexually assault
3 women no matter what their age. In both instances the
4 defendant, without consent and against the victims' will,
5 undressed himself and victim, restrained the victim and
6 penetrated the victim.
7 Additionally, the State wishes to introduce the
8 defendant's prior giving of false information to the police.
9 Donnell versus state, 92 Nevada, 680, a 1976 case, held proof
10 of relevant intent is allowed by means of prior bad acts.
11 Here the defendant's conduct, I believe it was on
12 February 23, 2000, where the State claims he knowingly,
13 intentionally gave false information to the police, is
14 indicative of the defendant's consciousness of guilt and
15 intent. Therefore, based on the foregoing, the State's motion
16 to admit evidence of other crimes, acts or wrongs is hereby
17 granted, with the caveat that the Court wants to be convinced
18 by clear and convincing evidence by Frida White. I'd like to
19 hear her on the witness stand. So if you have her available,
20 perhaps at calendar call or whatever, we can have a short
21 Petrocelli hearing to convince the Court there's clear and
22 convincing evidence. And, of course, Mr. Oram will have a
23 right to cross examine and we'll go from there. All right?
24 MS. HOLTHUS: Sure.
25 THE COURT: There was one other that I seen in the

1 file, Mr. Oram, it was filed August 6 at 1:56 p.m. it's sort
2 of a motion to endorse defendant's memorandum of notice in
3 support of dismissal.
4 And again, it's your cover sheet with proper
5 person memorandum of notice in support of dismissal. The
6 defendant argues again outrageous government conduct. He again
7 says something about fraudulent documents, maybe the same thing
8 he showed me here, and he threatened civil suits to everybody,
9 he's going to sue everybody, sue everybody involved with civil
10 suits for many derelictions and constitutional violations
11 sustained by the defendant.
12 Of course, that's his right to do, I don't care
13 what he does but it's nothing to me. Did you want to add
14 anything to that? I don't see any difference.
15 MR. ORAM: I believe it was just an extension
16 from the other one.
17 THE COURT: I just wanted to clarify that. So,
18 for the record, pursuant to my previous order, this motion
19 that's styled a motion to endorse defendant's memorandum notice
20 in support of dismissal, will also hereby be denied.
21 I just want to clear the record up and I want to
22 preserve any rights that Mr. Polk has, I want everything
23 preserved and filed. As I said, I'm not saying he's going to
24 be convicted of this, even though his confessions and -- but if
25 he is, at least he received his rights. I'm not predicting. A

1 lot of defendants think when I say "appeal" they think I'm
2 predicting. I'm just a referee here, we hear the evidence, the
3 jury of his own peers will decide whether or not he's guilty or
4 not guilty, and whatever decision is I'll abide by it, of
5 course, and do the appropriate thing. So I don't want to give
6 anybody the wrong impression.
7 So that being said, I think we've resolved all
8 these issues. I know you have a preliminary hearing to go to
9 Miss Holthus.
10 MS. HOLTHUS: I do.
11 THE COURT: I'm sorry I held you here but I wanted
12 to give Mr. Polk an opportunity to say whatever he wants.
13 MR. ORAM: Mr. Miss Peterson is here.
14 MS. HOLTHUS: She's here to get me.
15 MR. ORAM: A statement was made by Mr. Polk that
16 I'm not on his side. I think I need to make a record. In fact
17 he's correct, he's said I made a statement I believed the
18 motion was frivolous. I did make that statement. However,
19 I've been working with him, going to see him especially before
20 the trial. I'm going to be asking the Court in an ex parte
21 order to appoint an expert psychiatrist to see him and I'll be
22 going forward and doing the best I can pursuant to the
23 Strickland standard, trying to meet the Strickland standard,
24 and I wanted that to be on the record.
25 THE COURT: Mr. Polk, I consider Mr. Oram one of

1 the best criminal attorneys in town. In fact, I think that's
2 all he does is criminal law. The last trial I had he got a
3 verdict of not guilty. The man is experienced, I mean, I
4 couldn't imagine the trials this man's had. He's sharp, he's
5 good in front of a jury and you're very, very, very lucky to
6 have a man of Mr. Oram's caliber on your side. You're
7 extremely lucky. Try to get along with him the best you can
8 and he's going to try to get along with you and do the best he
9 can. I know you have to go. I could stay here all morning but
10 I know you're busy and I think we resolved these things.
11 MR. Oram: Thank you, Your Honor.
12 ATTEST: Full, true and accurate transcript of
13 proceedings.
14
15 THOMAS D. MERCER, C.C.R. No. 33
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. RENARD TRUMAN POLK, aka Renard Turman Polk, Defendant.	CASE NO. C166490 DEPT. NO. VI

BEFORE THE HONORABLE JOSEPH T. BONAVENTURE, DISTRICT JUDGE
WEDNESDAY, DECEMBER 27, 2000

RECORDER'S TRANSCRIPT RE:
DEFENDANT'S MOTION FOR DISCOVERY

APPEARANCES:

For the State: SUSAN BENEDICT, ESQ.
Deputy District Attorney

For Defendant Polk: CHRISTOPHER R. ORAM, ESQ.

RECORDED BY: ROBERT MINTUN, Court Recorder

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LAS VEGAS, NEVADA; WEDNESDAY, DECEMBER 27, 2000; 8:30 A.M.

THE COURT: Renard Polk.

MR. ORAM: Your Honor, this was on for a discovery motion. However, I have talked with Ms. Holthus about this matter, and she indicated – I basically told her that I was really concerned about two areas. I believe or I have information that –

THE COURT: Are you prepared to hear this, Ms. Benedict?

MS. BENEDICT: I think it's already worked out.

THE COURT: All right.

MR. ORAM: But I just want to put it on the record, okay.

THE COURT: Yeah, fine.

MR. ORAM: That Mr. Polk may have made a statement concerning this case. I do not have that in the discovery. I would ask and Ms. Holthus has agreed to provide me any statement my client has within a reasonable period of time. The second matter was, Mr. Polk informs me, and I cannot locate it through indexing, that he was previously charged with this identical set of allegations. I cannot prove that, and so Ms. Holthus indicated to me that she would provide that as well and any information on that. So, as long as that's provided within a reasonable period of time, two weeks or something, then I would just take my motion off calendar now that we have that.

THE COURT: Ms. Benedict?

MS. BENEDICT: The notes made by Ms. Holthus indicate that she

did speak with Mr. Oram, she invited him to review her file with her to see if there's anything we have that he doesn't.

THE COURT: All right. Make sure you get that stuff and if you do, fine, it's moot. If you don't, put it back on calendar, all right.

MR. ORAM: Yes, Your Honor. But just for the record, again, if my client has made a statement, it's not a matter of if it's in their file or not, I have to have it. I mean, I don't want to be in the middle of a jury trial and find out that my client –

THE COURT: Well, did Ms. Holthus agree with that?

MR. ORAM: I believe so, but the notes sound sort of –

MS. BENEDICT: Well, I've made note of what he's asking for, so she'll know if she doesn't already.

THE COURT: All right.

MR. ORAM: Okay. Well, it sounds like we'll be able to work it out.

THE COURT: Okay. Thank you.

MR. ORAM: Thank you very much.

THE COURT: So, the motion is taken off calendar for now?

MR. ORAM: Yes. Thank you, Your Honor.

THE COURT: The trial date stands.

(Proceedings concluded)

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

Elizabeth Garcia

ELIZABETH GARCIA
Court Transcriber

DISTRICT COURT

CLARK COUNTY, NEVADA

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Original

THE STATE OF NEVADA,
Plaintiff,

vs.

RENARD TRUMAN POLK,
Defendant.

Case No. C166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
PROCEEDIDNGS

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on January 3, 2002
At 8:30 a.m.

APPEARANCES:

For the State: MARY KAY HOLTHUS, ESQ.
TAMARA PETERSON, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER ORAM, ESQ.
540 South Fourth Street

Reported by: TOM MERCER, CCR No. 33

1 Las Vegas, Nevada, January 3, 2002

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3 * * * * *

4

5 THE COURT: Page one, Polk.

6 This is on number one calendar call. It's this

7 ready to proceed to trial next week?

8 MR. ORAM: Yes.

9 THE COURT: State ready?

10 MS. HOLTHUS: Yes, Judge.

11 THE COURT: Secondly, it says a writ of mandamus

12 on the calendar, but I don't see any writ of mandamus. I do

13 see something he filed, I think it was another writ of habeas

14 corpus pro per the defendant filed. Did you get a copy of

15 that.

16 MR. ORAM: Yes, Your Honor.

17 THE COURT: Do you have it there?

18 MS. HOLTHUS: I have a copy, I don't know if it

19 was filed or not.

20 THE COURT: It's a rehash of what I think I ruled

21 on prior, Mr. Oram. Is that your understanding or you want to

22 add anything to that?

23 MR. ORAM: He indicates there are differences,

24 Your Honor.

25 THE COURT: I don't see any differences.

1 MR. ORAM: I would submit it. I have nothing I
2 can argue. He indicates there's double jeopardy, misconduct.
3 I know the Court has reviewed it and I would submit it to the
4 Court's discretion.
5 MS. HOLTHUS: I believe he filed something
6 similar pro per and I believe Mr. Oram reviewed it and put his
7 cover sheet on it. We have not responded to this, since he was
8 represented by counsel and there was no indication this was
9 being filed by his counsel.
10 THE COURT: Again, I ruled on that before, I find
11 no merit in the double jeopardy violation or any of the
12 defendant's other issues here. You want to file that? Maybe I
13 should file that, for the record.
14 THE COURT: Why don't you file yours, this way
15 it's protected, for the record. We are filing on the
16 defendants behalf his new pro per petition, pretrial petition
17 for writ of habeas corpus. This doesn't have a date but I
18 think it was dated on your copy the 14th of December, is that
19 correct, 2001?
20 MS. HOLTHUS: Yes. I have December 14.
21 THE COURT: We'll file this. Basically it talks
22 about the same thing, double jeopardy, prosecutorial
23 misconduct, delays.
24 MS. HOLTHUS: He also requests at the outset of
25 his petition that the Court -- that this petition be assigned a

1 civil case number and be heard by a civil judge. I'm not
2 really sure what he's talking about.
3 THE COURT: This was in the supreme court, the
4 supreme court filed something October 11, 2001. I guess he
5 went up to the supreme court on a pro per petition for writ of
6 mandamus and requested the court to reverse the district court
7 petition to deny petitioner's pretrial petition for writ of
8 habeas corpus. I'm reading from the ruling of the supreme
9 court of Nevada. In the alternative petitioner requests this
10 Court to conduct an evidentiary hearing on the claims raised in
11 his pretrial petition for writ of habeas corpus, or at a
12 minimum, have his pretrial petition for writ of habeas corpus
13 heard by a civil judge rather than criminal judge. We have
14 considered the petition on file herein and we are not satisfied
15 this Court's interjection by way of an extraordinary relief is
16 warranted at this time. Accordingly, we order the petition
17 denied.
18 So he went up to the supreme court on that. I'm
19 going to deny this new pretrial petition for writ of habeas
20 corpus because it's a rehash of the same things that we have on
21 record now.
22 MS. HOLTHUS: May we have a copy of that.
23 THE COURT: Yes. Maybe two copies, one for Miss
24 Holthus and one for Mr. Oram.
25 That being said, we are going to have a trial

1 starting Monday at nine-thirty on this case. Everybody be
2 ready, nine-thirty Monday. We'll pick a jury and hear opening
3 statements of witnesses.
4 What we have to resolve I think lastly, the State
5 filed State's motion to admit evidence of other crimes, acts,
6 or wrongs and you wish -- gave me a brief synopsis of what you
7 wish to do. Mr. Oram responded to that and I said I'd like to
8 have a witness or two so I can make an intelligent decision on
9 that.
10 MS. HOLTHUS: The one act we are seeking is
11 basically his arrest on this case, February 23, 2000. When
12 Metro responded, they contacted the defendant, who lied about
13 his identification for about 45 minutes. He was ultimately
14 arrested for obstructing when it was determined he, in the
15 State's position, consciousness of guilt would not tell them
16 who he was because he fully knew he had a warrant out for the
17 sexual assault of his two sisters. That's a consciousness of
18 guilt argument.
19 The other one is the sexual aberration argument
20 that occurred on July 18, 1998. Freda White, who is present
21 and prepared to testify, I anticipate will testify she was with
22 the defendant and engaged in some foreplay and ultimately he
23 took it further than she wanted to. He would later threaten
24 her if she went to the authorities. She in fact went to the
25 authorities.

1 By way of background the case proceeded through
2 the district court, it was in fact before Your Honor, who took
3 a plea of guilty by way of the Alford decision to a coercion on
4 that case. When it was sent over to parole and probation for
5 sentencing, it was determined he was in fact a juvenile at the
6 time of the rape and the whole file was transferred to
7 juvenile. It has stayed there, I think juvenile was waiting to
8 see what happens with the charges now pending before
9 determining whether to refile or attempt to certify or anything
10 further.
11 The only other issue, I told Mr. Oram this morning
12 I pre-trialed Susan Polk, who I believe goes by Susan Sims now,
13 she's the victim in the case.
14 THE COURT: One of the victims.
15 MS. HOLTHUS: She's the aunt to the two victims
16 as well as the defendant. We talked to her a little bit. The
17 children are now in foster care out of state. She has on
18 occasion over the last year or two visited them, supervised
19 visits. She indicated the initial placement was with a family
20 friend, that they were taken out of the home because at least
21 one of the children who will be testifying next week made an
22 allegation that the husband of the woman with whom he was
23 staying fondled her breasts. In fact the other child said he
24 asked her about doing something sexual but he never did. They
25 were then removed from the home.

1 There was an indication one of the children later
2 said this is what my sister said because she didn't like
3 staying there. I bring that to Mr. Oram's attention to the
4 extent it might be considered a false allegation. I haven't
5 been able to investigate it. We got a limited window from the
6 State where the children now reside by the Court because they
7 are in state custody, we had a hard time getting the kids in to
8 testify. We have been allowed to have them, they will be here
9 Saturday night so we can speak with them Sunday morning. That
10 will be the first time we've had a chance to talk to them.
11 I will flush out those allegations with the kids
12 and I've indicated to Mr. Oram if Your Honor wanted to set a
13 quick hearing I wouldn't have any objection to determine if
14 there's anything to that without him filing the whole motion
15 and that type thing. I'll talk to them and let him know what I
16 find out. If he wants to talk to them Monday morning.
17 Our only concern is we get the trial started
18 because the Court order expires Tuesday night. The children
19 need to be back in their home state. I have given him what
20 Information I have, Miss Sims was a little confused about what
21 exactly was said by the girls but I just throw that out to the
22 extent it's --
23 MR. ORAM: I'll just move backwards.
24 With regard to the potential false allegations,
25 obviously, since the State doesn't require I file a formal

1 motion I think what we could do is begin picking a jury and
2 perhaps at lunchtime I would have an opportunity to speak with
3 the young ladies, maybe in the presence of the prosecutors, so
4 they can inform me what was said and maybe sometime during a
5 break we could have arguments whether that would be admissible
6 in the trial and go from there, that way there would be no
7 interruption in the trial.
8 THE COURT: That's fine.
9 MR. ORAM: Secondly, Your Honor, with regard to the
10 one bad act regarding him making a statement, his identity,
11 what concerns me about that particular bad act is, according to
12 the State, when he filed that writ that we were just addressing
13 it was the State's position he was on probation, therefore if
14 we assume arguendo that he did lie and not identify himself as
15 who he really was, it seems to me one of the reasons could be
16 because, as the State points out, he knew he was on probation.
17 I don't think that really should come in before this jury that
18 he gave false statements about who he was.
19 It is the State's position he's made a statement,
20 in their opinion, confessing to these crimes. I think to let
21 this type of evidence in could complicate matters and perhaps
22 result in some form of error. I'm not sure why the State would
23 want it in in the first place. So I would ask you keep that
24 out.
25 With regard to Miss white, we are prepared to go

1 forward today with the hearing.
2 THE COURT: There is a statement that the
3 defendant made?
4 MS. HOLTHUS: Just he was falsely identifying
5 himself.
6 THE COURT: No. Is there a statement that he made
7 to the police?
8 MS. HOLTHUS: A confession, yes.
9 THE COURT: You're going to have the officers
10 testify?
11 MS. HOLTHUS: Yes.
12 THE COURT: All right.
13 MS. HOLTHUS: I'll tell you, that's not this
14 particular officer. The officer that's here for the Petrocelli
15 hearing is strictly to testify he contacted this guy and he
16 didn't tell him who he was, consciousness of guilt. It was
17 more important about determining whether there would be an
18 insanity defense, and this is one of the things we were looking
19 at in particular to say he wasn't insane, he very well knew
20 what was going on, he knew what he did was wrong so much so
21 that he lied to the police. So it was more important before.
22 THE COURT: That being said, call your witness.
23 MS. PETERSON: State calls officer should.
24
25 (Whereupon, the witness was duly sworn.)

1 THE COURT: State your name and spell your last
2 name.
3 THE WITNESS: Officer John W. Schutt, S-c-h-u-t-t.
4
5 EXAMINATION
6
7 Q. (By Ms. Peterson) officer, how are you employed?
8 A. I'm employed with Las Vegas Metropolitan Police
9 Department as a police officer.
10 Q. How long have you been with Metro?
11 A. Three years.
12 Q. Directing your attention to February 23rd of the
13 year 2000, at 2100 hours, were you on duty at that time?
14 A. Yes, I was.
15 Q. What was your assignment at the time?
16 A. I was assigned to patrol.
17 Q. Were you dispatched later to the corner of St.
18 Louis and Gateway?
19 A. Yes, I was.
20 Q. Is that a location in Las Vegas, Clark County,
21 Nevada?
22 A. Yes.
23 Q. What was the reason you were dispatched there?
24 A. There came a call into 9-11 from a person saying
25 someone was at their front door banging on the door, and when

1 he opened it he stated he had been sprayed in the face with
2 mace.
3 Q. Had you had any other officers with you at the
4 time?
5 A. Yes, Officer Dockendorf was with me.
6 Q. What happened when you proceeded to that location?
7 A. We went to the location and made contact with the
8 subject and first things first, requested medical to come out
9 and do an eye wash on him.
10 Q. For the person who had been maced?
11 A. Right. His face was real red and tearing. It was
12 pepper spray or mace, something was on his face.
13 Q. So you contacted medical. Then what did you do?
14 A. Once they performed an eye wash we basically just
15 had conducted investigation trying to find out who he was and
16 how he got sprayed.
17 Q. Did that person give you a name at the time?
18 A. Yes. He said his name was Renard Ali, date of
19 birth, 10-14-80.
20 Q. Did you try to confirm whether or not a Renard Ali
21 was listed in your records?
22 A. Yes, I did. One of the things I asked him had he
23 ever been arrested, and he said yes, as a juvenile for curfew.
24 So that told me he should be in our system. I ran his name in
25 our computers and got no matches under driver license, scope or

1 anything.

2 Q. You found no one who was listed as Renard Ali?

3 A. No, the name wasn't in our records at all.

4 Q. Did you ask for a Social Security number?

5 A. Yes. He said he didn't know it and he had no

6 I.D., no I.D. on him.

7 Q. Had you tried any other records to try to figure

8 out who he was?

9 A. I just ran it through the computers. That's about

10 all we can do. It automatically checks NCIC, scope.

11 Q. Then what did you do then?

12 A. At that point, since he had told me he had a prior

13 arrest in Nevada as a juvenile, I questioned him as to what his

14 real name was because at that time if he's not in our computer

15 yet he'd been arrested, I asked him if he was telling us the

16 truth about his name.

17 Q. What did he say?

18 A. He said yes.

19 Q. And how long did you talk to him?

20 A. Well, we determined at that point to find out who

21 he was. We didn't have a crime so we wanted to determine who

22 he was and determine why he was sprayed. So we just continued

23 asking him questions trying to figure out who he was.

24 Q. Did you ultimately get some Information about what

25 his name may be?

1 A. While I was at the car running information on the
2 computer, Officer Dockendorf was speaking to him. Someone came
3 up and asked what's going on with him, and I said nothing, we
4 are just trying to figure out who he is. And he says that's my
5 friend, I know who he is. And he stated the guy's name was
6 Renard Polk.
7 Q. What did you do when you got that information?
8 A. At that point I just ran that name to see -- I ran
9 it under the date of birth that he'd given me originally,
10 10-14-80 and it came back a records check with the warrant for
11 sexual assault.
12 Q. So in your records there was someone name Renard
13 Polk with the date of birth?
14 A. Yes, and the physical description matched a
15 hundred percent.
16 Q. Did it also list juvenile entry so you could
17 confirm what he told you was true?
18 A. Yes. It didn't say what it was because he was a
19 juvenile, but it said there was a juvenile records.
20 Q. Your records don't say what crime?
21 A. Yes, our computers will not show a juvenile
22 charge.
23 Q. You said he had an outstanding warrant for his
24 arrest?
25 A. Yes.

1 Q. What did you do with that information?
2 A. We questioned him about it and he just said that
3 wasn't him, and since we had someone say yeah, that's his name,
4 that's my friend and the descriptions matched, we placed him
5 under arrest for the warrant and also the obstructing our
6 investigation.
7 Q. Officer, can you tell me what the warrant was for?
8 A. The warrant was for sexual assault, victim under
9 14, I believe.
10 Q. And then you arrested him for that warrant?
11 A. Yes, ma'am.
12 Q. Do you see that person here in the courtroom
13 today?
14 A. Yes, I do.
15 Q. Could you point to him and tell me what he's
16 wearing today?
17 A. Yes, he's wearing the blue outfit at the table
18 over there.
19 MS. PETERSON: May the record reflect the witness
20 has identified the defendant?
21 THE COURT: The record will so reflect.
22 Q. (By Ms. Peterson) Were there any other warrants
23 that you were aware of when you entered his name into the
24 system?
25 A. I don't believe so because I would have put that

1 on the temporary custody record, all the warrants and charges.
2 Q. The only one was sexual assault?
3 A. Yes.
4 MS. PETERSON: No further questions.
5 THE COURT: Cross.
6
7 EXAMINATION
8 Q. (By Mr.Oram) Officer, you did not learn when you
9 ran his scope, once you realized who he was, that he had a
10 warrant for probation violation in juvenile?
11 A. No, I did not.
12 Q. Did you subsequently learn that?
13 A. No, I did not.
14 Q. How long did he tell you that he was someone other
15 than Renard Polk?
16 A. He told me several times. From the time he told
17 me that to the time I determined who he was was probably 45
18 minutes, because we continued looking into it.
19 Q. What was he telling you his name was?
20 A. He said Renard Ali, date of birth 10-14-80.
21 Q. Did you ever ask him if he went by any other
22 names?
23 A. Yes.
24 Q. What did he tell you?
25 A. He said no.

1 Q. Just he was Renard Ali?
2 A. Yes.
3 Q. When this person approached and said I know who he
4 is, did Renard acknowledge that individual?
5 A. No, he didn't.
6 Q. Where was Renard at the time?
7 A. He was in front of the car talking to the other
8 officer. I was sitting in the driver's seat working on the
9 computer.
10 Q. It's your testimony the only thing you knew
11 existed in terms of warts was a warrants for sexual assault,
12 correct?
13 A. Yes, sir.
14 Q. Nothing to do with juvenile?
15 A. Not warrant wise, no, sir.
16 MR. ORAM: Nothing further.
17 THE COURT: Anything else?
18
19 BY MS. PETERSON:
20 Q. Officer, would juvenile warrants be entered into
21 your system?
22 A. They would be, yes, if at that time the warrant
23 was already issued and active. Sometimes they are behind
24 schedule. And also it's a practice that when we get
25 probation-type violations it will call the -- we don't fully

1 take somebody in for a juvenile unless we contacted the
2 probation officer and they say take them in. We won't just
3 take somebody in on that if I saw them on the street.
4 Q. If a warrant were active it would be in your
5 system, a juvenile warrant?
6 A. Yes, sir.
7 MS. PETERSON: No further questions.
8 THE COURT: You basically want to bring out the
9 fact to the jury that the arrest occurred then and he gave a
10 false name?
11 MS. PETERSON: Correct.
12 THE COURT: And the reasons being again, in your
13 brief.
14 MS. HOLTHUS: It's consciousness of guilt. He
15 knew what was going on, he was aware of the circumstances and
16 he was conscious of his guilt.
17 THE COURT: Mr. Oram, you object to that?
18 MR. ORAM: Yes, I do. First of all, it seems
19 sort of unusual on the one hand Mr. Polk's writ was defeated on
20 the fact he had a probation violation, and now we are hearing
21 there was no probation violation, according to this officer, he
22 didn't know, it wasn't on scope. But it seems to me any
23 consciousness of guilt may well have been he didn't want to go
24 to juvenile hall for this probation revocation.
25 I would indicate to the Court I don't think this

1 is relevant, nor should it come in under some type of prior bad
2 act. Furthermore, it seems there is another good reason why
3 somebody may not be truthful, because they believe they should
4 be conducting themselves on probation and in this case they
5 were-- at least in this case Mr. Polk was not.
6 MS. HOLTHUS: The only evidence presented to the
7 Court that we have right now is this officer's testimony. Mr.
8 Oram has thrown out stuff about probation but that's not before
9 this Court. We had an officer who said there was one active
10 warrant in the system, that he specifically said there's a
11 warrant for sexual assault under 14 for you and he said it's
12 not me, it's not me. So he was certainly aware what they were
13 talking about.
14 There's nothing before the Court, other than this
15 one particular warrant. There's all kinds of other reasons and
16 Mr. Oram will be free to say maybe there's another reason,
17 maybe he's just afraid of policemen, maybe he doesn't like cops
18 or whatever, but that's all argument.
19 THE COURT: The Court feels this is certainly
20 relevant evidence, shown to me by clear and convincing, and I
21 don't think the probative value is outweighed by the
22 prejudicial value.
23 I'm a little concerned, I don't know if you want
24 to go into that, he said he was arrested for juvenile, he told
25 about his prior arrest as a juvenile. I don't know if you want

1 to bring all that up.

2 MS. HOLTHUS: We won't.

3 THE COURT: Just they responded there, what's your

4 name, he gave name, they ran him on records, the friend come up

5 and said I know who he is, he denied it's him. I don't want

6 you to go into anything about his juvenile record, prior

7 arrests for juvenile. I don't think the jury should hear that,

8 that's my opinion on that.

9 MR. ORAM: We won't elicit that.

10 THE COURT: That's why I wanted the officer to

11 stay here.

12 MR. ORAM: Your Honor --

13 THE COURT: If you want to bring it up you could.

14 MR. ORAM: Over our objection, I realize this is

15 coming in. However, I would ask the Court limit the officer's

16 testify that he was responding to a warrant and arrested him on

17 this warrant and false information was given. I don't think it

18 should be brought up there was some type of fight between this

19 Mr. Lopez and Mr. Polk, that's getting into bad acts.

20 THE COURT: There was nothing said about a fight,

21 person was maced and they went out to check it out. I didn't

22 hear anything about a fight. No, you shouldn't talk about a

23 fight. You responded to what you just said, there's no fight

24 mentioned.

25 MS. HOLTHUS: I don't know anything, but we are

1 not going into that. The fact he's going out for a mace call
2 versus executing this warrant is relevant. He's not going
3 there to arrest this man for that, it's his other actions.
4 THE COURT: I think we clarified it. We don't
5 want anything to do with the fight or he said he was arrested
6 as a juvenile, he told of his prior arrest as a juvenile.
7 That's something the jury shouldn't hear. All the jury, in my
8 estimate, should hear is you responded to this mace thing, you
9 talked to the guy, he said his name was Renard Ali, you checked
10 him on records, no such thing, you talked a little more, this
11 friend come over said it was him and he denied it was him. You
12 found out there was a warrant for sexual assault on his records
13 and you arrested him. You understand, officer?
14 THE WITNESS: Yes, sir.
15 THE COURT: Thank you very much.
16 THE COURT: Let's go off the record on this. Well
17 go on the record on Delgado.
18 THE COURT: Back on the record on Polk.
19 MR. ORAM: The police officer makes the arrest
20 apparently in February of 2000, correct?
21 THE COURT: He said February 23, 2000.
22 MR. ORAM: The statement, recorded statement I
23 have by Renard Polk is dated 8-14-99. This is the statement
24 the State argues is a complete confession where he turned
25 himself in. I guess the State's going to argue he fully

1 confessed. It seems to me, I wanted to put this on the record,
2 a little odd he would turn himself in and as the State
3 perceives it make a full confession, now the State wants to
4 argue he was running and evading the police. It doesn't make
5 much sense.
6 THE COURT: Again, I'm not precluding you from
7 bringing anything you want up. You can, if you like, make the
8 State look ridiculous saying how could you argue that.? You
9 have all those facts, I'm not precluding you from doing
10 anything within reason, but I'm allowing that, it's as simple
11 as that. We had a little hearing on the matter and you have a
12 right to pound on it, bring up documents, talk to the jury
13 about the different dates. I'm not precluding you from doing
14 that.
15 That being said we have one other witness.
16 MS. HOLTHUS: Frida White.
17
18 (Whereupon, the witness was duly sworn.)
19
20 THE COURT: Please state your name and spell your
21 last name, for the record.
22 THE WITNESS: Frida A. White, W-h-i-t-e.
23 THE COURT: Thank you. Miss Holthus
24
25 EXAMINATION

1 BY MS. HOLTHUS:
2 Q. Miss White, hold are you?
3 A. 21.
4 Q. You no longer live here in Las Vegas, Nevada, is
5 that correct?
6 A. No.
7 Q. In fact, you're going to school out of state?
8 A. Yes.
9 Q. But there was a time you were living here, is that
10 correct?
11 A. Yes.
12 Q. Specifically in 1998, do you see anyone here in
13 court that you recognize from that time in your life?
14 A. Yes.
15 Q. Point to the individual tell me where he or she is
16 sitting?
17 A. Right there.
18 Q. What's he wearing?
19 A. A blue outfit and glasses.
20 Q. Who do you recognize him to be?
21 A. Renard.
22 Q. Do you know a last name?
23 A. Polk.
24 MS. HOLTHUS: May the record reflect
25 identification.

1 A. THE COURT: The record will so reflect.
2 Q. (By Ms. Holthus) How did you meet the defendant?
3 A. Through my best friend's ex-boyfriend.
4 Q. What was the nature of your relationship?
5 A. We were just associates.
6 Q. What do you mean by associates?
7 A. The only time we ever saw each other was when it
8 was just the four of us hanging out.
9 Q. Your friend, her boyfriend and the defendant
10 himself?
11 A. Yes.
12 Q. Do you remember whether you met him?
13 A. In April of '98.
14 THE COURT: What year was that?
15 THE WITNESS: 1998.
16 THE COURT: All right.
17 Q. (By Ms. Holthus) Did you have a dating
18 relationship with him?
19 A. No.
20 Q. Did there come a time that you had a problem with
21 him?
22 A. July 18, 1998.
23 Q. What happened that day?
24 A. He raped me.
25 Q. Let me lead up. What had you been doing prior to

1 getting together with him?
2 A. You mean, on that day?
3 Q. Uh-huh?
4 A. I had gotten off work, I was going to spend the
5 night at Alysha's house and Tonya was there and --
6 Q. What's Tonya's last name?
7 A. Tyler. And we went swimming in the swimming pool
8 and we were swimming and kissing in the swimming pool.
9 Q. We?
10 A. Renard. After that I ordered pizza and we were
11 eating and then we made her little sister go to bed.
12 Q. How old was her little sister?
13 A. At that time she was five years old.
14 MR. ORAM: I would object to we.
15 THE COURT: Clarify.
16 Q. (By Ms. Holthus) Who made her sister good to bed?
17 A. Me and Alysha. Alysha told her to go to bed and
18 she didn't want to go to bed. And I said, you know, it's past
19 your bed time, you should go to bed.
20 Q. Then what happened?
21 A. Then we, the four of us went into her parents
22 room.
23 Q. Why did you go?
24 A. We were watching Scream II.
25 Q. Was there a reason you went into the bedroom to

1 watch it?

2 A. Yeah, because their TV had a VCR and it was

3 sitting in the corner.

4 Q. Okay. What happened next?

5 A. After a few minutes Alysha and Tommy got up and

6 left the room.

7 Q. Leaving you and Renard in the room?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes.

11 Q. Then what happened?

12 A. Then he got up and left the room as well for a

13 couple of minutes, then he came back and we started kissing.

14 Q. Consensual?

15 A. Yes.

16 Q. Okay?

17 A. And after a while he had gotten up and turned off

18 the TV. And then he pulled off my shorts and he put me on top

19 of him and we were still kissing and then --

20 Q. When he pulled off your shorts did you have any

21 panties on?

22 A. Yes.

23 Q. Okay?

24 A. Then I noticed that he was trying to put his penis

25 inside of my underwear. And I didn't want him to do that and I

1 asked him what was he doing? And he called it grinding. And I
2 told him I didn't want to do that with him.
3 Q. Did he stop?
4 A. He seemed like he had stopped but he was still
5 holding me, like, on to him. And then I tried to get off of
6 him, so he rolled on top of me and he started doing it again.
7 And I told him I didn't want to do that and he said just calm
8 down, it's okay, I'm not going to hurt you.
9 And then he started to penetrate me, and I tried
10 to push him off of me but he held my arms against the pillows
11 so I couldn't get up. And the pressure from his body prevented
12 me from being able to scream, you know, for help. And so I
13 tried to calm down so maybe he would stop. And when I calmed
14 down he took his arms off of me and released my arms and I
15 tried choking him and hitting him in the face and nothing
16 worked. So he grabbed my arms again and just basically told me
17 the same thing, that and I was telling him to stop, I didn't
18 want to do that. And I still didn't scream.
19 So finally he let my arms go again and I figured
20 if I were to grab his penis maybe it would hurt him and he
21 would stop, but it didn't work. So he continued to penetrate
22 me.
23 Q. What part of him penetrated what part of you?
24 A. His penis penetrated my vagina. And then Alysha's
25 little sister walked in the room and he got off me and I

1 grabbed my shorts and ran out of the room.
2 Q. And then what happened?
3 A. I told her to go back into her room and then I ran
4 into the living room because I was scared and I didn't know
5 what else to do.
6 Q. What did you do when you got in the living room?
7 A. I stayed there for a while and I heard him walking
8 around. And then after he -- I noticed he went back into the
9 room, I went into Alysha's little sister's room and after a
10 while she came out of her room and asked him where was I and he
11 said that he didn't know. He said I was just, you know -- I
12 don't know if you understand the word "tripping," but that's
13 basically flipping out, acting crazy. And I went to the
14 bathroom and that's where she find me and she took me into her
15 room and I was crying and she said did he do something to you?
16 MR. ORAM: Objection to what she said.
17 MS. HOLTHUS: It's not offered for the truth of
18 the matter asserted.
19 THE COURT: Overruled.
20 THE WITNESS: She started crying too and she
21 started saying this was all her fault.
22 Q. (By Ms. Holthus) Did you tell her what happened to
23 you?
24 A. Yes, I told her that he had raped me.
25 Then she got up and went into her parents room, I

1 guess that's where he was, and Tyler was too at the time. And
2 I had gotten real angry so I went into the kitchen and grabbed
3 a knife and I went to her parents' bedroom and tried to go
4 towards him but he ran into the bathroom.
5 Q. What happened then?
6 A. I was just yelling and banging on the door for him
7 to come out. And every time he opened the door I was like
8 right there, he would close it again so I couldn't get to him.
9 So finally they had gotten the knife away from me.
10 Q. They?
11 A. Alysha and Tonya.
12 And then I remember asking me if I wanted to say
13 anything to him. I don't remember absolutely saying anything
14 to him but I remember he came out and he sat on the bed and all
15 I can remember is just staring at him. And I couldn't believe
16 he had done that to me. So I balled up my fist and punched him
17 in the nose.
18 Q. Did you do any injury? Nose bleed or . . .
19 A. I think his nose ring fell out and I think his
20 nose did start to bleed.
21 Q. Then what happened?
22 A. After that Tommy held him back from coming at me
23 and Alysha held me back from going at him and she told him to
24 leave and get out of the house.
25 Q. Did he?

1 A. Yeah.
2 Q. Had you been drinking any alcohol that night?
3 A. No.
4 Q. Had you been using any drugs that night?
5 A. No.
6 Q. Prior to that were you sexually active?
7 A. No.
8 Q. How did it feel when he penetrated your vagina
9 with his penis?
10 A. I hurt really bad.
11 Q. Did you see Renard again after?
12 A. Yes.
13 Q. When and where?
14 A. I don't remember exactly when but it was a couple
15 of occasions. It was still the four of us that hung out.
16 Q. You continued to hang out with him after he raped
17 you?
18 A. Yes, but I was never alone with him.
19 Q. Why did you do that?
20 A. Because I wanted him to be that nice person that
21 he was when I first met him and I didn't want to believe that
22 he could do something like that.
23 Q. Did you call the police?
24 A. No, not until four months after.
25 Q. What happened four months later?

1 A. Well, actually before that I decided I wanted to
2 tell my mom. That was the reason I didn't go to the police,
3 because I didn't want her to know that someone hurt her
4 daughter. So I finally decided that she needed to know. So I
5 told her and then that's when we went and filed a report.
6 Q. What made you tell your mom after all that time?
7 A. Just having to look at her every day and not
8 telling her. I just couldn't do it anymore and I needed her to
9 be there for me.
10 Q. So what happened then?
11 A. Then we filed a report and I gave a statement to
12 the detective.
13 Q. Have you ever testified in the case?
14 A. No.
15 Q. Did you ever talk to Renard about what he did to
16 you?
17 A. I don't remember doing that, except for one
18 occasion when his cousin tried to confront me and I told him
19 what you did to me.
20 Q. What did Renard say to you?
21 A. He was basically laughing and saying I didn't do
22 anything to you.
23 Q. Did he threaten you at all?
24 A. He and his cousin did.
25 Q. What did he say?

1 MR. ORAM: I'd object to anything the cousin
2 said, if this is just regarding Mr. Polk.
3 THE COURT: I don't know if I want to get into
4 threats but I'll allow it and maybe well clarify. Just who
5 said what.
6 THE WITNESS: He had said --
7 THE COURT: Who's he?
8 THE WITNESS: Renard.
9 That he was going to get his cousin to physically
10 harm me if I went forward with anything.
11 Q. (By Ms. Holthus) were his words physically harm?
12 Was that the words he used?
13 A. No, he was just saying I'm going to get my cousin
14 on you.
15 Q. That was your understanding what was going to
16 happen?
17 A. Yes.
18 MS. HOLTHUS: I'll pass the witness.
19 THE COURT: Cross.
20 MR. ORAM: Yes, Your Honor.
21
22 EXAMINATION
23 BY MR. ORAM:
24 Q. You had known Mr. Polk since April of that year,
25 correct?

1 A. Yes.
2 Q. And on this particular evening you had gone over
3 to your friend's house, correct?
4 A. Yes.
5 Q. You were in the pool, correct?
6 A. Yes.
7 Q. You began to kiss on Renard?
8 A. We both kissed each other.
9 Q. How long did that go on?
10 A. Just a few minutes, about five or ten minutes.
11 Q. And you were happy you were kissing Renard Polk?
12 A. Yes.
13 Q. Because you liked him, didn't you?
14 A. Yes.
15 Q. You liked him very much?
16 A. Yes.
17 Q. When I say like you liked him like a potential
18 boyfriend, correct?
19 A. Yes.
20 Q. How long had you liked him like a potential
21 boyfriend?
22 A. Maybe a couple weeks, I can't remember.
23 Q. So at some point you went into a bedroom, correct?
24 A. Yes.
25 Q. And the four of you are laying on a bed, correct?

1 A. Yes.
2 Q. It's not your bed?
3 A. No.
4 Q. This other couple, Alysha?
5 A. Yes.
6 Q. And Tommy?
7 A. Yes.
8 Q. They left the room?
9 A. Yes.
10 Q. You're left alone in the room with Renard?
11 A. Yes.
12 Q. You're watching the movie Scream?
13 A. Scream II.
14 Q. Horror film?
15 A. Yes.
16 Q. And you began to kiss again, didn't you?
17 A. Yes.
18 Q. And you liked that's correct, didn't you?
19 A. Yes.
20 Q. You wanted to be there?
21 A. Yes, I wanted to be there.
22 Q. You wanted to be kissing Mr. Polk?
23 A. Yes.
24 Q. At some point he takes off your pajama bottoms,
25 correct?

1 A. Yes.
2 Q. You didn't say no, did you?
3 A. No.
4 Q. Was he touching any part of your body besides your
5 lips?
6 A. No.
7 Q. Were you hugging when you were kissing?
8 A. He was on top of me and I was on top of him.
9 Q. When he was on top of you was he caressing you?
10 A. No.
11 Q. When you were on top of you were you caressing
12 him?
13 A. No.
14 Q. You were just kissing?
15 A. Yes.
16 Q. And you didn't leave, right because you wanted
17 this kissing to happen, correct?
18 A. Yes.
19 Q. And you didn't say no to the pajamas being taken
20 off, correct?
21 A. No.
22 Q. And at some point he indicated to you or you felt
23 something that you thought maybe there was going to be sexual
24 intercourse, correct?
25 A. Yes.

1 Q. And at that point you hadn't told him no, had you?
2 A. Yes, I did. I told him I didn't want to do that.
3 I asked him what was he doing, I told him I didn't want to do
4 that.
5 Q. During this incident where the sexual assault that
6 you've alleged occurs, you couldn't scream could you?
7 A. No.
8 Q. You couldn't scream and couldn't speak because he
9 was on you and that was stopping you from being able to breathe
10 and speak, correct?
11 A. Correct.
12 Q. How did you tell him no if you couldn't breathe or
13 speak?
14 A. I whispered it to him.
15 Q. You whispered it to him?
16 A. Yes.
17 Q. It's your testimony that he told you I'm not going
18 to hurt you, right?
19 A. He told me to calm down, yes.
20 Q. And he stopped, correct? You indicated on direct
21 examination that at some point Mr. Polk tried to penetrate you
22 and stopped?
23 A. Yes.
24 Q. And you began to kiss him on the neck?
25 A. No.

1 Q. Did you kiss him on the neck?
2 A. I don't remember.
3 Q. After he stopped attempting to penetrate you the
4 first time?
5 A. Yes.
6 Q. Did you begin kissing again?
7 A. I don't remember.
8 Q. Did you give a recorded statement to the police?
9 A. Yes.
10 Q. If I showed you a copy of that would that maybe
11 refresh your memory?
12 A. Maybe.
13 MR. ORAM: Permission to approach.
14 THE COURT: Yes
15 BY MR. ORAM:
16 Q. If you could read to yourself -- you have it
17 there. If you could look at page nine. If you could read
18 that part to yourself?
19 A. Uh-huh.
20 Q. Do you remember now that after you say he tried to
21 penetrate you and you whispered stop, that you began kissing
22 again?
23 A. Yes.
24 Q. How long did that kissing go on for, after you
25 whispered stop, how long did you kiss for?

1 A. It was just for a few minutes because he started
2 trying to penetrate me again.
3 Q. So it was for a few minutes, correct?
4 A. Uh-huh.
5 Q. And you voluntarily did that because you wanted to
6 kiss him some more, right?
7 A. Yes.
8 Q. So how was it he had you in such a position that
9 you couldn't breathe, couldn't scream, once you whispered stop
10 you began to kiss again?
11 A. No, no, no. I was on top of him when he first
12 tried to penetrate me and I told him to stop so he stopped.
13 Then we started kissing again.
14 Q. So the first time he tried to penetrate you you
15 were on top of him?
16 A. Yes.
17 Q. And he wasn't -- you've told us he wasn't holding
18 you, you weren't hugging, correct?
19 A. Yes.
20 Q. Why didn't you get up and leave?
21 A. Because when I told him to stop he was like, okay.
22 And then I did try and get up and he did pull me in like this.
23 Q. And that's when you started kissing again?
24 A. No. Then he rolled over on top of me and then he
25 was like okay and we start he kissing again.

1 Q. At what point did you try to choke him?
2 A. When he started penetrating me again and I told
3 him to stop. And he had held my arms back and when he told me
4 to calm down and he let go of my arms and I tried to choke him.
5 Q. So in this whole period of time you tell him to
6 stop how many times?
7 A. I'm not sure exactly how many times.
8 Q. More than once?
9 A. Yes.
10 Q. Did you have to whisper each and every time or
11 were you able to actually fully speak?
12 A. I had to whisper, I couldn't fully speak.
13 Q. Even when you were on top of him?
14 A. When I was on top of him he did stop. That's when
15 he rolled over.
16 Q. After this incident, in the same evening, you were
17 angry, according to your testimony, correct?
18 A. Yes.
19 Q. You tried to grab a knife to attack him?
20 A. I did grab a knife and I tried to attack him.
21 Q. How about an air candle holder, did you try to
22 attack him with that?
23 A. I can't remember.
24 Q. Page two. Do you have your written statement.
25 If you could just read that sentence to yourself.

1 Have you had a chance to do that, to review it?
2 A. That's my first time I've seen that page.
3 Q. Did you write that?
4 A. Yes.
5 Q. Did you try to attack him with an air candle
6 holder?
7 A. Yes.
8 Q. So it would be fair to say that you punched him a
9 few times in the face?
10 A. Yes.
11 Q. You tried to attack him with an air candle holder,
12 correct?
13 A. Yes.
14 THE COURT: What's an air candle?
15 THE WITNESS: It's Country Air, it's the brand
16 name of a candle and it's inside a glass container.
17 THE COURT: All right
18 BY MR. ORAM:
19 Q. You caused him to bleed, correct?
20 A. Yes.
21 Q. And then after this incident you made contact with
22 him again, correct?
23 A. Yes.
24 Q. Many times?
25 A. A few times, I'm not sure how many.

1 Q. More than five? More than ten?
2 A. I'm not sure.
3 Q. Did you ever go to a motel room with him?
4 A. Yes.
5 Q. So this is a man who you claim sexually assaulted
6 you, correct?
7 A. Yes.
8 Q. You don't report it, correct?
9 A. Correct.
10 Q. Using your words, you hang out with him after,
11 correct?
12 A. Yes.
13 Q. Go to a motel with him, correct?
14 A. Yes.
15 Q. Because you liked him, didn't you?
16 A. Yes.
17 Q. And there's something that happened with Alysha,
18 correct, with Mr. Polk?
19 A. Yes.
20 Q. And it made you mad, didn't it?
21 A. It made me upset, yes.
22 Q. That's why you reported this, isn't it?
23 A. That's one of the reasons.
24 Q. And one of the reasons what happened with Alysha,
25 he had a relationship with her, correct?

1 A. I'm not sure.
2 Q. That's what we were talking about a second ago,
3 isn't it?
4 A. Yes.
5 Q. That's one of the reasons you decided to report
6 this, correct?
7 A. One of the reasons.
8 Q. So this man Renard Polk, who you liked -- strike
9 that.
10 Did you like him as a potential boyfriend after
11 the date of this incident?
12 A. No.
13 Q. You didn't?
14 A. No.
15 Q. When you used to hang out after the incident,
16 you're hanging out with Alysha?
17 A. Yes.
18 Q. And Tommy, correct?
19 A. Yes.
20 Q. They are boyfriend and girlfriend?
21 A. Yes.
22 Q. And the only other person in the group of you
23 hanging around are those would who are boyfriend and girl
24 friend and Renard Polk?
25 A. Yes.

1 Q. So I thought on direct examination you told us the
2 reason that you wanted to report this was because you didn't
3 like having to see your mother and the things you told us on
4 direct examination?
5 A. Yes.
6 Q. But one of the biggest reasons was that he had a
7 relationship with Alysha, your friend, correct?
8 A. That wasn't one of the biggest reasons, it was
9 just one of the reasons. Because he had tried something with
10 her as well.
11 Q. He had a relationship with her?
12 A. If that's what you want to call it. I don't know.
13 Q. Did you ever kiss him after this incident?
14 A. I'm not sure.
15 Q. Page 18. If you could look at the top of page 18.
16 If you could go to the bottom of 17 and read
17 through 18.
18 Have you had a chance to read that?
19 A. Yes.
20 Q. The incident that you're describing that we'll get
21 to in detail that I just had you read happened after the
22 alleged sexual assault, correct?
23 A. Yes.
24 Q. There comes a time when you're laying on a bed
25 with Alysha and a woman named Stephanie and you're sleeping

1 next to Renard Polk?
2 A. Yes.
3 Q. And you wanted to see if he was basically awake so
4 you kissed him on the forehead?
5 A. Yes.
6 Q. Is it your testimony you didn't like him like a
7 boyfriend at the time when you kissed him on the forehead?
8 A. I didn't like him as a boyfriend, but I was still
9 attracted to him.
10 Q. Why did you kiss him on the forehead?
11 A. I don't know what made me do that but I did.
12 Q. He was asleep, right?
13 A. I was guessing so. I just wanted to see if he was
14 awake.
15 Q. So the way to see if he was awake or not was to
16 kiss him?
17 A. That was just the way I thought at that time.
18 Q. How many other times did you kiss him after this
19 incident?
20 A. I don't know.
21 Q. Five?
22 A. I'm not sure.
23 Q. Is it possible that you kissed him at least five
24 times after this incident?
25 A. I don't know.

1 Q. Did you ever have sexual relations with him after
2 this incident?
3 A. No.
4 Q. You're sure?
5 A. Yes.
6 Q. Did you ever go to the hospital after this
7 incident to have yourself checked out, whether there was any
8 injury to you?
9 A. It took me four months to do so.
10 Q. You did go to the hospital four months later?
11 A. Not a hospital, a regular clinic.
12 Q. Was this at the insistence of the authorities or
13 was this something you did on your own?
14 A. I did with my mother.
15 Q. With your mother?
16 A. Yes.
17 Q. And you didn't think it was necessary to do it the
18 next day or the day this happened?
19 A. No, because I didn't want anyone else to know.
20 Q. And if you didn't want anyone else to know --
21 strike that.
22 When you were coming at him with a knife and
23 taking this candle like thing and punching him in the face you
24 did that in front of numerous other people didn't you?
25 A. Alysha and Tommy.

1 Q. In fact you confronted Renard and he told you tell
2 the truth in front of people, I didn't do this to you, you
3 wanted this?
4 A. That's what he said.
5 Q. And he said it that evening, didn't he?
6 A. He.
7 A. That's what he said, yes.
8 Q. That you had brought this on yourself and you
9 wanted it?
10 A. He told me to tell the truth and.
11 MR. ORAM: Nothing further, Judge.
12 THE COURT: Anything else?
13
14 EXAMINATION
15
16 Q. (By Ms. Holthus) was that the truth? Did you
17 want it?
18 A. No.
19 Q. How old were you?
20 A. 18 at the time.
21 Q. You said the fact Alysha, something happened with
22 Renard and Alysha was one of the reasons, I know I instructed
23 you not to tell me, but tell me why you finally told you your
24 mom and did what you did four months later?
25 A. Because I couldn't go on looking at her every day

1 not being able to tell her. And I needed her to be there for
2 me.
3 Q. Were there other reasons?
4 A. And because he had tried the same thing with
5 Alysha, that let me know that he would do it to anyone else.
6 Q. What do you mean, he tried to do what with Alysha?
7 MR. ORAM: Your Honor, I would object,
8 foundation.
9 THE COURT: Was she present when this happened?
10 Somebody told her that, we are getting far.
11 MS. HOLTHUS: The only reason I'm asking, not so
12 much whether it happened but because he opened this thing, he's
13 trying to make it look like she was jealous of Alysha. The
14 truth of the matter is she heard some things that were part of
15 the reason she came forward and I think it's relevant to answer
16 that. I told her not to talk about it but in light of his
17 questioning, I think the.
18 THE COURT: There's no jury here, I'll allow it.
19 Q. (By Ms. Holthus) what did Alysha tell you he had
20 done?
21 A. She said he was trying to have sex with her.
22 Q. In the context of a relationship? Were they
23 having a relationship?
24 A. She said they were just hanging out, they were
25 friends.

1 Q. Was it not wanted or unwanted sex?
2 A. Unwanted.
3 Q. Did you hear anything else?
4 A. Yes, I heard he had raped several girls before
5 that.
6 MR. ORAM: Judge.
7 THE COURT: Again, I'm not going to allow this in
8 front of a jury. We don't have a jury here, I can separate
9 that, but we are going far afield now, I heard, I heard. I'm
10 going to sustain that objection.
11 MS. HOLTHUS: I don't have anything else.
12 THE COURT: Just one question I had, it was
13 brought up about a motel. This happened July 18, '98. When
14 did you go the a motel with the defendant?
15 THE WITNESS: I think it was maybe two months
16 after.
17 THE COURT: Just you and him alone.
18 THE WITNESS: No, it was Stephanie was there,
19 Alysha and a couple of friends.
20 THE COURT: Did you rent a room there?
21 THE WITNESS: Yes.
22 THE COURT: For what reason?
23 THE WITNESS: We just all wanted to hang out.
24 THE COURT: Okay. You just had like a party
25 together?

1 THE WITNESS: Just a small party.
2 THE COURT: Anything else?
3 MR. ORAM: No.
4 THE COURT: Thank you very much. Would you wait
5 outside, please.
6 All right. Miss Holthus.
7 MS. HOLTHUS: Judge, it's our position the
8 defendant has an aberration for forcing himself on women. I
9 know where the defense is going to come from, she saw him
10 again, she couldn't have felt that violated or that mad. She
11 was 18 years old. Or she led him on because he kept kissing on
12 him and when he tried to did something she would say no, she
13 was playing a game, she really wanted it. She was 18 years old
14 at the time, she was a kid, she was playing with fire and got
15 burned but it doesn't matter. The law on sexual assault
16 doesn't say if the victim comes back to the defendant and
17 kisses him. She was extremely credible. I don't think she
18 tried to cover anything. She admitted she want back to him
19 after, she was somewhat attracted to him although she was
20 somewhat angry after him.
21 Every indication was she did not choose to lose
22 her virginity that night. He in fact forced himself on her.
23 We feel that is probative of his intention of having sex with
24 women, children, whatever you want to term them, and she may
25 have exercised bad judgment because she was young and so was

1 he, but the bottom line is he has a sexual aberration. It's
2 not a freak that somebody comes in and says he raped me.
3 THE COURT: Mr. Oram.
4 MR. ORAM: Your Honor, I know the Court is well
5 aware we are talking about Mr. Polk being on trial next week
6 for sexually assaulting two minor little girls, his natural
7 sisters. What we heard today, we all heard today was about
8 what obviously was consensual at first, in the pool, on the
9 bed, and they were kissing and she couldn't breathe but she
10 could say stop and then she wanted to kiss him some more.
11 And after what's even more suspect about this,
12 Your Honor, is she says she hangs out with him after. I
13 understand maybe she has these friends but the motel room and
14 the fact when she thought he was asleep she kisses him on the
15 head as she's sleeping next to him and she count even answer my
16 question, did you kiss him more than five times after this
17 incident? I don't remember.
18 I think there's something more here, Judge. She
19 says she was still attracted to him, was her words. She
20 doesn't report this for months. She's continuously hanging
21 around him and I think what you have here is maybe with young
22 people, Judge, in high school, relationships are strange but
23 I'm not sure they slowed clear and convincing evidence from
24 this case. I think this could well be seen as consensual based
25 upon her acts after the enact. It sure doesn't look like a

1 woman who was sexually assaulted. I can't imagine a woman who
2 was brutalized like this, caused to bleed, wanted to punch
3 somebody in the face, they are so angry with him, would then go
4 and, using her words, hang out with him the next few months,
5 including kiss him, go to a motel with him. It seems very
6 unusual and I would ask you exclude this potential bad act.
7 MS. HOLTHUS: Mr. Oram's had enough of these
8 cases to never be surprised what a victim does and how many
9 times we've had a defendant brutalize rape far more egregious
10 than this and still they go back. There's no accounting for
11 taste or the victim's actions thereafter.
12 The evidence before this Court right now is he
13 took it further than she wanted. She took said no and he had
14 sex with her, that is rape and there's nothing on the record
15 from this witness to indicate otherwise.
16 THE COURT: We'll, I already ruled on the State's
17 wish to introduce evidence the defendant prior giving of false
18 information to police, that's Darnell versus State, proof of
19 relevant intent is allowed by means of prior bad acts.
20 Here the defendant's conduct on February 23, 2000,
21 where the State claims he knowingly and intentionally gave
22 false information to the police is indicative of the
23 Defendant's consciousness of his guilt and intent. And I
24 granted the State's motion on that.
25 Here the State wishes to introduce the Defendant's

1 past bad sexual acts committed upon an adult to show a common
2 plan or scheme. The defense argues because the prior bad acts
3 were committed on an adult, that was your original argument.
4 MR. ORAM: Yes.
5 THE COURT: And the present case involves
6 children, they are not similar. And I wanted to have a
7 Petrocelli hearing to determine, the Nevada Supreme Court has
8 long held evidence of previous criminal conduct will be more
9 liberally admitted in cases of aberrant sexual conduct,
10 McMichael versus State. And the State would have the Court
11 believe that this was a common plan or scheme to sexually
12 assault women no matter what age.
13 The testimony here is, I'm not going to belabor
14 this, the testimony is what it is. I personally feel in
15 listening to the direct testimony and the cross-examination
16 that Mr. Oram had that I can't see that -- I'm not convinced
17 this is clear and convincing and I think the probative value
18 would be outweighed by the prejudicial value in this case.
19 It's a different type of case. The circumstances afterwards, I
20 think it would be too prejudicial in this particular case. So
21 that being said I'm going to deny the State's motion to admit
22 evidence on free take White.
23 MS. HOLTHUS: Thanks, Judge.
24 THE COURT: That's the ruling by the Court.
25 Anything else by the State?

1 MS. HOLTHUS: I don't think so.
2 MR. ORAM: Just very briefly, I want to put
3 something on the record. It's regarding plea offers and I
4 think out of the abundance of caution we should do that.
5 THE COURT: I don't think this man wants to talk,
6 he said he don't want to take any deal and we are going to
7 accommodate him.
8 MR. ORAM: I just want to make sure it's on the
9 record that I have advised him of these and those offers have
10 been refused and I want that on the record.
11 THE COURT: Sure. Put it on the record. What did
12 you advise him.
13 MR. ORAM: I've advised him, and I think it's
14 appropriate to do this just so --
15 THE COURT: You protect your own behind because if
16 he says your ineffective, put it on the record but we are still
17 going to trial Monday. Put anything on the record.
18 MR. ORAM: A plea offer was made in this
19 particular case. It was essentially he plead to a count of
20 kidnapping and a couple other counts, the possible range would
21 have been anywhere from five to life to 15 to life. Mr. Polk
22 wants to invoke his constitutional right to proceed to trial,
23 and based upon that we will be proceeding the trial Monday.
24 THE COURT: You advised Mr. Polk of that?
25 MR. ORAM: I've advised him of what the

1 ramifications of guilty pleas in this case would be.
2 MS. HOLTHUS: Just so you know, I'm going to
3 withdraw the offer. That offer was made, he did waive up at
4 preliminary hearing. In my opinion it was an extremely
5 generous offer and what happened was at preliminary we didn't
6 know about the confession, so that was the offer I made. I
7 made an offer of two five to 20s and two two-to-five, both
8 sides having the right to argue. Once we got to district court
9 he withdrew his plea, I found the confession. In spite of that
10 Mr. Oram asked to give him the opportunity to talk to his
11 client. I thought it was only fair. We have left the deal
12 open until quarter to 12 today, the day of calendar call.
13 At this point we are flying a whole bunch of
14 people in from out of state, Frida has been in from out of
15 state. That offer will not be on the table after we walk out
16 of the courtroom today. And that's fine, but I just want him
17 to understand he has confessed to at least two counts of 20 to
18 life.
19 THE COURT: The record will reflect Mr. Polk is
20 here, he's listening to everything Mr. Oram said and Miss
21 Holthus said. You want to say anything regarding that Mr.
22 Polk?
23 THE DEFENDANT: No, Your Honor.
24 THE COURT: You wrote me this letter. You seem
25 like an intelligent man, I don't know if somebody writes these

1 for you.

2 THE DEFENDANT: I write them myself.

3 THE COURT: First you say you're incompetent, want

4 me to send you to Lakes Crossing. I think you're smarter than

5 we know.

6 "I have to first apologize for writing a letter of

7 this type of tone but I must make you aware of your handling my

8 case. You say I had a reputation for being fair but you don't

9 think I'm fair. I believe, your Honor, I'm entitled to an

10 opinion so I present in the form of a question, should an

11 individual give himself over to the masses to be punished in

12 the event of notifying their appetite for justice? What if the

13 first was unjustified, should he be allowed to be punished

14 again because the masses felt the first was not severe enough?

15 Your Honor, I've been churning in my mind who is the person

16 putting the victim through this traumatic experience? I blamed

17 myself at first but I came to terms, it's not I but you."

18 Now you're blaming me for your problems.

19 THE DEFENDANT: I'm not as an individual, Your

20 Honor.

21 THE COURT: All right.

22 "I reiterate, I give myself up to the wolves and

23 they only ate my leg."

24 I have no understanding what you're talking

25 about, maybe it's poetry but it's beyond me.

1 "Now they want the rest because they are a little
2 more hungry than the -- "
3 I'm trying to get to your question. "I believe
4 I'm entitled to an opinion, so I put this in the form of a
5 question."
6 Then you put, you even put on open record this
7 case will be appealed and the proper relief granted upon it.
8 Every case is appealed, Mr. Polk. You're not the
9 only case. That's why we make records on everything. I always
10 say I make the best ruling I can. I granted one but I denied
11 the other one because Mr. Oram convinced me. I do the best I
12 can on these cases. Everything will be appealed to the supreme
13 court, that's what our system is. You have a trial, even if
14 you pled guilty, then its appealed to the supreme court or you
15 have post conviction relief. This is going to be in the
16 supreme court for years and years.
17 If I ever said to you this is going to be
18 appealed, I did not mean that I was wrong in my opinions and we
19 are trying to railroad you, every case is appealed, not just
20 yours, but thousands upon thousands of other cases. And I
21 never said the proper relief granted will be granted to you. I
22 never said I'm wrong but the supreme court will say I'm wrong
23 and you'll be let out, I never said that. I make decisions
24 based upon the law and the facts the best I can. And that's
25 the right system, let the supreme court review it and if they

1 think I'm wrong, then they will reverse me. If they think I'm
2 right they will affirm me. I'm not saying I'm wrong and the
3 supreme court will say I'm wrong. I wouldn't make these
4 decisions if I thought I was wrong.
5 You concede to there being something amiss in this
6 case yet you want won't procure -- I never said there's
7 something amiss in this case. I don't even know much about
8 this case if you want to know the truth, other than the motions
9 I read, your motions, Mr. Oram's motions, the State's motions.
10 All I know is you allegedly took advantage and sexually
11 assaulted, allegedly Jahala Chatman and Anna Polk, your
12 sisters, that's all I know about the case. And they will be
13 brought before the jury, it's not for me to determine if you're
14 guilty or not guilty, it's for 12 people to determine if you're
15 guilty are not guilty.
16 And you have a right, as you told Mr. Oram in the
17 beginning, he has a right to bring on witnesses, do anything he
18 wants within the framework of the proper trial. So I don't
19 think there's anything amiss in this case. I don't think
20 there's anything amiss.
21 Did you indict this man or preliminary hearing?
22 MS. HOLTHUS: He waived.
23 THE COURT: That's right.
24 THE DEFENDANT: For competency hearing.
25 THE COURT: Not for competency, that was

1 afterwards.

2 You unconditionally waived your preliminary

3 hearing to deal, to take a negotiation. You, within your

4 right, rejected the offer and that's fine with me, I don't

5 care. But then it was determined you might have problems and I

6 sent you to Lakes Crossing, they said you were okay and you

7 were brought down here. But I never said there's anything

8 amiss in this case, I don't know where you get that

9 information.

10 "Nonetheless, you must be made aware of your

11 conduct."

12 My conduct and behavior? Which are going against

13 the canon rules?

14 I take offense at that. I don't know if I'm going

15 against any rules of canons or judicial ethics. I'm trying to

16 run a case like thousands of other cases. I have nothing

17 against you Mr. Polk.

18 THE DEFENDANT: I understand, Your Honor.

19 THE COURT: "I'm addressing law, you're addressing

20 opinion." I don't know what that means. I'm not addressing

21 opinion. I look at the facts and I apply the law, you win

22 sometimes and you lose sometimes, that's the way the rules are

23 played. I'm addressing opinion, I have no idea what you mean

24 by that.

25 "This is a peremptory notice that I'm making you

1 aware that I've notified the NAACP, ACLU and other various
2 organizations of you and your colleagues' conduct."
3 I don't care if you talk to a hundred people,
4 what are you trying to intimidate me by you're going to NAACP?
5 I don't care if you contact anybody. Contact anybody you want
6 and I'm sure you'll be doing that for years and I've heard that
7 10,000 times before, that you're going to contact the judicial
8 ethics, it doesn't matter to me, as long as in my mind and
9 heart I'm giving you a fair trial and that's what I'm doing.
10 "But aside from my opinion, I also want you to
11 know that I voluntarily dismissed the civil complaint because
12 of my new found aspect of or government, plus the statute of
13 limitations has run."
14 So in other words, you did it because the statute
15 has run. You file any suit you want, doesn't matter to me, do
16 you understand that.
17 THE DEFENDANT: Yes, sir.
18 THE COURT: "This is my homage to our judicial
19 system and my gesture of humility and integrity. What will be
20 yours? Funny when a man awakes from a medicinal comma, what he
21 finds out the doctors have been up to while he slept."
22 I have no idea. I address this letter because
23 it's nonsensical to me. All I'm trying to say you're going to
24 go to trial first thing Monday morning, we are going to pick a
25 jury. Make sure he's dressed out, he's got clothes, right?

1 MR. ORAM: I've talked with him about it.
2 THE COURT: Make sure he's dressed out. The
3 State's to present their witnesses, Mr. Oram has a right to
4 present witnesses, you have a right to take the stand. I'll
5 address that more, and let that 12 people decide if you're
6 guilty or not guilty. That's our system and that's the way
7 it's going to work in this case, do you understand that?
8 THE DEFENDANT: Yes, sir.
9 THE CLERK: January 7, nine-thirty.
10 MS. HOLTHUS: Could we get a copy of the letter
11 you're referring to. I've also advised Mr. Oram the defendant
12 wrote me a somewhat similar letter, I let him read it this
13 morning.
14 THE COURT: I read it in the record. Make him a
15 copy.
16 MS. HOLTHUS: What time would you like us to be
17 ready with witnesses?
18 THE COURT: We are going to start nine-thirty,
19 we'll pick a jury.
20 THE CLERK: How many witnesses will you have?
21 MS. HOLTHUS: One of the things -- did I tell you
22 we might have a problem with a witness for Wednesday? One of
23 the officers we wanted to use, there's two officers for one
24 issue and one of them is leaving for vacation this weekend and
25 be back Tuesday, available Wednesday. The other one, as I

1 understand, will be back Tuesday, he may be available Tuesday
2 but if we are going to put one on we may have to do it
3 Wednesday. So if we finish early Tuesday we might be asking
4 the Court to go into Wednesday. I don't think it's going to be
5 that long a trial.
6 THE COURT: I can't imagine we are not going to
7 get to witnesses and opening statement until one o'clock. In
8 the meantime, that problem you had, what you indicated to Mr.
9 Oram about the possible, what was that?
10 MR. ORAM: Something to do with --
11 MS. HOLTHUS: Possible Miller hearing.
12 THE COURT: We could put that in between if we
13 have extra time. We are ready to go to trial, I'm going to be
14 fair to the State, fair to Mr. Polk and let the chips fall
15 where they may.
16 Thank you.
17
18 ATTEST: Full, true and accurate transcript of proceedings.
19
20 THOMAS D. MERCER, C.C.R. No. 33
21
22
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APR 25 12 19 PM '02
Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

Original

THE STATE OF NEVADA,
Plaintiff,
vs.
RENARD TRUMAN POLK,
Defendant.

Case No. C-166490
Dept. No. VI

REPORTER'S TRANSCRIPT
OF
JURY VOIR DIRE
VOL. I

BEFORE THE HONORABLE JOSEPH T. BONEVENTURE
DISTRICT COURT JUDGE

Taken on January 7, 2002
At 9:30 a.m.

APPEARANCES:
For the State: TAMARA PETERSON, ESQ.
MARY KAY HOLTHUS, ESQ.
Deputy District Attorney

For the Defendant: CHRISTOPHER R. ORAM, ESQ.
520 South Fourth Street

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Reported by: TOM MERCER, CCR No. 33

1 Las Vegas, Nevada, January 7, 2002

2

3 * * * * *

4 THE COURT: This is the time set for trial in Case
5 No. C-166490, State of Nevada versus Renard Polk.
6 Let the record show the presence of the defendant
7 with his attorney, Mr. Christopher Oram. Let the record show
8 the presence of the State of Nevada, represented by Deputy
9 District Attorneys Mary Kay Holthus and Tamara Peterson.
10 Is the State ready to proceed?
11 MS. PETERSON: Yes, Judge, the State's ready
12 THE COURT: Defense ready?
13 MR. ORAM: Yes, Judge.
14 THE COURT: The clerk will call the roll of the
15 jury members.
16
17 (Whereupon, roll call of the prospective jury was taken.)
18
19 THE COURT: All right. Counsel stipulate we can
20 proceed in the absence of those that failed to appear?
21 MS. PETERSON: Yes, Judge.
22 MR. ORAM: Yes, Your Honor.
23 THE COURT: All right. The clerk has drawn 12
24 names and they're in the jury box now. We have the other
25 prospective jurors behind the railing.

1 I'd like everybody to please stand up, raise your
2 right hand and be sworn by the clerk.
3
4 (Whereupon, the jurors were duly sworn.)
5
6 THE COURT: Everybody can sit down now.
7 I'd like the district attorney to state the nature
8 of this case very briefly and state the names of the possible
9 witnesses that you might call. They might call a whole bunch
10 of witnesses, I don't know if they are going to call everybody,
11 and then I'm going to ask you if you know any of these
12 witnesses. So, Miss Peterson.
13 MS. PETERSON: Thank you. My name is Tamara
14 Beatty Peterson, I'm one of the D.A.s assigned to prosecute
15 this case. My co-counsel is Mary Kay Holthus seated next to
16 me.
17 This is a case where we have charged the defendant
18 with three counts of sexual assault with a minor, anal
19 intercourse with two different girls. The two girls are
20 actually his sisters, one is Jahala Chatman, the other is Anna
21 Polk. And I'm going to read to you now a list of the other
22 witnesses that we intend to call at this trial. As the judge
23 said, we may not call all these witnesses but if you hear any
24 of the names that sound familiar, you need to let the judge
25 know.

1 The first is Mike Atkins, he's a criminalist that
2 works for the Las Vegas Metropolitan Police Department.
3 Next one is Officer Peck, he's an officer with
4 Metro. The next one, as I said earlier, is Jahala Chatman.
5 She is a girl whose about 15 years old right now. The next one
6 is Jamila Chatman, who's also a sister of the defendant, and
7 she's a girl about 16 years old right now. The next one is
8 Anna Polk, she's also a sister of the defendant, she's about 13
9 right now.
10 The next one is Officer Dockendorf. He works with
11 Metro. The next one is Dave Dunn, he's a detective with Metro,
12 works in the sexual abuse division. The next one is Detective
13 Kim Johnson, she's a detective with Metro. Next one is
14 Detective Tim Monoit, he's also a detective with Metro; next
15 one is Officer Newton, who works with Metro.
16 Then there are several medical personnel that
17 we'll be calling in this case, one is Dr. Mark O'connor. He
18 works over at Sunrise. Another one is Rene Flores, she's also
19 a nurse over at Sunrise Hospital. There's also a nurse by the
20 name of Phyllis Suitter, who works with the sexual abuse
21 investigation team and, finally, we'll be calling in this case
22 a woman by the name of Susan Sims, who is the aunt to the
23 defendant and to the victims in this case. And Jessica Savage,
24 who also works at Sunrise Hospital. Those are the witnesses we
25 could call in this case.

1 In addition, so you know and you can let the judge
2 know if you're familiar with this area, but these crimes
3 occurred at 1325 Nay Court here in Las Vegas.
4 THE COURT: Thank you, Miss Peterson.
5 Mr. Oram, on behalf of the defendant would you
6 like to add anything or introduce yourself and your client to
7 the jury?
8 MR. ORAM: Yes, Your Honor.
9 Good morning, ladies and gentlemen, my name is
10 Christopher Oram, I'm the Court appointed attorney for Renard
11 Polk.
12 Mr. Polk doesn't have to testify, he may if he
13 chooses to. We would also, perhaps, call Anna Lisa Edwards.
14 THE COURT: Thank you, Mr. Oram.
15 Ladies and gentlemen, this is Department Six, my
16 name is Judge Bonaventure; I'm here to conduct with you a
17 criminal jury trial. Basically, it's not going to be real
18 long, like some trials you have six, seven weeks, this is going
19 to be a three day trial, four day trial, perhaps. It's not
20 going to be a real lengthy trial so I don't think anybody would
21 have problems with the length of it, three and-a-half, four
22 days, something like that. So what I'm going to do now is ask
23 you a few general questions.
24 Any of you acquainted with the deputy district
25 attorneys, Miss Peterson, Miss Holthus?

1 Negative.
2 Or the defense attorney, Mr. Oram?
3 Negative.
4 Or Mr. Renard Polk, the defendant?
5 Negative.
6 Or any of the possible witnesses that the State
7 indicated might be called?
8 We have one, Miss Cahoon.
9 THE JUROR: Yes, sir.
10 THE COURT: Who do you think you know?
11 THE JUROR: Officer Dockendorf.
12 THE COURT: How do you think you know Officer
13 Dockendorf?
14 THE JUROR: He worked with my husband. My husband
15 is a Metro officer.
16 THE COURT: Are you still married to him?
17 THE JUROR: Yes.
18 THE COURT: What's his name.
19 THE JUROR: Gerald Cahoon, the Third.
20 THE COURT: All right. We'll pursue that.
21 Anybody else?
22 What we are going to do is try to pick a
23 completely fair and impartial jury both to the State of Nevada
24 and to the defendant. We do that by a series of questions.
25 I'll ask a lot of questions and Mr. Oram will have an

1 opportunity to ask you some questions as well as the Deputy
2 District Attorney. We are not trying to pry into your personal
3 affairs, but we are just trying to get a completely fair and
4 impartial jury. A lot of it is going to be repetitive, I
5 appreciate your indulgence. I'm going to start with Colleen
6 Willesen. How long have you been in Las Vegas?
7 THE JUROR: A year and-a-half.
8 THE COURT: Where did you come from?
9 THE JUROR: Salt Lake City, Utah.
10 THE COURT: What type of work did you do in Salt
11 lake?
12 THE JUROR: I was a forklift operator.
13 THE COURT: What do you do here?
14 THE JUROR: I'm also a forklift operator.
15 THE COURT: How long have you been doing that?
16 Since you've been here?
17 THE JUROR: That's correct.
18 THE COURT: Are you married?
19 THE JUROR: No.
20 THE COURT: Children?
21 THE JUROR: No.
22 THE COURT: Have you ever been in the military?
23 THE JUROR: No.
24 THE COURT: Are you acquainted with anybody in law
25 enforcement?

1 THE JUROR: No.
2 THE COURT: Are you in any way prejudiced by the
3 nature of this crime? It's a sexual assault.
4 THE JUROR: I have been sexually assaulted, yes.
5 THE COURT: Again, that's why I said, I don't want
6 to pry into people's personal affairs but we are just trying to
7 pick a completely fair and impartial jury, do you understand
8 that?
9 THE JUROR: Yes.
10 THE COURT: Could you tell me how long ago that
11 was, how old you were?
12 THE JUROR: I was very young, in my early 20s, so
13 it's been about 30 years ago.
14 THE COURT: Did somebody -- I don't want to go
15 into all the details. Was it a stranger or someone you knew?
16 THE JUROR: Someone I knew.
17 THE COURT: What was your relationship?
18 THE JUROR: Just a friend.
19 THE COURT: What were the results of that? Did
20 you have to go to trial?
21 THE JUROR: No, I did not pursue it.
22 THE COURT: Okay. Given that fact that you had
23 that very unpleasant experience 30 years ago or so, is that
24 going to affect your deliberation in this case?
25 THE JUROR: Honestly, I feel it would.

1 THE COURT: Do you think you could just set that
2 aside and judge this case solely by what you hear on THE JUROR
3 stand?
4 THE JUROR: I would try.
5 THE COURT: But could you.
6 Appreciate your honesty. Could you --
7 THE JUROR: Honestly I don't feel I could.
8 THE COURT: Does the State want to say anything or
9 Mr. Oram?
10 MS. PETERSON: Submit it, Judge.
11 MR. ORAM: We would challenge for cause.
12 THE COURT: I think maybe a two, three-week civil
13 trial you'll be better off. You can go back to the jury
14 deliberation room. Clerk call another prospective jury.
15 THE CLERK: Larry Mikesell.
16 THE COURT: How long you been in Las Vegas, sir?
17 THE JUROR: 30 years.
18 THE COURT: What do you do for a living?
19 THE JUROR: I'm in the hotel business, I work in
20 housekeeping.
21 THE COURT: Are you married?
22 THE JUROR: Yes, sir.
23 THE COURT: What does your wife do for a living,
24 if she works?
25 THE JUROR: My wife's a student, she went back to

1 school.
2 THE COURT: What type of school.
3 THE JUROR: Clark County, she's going for
4 accounting degree.
5 THE COURT: Children?
6 THE JUROR: No, sir.
7 THE COURT: Have you ever been in the military?
8 THE JUROR: Yes, I have.
9 THE COURT: When I ask anybody about the military,
10 all I want to know is what branch and what years you were in.
11 THE JUROR: I was in the Navy from '62 to '66.
12 THE COURT: What was your job there?
13 THE JUROR: I was in the supply department on a
14 ship.
15 THE COURT: You had nothing to do with military
16 police or court martials?
17 THE JUROR: No.
18 THE COURT: Are you acquainted with anybody in law
19 enforcement?
20 THE JUROR: No.
21 THE COURT: Are you prejudiced at all by the
22 nature of this crime?
23 THE JUROR: No.
24 THE COURT: Have you ever been the victim of a
25 crime?

1 THE JUROR: No.
2 THE COURT: Have you or anyone closely associated
3 with you ever been arrested for a crime?
4 THE JUROR: I have.
5 THE COURT: When was that, sir?
6 THE JUROR: Would have been 1961.
7 THE COURT: How old were you?
8 THE JUROR: Twenty.
9 THE COURT: Were you arrested here or . . .
10 THE JUROR: Indiana.
11 THE COURT: What were you arrested for?
12 THE JUROR: I was originally arrested for assault
13 on a police officer and resisting arrest.
14 THE COURT: How old were you then?
15 THE JUROR: Twenty.
16 THE COURT: What were the results of that?
17 THE JUROR: Disturbing the peace; thirty dollar
18 fine.
19 THE COURT: Fine, 40 years ago, was it?
20 THE JUROR: Yes.
21 THE COURT: Given that fact, again, I don't want
22 to pry into personal affairs, appreciate your honesty. You
23 don't hold any grudges against the police department because of
24 this, do you?
25 THE JUROR: No.

1 THE COURT: You think you were treated fairly?
2 THE JUROR: Yes.
3 THE COURT: You don't hold that against the State
4 of Nevada or the police because --
5 THE JUROR: No.
6 THE COURT: Have you ever served on a jury before?
7 THE JUROR: No, I have not.
8 THE COURT: I'm going to touch on this a couple of
9 times, not with every juror but if your picked as a juror, Mr.
10 Mikesell, I'm going to instruct you what the law is on this
11 case, do you understand that?
12 THE JUROR: Yes, sir.
13 THE COURT: It will be a violation of your oath to
14 not follow my instructions. Could you promise me you'll follow
15 my instructions of law?
16 THE JUROR: Yes, sir.
17 THE COURT: You understand, and I'll instruct you
18 about this, Mr. Polk is here by what we call an Information.
19 It's a charging document, it just a means to get him to court,
20 do you understand that?
21 THE JUROR: Yes.
22 THE COURT: And I'm telling you that's just a mere
23 accusation, not evidence, do you understand that?
24 THE JUROR: Correct.
25 THE COURT: And it's encumbent -- basically Mr.

1 Polk sits here with a presumption of innocence, do you
2 understand that?
3 THE JUROR: Most definitely.
4 THE COURT: As Mr. Oram said, he doesn't have to
5 testify to anything. It's encumbent upon the State of Nevada
6 to prove him guilty beyond a reasonable doubt. Okay?
7 THE JUROR: Yes, sir.
8 THE COURT: Would you abide by that then?
9 THE JUROR: Yes, sir.
10 THE COURT: A lot of people say why didn't the
11 defendant testify?
12 He doesn't have to testify, as Mr. Oram pointed
13 out, and your not to hold that against him if he doesn't, do
14 you understand that?
15 THE JUROR: Yes, sir.
16 THE COURT: Any reason you couldn't be a
17 completely fair and impartial juror in this case?
18 THE JUROR: No, sir.
19 THE COURT: Questions? Pass for cause by the
20 State?
21 MS. PETERSON: Mr. Mikesell, has anyone you know
22 ever been the victim of a sexual assault or sexual abuse?
23 THE JUROR: No.
24 MS. PETERSON: Pass for cause.
25 THE COURT: Mr. Oram, questions? Pass for cause?

1 BY MR. ORAM:

2 Q. Sir, you understand that in this particular case,
3 as the prosecution pointed out, there are multiple counts, do
4 you understand that? There are at least three counts in this
5 case?

6 A. Yes, I do.

7 Q. Do you think you could give each one of those
8 counts equal and separate consideration? What I'm asking you,
9 you wouldn't think on Count I somebody was innocent of a crime
10 and therefore on the other ten counts they must also be
11 innocent, you wouldn't do that, would you?

12 A. Each count separately.

13 Q. And you'll hold the State to their burden of
14 proving the case beyond a reasonable doubt to each and every
15 count, is that correct?

16 A. Absolutely.

17 Q. Have you ever heard of a confession? The word
18 "confession" before?

19 A. Yes, sir.

20 Q. Do you know what it is, where somebody --

21 A. I think I do.

22 Q. Do you think just because someone confesses to
23 something that there may be some reason why they confessed to
24 something they didn't do?

25 A. Yes.

1 Q. Would you keep an open mind in this particular
2 case?
3 A. I certainly will.
4 Q. Do you think that you're good at telling whether
5 somebody is telling the truth? We are going to have people get
6 up on the witness stand in this case and tell a story to you.
7 Do you think you're pretty good at telling when somebody is
8 lying to you or when somebody is being straight with you?
9 A. I'm not super human, but you get feelings from
10 people.
11 Q. Do you have children?
12 A. No, I do not.
13 Q. Have you ever been around children?
14 A. Oh, yes.
15 Q. Can you look at Mr. Polk and promise him a fair
16 trial?
17 A. That, absolutely.
18 MR. ORAM: Pass for cause.
19 THE COURT: Thank you, Mr. Oram.
20 Miss Jones, how long you been in Las Vegas?
21 THE JUROR: Since '53, 49 years.
22 THE COURT: Practically a native.
23 THE JUROR: Yes.
24 THE COURT: What do you do for a living?
25 THE JUROR: Clark County school teacher, second

1 grade.

2 THE COURT: How long have you been doing that?

3 THE JUROR: 17 years.

4 THE COURT: Are you married?

5 THE JUROR: Yes.

6 THE COURT: What does your husband do?

7 THE JUROR: He's a retired teamster.

8 THE COURT: Children?

9 THE JUROR: Yes, seven children.

10 THE COURT: I'd like to chat about your children,

11 what their names are, but when I ask if you have any children

12 the only thing I'm interested in is adult children and what

13 they do for a living. So if you want -- I'm going to keep

14 track on my fingers and toes. Your first child?

15 THE JUROR: A cashier for Harrahs, works in a

16 restaurant.

17 Second child is a day care provider in her home.

18 Third child is a cashier at Stardust in Tony Roma's; fourth

19 works for Auto Zone; fifth is a stay home mother, 6th is a stay

20 home mother and seventh isn't employed.

21 THE COURT: All right. Grandchildren?

22 THE JUROR: 19 grandchildren.

23 THE COURT: Forget about it. I'm not going to

24 worry about your grandchildren.

25 THE JUROR: 11 and under.

1 THE COURT: Nice family. Thank you.
2 Have you ever been in the military?
3 THE JUROR: No. My husband has.
4 THE COURT: Are you acquainted with anybody in law
5 enforcement?
6 THE JUROR: I have met people in law enforcement,
7 casual acquaintances.
8 THE COURT: That's not going to affect your
9 deliberation?
10 THE JUROR: No.
11 THE COURT: I always follow up if somebody knows
12 somebody in law enforcement, and this is the law, you're not to
13 give greater weight or lesser weight to a police officer's
14 testimony simply because they are a police officer, you give it
15 the weight you deem appropriate.
16 THE JUROR: They are human beings.
17 THE COURT: You'll do that?
18 THE JUROR: Yes.
19 THE COURT: Anything about the nature of this
20 charge that gives you concern?
21 THE JUROR: No more than --
22 THE COURT: No more than any crime, alleged crime,
23 but nothing other than that?
24 THE JUROR: No.
25 THE COURT: Have you ever been a victim of a

1 crime?

2 THE JUROR: We have had a robbery once.

3 THE COURT: A robbery, somebody got a gun --

4 THE JUROR: No, someone came to our home.

5 THE COURT: That's a burglary. You're learning

6 here. As is a school teacher you still could learn. Somebody

7 broke into your house while you were gone and took some items?

8 THE JUROR: Right.

9 THE COURT: That's burglary. Robbery is somebody

10 gets a gun or knife.

11 THE JUROR: No, never robbery.

12 THE COURT: Did they ever catch the individuals?

13 THE JUROR: No.

14 THE COURT: You never had to go to court?

15 THE JUROR: No.

16 THE COURT: You don't hold that against the State

17 of Nevada or the defendant?

18 THE JUROR: No.

19 THE COURT: Have you or anyone closely associated

20 with you ever been arrested for a crime?

21 THE JUROR: My son was.

22 THE COURT: What was he are rested for?

23 THE JUROR: Car theft.

24 THE COURT: How long ago was that and how old was

25 he?

1 THE JUROR: He was 19.
2 THE COURT: Here in Las Vegas?
3 THE JUROR: Yes.
4 THE COURT: What were the results of that?
5 THE JUROR: He was on probation.
6 THE COURT: All right. How long ago was that?
7 THE JUROR: Three years.
8 THE COURT: The fact that he had that unfortunate
9 situation, he's on probation, is that going to affect your
10 deliberation here?
11 THE JUROR: No.
12 THE COURT: Do you think he was treated fairly?
13 THE JUROR: Somewhat, yeah. In the court scene,
14 yes.
15 THE COURT: What about the police?
16 THE JUROR: Sometimes they were a little harsh
17 but, you know, I'm a mother.
18 THE COURT: You don't hold that against the
19 district attorney for prosecuting?
20 THE JUROR: No.
21 THE COURT: You're not going to hold that in this
22 case against the police department?
23 THE JUROR: No. They are doing a job and you have
24 to realize that. Were I in their shoes maybe I'd be a little
25 rough too.

1 THE COURT: Have you ever served on a jury before?
2 THE JUROR: 1968.
3 THE COURT: In Las Vegas?
4 THE JUROR: Yes.
5 THE COURT: Criminal or civil case?
6 THE JUROR: Civil.
7 THE COURT: You deliberated the case?
8 THE JUROR: Deliberated it.
9 THE COURT: Were you foreman?
10 THE JUROR: No.
11 THE COURT: Without telling me what the verdict
12 was, did you reach a verdict?
13 THE JUROR: Yes, we did.
14 THE COURT: So you had a little jury experience,
15 you know the judge instructs you, you hear witnesses and make
16 decisions?
17 THE JUROR: Right. We came to a decision.
18 THE COURT: There's a difference between a civil
19 case and criminal case.
20 THE JUROR: There is.
21 THE COURT: In a civil case the person that wants
22 money has to show by a preponderance of the evidence that money
23 is due and owing. In a criminal case, as I explained to Mr.
24 Mikesell and everybody else, the State has the burden of
25 proving beyond a reasonable doubt that the defendant committed

1 these crimes, do you understand that?
2 THE JUROR: Right.
3 THE COURT: Is there any reason you couldn't be a
4 completely fair and impartial juror in this case?
5 THE JUROR: I think I can be fair.
6 THE COURT: Questions, pass for cause?
7 MS. HOLTHUS: Just a couple.
8 Q. You are around children every day?
9 A. I certainly am.
10 Q. What are your feelings in terms of credibility of
11 children? Can they be believed, are they more likely to tell
12 the truth?
13 A. That's kind of hard to say because some children
14 are very skilled at telling untruths.
15 Q. Like some adults?
16 A. Yeah. So you have to weigh what their actions
17 are, what the evidence is.
18 Q. And the children you're around, second grade?
19 A. They are very gullible.
20 Q. How old are they?
21 A. Eight years old. They believe everything you say
22 so you have to be very careful what you say.
23 Q. Do you have a lot of experience -- the girls are
24 teenagers now?
25 A. I have five daughters.

1 Q. There you go.
2 A. That's why I don't teach teenagers, I outgrew it.
3 I had all my experience with my own.
4 Q. But you'll agree they're people too and their
5 testimony is to be evaluated like everybody else's?
6 A. Yes. You have to learn a lot. They are human
7 beings and you have to learn their rights.
8 MS. HOLTHUS: Pass for cause.
9 THE COURT: Defense.
10 BY MR. ORAM:
11 Q. You like to watch TV?
12 A. I like to, I don't get to do it a lot, but I like
13 to.
14 Q. Do you ever watch Discovery channel, A&E?
15 A. Often times, yes.
16 Q. Do you watch those programs on DNA and
17 fingerprints and the crime programs and they talk about crimes
18 and how the police solve it with science?
19 A. I sometimes do, yes.
20 Q. Do you know what DNA is?
21 A. It's a path of -- like a footprint, a fingerprint,
22 blood work. Everybody's DNA is different and you can verify.
23 Q. In those science cases you've seen how they have
24 been able to solve crimes with science, is that right?
25 Fingerprints, footprints, all those kinds of things?

1 A. Right.
2 Q. You're pretty skilled at telling when a child is
3 being deceptive or whether the child is telling the truth?
4 A. I hope so. I try to be. You know, in the
5 classroom sometimes you have children who don't want to own up
6 to what they have done and you have to make decisions.
7 Q. You look for what I would call corroboration of a
8 child?
9 A. Right.
10 Q. So you see if there's something that will back up
11 what the child said?
12 A. I wait until I get all the evidence and then
13 decide.
14 Q. Can you keep an open mind in this particular case?
15 A. Probably. I think so.
16 Q. You understand what Judge Bonaventure is advising
17 everyone about the burden of proof, the State has the burden of
18 proof, they have to prove the case beyond a reasonable doubt?
19 A. That's right.
20 Q. And you understand if I didn't get up and ask you
21 this question and I sat down after talking to you, never asked,
22 never said another thing and if the State didn't prove their
23 case you would come back in here with a verdict of not guilty,
24 correct?
25 A. That's right.

1 Q. You wouldn't want to see a guilty man put in
2 prison --
3 A. Absolutely not.
4 Q. You wouldn't want to see an innocent man --
5 A. I would like to have guilty men in prison and
6 innocent out, yes.
7 Q. Is there any reason why you cannot be fair in this
8 particular case?
9 A. No, there's no reason I can't be fair.
10 Q. Can you promise that man over there a fair trial?
11 A. I will weigh the evidence. If I'm chosen I'll
12 weigh the evidence.
13 Q. And promise him a fair trial?
14 A. Yes.
15 MR. ORAM: Pass for cause.
16 THE COURT: Mr. Allen, how long have you been in
17 Las Vegas?
18 THE JUROR: 30 years.
19 THE COURT: What do you do for a living?
20 THE JUROR: Clark County Fire Department.
21 THE COURT: Fire department?
22 THE JUROR: Right.
23 THE COURT: Retired? Still work?
24 THE JUROR: Almost finishing up 22 years.
25 THE COURT: As a fireman?

1 THE JUROR: Out of the fire prevention bureau.
2 That's the only reason I can look like this.
3 THE COURT: Wish I could grow a beard like that,
4 they won't let me. Probably be as white as yours, whiter.
5 Maybe I'll become a fireman next life.
6 Are you married.
7 THE JUROR: I've been happily single for 13 years.
8 THE COURT: Children?
9 THE JUROR: Two.
10 THE COURT: What do they do for a living?
11 THE JUROR: The boy is a surveyor and engineer.
12 My daughter is 16.
13 THE COURT: Goes to school?
14 THE JUROR: Goes to school and works at mini Grand
15 Prix.
16 THE COURT: Have you ever been in the military?
17 THE JUROR: Marines.
18 THE COURT: What year?
19 THE JUROR: '64 through '66.
20 THE COURT: What did you do in the Marines?
21 THE JUROR: Light anti-aircraft missile.
22 THE COURT: Nothing to do with military police?
23 THE JUROR: No.
24 THE COURT: Are you acquainted with anybody in law
25 enforcement? I imagine you are.

1 THE JUROR: I know a few just to say hi.
2 THE COURT: That's not going to affect your
3 deliberation in this case?
4 THE JUROR: No.
5 THE COURT: You understand you're not to give
6 greater or lesser weight to a police officer's testimony simply
7 because they are a police officer, do you understand that?
8 THE JUROR: Right.
9 THE COURT: Are you prejudiced in any way by the
10 nature of this crime?
11 THE JUROR: I'll tell you what, if you picked the
12 worst case to have me on this would be it. I mean, I'm a
13 junkyard dog when it comes to kids.
14 THE COURT: Again, everybody -- most people don't
15 like crime, but Mr. Polk plead not guilty and we are here to
16 see him get a fair and impartial trial. Could you set that
17 aside and judge this case solely by what you hear on THE JUROR
18 stand and make your decision solely on the facts and
19 circumstances in this case.
20 THE JUROR: Well, I wouldn't be sure. The way my
21 blood pressure shot up when I heard the charges, I have no
22 tolerance for this type of case?
23 THE COURT: Again, if you can't, you can't. But
24 most people would want to do their duty as citizens and set
25 aside any prejudice. They are not going to try to convict a

1 innocent man because they have prejudices, they are going to
2 hear the facts, hear the circumstances, hear my instructions,
3 go back and deliberate and make a decision with your other
4 fellow jurors based on the facts, not your prejudices. Could
5 you do that, yes or no?
6 THE JUROR: I'll give it a shot.
7 THE COURT: Have you ever served on a jury before?
8 THE JUROR: I have been challenged three times
9 now.
10 THE COURT: Have you ever been a victim of a
11 crime?
12 THE JUROR: With the exception of a couple
13 burglaries, no.
14 THE COURT: That's not going to affect your
15 deliberation?
16 THE JUROR: No.
17 THE COURT: You or anyone closely associated with
18 you ever been the victim of a crime?
19 THE JUROR: No.
20 THE COURT: Any reason you couldn't be a fair and
21 impartial juror in this case?
22 THE JUROR: No.
23 THE COURT: Questions? Pass for cause?
24 MS. PETERSON: Yes, just a couple follow-up
25 questions.

1 Q. Mr. Allen, you said something about some
2 burglaries. What was that about?
3 A. That was years ago.
4 Q. I didn't even hear what it was?
5 A. Just a couple burglaries.
6 THE COURT: I didn't go into it, I didn't say
7 house burglaries or truck or anything
8 BY MS. PETERSON: It happened to you.
9 A. Yes.
10 Q. Here in Las Vegas?
11 A. Yes.
12 Q. Did you report it?
13 A. Yes.
14 Q. Anything come of that case?
15 A. No, just proven to be children from the middle
16 school just down the street.
17 Q. So nothing happened with that in terms of
18 prosecuting them?
19 A. No.
20 Q. Did you get your stuff back?
21 A. No.
22 Q. Do you think you were treated fairly by all that?
23 A. Oh, yeah.
24 Q. Mr. Allen, I want to ask you a couple questions.
25 You said when you heard these charges that your blood pressure

1 kind of went up?
2 A. That's right.
3 Q. Is that because these charges are hard to listen
4 to?
5 A. I just never understood anybody hurting children.
6 In the fire department you see it sometimes, even though I'm
7 not a firefighter. I just have no tolerance for it.
8 Q. Okay.
9 A. I can't even stand to see a mother spank her kid
10 in the store.
11 Q. You understand you haven't heard any evidence in
12 this case?
13 A. Right.
14 Q. Will you listen to the evidence and take it for
15 what it's worth so you can go back and deliberate on this case?
16 A. Yup.
17 Q. And at the end of the evidence if you find there's
18 a crime and you go through, you'll come back if the State's
19 proven that the defendant's guilty will you find him guilty?
20 A. Oh, yeah. If you can prove he did it I'll find
21 him guilty.
22 Q. If we didn't prove he did it what would you do?
23 A. I guess find him innocent.
24 Q. Even though you said your blood pressure went up
25 with the charges?

1 A. It's the worse one you could have got me in on.
2 Q. I'm just trying to figure out. You can come in
3 here and listen to everything and you can go with that, is that
4 right?
5 THE COURT: He's nodding his head in the
6 affirmative.
7 THE JUROR: Yes.
8 MS. PETERSON: Pass for cause.
9 THE COURT: Mr. Oram?
10 BY MR. ORAM: Pretty grim set of charges, is that fair to say.
11 A. Yes.
12 Q. And it made your blood pressurize, correct?
13 A. Right.
14 Q. Just hearing this.
15 There's going to be at least two young ladies who
16 are going to take that witness stand and make very significant
17 allegations. Do you really think you can be fair in this
18 particular case?
19 A. Between you and I, I don't think so. If the kids
20 say he did it, I don't know how I'd be able to tell how they
21 were lying.
22 Q. So just the very act?
23 A. Like I said, I've got a 16 year old daughter. And
24 oh, God.
25 Q. In any case, forget this case, if a young child

1 got up on THE JUROR stand and said something terrible happened
2 to him or her, basically are you saying just because the child
3 said so it pretty much would be set in your mind the person was
4 guilty?
5 A. No, there's always a chance the child is lying.
6 Q. What if -- let me ask you this. You know
7 evidence, obviously, because of the nature of the charges, is
8 going to be very ugly, we are not dealing with something that's
9 pretty here. If you heard that -- you know what a confession
10 is?
11 A. Yes.
12 Q. If you heard something the State said was a
13 confession, do you think that would make your mind up right
14 away? In other words, you wouldn't listen any further, the
15 child made an allegation ?
16 MS. HOLTHUS: Judge, I'm sorry. I have to object
17 to Mr. Oram's question, the way he's phrased it, would you make
18 up your mind right away. He's starting to argue the evidence?
19 THE COURT: Just get to your point and let's move
20 on, but don't argue the evidence
21
22 BY MR. ORAM:
23 Q. Can you be open minded throughout the trial,
24 regardless of what's said? Can you wait until the very end of
25 the case before you would sit down with the other jurors in

1 another room and then discuss the evidence and try to make up
2 your mind at that point?
3 A. I tell you what, you'd just be better off without
4 me on that trial. It's that simple.
5 THE COURT: We'll, that's not the point. You have
6 a civic duty to do, you should know, you're a fireman. If
7 everybody said that to me we wouldn't get through anything. So
8 you got to -- in other words, I'm trying to say anybody could
9 say, any juror could say you'd be better off without me. I
10 can't excuse you for that reason because I wouldn't be doing my
11 job and you wouldn't be doing your civic duty as an American
12 citizen. Listen to me now. So that's not the right thing.
13 I asked you questions, you said that you could
14 keep an open mind and judge this case solely by what you hear
15 from the evidence. If that's not true tell me right now and we
16 won't be wasting time.
17 And you told that to the State, you could hear the
18 evidence. In other words, I don't like the statement you made
19 about you'd be better off without me. A lot of people could
20 say the same thing and that's not the way we play this game.
21 It's not a game, it's a very important situation.
22 Proceed now and let's get to the point. You have
23 perempts but we'll go from there. Let's move on.
24 Q. (By Mr. Oram) you have no problem with the points
25 of law that we discussed, they have the burden of proof?

A. Right.

Q. The defendant doesn't need to testify, correct?

A. Right.

Q. If he didn't testify you wouldn't hold that against him, would you?

A. No.

MR. ORAM: Pass for cause.

THE COURT: I'm going to ask you one more time, I don't want to give you a hard time; could you be fair in this case? Just keep an open mind and could you be fair or you can't be fair, just tell me that, yes or no.

THE JUROR: I really don't think I could be.

THE COURT: Any objection we excuse him?

MR. ORAM: No, Your Honor.

MS. PETERSON: No, Judge.

THE COURT: You're excused, report back to Room 1013.

THE CLERK: Adrianna Erickson.

THE COURT: Are you all right to be a juror or?

THE JUROR: I work every day in this condition.

THE COURT: It's up to you, I'm not trying to --

THE JUROR: I'd like to be excused.

THE COURT: Could you sit down for periods of time or -- what's your problem walking with a cane?

THE JUROR: I have a spinal problem.

1 THE COURT: You're going to be sitting for a
2 length of time. Is that going to cause you medical problems?
3 THE JUROR: No.
4 THE COURT: I'm giving you an out. You don't
5 wants to take an out, take the seat then.
6 How long you been in Las Vegas, ma'am?
7 THE JUROR: About 35 years.
8 THE COURT: What do you do for a living?
9 THE JUROR: Construction engineer for the water
10 district.
11 THE COURT: Are you married?
12 THE JUROR: No.
13 THE COURT: Children?
14 THE JUROR: One daughter.
15 THE COURT: How old?
16 THE JUROR: 17.
17 THE COURT: Go to school, your daughter go to
18 school?
19 THE JUROR: Yes.
20 THE COURT: No work?
21 THE JUROR: No work.
22 THE COURT: Have you ever been in the military?
23 THE JUROR: No.
24 THE COURT: Are you acquainted with anybody in law
25 enforcement?

1 THE JUROR: Yeah, I have a friend.
2 THE COURT: A good friend, acquaintance?
3 THE JUROR: Good friend in Child Protective
4 Services.
5 THE COURT: Do you socialize with that individual?
6 THE JUROR: Yes, she's a friend.
7 THE COURT: What's her name?
8 THE JUROR: Lisa Lewinski.
9 THE COURT: The fact you have a friend in law
10 enforcement or child protective, is that going to affect
11 your --
12 THE JUROR: No.
13 THE COURT: You understand you're not to give
14 greater or lesser weight to a person simply because they are a
15 police officer, do you understand that?
16 THE JUROR: Yes.
17 THE COURT: Have you ever been in the military?
18 THE JUROR: No.
19 THE COURT: Have you ever been a victim of a
20 crime?
21 THE JUROR: My ex-husband, yes.
22 THE COURT: What did he do?
23 THE JUROR: He attacked me in a parking lot.
24 THE COURT: When was that?
25 THE JUROR: About nine years ago.

1 THE COURT: Here in Las Vegas?
2 THE JUROR: Yes?
3 THE COURT: Was he arrested?
4 THE JUROR: Yes.
5 THE COURT: What were the results of that?
6 THE JUROR: He plea bargained out and eventually
7 went to prison.
8 THE COURT: The fact you had that unpleasant
9 experience is not going to affect your deliberation, is it?
10 THE JUROR: No.
11 THE COURT: You don't hold anything against the
12 State of Nevada or the police? You think you were treated
13 fairly?
14 THE JUROR: Yes.
15 THE COURT: You or anyone closely associated,
16 other than your ex-husband, ever been arrested for a crime?
17 THE JUROR: No.
18 THE COURT: Have you ever served on a jury before?
19 THE JUROR: No.
20 THE COURT: Any reason you couldn't be a fair and
21 impartial juror in this case?
22 THE JUROR: No.
23 THE COURT: Thank you.
24 Questions? Pass for cause?
25 MS. HOLTHUS: Pass for cause.

1 THE COURT: Questions crest?
2 MR. ORAM: Questions, Your Honor.
3 Q. You are an engineer?
4 A. Uh-huh.
5 Q. A lot of times what you're dealing with is facts
6 and numbers and absolute conclusions, pretty close?
7 A. Uh-huh.
8 Q. You have to say yes or no, just for the record?
9 A. Yes.
10 Q. If ten people told you something and you had a
11 mathematical conclusion and you came up with it and it defied
12 what the ten people had told you, which would you lean towards,
13 the mathematical conclusion or what the people had said?
14 A. The more objective answer, which would be the
15 math.
16 Q. So in your job you deal with things like that all
17 the time?
18 A. Yeah, there's -- everything is objective, mostly.
19 We don't have subjective.
20 Q. I asked the first gentleman regarding independent
21 consideration of counts. Did you hear that question?
22 A. Yes.
23 Q. Do you think that you could consider each of the
24 three counts independently?
25 A. Yeah, I believe I could.

1 Q. Does that make sense, what I'm saying to you?
2 A. Yes. They are all three related?
3 Q. I can't get into the facts. Let's say there were
4 three charges, speeding ticket, parking in a handicapped zone
5 and illegal U-turn. If the police officer was testifying and
6 the State was putting on that case you would make sure the
7 person was either not guilty or guilty of each one
8 independently, right?
9 A. Yes.
10 Q. You wouldn't just find the person guilty of you
11 u-turn and then say must have been guilty of everything?
12 A. No, I wouldn't.
13 Q. You have one child?
14 A. Yes.
15 Q. Have you ever -- was your daughter ever deceptive
16 to you?
17 A. No. I mean, I trust her.
18 Q. Are you good at telling when people are deceptive
19 to you?
20 A. I think I am.
21 Q. One last question. If you were picked on this
22 jury and you were back there in jury deliberation room and 11
23 people were of the opinion one way or the other and you were
24 the one person, it was 11 to one, and you were the one person
25 who said something different, would you just give in to the

1 other 11 simply because that was their opinion?
2 A. No.
3 Q. Would you listen to them?
4 A. Yes.
5 Q. And if they convinced you would you change your
6 mind?
7 A. Maybe.
8 Q. But you wouldn't just do it just because I must be
9 wrong because there's 11 other people who disagree?
10 A. No, I wouldn't.
11 Q. Can you promise him a fair trial?
12 A. Yes, from my point of view, yes.
13 MR. ORAM: Thank you.
14 THE COURT: Leslie Thorne, how long have you been
15 in Las Vegas?
16 THE JUROR: 14 years.
17 THE COURT: What do you do for a living?
18 THE JUROR: I'm a loan officer.
19 THE COURT: Are you married?
20 THE JUROR: Divorced.
21 THE COURT: Children?
22 THE JUROR: One, 19.
23 THE COURT: Boy or girl?
24 THE JUROR: Daughter.
25 THE COURT: Does your daughter work or . . .

1 THE JUROR: Full-time student.
2 THE COURT: Where?
3 THE JUROR: Colorado.
4 THE COURT: Have you ever been in the military?
5 THE JUROR: No.
6 THE COURT: Are you acquainted with anybody in law
7 enforcement?
8 THE JUROR: No, sir.
9 THE COURT: Have you ever been the victim of a
10 crime?
11 THE JUROR: A roommate that I had living with me
12 stole a check out of my checkbook, forged my name.
13 THE COURT: What were the results of that? Did
14 you ever go to court on that?
15 THE JUROR: No. I had to file a police report, my
16 bank investigated.
17 THE COURT: I don't want the whole history. You
18 didn't have to go to court?
19 THE JUROR: No.
20 THE COURT: That's not going to affect your
21 deliberation in this case?
22 THE JUROR: No.
23 THE COURT: You don't hold that against the police
24 or D.A., don't have any grudges against them, do you?
25 THE JUROR: No, sir.

1 THE COURT: You or anyone closely associated with
2 you ever been arrested for a crime?
3 THE JUROR: I was arrested, DUI.
4 THE COURT: When was that.
5 THE JUROR: '89?
6 THE COURT: Here in Las Vegas?
7 THE JUROR: Yes.
8 THE COURT: What were the results of that?
9 THE JUROR: Reduced to a misdemeanor.
10 THE COURT: Did you have to go to school or . . .
11 THE JUROR: Yes.
12 THE COURT: DUI usually is a misdemeanor unless it
13 was an accident.
14 THE JUROR: Yes. It was an accident.
15 THE COURT: It was originally a felony, or do you
16 know?
17 THE JUROR: I don't know for sure.
18 THE COURT: But reduced to a misdemeanor, you paid
19 a fine?
20 THE JUROR: Yes. I paid the fine, went without a
21 license for a while, went to DUI school.
22 THE COURT: Do you think you were treated fairly?
23 THE JUROR: Yes.
24 THE COURT: You don't hold that against the State
25 of Nevada or the police, do you?

1 THE JUROR: No.
2 THE COURT: Have you ever served on a jury before?
3 THE JUROR: No, sir.
4 THE COURT: Any reason you couldn't be fair and
5 impartial in this case?
6 THE JUROR: I don't believe so.
7 THE COURT: Questions? Pass for cause?
8 MS. PETERSON: Just a couple questions.
9 Q. Mr. Thorne, was it my office that prosecuted you
10 on that DUI, or do you remember?
11 A. I don't remember.
12 Q. So you won't hold it against my office?
13 A. No. I deserved what I got.
14 Q. Do you know anyone who's ever been the victim of a
15 sexual offense?
16 A. No.
17 Do you know anyone who's ever been accused of
18 that?
19 A. No.
20 MS. PETERSON: I'll pass for cause.
21 THE COURT: Mr. Oram?
22 By MR. ORAM:
23 Q. Do you have any problems with any points of law
24 that have already been discussed: The burden of proof is with
25 the State, the defendant doesn't need to testify, right?

1 A. Right.
2 Q. And the State wouldn't be permitted to coment on
3 it, nor would you be able to consider it if he didn't testify,
4 do you understand that?
5 A. Yes.
6 Q. If he chose to testify would you give him the same
7 weight that you would every other witness?
8 A. Oh, of course.
9 Q. You'd listen to him and then determine from
10 testimony whether he was guilty or not guilty, right?
11 A. Yes.
12 Q. Have you ever heard of the word "confession"?
13 A. Yes.
14 Q. Without going into facts or anything like that,
15 just because there's a confession doesn't necessarily mean a
16 person can't confess to something they didn't do, correct?
17 A. Correct.
18 Q. Do you ever watch those science shows?
19 A. Yeah, all the time. The DNA and all that.
20 Q. On, like, "Discovery" and all them?
21 A. Yes.
22 Q. You like them?
23 A. Yes.
24 Q. Do you think they are educational?
25 A. Very much so.

1 Q. Do you think you can be a fair juror?
2 A. Yes, sir.
3 Q. Promise that man a fair trial?
4 A. Most definitely.
5 MR. ORAM: Thank you.
6 THE COURT: Mr. Anderson, how long have you been
7 in Las Vegas?
8 THE JUROR: About 11 years.
9 THE COURT: What do you do for a living?
10 THE JUROR: I'm a civil designer.
11 THE COURT: What company do you work for>
12 THE JUROR: Montgomery Watson.
13 THE COURT: Are you married?
14 THE JUROR: Yes.
15 THE COURT: What does your wife do>
16 THE JUROR: She works for the State of Nevada in
17 the welfare department.
18 THE COURT: Children?
19 THE JUROR: Yes, five children.
20 THE COURT: Any old enough to work?
21 THE JUROR: Yes,.
22 THE COURT: How many.
23 THE JUROR: All.
24 THE COURT: What do they do for a living.
25 THE JUROR: The oldest one works for Harmon and

1 Shinn, attorneys.

2 THE COURT: She -- he or she?

3 THE JUROR: She.

4 THE COURT: She works for an attorney in town

5 here?

6 THE JUROR: Yes.

7 THE COURT: What does she do.

8 THE JUROR: She's the office manager.

9 THE COURT: What's the name of the firm.

10 THE JUROR: Harmon and Shinn, they are civil

11 attorneys.

12 THE COURT: They don't do criminal law?

13 THE JUROR: No.

14 Then I have a daughter who teaches fifth grade,

15 and then I have a son who's on a church assignment mission; and

16 then I have a daughter who's in the military, she's in the

17 Navy. Then I have a daughter in high school.

18 THE COURT: Have you ever been in the military?

19 THE JUROR: Yes.

20 THE COURT: What branch and what year?

21 THE JUROR: I was in the Navy Seabees in '69

22 through '72.

23 THE COURT: What's Seabees?

24 THE JUROR: The construction part of the Navy.

25 THE COURT: John Wayne did a movie on that.

1 THE JUROR: Yes.
2 THE COURT: My favorite actor.
3 You had nothing to do with military police or
4 court martial?
5 THE JUROR: No.
6 THE COURT: Have you ever been the victim of a
7 crime?
8 THE JUROR: Yes, burglarized.
9 THE COURT: Your house?
10 THE JUROR: Yes.
11 THE COURT: When was that?
12 THE JUROR: About eight months ago.
13 THE COURT: Here in Las Vegas?
14 THE JUROR: Yes.
15 THE COURT: Did they catch the individual?
16 THE JUROR: No, I just filed a report.
17 THE COURT: That's not going to affect your
18 deliberation in this case?
19 THE JUROR: No.
20 THE COURT: You don't hold that against the police
21 or D.A. because they didn't catch anybody?
22 THE JUROR: No.
23 THE COURT: Are you acquainted with anybody in law
24 enforcement?
25 THE JUROR: I have a friend up the street,

1 neighbor, who's a detective for Metro.
2 THE COURT: Do you socialize with him?
3 THE JUROR: Sometimes, yes.
4 THE COURT: That's not going to affect your
5 deliberations here?
6 THE JUROR: No.
7 THE COURT: You understand you're not to give
8 greater or lesser weight to a police officer's testimony simply
9 because they are a police officer?
10 THE JUROR: I understand.
11 THE COURT: You or anyone closely associated with
12 you ever been arrested for a crime?
13 THE JUROR: No.
14 THE COURT: Ever serve on a jury before?
15 THE JUROR: No.
16 THE COURT: Any reason you couldn't be a juro?
17 THE JUROR: No, sir
18 BY MS. HOLTHUS:
19 Q. You've had five children so you've had an
20 opportunity while they were growing up to determine whether
21 they are telling the truth or not?
22 A. Yes.
23 Q. I think Miss Jones said a lot of times you like to
24 look for corroboration. Do you agree there can be times a
25 child is so believable that you have no doubt they are telling

1 the truth, even though there's no other corroboration?
2 A. Yes, I tend to listen to them first and then
3 figure out whether they are lying to me or not.
4 Q. But there are times that you know beyond all doubt
5 that that kid is telling you the truth, even if there's not a
6 single thread of other corroboration?
7 A. Yes .
8 MS. HOLTHUS: Thank you.
9 THE COURT: Pass for cause?
10 MS. HOLTHUS: Yes.
11 THE COURT: Questions, Mr. Oram?
12 MR. ORAM: Yes.
13 Q. That same question, just a followup,
14 corroboration. Evidence to back up what a child is saying is
15 some something you would look for if it was available?
16 A. Yes.
17 Q. And if there was nothing, in other words, let's
18 say the child was standing there saying I didn't take the
19 cookie, it wasn't me, and you looked at their mouth and saw
20 chocolate all over their mouth you may not believe them?
21 A. I may not believe them.
22 Q. You've had experience dealing with children, so
23 you know sometimes they tell the truth and occasionally they
24 may be deceptive?
25 A. Right.

1 Q. Are you pretty good determining whether a child is
2 telling the truth?
3 A. I don't know if I'm pretty good. I usually wait
4 until I find the evidence and then I try to go with that. I
5 don't know if I can tell right off without some sort of looking
6 at them and watching them and then try to find out on my own.
7 Q. You watch those science programs?
8 A. Yes.
9 Q. Do you enjoy them?
10 A. Yes.
11 Q. Can you promise him a fair trial?
12 A. I believe so, yes.
13 Q. And lastly, is there any -- with the points of law
14 we've gone over, is there anything you substantially disagreed
15 with? In other words, think the defendant should have to prove
16 he's innocent?
17 A. No.
18 MR. ORAM: Pass nor cause.
19 THE COURT: Anybody that needs to powder their
20 nose, I don't want wholesale people going out, one or two, you
21 can go.
22 Myra Goehring, how long have you been in Las
23 Vegas.
24 THE JUROR: I'm from Mesquite.
25 THE COURT: Is that where you live, Mesquite?

1 THE JUROR: Yes.
2 THE COURT: You never lived in Las Vegas?
3 THE JUROR: No.
4 THE COURT: Henderson?
5 THE JUROR: No.
6 THE COURT: Boulder City?
7 THE JUROR: No.
8 THE COURT: How long you been in Mesquite?
9 THE JUROR: Five years.
10 THE COURT: Five years in Mesquite. What do you
11 do there?
12 THE JUROR: I'm retired.
13 THE COURT: Okay. Where -- you've been in Nevada
14 for five years?
15 THE JUROR: Yes.
16 THE COURT: Where did you come from?
17 THE JUROR: We came from North Dakota.
18 THE COURT: What did you do as far as work was
19 concerned?
20 THE JUROR: I worked as a bookkeeper for a real
21 estate firm in Grand Forks.
22 THE COURT: So you decided to retire. Your
23 husband too?
24 THE JUROR: Yes.
25 THE COURT: What did he do when he was working?

1 THE JUROR: He worked for an electrical wholesale
2 company for 35 years?
3 THE COURT: So you bought or house or something in
4 Mesquite?
5 THE JUROR: Yes.
6 THE COURT: You like it?
7 THE JUROR: We love it.
8 THE COURT: I'm just kidding. I like Mesquite.
9 You have any children.
10 THE JUROR: One son.
11 THE COURT: What does your son do?
12 THE JUROR: He is a broker for computer chips. He
13 has his own business.
14 THE COURT: Have you ever been in the military?
15 THE JUROR: No.
16 THE COURT: Are you acquainted with anybody in law
17 enforcement?
18 THE JUROR: No.
19 THE COURT: Have you ever been the victim of a
20 crime?
21 THE JUROR: No.
22 THE COURT: Have you or anyone closely associated
23 with you ever been arrested for a crime?
24 THE JUROR: No.
25 THE COURT: Have you ever served on a jury before.

1 THE JUROR: No?
2 THE COURT: If you're picked as a juror I'm going
3 to instruct you what the law is on this case, do you understand
4 that?
5 THE JUROR: I do.
6 THE COURT: You'll follow my instructions?
7 THE JUROR: Yes.
8 THE COURT: You understand Mr. Polk is here by way
9 of an information, it's a charging document, it's not evidence,
10 you understand that?
11 THE JUROR: Yes, I do.
12 THE COURT: It's encumbent upon the State of
13 Nevada to prove Mr. Polk guilty beyond a reasonable doubt, do
14 you understand that?
15 THE JUROR: I understand.
16 THE COURT: So he sits there with the presumption
17 of innocence, okay?
18 THE JUROR: Yes.
19 THE COURT: Any reason you couldn't be a
20 completely fair and impartial juror in this case?
21 THE JUROR: None whatsoever.
22 THE COURT: Questions? Is it all right coming
23 back and forth from Mesquite a couple times?
24 THE JUROR: It's a little tough getting up so
25 early.

1 THE COURT: I'll have my secretary call you up.
2 Questions?
3 MS. PETERSON: Yes, Your Honor, thank you.
4 Q. You heard the nature of the charges in this case.
5 In this case when we have witnesses on the stand Miss Holthus
6 and I are going to have to ask some fairly personal questions
7 of a sexual nature. Are you going to be able to listen to that
8 evidence in this case?
9 A. Yes, I will.
10 Q. When you go back to the jury room are you going to
11 be able to talk to your fellow jurors about these issues of a
12 sexual nature and use the terminology and everything else?
13 A. Yes.
14 Q. When the judge just asked you if you would follow
15 the instructions in this case, at the end of the case he'll
16 give instructions. You promise to follow all those
17 instructions?
18 A. Yes.
19 Q. If there's an instruction in there regarding
20 whether or not -- that says if you believe a person, a victim
21 of this kind of crime beyond a reasonable doubt, that that's
22 enough to find someone guilty, is that an instruction that
23 you'll follow?
24 A. Yes, it is.
25 Q. And so if you listen to the evidence and if you

1 believed the victim in this case, would you return a verdict of
2 guilty in this case?
3 A. Yes.
4 Q. And would you also give the defendant a fair trial
5 in this case?
6 A. Absolutely.
7 MS. PETERSON: No further questions. I'll pass
8 for cause.
9 THE COURT: Mr. Oram?
10
11 BY MR. ORAM:
12 Q. And if you didn't believe them, would you find him
13 not guilty?
14 A. I certainly would.
15 Q. The prosecutor made a very good point when she
16 asked you, she's going to have to ask questions, both the
17 prosecutors are going to ask questions that may seem a little
18 uncomfortable for an every day situation and you said you would
19 be able to handle that with no problem?
20 A. Yes, sir.
21 Q. You realize I'm going to have to question?
22 A. Yes.
23 Q. Is that going to cause you any anger towards the
24 defense because I'm standing up and --
25 A. None whatsoever.

1 Q. You understand the prosecutors are doing their job
2 and I'm doing my job?
3 A. Yes.
4 Q. You could be fair in this particular case?
5 A. Yes, I could.
6 Q. You could consider each charge equally and
7 separately?
8 A. That's the only way to do it.
9 Q. Of all the constitutional concepts we've been
10 talking about today, did you have any substantial problem with
11 any of them?
12 A. None.
13 Q. Can you promise him a fair trial?
14 A. Yes, I can.
15 MR. ORAM: Pass for cause.
16 THE COURT: Mr. Bart, how long have you been in
17 Las Vegas?
18 THE JUROR: Ten years.
19 THE COURT: What do you do for a living?
20 THE JUROR: Janitorial.
21 THE COURT: For what company?
22 THE JUROR: Right now unemployed.
23 THE COURT: Are you married?
24 THE JUROR: No.
25 THE COURT: Children?

1 THE JUROR: No.
2 THE COURT: Military?
3 THE JUROR: No.
4 THE COURT: Victim?
5 THE JUROR: No.
6 THE COURT: I can't say that in one word. You or
7 anyone closely associated with you ever been arrested for a
8 crime?
9 THE JUROR: Nephew.
10 THE COURT: How long has that been?
11 THE JUROR: About five years.
12 THE COURT: Here in Las Vegas?
13 THE JUROR: No.
14 THE COURT: Where?
15 THE JUROR: Lincoln County.
16 THE COURT: What did he get arrested for?
17 THE JUROR: He was drunk and killed his friend.
18 THE COURT: What were the results of that?
19 THE JUROR: Found him guilty.
20 THE COURT: The fact your nephew had that very
21 unpleasant experience, is that going to affect your
22 deliberations?
23 THE JUROR: No.
24 THE COURT: You don't hold that against the police
25 or state?

1 THE JUROR: No.
2 THE COURT: Have you ever served on a jury before?
3 THE JUROR: No.
4 THE COURT: Any reason you couldn't be fair and
5 impartial?
6 THE JUROR: No.
7 THE COURT: Questions? Pass for cause?
8 MS. HOLTHUS: Pass for cause.
9 THE COURT: Questions? Pass for cause?
10 MR. ORAM: Questions.
11 Q. Do you have any problems with the constitutional
12 concepts we've been talking about?
13 A. No.
14 Do you think you can be fair to the State of
15 Nevada.
16 A. Yes.
17 Q. If they were to prove their case would you come in
18 and find Mr. Polk guilty?
19 A. If they prove their case, yes.
20 Q. If they fail to prove their case beyond a
21 reasonable doubt would you find him not guilty?
22 A. Yes.
23 Q. Do you want to be on this jury?
24 A. Yes.
25 Q. Why?

1 A. Everybody deserves a fair trial.
2 Q. You're going to pay careful attention?
3 A. Yes.
4 Q. Let me ask you, if you were back there in the jury
5 deliberation room and somebody said something to you quietly or
6 the other jurors and that had gone against the judge's order,
7 would you inform the Court?
8 A. If it meant anything. Most of the time I don't
9 pay any attention to it because I'm not supposed to.
10 Q. But if something was really going wrong in the
11 jury room?
12 A. Oh, yes.
13 MR. ORAM: Pass for cause.
14 THE COURT: Mr. Rabin?
15 THE JUROR: Yes.
16 THE COURT: How long have you been in Las Vegas?
17 THE JUROR: Five years.
18 THE COURT: What do you do for a living?
19 THE JUROR: Window company.
20 THE COURT: You own it or . . .
21 THE JUROR: My son-in-law owns it.
22 THE COURT: And you work for him?
23 THE JUROR: Yes.
24 THE COURT: Are you married?
25 THE JUROR: Yes.

1 THE COURT: What does your wife do?
2 THE JUROR: She's a housewife.
3 THE COURT: Children?
4 THE JUROR: Four.
5 THE COURT: What do they do for a living?
6 THE JUROR: My son's a chief petty officer in the
7 Navy; my daughter a hotel manager at Harrah's and two young
8 ones, one, three and one four.
9 THE COURT: Have you ever been in the military?
10 THE JUROR: 22 years.
11 THE COURT: What branch?
12 THE JUROR: US Navy, chief master at arms .
13 THE COURT: What did you do?
14 THE JUROR: Chief master at arms.
15 THE COURT: Anything to do with military police?
16 THE JUROR: That is military police.
17 THE COURT: The reason I bring out military
18 police, I think there might be different rules of law,
19 different burdens of proof in the military. All I'm concerned
20 about is you were involved with the military police, court
21 martials, you have to set that aside and listen to my
22 instructions of law and abide by my instructions, you
23 understand that?
24 THE JUROR: I'll do the best I can.
25 THE COURT: There might be different sets of

burden is but you'll follow my instructions of law?

THE JUROR: Yes, sir. I don't think I have much choice.

THE COURT: All right. Are you acquainted with anybody in law enforcement?

THE JUROR: Not in Las Vegas, no, sir.

THE COURT: Anybody any place else?

THE JUROR: San Diego, lot of military police.

THE COURT: That's not going to affect your deliberation, the military police?

THE JUROR: Have to see what happens.

THE COURT: I don't understand, what does that mean?

THE JUROR: They have already mentioned a confession and DNA and this guy's working real hard on this confession thing, plus these aren't little kids, I understand they are teenagers.

THE COURT: I don't know anything about the facts. You apparently know about the whole case. I don't know how you got all these facts.

Whatever the facts are, sir, Mr. Oram is a very competent attorney and he's doing his job as he told somebody else, you understand that? You don't hold that against him for doing his job, do you?

THE JUROR: No, sir.

1 THE COURT: Don't assume any facts. I would ask
2 you, in all due respect, don't assume any facts. You haven't
3 heard one fact yet. This is all voir dire, it's to pick a
4 jury. After this we are going to have opening statements.
5 There's no facts there, you just listen to it. The only facts
6 you'll get are from the witnesses. The witnesses will testify,
7 the State will examine them, Mr. Oram will have a right to
8 cross examine and then you'll hear the facts as they come in.
9 Could you just judge this case solely by what you
10 hear from THE JUROR stand and nothing else?
11 THE JUROR: I couldn't guarantee anything, Your
12 Honor.
13 THE COURT: Why not?
14 THE JUROR: I just couldn't. Based upon the
15 nature, I've got a daughter and I couldn't guarantee anything.
16 THE COURT: You're telling me you couldn't just
17 judge this case solely by what you hear on THE JUROR stand?
18 THE JUROR: I said I'd do the best I could, I
19 can't guarantee.
20 THE COURT: There's no guarantees in life. I'm
21 not asking to you write me a contract here, I'm just talking to
22 you man-to-man, do you understand that?
23 THE JUROR: I understand.
24 THE COURT: Could you give this man a fair trial?
25 THE JUROR: No, sir, I don't think I could.

1 THE COURT: Why?
2 THE JUROR: I don't think I could.
3 THE COURT: Why?
4 THE JUROR: Based on the nature of the case I
5 don't think I could.
6 THE COURT: Does the State have any questions?
7 MS. PETERSON: No questions.
8 THE COURT: Mr. Oram?
9 MR. ORAM: Challenge for cause.
10 MS. PETERSON: I'll submit it.
11 THE COURT: Please report back to Room 1013.
12 The clerk will call another prospective juror.
13 THE CLERK: Coella Drenske.
14 THE COURT: How long have you been in Las Vegas?
15 THE JUROR: About two and-a-half years.
16 THE COURT: Where did you come from?
17 THE JUROR: Grand Canyon.
18 THE COURT: What did you do far as work was
19 concerned?
20 THE JUROR: National Park Service. Right now I'm
21 working for the Bureau of Reclamation.
22 THE COURT: You're a federal employee?
23 THE JUROR: Yes, sir.
24 THE COURT: Are you married?
25 THE JUROR: Yes, sir.

1 THE COURT: What does your husband do?
2 THE JUROR: He's a grader operator for Lake Mead
3 National Recreation Area.
4 THE COURT: Federal employee?
5 THE JUROR: Yes, sir.
6 THE COURT: Children?
7 THE JUROR: No.
8 THE COURT: Have you ever been in the military?
9 THE JUROR: No.
10 THE COURT: Are you acquainted with anybody in law
11 enforcement?
12 THE JUROR: Park rangers, but acquaintance.
13 THE COURT: Through your job?
14 THE JUROR: Yes.
15 THE COURT: That's not going to affect your
16 deliberation?
17 THE JUROR: No, sir.
18 THE COURT: You understand you're not to give
19 greater or lesser weight to a police officer's testimony simply
20 because they are a police officer?
21 THE JUROR: Yes, sir.
22 THE COURT: Have you ever been the victim of a
23 crime?
24 THE JUROR: No, sir.
25 THE COURT: You or anyone closely associated with

1 you ever been arrested for a crime?
2 THE JUROR: Yes, sir.
3 THE COURT: Who was that?
4 THE JUROR: Myself.
5 THE COURT: When were you arrested?
6 THE JUROR: 27 years ago.
7 THE COURT: How old are you?
8 THE JUROR: 18.
9 THE COURT: Where was that?
10 THE JUROR: In Virginia.
11 THE COURT: What were you arrested for?
12 THE JUROR: Accessory to the sale of marijuana.
13 THE COURT: What were the results of that?
14 THE JUROR: Misdemeanor, and I spent 48 hours in
15 jail.
16 THE COURT: That taught you a lesson?
17 THE JUROR: Yes, sir.
18 THE COURT: Never got in trouble sinse?
19 THE JUROR: No, sir.
20 THE COURT: Do you think you were treated fairly?
21 THE JUROR: Absolutely.
22 THE COURT: You don't hold that against the
23 prosecutor or police because you think you were treated fairly?
24 THE JUROR: Absolutely.
25 THE COURT: Have you ever served on a jury before?

1 THE JUROR: No, sir.
2 THE COURT: Any reason you couldn't be fair and
3 impartial in this case?
4 THE JUROR: No, sir.
5 THE COURT: Thank you. Questions?
6 MS. PETERSON: Couple questions, Judge.
7 Q. Miss Drenske, are there any laws on the books you
8 think maybe shouldn't be there? You mentioned marijuana,
9 that's a question I ask jurors. Do you think marijuana is
10 something that should be legalized? It shouldn't be?
11 A. Yes, I do think it should be legalized.
12 Q. This isn't a marijuana case but if it were a
13 marijuana case would you still follow the law, and if the judge
14 said this is a crime and if you find the State proved this
15 crime happened you have to find this person guilty. Is that
16 something you could do even if you didn't agree with the law?
17 A. I'm not sure what you're asking me. Can you give
18 me an example?
19 Q. Can you follow the instructions in this case?
20 A. Certainly.
21 Q. If one of the instructions talked about a victim
22 of a crime, if you believe that victim of a sexual assault,
23 that that was enough to convict a defendant of sexual assault,
24 is that an instruction that you could follow?
25 A. Yes. I would have to weigh the evidence.

1 Q. And the evidence might just be that one kid, that
2 might be all there is, and if you believe that kid that's
3 enough, is that an instruction you can follow?
4 A. If that's all there is, absolutely, yes.
5 Q. And I was asking you before about the marijuana
6 because sometimes people say I don't like that law about the
7 victim if you believe that, but I could follow that. That's
8 what I was driving at. Is that a law that you agree with?
9 A. The marijuana law, no, I don't agree with it.
10 Q. No, the kid one?
11 A. Okay, I'm with you.
12 Q. You can follow those instructions?
13 A. Yes, ma'am, I can.
14 Q. Is there anything about the subject matter of this
15 case that bothers you or would make it hard for you to talk
16 about with other jurors?
17 A. Not at all.
18 Q. Do you promise that you'll give the State of
19 Nevada a fair trial in this case?
20 A. Absolutely, yes i.
21 MS. PETERSON: Pass for cause.
22 THE COURT: Questions?
23 MR. ORAM: Questions.
24 Q. You consider yourself pretty open minded person?
25 A. Yes.

1 Q. And you'd listen to all the evidence?
2 A. Yes, sir.
3 Q. And when you go back there if there was a
4 situation where it was 11 to one, do you remember that
5 scenario?
6 A. Right.
7 Q. Would you just give in because the other 11 said
8 the light was read and you thought --
9 A. No, I wouldn't.
10 Q. You would listen to them, though, wouldn't you?
11 A. Yes.
12 Q. Do you have any problems with the constitutional
13 problems we have been discussing?
14 A. Not at all.
15 Q. Do you think you'd be a fair Juror?
16 A. Yes.
17 Q. Do you want to be on this jury?
18 A. Yes.
19 Q. Why?
20 A. I think it's a very valuable learning experience.
21 I would like to see how the process works, I've never seen it
22 before and that's about it.
23 MR. ORAM: Pass for cause.
24 THE COURT: All right. Miss Peterson, you have
25 Officer Dockendorf that's going to testify?

1 MS. PETERSON: Yes, Judge.
2 THE COURT: He's one of the witnesses you're going
3 to call.
4 MS. PETERSON: Yes, probably, that's correct.
5 THE COURT: Probably.
6 MS. PETERSON: There's another officer who'll also
7 testify, we have told them both to be here.
8 THE COURT: Miss Cahoon, you know Officer
9 Dockendorf?
10 THE JUROR: I'm acquainted with him.
11 THE COURT: How are you acquainted with him?
12 THE JUROR: He worked with my husband and I did do
13 a ride along with him about three years ago.
14 THE COURT: Your husband is a Metro officer?
15 THE JUROR: Yes, sir.
16 THE COURT: How long has he been on Metro?
17 THE JUROR: Four years.
18 THE COURT: What division is he in?
19 THE JUROR: He's a patrol officer out of
20 northeast.
21 THE COURT: You work where?
22 THE JUROR: I'm a housewife.
23 THE COURT: Again, if Officer Dockendorf comes in,
24 you're acquainted with him, just like I asked other people, you
25 understand you're not to give greater or lesser weight to a

1 police officer's testimony simply because they are a police
2 officer, do you understand that?
3 THE JUROR: Yes, sir.
4 THE COURT: You give it the weight you deem
5 appropriate?
6 THE JUROR: Yes, sir.
7 THE COURT: Now, you knowing Officer Dockendorf,
8 you're not going to give him greater weight just because you
9 know him, are you?
10 THE JUROR: No, sir.
11 THE COURT: And the fact your husband is a police
12 officer, that's not going to affect your deliberation either?
13 THE JUROR: No, sir.
14 THE COURT: Knowing you're not to give greater
15 weight or lesser weight to a police officer simply because they
16 are a police officer, is that right?
17 THE JUROR: Yes, sir.
18 THE COURT: Children?
19 THE JUROR: Three.
20 THE COURT: Any old enough to work?
21 THE JUROR: No, they are all young.
22 THE COURT: Have you ever been in the military?
23 THE JUROR: No, sir.
24 THE COURT: Are you acquainted with anybody in law
25 enforcement? Of course, your husband and Dockendorf.

1 THE JUROR: We have a very close friend who's an
2 officer, right now he's deployed in the military in 29 Palms.
3 THE COURT: But same question, you're not going to
4 give them greater weight?
5 THE JUROR: Yes, sir.
6 THE COURT: Just because your husband is a police
7 officer, you know one of the witnesses that might testify here,
8 you know other police officers, you're going to keep an open
9 mind and judge this case solely by what you hear on the stand ?
10 THE JUROR: Yes, sir.
11 THE COURT: Have you ever been the victim of a
12 crime?
13 THE JUROR: No, sir.
14 THE COURT: You or anyone closely associated with
15 you ever been arrested for a crime?
16 THE JUROR: Yes, sir, my brother has been arrested
17 for cashing checks that weren't his.
18 THE COURT: Where?
19 THE JUROR: Washington.
20 THE COURT: When?
21 THE JUROR: It's been a while, about five, six
22 years ago.
23 THE COURT: What were the results of that?
24 THE JUROR: He spent some jail time.
25 THE COURT: You don't hold that against the State

1 of Nevada or the defendant because your brother got in trouble?
2 THE JUROR: No, sir.
3 THE COURT: Do you think he was treated fairly, or
4 do you know?
5 THE JUROR: Yes, sir.
6 THE COURT: Have you ever served on a jury before?
7 THE JUROR: No, sir.
8 THE COURT: Any reason you couldn't be fair and
9 impartial?
10 THE JUROR: No, sir.
11 THE COURT: Questions? Pass for cause?
12 MS. HOLTHUS: We'll pass for cause.
13 THE COURT: Questions? Pass for cause?
14 MR. ORAM: Questions, your Honor.
15 Q. The fact there are going to be police officers
16 come in here and testify, you really think you would not hold
17 them to -- in other words, don't you think you would believe
18 their testimony a little more simply because they are police
19 officers and your husband is a police officer?
20 A. No, sir, I don't think I would.
21 Q. You're around a lot of police officers?
22 A. No. We don't hang out with any, just the one that
23 we -- they go to our church so we associate with them but we
24 don't.
25 Q. You don't socialize with police officers?

1 A. No. I don't even know the men that he works with.
2 Q. Pretty tough job though?
3 A. Yes, sir.
4 Q. Does he bring it home with him, talk about cases
5 or bad things he's seen?
6 A. Not unless he's prompted.
7 Q. Sometimes you prompt him?
8 A. Yes, I ask him how his day was and he'll just say
9 oh, it was okay. Sometimes he'll say it was a bad day and I'll
10 say what happened and he'll tell me something that occurred or
11 something he had to deal with.
12 Q. Do you have any problem with the constitutional
13 concepts we've been talking about today?
14 A. No, sir.
15 Q. Can you give equal and separate consideration to
16 each and every count in this particular case?
17 A. Yes, sir.
18 Q. You think you would be a fair Juror?
19 A. Yes, sir.
20 Q. Do you want to be a juror?
21 A. Yes, sir.
22 Q. Why?
23 A. Because everyone is innocent until proven guilty
24 and I believe that.
25 MR. ORAM: Pass for cause.

1 THE COURT: Mr. Brian, how long have you been in
2 Las Vegas?
3 THE JUROR: Five years.
4 THE COURT: What do you do for a living?
5 THE JUROR: I'm a professional liability claim
6 representative.
7 THE COURT: You work for an insurance company?
8 THE JUROR: Yes.
9 THE COURT: Are you married?
10 THE JUROR: Yes.
11 THE COURT: Does your wife work?
12 THE JUROR: Yes.
13 THE COURT: What does she do?
14 THE JUROR: She works for Clark County School
15 District, occupational therapy department.
16 THE COURT: Children?
17 THE JUROR: I have two; she has two.
18 THE COURT: Any old enough to work?
19 THE JUROR: They are all in their 30s.
20 THE COURT: What do they do for a living?
21 THE JUROR: Her son works for his dad in a
22 crematorium. Her daughter is a nurse in Florida; my son is
23 totally disabled and my daughter has a shop where she does
24 fingernails.
25 THE COURT: Have you ever been in the military?

1 THE JUROR: No.
2 THE COURT: Are you acquainted with anybody in law
3 enforcement?
4 THE JUROR: No.
5 THE COURT: Have you ever been the victim of a
6 crime?
7 THE JUROR: Yes.
8 THE COURT: What was that?
9 THE JUROR: Burglary.
10 THE COURT: Someone broke into your house?
11 THE JUROR: Actually, I left a garage door open
12 and stole our new bikes.
13 THE COURT: Ever every catch the individuals?
14 THE JUROR: No.
15 THE COURT: That's not going to affect your
16 deliberation, is it?
17 THE JUROR: Probably not.
18 THE COURT: Do you have any grudges against the
19 police?
20 THE JUROR: No. I wish they would have gotten my
21 bikes back.
22 THE COURT: But that's not going to affect your
23 deliberation in this case?
24 THE JUROR: No.
25 THE COURT: You or anyone closely associated with

1 you ever been arrested?
2 THE JUROR: No.
3 THE COURT: Have you ever search on a jury before?
4 THE JUROR: No.
5 THE COURT: Any reason you couldn't be fair and
6 impartial in this case?
7 THE JUROR: No.
8 THE COURT: Thank you.
9 MS. PETERSON: Pass for cause.
10 THE COURT: Questions?
11 MR. ORAM: Questions, Your Honor.
12 Q. Do you ever watch those science shows that we've
13 talked about?
14 A. Yes.
15 Q. Do you enjoy them?
16 A. Yes.
17 Q. Just because I may have mentioned DNA doesn't mean
18 there's anything to do with DNA in this case, you understand
19 that?
20 A. Yes.
21 Q. We are just trying to get a feel for who we want
22 on a jury, who would be fair to both parties. Is that you?
23 Would you be fair to both parties?
24 A. I would.
25 Q. Why do you say that?

1 A. I don't have any preconceived illusions about
2 anybody's fault in this case. Not at this point.
3 Q. You can be open minded?
4 A. Yes.
5 Q. At the end, if the State has proved their case you
6 couldn't be open minded, would you?
7 A. Probably not.
8 Q. And if they hadn't proved their case you would
9 have made some decision in your own mind?
10 A. Yes.
11 Q. You want to be on this jury?
12 A. I'll do what I have to.
13 Q. Promise him a fair trial?
14 A. Absolutely.
15 MR. ORAM: Pass for cause.
16 THE COURT: Sandra Stanko, how long have you been
17 in Las Vegas?
18 THE JUROR: Almost four years.
19 THE COURT: What do you do for a living?
20 THE JUROR: Flight attendant.
21 THE COURT: What airline?
22 THE JUROR: United.
23 THE COURT: Are you married?
24 THE JUROR: No.
25 THE COURT: Children?

1 THE JUROR: No.
2 THE COURT: Have you ever been in the military?
3 THE JUROR: No.
4 THE COURT: Are you acquainted with anybody in law
5 enforcement?
6 THE JUROR: No.
7 THE COURT: Have you ever been the victim of a
8 crime?
9 THE JUROR: I had my purse stolen about 15 years
10 ago.
11 THE COURT: That's not going to affect your
12 deliberation?
13 THE JUROR: No.
14 THE COURT: You never had to go to court?
15 THE JUROR: No.
16 THE COURT: All right. Have you or anyone closely
17 associated ever been arrested for a crime?
18 THE JUROR: No.
19 THE COURT: Ever serve on a jury before?
20 THE JUROR: No.
21 THE COURT: Any reason you couldn't be fair and
22 impartial?
23 THE JUROR: I don't believe so.
24 MS. HOLTHUS: Pass for cause.
25 THE COURT: Questions?

1 MR. ORAM: Questions.
2 Q. The work you do, do you ever have international
3 flights?
4 A. Not now, but yes, I used to.
5 Q. To the orient?
6 A. I've been over there.
7 Q. Where did you used to go regularly when you were
8 flying internationally?
9 A. I lived in London, flew mostly to the State's and
10 India.
11 Q. India as well?
12 A. Yes.
13 Q. Did you joy it?
14 A. Yes.
15 Q. Do you enjoy India?
16 A. It was interesting.
17 Q. Where else in the orient?
18 A. I've been to Bancock, Hong Kong.
19 Q. Were those regular scheduled flights?
20 A. No. When I was lucky I went there.
21 Q. Do you enjoy your job?
22 A. Yes, I do.
23 Q. Do you think you can be fair in this particular
24 case?
25 A. Yes.

1 Q. Fair to the State?
2 A. I believe so.
3 Q. Fair to Mr. Polk?
4 A. I believe so.
5 MR. ORAM: Pass for cause.
6 THE COURT: Mr. Ratigan, how long have you been in
7 Las Vegas?
8 THE JUROR: A little over four years.
9 THE COURT: What do you do for a living?
10 THE JUROR: I work as an administrator for a
11 telecommunications company. When you file with the different
12 states or FCC you have to file a tariff, any changes that the
13 company makes we change and we file with the agencies.
14 THE COURT: Full-time job?
15 THE JUROR: Yes, sir.
16 THE COURT: Are you married?
17 THE JUROR: Yes.
18 THE COURT: What does your wife do if she works?
19 THE JUROR: She a teacher.
20 THE COURT: Children?
21 THE JUROR: One daughter 7.
22 THE COURT: Have you ever been in the military?
23 THE JUROR: No, sir.
24 THE COURT: Acquainted with anybody in law
25 enforcement?

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
July 15 2014 9:39 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

RENARD TRUMAN POLK,
Appellant(s),
vs.

STATE OF NEVADA,
Respondent(s),

Case No: C166490
SC No: 65813

RECORD ON APPEAL
VOLUME
1

ATTORNEY FOR APPELLANT
RENARD T. POLK # 72439,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NEVADA 89101

Docket 65813 2014-22926

C166490 STATE OF NEVADA vs. RENARD T. POLK

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FILED

APR 12 10 29 AM '00

CLERK

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

—vs—

POLK, RENARD TURMAN

Defendant.

District Court Case No. C166490

Justice Court Case No. 99F04726X

VI

4-18

I, hereby certify the foregoing to be a full, true and correct copy of the proceedings as the same appear in the above case.

WITNESS my hand this 12TH day of APRIL, ~~19XX~~ 2000.

Jennifer P. Togliatti

Justice of the Peace of Las Vegas Township

RECEIVED APR 12 2000 COUNTY CLERK

JC-6 (Criminal)
Rev. 12/89

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

—vs—

POLK, RENARD TURMAN

Defendant.

Case No. 99F04726X

COMMITMENT
and
ORDER TO APPEAR

An Order having been made this day by me, that

RENARD TURMAN POLK

be held to answer upon the charge of

3 COUNTS OF SEXUAL ASSAULT WITH MINOR UNDER THE AGE OF 14

Committed in said Township and County, on or about the BETWEEN 1998 AND MARCH 12, 1999 day of _____, 19____.

IT IS FURTHER ORDERED that the Sheriff of the County of Clark is hereby commanded to receive _____ HIM into custody, and detain HIM until HE be legally discharged, and that _____ be admitted to bail in the sum of 60,000/60,000/120,000 Dollars, and be committed to the custody of the Sheriff of said County, until such bail is given; and

IT IS FURTHER ORDERED that said Defendant IS is/are commanded to appear in Department 6 of the Eighth Judicial District Court, Clark County Courthouse, Las Vegas, Nevada, at 8 A.M., on the 18TH day of APRIL, ~~19~~ 2000 for arraignment and further proceedings on the within charge S.

DATED this 12TH day of APRIL, ~~19~~ 2000.

Jennifer P. Togliatti

Justice of the Peace of Las Vegas Township

JC-7 (Criminal)

Justice Court, Las Vegas Township

STATE VS. POLK, RENARD TURMAN CASE NO. 99F04726X

PAGE #2

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
3/15/2000	MOTION FOR DEFENSE COUNSEL TO WITHDRAW AS ATTORNEY OF RECORD AND FOR APPOINTMENT OF NEW COUNSEL FILED	3/17/00 8AM #7 JW
MARCH 17, 2000 J. TOGLIATTI M. HOLTHUS DA C. ORAM ESQ APPOINTED S. EMERICK PD L. GALLEGOS CR D. FISLER CLK	DEFENDANT PRESENT IN COURT **IN CUSTODY** MOTION TO WITHDRAW AS ATTORNEY OF RECORD AND REPRESENT A WITNESS - MOTION GRANTED PRELIMINARY HEARING DATE SET STANDS DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	3-27-00 9AM #7 RN
MARCH 27, 2000 J. TOGLIATTI V. MONROE DA C. ORAM ESQ L. GALLEGOS CR D. FISLER CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT **IN CUSTODY** MOTION BY DEFENSE TO CONTINUE - MOTION GRANTED PH SET DATE SET FOR POSSIBLE NEGOTIATIONS STATUS CHECK DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	4-6-00 8AM #7 4-11-00 9AM #7 PRELIMINARY HEARIN
April 6, 2000 J. Togliatti M. Holthus, DA C. Oram, Esq. L. Gallegos, CR R. Najera, CLK	Defendant Present in Court **IN CUSTODY** Preliminary Hearing Date 4-11-00 9AM #7 Stands DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	4-11-00 9AM #7 RN JJ
APRIL 11, 2000 M. TOBIASSON FOR #7 G. FERRALES DA C. ORAM ESQ A. CAMPAGNA CR R. NAJERA CLK	DEFENDANT PRESENT IN COURT **IN CUSTODY** PER NEGOTIATIONS DEFT UNCONDITIONALLY WAIVES HIS RIGHTS TO A PRELIMINARY HEARING. DEFT BOUND OVER AS CHARGED APPEARANCE DATE SET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	4-18-00 8AM #6 DISTRICT COURT RN

JC-1 (Criminal)
Rev. 10/96

Justice Court, Las Vegas Township

STATE VS. POLK, RENARD TURMAN CASE NO. 99F04726X

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
JANUARY 12, 2000	CRIMINAL COMPLAINT FILED: **I & II - SEXUAL ASSAULT WITH MINOR UNDER THE AGE OF SIXTEEN YEARS OF AGE**	RN
JANUARY 13, 2000 J. TOGLIATTI C. HENDRIKCS DA D. FISLER CLK	DEFENDANT NOT PRESENT IN COURT ARREST WARRANT ISSUED - NO BAIL - **PER COUNT**	RN
2/28/2000 J. TOGLIATTI G. GUYMON, DA S. EMERICK, PD APPOINTED L. GALLEGOS, CR D. FISLER, CLK	INITIAL ARRAIGNMENT DEFT. PRESENT IN COURT *IN CUSTODY* ADVISED OF CHARGES/WAIVES READING OF COMPLAINT PRELIMINARY DATE SET RESET BAIL: 20,000/20,000/40,000 PER COUNT NOTIFY INTAKE TO INTERVIEW DEFENDANT DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	3/13/00 9AM #7 JW
3/2/2000	NOTICE TO PLACE ON CALENDAR FILED	3/6/00 8AM #7 JW
MARCH 06, 2000 M. VAN FOR #7 G. GUYMON DA S. EMERICK PD L. GALLEGOS, CR D. FISLER CLK	DEFENDANT PRESENT IN COURT **IN CUSTODY** STATE FILES AN AMENDED CRIMINAL COMPLAINT IN OPEN COURT DEFT ADVISED/WAIVES READING OF COMPLAINT **I, II & III - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14** BAIL SET: 20,000/20,000/40,000 - III DEFENSE RESERVED OBJECTION PRELIMINARY HEARING DATE SET STANDS DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	3-13-00 9AM #7
3/13/00 J. TOGLIATTI M. HOLTHUS, DA N. LEMCKE, PD L. GALLEGOS, CR D. FISLER, CLK	COUNT III TIME SET FOR PRELIMINARY HEARING DEFT. PRESENT IN COURT *IN CUSTODY* DEFENSE MOTION TO CONTINUE - GRANTED COUNSEL NEEDS TO GO OVER CASE DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	RN 3-27-00 9AM #7 JW

JC-1 (Criminal)
Rev. 10/96

FILED IN OPEN COURT
ON MAR 6 2000
DIANE FISLER
COURT CLERK

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK #1521718,
Defendant.

CASE NO. 99F04726X
DEPT. NO. 7

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), in the manner following, to-wit: That the said Defendant, on or between 1998 and March 12, 1999, at and within the County of Clark, State of Nevada,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about 1998, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

///

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uwpt

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

1/12/00

99F04726X/lks
LVMPD EV#9903130217
SEX ASSLT W/MNR - F
(TK7)

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED
2000 JAN 12 A 8:39
JUSTICE COURT
LAS VEGAS NEVADA
BY
DEPUTY

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK #1521718,

Defendant.

CASE NO. 99F04726X

DEPT. NO. 7

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), in the manner following, to-wit: That the said Defendant, on or between January 1, 1999 and March 12, 1999, at and within the County of Clark, State of Nevada,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

///

///

All of which is 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. Said Complainant makes this declaration subject to the penalty of perjury.

Karen L. VanDeBel

1/12/00

99F04726X/lks
LVMPD EV#9903130217
SEX ASSLT W/MNR - F
(TK7)

0042
MORGAN D. HARRIS
PUBLIC DEFENDER
NEVADA BAR #1879
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702)455-4685
Attorney for the Defendant

FILED

MAR 15 9 56 AM '00

JUSTICE COURT
LAS VEGAS NEVADA
BY SB
DEPUTY

JUSTICE COURT

LAS VEGAS TOWNSHIP

THE STATE OF NEVADA, Plaintiff, v. RENARD POLK, Defendant.	CASE NO. 99F04726X DEPT. NO. 7

Date of Hearing: 03.17.00
Time of Hearing: 8:00 Am

LAS VEGAS JUSTICE COURT
Sheri Branby

MOTION FOR DEFENSE COUNSEL TO
WITHDRAW AS ATTORNEY OF RECORD
AND FOR APPOINTMENT OF NEW COUNSEL

COMES NOW, attorney of record for RENARD POLK, Nancy Lemcke, Deputy Public Defender, and moves this Honorable Court for an Order allowing counsel to withdraw from this case and appointing alternative counsel for the Defendant.

This motion is based upon the Points and Authorities attached hereto, the Affidavit of Counsel, and any argument adduced at the time of a hearing on this motion.

DATED this 14th day of March, 2000.

CLARK COUNTY PUBLIC DEFENDER

By _____
NANCY M. LEMCKE
DEPUTY PUBLIC DEFENDER

POINTS AND AUTHORITIES

Nevada Supreme Court Rule 157 provides in part that:

> 1. . . . A lawyer shall not represent a client if the representation of that client will be directly adverse to another client. . .

Nevada Supreme Court Rule 166 provides in part that:

> 1. . . .A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation has commenced, shall withdraw from the representation of a client if:
> (a) the representation would result in a violation of the rules of professional conduct or other law;
> * * *
> 2. . . . A lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:
> * * *
> (f) other good cause for withdrawal exists.

Pursuant to the attached Affidavit of Counsel, counsel for the Defendant respectfully requests that she be allowed to withdraw from this case and that alternate counsel be appointed for the Defendant.

DATED this 14th day of March, 2000.

CLARK COUNTY PUBLIC DEFENDER

By _____
NANCY M. LEMCKE
DEPUTY PUBLIC DEFENDER

AFFIDAVIT OF COUNSEL

NANCY M. LEMCKE, being first duly sworn, deposes and says upon information and belief:

1). That I am an attorney duly licensed to practice law in the State of Nevada and am the Deputy Public Defender assigned to represent the Defendant, Renard Polk. I was assigned to this case on March 7, 2000.

2). The preliminary hearing of this matter is currently set for March 27, 2000.

3). In preparation for the preliminary hearing, I learned that the representation of Mr. Polk creates a conflict of interest with another client. I believe that the Rules of Professional Conduct prevent me from disclosing the specific nature of the conflict.

4). This motion is made in good faith and not for purpose of delay.

Nancy M. Lemcke

SUBSCRIBED AND SWORN TO before me this March 14, 2000.

Notary Public

My Commission Expires:
September 20, 2003

CORINA J. PALASOTA
Notary Public - Nevada
No. 99-58617-1
My appt. exp. Sept. 20, 2003

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing MOTION FOR DEFENSE COUNSEL TO WITHDRAW AS ATTORNEY OF RECORD AND FOR APPOINTMENT OF NEW COUNSEL is hereby acknowledged this 15 day of March, 2000.

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

MAR 2 5 21 PM '00
JUSTICE COURT LAS VEGAS TOWNSHIP BY AT DEPUTY

THE STATE OF NEVADA,
Plaintiff,
-vs-
RENARD TURMAN POLK,
#1521718
Defendant.

CASE NO. 99F04726X
DEPT. NO. 7

NOTICE TO PLACE ON CALENDAR

Upon the application of STEWART L. BELL, Clark County District Attorney, it is hereby requested that the above entitled matter be placed on the arraignment calendar on the 6th day of March, 2000, at 7:30 o'clock A.M. for the purpose of amending the criminal complaint.

DATED this _____ day of March, 2000.

STEWART L. BELL
District Attorney
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

STEVEN MORRIS, *Court Administrator, Clerk*

BY _____
Deputy Clerk

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the Notice to Place on Calendar, was made this 2nd day of March, 2000, by facsimilie transmission to:

PUBLIC DEFENDER
455-5112

By T. HOSKIN
Employee of the District Attorney's Office

********** S E R V E D **********

```
*************************************************************************
*************************************************************************
*      *************** NCJIS WANTED PERSON SYSTEM ***************      *
*                                                                       *
*      PIN-0209  NCJIS WARRANTS HAVE BEEN SUCCESSFULLY CLEARED FOR THE  *
*                FOLLOWING NIN WITH CCN AND SEQ NUMBER(S)               *
* CLEARING AGENCY  /NVLVJC001 - CLARK CO INFO SERVICES                  *
* ARRESTING AGENCY /NV0020135 - CLARK COUNTY DETENTION CENTER           *
* ENTERING AGENCY  /NVLVJC001 - CLARK CO INFO SERVICES                  *
* CONFIRMING AGENCY/NV0020135 - CLARK COUNTY DETENTION CENTER           *
* VALIDATING AGENCY/NV0020178 - LAS VEGAS METROPOLITAN PD               *
* NIN/W801179330    REASON/SERVED                                       *
* SEQ/001                                                               *
*                                                                       *
* WARRANT NAME    /POLK,RENARD TURMAN                                   *
* BASE RECORD NAME/POLK,RENARD TURMAN                                   *
* COURT CASE #/99F04726X              DATE:02/24/00   TIME:08:42:44     *
* COURT/NV002A53J - LAS VEGAS JUSTICE COURT                             *
*************************************************************************
*************************************************************************
```

DP

WARRANT ELECTRONICALLY GENERATED AND ENTERED INTO NCJIS
*** DO NOT MANUALLY ENTER INTO NCJIS ***

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY NEVADA

THE STATE OF NEVADA PLAINTIFF VS. POLK, RENARD TURMAN ID# 01521718 DEFENDANT	CASE NO: 99F04726X DEPT. NO: 7 AGENCY: METRO-YOUTH/FAMILY ARREST WARRANT

THE STATE OF NEVADA,

TO: ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICER IN THIS STATE:

A COMPLAINT AND AN AFFIDAVIT UPON OATH HAS THIS DAY BEEN LAID BEFORE ME ACCUSING POLK, RENARD TURMAN, OF THE CRIME(S):

COUNTS	CHARGE	BAIL: CASH	SURETY	PROPERTY
2	SEXUAL ASSAULT VICTIM	NO BAIL		

YOU ARE, THEREFORE, COMMANDED FORTHWITH TO ARREST THE ABOVE NAMED DEFENDANT AND BRING HIM BEFORE ME AT MY OFFICE IN LAS VEGAS TOWNSHIP, COUNTY OF CLARK, STATE OF NEVADA, OR IN MY ABSENCE OR INABILITY TO ACT, BEFORE THE NEAREST AND MOST ACCESSIBLE MAGISTRATE IN THIS COUNTY.

THIS WARRANT MAY BE SERVED AT ANY HOUR OF THE DAY OR NIGHT.

GIVEN UNDER MY HAND THIS 14TH DAY OF JANUARY, 2000.

Jennifer P. Togliatti

JUSTICE OF THE PEACE IN AND FOR SAID TOWNSHIP
JENNIFER TOGLIATTI

SHERIFF'S RETURN

I HEREBY CERTIFY THAT I RECEIVED THE ABOVE AND FOREGOING WARRANT ON THE _____ DAY OF _____, _____, AND SERVED THE SAME BY ARRESTING THE WITHIN DEFENDANT, _____, AND BRINGING _____ INTO COURT THIS _____ DAY OF _____, _____.

JERRY KELLER, SHERIFF, CLARK COUNTY, NEVADA

BY: _____, DEPUTY

DEFENDANT POLK, RENARD TURMAN DEFENDANT ID# 01521718

CASE NO: 99F04726X DEPARTMENT JCRT7

JUDGE JENNIFER TOGLIATTI AGENCY: METRO-YOUTH/FAMILY

ORI VRI NAME POLK, RENARD TURMAN
DOB 10141980 SOC 587384092 SID
RAC B SEX M HGT 500 WGT 140 HAI BLK EYE BRO

----------WARRANT----------

HOI COI WNM POLK, RENARD TURMAN
NOC 06159 AOC OFC F FTF TRF JUV DSO DOW 01132000
OCA 9903130217 CCN 99F04726X BAIL NO BAIL
TRA MIS

----------SUPPLEMENTAL----------

SUBMITTING OFFICER ID#:MP385 NAME: DUNN, DAVID EDWARD

COUNTS CHARGE
2 SEXUAL ASSAULT VICTIM UNDER 16

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY NEVADA

THE STATE OF NEVADA PLANTIFF VS. Renard Turman Polk ID NO. 1521718 DEFENDANT.	)	CASE NO. 99F04726X REQUEST FOR ARREST WARRANT

COMES NOW, STEWART L. BELL, DISTRICT ATTORNEY, AND REQUESTS THAT A WARRANT OF ARREST BE ISSUED FOR THE ABOVE NAMED DEFENDANT PURSUANT TO NRS 171.106 AND THE COMPLAINT AND/OR AFFIDAVIT(S) ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

STEWART L. BELL
DISTRICT ATTORNEY
NEVADA BAR NO. 000477

PROBABLE CAUSE FOUND: ✓ BAIL: No Bail SIC

PROBABLE CAUSE NOT FOUND: _____

Jennifer P. Foghat
JUSTICE OF THE PEACE,
LAS VEGAS TOWNSHIP

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

I.D. #: 1521718 Event #: 000223-2160

DATE OF ARREST: 2-23-00 TIME OF ARREST: 2200

I.D. ESTAB. BY: SCOPE

INTAKE NAME (AKA, ALIAS, ETC.) Last	First	Middle	TRUE NAME Last	First	Middle
POLK	RENARD	TURMAN	Polk	Renard	Turman

ADDRESS NUMBER & STREET	BLDG/APT #	CITY	STATE	ZIP
TRANSIENT		LV	NV	

DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY #	Speak English?	PLACE OF BIRTH
10-14-80	B	M	5'9	140	BLK	BRO	587 38-4092	☒ Yes ☐ No	NATCHEZ, MS

LOCATION OF CRIME (# - Street - City - State - Zip)	Citizen Arrest	LOCATION OF ARREST	PCN #
LV WARRANTS / ST. LOUIS / GATEWAY LV, NV 89110 ☒ CC ☐ LV	Y (N)	ST. LOUIS / GATEWAY	

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE*	EVENT NUMBER	WARR / NCIC NUMBER	COURT LV	JC	DC	OTHER
5058	SEXUAL ASSAULT VIC UNDER 16/200.366(2) NO BAIL	☐	☐	☒	WA		99F04726X	☐	☒	☐	☐
4808	OBSTRUCTING PO / 197.190 $201	☒	☐	☐	PC	000223-2160		☐	☒	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐
		☐	☐	☐				☐	☐	☐	☐

*ARREST TYPE: PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT WA – WARRANT RM – REMAND GJI – GRAND JURY IND.

OTHER COURT:

Arresting Officer's Signature	(Print Name)	P #	Agency
	D. Dockendorf / J. SCHUTT	5981 / 16267	LVMPD
Transporting Officer's Signature	(Print Name)	P #	Agency
S/A			

APPROVAL CONTROL # FOR ADDITIONAL CHARGES:

Time Stamp at BOOKING

RECEIVED 2000 FEB 23 P 11:16 RECORDS

☐ FOR PROBABLE CAUSE/NCIC HIT ARREST SEE PAGE TWO FOR DETAILS.

☐ BENCH WARRANT SERVED ON _____

☐ WARRANT SERVED ON _____

☐ GRAND JURY INDICTMENT SERVED ON _____

TYPE OF I.D. FOR VERIFICATION _____

FIRST APPEARANCE: DATE: _____ TIME: _____

COURT

☐ JUSTICE

☐ MUNICIPAL

☐ JUVENILE

☐ STANDARD BAIL

☐ O.R. RELEASE

☐ PROBABLE CAUSE

☐ I.A.D.

JUDGE: _____

P #:

LVMPD 22 (REV. 7-98) (2) COURT • ORIGINAL

18

CLARK COUNTY DETENTION CENTER
ARREST WARRANT ABSTRACT

23/ /0002
23:19

WARRANT NAME: POLK, RENARD TURMAN
DOB: 10/14/1980 SSN: 597-38-4092
RAC: B SEX: M HGT: 5'00" WGT: 140 HAI: BLK EYE: BRO

WARRANT #: 99F04726X EVENT #: CLARK COUNTY ONLY

CNT	CHRG CODE	NRS CODE	CHARGE LITERAL	CASH BAIL	ASSUR BAIL
01	5083	200.366 F	SEXUAL ASSAULT VICTIM UNDER 16 NO BAIL		
02	5083	200.366 F	SEXUAL ASSAULT VICTIM UNDER 16 NO BAIL		

ISSUED BY JUDGE: JENNIFER TOGLIATTI DOW: 01/13/2000
COURT: LAS VEGAS JUSTICE COURT DEPT: JCRT7

I HEREBY CERTIFY THAT I RECEIVED THE ABOVE AND FOREGOING WARRANT ON THE 23 DAY OF FEB, 2000, AND SERVED THE SAME BY ARRESTING THE WITHIN DEFENDANT, AND BRINGING HIM INTO COURT THIS 23 DAY OF FEB, 2000.

JERRY KELLER, SHERIFF, CLARK COUNTY, NEVADA

BY: J. Schutt 6267, DEPUTY

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

DECLARATION OF WARRANT/SUMMONS

(N.R.S. 171.106)

(N.R.S. 53 amended 07/13/93)

FILED

EVENT: 990313-0217

2000 JAN 12 A 8:39

JUSTICE COURT
LAS VEGAS NEVADA

BY _____
DEPUTY

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

David E. Dunn, being first duly sworn, deposes and says:

That he is a police officer with the Las Vegas Metropolitan Police Department, being so employed for a period of 30 years, assigned to investigate the crime(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS committed on or about 03-12-99, which investigation has developed RENARD TURMAN POLK as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME TO WIT:

1. That on 3-12-99 ANNA LISA POLK, DOB 11-10-88 became the victim of a Sexual Assault. That the suspect is known to her as he is her brother, Renard 18 years of age.

2. That Anna stated that Renard has been having ANAL intercourse with her since she was five years of age. That every time Renard would catch Anna alone he would drag her into his bedroom, or into the bathroom.
That once in the bathroom or bedroom he would tell her to take off her clothing and he would remove his. That Renard would then make her lay on the floor and have ANAL intercourse with her. That on other occasions he would sit in a chair and then force her to sit on his penis.

3. That Renard never did anything else to her in the way of sexual activity. That he would always do the same thing to her and would never vary.

4. That the last time she was assaulted by Renard was March 12, 1999. That Renard took her into his bedroom and told her to remove her clothing, while he removed his clothing. That he then forced her to lay one the floor. That he then put his penis into her rectum, with force and against her will.

5. That ANNA stated Renard would, after forcing her to the floor, put his hand over her mouth to prevent her from crying out. That he threaten ANNA saying that he would kill her if she ever told anyone about what he was doing.

7. That there are two siblings, JAHALA CHATMAN, and her sister JAMILA. That they were both interviewed as to what may or may not have taken place. That jamila was interviewed and it was found she had not been the victim of a sex crime. That Jamila

EVENT: 990313-0217

stated she had been physically abused by RENARD on many occasions but never sexually abused.

8. That on 3-12-99 Jamila observed Renard Sexually assaulting Anna on the bathroom floor. That Jamila stated Renard had his penis inserted into Anna's rectum.

9. That Jahala Chatman, DOB 8-28-86 had been the victim of a Sexual Assault and that Renard was the suspect. That Jahala stated she had only been assaulted by Renard one time, and that was in January of 1999. That Jahala was taken into the bathroom and forced to remove her clothing. That Renard took off his clothes and forced Jahala to lay on the floor and Renard then forced his penis into her rectum. That this was done with force and against her will.
Wherefore, declarant prays that a Warrant of Arrest be issued for suspect RENARD TURMAN POLK on a charge(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS.

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

Executed on this 15th day of March, 1999.

DECLARANT: David E. Quinn

WITNESS: [illegible] **DATE:** 3-16-99

CLARK COUNTY INTAKE QUESTIONNAIRE AND FINANCIAL AFFIDAVIT

Defendant: Park, Renard Truman

Arrest Date: 2-23-2000	Arraign. Date:
S.S.N.: 587-38-1092	I.D.: 1521718
D.R. #:	D.O.B. 10-14-80

M J Charge: Sexual Assult V 14/16 (2nd) AW 99F04726XQ-7	Bail: No Bail
M J Charge: Obst P/O PC	Bail: 200
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:

BASED ON _____ VERIFIED POINTS THIS DEFENDANT HAS RECEIVED, AND THE INFORMATION GATHERED BY INTAKE SERVICES, THE FOLLOWING RECOMMENDATION IS MADE:

_____ Supervised Release with Conditions as Directed by Intake Services: _____

_____ Bail Reduction To: _____

✓ Not Recommended for an O/R Release or Bail Reduction Because: Deft Refused Interview

Release Granted: _____ Date: _____

Bail Reduction To: _____ _____ _____

Release Denied: _____ Date: _____

JC-1 (Intake Services)
Rev. 07/95
WHITE -- Court CANARY -- Intake Services

CLARK COUNTY INTAKE QUESTIONNAIRE AND FINANCIAL AFFIDAVIT

Defendant: Polk, Ronald	
Arrest Date: 2-23-00	Arraign. Date:
S.S.N.: 587-38-4092	I.D.: 1521718
D.R. #:	D.O.B. 10-14-80
M J Charge: Sex Asslt Victim <16 - 2cts	Bail: 40,000
M J Charge: 99F04726X JC7	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:
M J Charge:	Bail:

BASED ON _____ VERIFIED POINTS THIS DEFENDANT HAS RECEIVED, AND THE INFORMATION GATHERED BY INTAKE SERVICES, THE FOLLOWING RECOMMENDATION IS MADE:

_____ Supervised Release with Conditions as Directed by Intake Services: _____

_____ Bail Reduction To: _____

_____ Not Recommended for an O/R Release or Bail Reduction Because: _____

Release Granted: _____ Date: _____

Bail Reduction To: _____

Release Denied: _____ Date: _____

JC-1 (Intake Services)
Rev. 07/95
WHITE -- Court CANARY -- Intake Services

Defendant: Polk, Renald #152178

RESIDENCY

Present Address: 1315 Carroll St		Apt. #:	Phone #: 633-7329
How Long: 6 mos	Living With: Phyllis		Relationship: G'mother
Prior Address: unk.		Apt. #:	Phone #: n.p.
How Long: 2 mos	Living With: Glona		Relationship: friend

Clark County Resident: ____ Weeks ____ Months 19 Years. Visiting: ☐ Yes ☐ No How Long:

State of Residency (address) If Less Than 5 Years:

Marital Status: (Single) Married Divorced Separated | # of Children: 1 NWD | Education: 10

EMPLOYMENT

Are You Employed? ☐ Yes ☒ No. If no, means of support: Ø | How Much:

Cash on hand or in bank (including spouse): 5 / Ø | Spouse's Income:

Property (including spouse): Ø

Rent: Ø Mortgage: Other Debts:

Total Monthly Payments: Ø

Present Employer: Unempl		Address:	
How Long: 2 wks	Occupation:		Phone:
Supervisor:		Net Income: $	☐ Shift ☐ Weekly ☐ Monthly
Prior Employer: Wynerschnitzel		Address: Charleston / Lamb	
How Long: 1 mo	Occupation: Cusher		Phone: unk.
Supervisor: unk.	Reason for Leaving:		

BACKGROUND

Family Not Living With Defendant:

Name/ Relationship:	Address:	Phone: Work: Res:
Name/ Relationship:	Address:	Phone: Work: Res:

Character References:

Name:	Address:	Phone: Work: Res:
Name:	Address:	Phone: Work: Res:

List all prior convictions/pending charges other than in Clark County:

Charge	Conviction Date	Where	Disposition
1.			
2. none			

I the undersigned defendant, under penalty of perjury, declare that the above facts are true and correct.

Phone
Defendant

Subscribed and sworn to before me this 23rd day of Feb, 20 00

Notary Public

Circle One: P.D. (N.A.) P.A. **Name:** _____ **Interview Date:** 2/29/00 **Time:** 9:15 am

JC-1 (Intake Services)
Rev. 01/00
WHITE – Court CANARY – Intake Services

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

INTAKE SERVICES INFORMATION SHEET

CASE NO. 99F04726X

NAME: POLK, RENARD TURMAN ID #: 1521718

CHARGE(S): SEX ASSLT V/U 16 2CTS SEX ASSLT V/U 14

CURRENT BAIL: 40,000 20,000

VERIFIED: Local Address: 1315 CARROLL ST

Out Of State Address:

With Whom/How Long: G'MOTHER/6 MOS NV 19 YRS

VERIFIED: Employment: Unemployed: 2 WKS Disabled: Student:

VERIFIED: Relatives: Local Not Local

Felony Convictions:

-0-

Misdemeanor Convictions: 00 OBST PO - NV

Fail To Appear Traffic Misdemeanor Felony

Pending Charges/Holds/Comments: 12 JUVENILE ENTRIES

RECOMMENDATION: Release On Recognizance

Bail Reduction

House Arrest

Indigent Non-Indigent PD Recommended

040600

Date

INTAKE SERVICES

JC-18 (Intake Services)
Rev. 05/97

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

INTAKE SERVICES INFORMATION SHEET

CASE NO. 99F04726X

NAME: POLK, RENARD TURMAN

ID #: 1521718

CHARGE(S): SEX ASSLT V/U 14 3CTS

CURRENT BAIL: 60,000

VERIFIED: Local Address: DEFT REFUSED INTERVIEW

Out Of State Address:

With Whom/How Long:

VERIFIED: Employment: Unemployed: Disabled: Student:

VERIFIED: Relatives: Local Not Local

Felony Convictions:

Misdemeanor Convictions: 00 OBST PO - NV

Fail To Appear -0- Traffic Misdemeanor Felony

Pending Charges/Holds/Comments: 12 JUVENILE ENTRIES

RECOMMENDATION: Release On Recognizance

Bail Reduction

House Arrest

Indigent Non-Indigent PD Recommended

032100

Date

INTAKE SERVICES

JC-18 (Intake Services)
Rev. 05/97

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

INTAKE SERVICES INFORMATION SHEET

CASE NO. 99F04726X

NAME: POLK, RENARD

ID #: 1521718

CHARGE(S): SEX ASSLT VICTIM UNDER 16 3 CTS

CURRENT BAIL: 60,000

VERIFIED: Local Address: ***DEFT REFUSED INTERVIEW***

Out Of State Address:

With Whom/How Long:

VERIFIED: Employment: Unemployed: Disabled: Student:

VERIFIED: Relatives: Local Not Local

Felony Convictions: -0-

Misdemeanor Convictions:

Fail To Appear -0- Traffic Misdemeanor Felony

Pending Charges/Holds/Comments: DEFT HAS 12 JUVENILE ENTRIES ON RAP SHEET
PENDING 00M04291X OBST PO 030800 JC1

RECOMMENDATION: Release On Recognizance

Bail Reduction

House Arrest

Indigent Non-Indigent PD Recommended

030700
Date

INTAKE SERVICES

JC-18 (Intake Services)
Rev. 05 97

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

INTAKE SERVICES INFORMATION SHEET

CASE NO. 99F04726X

NAME: POLK, RENARD

ID #: 1521718

CHARGE(S): SEX ASSLT VICTIM OVER 16 2CTS

CURRENT BAIL: NO BAIL

VERIFIED: Local Address: ***DEFT REFUSED INTERVIEW***

Out Of State Address:

With Whom/How Long:

VERIFIED: Employment: Unemployed: Disabled: Student:

VERIFIED: Relatives: Local Not Local

Felony Convictions: -0-

Misdemeanor Convictions:

Fail To Appear -0- Traffic Misdemeanor Felony

Pending Charges/Holds/Comments: DEFT HAS 12 JUVENILE ENTRIES ON RAP SHEET

RECOMMENDATION: Release On Recognizance

Bail Reduction

House Arrest

Indigent Non-Indigent PD Recommended

2-25-2000

Date

INTAKE SERVICES

JC-18 (Intake Services)
Rev. 05/97

ORIGINAL

INFO
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED
APR 13 8 07 AM '00
CLERK

I.A. 4/18/2000
8:00 A.M.
CHRISTOPHER R. ORAM, ESQ.

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

INFORMATION

STATE OF NEVADA)
ss:
COUNTY OF CLARK)

STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366)** and **FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320)** on or between January 1, 1999, and March 12, 1999, 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,

COUNT I - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis

RECEIVED
APR 13 2000
COUNTY CLERK

31

into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III - FIRST DEGREE KIDNAPPING

did wilfully, unlawfully, and feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away ANNA POLK and/or JAHALA CHATMAN, human beings, with the intent to hold or detain the said ANNA POLK and/or JAHALA CHATMAN against their will, and without their consent, for the purpose of sexually assaulting the said ANNA POLK and/or JAHALA CHATMAN.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

DA#99F04726X/th
LVMPD EV#9903130217
SAM/16; 1ST DEG KDNP - F
(TK7)

ORIGINAL

FILED

MAY 2 12 25 PM '00

Shirley B. Parraguirre
CLERK

ORDR
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER AUTHORIZING PSYCHOLOGICAL EVALUATION

The above entitled mater having come on for hearing before this Court on the 25th day of April, 2000, CHRISTOPHER R. ORAM, ESQ., being present, and a representative of the District Attorneys Office appearing on behalf of the State; the Court being fully advised in the premises, and good cause appearing;

IT IS HEREBY ORDER, ADJUDGED AND DECREED that DR. LEWIS ETCOFF, be appointed to perform an psychiatric examination of the Defendant, RENARD POLK.

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

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that expert fees in the statutory amount of $300.00 are approved by the Court, for DR. LEWIS ETCOFF.

DATED and DONE: May, 1 st, 2000.

DISTRICT COURT JUDGE

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD TURMAN POLK

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

ORIGINAL

ORD
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED

MAY 30 10 36 AM '00

CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER ALLOWING CONTACT VISIT

This matter having come on regularly for hearing before this Court on the 23rd day of May, 1999, the Honorable Joseph T. Bonaventure presiding. The Court being fully advised in the premises, and good cause appearing therefore,

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

IT IS HEREBY ORDERED that the Defendant, CHARLES HAROLD PORTER, be granted a contact visit with DR. JOHN PAGLINI, for the purpose of Dr. Paglini to perform a psychiatric examination of the Defendant, RENARD POLK, at the Clark County Detention Center.

DATED AND DONE this May 26, 2000.

DISTRICT COURT JUDGE

For: Judge Joseph Bonaventure

Respectfully Submitted,

CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD POLK

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

ORIGINAL

ORDR
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED
MAY 30 10 33 AM '00
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER AUTHORIZING PSYCHOLOGICAL EVALUATION

The above entitled mater having come on for hearing before this Court on the 23rd day of May, 2000, CHRISTOPHER R. ORAM, ESQ., being present, and a representative of the District Attorneys Office appearing on behalf of the State; the Court being fully advised in the premises, and good cause appearing;

IT IS HEREBY ORDER, ADJUDGED AND DECREED that DR. JOHN PAGLINI, be appointed to perform a psychiatric examination of the Defendant, RENARD POLK.

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

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that expert fees in the statutory amount of $300.00 are approved by the Court, for DR. JOHN PAGLINI.

DATED and DONE: May 26, 2000.

DISTRICT COURT JUDGE

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD TURMAN POLK

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

ORDR
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED
JUL 12 4 44 PM '00
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER AUTHORIZING PSYCHOLOGICAL EVALUATION

The above entitled mater having come on for hearing before this Court on the 27th day of June, 2000, CHRISTOPHER R. ORAM, ESQ., being present, and a representative of the District Attorneys Office appearing on behalf of the State; the Court being fully advised in the premises, and good cause appearing;

IT IS HEREBY ORDER, ADJUDGED AND DECREED that DR. JACK JURASKY, be appointed to perform a psychiatric examination of the Defendant, RENARD POLK.

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

CE52

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that expert fees in the statutory amount of $300.00 are approved by the Court, for DR. JACK JURASKY.

DATED and DONE: July 11, 2000.

SALLY LOEHRER

DISTRICT COURT JUDGE

for: Joseph Bonaventure

JOSEPH T. BONAVENTURE

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD TURMAN POLK

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

CASE NO. C166490

FILED

DEPARTMENT NO. 7

AUG 4 2 16 PM '00

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

-oOo-

ORIGINAL

STATE OF NEVADA, Plaintiff,	)	
vs.	)	CASE NO. 99F04726X
RENARD TURMAN POLK, Defendant.	)	

REPORTER'S TRANSCRIPT
OF
UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

BEFORE THE HONORABLE MELANIE TOBIASSON
PRO TEMPORE
JUSTICE OF THE PEACE
TUESDAY, APRIL 11, 2000

APPEARANCES:
For the State: **MARY KAY HOLTHUS, ESQ.**
Deputy District Attorney

For the Defendant: **CHRISTOPHER ORAM, ESQ.**

RECEIVED
AUG 04 2000
COUNTY CLERK

Reported by: Angela Campagna, CCR #495

1 LAS VEGAS, NEVADA
2 APRIL 11, 2000
3 9:00 A.M.
4 * * * * *
5 THE COURT: Renard Polk.
6 MR. ORAM: This matter is probably resolved.
7 Are you going to take a break?
8 THE COURT: Yes.
9 MR. ORAM: Can we pass it until after the
10 break?
11 THE COURT: Yes. We'll pass it until after
12 the break.
13 (Break in proceedings to
14 handle unrelated matters.)
15 THE COURT: Okay. 99F04726X, Renard Polk.
16 MR. ORAM: Good morning, your Honor. This
17 matter is resolved.
18 MS. HOLTHUS: That's correct, Judge. It's my
19 understanding that the defendant will be
20 unconditionally waiving his preliminary hearing
21 this morning. He's going to be pleading guilty to
22 three counts.
23 THE COURT: As charged in the criminal
24 complaint?
25 MS. HOLTHUS: Yes, and one fictitious to

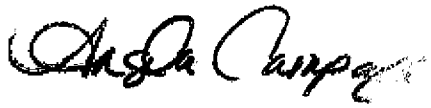
1 accommodate negotiations which will result in five
2 to life on that particular count. We've
3 stipulated to three sentences. That is
4 conditional.
5 If the court won't impose those
6 particular sentences on those other counts, either
7 side may withdraw two, five to twenty, one five to
8 life. Both sides will be able to argue beyond
9 that.
10 MR. ORAM: That's correct, Judge. I've
11 advised him what it means to unconditionally waive
12 his right to preliminary hearing.
13 THE COURT: Do you understand these
14 negotiations?
15 THE DEFENDANT: Yes.
16 THE COURT: I know it's cryptic, but I know
17 your attorney discussed it in detail with you; is
18 that correct?
19 THE DEFENDANT: Yes.
20 THE COURT: Do you understand that by
21 unconditionally waiving your right to preliminary
22 hearing you're giving up that right forever?
23 THE DEFENDANT: Yes.
24 THE COURT: At that preliminary hearing you
25 have the right to confront and cross-examine the

1 witnesses against you, and you also have the right
2 to testify and present evidence on your own
3 defense. Do you understand you're giving up these
4 rights also?
5 THE DEFENDANT: Yes.
6 THE COURT: When you get up to District
7 Court, you can follow through the negotiations as
8 outlined by your attorney and the district
9 attorney and also as discussed with you by your
10 attorney.
11 If you decide you don't want to
12 plead guilty, you will go to trial in District
13 Court on all of the original charges. You will
14 not come back here for hearing. Do you understand
15 that?
16 THE DEFENDANT: Yes, ma'am.
17 THE COURT: Okay. It appearing to me from
18 the complaint on file herein, crimes have been
19 committed, Counts I, II and III.
20 And the defendant having
21 unconditionally waived his right to preliminary
22 hearing, I hereby order said defendant be held to
23 answer to said charges in the Eighth Judicial
24 District Court, County of Clark, State of Nevada
25 the following date and time:

THE CLERK: April 18th, 8:00 o'clock in Department VI.

* * * * *

Attest: Full, true, accurate transcript of proceedings.



ANGELA CAMPAGNA,
CCR #495

ORIGINAL

ORDR
STEWART L. BELL
DISTRICT ATTORNEY
NEVADA BAR #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff
THE STATE OF NEVADA

FILED
AUG 17 9 06 AM '00
Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

vs.

RENARD TURMAN POLK
Id #1521718

Defendant.

Case no. C166490
Dept no. VI
Docket. B

ORDER
(COMMITMENT)

THIS MATTER came before the Court on the 1st day of August, 2000, when doubt arose as to competence of the defendant; the defendant being present with counsel, CHRISTOPHER R. ORAM the State being represented by STEWART L. BELL, District Attorney, through MARY KAY HOLTHUS, Deputy, and the Court having considered the reports of licensed and practicing psychologists and/or psychiatrists in the State of Nevada, finds the defendant incompetent, and that he is dangerous to himself or to society or that commitment is required for a determination of his ability to attain competence, and good cause appearing, it is hereby

/ / /

/ / /

ORDERED that, pursuant to NRS 178.425(1), the sheriff shall convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the administrator of the division of mental health and developmental services of the department of human resources for detention and treatment at a secure facility operated by the division of mental hygiene and developmental services of the department of human resources, and it is

FURTHER ORDERED that, pursuant to NRS 178.425(2), the defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450 to 178.465, inclusive, and it is

FURTHER ORDERED that, pursuant to NRS 178.425(4), these proceedings against the defendant are suspended until the sanity commission finds him capable of standing trial as provided in NRS 178.400, and it is

FURTHER ORDERED that, pursuant to NRS 178.435, the expenses of the examination and of the transportation of the defendant to and from the custody of the administrator of the division of mental health and developmental services of the department of human resources are chargeable to Clark County, and it is

FURTHER ORDERED that the administrator of the division of mental health and developmental services of the department of human resources shall keep the defendant under observation and evaluated periodically, and it is

FURTHER ORDERED that the administrator shall notify in writing this Court and the Clark County District Attorney whether in his opinion, upon medical consultation, the defendant is of sufficient mentality to be able to understand the nature of the criminal charge against him and, by reason thereof, is able to aid and assist his counsel in the defense interposed upon the trial or against the pronouncement of the judgment thereafter. The administrator shall submit such a notification within 6 months after this order and at 6-month intervals thereafter.

///

///

If the administrator's opinion about the defendant is that he is not of sufficient mentality to understand the nature of the charge against him and assist in his own defense, the administrator shall also include in the notice his opinion whether:

(a) there is a substantial probability that the defendant will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and
(b) the defendant is at that time a danger to himself or to society.

DATED this 14th day of ~~July~~ August, 2000.

JUDGE

Stewart L. Bell
District Attorney

By J. CHARLES THOMPSON
Assistant District Attorney
Nevada Bar #001726

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing, was made this 14th day of August, 2000, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CHRISTOPHER R. ORAM, Esq.
520 S. Fourth St., 2nd Floor
Las Vegas, NV 89101

Secretary for the District Attorney's Office

INFO
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED
APR 13 8 07 AM '00
CLERK

I.A. 4/18/2000
8:00 A.M.
CHRISTOPHER R. ORAM, ESQ.

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

INFORMATION

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366)** and **FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320)** on or between January 1, 1999, and March 12, 1999, 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,

COUNT I - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis

into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III - FIRST DEGREE KIDNAPPING

did wilfully, unlawfully, and feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away ANNA POLK and/or JAHALA CHATMAN, human beings, with the intent to hold or detain the said ANNA POLK and/or JAHALA CHATMAN against their will, and without their consent, for the purpose of sexually assaulting the said ANNA POLK and/or JAHALA CHATMAN.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

DA#99F04726X/th
LVMPD EV#9903130217
SAM/16; 1ST DEG KDNP - F
(TK7)

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S VEGAS METROPOLITAN POLICE DEPARTMEN

DECLARATION OF WARRANT/SUMMONS

(N.R.S. 171.106)
(N.R.S. 53 amended 07/13/93)

EVENT: 990313-0217

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

David E. Dunn, being first duly sworn, deposes and says:

That he is a police officer with the Las Vegas Metropolitan Police Department, being so employed for a period of 30 years, assigned to investigate the crime(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS committed on or about 03-12-99, which investigation has developed RENARD TURMAN POLK as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME TO WIT:

1. That on 3-12-99 ANNA LISA POLK, DOB 11-10-88 became the victim of a Sexual Assault. That the suspect is known to her as he is her brother, Renard 18 years of age.

2. That Anna stated that Renard has been having ANAL intercourse with her since she was five years of age. That every time Renard would catch Anna alone he would drag her into his bedroom, or into the bathroom.
That once in the bathroom or bedroom he would tell her to take off her clothing and her would remove his. That Renard would then make her lay on the floor and have ANAL intercourse with her. That on other occasions he would sit in a chair and then force her to sit on his penis.

3. That Renard never did anything else to her in the way of sexual activity. That he would always do the same thing to her and would never vary.

4. That the last time she was assaulted by Renard was March 12, 1999. That Renard took her into his bedroom and told her to remove her clothing, while he removed his clothing. That he then forced her to lay one the floor. That he then put his penis into her rectum, with force and against her will.

5. That ANNA stated Renard would, after forcing her to the floor, put his hand over her mouth to prevent her from crying out. That he threaten ANNA saying that he would kill her if she ever told anyone about what he was doing.

7. That there are two siblings, JAHALA CHATMAN, and her sister JAMILA. That they were both interviewed as to what may or may not have taken place. That jamila was interviewed and it was found she had not been the victim of a sex crime. That Jamila

EVENT: 990313-0217

stated she had been physically abused by RENARD on many occasions but never sexually abused.

8. That on 3-12-99 Jamila observed Renard Sexually assaulting Anna on the bathroom floor. That Jamila stated Renard had his penis inserted into Anna's rectum.

9. That Jahala Chatman, DOB 8-28-86 had been the victim of a Sexual Assault and that Renard was the suspect. That Jahala stated she had only been assaulted by Renard one time, and that was in January of 1999. That Jahala was taken into the bathroom and forced to remove her clothing. That Renard took off his clothes and forced Jahala to lay on the floor and Renard then forced his penis into her rectum. That this was done with force and against her will.
Wherefore, declarant prays that a Warrant of Arrest be issued for suspect RENARD TURMAN POLK on a charge(s) of SEXUAL ASSAULT ON A MINOR (7 COUNTS.

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

Executed on this 15th day of March, 1999.

DECLARANT: David E. Dunn

WITNESS: [illegible] **DATE:** 3-16-99

DISTRICT COURT

FILED

CLARK COUNTY NEVADA

IN THE MATTER OF

RENARD TURMAN POLK

SEP 27 2 22 PM '00

CASE NO.:C166490

DEPARTMENT VI

CLERK

ORDER

The Administrator of the State Department of Mental Hygiene and Mental Retardation Division, having notified the Court that the above individual is of sufficient mentality to be returned to court for disposition, therefore pursuant to N.R.S. 178.455, and good cause appearing,

IT IS HEREBY ORDERED that a sanity commission be impaneled for the purpose of determining whether or not RENARD TURMAN POLK be returned to court for disposition.

IT IS FURTHER ORDERED that the commission shall be composed of Doctors Thomas E. Bittker, Martha Mahaffey, and Pat Chatham. FURTHER, that each member of the commission shall include in his report his opinion as to:

1. Whether the person is of sufficient mentality to understand the nature of the offense charged;

2. Whether the person is of sufficient mentality to aid and assist counsel in the defense of the offense charged, or to show cause why judgment should not be pronounced; and

\\\

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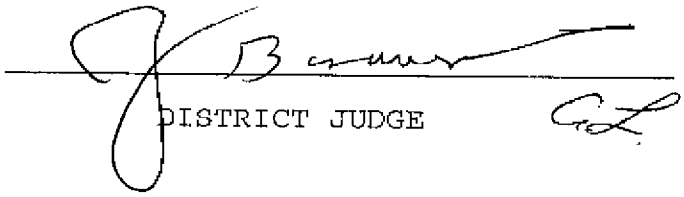
COUNTY CLERK

3. If a finding of incompetence is reached, whether there is substantial probability that this person will attain competency in the foreseeable future.

DATED this 27th day of September, 2000.



DISTRICT JUDGE

DISTRICT COURT

FILED

CLARK COUNTY NEVADA

Oct 19 3 07 PM '00

IN THE MATTER OF) Case No. C166490

RENARD TURMAN POLK) Department VI

Shirley B. Parraguirre
CLERK

ORDER

IT IS HEREBY ORDERED that the Mental Hygiene and Mental Retardation Division of the Department of Human Resources pay, pursuant to N.R.S. 178.465, Two Hundred, Sixty Dollars ($260.00) to Doctors Thomas E. Bittker, Martha Mahaffey, and Pat Chatham, for services rendered in this matter.

DATED this 19th day of October, 2000.

DISTRICT JUDGE

RECEIVED
OCT 19 2000
COUNTY CLERK

ORIGINAL

FFCL
STEWART L. BELL
DISTRICT ATTORNEY
State Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff
STATE OF NEVADA

NOV 0 2 2000

BY Nora Peña

NORA PEÑA

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA Plaintiff vs. RENARD TURMAN POLK Id #1521718 Defendant	Case no. C166490 Dept no. VI Docket B

FINDINGS
(OF COMPETENCY)

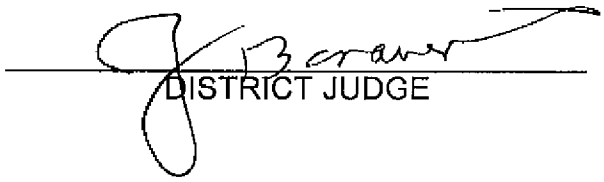
THIS MATTER HAVING COME on for hearing before the above-entitled Court on the 2nd day of November, 2000, and it appearing that on the 17th day of August, 2000, pursuant to Order of this Court, that the above-named defendant was transported to the Lakes Crossing Center for psychiatric testing to determine his competency and it further appearing that subsequent thereto, a Sanity Commission, appointed by Order of the Eighth Judicial District Court, examined the defendant pursuant to NRS 178.455 with the reports of that examination being forwarded to the Court for its review thereof; and the Court having now reviewed said reports and there being no request for a hearing as provided for by NRS 178.460(1),

/ / /

/ / /

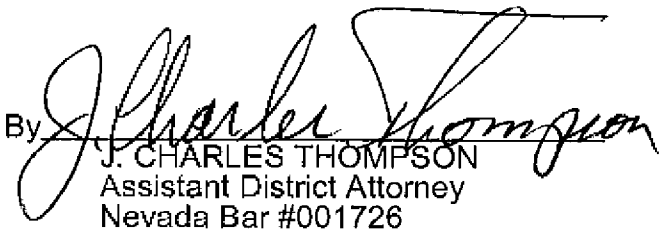
THE COURT FINDS pursuant to NRS 178.460, that the said defendant is competent to stand trial in the above-entitled matter.

DATED this 2ND day of November, 2000.



DISTRICT JUDGE

STEWART L. BELL
District Attorney



By
J. CHARLES THOMPSON
Assistant District Attorney
Nevada Bar #001726

ORIGINAL

ORDR
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for the Plaintiff
THE STATE OF NEVADA

NOV 02 2000

NORA PEÑA

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA Plaintiff vs. RENARD TURMAN POLK Id #1521718 Defendant.	CASE NO. C166490 DEPT. NO. VIII DOCKET B

O R D E R
To Transport Defendant
(Found Competent per NRS 178.460)

TO: JERRY KELLER, Sheriff, Clark County, Nevada:

WHEREAS, on the 17th day of August, 2000, pursuant to Order of the above-entitled Court, you were directed to transport the above-named Defendant to the Lake's Crossing Center for necessary care and treatment; and

WHEREAS, a Sanity Commission impaneled by the Court on the 27th day of September, having examined the Defendant pursuant to NRS 178.455 with the reports of that examination being forwarded to the Court for its review thereof; and

WHEREAS, the Court having thereafter made and entered its Findings in the above-entitled matter that the said Defendant is now competent to stand trial.

NOW THEREFORE, in accordance with NRS 178.460, you, the Sheriff of Clark County, Nevada, are hereby ordered to transport the Defendant from the Lake's Crossing Center,

///

///

Washoe County, Nevada, to the Clark County Jail, Las Vegas, Nevada, by the 21st day of November, 2000 when further proceedings have been scheduled by the Court in this matter.

IT IS FURTHER ORDERED that you, the Sheriff of Clark County, Nevada, shall accept and retain custody of said Defendant in the Clark County Jail, pending completion of proceedings in the above-captioned matter, or until the further Order of this Court.

DATED this 2ND day of November, 2000.

DISTRICT JUDGE

STEWART L. BELL
District Attorney

BY
JT CHARLES THOMPSON
Assistant District Attorney
Nevada Bar #001726

22

ORIGINAL

AINF
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED IN OPEN COURT
NOV 22 2000
SHIRLEY B. PARRAGUIRRE, CLERK
BY Nora Peña
NORA PEÑA DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK,
#1521718 Renard Truman Polk — TN

Defendant.

Case No. C166490
Dept. No. VI
Docket B

AMENDED
INFORMATION

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), on or between 1998 and March 12, 1999, 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,

COUNT 1

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions

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in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about 1998, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

NAME	ADDRESS
JOHNSON, K.	LVMPD #2075
DUNN, D.	LVMPD #385
POLK, Anna	1473 Aruba Ct. Pomona CA 91768

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CHATMAN, Jahala	1473 Aruba Ct. Pomona CA 91768
POLK, Gloria	1325 Nay Ct. Las Vegas NV 89104
CHATMAN, Jamila	1473 Aruba Ct. Pomona CA 91768
O'CONNOR, Marc	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SAVAGE, Jessica	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SUITER, Phyllis	SAINT 701 N. Pecos Rd. Las Vegas NV 89101
PARENT/GUARDIAN of JAHALA CHATMAN	1473 Aruba Ct. Pomona CA 91768
PARENT/GUARDIAN of ANNA POLK	1473 Aruba Ct. Pomona CA 91768

DA#00166490X/th
LVMPD EV#9903130217
SAM/14 - F
(TK7)

ORIGINAL

071
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorneys for Defendant
RENARD TURMAN POLK

FILED
Dec 15 3 25 PM '00
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B DATE OF HEARING: 12-27-00 TIME OF HEARING: 8:30

MOTION FOR DISCOVERY

COMES NOW, Defendant RENARD POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ., and moves this Court for an order requiring the District Attorney's Office to provide the defense with the information requested below, or in the alternative, with the opportunity to inspect and copy that information.

The defense also moves this Court to require that the District Attorney use reasonable diligence in order to ascertain the information requested below.

This is a request for a continuing discovery order pursuant to NRS 174.295.

The defense requests the following:

1. All oral and written statements made or allegedly made by the defendant, whether signed or unsigned, together with the names of all persons present during any portion of the statements, to include by not be limited to any wiretap and/or electronic surveillance type of

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Las Vegas, Nevada 89101

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statements made by the defendant herein in any jurisdiction.

2. All taped records made of statements of the defendant, together with the names of all persons present during any portion of the statements, including any wiretap and/or electronic surveillance devices used in connection with such records.

3. All notes, memos, and transcriptions of statements attributed to the defendant, together with the names of all persons who made such items.

4. All results and reports of physical and mental examinations made of any witness in the instant case, together with the names of all persons connected with each such examination.

5. All results and reports of scientific tests or experiments made in connection with the above-entitled case, to include, but not limited to, the following:

(a) All latent and partial fingerprints and fingerprint tests;

(b) All footprint and automobile tire track tests;

(c) All blood, semen, or other bodily fluids, tissues, or bones whether of the victim or of any potential or alleged perpetrators and tests utilizing said materials, including tests of the materials themselves or of blood spatter or other blood stain patterns;

(d) Any other substance or item which may serve to pinpoint the cause of death, the time of death, and/or the perpetrators of the alleged offense;

(e) The names of all persons connected with each of the above tests and examinations.

6. All photographs and negatives taken in connection with the instant case, to include, but not limited to, the following:

(a) All photographs of suspects shown to potential witnesses;

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Las Vegas, Nevada 89101

(b) All photographs of all line-ups viewed by potential witnesses;

(c) All photographs of latent and partial fingerprints, footprints, and car tire tracks;

(d) All photographs of all scenes involved in the instant case;

(e) All photographs of tangible objects taken in connection with the instant case;

(f) All photographs of Mr. Polk and other defendants in this case;

(g) All photographs of the victim herein.

7. The names and addresses of all persons who in any way participated in the investigation against Mr. Polk, to include any and all informants.

8. The name and addresses of all persons who were eye witnesses to the incident or events preceding or subsequent to the incident, if their statements would be a causal link to the innocence or guilt of Mr. Polk.

9. A list of all items of physical evidence connected with the case along with the present location of each item, together with the names and addresses of all persons who produced or examined such items.

10. All written or taped statements, plea agreements, correspondence, notes, or memoranda concerning any promises of immunity, any promises of leniency, any suggestion of leniency or immunity, any proposed attempts to influence the court, the Las Vegas Metropolitan Police Department or the Clark County District Attorney's Office with reference to leniency concerning any witness who is expected to testify at trial; the reference to any case of which all of the persons referred to in this paragraph are, or were, a suspect, if the promises or suggestions or attempts to influence or leniency related to or were in exchange for, such persons' statements, present or past, against the above defendant; the names and addresses of all persons present during any and all of such statements, promises, proposals or attempts to exert influence

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on behalf of the persons mentioned in this paragraph or any other form of compensation given, or to be given, to any of the above named persons whether they be a witness or an informant.

11. Records of any and all felony convictions sustained by a witness expected to testify in this case.

12. Records of all criminal matters pending against a person expected to testify so the defense can discern if the person has a motive to fabricate.

13. The names and addresses of any and all persons who transported any physical evidence in the case against Mr. Polk as well as the names and addresses of all persons to whom such object or objects were deposited.

14. The names and addresses of all persons believed to be potential witnesses so the defense can pursue its own investigation concerning preparation of a defense, presentation of evidence, and proper cross-examination.

15. The names and addresses of all persons interviewed by law enforcement officers or members of the District Attorneys' Office in relation to the instant case so that the defense can pursue its own investigation concerning the preparation of a defense, presentation of evidence, and proper cross-examination.

16. All reports, statements, correspondence, notes, memoranda transcriptions, stenographic reports and taped statements of interviews mentioned above so that the defense can pursue its own investigation concerning preparation of a defense, presentation of evidence, and proper cross-examination.

17. The name and address of each and every, all and singular, of the persons in possession of knowledge concerning the instant case which is or would be favorable to the defense of Mr. Polk.

18. A list and present location of all physical and intangible evidence that is, or may be, favorable to Mr. Polk at the time of trial.

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Las Vegas, Nevada 89101

19. All statements of admission or confession by any other party or by Mr. Polk concerning the instant case.

20. All investigative reports of suspects other than Mr. Polk who were targets of the investigation of this offense.

21. All records of arrests of the victim in the instant case as they relate to crimes of violence so the defense can properly prepare the defense.

22. All police reports prepared in the instant case.

23. The defense requests that the court order that the District Attorney shall promptly notify the defense and the court of the existence of additional material which is subject to the discovery order of the Court.

24. Any and all rap sheets in the possession of the District Attorney's office in regards any and all co-defendants or witnesses.

25. Any and all NCIC reports available to the District Attorney's office in regards to any and all co-defendants or witnesses.

This motion will be based upon this document, the Points and Authorities attached hereto, any affidavits presented in support of said motion, as well as such evidence, oral or documentary, that may be presented in support of this motion.

DATED this 14 day of December, 2000.

Respectfully Submitted by,

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD POLK

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

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff

TO: STEWART L. BELL, ESQ., District Attorney

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing **MOTION TO PLACE ON CALENDAR** on for hearing before the above-entitled Court on the 27 day of Dec, 2000, at 8:00 o'clock a.m. of said day, or as soon thereafter as counsel can be heard in District Court, Dept. No. VI.

DATED this 14 day of December, 2000.

Respectfully Submitted by,

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD POLK

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

POINTS AND AUTHORITIES

Discovery allows the defendant to be provided with written or recorded statements and confessions made by the defendant, 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 District Attorney. NRS 174.235(1).

Discovery allows the defendant to be provided with results, and reports of physical and mental examinations, and of scientific tests or experiments made in connection with the particular case, 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 District Attorney. NRS 174.235(2).

Discovery allows the defendant to be provided with photographs, books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the State, upon a showing of materiality to the preparation of his or her defense and that the request is reasonable. NRS 174.245.

The good faith or bad faith failure of the District Attorney to produce all evidence favorable to the accused on the issue of guilt or punishment upon request of results is a deprivation of the right to a fair trial as guaranteed by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Brady v. Maryland, 373 U.S. 83 (1963). This pronouncement of the scope of discovery has been reiterated by the United States Supreme Court with reference to evidence that goes to the innocence or guilt of the defendant in situations wherein the credibility of a witness is in issue. Giglio v. U.S., 405 U.S. 150 (1972). In Kyles v. Whitley, 514 U.S. 419, 131 L.Ed.2d 490, 115 S.Ct. 1555 (1995), the United States Supreme Court has reiterated the statement of the scope of discovery.

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Credibility is an issue when a suggestion of leniency has been made to a witness. Giglio, supra.

The prosecution has a duty to disclose other impeaching evidence. U.S. v. Schafer, 789 F.2d 682 (9th Cir. 1986); Ouimette v. Moran, 942 F.2d 1 (1st Cir. 1991); U.S. v. Kiszewski, 877 F.2d 210 (2d Cir. 1989); Bowen v. Maryland, 799 F.2d 593 (10th Cir.), cert. denied 479 U.S. 962 (1986); Jacobs v. Singletary, 952 F.2d 1282 (11th Cir. 1992). Evidence pointing towards a witness' motive to fabricate comes within the principle that the State has the obligation of providing material evidence favorable to the defendant in order to insure a fair hearing. Naupe v. Illinois, 360 U.S. 264 (1959).

The defendant's right to confrontation under the Sixth Amendment to the United States Constitution includes the right to cross-examination hostile or adverse witnesses. This Sixth Amendment protection extends to the states, pursuant to the Fourteenth Amendment to the United States Constitution. Pointer v. Texas, 380 U.S. 400 (1965).

A full cross-examination of the witness upon subjects of his examination in chief is the absolute right of the party against whom he is called. Quiules v. U.S., 344 F.2d 490 (9th Cir. 1965). The rights to cross-examination and confrontation are essential to due process. Chambers v. Mississippi, 93 U.S. 1038 (1973). The Nevada Supreme Court has repeatedly recognized that one accused of a crime has the right to cross-examine pursuant to the United States Constitution. State v. Merritt, 66 Nev. 380, 212 P.2d 706 (1949); Serrrano v. State, 83 Nev. 324, 429 P.2d 831 (1967).

The denial of the rights to confrontation and cross-examination results in constitutional error of the first magnitude and no amount or lack of prejudice will cure it. Brookhart v. Janis, 384 U.S. 1 (1966).

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CHRISTOPHER R. ORAM
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The United States Supreme Court has held that proper cross-examination includes testing the perception and memory of the witness; it encompasses impeaching the witness by showing bias, prejudice, motive, and under appropriate circumstances, the criminal record of the witness. It went on to conclude that cross-examination is the principle means by which the believability and truth of a witness' testimony are tested; that the witness' motivation in testifying is important and it may be discerned by the instrument of cross-examination. Olden v. Kentucky, 488 U.S. 227 (1988) (per curiam); Davis v. Alaska, 415 U.S. 308 (1974); Green v. McElroy, 360 U.S. 474 (1950); U.S. v. Simtob, 901 F.2d 799 (9th Cir. 1990). The defendant is also entitled to test the witness's knowledge of the facts bearing on the defendant's guilt or innocence. U.S. v. Priachett, 699 F.2d 317 (6th Cir. 1983); U.S. v. Vargas, 933 F.2d 701 (9th Cir. 1991). If the witness claims a lack of memory while testifying, the defendant must receive full and fair opportunity to probe and expose the witness's infirmities through cross-examination. U.S. v. Owens, 484 U.S. 554 (1988). The Nevada Supreme Court is consistent and holds that a wide latitude of cross-examination is allowed in order to test the motives, interests, animus, accuracy, veracity and credibility of a witness. Lloyd v. State, 85 Nev. 576, 460 P.2d 111 (1969), cert. denied 398 U.S. 932.

Certainly, the right to a fair trial, as established in the aforementioned cases, includes the fundamental right to cross-examination by the impeachment of the witness' testimony. Impeachment may take the form of motive to fabricate, prior inconsistent statement, or bias. In order to properly prepare for trial, the defense should b entitled to this material even if it was given to state officers. The purpose is to counteract the quality of evidence presented by the State from a witness who may deny the truth unless he is presented with tangible or intangible items that come within the scope of cross-examination. The arrests and dispositions of a witness allow development in the motive to fabricate depending on the leniency of the disposition. Felony convictions come

CHRISTOPHER R. ORAM
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within the character evidence allowed to impeach a witness. NRS 50.095. The defendant should be provided with all convictions so he can make a determination independent of the prosecution, as to whether NRS 50.095 applies. The matters pending or which could be filed are within the scope of examination pertaining to motive to fabricate if the witness is hedging in hopes of a suggestion of leniency or immunity. The names and addresses of witnesses enables the defendant to prepare her case and to present favorable evidence. The legislature has not evidenced an intent to deprive the defendant of this obligation because it requires such a list to be endorsed to informations and indictments. NRS 173.045; NRS 172.265.

The Nevada Supreme Court has appreciated the constitutional necessity of causing the defense to be provided with a copy of a police officer's written report so the defendant can effectively utilize the right to impeachment by cross-examination. Walker v. Fogliani, 83 Nev. 154, 425 P.2d 794 (1967).

The portion of NRS 174.245 that, ostensibly, precludes the authorization of discovery of reports, memoranda, or other internal state documents made by state agents in connection with the investigation of the case and statements made by prospective state witnesses to agents of the state is unconstitutional because it deprives the defendant of his right to a fair hearing in violation of the Fourteenth Amendment of the United States Constitution, because he cannot effectively investigate his case, he cannot effectively prepare his case, he cannot effectively present evidence on his own behalf, and he cannot effectively confront and cross-examine the evidence presented against him. The United States Supreme Court has held that a confession of a co-defendant is material evidence subject to disclosure. Brady v. Maryland, supra.

The District Attorney shall promptly notify the defense, or the Court, of the existence of additional material which is the subject of the discovery order. NRS 174.295. The failure of the

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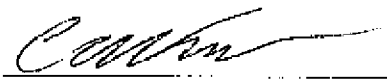
District Attorney to provide discovery pursuant to a discovery order allows the Court the discretion to prohibit the District Attorney from introducing into evidence all that material that has not been disclosed. NRS 174.295.

THEREFORE, it is respectfully requested that Mr. Renard Polk's motion for Discovery be granted.

DATED this 14 day of December, 2000.

Respectfully Submitted by,



CHRISTOPHER R. ORAM, ESQ.
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Counsel for Defendant,
RENARD POLK

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Attorneys for Defendant
RENARD TURMAN POLK

FILED
JAN 23 2 40 PM '01
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

RECEIPT OF COPY

RECEIPT OF A COPY of the attached **MOTION FOR DISCOVERY** is hereby acknowledged this 15th day of December, 2000.

STEWART BELL, DISTRICT ATTORNEY

By Barbara Ausmeele
DEPUTY DISTRICT ATTORNEY
200 S. Third Street, 7th Floor
Las Vegas, Nevada 89101

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

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(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

EX-PARTE MOTION FOR APPOINTMENT OF COUNSEL AND FOR PAYMENT OF EXPENSES

COMES NOW, the Defendant, RENARD POLK, and moves this Honorable Court for appointment of counsel and payment of expenses for purposes of representation on appeal to the Nevada Supreme Court.

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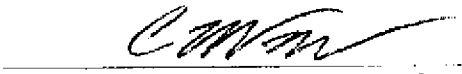
CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

This motion is made and based upon the pleadings and papers on file herein, the Points and Authorities attached hereto, and such oral argument as may be adduced at the time of hearing in this matter.

DATED this 7th day of March, 2001.

Respectfully submitted,



CHRISTOPHER R. ORAM, ESQ.
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(702) 384-5563
Attorney for Petitioner
RENARD POLK

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

MEMORANDUM OF POINTS & AUTHORITIES

NRS 171.188; Procedure for appointment of attorney for indigent defendant.

> 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent him
>
> 2. The request must be accompanied by the defendant's affidavit, which must state:
>
> (a) That he is without means of employing an attorney; and
>
> (b) Facts with some particularity, definiteness and certainty concerning his financial disability. . . .

NRS 178.397; Assignment of counsel.

> Every defendant accused of a gross misdemeanor or felony who is financially unable to obtain counsel is entitled to have counsel assigned to represent him at every stage of the proceedings from his initial appearance before a magistrate or the court through appeal, unless he waives such appointment.

Mr. Polk is charged with crimes punishable by life in prison. The Court requested that the undersigned be appointed to represent Mr. Polk (Justice Court) on the above entitled matter. However, the undersigned refused to be appointed as a courtesy to the court, hoping that the matter could be resolved. The undersigned informed the Court that he would only ask to be appointed if the case became complex. As of the date of this motion, the matter has become more complicated than the undersigned had anticipated. Based upon information and belief, this case may proceed to trial. Therefore, the undersigned would ask that this Court permit him to be appointed to represent the above mentioned defendant in his District Court proceedings.

Based upon the complexity of the case, and the nature of the issues involved, Mr. Polk

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

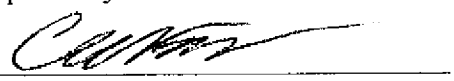
requests that this Court order the undersigned's appointment to this case, and authorize payment of the fees associated therewith, pursuant to NRS 171.188 and NRS 178.397.

CONCLUSION

Based upon the foregoing, Counsel respectfully requests that this Court appoint the undersigned to represent Mr. Polk on the above stated matter.

DATED this 7th day of March, 2001.

Respectfully submitted



CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 S. Fourth Street, 2nd Floor
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(702) 384-5563
Attorney for Petitioner
RENARD POLK

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

AFFIDAVIT OF CHRISTOPHER R. ORAM, ESQ.
IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL
AND FOR PAYMENT OF EXPENSES

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

CHRISTOPHER R. ORAM, ESQ., having been duly sworn, deposes and says:

1. That I am an attorney duly licensed to practice law in the State of Nevada. That I am counsel for the Defendant, RENARD POLK in the above-entitled action. That I have personal knowledge of the matters contained herein, and am competent to testify thereto.

2. Your affiant refused appointment on the within matter due to the fact that your affiant was under the impression that he would be able to resolve the within matter.

3. Your affiant would only ask to be appointed if the case became complex. As of the date of this motion, the matter has become more complicated than your affiant had anticipated.

4. That this request is being made in good faith, and not for purposes of delay.

5. FURTHER your Affiant sayeth naught.

DATED this 7th day of March, 2001.

CHRISTOPHER R. ORAM, ESQ.

SUBSCRIBED and SWORN to before me
this 7th day of March, 2001.

M. Felicia Furlan
NOTARY PUBLIC in and for said
County and State

OFFICIAL SEAL
M. FELICIA FURLAN
NOTARY PUBLIC - STATE OF NEVADA
CLARK COUNTY
My Appt. Expires September 30, 2001

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

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CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorneys for Defendant
RENARD TURMAN POLK

FILED
MAR 12 4 23 PM '01
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

MOTION IN LIMINE RE: PRIOR BAD ACTS
PETROCELLI HEARING REQUESTED

DATE OF HEARING: 3/26/01
TIME OF HEARING:

COMES NOW, Defendant, RENARD POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ., and respectfully requests that this Honorable Court grant Defendant's motion in limine re: prior bad acts and hold a Petrocelli hearing on the same.

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

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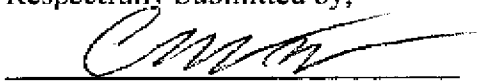
This Motion is made and based upon the attached Points and Authorities, all pleadings and papers on file herein, and any oral argument this Court may deem necessary.

DATED this 12 day of March, 2001.

Respectfully Submitted by,



CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff;

TO: STEWART L. BELL, ESQ., District Attorney, attorney for Plaintiff:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for hearing before the above-entitled Court on the 26 day of March, 2001, at the hour of 8:30 a.m, in Department VI, or as soon thereafter as counsel may be heard.

DATED this 12 day March, 2001.

Respectfully Submitted by,

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD POLK

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

ARGUMENT

Mr. Polk should be permitted a Petrocelli hearing to determine the extent of the false accusations of the alleged victims on the within matter.

NRS 48.045(2) states as follows:

> Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Additionally, the rule concerning admission of evidence of other crimes is more liberal when sexual aberration is involved. McMichael v. State, 94 Nev. 184, 577 P.2d 398 (1978). Upon information and belief, it appears that there are several allegations of sexual misconduct between the youth within the facility. Moreover, there are allegations which were presented to the District Attorney's office, however, the District Attorney's office did not bring forth any charges.

In Miller v. State, 105 Nev. 497, 502, 779 P.2d 87, 90 (1989), the Nevada Supreme Court held that:

> As a prerequisite to admitting a complaining witness' prior sexual assault and sexual abuse accusations and corroborative extrinsic evidence proving the falsity thereof, a threshold inquiry must establish both the fact of the accusation and the falsity thereof even before defense counsel launches into cross-examination. See also Covington v. Alaska, 703 P.2d 436, 442 (Alaska 1985); Clinebell, 368 S.E.2d at 266. Thus, if a defendant in a sexual assault case proposes to cross-examine the complaining witness about prior false sexual assault or sexual abuse allegations and introduce corroborative evidence, he must, prior to such questioning, file written notice of his intent. The trial court must then order a hearing, outside the presence of the jury, to determine the propriety of such questioning and the admissibility of corroborative evidence. In making such a determination, the defendant must establish, by preponderance of the evidence, that (1) the accusation or accusations were in fact made; (2) that the accusation or accusations were in fact false; (3) that the evidence is more probative than prejudicial. Berner, 104 Nev. at 697, 765 P.2d at 1145. If the defendant satisfies these three conditions, the trial court will authorize cross-examination of the complaining witness concerning the alleged false accusations.

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520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

In the instant case, Mr. Polk can establish, by preponderance of the evidence, each and every one of the conditions set forth in Miller. Police reports provided to the defense show that at least one of the alleged victims has reported several incidents of sexual misconduct with two other individuals.

On March 13, 1999, the alleged victim, Anna Lisa Polk gave a statement to Detective D. Dunn. During this statement Ms. Polk advised the Detective that two other individuals had sexually molested her. The following statement was made by Ms. Polk:

> "Q. Uh-uh? Has anybody else ever done this to you?
>
> A. Yeah. Uh, my . . . cousin Darrell. I mean, my brother's friend Darrell and Dorin. . . . .
>
> Q. Darrell and Dorin? So there was, there was two other guys that did this to you?
>
> A. Mm-hmm." (LVMPD, Voluntary Statement, March 13, 1999, pp. 8).

Ms. Polk went on to explain that this took place approximately five times. Detective, D. Dunn did not further investigate this matter nor was the matter ever brought up again. Therefore, based upon the State's own admission by way of not filing charges against Darrell and Dorin, clearly establishes that Detective D. Dunn did not give weight to Ms. Polk's accusations against Darrell and Dorin. It would be unfair to Mr. Polk to restrict evidence to which is neutral or favorable to the State. Without the evidence of the alleged victims' continuous course of conduct, Mr. Polk will be left with evidence suggesting that this was only an isolated incident with Mr. Polk and the alleged victims. However, the continuous course of conduct of the alleged victims shows their intent, lack of mistake, the fact that this was a common scheme and that they had knowledge of the crime at which they were accusing.

The evidence of other wrongs or acts is damaging evidence against the alleged victims, but the probative value outweighs any unfair prejudicial value. Mr. Polk urges this Court to recognize the necessity of this evidence to prove that alleged victims common

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

scheme or plan.

CONCLUSION

Based upon the foregoing, Mr. Polk would respectfully request that this Motion be granted and an evidentiary hearing be held as to address all of Mr. Polk's requests so as to afford Mr. Polk an opportunity to properly prepare for his defense and cross examination of witnesses. Additionally, Mr. Polk reserves the right to supplement the within motion upon which the development of new information arises.

DATED this 12 day of March, 2001.

Respectfully Submitted by,

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD POLK

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

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STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TRUMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

NOTICE OF WITNESSES and NOTICE OF EXPERT WITNESSES
[NRS 174.234 (1)(b)][NRS 174.234 (2)]

TO: RENARD TRUMAN POLK, Defendant; and

TO: CHRISTOPHER R. ORAM, ESQ., 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:

NAME	ADDRESS
ATKINS, M.	LVMPD #5409
CHATMAN, Jahala	1473 Aruba Ct. Pomona, CA 91768
CHATMAN, Jamila	1473 Aruba Ct. Pomona, CA 91768
CUSTODIAN OF RECORDS	LVMPD
DOCKENDORF, D.	LVMPD #5981
DUNN, D.	LVMPD #385

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FLORES, Renee'	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
JOHNSON, K.	LVMPD #2075
O'CONNOR, Marc	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
PARENT/GUARDIAN of Jahala Chatman	1473 Aruba Ct. Pomona, CA 91768
PARENT/GUARDIAN of Anna Polk	1473 Aruba Ct. Pomona, CA 91768
POLK, Anna	1473 Aruba Ct. Pomona, CA 91768
POLK, Gloria	1325 Nay Ct. Las Vegas, NV 89104
POLK, Susan	Address Unknown
SAVAGE, Jessica	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
SCHUTT, J.	LVMPD #6267
SUITER, Phyllis	SAINT 701 N. Pecos Rd. Las Vegas NV 89101

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

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

1. M. ATKINS - LVMPD #5409. He/She will testify regarding the crime scene analysis and the evidence collection.

2. RENEE' FLORES - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - He/she will testify regarding the medical examination of Anna Polk on March 13, 1999.

///

///

3. MARC O'CONNOR - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - He will testify regarding the medical examination of Anna Polk on March 13, 1999.

4. JESSICA SAVAGE - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - She will testify as a child life specialist.

5. PHYLLIS SUTTER - SAINT, 701 N. Pecos Rd., Las Vegas NV 89101. She will testify regarding the sexual assault examination.

The substance of each expert witness' testimony and a copy of all reports made by or at the direction of the expert witness has been provided in discovery.

A copy of each expert witness' curriculum vitae, if available, is attached hereto.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Notice of Witnesses and Notice of Expert Witnesses is hereby acknowledged this _____ Day of March, 2001.

CHRISTOPHER R. ORAM
ATTORNEY FOR DEFENDANT

BY _____ FOR C.O.
520 S. Fourth St., 2nd Floor
Las Vegas, Nevada 89101

VEGAS CRIMINALISTICS BURE
TATEMENT OF QUALIFICATIONS

Name: MICHAEL R. ATKIN P# 5409 Date: October 24, 1997

CURRENT CLASSIFICATION

	CLASSIFICATION	MINIMUM QUALIFICATIONS
X	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION
	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I
	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST
	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.

FORMAL EDUCATION

Institution	Major	Degree/ Date
UNIVERSITY OF NEVADA-LAS VEGAS	BIOLOGY / CHEMISTRY (MINOR)	BS 8/92

TESTIMONY

Yes	No	
	X	Eighth Judicial District, Clark County Nevada
	X	Justice Courts of Las Vegas Township

EMPLOYMENT HISTORY

Employer	Title	Date
LAS VEGAS METROPOLITAN POLICE DEPARTMENT	CRIME SCENE ANALYST	1/97present 4/95-11/96
ICF KAISER QUATS LABORATORY	ANALYTICAL INORGANIC CHEMIST	12/94-1/97

PROFESSIONAL AFFILIATIONS

Organization	Date(s)

PHYLLIS A. SUITER
Certified Pediatric Nurse Practitioner
Certified Family Nurse Practitioner

QUALIFICATIONS SUMMARY

Over 19 years experience as a Nurse Practitioner providing health care to children and adults in collaboration with physicians and other members of the health team.

EDUCATION

FAMILY NURSE PRACTITIONER, 1977
University of California, San Diego, CA
MASTERS OF ARTS in COUNSELING
National University, San Diego, CA
B.S.N. NURSING, 1973
San Diego State University, CA

SPECIALIZED TRAINING

FORENSIC MEDICAL EVALUATION of CHILD SEXUAL ABUSE, 1994
Children's Hospital, San Diego, CA
COLPOSCOPY TRAINING, 1991
National Procedures Institute, Dallas, TX
SAN DIEGO CONFERENCE ON RESPONDING TO CHILD MALTREATMENT
1995, 1996, 1997

PROFESSIONAL LICENSURE

- Family Nurse Practitioner Certification, ANA # 006286
- Pediatric Nurse Practitioner Certification, NCBPNP/N # 89148
- Advanced Practitioner of Nursing, Nevada # 227
- Registered Nurse, Nevada # RN22975
- Registered Nurse Practitioner, California # 231077

PROFESSIONAL EXPERIENCE

PEDIATRIC NURSE PRACTITIONER January 1994 - Present
Clark County Sexual Abuse Investigative Team
Las Vegas, Nevada

- Provide Forensic Medical Examinations on Children referred for alleged Sexual Abuse
- Have examined, reviewed more than 700 cases, slides of sexual child abuse
- Attended case review twice a month with multidisciplanary team
- Work collaboratively with Child Protective Services and Metro Police Department
- Attended numerous conferences, seminars and training on Child Maltreatment & Sex Abuse

PEDIATRIC NURSE PRACTITIONER May 1995 - Present
Pediatric Clinic, Michael O'Callahan Federal Hospital
Nellis AFB, Las Vegas, Nevada

- Provided Comprehensive Pediatric Care for Infants, Children and Adolescents
- Worked with Family Services identifying and referring high risk families for child abuse
- Participated in a team approach to health care for common Pediatric problems and illnesses

FAMILY NURSE PRACTITIONER February 1997 - Present
Family Practice Center, University of Nevada School of Medicine
Las Vegas, Nevada

- Provide Comprehensive health care for Infants, Children, Adolescents and Adults
- Provide prenatal care in a collaborative relationship with Staff Physicians and Residents
- Provide Well baby and child early detection screening exams for all ages of children
- Provide Women's health care to all ages of female patients for acute, chronic problems and preventative health issues
- Precept Nurse Practitioner Students

FAMILY NURSE PRACTITIONER April 1996- Present
UNLV Student Health Center
Las Vegas, Nevada

- Provide Comprehensive Holistic Health Care for Students of UNLV
- Participate in Health Promotion and wellness involving UNLV students and community
- Supervise Registered Nurses and Nursing Assistants
- Part of Collaborative team in managing and referring students for care outside the SHC
- Precept Nurse Practitioner Students

FAMILY NURSE PRACTITIONER August 1993- September 1996
Resort Medical Clinics, Imperial Palace, Polo Plaza
Las Vegas, Nevada

- Provided Comprehensive health care of Adults, Adolescents, Children and Infants
- Provided Women's Health Care, Birth Control Counseling, Pap Smears, follow-ups and referrals, Infection checks and annual physical and pelvic exams
- Taught classes on Menopause, STD's and Well Child Health and Safety

U.S. NAVY NURSE CORPS / O-5

FAMILY NURSE PRACTITIONER AND PEDIATRIC NURSE PRACTITIONER
1972-1992

- Provided comprehensive health care for military members and their families
- Lectured on subjects of Family violence, parenting, Child Health and Safety to community organizations, Family Practice residents, military families
- Served as Chairman of Family Advocacy for Barbers Point Naval Air Station, HI
- Supervised Outreach Program assisting high risk families stationed in Hawaii
- Served as Military Liaison, Governor's Sex Abuse Prevention Core Group, State of Hawaii

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AFFILIATIONS

Member of:
American Professional Society on the Abuse of Children
National Association of Pediatric Nurse Associates and Practitioners
Uniformed Nurse Practitioner Association
NNA Nurse Practitioner Special Interest Group
Nevada State Board of Nursing, Advanced Practice Advisory Committee
Association of Reproductive Health Professionals

PUBLICATIONS and PRESENTATIONS

Prenatal Care Manual for Family Practice Patients
Naval Hospital, Camp Pendelton, CA

Poster session, "Providing Patient Education in A Mobile Population" at 14th Annual Society of Teachers of Family Medicine Conference on PATIENT EDUCATION, Orlando, FL November 1992

Poster Session, " S.A.I.N.T. Program in Las Vegas, An APN's Role" at 10th Annual Education Conference for Uniformed Nurse Practitioner Association, Bethesda, MD November 1994

REFERENCES

AVAILABLE UPON REQUEST

The National Certification Board of Pediatric Nurse Practitioners & Nurses
800 3. Frederick Avenue, Suite 104, Gaithersburg, MD 20877-4102

certifies that

Phyllis A. Suiter
563-86-1799
Social Security Number

maintains Active Certification

Maintenance Status as a ☐ GPN ☒ PNP

Certificate No.: 89148
Annual Renewal Date: January 31, 1998

Mary Jo Schumann
Executive Director

Cardiopulmonary Resuscitation and Emergency Cardiac Care Provider

American Heart Association
Fighting Heart Disease and Stroke

Phyllis Suiter

has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for

HEALTHCARE PROVIDER COURSE

2-3-97
Issue Date

2-3-99
Recommended Renewal Date

A · R · H · P

Phyllis A. Suiter

N1293
6/30/98

UNPA
United Nurse Practitioner Association

1997-1998 Membership

Phyllis Suiter #156
FNP/PNP Type-1

Exp Date 6/30/98

NEVADA STATE BOARD OF NURSING

National Association of Pediatric Nurse Associates & Practitioners
1101 Kings Highway North, Suite 206
Cherry Hill, NJ 08034-1912

PRESIDENT

Phyllis A. Suiter, ESN, CPNP
6141 Darby Ave
Las Vegas, NV 89102

MEMBER # 136 STATUS Fellow

SUITER, PHYLLIS ANN

Is duly authorized to practice as a
REGISTERED NURSE
from 11/18/96 to 11/18/98
Authorization # RN22975

Executive Director

American Nurses Credentialing Center

The Board on Certification for
Primary Care in Adult and Family Health Nursing Practice
confers upon
Phyllis A. Suiter, R.N.
Certification as a Family Nurse Practitioner
Certified from April 1, 1994 to March 31, 1996
Certification Number 004266-22

NEVADA STATE BOARD OF NURSING

Phyllis Ann Suiter
6141 Darby Avenue
Las Vegas, Nevada 89102

Executive Director

CA Board of Registered Nursing
2535 CAPITOL OAKS DRIVE, SUITE 400
SACRAMENTO, CA 95833-2940
(916) 322-3350
LICENSE VERIFICATION 1-800-336-6328

REGISTERED NURSE
NURSE PRACTITIONER

License No. RN 331077 EXPIRATION 12/31/98

PHYLLIS ANN SUITER
6141 DARBY AVENUE
LAS VEGAS NV 89102

RECEIPT NO.

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CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorneys for Defendant
RENARD TURMAN POLK

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Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

RECEIPT OF COPY

RECEIPT OF A COPY of the attached **MOTION IN LIMINE RE: PRIOR BAD ACTS; PETROCELLI HEARING REQUESTED** is hereby acknowledged this 12 day of March, 2001.

STEWART BELL, DISTRICT ATTORNEY

By Karen Miller
DEPUTY DISTRICT ATTORNEY
200 S. Third Street, 7th Floor
Las Vegas, Nevada 89101

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

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CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA, Plaintiff, vs. RENARD TURMAN POLK Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

EX-PARTE ORDER GRANTING
EX PARTE MOTION FOR APPOINTMENT OF COUNSEL
AND FOR PAYMENT OF EXPENSES

Based on the Ex Parte Motion for Appointment of Counsel and for Payment of Expenses, a copy of which is attached hereto, the Court being fully advised in the premises, and good cause appearing therefore,

IT IS HEREBY ORDER, ADJUDGED AND DECREED that CHRISTOPHER R. ORAM, ESQ. be appointed as counsel to represent RENARD T. POLK in his District Court proceedings.

IT IS ORDERED ADJUDGED AND DECREED that CHRISTOPHER R. ORAM, ESQ. be paid by the County of Clark as set forth in NRS 7.125.

DATED and DONE: this 21st of March, 2001.

DISTRICT COURT JUDGE

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Counsel for Defendant,
RENARD T. POLK

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

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CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST, OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL

COMES NOW the Defendant, RENARD T. POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ., and moves this Court for an Order releasing the Defendant on his own recognizance, placing the Defendant on house arrest, or in the alternative, for setting of reasonable bail.

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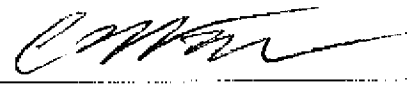
Attorney for Defendant

This Motion is based upon the pleadings and papers on file herein, the Points and Authorities attached hereto, the Affidavit of Counsel submitted herewith, as well as such oral argument as may be adduced at the time of hearing in this matter.

DATED this 11 day of April, 2001.

Respectfully submitted by:



CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorney for Defendant
RENARD T. POLK

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing **MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST, OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL** on for hearing before the above-entitled Court on the 18 day of April, 2001, at 8:00 o'clock a.m. of said day, or as soon thereafter as counsel can be heard in Department VI.

By 

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar #004349
520 South Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorney for Defendant
RENARD T. POLK

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

MEMORANDUM OF POINTS AND AUTHORITIES

I. THE DEFENDANT SHOULD BE RELEASED ON HIS OWN RECOGNIZANCE OR HOUSE ARREST

The Defendant should not be required to provide bail to assure his return to court, and should be released upon his own recognizance. Alternatively, the Court could fashion release so that the Defendant is supervised by the house arrest program, should this court grant his release on the pending charges. Upon the District Attorney's Office filing charges against Mr. Polk, Mr. Polk turned himself in to authorities. Additionally, upon information and belief, Mr. Polk's aunt, Stephanie Ransom, 2300 Walnut Road, Las Vegas, Nevada 89115, has expressed her willingness to provide whatever assistance is necessary should he be permitted to be placed on the house arrest program. Upon information and belief, Ms. Ransom has agreed to provide Mr. Polk with a place of residence should he be permitted to be placed on the house arrest program.

II. A SETTING OF A BAIL AT AN UNREACHABLE AMOUNT EFFECTIVELY CONSTITUTES AN IMPROPER DENIAL OF BAIL.

Bail amounts must be reasonable and not more than Defendant can be expected to provide. Nevada Supreme Court addressed this issue in the case of Ex Parte Malley, 50 Nev. 248, 256 P. 512 (1927), wherein the Court stated:

> In support of the contingents made by Petitioner, reliance is had upon ex parte Jangles and Varnes, 44 Nev. 370, 195 P. 808. There is little in that matter mentioned to aid us in the one before us. It is true that we said in that matter that it was the purpose of the constitutional provision mentioned therein to prevent the fixing of a bail bond in so great a sum as to preclude it being given, and that it was the idea of the framers of the constitution that punishment should follow conviction, and not both proceed and follow it, or be inflicted in spite of possible acquittal. (256 P. 512 at 514).

The purpose of bail is not to punish the Defendant for charges of which he is not being convicted. The purpose of bail is to ensure the Defendant returns to court. In Ex Parte Jangels

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

and Barnes, 44 Nev. 370, 195 p. 808 (1921), the Nevada Supreme Court stated:

> "The constitution provides (Article I, Section 6) that excessive bail should not be required. In reaching a conclusion as to what is reasonable bail, a Court should consider that the object of bail is simply to ensure the presence for the accused for trial; . . . (195 P. 808 at 808).

NRS at 178.498 addresses the factors to be considered when setting the amount of bail. The statute states that:

> If the Defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to: (1) the nature and circumstances of the offense charge; (2) the financial ability of the defendant to give bail; (3) the character of the defendant; and (4) the factors listed in NRS 178.4853.

It is not being alleged, neither is there any proof, that the Defendant is a danger to the community at large.

CONCLUSION

In light of all the relevant factors, the Defendant would request that this Court issue an order releasing him on his own recognizance, or releasing him under the supervision of the house arrest program so as to ensure his appearance at trial. Alternatively, the Defendant seeks a setting of a reasonable bail amount.

DATED this 11 day of April, 2001.

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorney for Defendant
RENARD T. POLK

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

AFFIDAVIT OF CHRISTOPHER ORAM, ESQ.

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

CHRISTOPHER ORAM, first being duly sworn deposes and states:

1. Your Affiant is an attorney duly licensed to practice law in the State of Nevada.

2. Your Affiant is an attorney of record for the Defendant RENARD T. POLK in the above-entitled matter;

3. The Defendant is currently incarcerated at the Clark County Detention Center being held on the within matter.

4. The Defendant recently contacted your affiant and expressed his desire to file the within motion. Furthermore, the Defendant expresses great desire to resolve this matter.

5. Further your Affiant sayeth naught.

CHRISTOPHER R. ORAM

SUBSCRIBED and SWORN to before me
this 11 day of April, 2001.

M. Felicia Furlan
NOTARY PUBLIC in and for said
County and State

OFFICIAL SEAL
M. FELICIA FURLAN
NOTARY PUBLIC – STATE OF NEVADA
CLARK COUNTY
97-4768-1 My Appt. Expires September 30, 2001

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

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ROC
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

RECEIPT OF COPY

RECEIPT OF A COPY of the **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST, OR IN THE ALTERNATIVE, FOR SETTING OF REASONABLE BAIL**, is hereby acknowledged this 13 day of April, 2001.

STEWART BELL, District Attorney

Janet Schmeltz

DEPUTY DISTRICT ATTORNEY
200 S. Third Street
Las Vegas, Nevada 89155

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

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OPPS
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TRUMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, FOR HOUSE ARREST, OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL

DATE OF HEARING: 04-18-01
TIME OF HEARING: 8:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through MARY KAY HOLTHUS, Deputy District Attorney, and files this Opposition to Defendant's Motion for Own Recognizance Release, For House Arrest, or in the Alternative for Setting of Reasonable Bail.

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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.

DATED this 17 day of April, 2001.

Respectfully submitted,

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

POINTS AND AUTHORITIES

STATEMENT OF FACTS PERTINENT TO THIS OPPOSITION

Defendant is charged by way of Amended Criminal Information with the crimes of Sexual Assault With a Minor Under Fourteen Years of Age (Felony - NRS 200.364, 200.366). The victims in the instant case are Anna Polk, age 12 years, and Jamila Chatman, age 14. The victims are Defendant's juvenile female siblings.

On August 14, 1999, Defendant telephoned the Las Vegas Metropolitan Police Department dispatch and stated that he wanted to turn himself in for molesting/sexually assaulting his two juvenile sisters. A records check revealed that an incident crime report had been filed against the Defendant, indicating that he had perpetrated forced anal intercourse on his two sisters, Anna and Jahala.

Detective T. Moniot from the L.V.M.P.D. General Assignment Detail obtained a voluntary statement from the Defendant, after he voluntarily waived his Miranda rights and indicated that he wanted to talk about the crimes. (A copy of Defendant's Statement and accompanying Officer's Report is attached hereto as Exhibit "1" for this Court's review).

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Defendant told Detective Moniot that the sexual assault/molestations of his Anna Polk, occurred at 1325 Nay Court, Clark County, Las Vegas, Nevada, sometime around February 1999. The Defendant indicated that Anna was six or seven years of age at the time of that incident, and that he sexually assaulted Anna, against her will even after she told him no and was crying, by forcing his penis into her rectum. Defendant stated, "I did her in the booty." Defendant further indicated that he had done this numerous time in the past, and that he had done this so many times that he could not count.

Additionally, Defendant stated that he had another sister named Jahala Chatman. Defendant indicated that he touched Jahala all over her body numerous times in Clark County, Las Vegas, Nevada, last year, unknown month, 1998. Defendant stated that he would grab and fondle Jahala's buttocks and rub his penis inside of her but cheeks while she was lying on her stomach. Defendant stated that he believed this to have occurred at the residence at 1325 Nay Court, Las Vegas, Nevada.

Defendant told Detective Moniot that he had a third sister named Jamila Chatman. At first, Defendant denied any sexual conduct with Jamila, but then changed his story and stated that he molested Jamila when they lived at a residence on Perry Street, four years prior. Defendant indicted that he was fourteen years of age at the time, and that Jamila was approximately 10 years of age at the time. Defendant stated that he used to fondle Jamila's buttocks numerous times and that this made his penis erect, but that he never penetrated her.

Defendant's statements to Detective Moniot were consistent with the voluntary statements given by his sisters on an earlier date to Detective Dunn, of the Las Vegas Metropolitan Police Department, Sexual Assault Detail.

LEGAL ARGUMENT

NRS 178.498 mandates the factors to be determined by the Court when setting bail. Those factors are:

1. The nature and circumstances of the crime charged;
2. The financial ability of the Defendant to give bail;
3. The character of the Defendant; and

4. The factors listed in N.R.S. 178.4853.

NRS 178.4853 provides as follows:

> In deciding whether there is good cause to release a person without bail, the court as a minimum shall consider the following factors concerning the person:
>
> 1. The length of his residence in the community;
>
> 2. The status and history of his employment;
>
> 3. His relationship with his spouse and children, parents or other members of his family and with his close friends;
>
> 4. His reputation, character and mental conditions;
>
> 5. His prior criminal record, including, without limitation, any record of his appearing or failing to appear after release on bail or without bail;
>
> 6. The identity of responsible members of the community who would vouch for the reliability of the person;
>
> 7. The nature of the offense with which he is charged, the apparent probability of conviction and the likely sentence, insofar as these facts relate to the risk of his not appearing;
>
> 8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;
>
> 9. The likelihood of more criminal activity by him after he is released; and
>
> 10. Any other factors concerning his ties to the community or bearing on the risk that he may willfully fail to appear.

NRS 178.499 provides:

> 1. At any time after a district or justice's court has ordered bail to be set at a specific amount, and before acquittal or conviction, the court may upon its own motion or upon motion of the district attorney and after notice to the defendant's attorney or record or, if none, to the defendant, increase the amount of bail for good cause shown.
>
> 2. If the defendant has been released on bail before the time when the motion to increase bail is granted, the defendant shall either return to custody or give the additional amount of bail.

In addition, NRS 178.487 provides in pertinent part:

> Every release on bail with or without security is conditioned upon the defendant's good behavior while so released....

In the Nevada Supreme Court case of Ex Parte Malley, 50 Nev. 248, 256 P.2d 512 (1927), the Nevada Supreme Court held that a bail of $100,000.00 was not excessive when the defendant was charged with embezzling $516,000.00 and faced a possible sentence of up to one hundred (100) years in prison, and a fine of up to $20,000.00.

In Hogdon v. United States, 365 F.2d 679 (1966), the United States Court of Appeals, Eighth Circuit, addressed the issue of excessive bail in a case involving two counts. The counts involved the charge that the defendant threatened and attempted to force or intimidate a United States Commissioner, and the defendant was also charged with forcibly assaulting a United States Deputy Marshal, while engaged in the performance of his duties. The defendant's bail was set in the sum of $50,000.00. The defendant contended that he was unable to adequately prepare his defense because his bail was excessive and because he was not provided with certain materials. On appeal, the appellate court noted that the offenses for which the defendant was charged involved the violent use of firearms. The court further noted that the bail was not excessive considering the "nature and circumstances of the offense charged" and "the character of the defendant." The court further stated: "[t]hus, bail is not excessive merely because the defendant is unable to pay it." 365 F.2d at 687.

In White v. United States, 330 F.2d 811 (8th Cir.), cert. denied, 379 U.S. 855, 85 S. Ct. 105, 13 L.3d.2d 58 (1964), the Eighth Circuit Court of Appeals also addressed the issue of excessive bail. In that case the Court states:

> The purpose of bail cannot in all instances be served by only accommodating the defendant's pocketbook and his desire to be free pending possible conviction.

330 F.2d at 814.

The State will now examine factors listed in NRS 178.498 and 179.4853 as they apply to the present case.

Nature and Circumstances of the Offense: As a result of the facts enumerated above, the Defendant has been charged with numerous felony counts of Sexual Assault with a Minor Under Fourteen Years of Age, against his two young sisters Anna and Jahala. The incidents of sexual abuse involving Anna began when she was approximately 6 years of age

and continued until she was ten years of age, and the incident involving Jahala occurred in January 1999, when Jahala was twelve years of age. Obviously, the nature of these offenses are repulsive when considering that the Defendant is the older brother of these two child victims and has admittedly forced anal intercourse on them for numerous years. In fact, the defendant has admitted that he began forcing his penis into his little sister Anna's anal opening when Anna was just six years old. Defendant further admits that he forced Anna to have anal intercourse with him on so many occasions, that he could not even count them.

Essentially, in using his position as an older and stronger sibling of these children, the Defendant forced them to submit to him sexually and repeatedly molest them expressly for his own gratification. Clearly, the nature and circumstances of the crimes committed by the Defendant are insufferable and extremely serious in nature.

The Financial Ability of the Defendant to Give Bail/Flight Risk: Apparently, Defendant is indigent but has an Aunt who is willing to assist him in arranging bail in this matter. However, it is the State's position that even if the Defendant could arrange a bail in this case, he is an extreme flight risk. In fact, should this Defendant be convicted of even one of sexual assault a minor under fourteen years of age in this case, he faces mandatory prison time. The mere fact that the Defendant is charged with 3 separate counts of sexual assault of a minor under fourteen years of age, spanning over a period of years, involving his little sisters, and that he has confessed to the crimes charged, nearly ensures the probability of the Defendant being convicted on all counts in this matter.

In turn, multiple convictions would result in this Defendant's incarceration in a Nevada State prison for a minimum of sixty (60) years. Moreover, based upon nature and circumstances in which these crimes were perpetrated, as described by the Defendant, the State fully intends on asking this Court to impose the maximum sentence, upon Defendant's conviction of the same.

The Character of the Defendant: This Defendant's character is adequately portrayed as repugnant and sexually deviant. In this case, the Defendant spent night and day with the child victims. Defendant's relationship was supposed to be that of a protector, in

fact a big brother to these children. Instead, Defendant's sole motivation for interacting with his siblings was to achieve complete physical control over the victims, in order to sexually molest them by placing his penis into their anal openings while they struggled and cried and told him no.

The Defendant's Prior Criminal History: This Defendant has numerous prior juvenile convictions, including robbery and battery. As this Court is well aware, battery is a crime which involves physical violence and as such, the State can rightfully assert that this Defendant is a man of not only perverse morals, but of violent character as well.

CONCLUSION

Based upon the above, the State respectfully requests Defendant's motion be denied in its entirety.

DATED this 17 day of April, 2001.

Respectfully submitted,

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Opposition to Defendant's Motion for OR Release, For House Arrest, or in the Alternative, for Setting of Reasonable Bail, was made this 17 day of April, 2001, by facsimile transmission to:

CHRISTOPHER R. ORAM, ESQ.
385-1752

By _____
Employee of the District Attorney's Office

99051 01 845

ENTERED RD

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 1

EVENT #: 990313-0217

SPECIFIC CRIME: SEXUAL ASSAULT VICTIM UNDER 16 YEARS/LEWDNESS WITH A MINOR

DATE OCCURRED:

TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: RENARD TRUMAN POLK

DOB: 10-14-80

SOCIAL SECURITY #:

RACE:

SEX:

HEIGHT:

WEIGHT:

HAIR:

EYES:

WORK SCHEDULE:

DAYS OFF:

HOME ADDRESS: (transient)

HOME PHONE:

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 T. Moniot, P#4664, LVMPD General Assignment Detail, on 08-14-99 at 0445 hours. The persons present during this interview are Renard Truman Polk and Detective Moniot.

Q. Ah, just for the record, Truman, or I'm sorry, Renard, you do me a favor and, ah, say your name and spell it, as well as your birthday and social security number.

A. Renard Truman Polk, P-O-L-K, 10-14-80.

Q. _____ your social security number.

A. 587-37-492

EXHIBIT "1"

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

Q. Okay. Do me a favor and try to speak up. Ahm, why don't you, ah, tell me tonight, ah, basically what happened and, ah, ah, why you called police.

A. _____ I feel guilty about molesting my little sister.

Q. _____ You went over to– did you– whose house did you go over to tonight?

A. _____

Q. Okay. And what's your aunt's name?

A. _____

Q. Speak up for me, okay. So you went over to your aunt's house and you decided to call police to turn yourself in.

A. Yeah.

Q. Okay. Ah, and why did you– why did you wanna turn yourself in?

A. Feel guilty.

Q. For what?

A. For what I did.

Q. What did you do?

A. Rape my little sister.

Q. You raped her?

A. Yeah.

Q. What, ah, what happened, ah, during that? When about was this?

A. _____

I hereby certify ... department

MAR 13 '01

Date

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. When, do you remember when it was this occurred roughly? Was it this year or?

A. It, it happened _____

Q. It had been going on, okay. When, when do you– when do you think it first started about?

A. _____

Q. I mean roughly like how many years ago? It's okay, just, alright. _____

A. _____ years ago.

Q. Renard, just be as honest as possible. You know what I'm saying? Be as honest as possible. Honesty's the best policy, you know that.

A. Yeah.

Q. Okay. So just, just be honest and, and this whole thing will work out, okay. What–which–what sister are you talking about?

A. Anna.

Q. Anna. Anna Polk.

A. Mhmm.

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Date

Q. So you were, you first started molesting her back in Mississippi?

A. _____ she came out to Vegas.

Q. _____ a minute ago you just said it was in Mississippi. Here's _____ Renard, it's not a big deal but you need to be a hundred percent honest.

A. I'm trying to be. I'm trying to remember.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

Q. Okay. Do you think it first started back in Mississippi or... It's okay if it did.

A. _____

Q. Maybe, maybe just once or twice back in Mississippi or?

A. _____

Q. Not at all in Mississippi?

A. _____ Mississippi _____

Q. _____

A. _____

Q. Uh-huh.

A. _____

Q. Speak up a little bit. So you were messin' with your cousins back there. How old were they? Do you remember?

A. They was about the same age as me.

Q. _____ Are they boys or girls _____

A. _____

Q. I'm sorry.

A. _____

Q. You think you got molested by a guy. When was that?

A. _____

Q. What do you remember about it?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. Where did you live in Mississippi? _____ or where you live?

A. _____ Mississippi.

Q. Where is it?

A. _____ Mississippi.

Q. How do you spell that?

A. N-A-T-C-H-E.

Q. N-A-T-C-H-E-Z?

A. _____

Q. Okay. So then when did you guys move to Las Vegas?

A. Came to Las Vegas _____ think it was _____ ten years old.

Q. Oh, so you've lived here quiet a while then.

A. Uh-huh.

Q. Okay. So there came a point where you started molesting your sister, Anna. Okay. Do you– when–when do you think this started, like how long ago? Do you know when was it that you first started? _____ start out as some touching or some rubbing or kissing or something or, or how'd it start out?

A. _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

Q. You don't remember. Just, just started just having? What, ah, what, what exactly _____ going on? Do you remember at all or... what body part ____ _____ or, or what you did or what _____ Okay. I'm not gonna get mad at you or anything. Trying to help you out here.

A. _____

Q. You did her in the booty. With what, with your– with what? What body part _____

A. Penis.

Q. Okay. So you had anal intercourse with her. Do you know if you penetrated her at all or _____ inside of her, uh, her buttocks area? Could you tell or...

A. _____

Q. You did? How many times do you think you did that?

A. _____

Q. You were high and drunk. _____ drink quite a bit or? Where– do you remember where you were at when this happened or?

A. _____

Q. On Nay Court. _____ address over there?

A. Thirteen _____ Nay Court.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: **RENARD TRUMAN POLK**

Q. So you guys were all living there _____ How old were you when this happened? ___ how long ago was this? Do you remember like the last time that you can remember?

A. It was like _____

Q. February of this year or?

A. _____

Q. How many times do you think _____ you did her in the booty? Do you know how many times you think totally did that?

A. I don't even know.

Q. _____ guesstimate. Was it more than one or?

A. It was more than one.

Q. More than five or more than ten times or?

A. It was like _____

Q. Where, where all was this at? Was this at your house on Nay Court?

A. Yes.

Q. Every time it was over there?

A. _____

Q. And how old were you _____ you were 18?

A. _____

Q. You were 18 at the time. How old, how old was she?

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217

STATEMENT OF: **RENARD TRUMAN POLK**

A. She's like six, seven.

Q. Now how, how exactly ____ did it, did it go down? What exactly-- were you watching 'em or baby-sitting or just tell, tell me about it, some little bit about it.

A. I was _____

Q. In the bathroom?

A. _____

Q. Okay. And did you-- how-- what about her clothes, her clothing? What did you do to her clothing? Was she dressed _____ or...

A. _____

Q. Was she gettin' out of the shower? How, how did it-- how did it happen?

A. _____

Q. ___ have to speak up, okay.

A. _____ walking around the house and I just _____

Q. ____ And then what?

A. _____

Q. Did she have clothes on? Do you remember?

A. _____

Q. So how would you have her, how ___--how would she-- what kind of position was she in when you were doing this?

A. On her stomach.

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Q. She was on her stomach.

A. _____

Q. When you put your penis inside her butt.

A. Yeah.

Q. Did you ever ejaculate inside of her or anything like that? Do you remember? Did you ever reach climax? Do you know what I mean about that? Did you--did you come inside of her?

A. _____

Q. You did?

A. _____

Q. Were you wearing a condom or anything like that or?

A. _____

Q. Okay. You can't recall roughly how many times you think this may have happened or... it'll be a lot easier for us, you know, to clarify _____ just bring the whole thing out _____ about how many times. Do you think it was more than 12 or 13 or was it just so many that you can't remember or?

A. _____

Q. You can't remember.

A. _____

Q. You were dru– so you'd been drinking at the time.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. Yeah. _____

Q. Was anybody else with you when you were doing any of this stuff or who was with you?

A. _____

Q. _____ by yourself?

A. _____

Q. No. When you– when _____ Anna's booty, was anybody else with you or around that saw it or _____ Anna's booty too? _____ in the booty that you know?

A. _____

Q. Are you sure?

A. _____

Q. You need to be honest with me about this, you know, really important, you know. _____ did you– were there any other times that you can think of? Did you always just do it with your, your penis in her butt?

A. _____

Q. Did you ever do anything else? No? ____ did you ever do her in the front or anything like that? Put your penis in her vagina or your fingers or anything like that? What did she say when, when you would–when you did this? What did–

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what did– what did you tell her? What did you say to her? I mean you must've talked. She was your sister, right?

A. _____

Q. What did she– do you remember what she said or anything else?

A. _____

Q. You just _____ you're like in the bathroom, right?

A. _____

Q: And _____ I mean how did you get her to go along with it or... What did you say to her?

A. Said nothing to her.

Q. Well you musta said something to her. I mean she just didn't read your mind and just lay there.

A. Just did it.

Q. You did it. ____ did you hold her on the ground or did she move around or squirm a little bit or cry or... Remember?

A. Yeah. She cried.

Q. She cried. Did she say or _____ did she say no, don't do that or?

A. _____

Q. She did? What did she say? Speak up.

A. _____

Q. What did she say?

A. She said no.

Q. She said no. Every time or?

A. _____

Q. Now after, after she said no, what, what did you say to her?

A. _____

Q. _____ Okay. Now there were ___ other times that you did the same thing to her. Ah, did you ever say anything to her or threaten her or say anything to scare her so she wouldn't tell anybody or?

A. No.

Q. No. Were you afraid that she would tell anybody or nervous or?

A. _____

Q. You were? Did you enjoy doing that to her?

A. Uh, that's why I _____

Q. That's why you turned yourself in. You wanna get some help?

A. Yeah.

Q. _____ Now let me ask you this. It's okay. Just take a deep breath and relax. Ah, you know part of the healing process is gettin' things off your chest, you know. Sometimes it may feel like it's a, a big leap off a mountain to say, to tell a stranger something like this. You know I'm-- basically you and me have never met before.

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I'm a stranger and it feels a little awkward sittin' here telling me these things but I'm gonna tell you later on, you're gonna feel heck of a lot better that you're on your way to trying to help yourself. You know what I mean?

A. Mhmm.

Q. Okay. But you need to be hundred percent honest with me because only telling part of the truth isn't gonna cut it. You need to be a hundred percent honest and you know then, then you're gonna be on the track _____ gettin' better.

A. _____ _____

Q. Used to do what?

A. _____

Q. Where was this at?

A. _____

Q. How about, ah, how about your other sisters? How many sisters do you have?

A. I have ____ sisters and two brothers.

Q. Three sisters and two brothers.

A. Uh-huh.

Q. What about, ah, your one sister... You know what? What– why don't you give me all of your– You have one sister named Anna, right?

A. Yeah.

Q. What's your other sister's name?

A. Jahala.

Q. _____ what's her last name?

A. _____

Q. _____ the same last name?

A. _____

Q. Okay. How about your other sister?

A. Jamila.

Q. Huh?

A. Jamila.

Q. Can you spell it?

A. J-A-M-I-L-A.

Q. Okay. Your two brothers.

A. Ah, _____ Polk.

Q. Huh?

A. _____ Polk.

Q. Spell it.

A. G–

Q. You have to speak up–

A. (Clears throat)

Q. _____ try to speak a little louder _____, okay.

A. J-A-V-A-N.

Q. Javan Polk.

A. _____

Q. And another bro–brother?

A. Yeah.

Q. What's his name?

A. Richard Chatman.

Q. Richard Chatman. How old is, uh, Jahala?

A. _____

Q. How about Jamila?

A. _____

Q. Javan, how old's Javan?

A. _____

Q. And how about Richard?

A. _____

Q. Now, now I want you to try to remember about Jahala, right? I may not be saying it right but how do you say it again?

A. Jahala.

Q. Jahala. Did you ever have any relations with Jahala?

A. No.

Q. Never? You never, ah, did her in the booty or maybe even just, you just touched her or...

A. Touched her _____

Q. You didn't, you just touched her. Where, where did you touch her at?

A. _____

Q. I know you can remember because obviously you just said you did it, so obviously you can remember.

A. _____

Q. Like _____ was it here in Las Vegas?

A. Yeah.

Q. Remember roughly was that this year or?

A. _____

Q. Nineteen ninety-eight? What, ah, what, what exactly, how did that go down? _____ were you just messin' around or just kinda playing around or?

A. Yeah.

Q. Where, where did you touch her at?

A. _____

Q. Do you remember any specific body parts or?

A. Yeah. _____

Q. How about her vagina? _____

A. _____

Q. You didn't? How come you didn't? How come you did with Anna but you didn't with Jahala?

A. _____

Q. Are you sure? Remember what we talked about being honest, right?

A. _____

Q. What would you say that if I said that Jahala said that you did do her in the booty? You, you think is that a lie or is that, is that the truth? _____

A. She can't be telling the truth.

Q. Okay. So is it possible that you did-- Did you do her in the booty?

A. I think so.

Q. Why would she be saying that you did her in the booty then?

A. _____

Q. Huh?

A. _____

Q. You didn't?

A. I almost did.

Q. You almost did. You almost did but you didn't.

A. ____

Q. Well how, how did you almost do it?

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. So you just-- so you didn't-- you didn't come inside _____

A. I didn't penetrate her.

Q. You didn't penetrate her. What _____ did you just like stick it in the, in, in by her cheeks or something, rub it on her cheeks with your penis?

A. _____

Q. Sure it didn't penetrate? Okay, what we're trying to do here is just get this all out in the open, you know. I'm not-- and I'm not gonna be mad at you but you need to tell me the truth, okay. So you rubbed your penis. Did you put it like between the butt cheeks?

A. _____

Q. But it didn't go inside the butt. But, ah, did you, did you ejaculate at all _____ maybe on her back or something like that or? How, how was she laying? Do you remember?

A. She was on her stomach too.

Q. Did you take her clothes off of her or?

A. __

Q. Do you remember where--where this occurred at?

A. _____

Q. On the house on, ah, Nay Court?

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Date

A. _____

Q. How many times you think that did that? How many times you think you did that?

A. _____

Q. Just one time? Are you being a hundred percent truthful with me?

A. _____

Q. 'Cause remember what we said about being truthful. How do you think you would do on a lie detector test if you were to take a lie detector test right now and we were to ask you similar question? How many times you did it and you were to say once. That tell me you were lying or would that tell me you're being truthful?

A. _____

Q. A lie detector test is _____ hook up and we ask you questions and it tells us if you're lying or _____ you're telling the truth.

A. _____

Q. ____ I say how would you do? Would you be teli– would it say that you're telling me the truth or would it say that you're not telling me the truth on some stuff?

A. Telling truth.

Q. Okay. What I wanna know is how many times that you had– that you did this with Jahala.

A. Once.

Q. Just the one time. You stuck your penis in her butt.

A. _____

Q. But you didn't penetrate.

A. _____

Q. How do you know you didn't penetrate?

A. _____

Q. You just rubbed it on the outside of the butt cheeks between, ah, in between the butt cheeks? What did she– what did she say or do?

A. _____

Q. Need you speak up, okay.

A. (Clears throat)

Q. Try the best you can, alright? So you can't remember what she said. Did she cry or say no _____

A. She said no.

Q. She said no. And what'd you– what did you say?

A. _____

Q. Are you sure? Now this is– this is like your time to, to be honest with me and truthful. You're not gonna help yourself. You're only gonna hurt yourself by, by lying at this point. You understand that, right?

A. Yeah.

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. Wasn't in you?

A. _____

Q. Now how about your brother, Javan?

A. _____ mess with him.

Q. You didn't mess with him.

A. No.

Q. Are you sure?

A. No.

Q. We're gonna talk to him, you know. We're gonna talk to Jamila too. Are they gonna tell us that you touched 'em _____ like that? Did you ever touch Javan?

A. No.

Q. You never touched Javan at all.

A. Never.

Q. Maybe even just playing around or just kiddin', maybe just doing play stuff.

A. Never.

Q. Or maybe, you know, playing doctor or something like that?

A. No.

Q. Nothing like that ever?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____

Q. How come? How come you never messed with Javan?

A. _____

Q. Why wasn't it in you?

?: (Somebody clearing their throat)

A. Just wasn't.

Q. How about Richard?

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A. _____

Q. Huh? You never touched him, not even just playing around or, or kiddin' or just even experiment.

A. _____

Q. How come you didn't touch him?

A. _____

Q. You just mess with the _____ girls or...

A. _____

Q. Sure you don't wanna think about Jamila? Are you sure you didn't ever– Did you kiss her or mess around, maybe just playing around, maybe just touch her or, or you know maybe she just _____ be friendly _____ anything like that? Nothing at all? You sure?

A. _____ Perry Street _____

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

Q. On Perry Street?

A. Yeah.

Q. _____ speak up a little, okay. So this is with Jamila.

A. Yeah.

Q. How long ago did you– this is on Perry Street?

A. _____ I didn't penetrate _____

Q. Ah, when did you live on Perry Street?

A. This was a long time _____

Q. How old was she then?

A. _____

Q. ___ she's about 14 now, so she's roughly ten and you're 18 now, so you were 14 then.

A. _____

Q. But, but, uh, you didn't penetrate her, right?

A. ____

Q. You just were just messin' around. Were– do you remember what you did or was there some touching or some petting or something like that _____

A. _____

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

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STATEMENT OF: RENARD TRUMAN POLK

Q. _____ Can you remember? Did you ____-- you must be able to remember something 'cause you said that you can't, that you didn't penetrate her, so you must have some _____

A. _____

Q. _____ what, with your penis? _____ how-- what were you doing?

A. _____

Q. You were just touching her, fondling her like did-- were you like playing with her, with her butt hole or?

A. _____ cheeks ____

Q. With her-- with her butt cheeks? You didn't maybe just take your penis and rub-- rub up and down on her once or so or just, just experiment _____ you would just, ah, you would just _____ on her butt cheek? Why were you doing that? What did it make you feel like? Did it-- did it excite you a little bit? It did? Did, did you-- did your penis get erect _____ touched her butt cheeks?

A. ____

Q. You did? What did you do with your penis? You didn't do any-- you didn't just maybe just touch it on the outside of her cheeks or, or put it between her butt cheeks and not penetrate her? You didn't? You sure?

A. _____

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Q. So basically you're saying that you played with her butt cheeks and your penis got hard but you didn't do anything with it.

A. _____

Q. You just, you just let it go? Sure about that? That's. that's what lie detector test is gonna tell us. Is that what you're telling me?

A. _____

Q. Well, I'm asking you. If you take a lie detector test, if it's gonna tell me that you're telling the truth or is it gonna tell me that, you know, that maybe something else _____, maybe you stuck your penis in her butt cheeks.

A. _____

Q. Or did you, ah, masturbate while _____ butt cheeks or something like that?

A. _____

Q. No? You just basically touched her, fondled her butt cheeks and your penis got hard. That was it. Is there anything else you wanna add about this? Can you think of anybody else that you may have touched or fondled or anything else or anybody else that you may have, ah, _____

A. _____ real little.

Q. Huh?

A. _____

Q. _____

A. _____

Q. Do you remember any other kids in the neighborhood _____ that you may have fondled or maybe, maybe you were just experimented around a little bit? I know you didn't mean to hurt anybody, you know, you know you're not a violent person, right? But we need you to be a hundred percent honest _____ tell me everything about everybody. That's the only way–

(END OF SIDE A)

(BEGINNING OF SIDE B)

Q. It's the only way that you're gonna feel good about yourself to be a hundred percent honest with me, you know. _____ do you feel better now that you kinda got some of the stuff off your chest and...

A. Mhmm.

Q. I mean it's what you wanted to do. I mean you wanted to tell your side of the story, right? Did you want– you wanna get some help _____

A. _____

Q. You wanna get some help, right? And I'm assuming that's why you called us, right?

A. _____

Q. You called us. But I need you to be a hundred percent honest with me _____ anything and everybody 'cause if you wanna get the help that you need, you need to be a hundred percent honest and you can't have things poppin' up later on, you

know, people saying yeah, you know, Renard did this, Renard did that. __ I need to hear it from you now so that I, I don't think that you were trying to run a game on me or you know trying to lie to me. It's very important that you--that you be a hundred percent truthful and honest 'cause you know there's not gonna be any second chances in this. You know what I mean? We're here now and we're doing this interview and if there's anybody else, uh, that you wanna tell me about, now is the time 'cause there's not gonna be a second time. You know what I mean?

A. Yeah.

Q. You know _____ I just talked about being honest with you, right? You know what I'm saying, right?

A. _____

Q. Well, who else can you think of that maybe that you fondled or played with or maybe _____ and, and, and knowing that you didn't mean to hurt anybody but knowing that, you know, _____ you had a couple problems yourself and you ____ some things-- you did some things you wish you didn't do, right?

A. _____

Q. So keeping that in mind, is there anybody else that you can think of maybe you, uh, _____ a little bit or maybe you just do a little touching or playing or petting or, or maybe just rubbing your panis, I mean outside of 'em or even in the

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butt cheeks or something? Anything like that? _____ just the, just those people in your family?

A. ____

Q. That's it? Is there anything else that you wanna say for the record or anything?

A. Feel stupid.

Q. You feel stupid. Why?

A While I was doing those things, I was like _____ drugs.

Q. What kinda drugs were you _____

A. _____ weed, _____

Q. Were you using _____?

A. Yeah.

Q. When was the last time you used?

A. _____

Q. _____

A. _____

Q. When's the last time you used _____

A. Months ago.

Q. _____ doing any other stuff, any robberies or anything? Any stickups or anything like that?

A. No.

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Q. Sure?

A. _____

Q. Where do you go to church?

A. _____

Q. _____ you musta been doing some stuff to get by, right? Where were you gettin' money to get food and everything?

A. _____

Q. So we're not doing some other stuff that we're gonna find out about later?

A. _____

Q. Huh?

A. Acid.

Q. You did some acid.

A. Yeah.

Q. When was that?

A. That was like four months ago.

Q. But I mean as far as, ah, doing any robberies or anything like that or any shootings or anything like that. _____ robberies or anything like that?

A. _____ church.

Q. Huh?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

EVENT #: 990313-0217
STATEMENT OF: RENARD TRUMAN POLK

A. _____ church.

Q. Okay. That's the end of interview at Clark County Juvenile Hall with Detective T. Moniot, M-O-N-I-O-T, and Renard--

A. Polk.

Q. Polk.

A. _____ lie detector test?

Q. Huh?

A. _____ lie detector test?

Q. Well, we could talk about that later. It's not a big deal. Uh, once again, conclusion of the interview. Clark County Juvenile Hall, 08-14-99, at 0520 hours.

I HAVE READ THIS STATEMENT CONSISTING OF 31 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT CLARK COUNTY JUVENILE HALL ON THE 14TH DAY OF AUGUST, 1999 AT 0520 HOURS.

WITNESS: #4664

WITNESS: _____

RENARD TRUMAN POLK

TM/lm
992471

MAR 13 '01

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

RIGHTS OF PERSONS ARRESTED

99061 [illegible]

You have the right to remain silent. If you give up that right to remain silent anything you say can and will be used against you in a court of law. You have the right to speak to an attorney before answering any questions, and to have an attorney present with you while you answer any questions. If you cannot afford an attorney, an attorney will be appointed for you by the court at no cost to you, and you need not answer any questions until that attorney has been appointed for you. If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues. If you decide to stop answering questions once you have begun, all questioning will stop. Mar 13 '01

Date and Time 8-14-97/0435	Signed Renard Polk
Officer DET. T. MONIOT #4664	File # 990313-0217

LVMPD 98 (REV. 4-94)

99065 01.904

DISTR. 1R
INDEX
STATS

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

OFFICER'S REPORT

EVENT #: 990313-0217

SEXUAL ASSAULT VICTIM UNDER 16 YEARS OF AGE
LEWDNESS WITH A MINOR (MULTIPLE COUNTS)

SUBJECT

DIVISION REPORTING: ISD

DIVISION OF OCCURRENCE: PD

DATE AND TIME OCCURRED: Multiple/03-12-99 1600

LOCATION OF OCCURRENCE: 1325 Nay Court
Las Vegas, NV 89104

DICTATING OFFICER: DETECTIVE T. MONIOT, P#4664
GENERAL ASSIGNMENT/GRAVEYARD

VICTIM #1: POLK, ANNA LISA
DOB/11-10-88
SS 530-37-5602
BF 5' 89# BRO BRO
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377
SCHOOL:
WALTER V. LONG ELEMENTARY
(FOURTH GRADE)

VICTIM #2: CHATMAN, JAHALA MATISHA
BF, DOB/08-26-86
SS 530-17-2223
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377

VICTIM #3: CHATMAN, JAMILA
BF, DOB/06-20-85
RESIDENCE ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104
RES. 452-0377

MAR 13 '01

SUSPECT: POLK, RENARD

Date and Time of Report: 06-14-99 Officer: DETECTIVE T. MONIOT P#: 4664

Approved: Officer: P#:

LVMPD 48 (REV. 1-01) - AUTOMATED

SIGNATURE: #4664

DOB/10-14-80
SS 587-38-4092
BM 5'10" 160# BLK BRO
RESIDENCE ADDRESS:
TRANSIENT
PRIOR ADDRESS:
1325 NAY COURT
LAS VEGAS, NV 89104

I. SYNOPSIS

The following is an account of the follow-up investigation which was conducted with Renard Polk after he called LVMPD dispatch to turn himself in for perpetrating past sexual assault crimes on his sisters.

II. PERSONS AT SCENE

A. PATROL (NEAC)

1. Officer D. Newton, P#5278
2. Officer T. Beck, P#5472

B. INVESTIGATORS

1. Detective T. Moniot, P#4664
(General Assignment)

III. DETAILS

On 08-14-99, at approximately 0303 hours, the suspect, Renard Polk, telephoned LVMPD dispatch and stated that he was at his aunt's residence at 6380 Pine Hill Avenue, Las Vegas, Nevada and that he wanted to turn himself in because he believed he had a warrant for committing a sexual assault against his sister. Renard stated that he would be standing by at that location for contact by officers.

Officer Newton and Beck, operating as marked Patrol Unit 1G1, responded to 6380 Pine Hill Avenue and contacted Renard Polk. Polk stated that he was ashamed of what he had done and that he wanted to turn himself in because he felt that he had a warrant for sexually assaulting his sister, Anna Polk.

Officers Newton and Beck conducted a records and wants check on Polk and discovered that he did not have any outstanding warrants for sexual

assault, however, he did have a probation violation warrant out of the juvenile court system which was subsequently confirmed as still outstanding. It should be noted that at this time of the contact, Renard Polk was 18 years of age but still had the outstanding juvenile court warrant, therefore he was taken to the Clark County Juvenile Hall and booked accordingly for his probation violation warrant.

IV. NOTIFICATION OF GENERAL ASSIGNMENT DETAIL

On 08-14-99, at approximately 0330 hours, this detective was notified by Officer D. Newton, P#5278, for the need of investigative assistance reference a suspect who was turning himself in for molesting/sexually assaulting his juvenile sister. Officer Newton provided this detective with the suspect name, victim name and approximate date of the assault.

I advised Officers Newton and Beck to transport the suspect to the Clark County Juvenile Hall and book him for his outstanding probation violation warrant and that I would be in contact with them reference the suspect interview after I could learn more about the alleged sexual assault.

This detective responded to the bureau to conduct an LRMS records check on the suspect, Renard Polk, to see if an incident crime report had been filed against him for sexual assault. The LRMS records check revealed that an incident crime report had been filed against Renard Polk under Event No. 990313-0217 for sexually assaulting his sisters. The details of the incident crime report indicated that the suspect, Renard Polk, had perpetrated a sexual assault on his two sisters, Anna Polk and Jahala Chatman, whereby he forced anal intercourse with them. The primary assigned detective was D. Dunn (LVMPD Sexual Abuse Detail) with a case status indicating submitted.

After conducting the records check, I responded to the Clark County Juvenile Hall to conduct an interview with the suspect, Renard Polk.

V. INVESTIGATION

I arrived at the Clark County Juvenile Hall at approximately 0435 hours after the suspect, Renard Polk, was booked in and asked him if he wanted to speak with me. Polk stated that he did.

I spoke with Polk in an interview room and provided him with an LVMPD "Rights of Persons Arrested" card, LVMPD 99, indicating his Miranda rights. Polk read the Miranda card, told me that he could read and that he did

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understand his rights and that he did still want to talk to me. Polk signed the Miranda card in acknowledgment of his rights. To confirm that Polk could read and write, he told me that he attended high school up until the tenth grade and that he did know how to read. I provided Polk with my LVMPD issue criminal offense handbook dated April 1997 and asked him to read me an excerpt off of Page 1. Polk read the entire page and did not have any problems.

VI. SUSPECT INTERVIEW

The following information was obtained from the suspect, Renard Polk, at the Clark County Juvenile Hall interview room during a taped statement. Renard stated that he called police on this evening to turn himself in because he was ashamed of what he did. Renard stated that he wanted to turn himself in for raping his younger juvenile sister, Anna Polk. Renard stated that the sexual assault/molestations occurred at 1325 Nay Court, Clark County, Las Vegas, Nevada sometime around February of 1999. Renard stated that the victim, his sister Anna Polk, was six or seven years at the time of the incident. Renard stated that he sexually assaulted Anna, against her will even after she told him no and was crying, by forcing his penis into her rectum. Renard stated, "I did her in the booty." Renard indicated that he had done this numerous times in the past and that he had done this so many times that he could not count.

Renard stated that he had another sister named Jahala Chatman. Renard stated that he touched Jahala all over her body numerous times in Clark County, Las Vegas, Nevada last year, unknown month, 1998. Renard stated that he would grab and fondle Jahala's buttocks and rub his penis inside of her butt cheeks while she was laying on her stomach. Renard stated that he believed this to have occurred at their residence at 1325 Nay Court, Las Vegas, Nevada.

Renard stated that he also had a third sister named Jamila Chatman. Renard first stated that he "never messed with Jamila." Renard then changed his story and stated that he molested her when they lived on Perry Street approximately four years ago. At this time, Renard stated that the victim Jamila was approximately ten years of age and he was approximately 14 years of age. Renard stated that he used to fondle Jamila's buttocks numerous times and that this made his penis erect, but that he never penetrated her.

**For full details reference Renard Polk's confession, please refer to his taped interview statements.

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Date

VII. SUMMARY/CONCLUSION

After comparing the incident crime report under 990313-0217 and the interview statements made by the suspect Renard Polk, it appears that he has been sexually assaulting and molesting his three sisters whom he identified as Anna Polk, Jahala Chatman and Jamila Chatman.

Renard Polk's suspect interview statements were consistent with the details provided in the incident crime report for the sexual assault.

Sergeant D. Cavalieri of the LVMPD Sexual Assault Detail was notified of the incident for further follow up. The suspect was last known to be booked in the Clark County Juvenile Hall for probation violation for a previous robbery/battery offense.

TM/im
992469

MAR 13 '01
Date

ORIGINAL

ORDR
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED
APR 24 6 23 PM '01
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TRUMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept No. VI
Docket B

ORDER DENYING DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE,FOR HOUSE ARREST, OR IN THE ALTERNATIVE FOR SETTING OF REASONABLE BAIL

DATE OF HEARING: 4/18/01

TIME OF HEARING: 8:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 18th day of April, 2001, the Defendant being present, represented by CHRISTOPHER ORAM, ESQ., the Plaintiff being represented by STEWART L. BELL, District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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APR 24 2000
COUNTY CLERK

IT IS HEREBY ORDERED that the Defendant's Motion for Own Recognizance Release, for House Arrest, or in the Alternative for Setting of Reasonable Bail, shall be, and it is DENIED.

DATED this 23rd day of April, 2001.

DISTRICT JUDGE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

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NOTC
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TRUMAN POLK,
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

AMENDED
NOTICE OF WITNESSES and NOTICE OF EXPERT WITNESSES
[NRS 174.234 (1)(b)][NRS 174.234 (2)]

TO: RENARD TRUMAN POLK, Defendant; and

TO: CHRISTOPHER R. ORAM, ESQ., 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:

NAME	ADDRESS
ATKINS, M.	LVMPD #5409
BECK, T.	LVMPD #5472
CHATMAN, Jahala	1473 Aruba Ct. Pomona, CA 91768
CHATMAN, Jamila	1473 Aruba Ct. Pomona, CA 91768
CUSTODIAN OF RECORDS	LVMPD
DOCKENDORF, D.	LVMPD #5981

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S20

DUNN, D.	LVMPD #385
FLORES, Renee'	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
JOHNSON, K.	LVMPD #2075
MONIOT, T.	LVMPD #4664
NEWTON, D.	LVMPD #5278
O'CONNOR, Marc	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
PARENT/GUARDIAN of Jahala Chatman	1473 Aruba Ct. Pomona, CA 91768
PARENT/GUARDIAN of Anna Polk	1473 Aruba Ct. Pomona, CA 91768
POLK, Anna	1473 Aruba Ct. Pomona, CA 91768
POLK, Gloria	1325 Nay Ct. Las Vegas, NV 89104
POLK, Susan	Address Unknown
SAVAGE, Jessica	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas, NV 89109
SCHUTT, J.	LVMPD #6267
SUITER, Phyllis	SAINT 701 N. Pecos Rd. Las Vegas NV 89101

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

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

1. M. ATKIN - LVMPD #5409. He/She will testify regarding the crime scene analysis and the evidence collection.

///

///

2. RENEE' FLORES - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - He/she will testify regarding the medical examination of Anna Polk on March 13, 1999.

3. MARC O'CONNOR - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - He will testify regarding the medical examination of Anna Polk on March 13, 1999.

4. JESSICA SAVAGE - Sunrise Medical Center, 3186 S. Maryland Pkwy., Las Vegas, NV 89109 - She will testify as a child life specialist.

5. PHYLLIS SUITER - SAINT, 701 N. Pecos Rd., Las Vegas NV 89101. She will testify regarding the sexual assault examination.

The substance of each expert witness' testimony and a copy of all reports made by or at the direction of the expert witness has been provided in discovery.

A copy of each expert witness' curriculum vitae, if available, is attached hereto.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY _____
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Notice of Witnesses and Notice of Expert Witnesses is hereby acknowledged this 10 Day of July, 2001.

CHRISTOPHER R. ORAM
ATTORNEY FOR DEFENDANT

BY Christopher R. Oram/M
520 S. Fourth St., 2nd Floor
Las Vegas, Nevada 89101

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VEGAS CRIMINALISTICS BUR
STATEMENT OF QUALIFICATION

Name: MICHAEL R. ATKIN P# 5409 Date: October 24, 1997

CURRENT CLASSIFICATION

	CLASSIFICATION	MINIMUM QUALIFICATIONS
X	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION
	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I
	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST
	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.

FORMAL EDUCATION

Institution	Major	Degree/ Date
UNIVERSITY OF NEVADA-LAS VEGAS	BIOLOGY / CHEMISTRY (MINOR)	BS 8/92

TESTIMONY

Yes	No	
	X	Eighth Judicial District, Clark County Nevada
	X	Justice Courts of Las Vegas Township

EMPLOYMENT HISTORY

Employer	Title	Date
LAS VEGAS METROPOLITAN POLICE DEPARTMENT	CRIME SCENE ANALYST	1/97present 4/95-11/96
ICF KAISER QUATS LABORATORY	ANALYTICAL INORGANIC CHEMIST	12/94-1/97

PROFESSIONAL AFFILIATIONS

Organization	Date(s)

PHYLLIS A. SUITER
Certified Pediatric Nurse Practitioner
Certified Family Nurse Practitioner

QUALIFICATIONS SUMMARY

Over 19 years experience as a Nurse Practitioner providing health care to children and adults in collaboration with physicians and other members of the health team.

EDUCATION

FAMILY NURSE PRACTITIONER, 1977
University of California, San Diego, CA
MASTERS OF ARTS in COUNSELING
National University, San Diego, CA
B.S.N. NURSING, 1973
San Diego State University, CA

SPECIALIZED TRAINING

FORENSIC MEDICAL EVALUATION of CHILD SEXUAL ABUSE, 1994
Children's Hospital, San Diego, CA
COLPOSCOPY TRAINING, 1991
National Procedures Institute, Dallas, TX
SAN DIEGO CONFERENCE ON RESPONDING TO CHILD MALTREATMENT
1995, 1996, 1997

PROFESSIONAL LICENSURE

- Family Nurse Practitioner Certification, ANA # 006286
- Pediatric Nurse Practitioner Certification, NCBPNP/N # 89148
- Advanced Practitioner of Nursing, Nevada # 227
- Registered Nurse, Nevada # RN22975
- Registered Nurse Practitioner, California # 231077

PROFESSIONAL EXPERIENCE

PEDIATRIC NURSE PRACTITIONER January 1994 - Present
Clark County Sexual Abuse Investigative Team
Las Vegas, Nevada

- Provide Forensic Medical Examinations on Children referred for alleged Sexual Abuse
- Have examined, reviewed more than 700 cases, slides of sexual child abuse
- Attended case review twice a month with multidisciplanary team
- Work collaboratively with Child Protective Services and Metro Police Department
- Attended numerous conferences, seminars and training on Child Maltreatment & Sex Abuse

PEDIATRIC NURSE PRACTITIONER May 1995 - Present
Pediatric Clinic, Michael O'Callahan Federal Hospital
Nellis AFB, Las Vegas, Nevada

- Provided Comprehensive Pediatric Care for Infants, Children and Adolescents
- Worked with Family Services identifying and referring high risk families for child abuse
- Participated in a team approach to health care for common Pediatric problems and illnesses

FAMILY NURSE PRACTITIONER February 1997 - Present
Family Practice Center, University of Nevada School of Medicine
Las Vegas, Nevada

- Provide Comprehensive health care for Infants, Children, Adolescents and Adults
- Provide prenatal care in a collaborative relationship with Staff Physicians and Residents
- Provide Well baby and child early detection screening exams for all ages of children
- Provide Women's health care to all ages of female patients for acute, chronic problems and preventative health issues
- Precept Nurse Practitioner Students

FAMILY NURSE PRACTITIONER April 1996- Present
UNLV Student Health Center
Las Vegas, Nevada

- Provide Comprehensive Holistic Health Care for Students of UNLV
- Participate in Health Promotion and wellness involving UNLV students and community
- Supervise Registered Nurses and Nursing Assistants
- Part of Collaborative team in managing and referring students for care outside the SHC
- Precept Nurse Practitioner Students

FAMILY NURSE PRACTITIONER August 1993- September 1996
Resort Medical Clinics, Imperial Palace, Polo Plaza
Las Vegas, Nevada

- Provided Comprehensive health care of Adults, Adolescents, Children and Infants
- Provided Women's Health Care, Birth Control Counseling, Pap Smears, follow-ups and referrals, Infection checks and annual physical and pelvic exams
- Taught classes on Menopause, STD's and Well Child Health and Safety

U.S. NAVY NURSE CORPS / O-5

FAMILY NURSE PRACTITIONER AND PEDIATRIC NURSE PRACTITIONER
1972-1992

- Provided comprehensive health care for military members and their families
- Lectured on subjects of Family violence, parenting, Child Health and Safety to community organizations, Family Practice residents, military families
- Served as Chairman of Family Advocacy for Barbers Point Naval Air Station, HI
- Supervised Outreach Program assisting high risk families stationed in Hawaii
- Served as Military Liaison, Governor's Sex Abuse Prevention Core Group, State of Hawaii

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AFFILIATIONS

Member of:

American Professional Society on the Abuse of Children
National Association of Pediatric Nurse Associates and Practitioners
Uniformed Nurse Practitioner Association
NNA Nurse Practitioner Special Interest Group
Nevada State Board of Nursing, Advanced Practice Advisory Committee
Association of Reproductive Health Professionals

PUBLICATIONS and PRESENTATIONS

Prenatal Care Manual for Family Practice Patients
Naval Hospital, Camp Pendelton, CA

Poster session, "Providing Patient Education in A Mobile Population" at 14th Annual Society of Teachers of Family Medicine Conference on PATIENT EDUCATION, Orlando, FL November 1992

Poster Session, " S.A.I.N.T. Program in Las Vegas, An APN's Role" at 10th Annual Education Conference for Uniformed Nurse Practitioner Association, Bethesda, MD November 1994

REFERENCES

AVAILABLE UPON REQUEST

The National Certification Board of Pediatric Nurse Practitioners & Nurses
800 S. Frederick Avenue, Suite 104, Gaithersburg, MD 20877-4102

PNP/N

certifies that

Phyllis A. Suiter
563-86-1799
Social Security Number

maintains Active Certification

Maintenance Status as a ☐ CPN ☒ PNP

Certificate No.: 89148
Annual Renewal Date: January 31, 1998

Mary Jane Schumann
Executive Director

Cardiopulmonary Resuscitation and Emergency Cardiac Care Provider

American Heart Association
Fighting Heart Disease and Stroke

Phyllis Suiter

has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for

HEALTHCARE PROVIDER COURSE

2-3-97
Issue Date

2-3-99
Recommended Renewal Date

A · R · H · P

Phyllis A. Suiter

N1293
6/30/98

UNPA
United Nurse Practitioner Association

1997-1998 Membership

Phyllis Suiter #156
FNP/PNP Type-1

Exp Date 6/30/98

NEVADA STATE BOARD OF NURSING

National Association of Pediatric Nurse Associates & Practitioners
1101 Kings Highway North, Suite 206
Cherry Hill, NJ 08034-1912

PRESIDENT

Phyllis A. Suiter, BSN, CPNP
6141 Darby Ave
Las Vegas, NV 89102

MEMBER # 736 STATUS Fellow EXPIRATION DATE 6/30/98

SUITER, PHYLLIS ANN

Is duly authorized to practice as a
REGISTERED NURSE
from 11/18/96 to 11/18/98
Authorization # RN22975

Executive Director

American Nurses Credentialing Center

The Board on Certification for
Primary Care in Adult and Family Health Nursing Practice
confers upon
Phyllis A. Suiter, R.N.
Certification as a Family Nurse Practitioner
Certified from April 1, 1994 to March 31, 1999
Certification Number 008266-22

NEVADA STATE BOARD OF NURSING
Las Vegas, Nevada 89105

Phyllis Ann Suiter
6141 Darby Avenue
Las Vegas, NV 89102

Executive Director

Board of Registered Nursing
Sacramento, CA 95815-4392

REGISTERED NURSE
NURSE PRACTITIONER

EXPIRATION 12/31/98

PHYLLIS ANN SUITER
6141 DARBY AVENUE
LAS VEGAS, NV 89102

RECEIPT NO.

0026
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorney for Defendant

FILED
2001 JUL 13 P 4:16
Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD POLK, Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

MOTION TO ENDORSE DEFENDANT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF THE INFORMATION

COMES NOW, Defendant, RENARD POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ., hereby endorses defendant's Motion of Pre-trial Writ of Habeas Corpus for Dismissal of the Information(should be in the form of a motion to dismiss).

DATED this 13 day of July, 2001.

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada, 89101
Attorney for Defendant
RENARD POLK

District Court
Clark County, Nevada

IN THE MATTER
OF
HABEAS CORPUS

RAYMOND T. POLK

Case No. .....
Dept No. .....
Docket No. .....

Motion of Pre-trial Writ of Habeas Corpus for Dismissal of the Information.

Comes Now the defendant Raymond Tyson Polk seeking this Honorable Court to grant this Motion pursuant to: Federal Rules Criminal Procedures Rule 48 (b) "Dismissal for Unnecessary Delay", Double Jeopardy, Outrageous Government Conduct, Forced Administration of Anti-Psychotic Medication, Other various Due Process violations stated herein. This motion is prepared in Good-Faith as to make this Honorable Court aware of the manifest injustice defendant has sustained.

Defendant is truly sorry that this Honorable Court had to receive a motion submitted of his own means, as this Honorable Court was once aware of the conflict between Counsel and Defendant. So, Defendant submits this motion in an effort to allocate relief that has not been sought by counsel and hopes this Court will by no means condone such indecency on the issues brought forth herein.

-Statement of Facts-

On or about Aug 14 '99 Defendant called Metro Dispatch in order to turn himself in on a warrant that he believed was issued for his arrest

on about March 12 '99. When officers finaly arrived Defendant commented as to what facility Defendant was being taken to at which time officers told Defendant, "Juvenille". Defendant then asked why? Since Defendant was well over (18) eighteen years of age. The officers gave no comment.

After being booked a Detective asked Defendant, "if he would like to give a statement?" Defendant consented, but prior to being Mirandized Defendant again asked, "Why he was at the juvenile facility." Detective plainly told Defendant for the charges he now faces in this Honorable Court. Defendant then proceeded to give an incriminating statement.

When Defendant was finaly brought before the Juvenille Magistrate there was neither an Ad-Litem Counsel or Prosecutor present. The Judge then sentenced Defendant to 30 (thirty) days county time (Defendant is just now becoming aware of the fact that it was for a probation violation, however Defendant was not on probation) Upon the 30 (thirty) day false imprisonment Defendant was forced to take anti-psychotic medication even after Defendant signed a waiver of the sach. Thereby giving rise to Defendant's mental state.

Approximately (3) three months after release Defendant was cited for a Grand Theft Auto charge. State made no effort to prosecute charges at bar. (5) Five additional months passed from the release of Defendant for subsequent G.T.A. charges to the filing of a criminal complaint for the charges at bar in this Honorable Court. There after during a hearing for an O.R. Bail Reduction motion. Prosecutor used the involuntary and illegaly obtained statement to procure a denial of the O.R. motion, properly denied by your Honor, even after the discovery period and hearing, telling this Honorable Court that they had no such statement.

~ Argument and Points and Authorities ~

First Defendant would like to bring to this Court's attention the

Double Jeopardy Clause Guarenteed by the Fifth Amendment and N.R.S. 62.195 subsection 2(c) wich states: Criminal proceedings and other juvenille proceedings based upon the same offense in the Petition alleging delinquency or an offense based upon the same conduct are barred if the Courts have begun taking evidence or accepts a child admission of the facts alleged in the petition. No child may prosecuted as a juvenille and later as an adult...

So as this Honorable Court can see the Defendant was placed in jeopardy once by the Juvenille Courts assuming jurisdiction and punishment. By accepting Defendants admission of facts to secure a probation violation, considering the fact that the Defendant was already on probation and Juvenille courts had no jurisdiction over Defendant. Thereby barring second prosecution by Double Jeopardy Standards and N.R.S. 62.195.

Furthermore to justify such an end-run constitutional allegation as that would in the least require an Evidentiary Hearing.

Next Defendant would like to bring into view the rule of Federal Rules for Criminal Procedure Rule 48(b) wich is constitutional under the Fifth Amendment Due Process Clause: "Dismissal for Unnecessary Delay."

Bringing this under a Pre-Arrest Delay situation and the relevant things to consider are, "Length of the Delay, reason for the Delay and prejudice to the defendant."

Hence the First (1) thing to consider is the, "Length of the delay." In pre-arrest situations the Courts concluded," the statute of limitations does not fully defines one's rights and that the Due Process Clause of the Fifth Amendment would require dismissal...if it were shown at trial... delay caused substantial prejudice to the accused rights to a fair trial and that the delay was an intentional device to gain tactical advantage over the accused." State v. Autry 746 P.2d 639 '89 The Courts also held in Marion v. U.S. 404 U.S. 309 "Actual prejudice

can result from the shortest and most necessary delay." So as this Court can see this parameter is used as a triggering mechanism or a mechanism used when wieghing the other reasons and parameters.

So in essence it's been (28) twenty-eight months from the commencement of the alleged offense to the proposed trial date. (9) months of unexcusable delay, being the arrest release and removal on subsequent G.T.A. charge (arrest and release being the arbitrary juvenile proceeding) to the arrest of Defendant for charges at bar.

The next parameter to be considered is the "Reason for the delay." The courts concluded that the "prosecution is in the best position to give a reason for the delay." However the courts also stipulated "If the defendant can prove the delay was a device used to gain tactical (realistically or intentionally) would violate due Process." Marion v. U.S. 404 U.S. 309 State v. Auley, 746 P.2d 657.

Defendant stipulates that state has gained a tactical advantage, by taking advantage of the defendants mental state at the time the arbitrary juvenille proceedings were taking place. Defendant wasn't trying to evade justice by turning himself in but rather wanted it brought about expeditiously. Further stated in the case of Tortaglia v. State 791 P.2d 76 N.M. '90 "The reason for delay will wiegh more heavily against state, where the state fails to locate a defendant who's imprisoned in it's own facility."

Defendant stipulates state had ample opportunity to prosecute during the 30 (thirty) day false imprisonment and the citing and detention for the G.T.A. charge.

The other tactical advantage state gained during the delay was that of the incriminating statement, that statement could have been thrown out back in the juvenille courts, being that it was illegaly obtained and Defendant at that time could have challenged the voluntariness of that

statement. Not to mention as your Honor observed during the discovery period and hearing. The state blatently told this Honorable Court that no such statement existed and that thier office had no such statement. Then the day prior to the Hearing of an O.R. Bail reduction motion, the same day the prosecutor becomes aware of the motion, the statement mysteriously appears. Defendant also believes that had that statement not been used to secure the denial of the O.R. Bail reduction Motion, the state would have unknowingly withdrawn it at the time of trial.

Clearly state has gained improper tactical advantage and defendant thereby violating Defendants Due Process rights under 4th this case requires a dismissal for such constitutional violations thereof.

"The last provision to consider is the," Response to the defendants case and deprivation of constitutional rights." Sheriff Clark County v. Burson 659 P.2d 1398 Nev 83, pg. 1399 (1983)

Defendant has already stipulated two constitutional violations so far being the Double Jeopardy and False Imprisonment. Defendant now states that during the delay and (30) day false imprisonment state was forcing the defendant to take anti-psychotic medication. Aside from the constitutional issues, state has prejudice his defense and sentencing guidlines.

Where defendant could have argued an Insanity or Diminished Capacity defense and substantialy brought down the statutory sentencing parameters. However courts stated in Wilkian v. U.S. 102 U.S. App D.C. 51, 250 F.2d 17, 22-23. Thereafter requoted in U.S. v. Geelan 520 F.2d 585 9th. Cir. 75. "When prosecution is delayed.... determining criminal responsebility at the time of crime is increased. Passage of time makes proof any fact more difficult. When the fact is as subtle as a mind state, the difficulty is immeasurably enhanced."

So as this Honorable Court can see factual determinations were required in order to challenge the validity of the due process violations.

So to even speculate as to how those proceedings would have turned out would be frivilous in gestwe. Furthermore by State forcing the defendant to take anti-psychotic medication has violated his First Amendment right Rennie v. Klien 462 F.Supp 1131, 1142-1143 "to freedom of speech and expression including both the right to communicate and revelation" (emphasis added) Protecting one's mental process from governmental interference. In Riggins v. Nevada 112 S. Ct. 1810 '92 as a liberty interest. Defendant stipulates he was never free from custody, and the state not only still had Defendant in physical custody by having the charges now at bar in this Honorable Court hanging over the defendant's head, but mentally as well. Knowing that the state would later prosecute charges at bar either perception has been stalled by the compulsive medication, memory impaired, and mental capacity stunt. In hope Defendant would either forgot about the arbitrary proceedings or be unable to prepare a defense.

So as this Honorable Court can clearly see there's been manifest injustice sustained by the defendant. That there are still egregious Due Process Violations the the defendant didn't allegate into this motion as not to cause long winded and felt these are the most pertinent issues.

Defendant now quotes what the Courts held in the case of Hillis v. U.S. 746 F.2d 1092 Nev '87 "It may some day be presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial process 103 Nev 534 to obtain a conviction." Defendant stipulates this is one of those situations.

~ Conclusion ~

In closing Defendant that this Honorable Court grant this motion or in the least hold an Evidentiary Hearing to check the validity of such serious allegations. To ignore such detrimental issues would further manifest injustice and undermind those fundemental concepts of fair play

and decency that lie at the base of our judicial system and as the Constitution has guaranteed since it was framed.

The defendant was'nt trying to evade justice during the delay, but surrendered himself and the one thing most career criminals covet "thier freedom". That even in nature you learn when a lower species in the "pecking order" or food chain has taken a submissive position, the other animal will not attack because the lower species has surrendered unbegung and for the superior animal to attack would only be an unnecessary power display.

Defendant turned himself in order to avoid torment and to avoid any conflict between governmental agents, a violent constitutional violation and mental anguish he'd about from this one month immediate escalation and to further cause such aggressive conduct by the "police" and defendants counsel would be absolutely unwarranted

Dated this _____ day of _____ 20__.

I _____, do solemnly swear, under the penalty of perjury, that the above _____ is accurate, correct and true to the best of my knowledge.

Respectfully submitted
Renard T. Polk

Defendant

ORIGINAL

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0332
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

(2)

FILED
JUL 13 2 05 PM '01
Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TURMAN POLK, #1521718 Defendant.	Case No. C166490 Dept. No. VI Docket B

NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, ACTS AND WRONGS

DATE OF HEARING: 7/23/01

TIME OF HEARING: 8:30 a.m.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through MARY KAY HOLTHUS, Deputy District Attorney, and files this Notice of Motion and Motion to Admit Evidence of Other Crimes, Acts and Wrongs.

This Motion 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.

NOTICE OF MOTION

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department VI

thereof, on Tuesday the 23rd day of 2001, at the hour of 8:30 a.m., or as soon thereafter as counsel may be heard.

DATED this 13th day of July 2001.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar # 003814

POINTS AND AUTHORITIES

STATEMENT OF FACTS

Facts Pertinent to the Instant Case

Defendant is charged by way of Criminal Information with three counts of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony- NRS 200.364, 200.366). The victims in the instant case are fourteen year old Jahala Chatman (DOB 8/28/86) and twelve year old Anna Polk (DOB 11/10/88), Defendant's juvenile female siblings. Defendant is twenty year old, RENARD TURMAN POLK (DOB 10/14/80).

On March 15, 1999, LVMPD was contacted and investigation followed regarding the sexual assault of a minor at 1325 Nay Court, Las Vegas, Nevada. The investigation by Detective Dunn, Sexual Assault Detail, revealed that Defendant's juvenile female siblings, Jahala Chatman and Anna Polk had been sexually assaulted by Defendant. Jahala, who was twelve at the time, stated that she had only been sexually assaulted by Defendant on one occasion in January of 1999. Anna, who was ten at the time, revealed that she had been sexually assaulted by Defendant on numerous occasions beginning when she was five years old and the last incident occurring on March 12, 1999.

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Jahala stated that in January 1999, Defendant took her into the bathroom, removed her clothing, removed his clothing, laid her down on the floor on her stomach, covered her mouth with his hand, and penetrated her anal opening with his penis.

Anna stated that on March 12, 1999, Defendant took her into his bedroom, removed her clothing, removed his clothing, made her sit on his lap, made her get on the floor on her knees with her "butt sticking up," and penetrated her anal opening with his penis. Anna further indicated that Defendant sexually assaulted her in the same manner on numerous occasions and that sometimes Defendant sexually assaulted her by forcing her to "sit on top of him."

On August 14, 1999, Defendant voluntarily waived his Miranda rights and gave a voluntary statement to Detective Moniot. Defendant admitted to sexually assaulting both Jahala and Anna.

Defendant stated that he sexually assaulted his sister Jahala, and that he touched Jahala all over her body numerous times at 1325 Nay Court. Defendant stated that he would grab and fondle Jahala's buttocks and rub his penis inside of her butt cheeks while she was lying on her stomach.

Additionally, Defendant told Detective Moniot that the sexual assault of his sister Anna had occurred at 1325 Nay Court, sometime around February of 1999. Defendant indicated that Anna was six or seven years of age at the time of that incident, and that he sexually assaulted Anna by forcing his penis into her rectum, against her will even after she told him no and was crying. Defendant stated, "I did her in the booty." Defendant further indicated that he had done this numerous times in the past, and that he had done this so may times that he could not count.

Defendant's statements to Detective Moniot are consistent with the voluntary statements given by Jahala and Anna to Detective Dunn on March 15, 1999.

On February 23, 2000, Defendant was contacted by LVMPD. At that time, he gave false information regarding his identity. He was ultimately arrested in this case as well as for obstructing justice. Defendant also has a history of sexually aberrant behavior for which he was arrested on December 22, 1998, for sexually assaulting Freda White.

Facts of Other Crimes, Acts and Wrongs
Obstructing a Public Officer

On February 23, 2000, LVMPD responded to the corner of St. Louis and Gateway, Las Vegas, Nevada, in reference to a black male who was pounding on a door claiming to have been sprayed in the face with mace.

Defendant falsely identified himself as Renald Alli, DOB 10/14/80, and indicated that he had only lived in Las Vegas for the last two years off and on. Defendant further stated that he had only been arrested once for a curfew violation as a juvenile. Defendant told the Officers that he could not remember his social security number.

No identification could be found on Defendant using the information he had given them. Defendant was repeatedly asked if the information that he had given was true, to which he replied that it was in fact true.

After approximately 45 minutes, a bystander approached officers and advised them of Defendant's real information. A records check conducted showed Defendant had a prior for sexual assault and a warrant for his arrest. Defendant was arrested for his warrant, and for obstructing a public officer based on the fact that he had lied about his name and arrest record, which caused officers to remain at the scene for approximately 45 minutes longer than necessary.

Facts of Other Crimes, Acts and Wrongs
Incident Involving Freda White

On October 24, 1998, LVMPD was contacted by Freda White (DOB 4/2/80) regarding a sexual assault which had occurred on July 18, 1998, in Clark County, Nevada. Freda indicted that on July 18, 1998, Defendant sexually assaulted her, but she did not report the sexual assault at that time because she was afraid. Defendant was arrested on December 22, 1998, for sexually assaulting Freda White.

Freda stated that on the evening of Saturday, July 18, 1998, she went over to her friend Aisha Collins' house, located at 1722 Candice Street, Las Vegas, Nevada, to swim and watch

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a movie. Freda indicated that the only other people present at the house on that evening were Aisha, Aisha's little sister, a boy named Tommy, and Defendant.

Freda stated that she, Aisha, Tommy, and Defendant were watching the movie in Aisha's parents room and that the four of them were laying on the bed. Aisha and Tommy left the room leaving Freda and Defendant alone in the room.

Freda indicated that she and Defendant were kissing, Defendant removed his shirt, Defendant removed her pajama shorts, and Defendant put his penis underneath her panties and against her bare skin. Freda then asked Defendant what he was doing, whereby he replied, "I like to bump and grind." Freda responded to Defendant saying, "No. We're not gonna that. I'm not gonna do that with you." Defendant persisted, and Freda continuously objected and used force in an attempt to push herself away from him. Defendant held Freda down, rolled on top of her, and penetrated her vagina with his penis. Freda told Defendant to stop, and to get off of her and let her go. Defendant told her to calm down and that he was not trying to hurt her. The more Freda tried to fight, the more force Defendant used against her. Defendant held her arms back over her head and continued to tell her to calm down.

At some point Aisha's little sister entered the room and Defendant climbed off of Freda and Freda grabbed her pajama shorts and ran out of the bedroom.

On December 22, 1998, Defendant was arrested for sexually assaulting Freda White.

LEGAL AUTHORITY

NRS 48.045(2) provides:

> Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

The State submits that Defendant is a repeat sex offender who preys on unwilling young females. As such, the introduction of evidence of his prior criminal activity is lawful and proper

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to prove that Defendant developed and used a common plan and scheme to engage in aberrant sexual behavior, absent accident or mistake.

1) Common Plan and Preparation / Sexually Aberrant Behavior

The Nevada Supreme Court has long held that evidence of previous criminal conduct will be more liberally admitted in cases of aberrant sexual conduct. In McMichael v. State, 94 Nev. 184, 577 P.2d 398 (1978), the court approved of the introduction of prior acts of oral copulation on a young boy by the defendant in an infamous crime against nature prosecution. The Nevada Supreme Court held, citing State v. McDaniel, 80 Ariz 381, 298 P.2d 798 (1956):

> Certain crimes today are recognized as stemming from a specific emotional propensity for sexual aberration. The fact that in the near past one has given way to unnatural proclivities has a direct bearing upon the ultimate issue whether in the case being tried he is guilty of a particular unnatural act of passion. The importance of establishing this fact far outweighs the prejudicial possibility that the jury might convict for general rather than specific criminality. Even granting the general rule of inadmissibility of evidence of independent crimes to prove the offense charged, many courts recognize a limited exception in the area of sex crimes to prove the nature of the accused's specific emotional propensity.

Id. at Nev. 189, P.2d 401.

In Findley v. State, 94 Nev. 212, 577 P.2d 867 (1978) the Supreme Court followed the reasoning in McMichael:

> Evidence showing that an accused possesses a specific emotional propensity for sexual aberration is relevant, and outweighs the prejudicial possibility that a jury might convict for general rather than specific criminality.

Id. at Nev. 215, P.2d 868.

In Willett v. State, 94 Nev. 620, 584 P.2d 684 (1978), the defendant was convicted of three counts of infamous crime against nature for performing oral sex on a minor boy at Child Haven in Las Vegas. The trial court allowed the introduction of evidence that the defendant had previously performed the same criminal act on a minor boy while visiting the Eddie Lee Home for boys in Clark County. In upholding the convictions, the Supreme Court of Nevada held that

the evidence was properly admitted as tending to show a "common plan or scheme." The high court pointed out that the sexual acts were committed close in time; the victims were both minor boys; and both boys were approached by the defendant while the defendant was working as a volunteer in their institutions. This was sufficient to fall "squarely within the fourth exception of the criteria listed in Nester [Nester v. State, 75 Nev. 41, 334 P.2d 524 (1959)], that is, to show 'a common scheme or plan'" Id. Nev. at 621-22, P.2d at 685.

In Shannon v. State, 105 Nev. 782, 783 P.2d 942 (1989), the Nevada Supreme Court upheld the joinder of multiple counts of sexual crimes involving different victims and different times and places:

> The record reflects that Shannon developed an intricate scheme to provide himself with access to young boys, many of whom came from disintegrated families or had other physical, psychological or emotional vulnerabilities. Shannon targeted these vulnerabilities and, in turn, created a pseudo-parent dependency. Once this was accomplished, Shannon utilized sexual humor and his role of "teacher" as a tool to molest sexually the boys.

Id. Nev. at 784, P.2d at 943. The Supreme Court ruled the counts were proper for joinder because they were part of a common plan or scheme:

> Both boys were members of Shannon's Canoe Club. Both boys were victims of sexual crimes perpetrated by Shannon while on canoe outings. Both boys were of the same age group. Given the closeness of the acts, the similar circumstances, and the same modus operandi, the criterion of a common scheme or plan was sufficiently satisfied.

Id. Nev. at 786, P.2d at 944.

In Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976), the Nevada Supreme Court allowed the introduction of evidence that the defendant had previously shown pornographic movies to children before attempting to molest them, just as he had done to the victim of the offenses for which he was being tried. The high court drew particular attention to the probative value of showing common behavior, specifically, "conditioning" of the children by showing

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them pornographic movies in preparation of sexual misconduct. Citing State v. McDaniel, supra, our high court held:

> * * * [T]he insidious modus operandi on the part of defendant of an unnatural and lascivious nature--all tends to suggest a scheme of seduction in many respects identical with that practiced in the instance for which defendant is here tried. . . . Many courts recognize a limited exception in the area of sex crimes to prove the nature of the accused's specific emotional propensity. . . .

Id. Nev. at 321, P.2d at 1404.

The general rule of NRS 48.045 allows the introduction of prior criminal actions which show a scheme or plan to commit the crime. The rule is even more compelling when such a plan and preparation is attached to the sexually aberrant behavior.

RENARD TURMAN POLK has demonstrated an emotional propensity for sexual aberration and has developed and used a common plan or scheme for sexually assaulting young women.

2) Criminal Intent / Knowledge / Absence of Mistake or Accident

In Findley v. State, supra, the Supreme Court of Nevada affirmed the introduction of evidence that the defendant had committed similar acts of lewdness with a child nine years earlier in order to prove the defendant's lewd intent in touching a five year old girl's "private parts" in the case for which he was on trial. The high court stated: "Intent, by reason of the words of the [lewdness with a minor] statute, is an element of the crime and directly placed in issue by the not guilty plea of the accused." Id. at Nev. 214, P.2d 868, citing Overton v. State, 78 Nev. 198 (1962).

In United States v. Harrison, 679 F.2d 942 (D.C.C.A. 1982), the defendant was convicted of possession of controlled substance with intent to distribute. The prosecution presented evidence that the defendant had been engaged in past drug dealings over a period of time. The Federal Court of Appeals held this evidence was admissible to show proof of motive, intent, preparation, plan, knowledge, identity and absence of mistake:

> . . . There is nothing "unfair" in admitting direct

> evidence of the defendant's past acts by an eyewitness thereto that constituted substantive proof of the relevant intent alleged in the indictment. The intent with which a person commits an act on a given occasion can many times be best proven by testimony or evidence of his acts over a period of time prior thereto . . . .

Id. at 628.

In Darnell v. State, 92 Nev. 680, 558 P.2d 624 (1976), the Supreme Court of Nevada held that evidence that the defendant had previously purchased stolen property was properly admitted to prove he intended to possess stolen property in a subsequent prosecution.

In United States v. Beechum, 582 F.2d 898 (CA5 1978) the Federal Circuit Court of Appeals held that extrinsic evidence of prior criminal activity is admissible to indicate knowledge. In a detailed analysis of the law, the court recited the following:

> * * * [T]he Government may prove that the defendant knew that he was passing counterfeit securities by eliciting testimony that the defendant knowingly had purchased counterfeit currency on a prior occasion. Peters v. United States, 376 F.2d 839 (5th Cir. 1967). Again, similarity of the physical elements of the crime need not be established.

Id. at 912, fn. 15.

In each of the charges against Defendant, intent is an essential element. Defendant's conduct on February 23, 2000, whereby Defendant knowingly and intentionally gave police officers false information regarding his identity and prior arrests, is indicative of Defendant's consciousness of guilt. Further, showing Defendant's previous sexually aberrant conduct is extremely probative of his mental state and intent, and therefore outweighs any prejudice.

A corollary to the State's obligation to prove intent is the obligation to dispel any inference of accident or mistake. In Petrocelli v. State, 101 Nev. 46, 692 P.2d 503 (1985), the Nevada Supreme Court held that testimony of a previous murder by the defendant was properly admissible in his instant murder trial to show absence of mistake or accident. The defendant claimed, at trial, that he had accidentally shot his victim, a car salesman, three times when the man tried to take away Petrocelli's gun. Evidence was admitted that showed defendant had

previously claimed an accidental shooting in the death of his girlfriend, with whom he had argued, struggled and then killed "in a flurry of shots." Id. at Nev. 52, P.2d 507. The court held:

> . . . [T]he "two killings with the same gun involving the same person, Mr. Petrocelli, who within a short period of time [committed the killings]" bore sufficient similarity to admit the evidence at trial.

Id. at Nev. 52, P.2d 508.

NRS 48.045 allows evidence of other crimes, wrongs or acts for purposes *such as* motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. This is not a restrictive list of exceptions, but rather illustrative of the types of non-character bases of admissibility that should be considered in allowing uncharged misconduct evidence. In United States v. Woods, 484 F.2d 127 (CA4, 1973), the court allowed the prosecution to introduce evidence that defendant had previously exposed children to cyanide poisoning in order to prove the *corpus delicti* of the instant child murder prosecution. Id. at 140. In the treatise 22 Wright & Graham, Federal Practice & Procedure: Evidence sect. 5240, the authors point out the following: "The use of the expression, 'such as' in . . .[Federal Rule of Evidence 404(b)] . . . makes it clear that the listed theories of relevance are examples rather than exceptions to some general exclusionary norm." Federal Rule of Evidence 404(b) is identical to Nevada Revised Statute 48.045.

The justification in not admitting evidence of uncharged conduct is to avoid the danger of a jury convicting a defendant because he is a person of bad character and because he is a person with a propensity or disposition to commit the crime. If this were the reason for or even the most likely result of introducing the uncharged misconduct evidence, then it should not be admitted. However, when the evidence is introduced to prove a logically relevant issue and is more probative of these issues than it is unfairly prejudicial to the defendant, it should be admitted. The logically relevant issue need not be restricted to a limited list of examples in the statute.

///

Although exact similarity of action is not a requirement in admitting evidence of prior crimes, such similarity is important when considering evidence of common plan and sexual aberration. It is also extremely probative in showing intent and absence of mistake. The modus operandi of Defendant's abuse is consistent. In both instances Defendant without consent and against the victim's will, undressed himself, undressed the victim, restrained the victim, and penetrated the victim's vagina or anal opening with his penis. Even if the uncharged conduct were not as closely linked to the instant prosecution as it is, the evidence is so logically relevant to the State's issues that it clearly outweighs any danger of unfair prejudice to the defendant.

CONCLUSION

Based on prevailing case law and statutory construction, the uncharged conduct evidence is admissible. Its probative value outweighs the risk of unfair prejudice. In cases of sexual aberration, the Supreme Court of Nevada will not reverse the admission of such evidence, absent a clear abuse of discretion.

The State therefore respectfully requests this Honorable Court grant the State's Motion to Admit Evidence of Other Crimes, Acts and Wrongs in its case in chief.

DATED this 13th day of July 2001.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar # 003814

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the Notice of Motion and Motion to Admit Evidence of Other Crimes, Acts and Wrongs, was made this 13th day of July, 2001, by facsimile transmission to:

CHRISTOPHER ORAM, ESQ.
385-1752

By T. Hoskin
Employee of the District Attorney's Office

OFFICE OF THE DISTRICT ATTORNEY

Clark County, Nevada

J. CHARLES THOMPSON
Assistant District Attorney

MICHAEL DAVIDSON
Assistant District Attorney

STEWART L. BELL
District Attorney

FACSIMILE TRANSMISSION

Fax No: 385-1752
Telephone No:

TO: Christopher Oram, Esq.

FROM: Hoskin, Teresa

DATE: Friday, July 13, 2001 at 11:24:54 AM

MESSAGE:

NO. OF PAGES, EXCLUDING COVER PAGE 12
Please call if there are any problems with transmission

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RESP
CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

DEFENDANT'S RESPONSE TO STATE'S NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

COMES NOW, the Defendant RENARD POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ. and files this response to the State's Notice of Motion and Motion to Consolidate or, in the Alternative to Admit Evidence of Other Crimes, Wrongs, or Acts.

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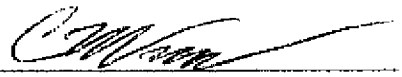
CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

This response 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.

DATED this ___ day of July, 2001.

Respectfully Submitted by:



CHRISTOPHER R. ORAM, ESQ.
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520 S. Fourth Street, 2nd Floor
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(702) 384-5563
Attorney for Defendant
RENARD POLK

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

ARGUMENT

I. THIS COURT SHOULD PRECLUDE ANY ADMISSION OF EVIDENCE OF OTHER CRIMES, ACTS OR WRONGS.

The State of Nevada seeks to introduce alleged prior acts of misconduct by Mr. Polk. A review of the State's motion demonstrates an allegation that Mr. Polk allegedly gave false information to police officers. The State also desires that the Court introduce an alleged sexual assault involving Ms. Freda White (DOB 4/2/80). The State desires for this prior bad act be admitted into evidence to show a common scheme or plan.

N.R.S. 48.045(2) provides as follows:

> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

The State cites Willett v. State, 94 Nev. 620, 584 P.2d 684, (1978), for the proposition that the trial Court was correct in permitting the introduction that a defendant had previously performed the **same criminal act** on a **minor** boy while visiting the Eddie Lee Home for boys in Clark County. As the State points out in their motion, the uncharged act was the same criminal conduct. In the instant case, the State has charged that Mr. Polk has committed acts of sexual misconduct with a minor, upon Jahala Chatman and Anna Polk, yet the acts they want to introduce concerning Ms. Freda White are an alleged allegation of sexual assault, and is not relevant to the instant case.

Mr. Polk and Ms. Freda were allegedly kissing in a friend's parent's room on the bed. During which time, Ms. White allegedly no longer chose to voluntarily engage in sexual contact with Mr. Polk. Thereafter, Mr. Polk allegedly sexually penetrated Ms. White without her consent. In the instant case, Mr. Polk and Ms. White are two individuals of the same age. However, on the instant case Mr. Polk is being charged with allegedly committing sexual misconduct upon his two female minors related to the Defendant. Therefore, a common scheme or plan cannot be derived out of the prior bad act. It would appear that the only purpose of this type of evidence into the case would be to prove the character of Mr. Polk in order to show that he acted in conformity therewith.

Additionally, the State cites Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976), for the proposition that evidence that a defendant had previously shown pornographic movies to children before attempting to molest them, just as he had to the victim of the offense for which he was being tried was admissible. Again, here we have the showing of pornographic movies to children before attempting to molest them. In Allan, Mr. Allan repeated the same act on each and every alleged victim. In the instant case, the State wants to enter evidence of alleged sexual

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

assault of a women the same age as Mr. Polk. A young woman voluntarily engaging in acts of kissing with Mr. Polk. Moreover, Mr. White was of an age to say no and fight Mr. Polk off. However, in the instant case, you have two minor children, siblings of Mr. Polk being allegedly sexually molested by Mr. Polk. There exists no similarities between the two alleged acts.

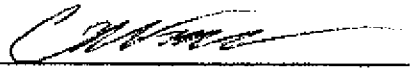
Lastly, the State also desires this Court to introduce evidence of Mr. Polk allegedly giving false statements to police officers. The State desires for this evidence to be introduced for the purpose of showing Mr. Polk's alleged consciousness of guilt. However, there exists no similarity from the allegations made by police officers. In the instant case, you have an alleged act of sexual assault against minors and alleged false statements to police officers. The only value of this evidence would be that to show the character of the Mr. Polk. As stated in NRS 48.045(2), that "evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith." Therefore, this evidence would be more prejudicial than probative to the defendant.

CONCLUSION

Therefore, Mr. Polk would respectfully request that this Court deny the State's motion. For the foregoing reasons Mr. Polk would respectfully request that the State's motion to admit evidence of other crimes, acts or wrongs be denied.

DATED on this ____ day of July, 2001.

Respectfully submitted by,



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Attorney for Defendant
RENARD POLK

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Attorney for Defendant
RENARD POLK

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Shirley B. Parraguirre
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD POLK, Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

RECEIPT OF COPY

RECEIPT OF A COPY of the attached **MOTION TO CONTINUE TRIAL SETTING** and **DEFENDANT'S RESPONSE TO STATE'S NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS** is hereby acknowledged this 25 day of July, 2001.

STEWART BELL, DISTRICT ATTORNEY

By [signature]
DEPUTY DISTRICT ATTORNEY
200 S. Third Street, 7th Floor
Las Vegas, Nevada 89101

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ROC
CHRISTOPHER R. ORAM, ESQ.
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(702) 384-5563
Attorney for Defendant
RENARD POLK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD POLK, Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

RECEIPT OF COPY

RECEIPT OF A COPY of the attached **MOTION TO ENDORSE DEFENDANT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF THE INFORMATION**

is hereby acknowledged this 18 day of July, 2001.

STEWART BELL, DISTRICT ATTORNEY

By Karen Miller
DEPUTY DISTRICT ATTORNEY
200 S. Third Street, 7th Floor
Las Vegas, Nevada 89101

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

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OPPS
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- RENARD TRUMAN POLK, #1521718 Defendant.	Case No. C166490 Dept. No. VI Docket B

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO ENDORSE DEFENDANT'S MOTION OF PRE-TRIAL WRIT OF HABEAS CORPUS FOR DISMISSAL OF THE INFORMATION

DATE OF HEARING: 8/8/01
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and files this Opposition to Defendant's Motion to Endorse Defendant's Motion of Pre-Trial Writ of Habeas Corpus for Dismissal of the Information.

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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.

DATED this 2nd day of August, 2001.

Respectfully submitted,

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

POINTS AND AUTHORITIES

Statement of Facts

Defendant is charged by way of Amended Information with three counts of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony- NRS 200.364, 200.366). The victims in the instant case are fourteen year old Jahala Chatman and twelve year old Anna Polk, Defendant's juvenile female siblings. Defendant is twenty year old, RENARD TRUMAN POLK.

On March 15, 1999, LVMPD was contacted and investigation followed regarding the sexual assault of a minor at 1325 Nay Court, Las Vegas, Nevada. The investigation by Detective Dunn, Sexual Assault Detail, revealed that Defendant's juvenile female siblings, Jahala Chatman and Anna Polk had been sexually assaulted by Defendant. Jahala, who was twelve at the time, stated that she had only been sexually assaulted by Defendant on one occasion in January of 1999. Anna, who was ten at the time, revealed that she had been sexually assaulted by Defendant on numerous occasions beginning when she was five years old and the last incident occurring on March 12, 1999.

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Jahala stated that in January 1999, Defendant took her into the bathroom, removed her clothing, removed his clothing, laid her down on the floor on her stomach, covered her mouth with his hand, and penetrated her anal opening with his penis.

Anna stated that on March 12, 1999, Defendant took her into his bedroom, removed her clothing, removed his clothing, made her sit on his lap, made her get on the floor on her knees with her "butt sticking up," and penetrated her anal opening with his penis. Anna further indicated that Defendant sexually assaulted her in the same manner on numerous occasions and that sometimes Defendant sexually assaulted her by forcing her to "sit on top of him."

On August 14, 1999, Defendant voluntarily waived his Miranda rights and gave a voluntary statement to Detective Moniot. Defendant admitted to sexually assaulting both Jahala and Anna.

Defendant stated that he sexually assaulted his sister Jahala, and that he touched Jahala all over her body numerous times. Defendant stated that he would grab and fondle Jahala's buttocks and rub his penis inside of her butt cheeks while she was lying on her stomach.

Additionally, Defendant told Detective Moniot that the sexual assault of his sister Anna had occurred sometime around February of 1999. Defendant indicated that Anna was six or seven years of age at the time of that incident, and that he sexually assaulted Anna by forcing his penis into her rectum, against her will even after she told him no and was crying. Defendant stated, "I did her in the booty." Defendant further indicated that he had done this numerous times in the past, and that he had done this so may times that he could not count.

Defendant's statements to Detective Moniot are consistent with the voluntary statements given by Jahala and Anna to Detective Dunn on March 15, 1999.

On February 23, 2000, Defendant was contacted by LVMPD. At that time, he gave false information regarding his identity. He was ultimately arrested in this case as well as for obstructing justice.

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Legal Argument

Defendant incorrectly claims a violation of NRS 62.195 and the Fifth Amendment. Defendant cites NRS 62.195(2) which states:

> Criminal proceedings and other juvenile proceedings based upon the offense alleged in the petition alleging delinquency or an offense based upon the same conduct are barred if the court has begun taking evidence or has accepted a child's admission of the facts alleged in the petition. No child may be prosecuted first as a juvenile and later as an adult, or in two juvenile court hearings for the same offense.

The instant matter involving Defendant's two minor sisters occurred when Defendant was an adult. Defendant, as a juvenile, was arrested for sexually assaulting Freda White, however as Defendant was a juvenile the criminal charges were dismissed and he was referred to juvenile court. An evidentiary hearing is not necessary to determine if double jeopardy applies. Clearly double jeopardy cannot apply; the crimes involved different victims and occurred at different times.

Defendant next claims what appears to be pre-arraignment delay. Defendant misrepresents the time period in alleging this delay. Defendant claims that he has been unfairly subjected to a 28 month delay.

The Supreme Court of the United States, in US v. Marion, 404 US 307, 92 S.Ct. 455 (1971), established that the Sixth Amendment right to a speedy trial is not activated until the person has become an "accused," i.e., until he has been arrested or otherwise charged. Defendant was arrested for the instant offenses on Wednesday, February 23, 2000; arraigned on Monday, February 28, 2000; and his preliminary hearing was set for March 13, 2000.

Nevada's initial appearance statute, NRS 171.178 (3), requires an appearance before a magistrate within 72 hours, excluding nonjudicial days, after the suspect's arrest. Defendant appeared before the court within 72 hours of his arrest as required by NRS 171.178 (3).

NRS 171.196 requires that a preliminary hearing be set within 15 days of the suspect's 72 hour hearing. Defendant's preliminary hearing was set for March 13, 2000. On March 13,

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2000, the State was prepared to proceed, but at Defense Counsel's request the preliminary hearing was continued and set for April 11, 2000.

Clearly, Defendant's allegation of pre-arraignment delay is without merit, and therefore moot.

Defendant further asserts that his First Amendment rights were violated. Defendant claims that the State forced him to take anti-psychotic medication, which barred him from arguing an "Insanity or Diminished Capacity defense," which would have "substantially brought down the statutory sentencing parameters." (sic) (Defense Motion, p. 5). Once again Defendant's allegations are false and misleading.

On September 9, 2000, at the request of defense counsel and by order of the court, Defendant was ordered to Lake's Crossing for a competency assessment. Patricia M. Chatham, Ph.D. evaluated Defendant and found him to be of sufficient mentality to understand the nature of the charges against him, and able to assist counsel. Thomas E. Bittker, M.D. evaluated Defendant and found him to be of sufficient mentality to understand the nature of the offense charged and to be of sufficient mentality to aid and assist counsel in the defense of the offense charged. Dr. Bittker further related that Defendant's **competency was not predicated on the administration of psychotropic medication**. Martha B. Hahaffey, Ph.D. evaluated Defendant and found that he was competent to stand trial and that he was of sufficient mentality to understand the nature of the offenses charged and to assist his attorney. Dr. Hahaffey further stated that Defendant **was not taking psychiatric medications** and that it did not appear necessary that he be prescribed psychiatric medication.

On November 2, 2000, the court found Defendant competent without the prescription of psychiatric medication.

Although there is no evidence that Defendant was in fact forced to take psychiatric medication as he alleges, the United States Supreme Court determined that the State could constitutionally compel the medication of a prison inmate. Washington v. Harper, 494 U.S. 210, 227 (1989). Further, in dicta, Riggins v. Nevada, 504 U.S. 127 (1992), the Supreme Court suggested that states could force medicate pretrial detainees for the sole purpose of achieving

competence for adjudication. "[T]he State might have been able to justify medically appropriate, involuntary treatment with the drug by establishing that it could not obtain an adjudication of Riggins' guilt or innocence by using less intrusive means." Id. at 135 (citing Illinois v. Allen, 397 U.S. 337, 347 (1970) (Brennan, J., concurring)).

Additionally, Defendant is not precluded from asserting a defense of metal incapacity as the case is only in the pre-trial stages.

CONCLUSION

Defendant's allegations of various Constitutional violations are without merit. Neither the laws of the State of Nevada nor the United States support Defendant's allegations. As such, the State respectfully requests this Honorable Court deny Defendant's Motion of Pre- trial Writ of Habeas Corpus for Dismissal of the Information.

DATED this 2nd day of August, 2001.

Respectfully submitted,

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing State's Opposition to Defendant's Motion to Endorse Defendant's Motion of Pre-trial Writ of Habeas Corpus for Dismissal of the Information is hereby acknowledged this 2 Day of August, 2001.

CHRISTOPHER ORAM, ESQ.
ATTORNEY FOR DEFENDANT

BY Christopher Oram
520 S. Fourth St., 2nd Floor
Las Vegas, Nevada 89101

KK/th

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CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563
Attorney for Defendant

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD POLK, Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

MOTION TO ENDORSE DEFENDANT'S MEMORANDUM OF NOTICE IN SUPPORT OF DISMISSAL

COMES NOW, Defendant, RENARD POLK, by and through his attorney, CHRISTOPHER R. ORAM, ESQ., hereby endorses defendant's Memorandum of Notice in Support of Dismissal.

DATED this 6 day of August, 2001.

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada, 89101
Attorney for Defendant
RENARD POLK

District Court
Clark County, Nevada

State of Nevada
Plaintiff

-vs-

Renard T. Polk
Defendant

Case No.
Dept No.
Docket No.

Memorandum of Notice in Support to Dismissal

Comes Now the defendant Renard Truman Polk asking this Honorable Court to file this Memo of Notice as to further make this Court, defendants counsel and the district attorney aware of the issues and parameters of legal redress defendant has stipulated counsel of his to take action upon to progress arguementative claims in the Federal Courts. If any questions should arise about the criminal aspect of the case at hand.

-Notice-

This Honorable Court recently recieved a motion filed improper person by defendants counsel pertaining to the following stipulations: Double Jeopardy, being the arbitrary juvenille proceedings that took place approximately during the fall of '99. Thereafter the Forced-Administration of Anti-psychotic medication during such frivilous proceedings. Also stipulated was the Pre-Arraignment delay.

That the District Attorney's office had ample opportunity to prosecute charges at bar, but has an even more substantial ripeness for adjudication being now that an Insanity defense has become available to the defendant. However being that it has been a delay not by any fault of the defendant, to question a mind state of a person with such a period of time in between would be superfluous in gesture, in application completely erroneous. Quoteing a line from the Writ of Habeas Corpus. "When prosecution is delayed... determining criminal responsibility at the time of the crime is increased. Passage of time makes proof any fact more difficult. When the fact is as subtle as a mind state, the difficulty is immeasurably enhanced."

Last of all the outrageous government conduct. In the case at hand there has been numerous due process violations. Which counsel has been aware of since this case was first acquired by his office.

Defendant now states that the Double Jeopardy issue is the one of most pertinent importance. However since defendants counsel has failed to obtain juvenille transcripts, video and audio tapes or any other documentation in order to prove defendant was not on probation, would further manifest injustice

Defendant now further vices that your Honor may be in possesion of some erroneously forged documents, counterfieted by some juvenille official to try and substantiate the unfounded probation violation. Furthermore if counsel would have obtained this information some time ago as defendant had asked, the Evidentiary Hearing defendant is asking for would be uneccesary. However, defendant is in possesion of some of the fraudulent documents and will at the Hearing on the 6th try and show this Honorable Court the Double Jeopardy issue counsel has failed to officiate.

~ Conclusion ~

So in closing Defendant has begun a civil suit for so many

derelictions and constitutional violations sustained by defendant, but the claim itself is still in it's prenature stages, However is being fervently pursued. Thereby putting this Honorable Court on Notice of the civil claim if any questions should arise in the Federal Courts about the avenues taken in aspect to the Defendants Criminal proceedings. ///

~Exhibit Attached~

The following attached documents are some of the fraudulent papers defendant brought to the courts attention in the memo. "To be expounded on at the Hearing."

Dated this 30 day of July 2001

I Renard Polk / Renard Polk, do solemnly swear, under the penalty of perjury, that the above Memorandum of Notice is accurate correct and true to the best of my knowledge.

Respectfully submitted
Renard T. Polk
Defendant

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
J. KEMMLER
Appt. No. 00-2197-1
My Appt. Expires April 27, 2002

7-30-01

RECEIPT OF COPY

RECEIPT OF A COPY of the **MOTION TO ENDORSE DEFENDANT'S MEMORANDUM OF NOTICE IN SUPPORT OF DISMISSAL**, is hereby acknowledged this 6 day of August, 2001.

STEWART BELL, District Attorney

DEPUTY DISTRICT ATTORNEY
200 S. Third Street
Las Vegas, Nevada 89155

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

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CHRISTOPHER R. ORAM, ESQ.
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Attorney for Defendant
RENARD POLK

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD POLK, Defendant.	CASE NO.: C166490 DEPT. NO.: VI DOCKET NO.: B

NOTICE OF WITNESSES

TO: THE STATE OF NEVADA, Plaintiff;

TO: STEWART L. BELL, ESQ., Attorney for Plaintiff;

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that RENARD POLK intends to call the following witnesses in its case and chief:

NAME	ADDRESS
JACK A. JURASKY, M.D.	2416 GREENS AVE. HENDERSON, NEVADA 89014
JOHN PAGLINI, PSY. D.	211 NORTH BUFFALO, STE. C LAS VEGAS, NEVADA 89145
RENARD POLK CLARK COUNTY DETENTION CTR.	330 SOUTH CASINO CENTER LAS VEGAS, NEVADA 89101

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

These witnesses are in addition to those witnesses endorsed on the State's Notice of Witnesses and Expert Witnesses and any other witness for which a separate Notice has been filed.

DATED this 30 day of July, 2001.

Respectfully submitted by:

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada, 89101

Attorney for Defendant
RENARD POLK

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

CERTIFICATE OF SERVICE BY FAX

I HEREBY CERTIFY that on this 5 day of July, 2001, I, Simone Miyasato, an employee to CHRISTOPHER R. ORAM, ESQ., served the attached **NOTICE OF WITNESSES** was made by means of a telephonic facsimile communication devise and that a Transmittal Confirmation Report or comparable evidence of service is attached to included within this document.

STEWART BELL, DISTRICT ATTORNEY
MARY KAY HOLTHUS
DEPUTY DISTRICT ATTORNEY
200 S. Third Street
Las Vegas, Nevada 89101
(702) 455-5101

Simone Miyasato
An employee of Christopher R. Oram, Esq.

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

****
*** ACTIVITY REPORT ***
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CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD TURMAN POLK

FILED
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CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA Plaintiff, vs. RENARD TURMAN POLK, Defendant.	CASE NO. C166490 DEPT. NO. VI DOCKET NO. B

ORDER ALLOWING CONTACT VISIT

That in preparation for Mr .Polk's trial it is necessary for Dr. Paglini to see Mr. Polk in order to complete an psychiatric evaluation on Mr. Polk. The Court being fully advised in the premises, and good cause appearing therefore,

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

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IT IS HEREBY ORDERED that the Defendant, RENARD POLK, be granted a contact visit with DR. JOHN PAGLINI, for the purpose of Dr. Paglini to perform a psychiatric examination of the Defendant, RENARD POLK, at the Clark County Detention Center.

DATED AND DONE this 4TH of October, 2001.

DISTRICT COURT JUDGE

Respectfully Submitted,

CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
RENARD POLK

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
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ORIGINAL

District Court
Clark County, Nevada

FILED IN OPEN COURT
JAN 0 3 2002
SHIRLEY B. PARRAGUIRRE, CLERK
BY Nora Peña
NORA PEÑA DEPUTY

C166490

In The Matter
of
Habeas Corpus

Renard Truman. Polk
~Petitioner~

Case No. 00-C-166490-C
Dept No. 5
Docket No.

"Pretrial Petition Writ of Habeas Corpus."

Cones Now the petitioner **Polk Renard T.** pursuant to N.R.S. 34. and other applications of the 34th chapter of the Nevada Revised Statutes and Prays this Honorable Court grant this Petition Writ for various constitutional violations brought forth herein.

Also, the petitioner would stipulate that the above titled matter be assigned a civil case number and heard by a civil judge due to the fact, "a Habeas Corpus is a civil remedy."

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The following issues will be brought into scope at the hearing of the Writ:

1.) Double Jeopardy.

2.) Prosecutorial Misconduct; wich encompasses:

A. Pre-Accusation Delay. Fed. Rul. Crim. Proc. rule 48(b); Dismissal for Unnecessary Delay.

B. Conspiracy 42 USC 1983, 1985 & 1986.

ZIS

3.) Egregious and Outrageous Government Conduct.

It is respectfully requested of this Court to grant this Petition before the proposed trial date on January 7 2002.

However in the event of the denial of this Petition, a Notice of Appeal will be filed shortly thereafter to obtain a Certificate of Appealability.

And in the occurence of any other unforeseen illegalities a Writ of Mandamus and a Writ of Certiorari will be pursued fervently.

~Statement of Facts.~

On August 14 1999 the petitioner surrendered himself by calling a patrol unit to his location.

The patrol unit then arrested the petitioner and proceeded to take said petitioner to the juvenille Facility.

When the petitioner became aware of this fact he questioned the escorting officers as to his being taken to the Family & Youth Services on 601 North Pecos RD. since he was over the age of eighteen.

The officers gave no comment.

After being booked in at the juvenille facility detective T. Moniot #4664 approached the petitioner and asked if he would like to give a statement pertaining to case number 00-C-166490-C, However prior to the petitioner consenting, he again asked why he was at the juvenille facility at which time the detective told the petitioner case number 00-C-166490-C.

Approximately two days later the petitioner was brought before the juvenille magistrate and sentenced under some erroneous, abstract and unfounded probation violation.

Nonetheless the petitioner became aware of this after the fact.

During the petitioner stay at the clark county detention center from August 17 1999 to September 16 1999. The facility was forcing unwanted psychotropic medication upon the petitioner.

Three months after the petitioner's release on September 16 1999, he was

cited for case number. 99196 50X Possession of Stolen Vehicle.

The state chose not to pursue this allegation at that time.

Thereafter on Feboary 23 2000 the petitioner was stoped for a disturbance in the nieghborhood he was located at.

At which time the questioning officer noticed an arrest warrant for case number 00-C-166490-C.

During due proceedings the petitioner was adjudged incompetent and sent to the Lakes Crossing facility in Sparks Nevada for evalution on August 23 2000.

On November 8 2000 the petitioner returned adjuded competent and continued due course.

Soon after a Motion for Discovery was filed to acquire the statement which the petitioner had given to the detective a year earlier.

During the hearing of the discovery motion the state said, "they had no such statement."

Sometime later the petitioner filed an O.R. Bailreduction.

Nonetheless when the state becomes aware of the such the statement that the state didn't have mysteriously appears.

Then a Motion was argued and granted on prejudicial grounds.

~ Points, Authorities and Argument ~

[Double Jeopardy.]

The first argument in relevance is N. R.S. 62.195 which states: "Criminal proceedings and **other** juvenille proceeding based upon the same offense in the Petition alleging delinquency or an offense **based** upon the **same conduct** are barred if the Courts have begun **taking evidence** or **accepts** a child's **admission** of the **Facts** alleged in the Petition. No child may be prosecuted as a juvenille and later as an adult."

So as this Honorable Court can see the subsequent prosecution of case C-166490-C

is in violation of N.R.S. 62.195 and the Double Jeopardy Clause of the Fifth Amendment.

The issue stands that when the petitioner surrendered himself on August 14 1999 detective T. Moniot #4661 told the petitioner that case number 00-C-166490-C was under juvenille jurisdiction.

However since the juvenille courts didn't have proper jurisdiction over such detrimental allegations the state appropriates falsified documents and information to the Juvenille Magistrate and Your Honorable Court.

If the Court would like to understand the petitioner's logic, the petition would ask this Honorable Court to look at, Exhibit A: "Dispositional Report."

The Court will notice the following highlighted dates:

pg.1 Time Filed stamp January 11 1999 and stipulation by primary probation officer for case number 99-C-156363-C for a Preliminary Hearing on January 27 1999 pg.3 line 21.

Now if the Court will look at Exhibit B: "A Criminal Complaint" for case number C-156363-C the court will notice on pg.1 hand written notes by the assigned attorney and the following highlighted date January 6 1999 Preliminary Hearing scheduled.

Lastily if the Court will glance at Exhibit C: "A Lodging Inquiry" at the Clark County Detention Center and notice the highlighted date for case number C-156363-C under its Justice Court case number 96FM3396X with the following arrest date January 14 1999.

The fact is, how is the petitioner's old primary probation officer preparing a "Dispositional Report" to place the petitioner on probation for the juvenille courts and stipulates the petitioner's "Preliminary Hearing" in the adult courts when the petitioner hadn't been given that hearing until after the "Report" was completed.

The Dispositional Report was prepared and filed on the 11 th of January and in the report the probation officer says the petitioner has a court date in the adult system coming up on January 27.

However the petitioner wasn't given this court date until the 14 th of

January because the petitioner evaded the one allocated on January 6.

The petitioner's contention is the fact of the state manufacturing evidence and falsifying documents to hide the fact of false imprisonment and error in thier prosecution.

Under the Double Jeopardy Clause of the Fifth Amendment, this would be double jeopardy by double punishment for the same offense.

Being that the first punishment was unjustified and the second even if proper would be in violation of N.R.S. 62.195 and The Double Jeopardy Clause of the Fifth Amendment.

Even if the state wants to argue the relevant charges were a probation violation, they would be required to produce the Parental Consent Decree as specified in the formal probation order.

Nevertheless Double Jeopardy still stands on the basis of the state using the new allegation of case nonber C-166490-C to violate the petitioner than holding it was enough evidence or proble cause to say the petitioner had committed a crime while on probation

So in order to procure the revocation the state introduces the petitioner's incriminating statement to show a new crime had been committed.

Held in the 47 Am Jur 2d, "transfer of a juvenille's case from juvenille court to an adult court **after** a juvenille **adjudicatory hearing** violates double jeopardy..... not **limited** in scope tha preliminary or **proble cause** hearing."

In the least this would require an Evidentiary Hearing to substantiate such serious violations.

[Prosecutorial Misconduct.]

The next issue the petitioner brings to this courts attention is that of Prosecutorial Misconduct on Delays which is Dismissal for Unnecessary Delay or Federal Rules of Criminal Procedure: rule 48(b).

This case is under a Pre-Accusation Delay. **State v. Autry 746 P.2d 637**

The following issues are brought into spectrum in this type of Delay:

A.) Length of Delay. B.) Reason for Delay. C.) Prejudice to the accused defense and deprivation of constitutional rights.

A.) Length of Delay.

First the petitioner would like to specify the Courts held in **Barker v. Wingo 407 U.S. 514 '72**, "the length of delay **primary use** is a triggering mechanism when **weighing** the other reasons..... unless the delay is long enough to seem presumptively prejudicial."

The petitioner indicates it has been (34) thirty-four months from the date of the alleged crime on March 16 1999 to the surrender of the petitioner on August 14 1999 released on September 16 1999, Thereafter the arrest of the petitioner on November 24 1999 for case number 99F16650X, And upon the third arrest on Febuary 23 2000 the state decides to pursue case number 00-C-166490-C to the proposed trial date on January 7 2002.

Seven months before the accusation are completely attributable to the state.

The New Supreme Court also concluded in situations such as this **State v. Autry 746 P.2d 637, 640 '87**, "the **statutes of limitations does not** defines ones due process rights.... the **Due Process** clause of the Fifth Amendment would **require a dismissal** of the information if it were shown at trial the **delay** caused **substantial prejudice** to the accused right to a fair trial.... that the delay was used to gain a tactical advantage over the accused."

So with inquiring into the other parameters or reasons before reaching a decision would be frivilous in gesture.

B.) Reason for Delay.

In this parameter the Supreme Court concluded, "the **prosecutor** is in the **best** position to give a **reason** for the delay." **Prosecutorial Misconduct** C.B.C B.L. Goshmanpg. 8-9.

However it was also held by the Nev. Supreme Court, "if the delay was **used** as a **device** to **gain** a **tactical advantage** over the accused or to **harrass** the defendant would **violate** due process." **U.S. v. Huntley 976 F.2d 1287, 1290 (9th Cir).**

The petitioner believes this was an intentional delay to gain a tactical advantage.

The fact stands that during the thirty day stay at the clark county detention center from August 17 '99 to September 16 '99, the petitioner was being forced to take anti-psychotic medication and had the state pursued the relevant charges to many rights and protections would have been incorporated into the proceedings.

Take for example the **Riggins v. Nevada 112 S.Ct. 1810.**

The Supreme Court deduced Riggins had an undeniable **liberty interest** and **due process right** that encompassed 1.) showing true mental veracity of the accused and 2.) ability to assist counsel. pg. **1819**

In **Rennie v. Klien 462 F. Supp 1131.**

The constitutional issues addressed were **First Amendment** and **Due Process** rights.

Which the Supreme Court held was, "the freedom of expression both the **right** to **think** and **communicate**. ...." and **keeping** the government from **interfering** with **mentation.**" pg. **1144**

And again the of "**assistance of counsel**." pg. **1146**

The other tactical advantage the court witnessed during the discovery period.

How the prosecutor's "**tactics**" procured the denial of the O.R. Bailreduction Motion.

Also, the petitioner truly believes had the statement not been used to secure the denial of the O.R. Motion, the stat would have erroneously introduced it at the time of trial.

Which is a discovery violation, since the state told the Court and the Defense they had no such statement.

Not to mention the petitioner could have, "challenged the voluntary and

trustworthiness of the statement. **State v. Sergent 621 P.2d 209**

The petitioner stipulates these were required factual determinations.

That all facts in relevance has denied the petitioner equal protections of the law, the petitioner has been denied rights a normal minded person is entitled to.

If this is not sufficient the Supreme Court held in **Dickey v. Florida 398 U.S. 30 '70**," when the accused is all available to the state.... the prosecutor's good faith decision not to serve him is **intolerable** as a matter of fact and **impermissable** as a matter of **law**."

Which is more the New Supreme Court concluded in **Tartaglia v. State 791 P.2d 76 N.M. '90**," the **reason** for delay will **wiegh** more **heavily** against the state, where the state **Fails** to **locate** a defendant who's **imprisoned** in it's **own facility**."

The petitioner contends the fact he was housed at the clark county detentian center for thirty on case number. 99JJ0041X after he had giving the incriminating statement August 14 1999.

Then shortly after his release cited and arrested for casenumber

The state had ample opportunity to prosecute the relevant charges.

Conspiracy?

C.) Prejudice to the accused defense and deprivation of constitutional rights. **Berman v. Sherriff 659 P.2d 298**

In **U.S. v. Lavasco 431 U.S. 790** the Courts stated that," if the delay **hampered** the accused **defense**.... would require a dismissal."

Which in the **B.L. Gershman Prosecutorial Misconduct C.B.C.** the Courts also deduced," the **defense** must **establish actual, substantial** and **non-speculative** prejudice." pg. 8-8

Being that of lost evidence or witnesses essential to the defense.

The petitioner has lost factual assessments, expert testimony and pertinent

documentary evidence.

That in all due respect how is the petitioner possibly suppose to put on an Insanity Defense when there has been lost psychiatric testimony and lost documentary records to establish the such occasioned by the delay.

The state would even be in agreement, that no amount of psychiatric testimony now would establish anything.

Being that petitioner is one in many who's come to a place of mental stability after psychotic ideations and past mental health history.

More over the Courts specified in **Geelan v. U.S. 520 F.2d 585 9th. Cir '75**, "when **prosecution** is **delayed**..... **determining Mens Rea** (emphasis added) at the **time** of the **crime** is **increased**. **Passage** of **time** makes..any **fact more difficult**. When the **fact** is as subtle as a **mental state**, the difficulty is **immeasurably enhanced**."

The petitioner's contention is the fact that the Court granted a Motion for the state to show prior bad acts, common scheme or plan and frame of mind.

How is the court granting the state an element of common law such as criminal intent and frame of mind.

Yet the petitioner asserts this area of law has been prejudice and compromised due to the delay.

Another denial of equal protections.

And to say the petitioner's frame of mind is not in question would be frivilous because the medical records the petitioner does have during the delay proves beyond a preponderance that it was.

The constitutional deprivations the petitioner has brought forth are:

a.) Equal Protections; the required factual determinations during the delay to challenge the trustworthiness of the statement and the impossability of the petitioner to put on an Insanity Defense due to lost psychiatric testimony and unavailable mental health records occasioned by the delay.

b.) Double Jeopardy, that of the arbitrary juvenille proceedings and subsequent punishment of case number 00-C-166440-C.

c.) Forced Anti-Psychotic Medication; during the delay to surpress memory and mentation.

d.) Faslified documentation; false probationery document.

e.) Discovery Violation; prosecutor introducing the "non-existing" statement to secure an O/R. Bailreduction denial after telling the Courts and a Discovery Motion filed that the state had no such statement.

Still other various violations the cares not to bring forth since this is more than adequate to establish a "due process" violation.

The petitioner has met the burden of proof other cases could not and even then these cases were remanded or dismissed just on the issues brought forth.

Not to further mention in cases in this area of delay the Courts puts alot of enphasis on fact of the "accused impeding arrest and fleeing justice" in old A.L.R. case citings.

The petitioner surrendered himself, and truly believes as the Sup. Court. of New and U.S. said this case "violates those concepts of fair play and decency that lies at the base of our judicial system."

[Conspiracy.]

The first conspiracy the petitioner believes that took place is that certain government officials falsified state documentation to gain a greater sentence conviction based upon the facts of case number 00-C-166440-C, since the juvenille courts didnt have proper jurisdiction to sentence the petitioner to a substantial amount of time.

So the state knew that to reprosecute the facts of the relevant charges would be double jeopardy and in a fraudulent shene to violate the petitioner's due process rights the state allocates falsified documents to the Courts to make it appear that

the petitioner was at the juvenille facility behind a probation violation.

Or the second conspiracy is that the state found out about the petitioner being forced psychotropic medication and in a scheme to violate the petitioner equal protection rights the state decides not to prosecute the relevant charges because to many rights would have been implemented into the proceedings.

Explaining the Pre-Arrest Delay.

However this would also require an Evidentiary Hearing.

[Egregious and Outrageou Govenment Conduct]

Needless-to-say the petitioner has cited numerous Due Process Violations.

a.) Arbitrary Juvenille Proceedings.
b.) Falsified Documents
c.) Forced Anti-Psychotic Medication
d.) Discovery Violation

and other violations that would be tedious to put forth into this motion.

And it was held in **Hillis v. U.S. 746 P.2d 1092**," it may some day be presented with a **situation** in which the **conduct** of the law enforcement **agents** is so **outrageous** that **due process principles** would absolutely bar the government from invoking judicial process **103 Nev. 54** to obtain a conviction."

Aside from everything specified herein this could undoubtedly be one of those instances.

///.

- Conclusion -

So in closing the petitioner would ask that this Court grant the proper relief, that to ignore such derelictions would only further violate the constitutional illegalities of the case at hand.

Nonetheless if the appropriate relief is not granted, an evidentiary

hearing held or the Writ is filed under the criminal case number and heard by the criminal judge, a Notice of Appeal will be filed shortly after to obtain a Certificate of Appealability.

Also in the event of any other unforeseen illegalities a Mandamus and Certiorari will be pursued fervently to rectify such egregious conduct.

"Has the meaning of Due Process taken a turn to mean the "process due" an individual who's socialy challenged, reputably unqualified, financialy impoverished and politicaly destitute has no right to have the law practiced in his or her corner effectively that only those with the luxury of "recourses" systenaticaly recieve adequate counsel to allocate the Equal Protections of the law that the poor man's counsel superfluously avoides, friviously overlooks and detrimentaly undermines.

Why should "obligctions" or "protocols" impede judicial process when the issues stare you in the face.

We let the real criminals hide behind the barrier of immunity in order to continue this vicious cycle of unequivocal discrimination to an individuals civil rights.

No where in the law does it say people who are sworn to uphold the such may of thier own descretion violate it, as a matter of law I'll show you contrary."

Dated this_____day of_____20__

I_____do adhere
under the penalty of perjury the above
_____is correct
true and accurate to the best of my Knowledge.

Respectfully Requested
Renard T. Polk

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DISTRICT COURT

2002 JAN -7 P 1:56

CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff(s),

vs

RENARD TRUMAN POLK

Defendant(s).

Case No. C166490

Dept. No. VI

JURY

1. LARRY MIKESELL
2. DENISE WILCOX
3. ADRIANNA ERICKSON
4. LESLIE THORNE
5. JENNIFER O'BRIEN
6. MYRA GOEHRING
7. CHRISTOPHER MANGIOPANE
8. ERIKA GEISER
9. ROBIN CRAWLEY
10. STEPHEN BRIDE
11. SANDRA STANKO
12. ISABEL TAPIA

ALTERNATES

1. LINNET BROCK

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JAN 07 2002 20
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BY Carole D'Aloia
CAROLE D'ALOIA DEPUTY

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STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs- Trumgn

RENARD TURMAN POLK, (TN)
#1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

SECOND AMENDED INFORMATION

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), on or between 1998 and March 12, 1999, 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,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions

AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia, DEPUTY
JAN 07 2002

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COUNTY CLERK

in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about October 14, 1998, and March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

NAME	ADDRESS
JOHNSON, K.	LVMPD #2075
DUNN, D.	LVMPD #385
POLK, Anna	1473 Aruba Ct. Pomona CA 91768

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CHATMAN, Jahala	1473 Aruba Ct. Pomona CA 91768
POLK, Gloria	1325 Nay Ct. Las Vegas NV 89104
CHATMAN, Jamila	1473 Aruba Ct. Pomona CA 91768
O'CONNOR, Marc	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SAVAGE, Jessica	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SUITER, Phyllis	SAINT 701 N. Pecos Rd. Las Vegas NV 89101
PARENT/GUARDIAN of JAHALA CHATMAN	1473 Aruba Ct. Pomona CA 91768
PARENT/GUARDIAN of ANNA POLK	1473 Aruba Ct. Pomona CA 91768

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LVMPD EV#9903130217
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(TK7)

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BY Carole D'Aloia
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STEWART L. BELL
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Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RENARD TURMAN POLK, #1521718

Defendant.

Case No. C166490
Dept. No. VI
Docket B

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STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), on or between 1998 and March 12, 1999, 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,

COUNT I

did, on or ~~about~~ between January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions

AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia, DEPUTY
JAN 09 2002

CAROLE D'ALOIA

AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia, DEPUTY
JAN 07 2002

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BY Carole D'Aloia, DEPUTY
JAN 07 2002

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JAN 07 2002
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in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or ~~about~~ between October 14, 1998, and March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Deputy District Attorney
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DA#00166490X/th
LVMPD EV#9903130217
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(TK7)

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(702) 455-4711
Attorney for Plaintiff

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CAROLE D'ALOIA DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs- Trumgn

RENARD TURMAN POLK, (TN)
#1521718

Defendant.

Case No. C166490
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STATE OF NEVADA)
COUNTY OF CLARK) ss:

STEWART L. BELL, 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 RENARD TURMAN POLK, the Defendant(s) above named, having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366), on or between 1998 and March 12, 1999, 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,

COUNT I

did, on or about January 1, 1999, and January 31, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject JAHALA CHATMAN, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said JAHALA CHATMAN, against her will, or under conditions

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AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY Carole D'Aloia, DEPUTY
JAN 07 2002

AMENDED BY ORDER OF THE COURT
SHIRLEY B. PARRAGUIRRE, CLERK
BY Jan 7 2002, DEPUTY
Carole D'Aloia

RECEIVED
JAN 07 2002
COUNTY CLERK

in which Defendant knew, or should have known, that the said JAHALA CHATMAN was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT II

did, on or about October 14, 1998, and March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT III

did, on or about March 12, 1999, then and there wilfully, unlawfully, and feloniously sexually assault and subject ANNA POLK, a female child under ~~sixteen~~ fourteen years of age, to sexual penetration, to-wit: anal intercourse, by inserting his penis into the anal opening of the said ANNA POLK, against her will, or under conditions in which Defendant knew, or should have known, that the said ANNA POLK was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY Mary Kay Holthus
MARY KAY HOLTHUS
Deputy District Attorney
Nevada Bar #003814

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

NAME	ADDRESS
JOHNSON, K.	LVMPD #2075
DUNN, D.	LVMPD #385
POLK, Anna	1473 Aruba Ct. Pomona CA 91768

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CHATMAN, Jahala	1473 Aruba Ct. Pomona CA 91768
POLK, Gloria	1325 Nay Ct. Las Vegas NV 89104
CHATMAN, Jamila	1473 Aruba Ct. Pomona CA 91768
O'CONNOR, Marc	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SAVAGE, Jessica	Sunrise Hospital 3186 S. Maryland Pkwy. Las Vegas NV 89109
SUITER, Phyllis	SAINT 701 N. Pecos Rd. Las Vegas NV 89101
PARENT/GUARDIAN of JAHALA CHATMAN	1473 Aruba Ct. Pomona CA 91768
PARENT/GUARDIAN of ANNA POLK	1473 Aruba Ct. Pomona CA 91768

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