

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 JOSHUA C. SHUE,

) No. 67428
)

4 Appellant,

) Electronically Filed
) Jul 20 2015 04:53 p.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

5 v.
6)

7 THE STATE OF NEVADA,

8 Respondent.
9 _____)

10 **APPELLANT'S APPENDIX VOLUME I PAGES 001-240**

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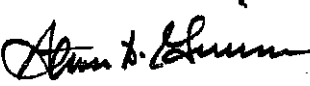
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CLERK OF THE COURT

1 **IND**
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DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 JOSHUA C. SHUE, aka,
16 Joshua Caleb Shue, #1550230

17 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant above named, JOSHUA C. SHUE, aka, Joshua Caleb Shue, accused
21 by the Clark County Grand Jury of the crime(s) of CHILD ABUSE & NEGLECT (Category
22 B Felony - NRS 200.508), USE OF CHILD IN PRODUCTION (Category A Felony - NRS
23 200.710), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
24 CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) and OPEN OR
25 GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210), committed at and within the
26 County of Clark, State of Nevada, on or between January 1, 2010 and August 23, 2012 as
27 follows:

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1 COUNT 1 - CHILD ABUSE & NEGLECT

2 did wilfully, unlawfully, feloniously and knowingly neglect, cause, or permit a child
3 under the age of 18 years, to-wit: HAZEL IRAL, being approximately 17 years of age, to
4 suffer unjustifiable physical pain, or mental suffering, or by permitting the said HAZEL
5 IRAL to be placed in a situation where she might have suffered unjustifiable physical pain or
6 mental suffering, by the Defendant taking pictures of the said HAZEL IRAL's genital area
7 and/or by taking off her clothing and/or by inappropriately kissing the said HAZEL IRAL on
8 the mouth and/or videotaping HAZEL IRAL in the nude while she showered and engaged in
9 other bathroom activities.

10 COUNT 2 - USE OF CHILD IN PRODUCTION

11 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
12 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
13 subject of a sexual portrayal in a performance, to wit: lewd exhibition of genitals, for the
14 purpose of producing a pornographic performance, to wit: by using a camera to take a
15 photograph of the said HAZEL IRAL's genital area.

16 COUNT 3 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0058, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 4 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0058, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
3 private bathroom routines.

4 COUNT 5 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
5 CONDUCT OF A CHILD

6 did then and there feloniously, knowingly and willfully, have in his possession, a
7 film, photograph, or other visual presentation depicting a child under the age of sixteen years
8 as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
9 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0058,
10 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
11 full frontal nudity.

12 COUNT 6 - USE OF CHILD IN PRODUCTION

13 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
14 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
15 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
16 video file named PICT0031, for the purpose of producing a pornographic performance, to
17 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
18 private bathroom routines.

19 COUNT 7 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT0031, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
25 private bathroom routines.

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1 COUNT 8 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did then and there feloniously, knowingly and willfully, have in his possession, a
4 film, photograph, or other visual presentation depicting a child under the age of sixteen years
5 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
6 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0031,
7 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
8 full frontal nudity.

9 COUNT 9 - USE OF CHILD IN PRODUCTION

10 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
11 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
12 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
13 video file named PICT0005, for the purpose of producing a pornographic performance, to
14 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
15 private bathroom routines.

16 COUNT 10 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0005, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
22 private bathroom routines.

23 COUNT 11 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
24 CONDUCT OF A CHILD

25 did then and there feloniously, knowingly and willfully, have in his possession, a
26 film, photograph, or other visual presentation depicting a child under the age of sixteen years
27 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
28 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0005,

1 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
2 full frontal nudity.

3 COUNT 12 - USE OF CHILD IN PRODUCTION

4 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
5 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
6 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
7 video file named PICT0007, for the purpose of producing a pornographic performance, to
8 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
9 private bathroom routines.

10 COUNT 13 - USE OF CHILD IN PRODUCTION

11 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
12 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
13 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
14 video file named PICT0007, for the purpose of producing a pornographic performance, to
15 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
16 private bathroom routines.

17 COUNT 14 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
18 CONDUCT OF A CHILD

19 did then and there feloniously, knowingly and willfully, have in his possession, a
20 film, photograph, or other visual presentation depicting a child under the age of sixteen years
21 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
22 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0007,
23 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
24 full frontal nudity.

25 COUNT 15 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0006, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
3 private bathroom routines.

4 COUNT 16 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0006, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
10 private bathroom routines.

11 COUNT 17 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
12 CONDUCT OF A CHILD

13 did then and there feloniously, knowingly and willfully, have in his possession, a
14 film, photograph, or other visual presentation depicting a child under the age of sixteen years
15 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
16 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0006,
17 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
18 full frontal nudity.

19 COUNT 18 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT0057, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
25 private bathroom routines.

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1 COUNT 19 - USE OF CHILD IN PRODUCTION

2 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
3 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
4 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
5 video file named PICT0057, for the purpose of producing a pornographic performance, to
6 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
7 private bathroom routines.

8 COUNT 20 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
9 CONDUCT OF A CHILD

10 did then and there feloniously, knowingly and willfully, have in his possession, a
11 film, photograph, or other visual presentation depicting a child under the age of sixteen years
12 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
13 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0057,
14 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
15 full frontal nudity.

16 COUNT 21 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0089, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 22 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0089, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
3 private bathroom routines.

4 COUNT 23 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
5 CONDUCT OF A CHILD

6 did then and there feloniously, knowingly and willfully, have in his possession, a
7 film, photograph, or other visual presentation depicting a child under the age of sixteen years
8 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
9 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0089,
10 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
11 full frontal nudity.

12 COUNT 24 - USE OF CHILD IN PRODUCTION

13 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
14 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
15 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
16 video file named PICT0124, for the purpose of producing a pornographic performance, to
17 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
18 private bathroom routines.

19 COUNT 25 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT00124, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
25 private bathroom routines.

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1 COUNT 26 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did then and there feloniously, knowingly and willfully, have in his possession, a
4 film, photograph, or other visual presentation depicting a child under the age of sixteen years
5 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
6 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0124,
7 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
8 full frontal nudity.

9 COUNT 27 - USE OF CHILD IN PRODUCTION

10 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
11 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
12 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
13 video file named PICT0073, for the purpose of producing a pornographic performance, to
14 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
15 private bathroom routines.

16 COUNT 28 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0075, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 29 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0002, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
3 private bathroom routines.

4 COUNT 30 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0002[214-847], for the purpose of producing a pornographic
9 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
10 performed other private bathroom routines.

11 COUNT 31 - USE OF CHILD IN PRODUCTION

12 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
13 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
14 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
15 video file named PICT0011[214-856], for the purpose of producing a pornographic
16 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
17 performed other private bathroom routines.

18 COUNT 32 - USE OF CHILD IN PRODUCTION

19 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
20 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
21 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
22 video file named PICT0013[214-858], for the purpose of producing a pornographic
23 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
24 performed other private bathroom routines.

25 COUNT 33 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0015[214-860], for the purpose of producing a pornographic
2 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
3 performed other private bathroom routines.

4 COUNT 34 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0016, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
10 private bathroom routines.

11 COUNT 35 - USE OF CHILD IN PRODUCTION

12 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
13 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
14 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
15 video file named PICT0025[214-870], for the purpose of producing a pornographic
16 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
17 performed other private bathroom routines.

18 COUNT 36 - USE OF CHILD IN PRODUCTION

19 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
20 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
21 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
22 video file named PICT0026 and PICT0027[214-872], for the purpose of producing a
23 pornographic performance, to wit: by filming the genital areas of HAZEL IRAL as she
24 showered and performed other private bathroom routines.

25 COUNT 37 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0030[214-875], for the purpose of producing a pornographic
2 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
3 performed other private bathroom routines.

4 COUNT 38 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0044, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
10 private bathroom routines.

11 COUNT 39 - OPEN OR GROSS LEWDNESS

12 did then and there wilfully and unlawfully commit an act of open or gross lewdness
13 by inappropriately kissing said HAZEL IRAL on the mouth.

14 COUNT 40 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
15 CONDUCT OF A CHILD

16 did then and there feloniously, knowingly and willfully, have in his possession, a
17 film, photograph, or other visual presentation depicting a child under the age of sixteen years
18 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
19 engage in or stimulate sexual conduct, to wit: a computer video file named {4ADE06C5-
20 E63D-4364-B21E-540546F93E9E}-99e2250e821a640148cb04ae0bde9813.jpg, depicting an
21 unidentified boy receiving oral sex from another male.

22 COUNT 41 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
23 CONDUCT OF A CHILD

24 did then and there feloniously, knowingly and willfully, have in his possession, a
25 film, photograph, or other visual presentation depicting a child under the age of sixteen years
26 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to

27 ///

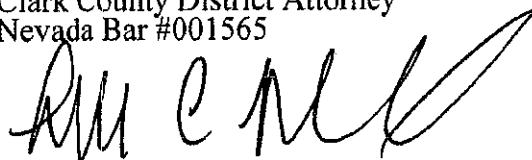
28 ///

1 engage in or stimulate sexual conduct, to wit: various pictures depicting a fully naked
2 unidentified boy standing nude in the bathroom and bedroom, said pictures displaying full
3 frontal nudity

4 DATED this 12th day of March, 2013.

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

7
8
9 BY



LEAH BEVERLY
Deputy District Attorney
Nevada Bar #012556

10
11
12 ENDORSEMENT: A True Bill

13
14 
15 Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:

2 IRAL, ANITA, 3640 KOLENDO CT #D, LV NV 89103

3 IRAL, HAZEL, 3640 KOLENDO CT #D, LV NV 89103

4 JAEGER, RYAN, LVMPD# 5587

5 RAMIREZ, VINCENTE, LVMPD# 4916

6
7 Additional witnesses known to the District Attorney at time of filing the Indictment:

8 CUSTODIAN OF RECORDS, CCDC

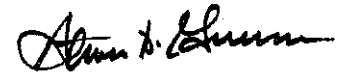
9 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

10 CUSTODIAN OF RECORDS, LVMPD RECORDS

11 OBASI, FRANCOIS, LVMPD# 6642

12 PRICHARD, DAVID, LVMPD# 6210

13
14
15
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19
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21
22
23
24
25
26
27 12AGJ131X/12F13527X/ed/GJ
28 LVMPD EV# 1208231707
(TK12)



CLERK OF THE COURT

1 CASE NO. C288172

2

3

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4

CLARK COUNTY, STATE OF NEVADA

5

6 STATE OF NEVADA,

)

7

PLAINTIFF,

)

CASE NO. 12F13527X

8

VS.

)

9

JOSHUA C. SHUE,

)

10

DEFENDANT,

)

11

12

REPORTER'S TRANSCRIPT OF PROCEEDINGS

13

14

BEFORE THE HONORABLE DIANA L. SULLIVAN, JUSTICE OF THE PEACE

15

16

WEDNESDAY, FEBRUARY 27, 2013

17

8:26 O'CLOCK A.M.

18

19

FOR THE PLAINTIFF:

LEAH C. BEVERLY,
DEPUTY DISTRICT ATTORNEY

20

21

FOR THE DEFENDANT:

TERRENCE M. JACKSON, ESQ.

22

23

* * * *

24

REPORTED BY: KIT MACDONALD, C.S.R.
CERTIFICATE NO. 65

25

1 LAS VEGAS, CLARK COUNTY, NEVADA, WEDNESDAY, FEBRUARY 27, 2013

2

3

8:26 O'CLOCK A.M.

4

5

* * * * *

6

7

THE COURT: JOSHUA SHUE, 12F13525 -- 27.

8

MS. BEVERLY: GOOD MORNING, YOUR HONOR.

9

THE COURT: HI. ALL RIGHT, THIS IS SECOND AMENDED
10 COMPLAINT. IS THIS A P.D. CASE?

11

MS. BEVERLY: NO, THIS IS MR. JACKSON'S CASE, AND WE'RE
12 WAITING ON HIM.

13

THE DEFENDANT: HE HASN'T ARRIVED YET.

14

THE COURT: OKAY. YOU'RE MR. SHUE, I TAKE IT?

15

THE DEFENDANT: YES, MA'AM.

16

THE COURT: OKAY. SO WE'LL TRAIL IT FOR MR. JACKSON.

17

THE MARSHAL: YOUR HONOR, JUST SO YOU KNOW, THEY HAVE THE
18 GATE LOCKED DOWN BECAUSE OF THE FIRE ALARM, HE COULD BE STUCK
19 OUTSIDE.

20

THE COURT: OH. NO WONDER NOBODY'S HERE. OKAY.

21

(WHEREUPON THE FOREGOING MATTER WAS TRAILED.)

22

THE COURT: RECALLING JOSHUA SHUE, 12F13527.

23

MR. JACKSON: SHUE'S PRESENT.

24

THE COURT: HI, MR. JACKSON.

25

MR. JACKSON: I APOLOGIZE TO THE COURT FOR BEING LATE.

1 **THE COURT:** OH, I KNOW THERE WAS PROBLEMS DOWNSTAIRS.
2 **MR. JACKSON:** WELL --
3 **THE COURT:** OKAY. SO IT LOOKS LIKE THERE'S BEEN A SECOND
4 AMENDED CRIMINAL COMPLAINT FILED, DO YOU HAVE THAT?
5 **MR. JACKSON:** YES.
6 **THE COURT:** OKAY. AND IS THIS SET FOR PRELIM?
7 **MS. BEVERLY:** NO, YOUR HONOR, IT WAS SET TODAY FOR THE
8 FILING OF THE AMENDED COMPLAINT.
9 **THE COURT:** OH, OKAY.
10 **MS. BEVERLY:** AS WELL AS STATUS CHECK ON NEGOTIATIONS,
11 BUT WE HAVEN'T BEEN ABLE TO WORK THIS OUT, SO I FILED THE NEW
12 COMPLAINT.
13 **THE COURT:** OKAY.
14 **MS. BEVERLY:** AT THIS TIME WE'RE GONNA' -- I WANT TO MAKE
15 A RECORD, THAT I DID SERVE MR. JACKSON WITH MARKUM NOTICE --
16 UM -- AND I ALSO -- UM -- WOULD REQUEST THAT BAIL BE SET ON
17 THESE NEW CHARGES TODAY.
18 **THE COURT:** WHAT'S HIS TOTAL BAIL 2,000?
19 **THE CLERK:** SHOWS 2,000.
20 **MS. BEVERLY:** AND ALSO FOR THE RECORD, YOUR HONOR, IF
21 THIS CASE -- WHEN THIS CASE IS SET FOR PRELIM, IT'S GOING TO
22 TAKE AT LEAST THREE TO FOUR HOURS TO PUT ON THE PRELIM --
23 **THE COURT:** OKAY.
24 **MS. BEVERLY:** -- FOR THE COURT'S --
25 **THE COURT:** THANK YOU.

1 **MS. BEVERLY:** -- KNOWLEDGE.

2 **MR. JACKSON:** WELL, YOU KNOW, BEFORE WE SET BAIL -- UH --
3 I'D LIKE TO, YOU KNOW, BE HEARD ON THAT.

4 **THE COURT:** OH, I'LL LET YOU -- YEAH, HOLD ON, JUST --
5 I'M JUST TRYING TO REFRESH YOUR MEMORY OF WHY HIS BAIL WAS SET
6 AT WHAT IT WAS, THAT'S ALL I'M TRYING TO DO. SO I'LL
7 CERTAINLY LET YOU RESPOND, JUST GIVE ME A MOMENT.

8 **MR. JACKSON:** OKAY.

9 **THE COURT:** OKAY. SO IT LOOKS LIKE HE WAS ORIGINALLY
10 ARRESTED ON ONE CHARGE, ONE GROSS MISDEMEANOR CHARGE ON AUGUST
11 23RD.

12 **MS. BEVERLY:** THAT'S CORRECT.

13 **THE COURT:** HE POSTED BAIL THE VERY NEXT DAY, AND THEN A
14 CRIMINAL COMPLAINT WAS FILED ON -- WELL, ACTUALLY A COMPLAINT
15 WAS FILED, AND THEN AN AMENDED CRIMINAL COMPLAINT WAS FILED
16 BACK IN THE FALL, AND NOW WE HAVE A SECOND AMENDED CRIMINAL
17 COMPLAINT.

18 WHAT ARE THE NEW CHARGES IN THIS ONE?

19 **MS. BEVERLY:** YOUR HONOR, THE NEW CHARGES IN THIS CASE
20 ARE ADDITIONAL COUNTS OF USE OF A CHILD IN PRODUCTION, AS WELL
21 AS POSSESSION OF VISUAL DEPICTION -- UM -- VISUAL PRESENTATION
22 DEPICTING THE SEXUAL CONDUCT OF A CHILD, AS WELL AS OPEN AND
23 GROSS LEWDNESS.

24 **MR. JACKSON:** CAN I BE HEARD, YOUR HONOR?

25 **THE COURT:** WELL -- WELL I -- NO, NOT RIGHT NOW, I WANT

1 TO HEAR FROM MISS BEVERLY.

2 MISS BEVERLY, SO HE'S ALREADY CHARGE -- I MEAN, IN THE
3 AMENDED CRIMINAL COMPLAINT HE'S CHARGED WITH A A-FELONY, WHICH
4 IS ABOUT AS SERIOUS AS YOU CAN GET.

5 MS. BEVERLY: YES, YOUR HONOR. I DON'T --

6 THE COURT: AND I DON'T KNOW IF ANYBODY REQUEST -- I'M
7 LOOKING THROUGH THE MINUTES, I DON'T SEE THAT ANYBODY
8 REQUESTED ME TO INCREASE BAIL AT THE TIME HE WAS CHARGED WITH
9 BASICALLY THE B-FELONY AND THE A-FELONY, AND SEVERAL OTHER
10 B-FELONIES, AND NOW YOU'VE AMENDED TO ADD SOME SIMILAR LIKE
11 CHARGES, AND NOW ALL OF A SUDDEN WE WANT BAIL RAISED. WHY IS
12 THAT? WHY NOW, EIGHT MONTHS LATER?

13 MS. BEVERLY: YOUR HONOR, I -- I WASN'T AWARE -- UM -- AT
14 THE -- THE LAST TIME THE FIRST AMENDED COMPLAINT WAS FILED, IT
15 DOESN'T LOOK LIKE ANYONE REQUESTED BAIL. HOWEVER, THE REASON
16 FOR THAT IS BECAUSE THE POLICE HAD THIS COMPUTER THAT WAS
17 SEIZED IN A SEARCH WARRANT, AND IT TAKES MONTHS AND MONTHS TO
18 GO THROUGH THIS COMPUTER.

19 NOW, THE SEC -- THE FIRST AMENDED COMPLAINT DIDN'T HAVE
20 ANY OF THE CHARGES RELATED TO THIS PARTICULAR COMPUTER, SO THE
21 REASON WE DIDN'T ASK FOR BAIL AT THAT POINT IS BECAUSE WE KNEW
22 THAT IT WAS GOING TO TAKE MONTHS TO BE ABLE TO DUMP THIS
23 COMPUTER, AND WE DIDN'T WANT TO FILE -- UM -- ANOTHER CASE
24 AGAINST HIM, WE WANTED TO ADD NEW CHARGES TO THIS COMPLAINT.
25 SO THE CHARGES IN THE FIRST AMENDED COMPLAINT HAVE NOTHING TO

1 DO WITH THE -- ANY OF THE CHILD PORNOGRAPHY, OR ANY OF THE
2 ITEMS FOUND ON HIS COMPUTER.

3 **THE COURT:** WELL -- BUT THERE'S A A-FELONY CHARGE CHARGED
4 AS USE OF A CHILD IN PRODUCTION, COUNT 2.

5 **MS. BEVERLY:** RIGHT. AND, YOUR HONOR, THAT WAS FOR THE
6 PICTURE THAT WAS TAKEN, WHICH WE HAD INFORMATION ABOUT FROM
7 THE ORIGINAL --

8 **THE COURT:** RIGHT.

9 **MS. BEVERLY:** -- INTERVIEW WITH THE -- WITH THE VICTIM.
10 HOWEVER, SUBSEQUENT TO THAT, THAT'S WHEN THE COMPUTER OF --
11 THE POLICE WERE GOING THROUGH THE COMPUTER, AND THAT'S WHEN
12 THEY FOUND OUT OF THESE ADDITIONAL VIDEOS, AS WELL AS PHOTOS,
13 RELATED TO THIS PARTICULAR VICTIM, AS WELL AS ANOTHER VICTIM.
14 SO THAT ORIGINAL COUNT OF USE OF A CHILD IN PRODUCTION HAD
15 NOTHING -- HAD NOTHING TO DO WITH ALL OF THE INFORMATION FOUND
16 ON THE COMPUTER. IT JUST HAD TO DO WITH THAT ONE PHOTOGRAPH,
17 WHICH WE HAD KNOWLEDGE OF AT THE TIME.

18 **THE COURT:** OKAY. SO BASICALLY THEN THE NEW CHARGES ARE
19 FOR A NEW VICTIM WITH A NEW PICTURE?

20 **MS. BEVERLY:** WELL, IT'S A NEW VICTIM, AS WELL AS
21 ADDITIONAL COUNTS WITH THE OLD VICTIM. BUT ALL OF THESE
22 COUNTS INVOLVE VIDEOS FOUND ON THE DEFENDANT'S COMPUTER, WHICH
23 TOOK US MONTHS TO BE ABLE TO GO THROUGH, BECAUSE THERE WERE
24 HUNDREDS OF VIDEOS.

25 **THE COURT:** OKAY.

1 **MS. BEVERLY:** AND THAT'S WHY WE DIDN'T ASK FOR BAIL AT
2 THAT TIME, BECAUSE WE KNEW THAT THIS COMPUTER WAS IN THE
3 PROCESS OF BEING DUMPED, AND THAT IT WAS -- IT WAS GOING TO
4 TAKE TIME FOR US TO GATHER ALL OF THIS INFORMATION IN ORDER TO
5 ADD THESE CHARGES.

6 **THE COURT:** I GUESS WHAT I'M TRYING TO FIGURE OUT IS --

7 **MR. JACKSON:** YOUR HONOR, CAN I BE HEARD?

8 **THE COURT:** I UNDERSTAND WHAT YOU'RE SAYING, BUT I --

9 I -- I DON'T -- MR. JACKSON.

10 **MR. JACKSON:** OKAY.

11 **THE COURT:** IF I'M TAKING THE D.A. TO TASK ON A REQUEST--

12 **MR. JACKSON:** OKAY.

13 **THE COURT:** -- IF I WERE YOU --

14 **MR. JACKSON:** I'LL BE QUITE.

15 **THE COURT:** -- I WOULD BE QUITE.

16 UM -- I'M STILL NOT UNDERSTANDING WHY, NOW EIGHT MONTHS
17 LATER, HE'S -- HE'S HIRED COUNSEL, HE'S BORN AND RAISED HERE,
18 BAIL IS NOT TO PUNISH PEOPLE FOR ADDITIONAL CHARGES PRIOR TO
19 ANYTHING GETTING OFF THE GROUND. IT HAS TAKEN A VERY LONG
20 TIME FOR THIS CASE TO WORK IT'S WAY THROUGH THE SYSTEM, AND I
21 UNDERSTAND WHY. BUT IF -- IF -- IF YOUR ARGUMENT WAS TO RAISE
22 BAIL BECAUSE HE IS A FLIGHT TO -- HE IS A FLIGHT RISK, OR HE
23 IS A DANGER TO THE COMMUNITY AT LARGE, I WOULD HOPE THAT
24 REQUEST WOULD HAVE BEEN MADE BACK IN SEPTEMBER WHEN YOU
25 CHARGED HIM WITH CHILD ABUSE AND NEGLECT, AND USE OF A CHILD

1 IN PRODUCTION.

2 AND, YES, THERE MIGHT BE A NEW VICTIM INVOLVED, AND NEW
3 VIDEOS, BUT BACK IN SEPTEMBER YOU HAVE AN AMENDED CRIMINAL
4 COMPLAINT CHARGING A A-FELONY, OF USE OF A CHILD IN
5 PRODUCTION, AND APPARENTLY HAD EVIDENCE TO THAT, NOBODY'S
6 ASKING ME TO RAISE BAIL.

7 **MS. BEVERLY:** ABSOLUTELY, YOUR HONOR. AND THE REASON FOR
8 THAT IS, THAT IF HE WOULD HAVE BEEN REMANDED BACK INTO CUSTODY
9 AT THAT DATE, THEN WE WOULDN'T HAVE BEEN ABLE TO -- AND HIS
10 PRELIM WOULD HAVE GONE FORWARD WITHIN THE 15 DAYS, OR WITHIN
11 TIME PRIOR TO US BEING ABLE TO GET ALL OF THIS INFORMATION OFF
12 THE COMPUTER, THEN WE WOULDN'T HAVE BEEN ABLE TO ADD ALL OF
13 THESE ADDITIONAL CHARGES.

14 AND YOUR HONOR -- YOUR HONOR, IT'S THE STATE'S POSITION
15 THAT HE ACTUALLY IS A DANGER TO THE COMMUNITY, BECAUSE OF ALL
16 OF THESE VIDEOS ARE NOW COMING TO LIGHT. WE ALSO HAVE HIM --
17 THE NEW NAMED VICTIM IN THIS COUNT, WHICH WE DIDN'T HAVE NAMED
18 BEFORE.

19 HE'S ACTU -- ACTUALLY ALLEGATION IS THAT HE'S STILL GOING
20 AND VISITING THE MOTHER AT THE HOME WHERE THIS -- THIS VICTIM
21 THAT WE'VE NOW ADDED IS CURRENTLY LIVING.

22 **THE COURT:** WELL, IF THE STATE'S POSITION IS HE'S A
23 DANGER TO THE COMMUNITY, THEN FRANKLY SHAME ON THE STATE FOR
24 NEVER RAISING THAT BEFORE, WHEN THERE WERE OTHER VERY SERIOUS
25 CHARGES LODGED AS THEY PERTAIN TO HAZEL, AND NOBODY'S EVER

1 MADE THIS ARGUMENT, PLEASE REMAND HIM HE'S A DANGER TO THE
2 COMMUNITY. BACK IN SEPTEMBER, PLEASE REMAND HIM, HE'S A
3 DANGER TO THE COMMUNITY. PLEASE REMAND HIM, HE'S A FLIGHT
4 RISK.

5 AND SO IF -- IF -- IF YOU'RE BASICALLY SAYING, OKAY, NOW
6 THAT THE STATE HAS IT'S DUCKS IN A ROW, NOW THAT THE STATE HAS
7 ALL THE EVIDENCE THEY WANT, NOW WE WANT HIM IN CUSTODY. I
8 DON'T BUY THAT. BECAUSE IF HE'S A DANGER TO THE COMMUNITY,
9 THEN HE WAS A DANGER TO THE COMMUNITY BACK WHEN HE WAS
10 ARRESTED, AND HE WAS A DANGER TO THE COMMUNITY IN SEPTEMBER,
11 AND HE WAS A DANGER TO THE COMMUNITY WHEN THE ORIGINAL
12 COMPLAINT WAS FILED.

13 AND FRANKLY, YES, THEY HAVE -- YOU HAVE FOUND ALLEGEDLY
14 ONE NEW VICTIM, AND SOME ADDITIONAL PICTURES, BUT HE'S HERE.
15 HE'S -- HE'S HERE THROUGH COUNSEL. I CAN'T FATHOM HOW MUCH
16 MORE OF A DANGER TO THE COMMUNITY HE WOULD BE TODAY FROM
17 SEPTEMBER. AND YOU GUYS -- BASICALLY YOU'RE TELLING ME YOU
18 GAVE HIM A PASS IN SEPTEMBER SO YOU GUYS COULD GET YOUR DUCKS
19 IN A ROW, THAT MAKES NO SENSE TO ME. IF HE'S A DANGER TO THE
20 COMMUNITY, YOU SHOULD BE ASKING HIM TO BE REMANDED IN -- IN
21 SEPTEMBER.

22 **MS. BEVERLY:** YOUR HONOR -- AND I COMPLETELY UNDERSTAND
23 WHAT YOU'RE SAYING, HOWEVER, AT THAT TIME WE KNEW THAT THE
24 VICTIM HAZEL HAD BEEN REMOVED FROM THE HOME WHERE THE
25 DEFENDANT WAS LIVING, AND HAD BEEN PLACED IN PROTECTIVE

1 CUSTODY, AND SO THAT'S WHY WE FELT THAT NOT REMANDING HIM THAT
2 DAY, WOULD STILL BE ABLE TO KEEP HIM AWAY FROM HER, KNOWING
3 THAT SHE HAD BEEN ALREADY REMOVED FROM THAT HOME BY CHILD
4 PROTECTIVE SERVICES.

5 SO NOW THAT WE HAVE THIS NEW VICTIM, WHO HAS NOT BEEN
6 REMOVED FROM THE HOME, WHO IS STILL LIVING THERE, AND WHERE
7 THE DEFENDANT IS STILL VISITING, THAT'S WHY WE'RE NOW RAISING
8 THIS BAIL ISSUE AND SAYING THAT HE'S A DANGER TO THE
9 COMMUNITY, KNOWING THAT THIS PARTICULAR VICTIM HAS NOT BEEN
10 REMOVED FROM THE HOME.

11 AND THERE'S ALSO THESE VIDEOS. BEFORE ALL WE HAD WAS
12 THIS PICTURE. NOW WE HAVE VIDEOS, HUNDREDS OF VIDEOS
13 INVOLVING NUDITY OF CHILDREN.

14 **THE COURT:** OKAY. SO HE'S NOT LIVING THERE, BUT YOU'RE
15 SAYING HE'S VISITING THERE?

16 **MS. BEVERLY:** YES, THAT'S -- YES, YOUR HONOR.

17 **THE COURT:** DOES HE DATE MOM?

18 **MS. BEVERLY:** HE WAS DATING MOM. AND IT'S -- FROM MY
19 UNDERSTANDING HE STILL MIGHT BE DATING THE MOTHER.

20 **THE COURT:** OKAY. NOW MR. JACKSON?

21 **MR. JACKSON:** CAN I RESPOND?

22 **THE COURT:** YES.

23 **MR. JACKSON:** I'D JUST LIKE TO APPROACH THE COURT WITH
24 SOME LETTERS I SENT THE D.A. DATED DECEMBER 4TH AND DECEMBER
25 14TH.

1 **THE COURT:** WHO ARE THEY FROM?

2 **MR. JACKSON:** THEY'RE FROM ME TO LEAH BEVERLY.

3 THE FIRST ONE SAYS, PLEASE MAKE AVAILABLE TO ME ALL
4 DISCOVERY AS SOON AS POSSIBLE. I HAVE BEEN IN -- INFORMED THE
5 VIDEOS HAVE ALREADY BE PRODUCED. BASED UPON WHAT YOU HAVE
6 ADVISED ME OF THEIR CONTENT, THAT THEY DO NOT SHOW SEXUAL ACTS
7 OR SEXUAL CONDECT (PHONETIC) -- CONTACT, BUT ONLY NUDITY, I DO
8 NOT KNOW HOW THEY COULD CONCEIVABLY GIVE RISE TO AN AMENDED
9 COMPLAINT FOR FELONY CHARGES UNDER NRS 200.710. ALTHOUGH I
10 WILL AGREE TO A CONTINUANCE OF THE PRELIMINARY HEARING FOR 60
11 DAYS AT YOUR REQUEST, I RESERVE ALL RIGHTS TO CHALLENGE THE
12 SUFFICIENCY OF THE NEW COMPLAINT, AND RAISE ANY LEGAL OR
13 CONSTITUTIONAL CHALLENGES BASED THE FIRST, FOURTH, FIFTH,
14 SIXTH OR FOURTEENTH AMENDMENT.

15 NOW, THAT WAS SENT ON DECEMBER 4TH.

16 **THE COURT:** UM-HUM.

17 **MR. JACKSON:** THEN I SENT ANOTHER LETTER ON DECEMBER
18 14TH.

19 DEAR MISS LEAH BEVERLY, THANK YOU FOR PROVIDING THE
20 DISCOVERY TO ME IN JOSHUA SHUE'S CASE. I WOULD LIKE TO
21 DISCUSS A COMPREHENSIVE NEGOTIATION WITH YOU.

22 AND I WON'T GO INTO WHAT WE DISCUSSED.

23 **THE COURT:** UM-HUM.

24 **MR. JACKSON:** MY REVIEW OF THE VIDEO EVIDENCE SUGGESTS
25 THAT MR. SHUE DID CERTAIN THINGS. THE VIDEO PHOTOGRAPHS TAKEN

1 WITHOUT CONSENT WERE DONE IN A CALCULATED WAY. MR. SHUE NEVER
2 INTENDED TO PUBLISH OR DISTRIBUTE THESE. I DO NOT BELIEVE MR.
3 SHUE IS A Hardcore SEX OFFENDER, AND I CITE CERTAIN CASES.

4 THE VIDEO EVIDENCE I RECEIVED SHOWS VIDEO OF A YOUNG
5 WOMAN IN VARIOUS STAGES OF UNDRESS, WHILE SHOWERING OR IN THE
6 BATHROOM. THERE WERE NO SEXUAL ACTS PERFORMED. THERE WERE
7 TWO VERY SHORT, I BELIEVE, INADVERTENT VIDEOS OF A YOUNG MALE
8 SITTING ON A TOILET. I DO NOT BELIEVE THAT THERE WAS ANY
9 INTENT TO CAPTURE THESE IMAGES FOR THEIR SEXUAL CONTACT. THE
10 VIDEOS WERE CLEARLY FOCUSED ON THE YOUNG WOMAN, AND I BELIEVE
11 THE WOMAN WAS AT LEAST 16 YEARS OF AGE WHEN THEY WERE TAKEN.

12 NOW, I GOT THE VIDEOS SOMETIME BETWEEN DECEMBER 4TH AND
13 DECEMBER 14TH. I LOOKED AT ALL OF THEM IN THAT PERIOD. IT
14 WAS ABOUT, HMM, TWO AND A HALF HOURS OF VIDEOS. I LOOKED AT
15 THEM ALL. I HAD THEM THEN. WE TALKED ABOUT NEGOTIATING, WE
16 DIDN'T REACH IT.

17 NOW FOR THE STATE TO SAY THAT THEY DIDN'T GET THESE
18 VIDEOS UNTIL JUST RECENTLY, IS NONSENSE. THAT'S A FLAT OUT
19 LIE.

20 **MS. BEVERLY:** THAT'S NOT TRUE.

21 **MR. JACKSON:** I GOT -- NO, I GOT THESE VIDEOS. I ASKED
22 FOR THEM DECEMBER 4TH, WHEN SHE MADE ME AWARE, OH, WE GOT
23 VIDEOS, I GOT THEM SOON THEREAFTER. I LOOKED AT THEM ALL, AND
24 I SENT HER A LETTER. WE TALKED ABOUT IT. I SENT HER CASE
25 LAW. OF COURSE SHE DIDN'T RESPOND TO ANY OF MY REQUESTS FOR

1 NEGOTIATIONS, WHICH I WON'T GET INTO, BUT THAT'S FINE. I SAID
2 I'M READY FOR A PRELIM THEN, WE'LL FIGHT IT OUT IN COURT.

3 BUT NOW FOR HER TO COME IN AND SAY, NO, WE WANT TO RAISE
4 AND ADD 20 COUNTS, IT'S ALL ONE CONTINUOUS VIDEO. THEY'RE --
5 SAME VICTIM, AND ONE OTHER CHILD, SMALL CHILD. NOTHING SEXUAL
6 ABOUT IT. WE'LL SEE IT IN COURT.

7 NOW SHE SERVES ME NOTICE SHE WANTS TO GO TO THE GRAND
8 JURY, SHE DIDN'T WANT TO SHOW IT IN COURT. I'M GOING TO
9 OBJECT TO THAT IF SHE DOES THAT. SHE'S HAD PLENTY OF TIME TO
10 HAVE A PRELIM. AT HER REQUEST I AGREED TO A CONTINUANCE OF
11 THE PRELIM.

12 **THE COURT:** OKAY. OBVIOUSLY YOU TWO -- OKAY. LET'S NIP
13 IT IN THE BUD. WE'RE DEALING WITH BAIL RIGHT NOW. SHE WANTS
14 TO REMAND HIM -- OR SHE WANTS HIM -- SHE WANTS ME TO RAISE
15 BAIL.

16 **MR. JACKSON:** THERE'S NO GROUNDS FOR IT.

17 **THE COURT:** THERE ARE CERTAIN FACTORS FOR ME TO DETERMINE
18 IN SETTING BAIL, RAISING BAIL, REVOKING BAIL, WHATEVER YOU
19 WANT TO CALL IT, OR ALL OF THE ABOVE.

20 WHAT IS THE FAMILY SITUATION, WHAT IS THE RELATIONSHIP
21 SITUATION, WHAT IS HIS CONTACT SITUATION WITH THE --

22 **MR. JACKSON:** HE'S NOT LIVING WITH THE VICTIM.

23 **THE COURT:** -- NAMED VICTIM HAZEL AND NOW THE OTHER ONE?

24 **MR. JACKSON:** HE'S NOT LIVING WITH THEM NOW.

25 **THE DEFENDANT:** (NO AUDIBLE RESPONSE.)

1 **THE COURT:** OKAY. IS HE HAVING CONTACT WITH MOM?
2 **MR. JACKSON:** ARE YOU HAVING CONTACT WITH --
3 **THE DEFENDANT:** NO, MA'AM.
4 **MR. JACKSON:** -- MOM? OKAY.
5 **THE COURT:** DON'T LIE TO THIS COURT. SO YOU BETTER --
6 YOU BETTER BE FRANK.
7 **THE DEFENDANT:** YOUR HONOR, AFTER CPS TOOK THE KIDS --
8 UM -- BECAUSE A COMPLAINT WAS MADE TO THEM, THEY WERE TOLD NOT
9 TO SEE ME, AND I HAVE NOT SEEN THEM SINCE.
10 **THE COURT:** OKAY.
11 **THE DEFENDANT:** AND THAT WAS --
12 **THE COURT:** SO YOU HAVE NOT --
13 **THE DEFENDANT:** -- LIKE A MONTH AND A HALF AGO.
14 **THE COURT:** -- VISITED -- VISITED THE HOUSE, YOU'RE
15 SAYING?
16 **THE DEFENDANT:** I DO NOT GO THERE AT ALL.
17 **THE COURT:** SINCE WHEN?
18 **THE DEFENDANT:** SINCE SHE WAS TOLD THAT SHE WAS NOT --
19 **THE COURT:** WELL, WHEN WAS THAT? I DON'T KNOW WHEN THAT
20 WAS.
21 **THE DEFENDANT:** IT WAS SOME TIME BEFORE CHRISTMAS, LIKE
22 THE BEGINNING OF DECEMBER.
23 **MR. JACKSON:** THERE WAS A CPS HEARING. I ADVISED MR.
24 SHUE --
25 **THE DEFENDANT:** YEAH, I DIDN'T.

1 **MR. JACKSON:** -- I WOULD NOT REPRESENT HIM IN THE CPS
2 COURT, BECAUSE I THOUGHT THAT PRESENTED A CONFLICT, SO I
3 DIDN'T --

4 **THE COURT:** SO MISS BEVERLY, WHAT MAKES YOU THINK -- DO
5 YOU HAVE KNOWLEDGE THAT HE'S BEEN VISITING THE HOME RECENTLY
6 BEFORE CPS AND EVERYBODY TOLD HIM TO STOP IT?

7 **MS. BEVERLY:** YOUR HONOR, THIS IS WHAT I'VE HEARD FROM --
8 WHEN I HAD AN INTERVIEW WITH HAZEL IRAL, WHO'S IN CONTACT WITH
9 HER BROTHER, WHO IS A NAMED VICTIM, CURT IRAL --

10 **THE COURT:** OKAY.

11 **MS. BEVERLY:** -- IRAL, WHO IS -- HAZEL IS NO LONGER
12 LIVING AT HOME. THAT'S CORRECT, THAT SHE WAS TAKEN OUT OF THE
13 HOME A LONG TIME AGO, WHEN SHE WAS THE ONLY NAMED VICTIM IN
14 THIS COMPLAINT. HOWEVER, THEN --

15 **THE COURT:** SO SHE'S STILL OUT OF THE HOME?

16 **MS. BEVERLY:** SHE'S STILL -- YES, SHE'S LIVING WITH HER
17 FOSTER MOTHER.

18 **THE COURT:** OKAY.

19 **MS. BEVERLY:** I MET WITH HER AND HER FOSTER MOTHER.
20 HAZEL INFORMED ME THAT SHE'S STILL IN CONTACT HER BROTHER CURT
21 IRAL. THERE'S ALSO ANOTHER YOUNGER BROTHER, WHO'S NOT NAMED
22 IN THE COMPLAINT.

23 **THE COURT:** RIGHT.

24 **MS. BEVERLY:** HOWEVER, HE'S YOUNGER THAN CURT.

25 **THE COURT:** OKAY.

1 **MS. BEVERLY:** SHE INFORMED ME THAT CURT INFORMED HER THAT
2 THE DE -- HE'S -- WELL, LET ME JUST TRY TO BE CLEAR. CURT AND
3 THE OTHER BROTHER, I DON'T KNOW HIS NAME, ARE STILL LIVING
4 WITH THE MOTHER -- UM -- HIS EX-GIRLFRIEND.

5 **THE COURT:** UM-HUM.

6 **MS. BEVERLY:** CURT INFORMED HAZEL, THE OTHER VICTIM, THAT
7 THE DEFENDANT IS STILL VISITING THE HOME. I DON'T KNOW IF
8 HE'S STILL DATING THE MOTHER, BUT HE'S STILL VISITING THE
9 HOME, AND I MET WITH HAZEL THIS WAS LAST -- TWO WEEKS AGO, AND
10 SHE INFORMED ME OF, THIS WAS STILL OCCURRING, AND SHE WAS VERY
11 CONCERNED WITH THE SAFETY OF HER BROTHERS.

12 **MR. JACKSON:** WELL --

13 **THE COURT:** OKAY.

14 **MR. JACKSON:** I'M SURE THAT --

15 **THE COURT:** WELL, I'LL ISSUE A STAY AWAY ORDER AND A NO
16 CONTACT ORDER.

17 **MR. JACKSON:** THAT'S FINE. YOU CAN -- YOU CAN MAKE THAT
18 A CONDITION OF BAIL.

19 **THE COURT:** I MEAN, THE BOTTOM LINE IS --

20 **MR. JACKSON:** I'VE ADVISED MY CLIENT TO STAY AWAY FROM
21 HER.

22 **THE COURT:** -- HE'S -- HE'S FROM HERE. HE HAS NOTHING ON
23 HIS RECORD EXCEPT THIS, SO HE HAS NO CRIMINAL HISTORY. HE HAS
24 CONTACTS WITH THE COMMUNITY.

25 ARE YOU EMPLOYED?

1 **THE DEFENDANT:** YES.

2 **THE COURT:** WHERE?

3 **THE DEFENDANT:** I HAVE FOUR JOBS CURRENTLY.

4 **THE COURT:** HE HAS FOUR JOBS. HE'S RETAINED LOCAL
5 COUNSEL, HE'S FROM HERE, HE'S PRESUMED INNOCENT UNTIL PROVEN
6 GUILTY, AND HE'S AT EVERY COURT APPEARANCE.

7 AND IF THE STATE -- FRANKLY I'M -- I'M APPALLED THAT THE
8 STATE WOULD COME HERE EIGHT MONTHS AFTER THESE INCIDENTS AND
9 SAY NOW HE'S A DANGER TO THE COMMUNITY, NOW JACK HIS BAIL UP
10 TO \$100,000. THAT -- AND I UNDERSTAND WHERE YOU'RE COMING
11 FROM, BUT THAT ARGUMENT IS NOT GOING TO FLY IN FRONT OF ME
12 EIGHT MONTHS AFTER HE WAS ORIGINALLY ARRESTED, ON SOME VERY
13 SERIOUS CHARGES, I MIGHT ADD.

14 SO I AM ISSUING A NO CONTACT ORDER WITH HAZEL AND THE
15 OTHER ONE, CURT, I THINK, AND THE YOUNGER BROTHER, WHATEVER
16 HIS NAME IS. NO CONTACT, MEANING NO TWITTER, NO FACEBOOK --

17 **THE DEFENDANT:** NO FACEBOOK.

18 **THE COURT:** -- NO TEXTING, NO NOTHING.

19 **THE DEFENDANT:** (NO AUDIBLE RESPONSE.)

20 **THE COURT:** AND -- UM -- CPS HAS TOLD YOU TO NOT HAVE ANY
21 CONTACT WITH THE MOM?

22 **THE DEFENDANT:** NO. UM -- THEY HAVEN'T -- THEY TOLD ME
23 THAT -- I HAD A SEPARATE ATTORNEY FOR FAMILY COURT, AND HE
24 TOLD ME THAT IF I DON'T GO DOWN THERE WHEN HER CASE IS CLOSED,
25 THAT'S WHAT THEY'LL TELL HER IS THAT SHE SHOULDN'T CONTACT --

1 OR THE BOYS COULDN'T CONTACT ME. BUT HE TOLD ME THAT I WOULD
2 HAVE RIGHT TO TALK --
3 THE COURT: WELL --
4 THE DEFENDANT: -- TO HER AS LONG AS IT WAS NOT IN THE
5 PRESENCE OF THE BOYS.
6 THE COURT: OKAY.
7 THE DEFENDANT: THAT'S WHAT THE OTHER ATTORNEY TOLD ME
8 THAT --
9 THE COURT: WELL, AS A CONDITION --
10 THE DEFENDANT: -- ONLY TO ANNIE.
11 THE COURT: AS A CONDITION OF YOUR CONTINUED RELEASE,
12 YOU'RE TO HAVE NO CONTACT WITH HER UNLESS THERE'S HEARINGS IN
13 FAMILY COURT, UNTIL THIS PRELIM -- UNTIL FURTHER ORDER OF THIS
14 COURT.
15 THE DEFENDANT: OKAY.
16 THE COURT: SO YOU'RE TO HAVE NO CONTACT WITH HER --
17 THE DEFENDANT: WITH ANY OF THEM.
18 THE COURT: -- BECAUSE SHE'S -- SHE'S A POTENTIAL
19 WITNESS, PROBABLY A WITNESS.
20 THE DEFENDANT: OKAY.
21 THE COURT: BUT IN ANY EVENT, A POTENTIAL WITNESS.
22 YOU'RE TO HAVE NO CONTACT TO WITH HER, NO CONTACT WITH HAZEL,
23 NO CONTACT WITH CURT --
24 THE DEFENDANT: WITH CURT OR --
25 THE COURT: -- AND NO CONTACT WITH THE YOUNGER BROTHER.

1 **THE DEFENDANT:** FRANCIS IS THE YOUNGER BROTHER.

2 **THE COURT:** OKAY. AND LET'S SET HIS -- LET'S SET THIS

3 PRELIM.

4 **MS. BEVERLY:** THANK YOU, YOUR HONOR.

5 **THE COURT:** UM -- ALL RIGHT, IS EVERYBODY READY TO GO?

6 **MR. JACKSON:** YES.

7 **MS. BEVERLY:** CAN I JUST ASK ONE THING, YOUR HONOR?

8 **THE COURT:** YEAH.

9 **MS. BEVERLY:** UM -- WHEN MR. JACKSON WAS TALKING ABOUT

10 THESE VIDEOS, THERE WERE CERTAIN VIDEOS I RECEIVED FIRST,

11 WHICH WAS BACK IN DECEMBER, I ONLY RECEIVED FIVE VIDEOS.

12 RECENTLY I RECEIVED THE REST OF THE DUMPED COMPUTERS. SO IF

13 HE WOULD LIKE THOSE VIDEOS, HE CAN FILE A MOTION, OR HE CAN

14 COME TO MY OFFICE.

15 **MR. JACKSON:** I THOUGHT I'D BE GIVEN THEM WITHOUT HAVING

16 TO FILE A MOTION FOR EVERYTHING YOU GOT.

17 **THE COURT:** OKAY. A) YOU DON'T FILE A MOTION FOR

18 DISCOVERY, BECAUSE THE JUDGE -- THE JUSTICE COURT JUDGE CANNOT

19 ORDER DISCOVERY.

20 HE IS ENTITLED TO CERTAIN THINGS AT PRELIMINARY HEARING.

21 I THINK EVERYBODY KNOWS WHAT THOSE THINGS ARE.

22 NO. 1, IF YOU'RE INTENDING TO USE ANY OF THEM AT

23 PRELIMINARY HEARING, HE'S ABSOLUTELY ENTITLED TO THEM.

24 **MS. BEVERLY:** OKAY.

25 **THE COURT:** SO YOU'RE SAYING THERE'S ADDITIONAL DISCOVERY

1 ON TOP OF WHAT HE'S ALREADY RECEIVED. SO YOU'RE SAYING
2 THERE'S DISCOVERY THAT HE DOESN'T HAVE?

3 MS. BEVERLY: YES. AND I WILL MAKE A COPY OF THAT CD,
4 AND I WILL PROVIDE THAT TO HIM TODAY.

5 THE COURT: OKAY.

6 MR. JACKSON: AND I APPRECIATE THAT. I THOUGHT THAT'S
7 THE WAY IT WAS DONE.

8 THE COURT: OKAY. SO TODAY IS FEBRUARY 27TH. I --
9 HOW --

10 MS. BEVERLY: IT'S GOING TO TAKE AT LEAST THREE TO FOUR
11 HOURS, YOUR HONOR.

12 THE COURT: RIGHT. BUT HOW VOLUMINOUS IS THAT DISCOVERY?

13 MS. BEVERLY: UM -- I CAN PUT IT ON ONE CD.

14 THE COURT: HOW MANY HOURS IS IT?

15 MS. BEVERLY: EACH CHARGE IS ONE VIDEO. SO IT'S NOT
16 GOING TO BE -- I KNOW WHERE IN THE FILMS THAT I'M GOING TO BE
17 SHOWING AT PRELIM THE TIMES, SO I CAN PROBABLY GET THROUGH --
18 IT'S GOING TO BE ABOUT 20 VIDEOS, BUT THERE'S LOT -- A LOT OF
19 BLANK TIME ON EACH FILE, SO I CAN SPEED THROUGH THAT.

20 MR. JACKSON: IF I IMAGINE ABOUT -- I'M GOING TO HAVE TO
21 MEET WITH MY CLIENT, I IMAGINE I NEED TO DO ABOUT 10 HOURS OF
22 PREPARATION TO BE READY FOR THE PRELIM, BUT THAT'S -- THAT'S
23 WHAT I GET PAID FOR, SO I'LL --

24 THE COURT: HOW ABOUT MARCH 22ND?

25 MR. JACKSON: THAT'S FINE.

1 **THE COURT:** THAT'S A FRIDAY.

2 **MR. JACKSON:** YEAH, THAT SOUNDS LIKE A GOOD DATE.

3 **MS. BEVERLY:** COULD I JUST CHECK WITH MY SCHEDULE?

4 **THE COURT:** IT'S LESS THAN FOUR WEEKS.

5 **MR. JACKSON:** I'M WORKING ON AN APPEAL RIGHT NOW TO THE
6 NINTH CIRCUIT, SO I WILL BE DONE WITH IT NEXT WEEK. MARCH
7 22ND SOUNDS GOOD. I DON'T THINK I HAVE ANYTHING ON THAT DATE.
8 IF I GET BACK TO MY OFFICE AND FIND I HAVE SOMETHING
9 DIFFERENT, I'LL NOTIFY THE COURT RIGHT AWAY.

10 **THE COURT:** LET ME THINK ABOUT THIS.

11 **MR. JACKSON:** I KNOW MY SCHEDULE IN APRIL IS PRETTY FREE.

12 **THE COURT:** IT'S GOING TO TAKE SO LONG, IT'S NOT GOING TO
13 BE IN THE AFTERNOON.

14 **MS. BEVERLY:** MARCH 22ND IS FINE FOR ME, YOUR HONOR.

15 **THE COURT:** MARCH 22ND AT 9:30. WE HAVE NO OUT OF
16 CUSTODY SETTINGS THAT DAY, THIS WILL BE THE ONLY OUT OF
17 CUSTODY SETTING, SO THE CALENDAR SHOULD BE SUPER LIGHT.

18 **MS. BEVERLY:** THANK YOU.

19 **THE COURT:** AND IT WILL BE SET AT 9:30 ON MARCH 22ND.
20 MAKE SURE YOU GET THE DISCOVERY TO HIM PROMPTLY, I KNOW YOU
21 WILL.

22 **MS. BEVERLY:** I WILL. THANK YOU, YOUR HONOR.

23 (DISCUSSION BETWEEN THE COURT AND THE CLERK.)

24 **THE COURT:** HOLD ON ONE SECOND. OH, NO. WHY IS -- THAT
25 SHOULD BE A SPECIAL SETTING. HOLD ON, COME BACK, I HAVE A

1 PROBLEM CHILD ON THAT DAY.

2 MR. JACKSON: ALL RIGHT.

3 THE COURT: THEN -- EVEN THOUGH HE'S NOT A SPECIAL
4 SETTING, HE'S A SPECIAL SETTING.

5 MR. JACKSON: OKAY.

6 THE COURT: OKAY. WHAT IS OUR ORDINARY -- WHAT HAVE WE--
7 (DISCUSSION BETWEEN THE COURT AND THE CLERK.)

8 MR. JACKSON: I'M PRETTY FREE ALL OF APRIL.

9 THE COURT: CAN WE GO INTO THE WEEK OF APRIL 1ST? THAT'S
10 ONLY A WEEK AWAY.

11 MR. JACKSON: YOUR HONOR, I'M SET TO START A TWO WEEK
12 TRIAL APRIL 1ST.

13 THE COURT: WELL, THE WEEK OF MARCH 25TH I'M GONE, AND WE
14 HAVE NO SPECIAL SETTINGS, BECAUSE WE HAVE A PRO TEM.

15 MR. JACKSON: THE MIDDLE OF APRIL IS FINE.

16 MS. BEVERLY: UM -- I HAVE ABOUT SIX TRAILS SET IN APRIL,
17 SO -- AND THEY -- THEY'RE ALL -- THEY'RE ALL CONTINUED SO THEY
18 ARE LIKELY TO GO.

19 THE COURT: MARCH 18TH, IS THAT TOO EARLY?

20 MR. JACKSON: UM --

21 THE COURT: THAT'S THREE WEEKS, THREE AND A HALF WEEKS.

22 MR. JACKSON: WHY DON'T WE SET IT MARCH 18TH, I'LL DO MY
23 BEST. I DON'T THINK I HAVE ANYTHING SET THEN.

24 MS. BEVERLY: THAT'S FINE WITH ME, YOUR HONOR.

25 THE COURT: OKAY. MARCH -- BECAUSE I'D RATHER GET IT

1 DONE THAN --

2 MR. JACKSON: I WOULD, TOO.

3 THE COURT: SO MARCH 18TH, AND WE'RE GOING TO SAY 10:30.

4 MS. BEVERLY: THANK YOU, YOUR HONOR.

5 THE COURT: THAT WAY I HAVE AN OPPORTUNITY TO CLEAR MY
6 MORNING CALENDAR.

7 MS. BEVERLY: PERFECT.

8 THE COURT: ALL RIGHT. THANK YOU.

9 MS. BEVERLY: THANK YOU.

10 THE COURT: MARCH 18TH AT 10:30.

11

12 (AT 9:55 A.M. THE PROCEEDINGS WERE RECESSED.)

13

14

* * * *

15

16 ATTEST: FULL, TRUE AND CERTIFIED TRANSCRIPT.

17

18

/S/KIT MACDONALD
KIT MACDONALD, C.S.R.
COURT REPORTER
C.S.R. 65

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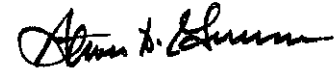
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EIGHTH JUDICIAL DISTRICT COURT

Electronically Filed
03/27/2013 09:24:26 AM

CLARK COUNTY, NEVADA



CLERK OF THE COURT

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA C. SHUE, aka Joshua Caleb
Shue,

Defendant.

GJ No. 12AGJ131X

DC No. C288172

Taken at Las Vegas, Nevada

Tuesday, March 12, 2013

8:32 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

2

1 GRAND JURORS PRESENT ON MARCH 12, 2013

2

3 CHRISTOPHER PACE, Foreperson

4 SYREL GUFFEY, Secretary

5 COLLEEN MILLER, Assistant Secretary

6 CLAUDIA ALVES

7 THOMAS BRIDGES

8 STEPHANIE CHATFIELD

9 JERI ELLSWORTH

10 JANICE FREHSE

11 KAREN HANSEN

12 LISA LICHTENBERGER

13 STEPHEN NELLIS

14 CECELIA SCRIBNER

15 AARON SILVER

16 REBECCA SMITH

17 CHARLES TOWNSEND II

18

19 Also present at the request of the Grand Jury:

20 Leah Beverly & Richard Scow,
21 Deputy District Attorney

22

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1 LAS VEGAS, NEVADA, MARCH 12, 2013

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 THE FOREPERSON: Let the record reflect
10 that I have canvassed the waiting area and no one has
11 appeared in response to Notice of Intent to Seek
12 Indictment.

13 MS. BEVERLY: Good morning. My name is
14 Leah Beverly, with me is Richard Scow, and we're both
15 deputy district attorneys prosecuting the case of State
16 of Nevada versus Joshua Shue. Does everyone have a copy
17 of the proposed Indictment?

18 Grand Jury Exhibit Number 2 should be the
19 list of instructions related to this case and I'll read
20 them briefly now.

21 Child abuse and neglect. A person who
22 willfully causes a child who is less than 18 years of
23 age to suffer unjustifiable physical pain or mental
24 suffering as a result of abuse or neglect or to be
25 placed in a situation where the child may suffer

1 physical pain or mental suffering as a result of abuse
2 or neglect is guilty of the crime of child abuse and
3 neglect.

4 "Abuse or neglect" means physical or mental
5 injury of a non-accidental nature, sexual abuse, sexual
6 exploitation, negligent treatment or maltreatment of a
7 child under the age of 18 years, under circumstances
8 which indicate that the child's health or welfare is
9 harmed or threatened with harm.

10 Use of child in production. A person who
11 knowingly uses, encourages, entices, coerces or permits
12 a minor to be the subject of a sexual portrayal in a
13 performance is guilty of the crime of use of child in
14 production regardless of whether the minor is aware that
15 the sexual portrayal is part of the performance.

16 "Performance" means any play, film,
17 photograph, computer-generated image, electronic
18 representation, dance or other visual presentation.

19 "Sexual portrayal" means the depiction of a
20 person in a manner which appeals to the prurient
21 interest in sex and which does not have serious
22 literary, artistic, political or scientific value.

23 "Minor" means any person under the age of
24 18 years.

25 Possession of visual presentation depicting

1 sexual conduct of a child. A person who knowingly and
2 willfully has in his or her possession for any purpose
3 any film, photograph, or other visual presentation
4 depicting a person under the age of 16 years as a
5 subject of a sexual portrayal or engaging in or
6 simulating or assisting others to engage in or simulate
7 sexual conduct is guilty of possession of visual
8 presentation depicting sexual conduct of a child.

9 "Sexual conduct" means intercourse, lewd
10 exhibition of the genitals, fellatio, cunnilingus,
11 bestiality, anal intercourse, excretion,
12 sado-masochistic abuse, masturbation or the penetration
13 of any part of a person's body or of any object
14 manipulated or inserted by a person into the genital or
15 anal opening of the body of another.

16 Open and gross lewdness. Every person who
17 willfully commits any lewd or lascivious act upon the
18 body of another person in an offensive manner is guilty
19 of the crime of open and gross lewdness.

20 With reference to the crime of open and
21 gross lewdness, you are instructed that the word "open"
22 is used to modify the term "lewdness". As such, it
23 includes acts which are committed in a private place,
24 but which are nevertheless committed in an "open" as
25 opposed to a "secret" manner. You are further

1 instructed that it includes an act done in an "open"
2 fashion clearly intending that the act be offensive to
3 the victim.

4 The term "gross" is defined as being
5 indecent, obscene or vulgar.

6 The term "lewdness" is defined as any act
7 of a sexual nature which the actor knows is likely to be
8 observed by the victim who would be affronted by the
9 act.

10 Are there any questions at this time?

11 The State calls Detective Ryan Jaeger.

12 THE FOREPERSON: Would you raise your right
13 hand, sir.

14 You do solemnly swear the testimony you are
15 about to give upon the investigation now pending before
16 this Grand Jury shall be the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 THE FOREPERSON: Please be seated.

20 You are advised that you are here today to
21 give testimony in the investigation pertaining to the
22 offenses of child abuse and neglect, use of child in
23 production, possession of visual presentation depicting
24 sexual conduct of a child, open or gross lewdness,
25 involving Joshua Caleb Shue.

1 Do you understand this advisement?

2 THE WITNESS: Yes, I do.

3 THE FOREPERSON: Would you please state
4 your first and last name and spell them both for the
5 record please.

6 THE WITNESS: My name is Ryan Jaeger.
7 First name is R-Y-A-N, last name is Jaeger, J-A-E-G-E-R.

8 THE FOREPERSON: Thank you.

9 RYAN JAEGER,
10 having been first duly sworn by the Foreperson of the
11 Grand Jury to testify to the truth, the whole truth,
12 and nothing but the truth, testified as follows:

13
14 EXAMINATION

15
16 BY MS. BEVERLY:

17 Q. What is your current occupation?

18 A. Currently I'm a detective with the Las
19 Vegas Metropolitan Police Department.

20 Q. How long have you been so employed?

21 A. I've been with Metro for about 15 years
22 now.

23 Q. What unit are you currently assigned to?

24 A. The sexual assault detail.

25 Q. How long have you been with sexual assault?

1 A. About six years.

2 Q. Back on August 23, 2012, did you have the
3 opportunity to interview a person by the name of Hazel
4 Iral regarding an incident occurring in the late night
5 hours of August 22, 2012?

6 A. I did.

7 Q. Do you recall how old Hazel was at the time
8 of your interview?

9 A. I believe she was 17.

10 Q. Without telling us exactly what Hazel said,
11 what was the general nature of the interview about?

12 A. The reason we were interviewing her was her
13 mother had brought her to UMC Quick Care. The reason
14 that her mother brought her to UMC Quick Care is she
15 came home from a date last night, or a date the night
16 before, and she believed when she got home her mom's
17 boyfriend had drugged her and may have sexually
18 assaulted her while she was sleeping.

19 Q. And just for the record, ladies and
20 gentlemen of the Grand Jury, Hazel Iral will be
21 testifying today.

22 Detective, based on your interview with
23 Hazel, did you then conduct an interview with a person
24 by the name of Joshua Shue?

25 A. I did.

1 Q. Was that interview also on August 23, 2012?

2 A. That's correct.

3 Q. Was Mr. Shue read his Miranda rights?

4 A. He was.

5 Q. Did he understand those rights and agree to

6 speak with you?

7 A. Yes, he did.

8 Q. Did Mr. Shue give you an address where he

9 was residing at the time of your interview?

10 A. He actually had two addresses where he was

11 residing. He had an apartment in Henderson and

12 sometimes he was staying on Kolendo Court,

13 K-O-L-E-N-D-O, Court.

14 Q. Based on your interview with Mr. Shue, did

15 you learn if there was any type of relationship between

16 he and Hazel Iral?

17 A. I did.

18 Q. What was that relationship?

19 A. He basically looked at her as one of his

20 kids. He had been in a long term relationship with

21 Hazel's mother and was kind of raising Hazel and her two

22 brothers.

23 Q. Did Mr. Shue indicate whether he was living

24 with Hazel or not?

25 A. He would live with her off and on. He

1 stated that most of the time he would spend with them
2 but there was times he would stay in his apartment in
3 Henderson.

4 Q. And the location where Hazel lived, do you
5 know the location where Hazel lived?

6 A. I don't know the numbers on Kolendo Court.
7 I'd have to look at the statement.

8 Q. Was it on Kolendo Court?

9 A. That's correct.

10 Q. And did you question during this interview
11 Mr. Shue about an incident that happened on August 22,
12 2012 involving he and Hazel?

13 A. I did.

14 Q. Can you tell us in general what Mr. Shue
15 said about that incident?

16 A. I questioned him if he took any pictures of
17 Hazel. He did admit to taking a picture with a blue
18 camera, like holding the camera underneath her dress and
19 snapping a picture. He showed Hazel the picture. Hazel
20 didn't like the way she looked in the picture and didn't
21 like the fact that he took the picture so he deleted the
22 picture.

23 Q. And this picture that we're referring to,
24 is this a picture you said that was underneath Hazel's
25 skirt?

1 A. That's correct.

2 Q. Did he admit to taking the picture

3 underneath her skirt?

4 A. Yes, he did.

5 Q. Did he indicate whether he believed that

6 was appropriate or not?

7 A. He admitted that it probably wasn't

8 appropriate but it was done more in a joking fashion.

9 Q. And what type of device did Mr. Shue take

10 this picture with?

11 A. It was a blue Sony digital camera.

12 Q. And did you ever locate this picture?

13 A. We did.

14 Q. Was it on his phone or where was it

15 located?

16 A. It was in the camera -- it was either in

17 the camera's memory or in the SD card in the camera's

18 memory.

19 Q. Did you and Mr. Shue discuss any other

20 types of action that occurred between him and Hazel that

21 night?

22 A. We did. I asked him if he was the one that

23 changed Hazel's clothes. He said he didn't. He said

24 Hazel came home and Hazel changed her own clothes and

25 fell asleep on the couch and he left her sleeping on the

1 couch.

2 Q. Did he indicate whether he attempted to
3 kiss her or do anything of a sexual nature like that?

4 A. He denied any of that.

5 Q. And based on your interview with Mr. Shue,
6 did you apply for a search warrant in this case?

7 A. I actually -- I did, for his house in
8 Henderson, his house on the Kolendo Court address and
9 his vehicle. And also for on his cell phone.

10 Q. And would I be correct in saying that the
11 Kolendo Court address is 3640 Kolendo Court, apartment
12 D, Las Vegas, Nevada, Clark County?

13 A. That's correct.

14 Q. And was his apartment in Henderson, was
15 that address 609 Palm Wash Lane, Henderson, Nevada,
16 Clark County?

17 A. That's correct.

18 Q. And what day did you apply for that
19 warrant?

20 A. Say that --

21 Q. What day did you apply for that warrant?

22 A. It would have been that night. I think
23 it's the 23rd.

24 Q. And was that warrant signed by a judge?

25 A. It was.

1 Q. And what were you looking for with the
2 warrant?

3 A. During the interview with Mr. Shue I asked
4 to look through the pictures in his cell phone. He had
5 a very high end smart phone. It wasn't an iPhone. It
6 was like an Android or the Droid version. He granted me
7 permission to look through the phone. When I looked
8 through the phone at his pictures there was nothing in
9 it. There wasn't anything in the memory. He didn't
10 have one text message, he didn't have one picture, he
11 didn't have one voice mail. There was absolutely
12 nothing in the phone. When I asked him, that's kind of
13 odd, I'm not very tech savvy, but when you go through my
14 phone I have hundreds of pictures in there and voice
15 mails that I don't know how to delete or have just been
16 in there. Based on that the interview took a different
17 direction. I really felt like he was hiding stuff from
18 us. So we got a search warrant to look for any and all
19 digital equipment that he had in those locations. You
20 know, be it computers, laptops, any digital storage
21 media. We went to look for all of it thinking there
22 would be more pictures of our victim in them.

23 Q. And to your knowledge were any electronic
24 devices found in either one of those addresses?

25 A. Yes, there was numerous electronic devices

1 found at both locations.

2 Q. And once those items were found did you
3 then -- what did you do with those items?

4 A. The first search warrant that we got just
5 allows us to go into the place and collect the items
6 that we're looking for. Once the items were collected
7 they were sent to our evidence vault. The second search
8 warrant we did is to actually search those items that we
9 collected. And by searching them I mean we check their
10 memory, if there's CDs we can actually view the CDs, if
11 it's SD cards we can view what's on the SD card.

12 Q. So did you get a second search warrant?

13 A. That's correct.

14 Q. And did you ultimately deliver those to
15 someone else to conduct the actual search of the
16 devices?

17 A. We have our computer forensic lab, they're
18 a bunch of tech wizards, I mean they're computer guys
19 that we handed the search warrant and all the items we
20 want them to check, we hand it over to them so they can
21 do the search of the equipment.

22 Q. And to your knowledge was that search done?

23 A. Yes, it was.

24 Q. Detective, do you know Hazel Iral's
25 mother's name?

1 A. I have it in my report but not off the top
2 of my head.

3 Q. Did you ever during the course of your
4 investigation have a chance to speak to her mother?

5 A. Yes.

6 Q. And did you speak to her before or after
7 you spoke with Hazel and Joshua?

8 A. I spoke with her after.

9 Q. And was she cooperative in your
10 investigation?

11 A. No.

12 Q. What was her demeanor? What was her
13 attitude while you were talking to her?

14 A. She was put in a bind to where, Joshua I
15 think was the breadwinner, Joshua was kind of paying her
16 way. With him in jail or them being apart I don't think
17 she could make it on her own so she was taking Joshua's
18 side. She needed his support and I think she truly
19 loved him and she was under the impression that Hazel
20 was the reason that they had broken up.

21 Q. Did you during the course of your
22 conversation with Hazel's mother ever threaten her in
23 any manner?

24 A. I don't know about threaten her but I told
25 her what was going to happen. I went back to we found a

1 bunch of videos on the computers and we didn't know the
2 location that those videos took place so I met with
3 Hazel so she could kind of view the videos and tell us
4 if it was her apartment, if it was his apartment. And
5 before I did that I reached out to the mom and said I'm
6 going to meet with Hazel. The mom wasn't too happy with
7 it. She did tell me how much she did not like me and
8 how much she thought I was wrecking her life.

9 Q. And just for the record, Hazel's mother
10 will be testifying today for the Grand Jury.

11 A. With that I went and talked to Hazel
12 anyway. While I was talking to Hazel I asked her where
13 her two little brothers were and where her mom was and
14 Hazel said they're at Joshua's house, they're at
15 Mr. Shue's house, he still watches them while she's at
16 work.

17 Q. So in general would you say that she was
18 pretty noncooperative?

19 A. Yes. And to answer your threat question,
20 upon learning that I did tell her that I was going to
21 have CPS take her kids if she couldn't keep them away
22 from him long enough for us to get this case handled.

23 Q. In your career as a sexual assault
24 detective, is it common to have parents not cooperate
25 with you?

1 A. Unfortunately it is. I mean I've worked a
2 lot of sex abuse cases where it's family members and
3 they don't want to, they really don't want to believe
4 that this stuff is happening. So it does happen, it's
5 quite common.

6 Q. So by you telling Hazel's mother about CPS,
7 is that a common tactic you use?

8 A. Sure.

9 Q. Detective, the computer that you just
10 talked about had videos on them. Do you know what
11 location that computer was found at?

12 A. I believe that was found at the Kolendo
13 Court address.

14 Q. Do you know where in the house it was
15 found?

16 A. You know what, I don't.

17 Q. Do you know what kind of computer it was?

18 A. Sony Vio, like a laptop.

19 MS. BEVERLY: Does the Grand Jury have any
20 questions for this witness?

21 THE FOREPERSON: By law, these proceedings
22 are secret and you are prohibited from disclosing to
23 anyone anything that has transpired before us, including
24 evidence and statements presented to the Grand Jury, any
25 event occurring or statement made in the presence of the

1 Grand Jury, and information obtained by the Grand Jury.

2 Failure to comply with this admonition is a
3 gross misdemeanor punishable by a year in the Clark
4 County Detention Center and a \$2,000 fine. In addition,
5 you may be held in contempt of court punishable by an
6 additional \$500 fine and 25 days in the Clark County
7 Detention Center.

8 Do you understand this admonition?

9 THE WITNESS: Yes, I do.

10 THE FOREPERSON: Thank you. You are
11 excused.

12 MS. BEVERLY: State calls Detective
13 Ramriez.

14 THE FOREPERSON: Would you raise your right
15 hand, sir.

16 You do solemnly swear the testimony you are
17 about to give upon the investigation now pending before
18 this Grand Jury shall be the truth, the whole truth, and
19 nothing but the truth, so help you God?

20 THE WITNESS: Yes, I do.

21 THE FOREPERSON: Please be seated, sir.

22 You are advised that you are here today to
23 give testimony in the investigation pertaining to the
24 offenses of child abuse and neglect, use of child in
25 production, possession of visual presentation depicting

1 sexual conduct of a child, open or gross lewdness,
2 involving Joshua Caleb Shue.

3 Do you understand this advisement?

4 THE WITNESS: Yes, I do.

5 THE FOREPERSON: Would you please state
6 your first and last name and spell them both for the
7 record.

8 THE WITNESS: First name is Vicente, that's
9 V-I-C-E-N-T-E, last name Ramirez, that's R-A-M-I-R-E-Z.

10 THE FOREPERSON: Thank you.

11 VICENTE RAMIREZ,
12 having been first duly sworn by the Foreperson of the
13 Grand Jury to testify to the truth, the whole truth,
14 and nothing but the truth, testified as follows:

15

16 EXAMINATION

17

18 BY MS. BEVERLY:

19 Q. How are you currently employed?

20 A. With Las Vegas Metropolitan Police
21 Department.

22 Q. How long have you been so employed with
23 Metro?

24 A. Eighteen years.

25 Q. And what division of Metro are you

1 currently assigned to?

2 A. I'm currently in the Crimes Against Youth
3 and Family Bureau.

4 Q. And how long have you been with that
5 bureau?

6 A. Fifteen years.

7 Q. Were you --

8 A. Well, it will be 15 years this November.

9 Q. So you were back with that division back in
10 August or September of 2012?

11 A. Yes.

12 Q. And around that time were you given certain
13 pieces of evidence recovered during the execution of a
14 search warrant involving a person by the name of Joshua
15 Shue?

16 A. Yes, I was.

17 Q. Were you asked to conduct a forensic
18 analysis on that evidence?

19 A. Yes.

20 Q. And without telling us what you heard from
21 other sources, did you have a general idea of what you
22 were supposed to be looking for?

23 A. Pretty much just anything to do with sexual
24 abuse of a minor. In this instance the details were
25 pretty much capture an image of a private of a person.

23
1 Q. To your knowledge what items did you
2 actually conduct a forensic analysis on?

3 A. Some SD cards and laptops, camera, phone
4 and the final one was a Sony laptop.

5 Q. Was there one piece of evidence in
6 particular that you found especially relevant to why
7 we're here today?

8 A. Yes.

9 Q. What was that piece of evidence?

10 A. The Sony Vio laptop.

11 Q. And can you walk us through how you
12 conducted your forensic analysis on that Sony laptop?

13 A. Okay. Basically what I do is I remove the
14 hard drive from the laptop. Once I remove the hard
15 drive from the laptop I connect my write blockers to the
16 laptop, and once I connect my write blockers to the
17 laptop then I go ahead and put that to my forensic
18 machine. And the reason we do that is to preserve the
19 evidence. The evidence has to stay exactly in the state
20 that it's in when we recover it. And what the write
21 blockers do is the write blockers make sure that there
22 is no, absolutely no writing to that device, whatever
23 device it might be. In this case the laptop hard drive.
24 Once that's done then I start my program called, it's
25 called EnCase, it's a software, it's spelled capital E

1 lower case N, capital C-A-S-E, and that's forensic
2 software that we use and it allows us to copy that hard
3 drive bit by bit making an identical working copy so
4 that way we can conduct our searches and our analysis on
5 that copy, not the true evidence. So once it copies it
6 over it creates my forensic copy and it does a
7 verification and hash of it and it verifies in fact it
8 did copy every single bit perfectly on my working copy.

9 Q. So the copy that you're making, is it fair
10 to say that this copy that you use to work on is an
11 exact replica of everything on that laptop?

12 A. Absolutely.

13 Q. And after you make your copy what did you
14 do next?

15 A. Once I make my copy then I start conducting
16 my basic searches that I normally do, just standard
17 searches. I look for ownership of that device and then
18 I start searching for what the detective advised me that
19 his case contains, what is supposedly contained in his
20 case.

21 Q. Based on conducting this forensic analysis
22 did you find any indication of who this computer might
23 belong to?

24 A. Yes, I did.

25 Q. What did you discover?

1 A. In the files registry it shows the owner of
2 the computer. So typically when you get a computer,
3 most people name their computer cause as soon as you
4 activate it it starts to default you to the operating
5 system, what you want to name the computer, whatever.
6 In this case the registered owner of the computer was
7 named Josh Shue.

8 Q. In addition to indications of ownership,
9 did you find anything else on this Sony computer that is
10 relevant to the case here today?

11 A. Yes, I did.

12 Q. What did you find?

13 A. I found I bookmarked over 140 video file
14 images and I'm pretty sure I booked some just regular
15 photos. I usually do ownership photos of just home
16 photos or anything that identifies the people in the
17 household or of the owner of the computer.

18 Q. And so you're not bookmarking everything on
19 this computer, is it fair to say you're just bookmarking
20 items that are relevant to what the detective asked you
21 to look for?

22 A. Correct.

23 Q. And the software program that you used to
24 do your searches, is that software program in any way
25 capable of altering images or altering videos or

1 changing anything on that computer?

2 A. Absolutely not.

3 Q. After you conducted your analysis and did
4 your bookmarking, did you make a copy of the relevant
5 videos and pictures for the District Attorney's Office?

6 A. Yes, I did.

7 Q. And when you made that copy of the videos
8 is there any possible way that those videos could have
9 been altered or those pictures could have been altered?

10 A. No.

11 Q. Now in preparation for the Grand Jury, if I
12 made a copy of the copy that you made me, would it still
13 be fair to say that my copy is identical to what you
14 found in the computer?

15 A. Yes.

16 Q. And in preparation for Grand Jury today did
17 you watch the copies that I made?

18 A. Yes.

19 Q. And did you then on the exhibits that we
20 have today initial?

21 A. Yes.

22 Q. And does your initial indicate that these
23 copies that I have are a replica of what you saw on that
24 computer?

25 A. Yes.

21

1 Q. I'm showing you what's been marked as Grand
2 Jury Exhibit Number 3 through 8. Do you recognize these
3 packets?

4 A. Yes, I do.

5 Q. And how do you recognize them?

6 A. My initials V4916R. And 4916 is my badge
7 number.

8 Q. Is that on every Exhibit 3 through 8, your
9 initials?

10 A. Yes.

11 Q. And these CDs that are contained in these
12 packets, these are a fair replica of what you saw on the
13 computer; correct?

14 A. Yes.

15 Q. I'm going to show you what's been marked as
16 Grand Jury Exhibit Number 7.

17 Just to assist the Grand Jury, Grand Jury
18 Exhibit Number 7 relates to Counts 40 through 41 of the
19 proposed Indictment.

20 Detective, the files that you found on the
21 computer, do they have a file name associated with each
22 video and picture?

23 A. If I remember correct, the file folders
24 were typically under a folder name Y-U-M-M-M for Yummm
25 and the other one was H-M-M-M for Hmmm.

1 Q. And for the record I'm publishing Grand
2 Jury Exhibit Number 7.

3 The first item I'm publishing is a file
4 named 4ADE06C5E63D4364B21E540546F93E9E. It's very long.

5 Detective, do you recognize this photo?

6 A. Yes.

7 Q. And what is this photo of?

8 A. It's an image of what appears to be a male
9 under the age of 16 receiving oral sex from another
10 male.

11 Q. Is this one of the images you found on the
12 computer belong to Joshua Shue?

13 A. Yes.

14 Q. Still on Grand Jury Exhibit Number 7, I'm
15 now displaying a file by the name of Carved,
16 C-A-R-V-E-D, 44147527. Do you recognize this photo,
17 Detective?

18 A. Yes.

19 Q. What is this a photo of?

20 A. It's an image of what appears to a male
21 under the age of 16 and he's exposing his genitals and
22 he's bent over washing his hair.

23 Q. Were there other similar images on
24 Mr. Shue's computer involving this same unidentified
25 boy?

1 A. Yes.

2 Q. And for the record there are other images
3 on this CD related to Count 41 that the Grand Jury can
4 look at if necessary.

5 Detective, Grand Jury Exhibit 3, 4, 5, 6,
6 and 8, are those all video files?

7 A. Yes.

8 Q. And again all those video files were found
9 on Mr. Shue's computer?

10 A. Yes.

11 MS. BEVERLY: Does the Grand Jury have any
12 questions for this witness?

13 Nothing further.

14 THE FOREPERSON: By law, these proceedings
15 are secret and you are prohibited from disclosing to
16 anyone anything that has transpired before us, including
17 evidence and statements presented to the Grand Jury, any
18 event occurring or statement made in the presence of the
19 Grand Jury, and information obtained by the Grand Jury.

20 Failure to comply with this admonition is a
21 gross misdemeanor punishable by a year in the Clark
22 County Detention Center and a \$2,000 fine. In addition,
23 you may be held in contempt of court punishable by an
24 additional \$500 fine and 25 days in the Clark County
25 Detention Center.

1 Do you understand this admonition?

2 THE WITNESS: Yes, I do.

3 THE FOREPERSON: Thank you. You are
4 excused.

5 THE WITNESS: Thank you.

6 MS. BEVERLY: The State calls Hazel Iral.

7 THE FOREPERSON: Would you raise your right
8 hand for me.

9 You do solemnly swear the testimony you are
10 about to give upon the investigation now pending before
11 this Grand Jury shall be the truth, the whole truth, and
12 nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE FOREPERSON: Please be seated.

15 You are advised that you are here today to
16 give testimony in the investigation pertaining to the
17 offenses of child abuse and neglect, use of child in
18 production, possession of visual presentation depicting
19 sexual conduct of a child, open or gross lewdness,
20 involving Joshua Caleb Shue.

21 Do you understand this advisement?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Would you please state
24 your first and last name and spell them both for the
25 record please.

1 THE WITNESS: My name is Hazel Iral.

2 H-A-Z-E-L, I-R-A-L.

3 THE FOREPERSON: Thank you.

4 THE WITNESS: You're welcome.

5 HAZEL IRAL,

6 having been first duly sworn by the Foreperson of the

7 Grand Jury to testify to the truth, the whole truth,

8 and nothing but the truth, testified as follows:

9

10 EXAMINATION

11

12 BY MS. BEVERLY:

13 Q. Hazel, how old are you?

14 A. I'm 18 years old.

15 Q. When is your birthday?

16 A. My birthday is February 4, 1995.

17 Q. So did you just turn 18?

18 A. Yes.

19 Q. Are you an only child?

20 A. No.

21 Q. How many siblings do you have?

22 A. I have two stepbrothers and two real

23 brothers.

24 Q. Okay. What are your real brothers' names?

25 A. Curt Iral and Franckie Iral.

1 F-R-A-N-C-K-I-E.

2 Q. How old are Curt and Franckie?

3 A. Curt is 14 and Franckie is 12.

4 Q. And what's your mom's name?

5 A. Anita Iral.

6 Q. Do you currently live with your mom and
7 your two real brothers?

8 A. No.

9 Q. Did you use to live with them?

10 A. Yes.

11 Q. Do you know a person by the name of Joshua
12 Shue?

13 A. Yes.

14 Q. How do you know him?

15 A. He's my mom's boyfriend.

16 Q. When did you first meet Mr. Shue?

17 A. Summer of my freshman year.

18 Q. Going into your freshman year in high
19 school or going into your sophomore year?

20 A. Going into my sophomore year.

21 Q. And approximately how old were you when you
22 met him?

23 A. Fourteen.

24 Q. How old was Curt when you first met
25 Mr. Shue?

1 A. Around, between 10 or 11.

2 Q. And where were you living when you first
3 met Mr. Shue?

4 A. At Kolendo Court.

5 Q. Is that an apartment?

6 A. Yes.

7 Q. And is that address 3640 Kolendo Avenue?

8 A. Court.

9 Q. Is that in Clark County, Nevada?

10 A. Yes.

11 Q. When you first met Joshua who exactly were
12 you living with?

13 A. My mom.

14 Q. Were your brothers living there?

15 A. Yes.

16 Q. After you met Joshua back in the summer
17 going into your sophomore year, did he and your mom
18 eventually start dating?

19 A. No.

20 Q. So what was their relationship?

21 A. They were friends.

22 Q. At any point did Joshua move into your
23 house?

24 A. Yes.

25 Q. When was that?

1 A. The fall of my sophomore year.

2 Q. So you met him in the summer going into
3 your sophomore year and then he moved in with you in the
4 fall of your sophomore year?

5 A. Yes.

6 Q. And were you still about 14 or 15?

7 A. Yes.

8 Q. After Joshua moved in what type of
9 relationship did you guys of?

10 A. We were close. I trusted him. I tell him
11 things that I don't tell others usually.

12 Q. Do you have a dad, Hazel?

13 A. Yes, I do.

14 Q. Are you close with your dad?

15 A. Yes.

16 Q. Was Joshua like more of a friend or more
17 like a dad to you?

18 A. He was kind of like a father figure to me.

19 Q. How did your brother Curt get along with
20 Joshua?

21 A. They treated him like a father.

22 Q. When Joshua was living with you did he ever
23 do anything to make you feel uncomfortable?

24 A. Yes.

25 Q. Why don't you tell the Grand Jury about

1 that?

2 A. Well, he used to tell me things like if I
3 was older would I marry him, and long ago, like years
4 ago, he bit my butt and my mom just watched and she
5 laughed and he took it as a joke and I was crying and
6 they just looked at me and like say suck it up.

7 Q. Back of August of 2012 was Joshua living
8 with you at that time?

9 A. 2012?

10 Q. Yes. This past August.

11 A. Yes.

12 Q. Were you guys still living at that Kolendo
13 Court apartment?

14 A. Yes.

15 Q. Around August 22nd or August 23rd, 2012,
16 did something happen to you at your apartment that
17 causes you to be here testifying today?

18 A. Yes.

19 Q. Why don't you tell us what happened.

20 A. Back in the summer of August I came from my
21 date with my significant other and I was talking to him,
22 when I came home I was talking to him for awhile while I
23 was in the kitchen, like fixing my --

24 Q. When you say him, who are you talking
25 about?

30

1 A. Joshua. Fixing the flowers. And later on
2 he took a picture underneath my skirt and after that I
3 told him to delete it but he didn't delete it. He said
4 it was bad quality anyway so it wouldn't matter. And
5 then minutes after that he asked me if I wanted to, if I
6 wanted a drink and I said yes and he got me a Shirley
7 Temple and I knew Shirley Temple didn't have any alcohol
8 in it so that's why I said yes. And so he gave me that
9 drink and then later on it tasted different and I was
10 like what is it and so I just stopped. And then he
11 drank some and then he asked me if I wanted more and I
12 said yes and that's when, after I drank that drink I
13 became drowsy and then I started having scenarios of
14 what's happening throughout that night where at one
15 point he started undressing me, he said that I let him
16 undress, I let him undress me. And there's a part where
17 he started kissing me saying how good it felt and why
18 did I stop and pushing back. And then there's a part
19 where I came downstairs and I called my boyfriend and
20 tell him to help me and get me out of the apartment
21 because I didn't know what was happening. And then
22 after that I don't remember what happened.

23 Q. Okay. Do you specifically remember him
24 trying to kiss you?

25 A. Yes, a little bit.

1 Q. Where did he try to kiss you if you
2 remember?

3 A. In the mouth.

4 Q. Did you want to kiss him?

5 A. No.

6 Q. Do you have any type of sexual attraction
7 to Joshua Shue?

8 A. No.

9 Q. Did you want him to take off your clothes?

10 A. No.

11 Q. Hazel, when Joshua was living with you, do
12 you know if he had any cameras or computers or any
13 electronic devices?

14 A. No, I wasn't aware of that. All I know the
15 camera he had was a digital camera.

16 Q. Do you know if he had a computer?

17 A. Yes, he has a computer.

18 Q. Have you seen that computer?

19 A. Yes.

20 Q. After this incident happened on the 22nd,
21 23rd of August, did you go and report this to the
22 police?

23 A. No, my mom did.

24 Q. Hazel, at some point did you meet with
25 Detective Jaeger?

1 A. Yes.

2 Q. Did he make you aware of some videos that
3 were found?

4 A. Yes.

5 Q. Have you seen those videos?

6 A. Parts of it.

7 Q. And you know today that we're going to show
8 some videos, right?

9 A. Yes.

10 Q. We're not going to show the whole videos,
11 just some of the videos. Okay?

12 Right now I'm going to publish Grand Jury
13 Exhibit Number 3. This relates to Counts 29, 30, 9
14 through 11, 33, 34, part of 36, 37, Counts 3 through 5,
15 Counts 21 through 23 and Counts 24 through 26 for the
16 record.

17 And also for the record these videos are a
18 little bit long but we're just going to show a portion
19 of each video, but they're available if the Grand Jury
20 would like to see each of the whole video.

21 For the record the first video we're going
22 to play is relating to Count Number 29. It's picture
23 file name PICT0002.

24 Hazel, do you know who that is in this
25 video?

1 A. That's me.

2 Q. How can you tell it's you? Do you

3 recognize yourself?

4 A. My hair, clothing.

5 Q. And do you know what location this is?

6 A. Our main bathroom in Kolendo.

7 Q. And how old were you approximately in this

8 video?

9 A. I would say around 16.

10 Q. And for the record I'm fast forwarding the

11 video to approximately 5:17. Excuse me, 5:25.

12 Is that you again?

13 A. Yes.

14 Q. And again for the record this video goes on

15 for a little bit longer and will be available for the

16 Grand Jury to see the full video if they would like to.

17 The next video is file name PICT0002214847

18 and that relates to Count Number 30.

19 Hazel, do you know what bathroom this is?

20 A. Same bathroom, Kolendo bathroom.

21 Q. Is that at the Kolendo address?

22 A. Yes.

23 Q. Who is in this video?

24 A. Me.

25 Q. Do you know how old you were in this video?

1 A. Sixteen.

2 Q. Can you see?

3 A. Yeah, I can see.

4 Q. Is this the same person?

5 A. Yes.

6 Q. Is this the same day or a different day

7 from the last video I just showed you?

8 A. A different day.

9 Q. And do you see the date stamp at the bottom

10 of this video?

11 A. Yes.

12 Q. Do you know if that date is correct or not?

13 A. I'm not sure.

14 Q. The next video is entitled PICT0005 and it

15 relates to Counts 9 through 11 of the proposed

16 Indictment.

17 Do you know who that is in this video?

18 A. Me.

19 Q. How old were you in this video?

20 A. Sixteen.

21 Q. Do you know what area this is?

22 A. The same bathroom.

23 Q. On Kolendo?

24 A. Yes.

25 Q. Is this the same day or a different day

1 than the last two videos I just showed you?

2 A. Different day.

3 Q. Do you know who that is?

4 A. It's my brother Curt.

5 Q. How old was Curt in this video if you know?

6 A. I would say around 12 years old.

7 Q. How many years younger is Curt than you

8 are?

9 A. Between three to four years.

10 Q. Is that still Curt?

11 A. Yes.

12 Q. The next video is entitled file name

13 PICT0015214860 and it relates to Count Number 33 of the

14 proposed Indictment.

15 Do you know what location this is?

16 A. The main bathroom in Kolendo.

17 Q. And can you tell yet who's in this video?

18 A. No.

19 Q. Can you tell now who this is in this video?

20 A. Yes.

21 Q. Who is that?

22 A. Me.

23 Q. How old do you think you were in this

24 video?

25 A. Sixteen.

1 Q. Is this the same day or a different day
2 than the past videos?

3 A. Different date.

4 Q. How many showers do you normally take a day
5 back in August, September time?

6 A. Once a day.

7 Q. Would it be unusual for you to take more
8 than one shower in a day?

9 A. Yes.

10 Q. The next video file is PICT0016 and it
11 relates to Count 34 of the proposed Indictment.

12 Do you know who that is?

13 A. Yes, it's me.

14 Q. And how old were you approximately?

15 A. Sixteen.

16 Q. What location is this?

17 A. The main bathroom in Kolendo.

18 Q. Is this the same day or a different day
19 than the last videos?

20 A. Different day.

21 Q. The next video is entitled PICT0026 and it
22 relates to part of Count 36.

23 Do you know who that is, Hazel?

24 A. Yes.

25 Q. Who is that?

1 A. That's Joshua Shue.
2 Q. Do you know who that is?
3 A. Yes.
4 Q. Who is that?
5 A. That's me.
6 Q. How old were you approximately?
7 A. Sixteen.
8 Q. In what location is this?
9 A. The main bathroom.
10 Q. Same day or different day than the last
11 videos?
12 A. Different day.
13 Q. The next video is PICT0030214875 and it
14 relates to Count 37 of the proposed Indictment.
15 Do you know who that is?
16 A. Joshua.
17 Q. Do you want me to go back?
18 A. Yes.
19 Q. Do you know who that is?
20 A. Yes, that's Joshua.
21 Q. How do you recognize him?
22 A. His clothing.
23 Q. Do you recognize that person?
24 A. Yes.
25 Q. Who is that?

1 A. Me.

2 Q. And how old are you approximately in that
3 video?

4 A. Sixteen.

5 Q. What location is this?

6 A. The main Kolendo bathroom.

7 Q. The same day or a different day?

8 A. Different day.

9 Q. The next video is PICT0058 and it relates
10 to Counts 3 through 5 of the Indictment.

11 Do you know who that is?

12 A. Joshua.

13 Q. And how do you recognize him?

14 A. His face.

15 Q. Can you tell what he's doing in this video?

16 A. He's setting up the camera I believe.

17 Q. Do you know who that is?

18 A. That's Curt.

19 Q. Do you know how old he was in this video?

20 A. Twelve.

21 Q. And what area is this of your house?

22 A. The main bathroom in Kolendo.

23 Q. Do you know if this is the same or a
24 different day as the last time we saw Curt?

25 A. Different day.

1 Q. How do you know that?
2 A. Because Curt only takes showers once a day.
3 Q. Do you know who that is?
4 A. Yes.
5 Q. Who is that?
6 A. Me.
7 Q. And is this the same day or a different
8 day?
9 A. Different day.
10 Q. And how old were you approximately in this
11 video?
12 A. I'm not sure.
13 Q. Next video is PICT0089 and it relates to
14 Counts 21 through 23 of the proposed Indictment.
15 Do you know who that is?
16 A. Yes.
17 Q. Who is that?
18 A. Me.
19 Q. Do you recognize anything about your hair?
20 A. Yes, it's a different color.
21 Q. Is this still you?
22 A. Yes.
23 Q. Do you know who this is?
24 A. Yes.
25 Q. Who is that?

1 A. That's my brother Curt.

2 Q. And how old approximately is he in this

3 video?

4 A. Between 11 and 12.

5 Q. Is that still Curt?

6 A. Yes.

7 Q. Okay. The final video on this Exhibit

8 Number 3 is PICT0124 and it relates to Counts 24 through

9 26 of the Indictment.

10 Do you know what area this is?

11 A. Yes, that's the main bathroom.

12 Q. Do you know who this is in the video?

13 A. Yes.

14 Q. Who is that?

15 A. That's me.

16 Q. Do you know who that is?

17 A. Yes.

18 Q. Who is that?

19 A. Curt.

20 Q. Do you know how old he was?

21 A. Twelve.

22 Q. Is this the same day or a different day

23 than the last time we saw Curt?

24 A. Different day.

25 Q. Okay. Next I'm going to show you Grand

1 Jury Exhibit Number 4. This relates to Counts 35, 31,
2 28, 27, and 18 through 20 of the proposed Indictment.

3 Hazel, did you know that you were being
4 videotaped?

5 A. No.

6 Q. Did you know your brother was being
7 videotaped?

8 A. No.

9 Q. Did you know that a camera was in the
10 bathroom of your home?

11 A. No, I wasn't aware.

12 Q. Did you want to be videotaped?

13 A. No.

14 Q. The first file on Grand Jury Exhibit
15 Number 4 is going to be PICT0011214856 and that relates
16 to Count 35. Oh, excuse me. I'm sorry. That relates
17 to Count 31 of the proposed Indictment.

18 Do you know who that is, Hazel?

19 A. Yes.

20 Q. Who is that?

21 A. Joshua.

22 Q. How do you know it's Joshua?

23 A. His robe.

24 Q. Did he wear that robe around your house
25 before?

1 A. Yes.

2 Q. Do you know who that is?

3 A. Yes.

4 Q. Who is that?

5 A. That's me.

6 Q. Do you know what location this is?

7 A. Yes.

8 Q. What location is that?

9 A. That's the main bathroom.

10 Q. Is this still you?

11 A. Yes.

12 Q. The next video on Exhibit 4 is

13 PICT0025214870 and it relates to Count Number 35 in the

14 proposed Indictment.

15 Do you know who that is Hazel?

16 A. Yes.

17 Q. Who is that?

18 A. Joshua.

19 Q. How do you recognize him?

20 A. His pajamas.

21 Q. And what area is this?

22 A. That is in a hotel in Bevenshire. It's

23 called Bevenshire.

24 Q. Do you know who that is?

25 A. Yes.

1 Q. Who is that?
2 A. That's me.
3 Q. How old are you approximately in this
4 video?
5 A. Sixteen.
6 Q. Is that still you?
7 A. Yes.
8 Q. The next video is PICT0057 and it relates
9 to Counts 18 through 20.
10 Do you know who that is?
11 A. Yes.
12 Q. Who is that?
13 A. Joshua.
14 Q. And how do you recognize him?
15 A. Clothing.
16 Q. Do you know who this is in the video?
17 A. Yes.
18 Q. Who is that?
19 A. That's me.
20 Q. How old do you think you are in this video?
21 A. Sixteen transitioning to 17.
22 Q. Do you know what location this is?
23 A. Yes, that's the main bathroom.
24 Q. Do you know who this is?
25 A. Yes.

1 Q. Who is that?
2 A. Curt.
3 Q. And how old do you think he is in this
4 video?
5 A. Twelve transitioning to 13.
6 Q. Is that still your brother Curt?
7 A. Yes.
8 Q. The next video is PICT0073 and it relates
9 to Count 27.
10 Do you know who that is?
11 A. Yes.
12 Q. Who is that?
13 A. Joshua.
14 Q. Do you want me to go back a little bit?
15 A. No, I saw it.
16 Q. How do you recognize him?
17 A. His face.
18 Q. What does it appear he's doing?
19 A. Putting the camera on the sink.
20 Q. Do you know who that is?
21 A. Yes.
22 Q. Who is that?
23 A. Me.
24 Q. Is this the same bathroom as we've been
25 talking about before?

1 A. Yes.

2 Q. How old do you think you were in this
3 video?

4 A. Sixteen.

5 Q. The last video on Grand Jury Exhibit
6 Number 4 is PICT0075 and it relates to Count 28.

7 Can you tell who that is?

8 A. Yes.

9 Q. Who is that?

10 A. Joshua.

11 Q. How do you recognize him?

12 A. His clothing.

13 Q. And what does it appear he's doing?

14 A. Putting the camera on the sink.

15 Q. Do you know who that is?

16 A. Yes.

17 Q. Who is that?

18 A. Me.

19 Q. And how old were you approximately?

20 A. Sixteen.

21 Q. And is this the same bathroom we've been
22 talking about?

23 A. Yes.

24 Q. And it's the same day or a different day
25 than all the other videos we've seen?

1 A. Different day.

2 Q. Is this you again?

3 A. Yes.

4 Q. Next I'm going to show Grand Jury Exhibit

5 Number 5 and these videos relate to Count 38 and Count

6 32 of the proposed Indictment.

7 The first video on Grand Jury Exhibit

8 Number 5 is PICT0013214858 and it relates to Count 32.

9 Do you know who that is?

10 A. Yes.

11 Q. Who is that?

12 A. Joshua.

13 Q. How do you recognize him?

14 A. His face.

15 Q. What does he appear to be doing?

16 A. Setting up the camera.

17 Q. Do you know what location this is?

18 A. Yes.

19 Q. Is it the same house we've been talking

20 about?

21 A. Yes.

22 Q. Do you know who this is in this video? Can

23 you see that?

24 A. No, I can't.

25 That's me.

1 Q. How old do you think you were in this
2 video?

3 A. Sixteen.

4 Q. And the last video on Grand Jury Exhibit
5 Number 5 is PICT0044 and it relates to Count 38 of the
6 Indictment.

7 Do you know who that is? Do you see that?

8 A. Yes.

9 Q. Who was that?

10 A. Joshua.

11 Q. How do you recognize him?

12 A. Clothing.

13 Q. Do you know what location this is?

14 A. Yes.

15 Q. Same bathroom we've been talking about?

16 A. Yes.

17 Q. Do you recognize who that is?

18 A. Yes.

19 Q. Who is that?

20 A. That's me.

21 Q. And how old do you think you were in this
22 video?

23 A. Sixteen.

24 Q. We're next looking at Grand Jury Exhibit
25 Number 6 and this relates to Counts 12 through 14. The

1 file that we're showing is PICT0007 and it relates to
2 Counts 12 through 14.

3 Do you recognize who that is?

4 A. Yes.

5 Q. And who is that?

6 A. It's me.

7 Q. It's the same bathroom as we've been
8 talking about?

9 A. Yes.

10 Q. Is that you again?

11 A. Yes.

12 Q. How old do you think you were in this
13 video?

14 A. Sixteen.

15 Q. The same day or different day than all the
16 other videos?

17 A. Different day.

18 Q. Do you know who that is in the video?

19 A. Yes.

20 Q. Who is that?

21 A. It's me.

22 Q. Do you recognize who that is?

23 A. Yes.

24 Q. Who is that?

25 A. Curt.

1 Q. Do you know how old Curt was in this video?
2 A. Twelve.
3 Q. Same day or different day?
4 A. Different day.
5 Q. Is this the same bathroom we've been
6 talking about?
7 A. Yes.
8 Q. Is this your brother again?
9 A. Yes.
10 Q. And lastly I'm going to show Grand Jury
11 Exhibit Number 8 and these videos relate to Counts 15
12 through 17, 6 through 8, and part of 36.
13 The first video in Grand Jury Exhibit
14 Number 8 is PICT0006 relating to Counts 15 through 17.
15 Do you recognize who that is?
16 A. Yes.
17 Q. Who is that?
18 A. It's me.
19 Q. And how old were you approximately in this
20 video?
21 A. Sixteen.
22 Q. Is this the same bathroom we've been
23 talking about?
24 A. Yes.
25 Q. And the same or a different day in all the

1 other videos?

2 A. Different day.

3 Q. Do you know who is?

4 A. Yes.

5 Q. Who is that?

6 A. Curt.

7 Q. How old was Curt in this video?

8 A. Twelve.

9 Q. Same bathroom?

10 A. Yes.

11 Q. Same day or different day than the last

12 time we saw Curt?

13 A. Different day.

14 Q. Is that him again?

15 A. Yes.

16 Q. The next video is PICT0027214872 and that

17 relates to Count 36. Yes, Count 36.

18 Do you know who that is in this video?

19 A. Yes.

20 Q. Who is that?

21 A. Me.

22 Q. How old were you in this video?

23 A. Sixteen.

24 Q. And then finally the last video is PICT0031

25 and it relates to Counts 6 through 8 of the Indictment.

1 Do you recognize who that is?

2 A. Yes.

3 Q. Who is that?

4 A. Me.

5 Q. How old were you in this video?

6 A. Sixteen.

7 Q. And is this the same or a different

8 bathroom?

9 A. Same bathroom.

10 Q. And all the bathroom that we've been

11 talking about are on Kolendo; is that correct?

12 A. Yes.

13 Q. Do you recognize who that is?

14 A. Curt.

15 Q. How old is Curt in this video?

16 A. Around 12.

17 Q. It's the same bathroom?

18 A. Yes.

19 Q. Same or a different day than the last time

20 we saw Curt?

21 A. Different day.

22 Q. Hazel, am I correct that you just turned

23 18?

24 A. Yes.

25 Q. And do you live at home anymore?

1 A. I don't live with my mom anymore.

2 Q. Do you want to live with your mom?

3 A. No.

4 Q. Why don't you want to live with your mom?

5 A. Because I fear that he'd still be there.

6 Q. Hazel, at any point in your time of knowing

7 Joshua did you ever send him any like sexy pictures of

8 yourself?

9 A. No.

10 Q. And Hazel, am I correct in saying that all

11 the videos we saw today are generally the same thing of

12 you or your brother going into the bathroom, getting

13 undressed, taking a shower, getting out of the bathroom

14 and doing other bathroom things; is that correct?

15 A. Yes.

16 Q. Hazel, in this whole process of you seeing

17 these videos today and in the past, has anyone ever

18 threatened you to change your story or make up a story

19 about what happened to you?

20 A. No.

21 Q. Did the detective ever, Detective Jaeger,

22 did he ever tell you to change your story?

23 A. No.

24 Q. Did CPS ever tell you to make up a story?

25 A. No.

1 MS. BEVERLY: Does the Grand Jury have any
2 questions at this point?
3 BY A JUROR:
4 Q. Is Joshua the father of your stepbrothers?
5 A. No.
6 Q. And how old are your stepbrothers?
7 A. My stepbrothers are older than me. They're
8 20 and 24.
9 Q. Oh, okay.
10 BY A JUROR:
11 Q. How long did Joshua live with you?
12 A. About three years.
13 THE FOREPERSON: Any other questions?
14 BY A JUROR:
15 Q. There was one picture of your brother, I
16 don't remember which one it was, but it looked like he
17 was talking to someone. Did your brother know that
18 Joshua was in the bathroom?
19 A. I'm not aware of that.
20 Q. There was one picture and he had a towel
21 over his head, it looked like he was conversing with
22 someone.
23 MS. BEVERLY: I'm just going to ask you not
24 to answer that because it calls for speculation if you
25 don't know who he was talking to.

1 THE WITNESS: I'm not sure. I don't know
2 that.

3 A JUROR: Okay.

4 BY MS. BEVERLY:

5 Q. Hazel, how old were you the whole time
6 Joshua lived with you, what were your ages?

7 A. Fifteen, 16 and 17.

8 MS. BEVERLY: Any further questions?

9 THE FOREPERSON: By law, these proceedings
10 are secret and you are prohibited from disclosing to
11 anyone anything that has transpired before us, including
12 evidence and statements presented to the Grand Jury, any
13 event occurring or statement made in the presence of the
14 Grand Jury, and information obtained by the Grand Jury.

15 Failure to comply with this admonition is a
16 gross misdemeanor punishable by a year in the Clark
17 County Detention Center and a \$2,000 fine. In addition,
18 you may be held in contempt of court punishable by an
19 additional \$500 fine and 25 days in the Clark County
20 Detention Center.

21 Do you understand this admonition?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you. You're
24 excused.

25 I'm going to request a brief break.

1 MS. BEVERLY: Sure.

2 (Recess.)

3 MS. BEVERLY: State calls Anita Iral.

4 THE FOREPERSON: Would you raise your right

5 hand, ma'am.

6 You do solemnly swear the testimony you are

7 about to give upon the investigation now pending before

8 this Grand Jury shall be the truth, the whole truth, and

9 nothing but the truth, so help you God?

10 THE WITNESS: Yes.

11 THE FOREPERSON: Please be seated.

12 THE WITNESS: Can I say something?

13 THE FOREPERSON: Can you give me a minute

14 to swear you in and then you can say something.

15 THE WITNESS: Okay.

16 THE FOREPERSON: You are advised that you

17 are here today to give testimony in the investigation

18 pertaining to the offenses of child abuse and neglect,

19 use of child in production, possession of visual

20 presentation depicting sexual conduct of a child, open

21 or gross lewdness, involving Joshua Caleb Shue.

22 Do you understand that advisement?

23 THE WITNESS: No, not really. Can I have

24 an interpreter? Because I don't, I don't really speak

25 English like really fluent and I need an interpreter.

1 MS. BEVERLY: What language do you speak
2 ma'am?
3 THE WITNESS: Tagalog.
4 MS. BEVERLY: How long have you been in the
5 United States?
6 THE WITNESS: Seven.
7 MS. BEVERLY: Seven years?
8 THE WITNESS: (Inaudible response.)
9 MS. BEVERLY: Were your kids born in the
10 United States?
11 THE WITNESS: No.
12 MS. BEVERLY: What do you do for a living?
13 THE WITNESS: I'm working at the casino.
14 MS. BEVERLY: Do you have to speak English
15 to be able to work in the casino?
16 THE WITNESS: Yeah, but it's, there's
17 English that it's kind of difficult for me to
18 understand.
19 MS. BEVERLY: Well, I'm only asking you a
20 few questions so why don't I ask you the question and
21 you tell me if you understand what I'm saying. Okay?
22 THE WITNESS: Okay.
23 THE FOREPERSON: Hold on.
24 Okay. What part didn't you understand that
25 I read you?

1 THE WITNESS: Nothing really. That's
2 why --

3 THE FOREPERSON: The reason you're here --
4 see if you can understand this -- the reason you're here
5 is to give testimony for the charges of child abuse and
6 neglect, use of child in production, possession of
7 visual presentation depicting sexual conduct of a child
8 and open or gross lewdness, involving Joshua Caleb Shue.

9 Do you understand that part? I need you to
10 verbally state.

11 THE WITNESS: Yes.

12 THE FOREPERSON: I need you to state your
13 first and last name and spell them both for the record.

14 THE WITNESS: My name is Anita Iral.
15 I-R-A-L my last name.

16 THE FOREPERSON: You have to spell your
17 first name too.

18 THE WITNESS: Anita Iral, I-R-A-L.

19 THE FOREPERSON: Spell your first name.

20 THE WITNESS: A-N-I-T-A.

21 THE FOREPERSON: Thank you.

22 A JUROR: She's going to have to speak up.

23 MS. BEVERLY: Can you speak into the
24 microphone please.

25 ANITA IRAL,

1 having been first duly sworn by the Foreperson of the
2 Grand Jury to testify to the truth, the whole truth,
3 and nothing but the truth, testified as follows:

4

5 EXAMINATION

6 BY MS. BEVERLY:

7 Q. Anita, do you have a daughter named Hazel?

8 A. Yes.

9 Q. Do you have a son named Curt?

10 A. Yes.

11 Q. How old is your daughter Hazel?

12 A. Now she's 18.

13 Q. Does she live with you?

14 A. No.

15 Q. Did she use to live with you?

16 A. Yes.

17 Q. Does your son Curt live with you right now?

18 A. Yeah.

19 Q. Do you have a boyfriend?

20 A. Before.

21 Q. What's your boyfriend's name?

22 A. Joshua Shue.

23 Q. Do you still see him?

24 A. No.

25 Q. When was the last time you saw him?

1 A. I think that was Thanksgiving.

2 Q. Thanksgiving? Thanksgiving, this past
3 Thanksgiving, 2012?

4 A. Yeah.

5 Q. Do you know who Detective Jaeger is?

6 A. Yes.

7 Q. Has he talked to you before about your
8 daughter Hazel?

9 A. Yeah.

10 Q. Did he threaten you in any way?

11 A. Yeah, he was -- you know the one thing I
12 can speak right now because I'm kind of afraid with the
13 cops because when my daughter came, when I was with my
14 friends and then I told her that she doesn't need to
15 communicate with the cop, let them, you know, people to
16 do that, and then when I, you know, when she's, then I
17 was mad with her and she told, she called the cops and
18 then there's four cops going to the house. And then --

19 Q. Okay. Let me stop you right there.

20 Did you tell Hazel not to speak to the
21 cops?

22 A. Because I told her she doesn't --

23 Q. It's just yes or no. Did you tell her not
24 to speak to the cops?

25 A. Yes.

1 Q. Did you tell her not to file charges
2 against Joshua Shue?

3 A. Because I told her that --

4 Q. Ma'am, I just want you to say yes or no.
5 Did you tell Hazel not to file charges against Joshua
6 Shue?

7 A. No.

8 Q. Do you love Joshua Shue?

9 A. Before.

10 Q. Do you want to be with him?

11 A. It depends.

12 Q. It depends on what?

13 A. It depends what's going on because when you
14 talk to me outside, I need to defend myself, that's why
15 I don't want to testify here because I need a lawyer for
16 me.

17 Q. Why do you need a lawyer?

18 A. Because I can't defend myself because --
19 Ryan, he was trapping me that I'm going to be in jail
20 and then he took my kids and then they put in the CPS
21 and then he told me that I bail him. I did not bail him
22 and I have a paper that to know that I did not bail him.

23 Q. That's okay. Are you saying that Detective
24 Ryan Jaeger told you not to bail Joshua Shue out of
25 jail?

1 A. No, he told me that did you bail your
2 boyfriend. I said I don't have the money to bail him.
3 That was \$2000. How can I get the \$2000? And I live in
4 a \$400 place.

5 Q. Okay. Have you ever asked Hazel your
6 daughter to make up a story or change her story about
7 any of the events in this case?

8 A. No.

9 Q. Has CPS ever threatened you before?

10 A. Yes.

11 Q. What did they say?

12 A. They said if I, before I get my kids, the
13 time that it happened to get my kids back because they
14 just told me you're going to get your kids back, but the
15 CPS call me and telling me you should, you know, to say
16 this, you know, that your boyfriend doing that with your
17 daughter and with your kids. And then I was nervous, I
18 don't know how can I say, because she said, Miss Cheryl
19 told me if you're not going to say that we can get your
20 kids again.

21 Q. Do you want Hazel to come and live with you
22 again?

23 A. No. She's 18 now. I don't want another
24 headache.

25 Q. Why is she a headache?

1 A. Well sometime she was missing person
2 before, she doesn't want to go home, and then she
3 trouble me sometimes with the cops, she call the cops.
4 And then I can't watch my kids 24/7, I have a life too,
5 to take care of my kids and I need to work.

6 Q. Have you understood everything that I've
7 been asking you up to this point?

8 A. Not really.

9 Q. How have you been answering me if you don't
10 understand my questions?

11 A. Because I'm trying to figure out to explain
12 what's going on with me right now.

13 Q. Okay. But the questions that I've asked
14 you so far, have you understood what I've been asking
15 you?

16 A. Yeah, it's all about my kids, it's all
17 about my boyfriend.

18 Q. Anita, has Hazel ever accused you of
19 beating her up?

20 A. To beat her?

21 Q. Has Hazel ever told anyone that you beat
22 her up?

23 A. No.

24 MS. BEVERLY: Okay. Does the Grand Jury
25 have any questions for this witness?

1 THE WITNESS: I never beat my kids and
2 then, I don't know, maybe she told that with somebody
3 that I beat her.

4 MS. BEVERLY: Does the Grand Jury have any
5 questions for this witness?

6 THE FOREPERSON: By law, these proceedings
7 are secret and you are prohibited from disclosing to
8 anyone anything that has transpired before us, including
9 evidence and statements presented to the Grand Jury, any
10 event occurring or statement made in the presence of the
11 Grand Jury, and information obtained by the Grand Jury.

12 Failure to comply with this admonition is a
13 gross misdemeanor punishable by a year in the Clark
14 County Detention Center and a \$2,000 fine. In addition,
15 you may be held in contempt of court punishable by an
16 additional \$500 fine and 25 days in the Clark County
17 Detention Center.

18 Do you understand this admonition?

19 THE WITNESS: Huh-uh.

20 THE FOREPERSON: Okay. Basically anything
21 we talked about in here you can't share with anybody
22 else until the case is over. Okay? Do you understand
23 that?

24 THE WITNESS: Yes.

25 THE FOREPERSON: Okay. Thank you. You are

1 excused.

2 THE WITNESS: Thank you. Thank you very
3 much everybody. I appreciate that.

4 MS. BEVERLY: And that concludes the
5 State's case today. Are there any questions at this
6 point?

7 Thank you. I submit it.

8 (At this time, all persons, other than
9 members of the Grand Jury, exit the room at 10:25 a.m.
10 and return at 10:33 a.m.)

11 THE FOREPERSON: Mrs. District Attorney, by
12 a vote of 12 or more grand jurors a true bill has been
13 returned against defendant Joshua Caleb Shue charging
14 the crimes of one count child abuse and neglect, 29
15 counts use of child in production, 10 counts possession
16 of visual presentation depicting conduct of a child, one
17 count open or gross lewdness, in Grand Jury Case Number
18 12AGJ131X. We instruct you to prepare an Indictment in
19 conformance with the proposed Indictment previously
20 submitted to us.

21 MS. BEVERLY: Thank you.

22 (Proceedings concluded.)

23 --oo0oo--

24

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Danette L. Antonacci, C.C.R. 222

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
12AGJ131X:

X 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: NRS 656.250.

-OR-

B. For the administration of a public program
or for an application for a federal or
state grant.

/s/ Danette L. Antonacci

3-26-13

Signature

Date

Danette L. Antonacci

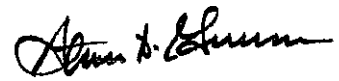
Print Name

Official Court Reporter

Title

WARR

DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSHUA C. SHUE, aka,
Joshua Caleb Shue, #1550230

Defendant.

CASE NO: C-13-288172-1
DEPT NO: XXI

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 13th day of March, 2013, in the above entitled Court, charging Defendant JOSHUA C. SHUE, aka, Joshua Caleb Shue, above named, with the crime(s) of: (1) CT - CHILD ABUSE & NEGLECT (Category B Felony - NRS 200.508), (29) CTS - USE OF CHILD IN PRODUCTION (Category A Felony - NRS 200.710), (10) CTS - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) and (1) CT - OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210).

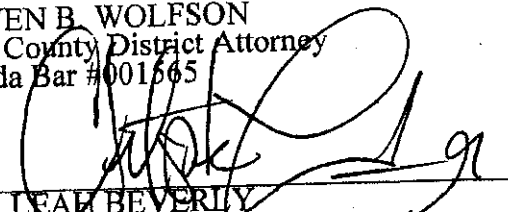
YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ 75,000.

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night

GIVEN under my hand this 13th day of March, 2013.

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

BY


LEAH BEVERLY
Deputy District Attorney
Nevada Bar #012556


DISTRICT JUDGE
LINDA MARIE BELL
BAIL \$ 75,000

DA#12AGJ131X/12F13527X/ed
LVMPD EV#1208231707
10271974; WMA; 286-78-1246
(TK12)

1 MOTN
2 TERRENCE M. JACKSON
3 Nevada Bar No.: 00854
4 624 South Ninth Street
5 Las Vegas, NV 89101
6 (702) 386-0001 / Fax (702) 386-0085
7 Counsel for Joshua Shue


CLERK OF THE COURT

8
9
10 IN THE EIGHTH JUDICIAL DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 STATE OF NEVADA,

CASE NO.: 12C-288172

13 Plaintiff,

DEPT. NO.: XXI

14 vs.

Date of Hearing: 3 / 28 / 2013

15 JOSHUA C. SHUE,

Time of Hearing: 9:30 a.m.

16 Defendant.

17
18 **MOTION TO RESET BAIL AS PREVIOUSLY SET BY MAGISTRATE JUDGE or**

19 **GRANT A BAIL LESS THAN \$75,000.00**

20 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE M.
21 JACKSON, ESQ., and moves this court to reset his bail to \$2,000.00, the amount previously posted
22 by the Defendant in case number 12F13527X, and later re-approved by the Magistrate in case
23 number 12F13527X in Justice Court Department 12, on February 27, 2013.

24 As grounds for this Motion, Defendant states:

25 He has abided by all court ordered conditions when on release since September, 2012.
26 Defendant is a lifetime resident of Las Vegas, Nevada. He has substantial family ties to Las Vegas,
27 Nevada. Defendant has served honorably in the United States military, receiving an honorable
28 discharge in 1997. Defendant is gainfully employed.

The issue of increasing the bail because of adding additional charges was raised by the State
before the Justice of the Peace, Diana Sullivan, Department 12. After vigorous argument, that request
was denied. (See, Minutes 2/27/2013) If granted bail as before, or some amount less than \$75,000.00,
Defendant will continue to abide by any conditions the court imposes.

Increasing bail to any amount even close to the \$75,000.00 set by the Grand Jury will be an

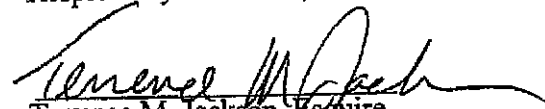
1 extraordinary hardship for Defendant and could seriously impact his ability to retain counsel of his
2 choice. The State should be estopped from seeking a higher bail when a Magistrate familiar with all
3 the facts had ruled on his bail and no circumstances have changed since his last court appearance
4 February 27, 2013, in this case.

5 Defendant submits that the State actions which deprived Defendant of a preliminary hearing
6 apparently for the sole purpose of seeking a greatly increased bail is the type of vindictive
7 prosecution that should not be countenanced as it raises the specter of prosecutorial vindictiveness.
8 *See, U.S. v. Goodwin, 457 U.S. 368 (1982).*

9 WHEREFORE, for the above stated reasons, Defendant respectfully urges this Honorable
10 Court to immediately reset bail as it was before or alternatively set a reasonable bail that fairly
11 reflects the Defendant's danger to flee or his danger to society.

12 DATED this 15th day of March, 2013

13 Respectfully submitted,

14 
15 Terrence M. Jackson, Esquire
16 Counsel for Joshua C. Shue

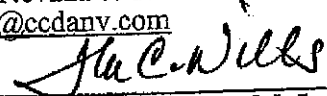
17 **CERTIFICATE OF ELECTRONIC SERVICE**

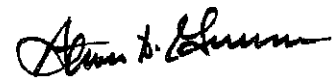
18 The undersigned hereby certifies she is an assistant to Terrence M. Jackson, Esq., and is a
19 person of such age and discretion as to be competent to serve papers and not a party to the above-
20 entitled action. That on the 15th day of March, 2013, I served a true and correct copy of the foregoing:

21 **MOTION TO RESET BAIL AS PREVIOUSLY SET BY MAGISTRATE** as follows:

22 ☒ Via e-filing to Clark County District Attorney:

23 Steven B. Wolfson, Clark County District Attorney
24 Leah Beverly, Assistant Deputy District Attorney
25 Regional Justice Center - Third Floor
26 Las Vegas, Nevada 89101
27 PDMotions@ccdavnv.com

28 By: 
An assistant to Terrence M. Jackson, Esq.


CLERK OF THE COURT

1 **OPPS**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH C. BEVERLY
6 Deputy District Attorney
7 Nevada Bar #0012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 JOSHUA SHUE,
13 ID# 1550230

14 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO RESET BAIL AS**
16 **PREVIOUSLY SET BY MAGISTRATE JUDGE OR GRANT A BAIL LESS THAN**
17 **\$75,000**

18 DATE OF HEARING: 3/28/13
19 TIME OF HEARING: 9:30 A.M.

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,
21 through LEAH C. BEVERLY, Deputy District Attorney, and hereby submits the attached
22 Points and Authorities in Opposition to Defendant's Motion to Reset Bail as Previously Set
23 by Magistrate Judge or Grant a Bail Less than \$75,000.

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

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On the night of August 22, 2012, victim Hazel Iral returned to the apartment she shared with Defendant, her mother and her two brothers. After arriving home, Defendant offered Hazel a Shirley Temple drink which Hazel described as "tasting funny." Immediately after, Defendant took a picture under Hazel's skirt which was quickly deleted from Defendant's camera. As time passed that evening, Hazel began to feel drowsy and unsure of her surroundings. She distinctly remembered Defendant trying to kiss her on the mouth and trying to take off her clothes. The next morning, Hazel reported this incident to police and was interviewed. Defendant was also interviewed and admitted taking a photo under Hazel's skirt and immediately deleting it.

NRS 178.498 provides:

1. The nature and circumstances of the offense charged;
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.

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1 NRS 178.4853 provides as follows:

2 **NRS 178.4853 Factors considered before release without**
3 **bail.** In deciding whether there is good cause to release a person
4 without bail, the court as a minimum shall consider the following
5 factors concerning the person:

- 6 1. The length of his residence in the community;
- 7 2. The status and history of his employment;
- 8 3. His relationship with his spouse and children, parents or
9 other members of his family and with his close friends;
- 10 4. His reputation, character and mental condition;
- 11 5. His prior criminal record, including, without limitation,
12 any record of his appearing or failing to appear after release on
13 bail or without bail;
- 14 6. The identity of responsible members of the community
15 who would vouch for the reliability of the person;
- 16 7. The nature of the offense with which he is charged, the
17 apparent probability of conviction and the likely sentence insofar
18 as these factors relate to the risk of his not appearing;
- 19 8. The nature and seriousness of the danger to the alleged
20 victim, any other person or the community that would be posed
21 by the person's release;
- 22 9. The likelihood of more criminal activity by him after he is
23 released; and
- 24 10. Any other factors concerning his ties to the community or
25 bearing on the risk that he may willfully fail to appear.

26
27 The intent of bail is to ensure both the defendant's appearance at future proceedings
28 and to protect the community by ensuring that the defendant not engage in further criminal
activities while released. In the instant case, Defendant was initially arrested on one count of
Capturing Image of Private Area of Another Person. Subsequent to preliminary hearing, the
State amended the criminal complaint to add one count of Use of Child in Production, one
count of Preparing, Advertising, or Distributing Materials Depicting Pornography Involving
a Minor and one count of Child Abuse and Neglect on September 14, 2012 for the picture
Defendant took under the skirt of Hazel. At this time, the State did not request that bail be set
on these new charges because the State had information that there may be child pornography
on Defendant's computer. Given the complexity of conducting a forensic analysis on a
computer, the State wanted to understand the full extent of the case before asking that bail be
set.

Once Defendant's computer was tested, the full extent of Defendant's crimes were
revealed. After combing through the many videos and photos on Defendant's computer, the

1 State filed a Second Amended Complaint on February 27, 2013 charging Defendant with an
2 additional 35 counts of a mix of Use of Child in Production and Possession of Visual
3 Presentation Depicting Sexual Conduct of a Child. On February 27, 2013, the State
4 requested that bail be set on these new charges. The Honorable Judge Diana Sullivan did not
5 set bail on the new charges and set a preliminary hearing. At that time, the only information
6 Judge Sullivan had about this case was the charges in the new Complaint. Subsequently, the
7 State added two additional counts of Possession of Visual Presentation Depicting Sexual
8 Conduct of a Child and took this case to the grand jury. The grand jury returned a true bill
9 against Defendant on all counts on March 12, 2013. On March 13, 2013, the Honorable
10 Judge Bell issued an arrest warrant in the amount of \$75,000 after the State thoroughly
11 explained the procedural posture of the case. The case is currently awaiting a trial date.

12 Defendant is asking this court to reset bail in the amount of \$2,000 which represents
13 the set bail on the original and single charge of Capturing Image of Private Area of Another
14 Person. The State strongly opposes this Motion mainly due to the underlying nature of the
15 crimes in this case. In the instant case, Defendant set up a hidden video camera in the
16 bathroom of the apartment he shared with his girlfriend and her three minor children. He
17 then intentionally and systematically recorded the children showering and performing other
18 private bathroom routines. In each video, Defendant was able to capture all the genital areas
19 of minor children. Not only did Defendant set up these recordings, he then downloaded them
20 onto his computer to keep a lasting memory of his offenses. What is most disturbing is that
21 Defendant is captured in several of the videos actually setting up the video camera and the
22 angles of the camera. Defendant was able to abuse his power as an adult in the home not
23 only to create explicit child pornography but also to try to kiss Hazel Iral and attempt to take
24 off her clothing on the night of August 23, 2013. Had Hazel Iral not reported Defendant to
25 authorities, there is no telling how long Defendant would have continued to exploit the
26 victims.

27 While Defendant lacks documented criminal convictions, he has demonstrated every
28 desire to continue to engage in criminal behavior. The fact that Defendant's crimes occurred

1 consistently over a two to three year period demonstrate his pattern and propensity for
2 criminal activity. Each time he set up the camera, and each time he filmed the victims, he
3 was engaging in a criminal act without getting caught. Yet he continued to film without any
4 regard for his actions. The only reason he stopped his criminal behavior is because someone
5 finally reported him.

6 Contrary to Defendant's claim that nothing has changed since February 27, 2013
7 when this case was before Judge Sullivan, much has changed. The grand jury has now found
8 probable cause for the charges in the Indictment. The grand jury has now heard testimony
9 and seen videos and pictures that substantiate the charged offenses. Additionally, now
10 Defendant is facing multiple charges that include the possibility of life in prison. Knowing
11 that he has now been indicted and faces significant prison time if convicted, Defendant has
12 little to no incentive to return to court for future proceedings.

13 Finally, this case is strong for the State and the likelihood of conviction is high.
14 Defendant is seen setting up the video camera in the bathroom and the videos and
15 photographs were found on a computer registered to Defendant.

16 The current bail setting is appropriate given the amount and nature of the charges. As
17 Defendant is alleged to have committed sexual offenses and shows a propensity toward
18 criminal activity, the State would ask that the Motion be denied and that current bail setting
19 remain in the case.

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DATED this 20TH day of March, 2013.

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

CERTIFICATE OF FACSIMILE TRANSMISSION

TERRANCE M. JACKSON, ESQ.
FAX #386-0085

Employee of the District Attorney's Office

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RET

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Deputy District Attorney
Nevada Bar #012556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

2013 MAR 21 A 11:30

William H. Hume
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JOSHUA C. SHUE, aka,
Joshua Caleb Shue, #1550230

Defendant.

CASE NO: C-13-288172-1
DEPT NO: XXI

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 13th day of March, 2013, in the above entitled Court, charging Defendant JOSHUA C. SHUE, aka, Joshua Caleb Shue, above named, with the crimes of: (1) CT - CHILD ABUSE & NEGLECT (Category B Felony - NRS 200.508), (29) CTS - USE OF CHILD IN PRODUCTION (Category A Felony - NRS 200.710), (10) CTS - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) and (1) CT - OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the 20 day of March 2013.

C-13-288172-1
IWR
Indictment Warrant Return
2325033



DOUGLAS C. GILLESPIE, Sheriff,
Clark County, Nevada

BY

Shepherd
Deputy

CLERK OF THE COURT

MAR 21 2013

RECEIVED

1 WHC
2 Terrence M. Jackson, Esquire
3 Nevada Bar No. 00854
4 624 South Ninth Street
5 Las Vegas, Nevada 89101
6 T(702) 386-0001 / Fax (702) 386-0085
7 Counsel for Joshua Caleb Shue


CLERK OF THE COURT

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IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Application of
JOSHUA CALEB SHUE,
For a Writ of Habeas Corpus.

CASE NO.: 12C-288172

DEPT. NO.: XXI

Date of Hrg: 5 / 2 / 2013

Time of Hrg: 9:30 a.m./p.m.

TO: The Honorable Judge Valerie Adair of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark:

The Petition of Joshua Shue, submitted by TERRENCE M. JACKSON, as attorney for the above-captioned individual, respectfully affirms:

[1] That he is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada.

[2] That Petitioner makes application for a Writ of Habeas Corpus; that the place where the Petitioner is actually or constructively imprisoned and restrained of his liberty is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is Douglas Gillespie, SHERIFF.

[3] The imprisonment and restraint of said above-captioned client of Petitioner is unlawful in this:

1. The Prosecutor, through its agent, Detective Ryan Jaeger, committed prosecutorial misconduct by deliberately eliciting inadmissible and prejudicial other crimes evidence before the Grand Jury.

2. The Indictment wrongly charges multiple counts for one continuous act. The 29

1 counts of Use of Child in Production and 10 counts of Possession of Visual Presentation Depicting
2 Sexual Conduct of a Child are multiplicitous as they involve a single video tape which captured
3 similar images over a short time period.

4 3. The Grand Jury was not instructed properly on the production of pornography. If
5 given proper instruction, they should have concluded there was no probable course to indict
6 Defendant on Counts 2, 3, 4, 6, 7, 9, 10, 12, 13, 15, 16, 18, 19, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32,
7 33, 34, 35, 36, 37, 38.

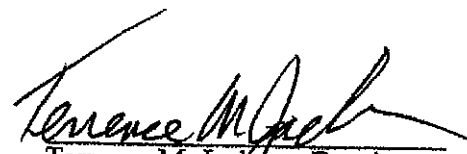
8 4. That Petitioner waives his right to be brought to trial within 60 days.

9 5. That Petitioner consents that if the Petition is not decided within 15 days before the
10 date set for trial, the Court may, without notice or hearing, continue the trial indefinitely to a date
11 designated by the Court.

12 6. That Petitioner personally authorized his aforementioned attorney to commence this
13 action.

14 WHEREFORE, Petitioner prays that this Honorable Court make an order directing the
15 County Clerk to issue a Writ of Habeas Corpus directed to the said Douglas Gillespie, Sheriff,
16 commanding him to bring the Petitioner before your Honor, and return the cause of his
17 imprisonment.

18
19 DATED this 18th day of April, 2013.

20
21 
22 Terrence M. Jackson, Esquire
23 Nevada Bar No. 00854
24 Law Office of Terrence M. Jackson
25 624 South Ninth Street
26 Las Vegas, Nevada 89101
27 T(702) 386-0001 / Fax (702) 386-0085
28 Counsel for Joshua Caleb Shue

1
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3 **DECLARATION**

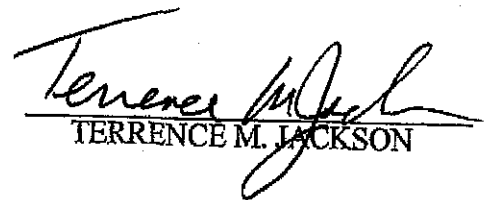
4 TERRENCE M. JACKSON, makes the following declaration:

5 1 That I am an attorney duly licensed to practice law in the State of Nevada; that I
6 am the attorney representing the Defendant in the instant matter, and that I am familiar with the
7 facts and circumstances of this case.

8 2. That he has read the above and foregoing Petition, knows the contents thereof, and
9 that the same is true of his own knowledge, except as to those matters therein stated on
10 information and belief, and as to those matters he believes it to be true.

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

12 EXECUTED on the 18th day of April, 2013.

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TERRENCE M. JACKSON

STATEMENT OF FACTS

The Grand Jury returned a 41 count indictment against Joshua Shue on March 13, 2013. Shue had originally been charged by criminal complaint on August 24, 2012, with a gross misdemeanor; CAPTURING THE IMAGE OF PRIVATE AREA OF ANOTHER, NRS 206.604. An amended criminal complaint charging multiplicitous counts involving the same acts was later filed. These additional counts all were either possession or use of child pornography charges arising from a single video camera.

A preliminary hearing was set for March 18, 2013. On March 15, 2013, the Grand Jury met and heard testimony of two Las Vegas Metropolitan Police officers, Officer Ryan Jaeger, LVMPD# 5587 and Officer Vincente Ramirez, LVMPD# 4916, and the alleged victim, Hazel Iral and her mother, Anita Iral.

Detective Jaeger informed the Grand Jury that he began his investigation as a sexual assault complaint. (GJT p. 10)

Hazel Iral identified various exhibits as photos or video of her taken while she was showering or undressing in the bathroom. She also identified several scenes with her brother, Curt Iral, in a state of undress in the bathroom. (GJT p. 41, 44, 46) None of the scenes Hazel identified depicted sexual conduct as defined in NRS 200.700(3). Finally, Anita Iral, the mother of Hazel Iral, testified that she had been threatened by Detective Jaeger and a representative of CPS (Children's Protective Services). (GJT p. 15-17)

ISSUES

1. WHETHER THE PROSECUTION, THROUGH ITS AGENT DETECTIVE RYAN JAEGER, COMMITTED PROSECUTORIAL MISCONDUCT BY ELICITING INADMISSIBLE AND PREJUDICIAL OTHER CRIMES EVIDENCE BEFORE THE GRAND JURY.
2. WHETHER THE INDICTMENT WRONGLY CHARGES MULTIPLE COUNTS FOR ONE SINGLE CRIMINAL ACT OF VIDEOTAPING.

1 3. WHETHER THE GRAND JURY WAS PROPERLY INSTRUCTED ON THE LAW
2 CONCERNING PORNOGRAPHY AND WHETHER IF PROPERLY INSTRUCTED
3 THERE WAS PROBABLE CAUSE TO INDICT.

4 I. PROSECUTORIAL MISCONDUCT DURING THE PRESENTATION OF EVIDENCE
5 BEFORE THE GRAND JURY REQUIRES THE INDICTMENT BE DISMISSED.

6 NRS 48.035 provides:

7 Evidence of other crimes, wrongs or acts is not admissible to prove the character
8 of a person in order to show that he acted in conformity therewith. It may,
9 however, be admissible for other purposes, such as proof of motive, opportunity,
intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

10 Further, NRS 48.035(1) excludes evidence that, although relevant, its probative value is
11 out weighed by the danger of unfair prejudice or confusion and misleading to the jury.

12 Although relevant, evidence is not admissible if its probative value is
13 substantially outweighed by the danger of unfair prejudice, or confusion of the
issues or of misleading the jury. (Emphasis added)

14 It is improper for a district attorney before a Grand Jury to refer to matters which would
15 not be admissible at trial. *Anthony v. State*, Alaska, 521 P.2d 486, 496 (1974)

16 Exhortations and factual interpretations by the county attorney to the grand jury
17 are improper. The members of the grand jury should be permitted to act freed
from sway or control from any source and without favor. *State v. Good*, 10 Ariz.
18 App. 556, 460 P.2d 662, 665 (1969)

19 In presenting a case to a grand jury a prosecutor. . . must scrupulously refrain
20 from words or conduct that will invade the province of the grand jury or will
tend to influence the jurors. . . *Franklin v. State*, 89 Nev. 382, 386, 513 P.2d
1252 (1973) (Emphasis added)

21 In the present case, the Deputy District Attorney told the Grand Jurors through the testimony
22 of police detective Ryan Jaeger of the Metropolitan Police Department Sexual Assault Detail that
23 the Defendant came to their attention initially because the mother of Hazel Iral brought her to the
24 University Medical Center Quick Care because Hazel believed her mother's boyfriend (the
25 Defendant in this case, Joshua Shue) may have drugged her and sexually assaulted her while she was
26 sleeping. (GJT p. 10) (Emphasis added)

27 This statement of another serious uncharged crime was totally improper and highly
28 prejudicial. It was knowingly elicited by the prosecution. Defendant has never been charged with

1 sexual assault or sexual penetration of Hazel Iral. He has not been charged with drugging Hazel Iral.
2 Presumably there was insufficient evidence to bring any such charges. When questioned about
3 having any sexual contact with Hazel Iral, Defendant denied it. (GJT p. 14) The issue of whether he
4 took pictures of Hazel Iral, or how many pictures he took and whether they were pornographic is a
5 legal issue that should have been considered by the Grand Jury without being tainted by improper
6 references to whether an unlawful sexual assault occurred. The prosecution deliberately and
7 calculatingly inflamed the jury against Joshua Shue by this misconduct and the only remedy is to
8 dismiss the indictment.

9
10 II. THE INDICTMENT WRONGLY CHARGES MULTIPLE COUNTS FOR THE SAME
11 ACT. THE MULTIPLICITY OF CHARGES FOR ESSENTIALLY DUPLICATE IMAGES
12 CAPTURED ON THE SAME VIDEO TAPE OVER A FEW DAYS IS A VIOLATION OF
13 DUE PROCESS AND PROSECUTORIAL DISCRETION THAT REQUIRES DISMISSAL
14 OF THE EXCESS CHARGES.

15 In a creative prosecutorial pleading, with the help of a compliant grand jury, the state filed
16 41 charges. Most of the charges were virtually identical. Initially Defendant had been charged in the
17 original complaint with a single gross misdemeanor count, capturing the image of another, NRS
18 206.604. After the original prosecutor was replaced, the next prosecutor took the same set of facts
19 and sought to bring myriad charges of one count of OPEN OR GROSS LEWDNESS, NRS 201.210,
20 one count of CHILD ABUSE AND NEGLECT, NRS 200.508, 10 counts of POSSESSION OF
21 VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD, NRS 200.700,
22 200.730, and 29 counts of USE OF CHILD IN PRODUCTION OF PORNOGRAPHY, NRS
23 200.710. It is respectfully submitted this overcharging was a violation of due process for two
24 reasons:

- 25 (1) The multiple counts of NRS 200.700 and NRS 200.710 are multiplicitous and such
26 multiple counts for a single action violates double jeopardy.
27 (2) The ten counts of NRS 200.700 merge with the 29 counts of NRS 200.710. They
28 merge because they encompass the same elements.

1 The facts establish that a videotape camera ("Nanny-Cam") was placed in the bathroom area
2 of the residence of Haze Iral, her mother and the defendant on or about August of 2012. This camera
3 was positioned to capture images of all individuals who used the bathroom. Video pictures were
4 obtained over approximately a one month period, which showed Hazel and her brother in various
5 states of undress while showering and using the bathroom facilities. Over this period of
6 approximately one month, video tape images of Hazel Iral and Curt Iral were captured on the video
7 tape camera.. (GJT p. 40-57) This was apparently done automatically when the camera was activated
8 by movement within its filming sensor parameter.

9 Testimony was presented that the Defendant, Joshua Shue, had set up the video surveillance
10 camera (GJT p. 52) He had later as some time downloaded the images to his computer. (GJT p. 27)
11 There were additional unrelated images seized from the computer which were presented to the Grand
12 Jury (Exhibit 7) relating to Counts 40 and 41. (GJT p.27)

13 There was no evidence that Defendant Joshua Shue had ever distributed any of the video
14 evidence captured on the bathroom camera. There wasn't even any proof that Defendant Shue had
15 viewed the video images himself once or if he had more than a single time.

16 The ten counts of NRS 200.700, 200.730 are lesser included counts of the 29 counts of NRS
17 200.710, and merge with them. The pleading of these counts violates the Defendant's double
18 jeopardy and due process rights and therefore is a gross and abuse of prosecutorial discretion. The
19 29 counts of NRS 200.710 are multiplicitous and double jeopardy prohibits double punishment and
20 stacking punishment for the same offenses. This was clearly established by the prosecutor.

21 During the grand jury proceeding, the prosecutor summed up the facts perfectly, questioning
22 Hazel:

23 Q: And Hazel, am I correct in saying that all the videos we saw today are generally the
24 same thing of you and your brother going into the bathroom, getting undressed,
25 taking a shower, getting out of the bathroom and doing other bathroom things, is that
26 correct?

27 A: Yes. (GJT p. 58) (Emphasis added)

28 ...

1 The multiple counts of: Use of a Child in Production of Pornography and Possession of
2 Visual Presentation Depicting Sexual Conduct of a Child were multiplicitous because they arose out
3 of a single wrongful act. *See, Bedard v. State*, 118 Nev. 410, 48 P.3d 46 (2002). The single wrongful
4 act of installing a camera in the bathroom at 3640 Kolendo, Apartment D, and taking pictures of
5 individuals in a state of undress over a short period of time can only be considered as at most one
6 violation of the law. The camera was running continuously and whether it captured multiple images
7 over several days is not dispositive of how many counts should be charged.

8 In *State v. Whetstone*, 229 P.3d 399 (Kan. App. 2010), the court held that *Whetstone's*
9 conviction for two counts of criminal threat were multiplicitous. In that case where one threat was
10 communicated to two individuals, the court reasoned citing *State v. Schoonover*. The court noted:

11 "[T]he test is: How has the legislature defined the scope of conduct which
12 will comprise one violation of the statute?" 281 Kan. At 497, 133 P.3d 48. This
13 defined scope of prohibited conduct determines the allowable unit of prosecution
14 for which there can only be one conviction for a single act. 281 Kan. At 497-98,
15 133 P.3d 48. "The determination of the appropriate unit of prosecution is not
16 necessarily dependent upon whether there is a single physical action or a single
17 victim. Rather, the key is the nature of the conduct proscribed." 281 Kan. At 472,
18 133 P.3d 48. The key to determining the unit of prosecution is legislative intent.
19 281 Kan. At 471, 133 P.3d 48.

20 The court continued:

21 Moreover, under both federal and state law, the unit of prosecution is
22 evaluated with "a rule of lenity." *Gomez*, 36 Kan. App.2d at 670, 143 P.3d 92.
23 The rule of lenity derives from the United States Supreme Court's
24 pronouncement that "[w]hen Congress leaves to the Judiciary the task of
25 imputing to Congress an undeclared will, the ambiguity should be resolved in
26 favor of lenity." *Schoonover*, 281 Kan. At 472, 133 P.3d 48 (quoting *Bell v.*
27 *United States*, 349 U.S. 81, 83, 75 S.Ct. 620, 99 L.Ed. 905 [1955]). In
28 application, when the legislature fails to provide a unit of prosecution that "
'clearly and without ambiguity' " allows two convictions for the same act, only
one conviction will be allowed. 281 Kan. At 472, 133 P.3d 48. Consequently, as
there is an ambiguity as to legislative intent, we reach the same conclusion:
Whetstone's convictions are multiplicitous. (Emphasis added)

The Kansas Supreme Court listed four factors in determining multiplicity:

- (1) Whether the acts occur at or near the same time;
- (2) Whether the acts occur at the same location;
- (3) Whether there is a causal relationship between the acts, in particular whether there

1 was an intervening event, and

2 (4) Whether there is a fresh impulse motivating some of the conduct.

3 281 Kan.: at 497, 133 P.3d 48 (Emphasis added)

4 Considering all these factors, it is clear each of them strongly supports the Defendant's
5 position that the multiple counts in the indictment are multiplicitous and cannot stand. The rule of
6 levity must be applied in evaluating the number of counts. The government could not charge an
7 infinite number of counts because there were multiple images produced by a continuously running
8 camera in a single location.

9
10 **III. THERE WAS INSUFFICIENT EVIDENCE PRESENTED BEFORE THE GRAND**
11 **JURY TO ESTABLISH PROBABLE CAUSE TO BELIEVE THE DEFENDANT**
12 **COMMITTED THE CRIMES CHARGED. THE GRAND JURY WAS NOT**
13 **PROPERLY INSTRUCTED THAT MERE NUDITY IS NOT PORNOGRAPHY.**

14 A review of the video tape evidence will establish that the video tapes taken from
15 Defendant's computer were not actually pornography or anything close to pornography but rather
16 were mere nudity. The video pictures of Hazel Iral and Curt Iral showed them showering, dressing
17 and undressing in the bathroom. There was full front nudity but not acts of sexual conduct, sexual
18 contact or sexual penetration.

19 NRS 200.700(3) defines "sexual conduct" as: ...

20 "sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio,
21 cunnilingus, bestiality, anal intercourse, excretion, sadomasochistic abuse,
22 masturbation, or penetration of any part of a person's body or any object
23 manipulated or inserted by a person into the genital or anal opening of the body of
24 another."

25 There was no evidence these tapes or videos were pornographic or illegal in any way as none of
26 these acts which occurred on the tapes recorded in the bathroom met the statutory definition.

27 The case law is clear that nudity alone does not equal pornography. In *State v. Liebau*, 31
28 Kan. App.2d 501, 67 P.3d 153 (2003), the Kansas court noted that even if the defendant himself
made and possessed video tapes which showed a nude 16 year old girl to satisfy his own sexual
desires, that still was not sufficient to classify the harmless videos as pornography. The court
noted:

1 "While we can assume under the facts in this case that *Liebau* made and
2 possessed the videotapes with the intent to arouse or satisfy his sexual desires or
3 appeal to his prurient interest, the nudity depicted on the videotape is that of a
4 child in a "harmless moment." Clearly, a 16-year-old girl, unaware that she is
being videotaped in the nude while using the bathroom, cannot be said to be
engaging in sexually explicit conduct or an exhibition of nudity." *Id.* 155
(Emphasis added)

5 Similarly, in *State v. Myers*, 143 N.M. 7101, 181 P.3d 702, the New Mexico court
6 reversed a conviction for sexual exploitation of children, holding that photographs of minors
7 using the restroom were not "lewd" or "sexually explicit." Citing *U.S. v. Dost*, 636 F.Supp 828
8 (S.D. Cal. 1986), the court stated:

9 "Consideration of the *Dost* factors leads us to conclude that the photographs
10 are not "lewd" and "sexually explicit" as described in *Rendleman*. The only *Dost*
11 factor which the photographs satisfy is the first: the hidden camera was positioned
12 in the restroom to photograph the public area of women using the restroom.
13 However, there is nothing inherently sexually suggestive about a unisex restroom
14 at the workplace; the pose and attire of the minors in the photographs is appropriate
15 to their activity, i.e., using the restroom; the minors are partially unclothed; and the
16 photographs do not depict the minors as suggesting coyness or a willingness to
engage in sexual activity. As we have already discussed, in order for a photograph
to depict a "lewd and sexually explicit exhibition," *Rendleman* requires the
17 photograph to show "a visible display or readily discernible depiction of a child
engaged in sexually provocative conduct. In other words, the photograph must be
18 identifiable as hard-core child pornography; that is, it must display visible signs of
19 sexual eroticism, rather than merely depict a naked child." *Id.* ¶ 44. The
20 photographs relied on by the State fail to satisfy this standard.

21 The photographs also fail to satisfy threshold requirements mandated by
22 *Rendleman* to satisfy the statutory requirement that they are "for the purpose of
23 sexual stimulation." Again, *Rendleman* requires that we apply an objective
24 standard, by ignoring the circumstances surrounding the taking of the photographs,
25 and focusing on the photographs themselves. *Id.* ¶ 47. While the defendant admitted
26 he filmed the women using the restroom for his sexual gratification, the
27 circumstances of the photography, and the use of the photographs are considered
28 "[o]nly if the photo itself raises a question of illegal purpose (if a jury could find it
pornographic)[.]" *Id.* ¶ 49. A "reasonable person" (as opposed to a voyeur) would
not conclude, from the overall content of the photographs themselves, that they
were intended to elicit a sexual response. They depict minors who are partially
unclothed before or after they used the restroom, and nothing more. *Id.* 707, 708
(Emphasis added)

24 Consider also the case of *Lockwood v. State*, 588 So.2d 57 (Fla. App. Dist 1991), where the
25 court reversed holding that the seized video tapes were not depiction of prohibited sexual conduct.
26 In *Lockwood*, defendant had moved for judgment of acquittal because the evidence did not meet the
27 statutory requirement. Section 827-071(5) of Florida Statutes, 1989, is similar to NRS 200.700 and
28 provides:

1 It is unlawful for any person to knowingly possess any photograph,
2 motion picture, exhibition, show, representation, or other presentation which, in
3 whole or in part, he knows to include any sexual conduct by a child.

4 Subsection (1)(g) of said statute further provides:

5 (g) "Sexual conduct" means actual or simulated sexual intercourse, deviate
6 sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse;
7 actual lewd exhibition of the genitals; actual physical contact with a person's
8 clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female,
9 breast; or any act or conduct which constitutes sexual battery or simulates that
10 sexual battery is being or will be committed.

11 Petitioner submits that the facts in *Lockwood* are almost identical to this case. The court in *Lockwood*
12 correctly held there was no crime stating:

13 The issue presented for our determination is whether the tape contained a
14 presentation that defendant knew included sexual conduct by a child. The record
15 reflects that the tape does not show a presentation of sexual conduct as defined
16 by the statute. The presentation shows, rather, the innocent, normal everyday
17 occurrence of a female child undressing, showering, performing acts of female
18 hygiene and donning her clothes, none of which meets any of the detailed sexual
19 acts contained in the statute. It thus appears that the motion for judgment of
20 acquittal should have been granted. *Id.* 57, 58 (Emphasis added)

21 The tapes in this case as defined by the statute do not show a crime and these charges in
22 the indictment based upon the video taken at 3640 Kolendo, Apartment D, should be dismissed.


23 CONCLUSION

24 The framers considered the Grand Jury as an institution to protect our basic liberties
25 interposed in between citizens and government oppression. *United States v. Calandra*, 414 U.S. 338,
26 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974). Too often in recent times the grand jury instead has
27 become the tool of a prosecutor who seeks to gain an unfair tactical edge over a defendant.

28 Defendant respectfully submits the Grand Jury in this case followed the prosecutor's wishes
and indicted the Defendant on numerous charges that were multiplicitous and which were not likely
even criminal charges. Most of the charges were based on behavior that did not fit the definition of
criminally prohibited conduct. The deliberate prosecutorial misconduct of Detective Jaeger, which

1 occurred during his examination, bringing forward inadmissible other crime evidence of sexual
2 assault was flagrantly prejudicial and that alone compels dismissal of the indictment.

3 Dated this 18th day of April, 2013

4 
5 Terrence M. Jackson, Esquire
6 Nevada Bar No. 00854
7 Counsel for Joshua Caleb Shue

8 **CERTIFICATE OF SERVICE**

9 The undersigned hereby certifies she is an employee of Terrence M. Jackson, Esq., and is
10 a person of such age and discretion as to be competent to serve papers. That on the 18th day of April,
11 2013, she served a true and correct copy of the attached Defendant, Joshua Shue's, **Petition for a**
12 **Writ of Habeas Corpus**, by e-filing and/or U.S. mail on all parties in said action, by placing a true
13 copy thereof, enclosed in a sealed envelope, placed in a designated area for outgoing mail with
14 sufficient first class postage affixed, addressed as set forth below:

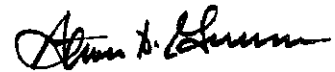
15 ☒ [X] Via e-filing to Clark County District Attorney:

16
17 Steven B. Wolfson, Clark County District Attorney
18 Leah Beverly, Assistant Deputy District Attorney
19 Regional Justice Center - Third Floor
20 Las Vegas, Nevada 89101
21 PDMotions@ccdanv.com

22 ☒ [X] Via U.S. Post, first class postage affixed to:
23 Joshua Caleb Shue, #1550230
24 Clark County Detention Center
25 330 South Casino Center Blvd.
26 Las Vegas, NV 89101

27 By: 

28 Ila C. Wills
An employee of Terrence M. Jackson, Esq.



CLERK OF THE COURT

1 **RET**

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

5 LEAH BEVERLY

6 Deputy District Attorney

7 Nevada Bar #012556

8 200 Lewis Avenue

9 Las Vegas, Nevada 89155-2212

10 (702) 671-2500

11 State of Nevada

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 In the Matter of Application,

15 of

16 JOSHUA C. SHUE,
17 #1550230

18 for a Writ of Habeas Corpus.

CASE NO: C-13-288172-1
DEPT NO: XXI

19 **RETURN TO WRIT OF HABEAS CORPUS**

20 DATE OF HEARING: 5/2/13

21 TIME OF HEARING: 9:30 A.M.

22 COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,
23 Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney,
24 through LEAH C. BEVERLY, Deputy District Attorney, in obedience to a writ of habeas
25 corpus issued out of and under the seal of the above-entitled Court on the 17th day of April,
26 2013, and made returnable on the 2nd day of May, 2013, at the hour of 9:30 o'clock A.M.,
27 before the above-entitled Court, and states as follows:

28 1. Respondent admits the allegations of Paragraph(s) 1, 2, 3(4), 3(5), and 3(6)
of the Petitioner's Petition for Writ of Habeas Corpus.

///

1 2. Respondent denies the allegations of Paragraph 3(1), 3(2) and 3(3) of the
2 Petitioner's Petition for Writ of Habeas Corpus.

3 3. The Petitioner is in the actual custody of DOUGLAS C. GILLESPIE, Clark
4 County Sheriff, Respondent herein, pursuant to a Criminal Indictment, a copy of which is
5 attached hereto as Exhibit 1 and incorporated by reference herein.

6 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
7 Petition be dismissed.

8 DATED this 30th day of April, 2013.

9 Respectfully submitted,

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

13 BY /s/ LEAH BEVERLY
14 LEAH C. BEVERLY
15 Deputy District Attorney
16 Nevada Bar #012556

1 POINTS AND AUTHORITIES

2 STATEMENT OF THE CASE

3 An Indictment was filed on March 13, 2013 charging Joshua Shue (hereinafter
4 "Defendant") with one (1) count of Child Abuse and Neglect, twenty nine (29) counts of Use
5 of Child in Production, ten (10) counts of Possession of Visual Presentation Depicting
6 Sexual Conduct of a Child, and one (1) count of Open and Gross Lewdness. Defendant plead
7 not guilty on March 28, 2013 and filed the instant Petition for Writ of Habeas Corpus on
8 April 17, 2013. The trial in this matter is currently set for October 7, 2013. The State's
9 Response follows:

10 STATEMENT OF FACTS

11 During the late night hours of August 22, 2012, victim Hazel Iral returned home to
12 the apartment she shared with her mother, two brothers and her mother's boyfriend Joshua
13 Shue ("Defendant"). Grand Jury Transcript, ("GJT"), 36. Upon returning home, Hazel and
14 Defendant began to talk about Hazel's outing that evening. Id. At some point that evening,
15 Defendant used his camera to take a picture underneath Hazel's skirt. Id. After offering
16 Hazel a Shirley temple drink that "tasted different", Defendant began kissing Hazel on her
17 mouth despite the fact that Hazel had no sexual attraction to Defendant and did not want to
18 kiss him. GJT, 36-37.

19 The following day, Hazel reported this incident to the police causing Detective Ryan
20 Jaeger to interview Defendant on August 23, 2012. GJT, 11. During this interview,
21 Defendant admitted to taking a picture with a blue camera under Hazel's skirt. GJT, 12.
22 Following this interview, Detective Jaeger obtained a search warrant for the apartment where
23 Defendant lived with Hazel which authorized him to seize all digital equipment located in
24 the apartment. GJT, 15. Detective Jaeger then obtained a second search warrant to actually
25 search the electronic items. GJT 16. Of particular relevance to this case was Defendant's
26 Sony Vio laptop.

27 Upon conducting a forensic analysis on the computer, Detective Vince Ramirez
28 uncovered that the computer was registered to Defendant. GJT, 25. In addition, Ramirez

1 found over 140 video files as well as regular photographs in folders labeled "Yummm" and
2 "Hmmm" depicting children engaging in bathroom activities and children engaging in sexual
3 activities. GJT, 25, 28.

4 Hazel Iral later identified herself and her brother Curt Iral as the subject of all of the
5 video files listed in the Indictment. GJT, 38-57. In all of the videos, Defendant is seen setting
6 up a video camera in the bathroom of the apartment and either Hazel or Curt are recorded in
7 the bathroom showering, using the restroom, putting on lotion and conducting other
8 bathroom routines. Id. All of the videos show full frontal nudity of the children's genitals. Id.
9 Hazel specifically testified that each of the videos were recorded on a different day because
10 she and her brother only showered once a day. Id. Hazel also testified that both she and her
11 brother were under 18 at the time these videos were created. Id.

12 POINTS AND AUTHORITIES

13 I. THE STATE DID NOT COMMIT PROSECUTORIAL MISCONDUCT DURING 14 THE GRAND JURY PRESENTMENT.

15 Defendant first claims that the State committed prosecutorial misconduct when
16 Detective Jaeger testified that he initiated an interview with victim Hazel Iral based on
17 possible allegations that Hazel had been drugged and sexually assaulted. Defendant claims
18 that this testimony amounted to an improper prior bad act that the State deliberately elicited
19 to inflame the jury. This claim is wholly without merit and should be dismissed.

20 The following exchange occurred during the Grand Jury:

21 THE STATE: Without telling us exactly what Hazel said, what
22 was the general nature of the interview about?

23 DETECTIVE JAEGER : The reason we were interviewing her
24 was her mother brought her to UMC Quick Care. The reason her
25 mother brought her to UMC Quick Care is she came home from
26 a date last night, or a date the night before, and she believed
when she got home her mom's boyfriend had drugged her and
may have sexually assaulted her while she was sleeping.

27 ///

28 ///

1 GJT, 10. There is nothing improper about this testimony. The State is entitled to present a
2 full and accurate account of a crime. NRS 48.035; Bellon v. State, 121 Nev. 436, 117 P.3d
3 176 (2005). In the instant case, Defendant fails to acknowledge that he is also charged with
4 Open and Gross Lewdness for his sexual conduct with Hazel on the night of August 22,
5 2013. In fact, Hazel testified that on that night, she drank a drink, given to her by Defendant,
6 that tasted funny. GJT, 36. It was after Hazel drank the drink that Defendant began kissing
7 her. Id. Therefore, references to possible drugging and sexual activity are certainly part of
8 the crimes charged in this case as the references allude to how Defendant managed to kiss
9 Hazel.

10 Furthermore, even if Defendant was not charged with Open and Gross Lewdness,
11 Detective Jaeger's testimony merely referred to why he initially interviewed Hazel and why
12 she initially reported the incident to the police. Detective Jaeger never stated that Defendant
13 absolutely drugged Hazel or absolutely sexually assaulted Hazel. The purpose of the
14 testimony was to explain why an investigation was opened in the first place. Without such
15 testimony, it would not make sense why Detective Jaeger would interview the Defendant.
16 The testimony was merely background information to explain the investigation and was in
17 no way any type of impermissible prior bad act. As such, this claim is without merit and
18 should be dismissed.

19 II. A DEFENDANT MAY BE CHARGED AND CONVICTED WITH BOTH USE OF
20 CHILD IN PRODUCTION AND POSSESSION OF VISUAL PRESENTATION
21 DEPICTING SEXUAL CONDUCT OF A CHILD

22 Defendant next claims that the Use of Child in Production charges and the Possession
23 of Child Pornography charges are multiplicitous because all the charges arise out of a single
24 action. Defendant also claims that the Possession charges merge with the Use of Child in
25 Production charges. Both of these claims are completely without merit.

26 Contrary to Defendant's claim, all of the videos associated with the charges in this
27 case did not arise out of a single action, the videos did not occur over a one month period of
28 time and the video camera was not running continuously. In fact, the Indictment charges

1 Defendant with having committed the offenses between January 1, 2010 and August 23,
2 2012- a period of two and a half years. It would have been impossible for all of the videos to
3 have occurred within a month time period considering Detective Ramirez testified that over
4 140 video files of Hazel and Curt were found on Defendant's computer. GJT, 25. In many of
5 the videos, Defendant is seen at different times turning on the camera, setting it up and
6 adjusting the camera position. GJT, 39-57.

7 Additionally, the State painstakingly went through each video and specifically asked
8 Hazel whether each video was on the same or a different day than the previous video. Id.
9 Hazel responded each time that each video represented a different day, and she knew this
10 because she and her brother only took one shower per day. Id. Also in the videos, it can
11 clearly be seen that the video file stops at a certain point indicating either that the camera
12 was turned off or ran out of recording space, making it impossible for all the videos to have
13 come from one continuous recording session.

14 Finally, in the videos that contain both Hazel and Curt, separate counts for each
15 victim is appropriate considering each victim was used in the production of pornography. On
16 the videos containing both children, there is a clear break in time between when Hazel is
17 filmed in the bathroom and when Curt is filmed in the bathroom. Defendant intentionally
18 tried to individually capture both children at separate times to make separate videos. Those
19 separate video recordings for each child constitute a separate and distinct act of the creation
20 of child pornography.¹ As the State presented sufficient evidence to establish probable cause
21 that each video and scene was a separate act, Defendant's claim is without merit.²

22 ///

24 ¹ See Casteel v. State, 122 Nev. 356, 131 P.3d 1 (2006)(the State must prove that the photographs
25 occurred on separate days in order for each photograph to constitute a separate count of Use of Child
in Production)

26 ² In response to Defendant's argument that there is no evidence that Defendant ever distributed any
27 of the videos or viewed the videos, there is no requirement in either NRS 200.730 or NRS 200.710
28 that Defendant either watch the pornography or distribute the pornography in order to be guilty of
those charges.

1 Additionally, Defendant's claim that the Possession and Use charges merge is without
2 merit. This issue was already raised and rejected by the Nevada Supreme Court in Wilson v.
3 State, 121 Nev. 345, 114 P.3d 285 (2005). The Court in Wilson held:

4 Wilson next argues that his conviction on four counts of possession of child
5 pornography under NRS 200.730 violates double jeopardy because those
6 counts are lesser-included offenses of the production charges....The two
7 statutes involved are NRS 200.710 and NRS 200.730. Comparing the two,
8 NRS 200.710 requires that a person knowingly use, encourage, entice, coerce
9 or permit a minor to engage in or be the subject of a sexual portrayal in a
10 performance. NRS 200.730 requires that a person "knowingly and willfully"
11 possess a "film, photograph or other visual presentation depicting a person
12 under the age of 16 years as the subject of a sexual portrayal or engaging in or
13 simulating ... sexual conduct." We conclude that the production charge
14 required only that Wilson utilize a minor in the performance of a sexual
15 portrayal, whereas the possession statute requires that he maintain possession
16 of the photograph memorializing the pornographic performance. The
17 production crime was completed when Wilson had the minor pose in sexually
18 explicit positions. He then photographed the activity so that he could
19 memorialize it for later review. The fact that he maintained possession, until he
20 was arrested days later on an unrelated offense, amounts to the commission of
21 a separate and distinct crime from the initial production of the photographs.
22 The crime of possession of child pornography is not a lesser-included offense
23 to the production of child pornography as defined by Nevada law.
24 Consequently, NRS 200.710 and NRS 200.730 are not mutually exclusive and,
25 as this case aptly demonstrates, a violation of each requires proof of an element
26 that the other does not.

20 Wilson v. State, 121 Nev. 345, 358-59, 114 P.3d 285, 294-95 (2005). As Defendant's
21 arguments have already been raised and rejected, they are without merit and should be
22 dismissed.

23 III. THERE WAS SUFFICIENT EVIDENCE PRESENTED AT THE GRAND JURY
24 TO SUPPORT ALL CHARGES.

25 In a preliminary hearing, the State needs only to show that a crime has been
26 committed and that the accused probably committed it. The finding of probable cause to
27 support a criminal charge may be based on "slight, even 'marginal' evidence...because it does
28

1 not involve a determination of the guilt or innocence of an accused." Sheriff v. Hodes, 96
2 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter, 99 Nev. 389, 391, 663 P.2d 350,
3 352 (1983).

4 Moreover, to commit an accused for trial, the State is not required to negate all
5 inferences which might explain his conduct, but only to present enough evidence to support
6 a reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev.
7 361, 363, 487 P.2d 340, 341 (1971). The Court need not consider whether the evidence
8 presented in the record may, by itself, sustain a conviction, since the State at a preliminary
9 hearing need not produce the quantum of proof required to establish guilt of the accused
10 beyond a reasonable doubt. Sheriff v. Hodes, supra; Miller v. Sheriff, 95 Nev. 255, 592 P.2d
11 952 (1979).

12 Neither the preliminary hearing nor a hearing on a Petition for Writ of Habeas Corpus
13 is designed to resolve factual disputes or matters of defense which are functions of the trier
14 of fact at trial. Brymer v. Sheriff, 92 Nev. 598, 555 P.2d 844 (1976); Wrenn v. Sheriff, 87
15 Nev. 85, 482 P.2d 289 (1971). Likewise, it is not incumbent upon the state to negate all
16 other inferences at the preliminary hearing. Graves v. Sheriff, 88 Nev. 436, 498 P.2d 1324
17 (1972).

18 Defendant's final claim is that the videos that make up the charges in this case do not
19 constitute child pornography. Defendant supports this argument by arguing that the video
20 tapes do not show Hazel or Curt engaging in sexual conduct. Defendant cites to several
21 cases, none of which are from Nevada, to support his claim. Defendant's argument is
22 without merit.

23 While Defendant correctly states that NRS 200.700 defines "sexual conduct",
24 Defendant has completely ignored NRS 200.710(2)- the statute Defendant is actually
25 charged under as it relates to the counts involving videos. NRS 200.710(2) states:

26
27 A person who knowingly uses, encourages, entices, coerces or
28 permits a minor to be the subject of a sexual portrayal in a
performance is guilty of a category A felony and shall be

1 punished as provided in NRS 200.750, regardless of whether the
2 minor is aware that the sexual portrayal is part of a performance.
3

4 NRS 200.700(4) states, "Sexual portrayal" means the depiction of a person in a manner
5 which appeals to the prurient interest in sex and which does not have serious literary, artistic,
6 political or scientific value." The State has never alleged that the videos in this case show
7 Hazel or Curt Iral engaging in sexual conduct. In fact, in the Indictment, Defendant is
8 specifically charged with violating section 2 of NRS 200.710, not section 1. It is therefore
9 irrelevant to the charges related to the videos that the minors are not engaged in sexual
10 conduct.

11 Defendant first compares this case to the Kansas case of State v. Liebau, 31 Kan.
12 App.2d 501, 67 P.3d 153 (2003) which he cites for the proposition that mere nudity is not
13 sufficient to constitute child pornography. Defendant fails to acknowledge that pursuant to
14 Kansas law, "To be sexually explicit, the *Zabrinas* court stated that it is "necessary that the
15 child must have some understanding or at least be of an age where there could be some
16 knowledge that they are exhibiting their nude bodies in a sexually explicit manner." State v.
17 Liebau, 31 Kan. App. 2d 501, 504, 67 P.3d 156, 158 (2003). The Court specifically held that
18 because the victim was unaware that she was being video tapped, it could not be said that she
19 was engaging in sexually explicit conduct or an exhibition of nudity. Id. In contrast,
20 Nevada's child pornography statutory scheme specifically states that it is immaterial whether
21 the victim is aware that they are part of a pornographic performance. NRS 200.710(2). As
22 Nevada's law is different from Kansas law on this issue, Defendant's reliance on this case is
23 inappropriate.

24 Defendant next attempts to compare this case to the New Mexico case of State v.
25 Meyers, which held that partially unclothed minors using the restroom did not constitute
26 child pornography under New Mexico's statutory scheme. State v. Meyers, 181 P.3d 702
27 (2008). Defendant fails to mention, however, that the holding of the New Mexico Appellate
28 Court in Meyers was reversed by the New Mexico Supreme Court in State v. Meyers, 146

1 N.M. 128, 207 P.3d 1105 (2009). The New Mexico Supreme Court noted that the Appellate
2 court misapplied the *Dost* factors and held:

3 Our review of the record reveals that substantial evidence exists
4 to support the trial court's factual finding that the images in the
5 present case appeal to a prurient interest in sex and portray a
6 prohibited sexual act in a patently offensive way. As explained in
7 parts III.A and B of this Opinion, the images depict a lewd and
8 sexually explicit exhibition with a focus on the unclothed pubic
9 area of the minor female victims for the purpose of Defendant's
10 own sexual stimulation. Given the graphic, deviant, and
fetishistic quality of the images, we conclude that the trial court
reasonably could have found, beyond a reasonable doubt, that the
images are obscene as defined by Section 30-6A-2(E)

11 State v. Myers, 2009-NMSC-016, 146 N.M. 128, 140, 207 P.3d 1105, 1117. As such,
12 Defendant's reliance on Myers is misplaced.

13 Finally, Defendant relies on the Florida case of Lockwood v. State, 588 So.2d 57 (Fla.
14 App. Dist. 1991) for the proposition that a child performing bathroom activities does not
15 constitute child pornography. Again, reliance on such case is inappropriate because Florida's
16 child pornography statute only involves a minor engaging in "sexual acts" defined as:

17 Actual or simulated sexual intercourse, deviate sexual
18 intercourse, sexual bestiality, masturbation, or sadomasochistic
19 abuse; *actual* lewd exhibition of the genitals; actual physical
20 contact with a person's clothed or unclothed genitals, pubic area,
21 buttocks, or, if such person is a female, breast; or any act or
conduct which constitutes sexual battery or simulates that sexual
battery is being or will be committed.

22 Lockwood v. State, 588 So. 2d 57, 58 (Fla. Dist. Ct. App. 1991)(emphasis added). Florida's
23 statute therefore imposes a similar requirement as Kansas that the victim actually and
24 knowingly exhibit her genitals. As noted above, Nevada's statute does not require such
25 knowledge of exhibition of genitals.³

26
27 ³ See also Wilson v. State, 121 Nev. 345, 114 P.3d 285 (2005)(upholding convictions for Use of
28 Child in Production where the evidence was photographs of a child victim in various states of
undress and various positions.)

1 The State presented evidence to the Grand Jury of multiple video recordings showing
2 minors Hazel and Curt Iral showering, using the restroom, toweling off, putting lotion on,
3 and engaging in other sacred and private bathroom routines. GJT, 39-57. Defendant was seen
4 in many of these videos setting up and adjusting the camera. Id. The videos were then later
5 found stored on Defendant's computer in folders named "Yummm" and "Hmmm." GJT, 27.
6 This was sufficient evidence at the probable cause stage to show that these videos constituted
7 a sexual portrayal and Defendant knowingly used the victims as the subject of the sexual
8 portrayal. As such, Defendant's claim is without merit and should be denied.

9 **CONCLUSION**

10 As all of Defendant's claims in the instant Petition are without merit, the State
11 respectfully requests that Defendant's Petition for Writ of Habeas Corpus be DENIED.

12 DATED this 30th day of April, 2013.

13 Respectfully submitted,

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

17 BY /s/ LEAH BEVERLY
18 LEAH C. BEVERLY
19 Deputy District Attorney
20 Nevada Bar #012556
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of Return to Writ of Habeas Corpus, was made this 30th day of April, 2013, by facsimile transmission to:

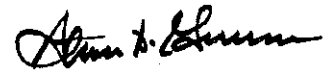
TERRENCE JACKSON, ESQ.
386-0085

BY: /s/ C. Cintola

C. Cintola
Employee of the District Attorney's Office

LB/cc/L3

EXHIBIT "1"



CLERK OF THE COURT

1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 JOSHUA C. SHUE, aka,
16 Joshua Caleb Shue, #1550230

17 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant above named, JOSHUA C. SHUE, aka, Joshua Caleb Shue, accused
21 by the Clark County Grand Jury of the crime(s) of CHILD ABUSE & NEGLECT (Category
22 B Felony - NRS 200.508), USE OF CHILD IN PRODUCTION (Category A Felony - NRS
23 200.710), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
24 CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) and OPEN OR
25 GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210), committed at and within the
26 County of Clark, State of Nevada, on or between January 1, 2010 and August 23, 2012 as
27 follows:

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///

EXHIBIT "1"

1 COUNT 1 - CHILD ABUSE & NEGLECT

2 did wilfully, unlawfully, feloniously and knowingly neglect, cause, or permit a child
3 under the age of 18 years, to-wit: HAZEL IRAL, being approximately 17 years of age, to
4 suffer unjustifiable physical pain, or mental suffering, or by permitting the said HAZEL
5 IRAL to be placed in a situation where she might have suffered unjustifiable physical pain or
6 mental suffering, by the Defendant taking pictures of the said HAZEL IRAL's genital area
7 and/or by taking off her clothing and/or by inappropriately kissing the said HAZEL IRAL on
8 the mouth and/or videotaping HAZEL IRAL in the nude while she showered and engaged in
9 other bathroom activities.

10 COUNT 2 - USE OF CHILD IN PRODUCTION

11 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
12 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
13 subject of a sexual portrayal in a performance, to wit: lewd exhibition of genitals, for the
14 purpose of producing a pornographic performance, to wit: by using a camera to take a
15 photograph of the said HAZEL IRAL's genital area.

16 COUNT 3 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0058, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 4 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0058, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
3 private bathroom routines.

4 COUNT 5 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
5 CONDUCT OF A CHILD

6 did then and there feloniously, knowingly and willfully, have in his possession, a
7 film, photograph, or other visual presentation depicting a child under the age of sixteen years
8 as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
9 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0058,
10 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
11 full frontal nudity.

12 COUNT 6 - USE OF CHILD IN PRODUCTION

13 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
14 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
15 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
16 video file named PICT0031, for the purpose of producing a pornographic performance, to
17 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
18 private bathroom routines.

19 COUNT 7 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT0031, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
25 private bathroom routines.

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1 COUNT 8 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did then and there feloniously, knowingly and willfully, have in his possession, a
4 film, photograph, or other visual presentation depicting a child under the age of sixteen years
5 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
6 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0031,
7 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
8 full frontal nudity.

9 COUNT 9 - USE OF CHILD IN PRODUCTION

10 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
11 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
12 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
13 video file named PICT0005, for the purpose of producing a pornographic performance, to
14 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
15 private bathroom routines.

16 COUNT 10 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0005, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
22 private bathroom routines.

23 COUNT 11 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
24 CONDUCT OF A CHILD

25 did then and there feloniously, knowingly and willfully, have in his possession, a
26 film, photograph, or other visual presentation depicting a child under the age of sixteen years
27 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
28 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0005,

1 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
2 full frontal nudity.

3 COUNT 12 - USE OF CHILD IN PRODUCTION

4 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
5 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
6 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
7 video file named PICT0007, for the purpose of producing a pornographic performance, to
8 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
9 private bathroom routines.

10 COUNT 13 - USE OF CHILD IN PRODUCTION

11 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
12 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
13 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
14 video file named PICT0007, for the purpose of producing a pornographic performance, to
15 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
16 private bathroom routines.

17 COUNT 14 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
18 CONDUCT OF A CHILD

19 did then and there feloniously, knowingly and willfully, have in his possession, a
20 film, photograph, or other visual presentation depicting a child under the age of sixteen years
21 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
22 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0007,
23 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
24 full frontal nudity.

25 COUNT 15 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0006, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
3 private bathroom routines.

4 COUNT 16 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0006, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
10 private bathroom routines.

11 COUNT 17 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
12 CONDUCT OF A CHILD

13 did then and there feloniously, knowingly and willfully, have in his possession, a
14 film, photograph, or other visual presentation depicting a child under the age of sixteen years
15 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
16 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0006,
17 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
18 full frontal nudity.

19 COUNT 18 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT0057, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
25 private bathroom routines.

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1 COUNT 19 - USE OF CHILD IN PRODUCTION

2 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
3 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
4 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
5 video file named PICT0057, for the purpose of producing a pornographic performance, to
6 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
7 private bathroom routines.

8 COUNT 20 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
9 CONDUCT OF A CHILD

10 did then and there feloniously, knowingly and willfully, have in his possession, a
11 film, photograph, or other visual presentation depicting a child under the age of sixteen years
12 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
13 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0057,
14 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
15 full frontal nudity.

16 COUNT 21 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0089, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 22 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0089, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
3 private bathroom routines.

4 COUNT 23 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
5 CONDUCT OF A CHILD

6 did then and there feloniously, knowingly and willfully, have in his possession, a
7 film, photograph, or other visual presentation depicting a child under the age of sixteen years
8 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
9 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0089,
10 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
11 full frontal nudity.

12 COUNT 24 - USE OF CHILD IN PRODUCTION

13 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
14 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
15 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
16 video file named PICT0124, for the purpose of producing a pornographic performance, to
17 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
18 private bathroom routines.

19 COUNT 25 - USE OF CHILD IN PRODUCTION

20 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
21 entice, coerce or permit CURT IRAL, a minor under the age of fourteen years old to be the
22 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
23 video file named PICT00124, for the purpose of producing a pornographic performance, to
24 wit: by filming the genital areas of said CURT IRAL as he showered and performed other
25 private bathroom routines.

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1 COUNT 26 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did then and there feloniously, knowingly and willfully, have in his possession, a
4 film, photograph, or other visual presentation depicting a child under the age of sixteen years
5 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
6 engage in or stimulate sexual conduct, to wit: a computer video file named PICT0124,
7 depicting a fully naked CURT IRAL standing nude in the bathroom, said video displaying
8 full frontal nudity.

9 COUNT 27 - USE OF CHILD IN PRODUCTION

10 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
11 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
12 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
13 video file named PICT0073, for the purpose of producing a pornographic performance, to
14 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
15 private bathroom routines.

16 COUNT 28 - USE OF CHILD IN PRODUCTION

17 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
18 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
19 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
20 video file named PICT0075, for the purpose of producing a pornographic performance, to
21 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
22 private bathroom routines.

23 COUNT 29 - USE OF CHILD IN PRODUCTION

24 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
25 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
26 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

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1 video file named PICT0002, for the purpose of producing a pornographic performance, to
2 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
3 private bathroom routines.

4 COUNT 30 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0002[214-847], for the purpose of producing a pornographic
9 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
10 performed other private bathroom routines.

11 COUNT 31 - USE OF CHILD IN PRODUCTION

12 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
13 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
14 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
15 video file named PICT0011[214-856], for the purpose of producing a pornographic
16 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
17 performed other private bathroom routines.

18 COUNT 32 - USE OF CHILD IN PRODUCTION

19 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
20 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
21 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
22 video file named PICT0013[214-858], for the purpose of producing a pornographic
23 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
24 performed other private bathroom routines.

25 COUNT 33 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0015[214-860], for the purpose of producing a pornographic
2 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
3 performed other private bathroom routines.

4 COUNT 34 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0016, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
10 private bathroom routines.

11 COUNT 35 - USE OF CHILD IN PRODUCTION

12 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
13 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
14 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
15 video file named PICT0025[214-870], for the purpose of producing a pornographic
16 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
17 performed other private bathroom routines.

18 COUNT 36 - USE OF CHILD IN PRODUCTION

19 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
20 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
21 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
22 video file named PICT0026 and PICT0027[214-872], for the purpose of producing a
23 pornographic performance, to wit: by filming the genital areas of HAZEL IRAL as she
24 showered and performed other private bathroom routines.

25 COUNT 37 - USE OF CHILD IN PRODUCTION

26 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
27 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years to be the
28 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a

1 video file named PICT0030[214-875], for the purpose of producing a pornographic
2 performance, to wit: by filming the genital areas of HAZEL IRAL as she showered and
3 performed other private bathroom routines.

4 COUNT 38 - USE OF CHILD IN PRODUCTION

5 did then and there willfully, unlawfully, feloniously and knowingly use, encourage,
6 entice, coerce or permit HAZEL IRAL, a minor over the age of fourteen years old to be the
7 subject of a sexual portrayal in a performance, to wit: full frontal display of genitals in a
8 video file named PICT0044, for the purpose of producing a pornographic performance, to
9 wit: by filming the genital areas of HAZEL IRAL as she showered and performed other
10 private bathroom routines.

11 COUNT 39 - OPEN OR GROSS LEWDNESS

12 did then and there wilfully and unlawfully commit an act of open or gross lewdness
13 by inappropriately kissing said HAZEL IRAL on the mouth.

14 COUNT 40 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
15 CONDUCT OF A CHILD

16 did then and there feloniously, knowingly and willfully, have in his possession, a
17 film, photograph, or other visual presentation depicting a child under the age of sixteen years
18 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to
19 engage in or stimulate sexual conduct, to wit: a computer video file named {4ADE06C5-
20 E63D-4364-B21E-540546F93E9E}-99e2250e821a640148cb04ae0bde9813.jpg, depicting an
21 unidentified boy receiving oral sex from another male.

22 COUNT 41 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
23 CONDUCT OF A CHILD

24 did then and there feloniously, knowingly and willfully, have in his possession, a
25 film, photograph, or other visual presentation depicting a child under the age of sixteen years
26 old as the subject of a sexual portrayal or engaging in, or stimulating, or assisting others to

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1 engage in or stimulate sexual conduct, to wit: various pictures depicting a fully naked
2 unidentified boy standing nude in the bathroom and bedroom, said pictures displaying full
3 frontal nudity

4 DATED this 12th day of March, 2013.

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

7
8
9 BY


LEAH BEVERLY
Deputy District Attorney
Nevada Bar #012556

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11
12 ENDORSEMENT: A True Bill

13 
14 Foreperson, Clark County Grand Jury
15
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1 Names of witnesses testifying before the Grand Jury:

2 IRAL, ANITA, 3640 KOLENDO CT #D, LV NV 89103

3 IRAL, HAZEL, 3640 KOLENDO CT #D, LV NV 89103

4 JAEGER, RYAN, LVMPD# 5587

5 RAMIREZ, VINCENTE, LVMPD# 4916

6

7 Additional witnesses known to the District Attorney at time of filing the Indictment:

8 CUSTODIAN OF RECORDS, CCDC

9 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

10 CUSTODIAN OF RECORDS, LVMPD RECORDS

11 OBASI, FRANCOIS, LVMPD# 6642

12 PRICHARD, DAVID, LVMPD# 6210

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27 12AGJ131X/12F13527X/ed/GJ

28 LVMPD EV# 1208231707

(TK12)

BAIL BOND

In LAS VEGAS DISTRICT

STATE OF NEVADA

Court, County of Clark, State of Nevada

Bail Bond No. ECS100-1143223

(Power of Attorney with this number must be attached.)

vs.

Defendant: JOSHUA C SHUE

Case No. C288172

Know all men by these presents:

That we, **REBEL BAIL BONDS** as principal and **FINANCIAL CASUALTY & SURETY, INC.** as the surety, heretofore authorized to transact Bail Bonds in the State of Nevada, are held and bound, to the above court, for payment in the sum of:

SEVENTY FIVE THOUSAND

Dollars,

whereof, we bind ourselves, our heirs, executors, administrators, and successors, and assigns, jointly, severally, and firmly, by these presents. The condition of this obligation is such that the said defendant shall appear from day to day and term to term of said court to answer the charge(s) of:

USE/PERMIT MINOR 14+ TO PROD PORN (29 CTS), CHILD ABUSE OR NEGLECT (1ST), POSS VISUAL

.PORN OF PERS UNDER 16 (1ST) (10CTS), OPEN/GROSS LEWDNESS (1ST)

and not depart the same without leave, then this obligation to be void, else to remain in full force and effect.

This Bond shall be in full force and effect until any of the following events:

1) Exoneration by court order; 2) Termination of this case by dismissal or conviction.

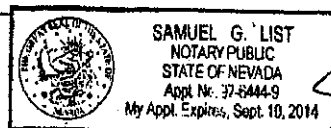
Signed and sealed this 9 day of MAY, 2013.

Attorney in fact (signature) ANDREA WALSH

Subscribed and sworn before me, a notary for the State of Nevada,

This 9 day of MAY, 2013.

Place Notary Seal here:



Approved this _____ day of _____, 20____.

Bonding Company Stamp
REBEL BAIL BONDS
1407 S. Commerce St.
Las Vegas, NV 89102
702-891-8777
Fax: 702-650-6276

Insurance Agency Stamp
FINANCIAL CASUALTY & SURETY, INC.
3131 Eastside, #600
Houston, Texas 77098
877-737-2245

C-13-288172-1
BAB
Bail Bond
2480073



30-Nov-13

3131 Eastside, Suite 600, Houston, TX 77098

State of Nevada
POWER OF ATTORNEY
Financial Casualty & Surety, Inc.
 The Bail Insurance Company

FCS100-1143223

Tele.# 877.737.2245

KNOW ALL MEN BY THESE PRESENTS that Financial Casualty & Surety, Inc., a corporation duly organized and existing under the laws of the State of Texas does constitute and appoint and by these presents does make, constitute and appoint the named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. This power is void if altered or erased, void if used in combination with other Powers of this company or Powers from any other surety, void if used to furnish bail in excess of the maximum stated amount of this Power. This Power Number is unique and can only be used once. The obligation of the surety shall not exceed the sum of:

*****One Hundred Thousand Dollars and Zero Cents*****

*****\$100,000.00*****

and this original Power-of-Attorney with the original bond MUST together be posted with the court and retained as a part of the court's records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, THE FINANCIAL CASUALTY & SURETY, INC. has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be affixed this 9 Day of MAY, 2013 Year

Defendant JOSHUA C SHUE Premium Charged \$

Court DISTRICT City LAS VEGAS State NV Case Number C288172

Bond Amount \$ 75,000 Charge(s) USE/PERMIT MINOR 14+ TO PROD PORN (29 CTS),

If Rewrite, Original Number CHILD ABUSE OR NEGLECT (1st), POSS VISUAL

Executing Agent PORN OF MINORS UNDER 16 (1st) (1st) OPEN/

GROSS LEWDNESS (1st) Senior Vice President

NOT VALID IF USED IN **Federal Court**

Micro Printed (Anti-Forgery) Message is Contained in this Document's Border ~ If missing, the Document is FORGED and VOID

[FCS-103 (12/05)] COPY FOR COURT

30-Nov-13

State of Municipal Court
POWER OF ATTORNEY
 Financial Casualty & Surety, Inc.

FCS100-1143223

3131 Eastside, Suite 600, Houston, TX 77098

Tele. # 877.737.2245

The Bail Insurance Company

KNOW ALL MEN BY THESE PRESENTS that Financial Casualty & Surety, Inc., a corporation duly organized and existing under the laws of the State of Texas does constitute and appoint and by these presents does make, constitute and appoint the named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. This power is void if altered or erased, void if used in combination with other Powers of this company or Powers from any other surety, void if used to furnish bail in excess of the maximum stated amount of this Power. This Power Number is unique and can only be used once. The obligation of the surety shall not exceed the sum of:

One Hundred Thousand Dollars and 00/100 Cents

\$\$\$100,000.00

and this original Power-of-Attorney with the original bond MUST together be posted with the court and retained as a part of the court's records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, THE FINANCIAL CASUALTY & SURETY, INC. has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be affixed this 30th of Nov Year 2013

Defendant JOSHUA SHUE Day Month Year Premium Charged \$

Court DISTRICT City LAS VEGAS State NV Case Number C288172

Bond Amount \$ 75,000 Charge(s) USE/PERMIT FOR 14+ TO PROD PORN (29 CTS), CHILD ABUSE OR NEGLECT (1st), POSS VISUAL

If Rewrite, Original Number 158 PORN OF PERS UNDER 16 (1st) (1st CSS) OPEN/
GROSS 1st

Executing Agent ANDREA WILSH Senior Vice President



NOT VALID IF USED IN Federal Court

Micro Printed (Anti-Forgery) Message is Contained in this Document's Border ~ If missing, the Document is FORGED and VOID

AGENT COPY

[FCS-103 (12/05)] COPY FOR COURT

Rebel Bail Bonds
1407 S. Commerce St.
LV, NV 89102
702-891-8777

**Eighth Judicial District Court
Surety Bond Receipt**

FILED

MAY 9 12 09 PM '13

C-13-288172-1
BRCPT
Bail Bond Receipt
2480075



Ann L. Schuman
CLERK OF THE COURT

Date: 05/09/2013

Case No: C-13-288172-1

State of Nevada
vs
Joshua Shue

Bond Power # FCS100-1143223

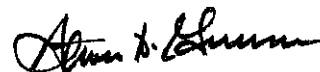
Rebel Bail Bonds
1407 S Commerce St
Las Vegas, NV 89102

Bond Amount: 75,000.00 for Joshua C Shue

Clerk of Court

Allison Behrhorst 5-9-13
Allison Behrhorst, Deputy Clerk

ALLISON.BEHRHORST



CLERK OF THE COURT

1 NWEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JOSHUA C. SHUE,
13 aka Joshua Caleb Shue, #1550230

14 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

15 NOTICE OF WITNESSES
16 [NRS 174.234(1)(a)]

17 TO: JOSHUA C. SHUE, aka Joshua Caleb Shue, Defendant; and

18 TO: TERRENCE JACKSON, ESQ., Counsel of Record:

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

21 <u>NAME</u>	<u>ADDRESS</u>
22 GALLUP, B.	LVMPD P#8729
23 GAMMAS, B.	LVMPD P#5085
24 HUERTA, GERADO	Unknown
25 IRAL, CURT	3640 Kolendo Ct. #D, Las Vegas, NV
26 SHANNON, G.	LVMPD P#4111
27 SPENCER, R.	LVMPD P#7598
28 VAANDERING, B.	LVMPD P#13575

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

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

7 BY /s/ LEAH BEVERLY
8 LEAH BEVERLY
9 Deputy District Attorney
10 Nevada Bar #012556

11
12 CERTIFICATE OF FACSIMILE TRANSMISSION

13 I hereby certify that service of Notice of Witnesses, was made this 3rd day of
14 September, 2013, by facsimile transmission to:

15 TERRENCE JACKSON, ESQ.
16 386-0085

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

22
23
24
25
26
27 cc/L3
28


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH C. BEVERLY
Deputy District Attorney
Nevada Bar #012556
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-

JOSHUA C. SHUE,
aka Joshua Caleb Shue, #1550230
Defendant.

CASE NO: C-13-288172-1
DEPT NO: XXI

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

TO: JOSHUA C. SHUE, aka Joshua Caleb Shue, Defendant; and

TO: TERRENCE JACKSON, 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:

<u>NAME</u>	<u>ADDRESS</u>
HENDRICKS, J.	LVMPD P#6091
LAFRENIERE, J.	LVMPD P#7570

///

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///

///

///

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

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

7 BY /s/ LEAH C. BEVERLY
8 LEAH C. BEVERLY
9 Deputy District Attorney
10 Nevada Bar #012556

11
12 CERTIFICATE OF FACSIMILE TRANSMISSION

13 I hereby certify that service of Supplemental Notice of Witnesses, was made this 12th
14 day of September, 2013, by facsimile transmission to:

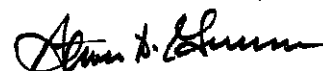
15 TERRENCE JACKSON, ESQ.
16 386-0085

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

22
23
24
25
26
27 cc/L3
28

1 MOTN

2 Terrence M. Jackson, Esquire
3 Nevada Bar No. 00854
4 624 South Ninth Street
5 Las Vegas, Nevada 89101
6 Ph (702) 386-0001 / Fax (702) 386-0085
7 Attorney for Defendant Joshua C. Shue



CLERK OF THE COURT

8 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,

11 Plaintiff,

12 v.

13 JOSHUA C. SHUE,
14 #1550230,

15 Defendant.

CASE NO.: C-13-288172-1

DEPT NO.: XXI

MOTION IN LIMINE

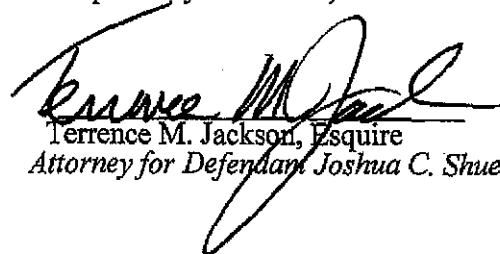
16 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE M.
17 JACKSON, ESQ., and moves this Honorable Court to order that the State of Nevada be prevented
18 from introducing other crimes testimony directly or indirectly through Police Detective Ryan Jaeger
19 or any other witness the State intends to call.

20 Defendant specifically moves *in limine* that Detective Ryan Jaeger be specifically instructed
21 that testifying that he began his investigation: "as a sexual complaint" (GJT p. 10) will result in a
22 mistrial and if jeopardy has attached, dismissal will likely occur.

23 It is respectfully submitted Defendant should be tried only for what it has been determined
24 there may be probable cause to believe he may be guilty, not for a crime that a Police Officer initially
25 suspected he might have committed. Prejudicial evidence of other crimes must be excluded.

26 This Motion is based upon the accompanying Points and Authorities incorporated herein, and
27 such further facts as will come before the court on a hearing on this Motion.

28 Respectfully Submitted,



Terrence M. Jackson, Esquire
Attorney for Defendant Joshua C. Shue

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 NRS 48.035 provides:

4 Evidence of other crimes, wrongs or acts is not admissible to prove the
5 character of a person in order to show that he acted in conformity therewith. It
6 may, however, be admissible for other purposes, such as proof of motive,
opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake
or accident.

7 Further, NRS 48.035(1) excludes evidence that, although relevant, its probative value is
8 outweighed by the danger of unfair prejudice or confusion and misleading to the jury.

9 Although relevant, evidence is not admissible if its probative value is
10 substantially outweighed by the danger of unfair prejudice, or confusion of the
issues or of misleading the jury. (Emphasis added)

11 The statement Detective Ryan Jaeger made before the Grand Jury is the classic type of
12 unfair and prejudicial character assassination evidence which must be excluded if Joshua Shue is
13 to have any chance for a fair trial.

14 Counsel is filing this pretrial Motion in Limine to prevent harmful prejudicial testimony. A
15 pretrial motion will obviate the necessity of a mistrial later. In *People v. Morris*, 53 Cal.3d 152, 807
16 P.2d 949 (Cal.1991), the California Supreme Court noted:

17 "Motions in limine are a commonly used tool of trial advocacy and
18 management in both civil and criminal cases. Such motions are generally brought at
19 the beginning of trial, although they may also be brought during trial when
evidentiary issues are anticipated by the parties. In either event, they are argued by
the parties either orally or in writing or both, and ruled on by the trial judge. The
usual purpose of motions in limine is to preclude the presentation of evidence
deemed inadmissible and prejudicial by the moving party."


21 There are no exceptions to the other crimes rule which would allow Detective Jaeger's statement into
22 evidence.

23 This is not such a case where the statement of Detective Jaeger is necessary because it is
24 intimately interconnected with the substantive acts charged, so that the witness cannot describe the
25 incident without referring to the prejudicial other crimes evidence as in *Bletcher v. State*, 111 Nev.
26 1477, 907 P.2d 978 (1995) or *Powell v. State*, 838 P.2d 921, 108 Nev. 700 (1992).

27 The case of *Meek v. State*, 112 Nev. 1288, 930 P.2d 1104 (1996) is much more directly
28 applicable to these facts. In that case, the Supreme Court reversed because other crimes evidence was

1 wrongly admitted. The court held the evidence which had been admitted was not sufficiently similar
2 to the crime charged to be admissible. The prejudicial effect of Detective Jaeger's statement in this
3 case is overwhelming and unnecessary. To avoid prejudice and confusion to the jury, the court
4 should grant Defendant's Motion in Limine.

5
6 Respectfully submitted this 16TH day of September, 2013.

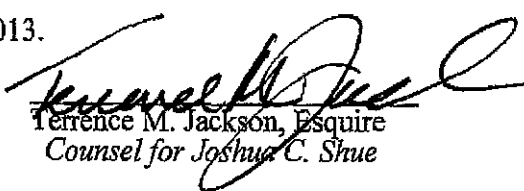
7
8 
9 Terrence M. Jackson, Esquire
10 Nevada Bar No. 60854
11 624 South Ninth Street
12 Las Vegas, Nevada 89101
13 T(702) 386-0001 / Fax (702) 386-0085
14 Counsel for Joshua C. Shue

15 **NOTICE OF MOTION**

16 **TO: CLARK COUNTY DISTRICT ATTORNEY:**

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring
18 the above and foregoing **MOTION IN LIMINE** on for hearing on the 26 day of Sept.,
19 2013, at the hour of 9 : 30 a.m./p.m. in Department XXI of the above-entitled Court or as soon
20 thereafter as counsel may be heard.

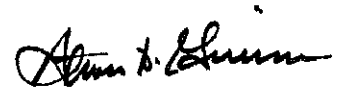
21 **DATED** this 16TH day of September, 2013.

22 
23 Terrence M. Jackson, Esquire
24 Counsel for Joshua C. Shue

25 **RECEIPT OF COPY**

26 Receipt of copy of the Defendant's above and foregoing **MOTION IN LIMINE** is
27 hereby acknowledged this ____ day of September, 2013.

28 By: _____
Clark County District Attorney


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH C. BEVERLY
Deputy District Attorney
Nevada Bar #012556
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-

JOSHUA C. SHUE,
aka Joshua Caleb Shue, #1550230
Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

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

TO: JOSHUA C. SHUE, aka Joshua Caleb Shue, Defendant; and

TO: TERRENCE JACKSON, 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:

<u>NAME</u>	<u>ADDRESS</u>
GRIVAS, C.	LVMPD P#8759

///

///

///

///

///

///

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

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

7 BY /s/ LEAH BEVERLY
8 LEAH C. BEVERLY
9 Deputy District Attorney
10 Nevada Bar #012556

11
12 CERTIFICATE OF FACSIMILE TRANSMISSION

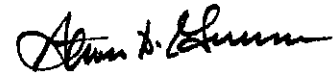
13 I hereby certify that service of Second Supplemental Notice of Witnesses, was made
14 this 19th day of September, 2013, by facsimile transmission to:

15 TERRENCE JACKSON, ESQ.
16 386-0085

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

22
23
24
25
26
27 cc/L3
28

1 **MOTN**
2 Terrence M. Jackson, Esquire
3 Nevada Bar No. 00854
4 624 South Ninth Street
5 Las Vegas, Nevada 89101
6 Ph (702) 386-0001 / Fax (702) 386-0085
7 Attorney for Defendant Joshua C. Shue



CLERK OF THE COURT

8 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
9 **OF THE STATE OF NEVADA**
10 **COUNTY OF CLARK**

11 STATE OF NEVADA,

12 Plaintiff,

13 v.

14 JOSHUA C. SHUE,
15 #1550230,

16 Defendant.

CASE NO.: C-13-288172-1

DEPT NO.: XXI

17 **MOTION FOR INDIVIDUAL VOIR DIRE OF JURORS BY COUNSEL**
18 **TO PROTECT DEFENDANT'S RIGHT TO A FAIR TRIAL**

19 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE M.
20 JACKSON, ESQ., and moves this Honorable Court to grant Defendant individual sequestered
21 voir dire.

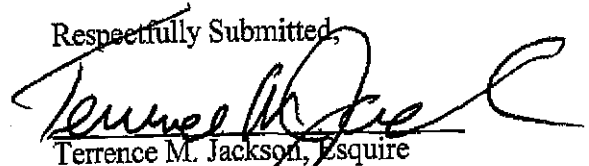
22 As grounds for this motion, Defendant states the nature of the charges are such that it will
23 be virtually impossible to secure a fair and impartial jury as guaranteed by the Sixth Amendment of
24 the United States Constitution without engaging in extensive questioning of jurors about highly
25 emotional and delicate matters. Counsel believes in order for such questioning to be done
26 meaningfully in a non-threatening manner, the questioning must be done outside the presence of
27 other jurors. The only way to get complete and accurate information from jurors is to have the
28 flexibility to probe into troublesome or difficult areas in a secure environment where jurors can
respond honestly without fear or embarrassment concerning highly personal areas. A meaningful voir
dire is essential to protect the Defendant's fundamental Sixth Amendment rights.

This Motion is further based upon the accompanying Memorandum of Points and Authorities
incorporated herein, any additional Points and Authorities submitted to the Court, the papers and

1 pleadings on file in the instant case and upon such oral argument and evidence incorporated herein
2 and such further facts as will come before the court on a hearing on this Motion.

3 **DATED** this 23rd day of September, 2013.

4 Respectfully Submitted,

5 

6 Terrence M. Jackson, Esquire
7 Nevada Bar No. 00854
8 624 South Ninth Street
9 Las Vegas, Nevada 89101
Ph (702) 386-0001 / Fax (702) 386-0085
Attorney for Defendant Joshua C. Shue

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 **FACTUAL STATEMENT**

12 On March 13, 2013, an indictment was filed charging Joshua C. Shue with Child Abuse &
13 Neglect (Category B Felony, NRS 200.508) Use of Child in Production (Category A Felony, NRS
14 200.710), Possession of Visual Presentation Depicting Sexual Conduct of a Child (Category B
15 Felony, NRS 200.700, 200.730) and Open or Gross Lewdness (Gross Misdemeanor, NRS 201.210).

16 There will likely be pictures or video with sexual content which might make certain jurors
17 uncomfortable and/or might in some way impinge on their ability to follow the Court's instructions
18 concerning reasonable doubt or accept the Defendant's theory of the case. Jurors will need to be
19 confronted about delicate issues such as their feelings about sexual abuse including whether they or
20 any close family members, or close acquaintances, have been the victim of a sexual crime. If a jury
21 member has pre-teen children or teenage children, or grandchildren, nephews, or nieces, many
22 delicate questions concerning their children or relatives may not receive meaningful answers if the
23 questions directed to the jury are too broad and general. If questions are too specific, jurors may be
24 reluctant to give candid answers to embarrassing questions while in front of other jurors.

25 Individual attorney voir dire is essential. The nature of the facts in this case make exploration
26 of the status of jurors as to the knowledge of sexual abuse either as a victim, or as a witness
27 extremely important.
28

I.

**THE JURY PANEL MUST BE EXAMINED INDIVIDUALLY AS THE PANEL MAY BE
TAINTED IF JUROR'S ARE QUESTIONED ABOUT DELICATE MATTERS
OF SEXUALITY IN FRONT OF OTHER JURORS.**

Long ago, the case of United States v. Ridley, 134 U.S. App. D.C., 412 F.2d 1126 (1969), recommended that questioning of victims of crimes be done at the bench so that other members of the panel not be tainted. Defendant submits this procedure of voir diring jurors outside of the presence of other panel members, should be extended to the facts of this case because delicate issues about sexuality cannot be explored without potentially influencing many members of the jury panel.

Jurors are often naturally reluctant to discuss intimate sexual matters including their thoughts about pornography and their ability to decide such cases fairly. They are particularly reluctant to admit whether they or close family members have ever been the victims of sexual offenses. If any such matters are revealed to other jurors, there is also an incredibly high risk that other jurors will be offended and that they very likely may become even more prejudiced against the Defendant. This presents a dilemma for the Defendant. Failure to spot biased jurors, or to be able to deal with them appropriately when spotted, can be fatal to a defense case. The Sixth Amendment guarantees the Defendant a fair and impartial jury.

There exists the real possibility that those who have had experience or knowledge of sexual offenses as a victim may be more credible to other jurors on the panel about many issues in dispute during post trial deliberation. This input from such jurors who have been victims or have close connection with the victim may greatly impact the jury's final decision in ways that are unfair to the Defendant.

The Defendant is entitled to a far reaching and thorough voir dire that can adequately uncover potential biases in jury panel members. The only way the Defendant can intelligently exercise his peremptory challenges is to have an extensive and individual voir dire. The only way this can be done, in this case, is by individually questioning each juror outside the presence of other jurors.

Cases have held that a defendant did not receive effective assistance of counsel because trial

1 counsel did not adequately protect the defendant's rights during the voir dire process to secure an
2 impartial jury of his peers as guaranteed by the Fifth, Sixth and Fourteenth Amendments of the
3 United States Constitution.

4 The fundamental component of the Sixth Amendment right to trial is the right to a fair and
5 unbiased jury of peers. A defendant's constitutional right to counsel includes the right to question
6 prospective jurors so the defendant may intelligently exercise peremptory challenges. *See, Powell*
7 *v. Alabama*, 287 U.S. 45, 69, 53 S.Ct. 55, 77 L.Ed. 158 (1932) (defendant requires counsel's guiding
8 hand at every step of proceedings). The Sixth Amendment guarantees the "assistance of counsel."
9 Part of this constitutional guarantee is an adequate voir dire to identify unqualified jurors. *Morgan*
10 *v. Illinois*, 504 U.S. 719, 729, 112 S.Ct. 2222, 119 L.Ed.2d 492 (1992) (citing *Dennis v. United*
11 *States*, 339 U.S. 162, 171-72, 70 S.Ct. 519, 94 L.Ed. 734 (1950)).

12 A fair and unbiased jury cannot be taken for granted, especially in a case of alleged child
13 pornography and related sexual crimes. In *State v. Chastain*, 947 P.2d 57 (Mont. 1997), the court
14 noted:

15 "A court must excuse a prospective juror if actual bias is discovered during
16 voir dire. Bias can be revealed by a juror's express admission of that fact, but,
17 more frequently, jurors are reluctant to admit actual bias, and the reality of their
18 biased attitudes must be revealed by circumstantial evidence. We agree with the
19 observation in *Kiernan v. Van Schaik*, 3rd Cir. 1965), 347 F.2d 775, 781: "That
20 men will be prone to favor that side of a cause with which they identify
21 themselves either economically, socially, or emotionally is a fundamental fact of
22 human character." *United States v. Allsup*, (9th Cir. 1977), 566 F.2d 68, 71.

23 It is incumbent upon a party to develop information in the record that
24 demonstrates a juror's bias as to the party or an issue in the case. Defense counsel
25 had a clear duty to ensure Chastain's right to a fair trial by a panel of impartial
26 jurors.

27 The principal way in which this right to trial by "indifferent" jurors is secured
28 is through the system of challenges exercised during voir dire. Inhibition of the
right to challenge peremptorily or for cause is usually deemed prejudicial error,
without showing of actual prejudice."
Allsup, 566 F.2d at 71. (Emphasis added).

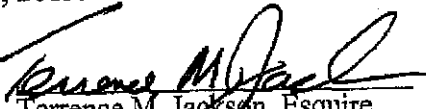
29 ...
30 The seating of a biased juror, who should have been dismissed for cause, requires the
31 reversal of the conviction. *United States v. Martinez-Salazar*, 528 U.S. 304, 316, 120 S.Ct. 774,
32 145 L.Ed.2d 792 (2002).

33 Counsel urges this court to grant great latitude to prevent a situation where a biased juror may

1 decide his case which causes a later mandatory reversal of a conviction that was unfair. An effective
2 voir dire where jurors can be questioned about difficult and highly personal matters is essential in
3 this case to guarantee a fair trial.

4 Wherefore, for the above stated reasons, Defendant respectfully requests individual
5 sequestered voir dire be granted.

6 DATED this 23rd day of September, 2013.

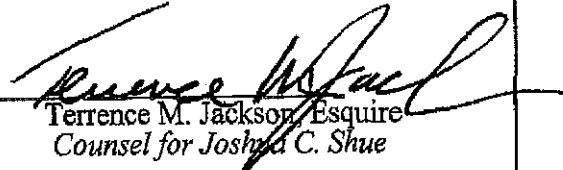
7 
8 Terrence M. Jackson, Esquire
9 Nevada Bar No. 00854
624 South Ninth Street
10 Las Vegas, Nevada 89101
T(702) 386-0001 / Fax (702) 386-0085
11 Counsel for Joshua C. Shue

12 **NOTICE OF MOTION**

13 **TO: CLARK COUNTY DISTRICT ATTORNEY:**

14 YOU AND EACH OF YOU will please take notice that the undersigned will bring the above
15 and foregoing **MOTION FOR INDIVIDUAL VOIR DIRE OF JURORS BY COUNSEL TO**
16 **PROTECT DEFENDANT'S RIGHT TO A FAIR TRIAL** on for hearing on the 03 day of
17 OCTOBER, 2013, at the hour of 9:30 A a.m./p.m. in Department XXI of the above-entitled
18 Court or as soon thereafter as counsel may be heard.

19 DATED this 23rd day of September, 2013.

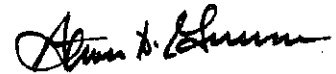
20 
21 Terrence M. Jackson, Esquire
Counsel for Joshua C. Shue

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that service of Motion for Individual Voir Dire of Jurors by Counsel to
24 Protect Defendant's Right to a Fair Trial, was made this 23rd day of September, 2013, by facsimile
25 transmission to: Office of the District Attorney, Attn.: Leah Beverly, Deputy District Attorney, at
26 455-2294.

27 BY: /s/ Ila Wills

28 Employee of Terrence M. Jackson



CLERK OF THE COURT

1 **OPPM**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH C. BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9
10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 JOSHUA C. SHUE,
14 aka Joshua Caleb Shue, #1550230
15 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR**
17 **INDIVIDUAL VOIR DIRE OF JURORS BY COUNSEL TO PROTECT**
18 **DEFENDANT'S RIGHT TO A FAIR TRIAL**

19 DATE OF HEARING: OCTOBER 3, 2013

20 TIME OF HEARING: 9:30 AM

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
22 District Attorney, through LEAH C. BEVERLY, Deputy District Attorney, and hereby
23 submits the attached Points and Authorities in Opposition to Defendant's Motion for
24 Individual Voir Dire.

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

28 ///

///

POINTS AND AUTHORITIES

Defendant Joshua Shue is seeking to utilize a jury selection procedure in the instant case which would permit each individual venireman to be examined outside of the presence of all others after the initial inquiry and examination by the Court. Defendant claims such procedure is necessary because the nature of the instant case involves child pornography and jurors will be reluctant to discuss their feelings about sexual abuse or other sexually intimate matters.

The State submits that utilizing such a procedure to select a jury in the case at bar is unnecessary to insure a fair trial for the defendant and is not in the interest of judicial economy. The instant case is no different then any other case involving minors and sexual activity.

NRS 175.031 governs the examination of trial jurors in the Nevada courts. It provides:

The Court shall conduct the initial examination of prospective jurors and defendant or his attorney and the district attorney are entitled to supplement the examination by such further inquiry as the Court deems proper. Any supplemental examination must not be unreasonably restricted.

The Eighth Judicial District Courts have set forth a procedure to implement the aforementioned statute. Rule 7.70 provides:

The judge shall conduct the voir dire examination of the jurors. Proposed voir dire questions by the parties or their attorneys must be submitted to the court in chambers not later than 4:00 p.m. on the judicial day before the day the trial begins. Upon request of counsel, the trial judge may permit such counsel to supplement the judge's examination by oral and direct questioning of any of the prospective jurors. The scope of such additional questions or supplemental examination shall be within reasonable limits prescribed by the trial judge in his sound discretion.

The State submits that the method as set forth in the above statutes is an adequate method of selecting a fair and impartial jury in the case at bar.

The State acknowledges the fact that the attorney's approach to voir dire must take into account the presence of the undrawn members of the panel sitting in the courtroom as well as the jurors seated in the jury box. It may sometimes be desirable in cases which have

1 drawn a great deal of sensational publicity dealing with the facts of the case, that members of
2 the panel except those actually in the box be kept in a separate room. This, however, should
3 be done only if it is felt that prejudice will result from having members of the entire panel
4 exposed to the voir dire of other members. An even more drastic solution would be the
5 examination of each individual juror in complete isolation as the defendant in the present
6 case suggests. However, the State submits that since this practice departs from the local
7 practice, it should be utilized only in the most unusual circumstances. The case at bar does
8 not merit such treatment. As noted above, this case is no different then other cases involving
9 minors, sexual activity or sexually explicit material. The State is not aware of any pre-trial
10 publicity surrounding this trial.

11 The disadvantages of this individual procedure, including the delay and the burden it
12 would cause the court, far outweigh any possible advantage. Any advantage achieved with
13 this type of procedure proposed by the defendant is purely speculative at best.

14 In Summers v. State, 102 Nev. 195, 718 P.2d 676 (1986) the Nevada Supreme Court
15 held that the scope and method of voir dire examination is subject to the sound discretion of
16 the trial court. A number of other state courts have ruled on this issue. For the most part, in
17 cases in which there hasn't been a great deal of pre-trial publicity, the courts have ruled that
18 it was not error for the trial court to deny the defendant's motion for individual voir dire.

19 The court in Morrison v. State, 619 P.2d 203 (Okl. 1980) addressed the issue of
20 whether a private individual voir dire should be conducted in a particular case. The court
21 held that whether or not individual voir dire should be conducted is largely a matter for the
22 discretion of the trial court. Varva v. State, 509 P.2d 1379 (Okl. 1973). The court went on
23 to hold that to require individual voir dire to avoid prejudicial responses would be to require
24 such in virtually all cases. Such requirement would be unduly burdensome and would likely
25 afford no greater protection for an accused. See Margoles v. United States, 407 F.2d 727
26 (7th Cir., 1979).

27 The court in State v. Frederick, 579 P.2d 390 (Wash. 1978) held that individual voir
28 dire of prospective jurors in a case where there was pre-trial publicity is not necessary where

1 the news stories contained factually accurate material of a relatively nonsensational nature
2 and for the most part told the public prior to trial only those basically essential facts of the
3 crimes which would ultimately be presented to the jurors in the controlled atmosphere of the
4 courtroom. State v. Wilson, 555 P.2d 1375 (Wa. 1976).

5 In State v. Wixon, 631 P.2d 1033 (Wa. 1981), the court held that the trial judge did
6 not err in denying a defense motion for individual voir dire because of the publicity in the
7 case. The court held that individual voir dire is not necessary in all cases where pre-trial
8 publicity exists.

9 Should the issue of sexual abuse occur with an individual, the court may order that a
10 particular juror be questioned outside the presence of the other jurors. *See generally* Haynes
11 v. State, 103 Nev. 309, 316, 739 P.2d 497, 501 (1987 (stating that defense counsel could
12 have requested independent, sequestered voir dire of prospective jurors who were suspected
13 of holding back on an issue); Leonard v. State, 117 Nev. 53, 64, 17 P.3d 397, 404 (2001). It
14 is not necessary to conduct individual voir dire of each juror.

15 CONCLUSION

16 Based on the foregoing, the State respectfully asks this Court to deny Defendant's
17 request for individual voir dire.

18 DATED this 24th day September, 2013.

19 Respectfully submitted,

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

23 BY /s/ LEAH C. BEVERLY
24 LEAH C. BEVERLY
25 Chief Deputy District Attorney
26 Nevada Bar #012556
27
28

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Opposition To Defendant's Motion For Individual Voir Dire Of Jurors By Counsel To Protect Defendant's Right To A Fair Trial, was made this 24th day of September, 2013, by facsimile transmission to:

TERRENCE JACKSON, ESQ.
386-0085

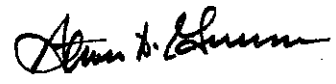
BY: /s/ C. Cintola

C. Cintola

Employee of the District Attorney's Office

LB/cc/L3

1 **MOTN**
2 Terrence M. Jackson, Esquire
3 Nevada Bar No. 00854
4 624 South Ninth Street
5 Las Vegas, Nevada 89101
6 Ph (702) 386-0001 / Fax (702) 386-0085
7 *Attorney for Defendant Joshua C. Shue*


CLERK OF THE COURT

8 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
9 **OF THE STATE OF NEVADA**
10 **COUNTY OF CLARK**

11 STATE OF NEVADA,

CASE NO.: C-13-288172-1

12 Plaintiff,

DEPT NO.: XXI

13 v.

14 JOSHUA C. SHUE,
15 #1550230,

16 Defendant.


17 **MOTION FOR PSYCHIATRIC EXAMINATION OF ALLEGED VICTIM**

18 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE
19 M. JACKSON, ESQ., and moves this Court to enter an Order granting a psychiatric examination
20 of the alleged victim, Hazel Iral.

21 This Motion is based upon the accompanying Memorandum of Points and Authorities
22 incorporated herein, and such further facts as will come before the court on a hearing on the
23 Motion.

24 **DATED** this 27th day of September, 2013.

25 Respectfully Submitted,

26 
27 Terrence M. Jackson, Esquire
28 Counsel for Joshua C. Shue

///

///

POINTS AND AUTHORITIES

FACTUAL STATEMENT

The Defendant is charged with multiple counts of use of a child in production of pornography, allegedly enticing, encouraging or permitting Hazel Iral to be the subject of a sexual portrait. Other related counts in the indictment include:

Possession of Visual Presentation Depicting Sexual Conduct of a Child (Category B Felony, NRS 200.700, 200.730);

Child Abuse & Neglect (Category B Felony, NRS 200.508);

Open or Gross Lewdness (Gross Misdemeanor, NRS 201.210).

Defense investigation has developed evidence that the primary alleged victim, Hazel Iral, suffers from serious mental instability. She has a history of being a runaway, a history of heavy alcohol consumption, and most disturbing, numerous acts of self-destruction involving cutting her body (arms) with a razor. Because of her mental instability and fragility, there exist strong reason to believe her testimony can be easily manipulated. Testimony will also be presented by the defense witnesses at trial or evidentiary hearing to show that she has been pressured by agents of the prosecutor, i.e., detectives of the Las Vegas Metropolitan Police Department and case workers at Children's Protective Services, to testify falsely concerning the facts of this case.

Evidence will also show that the State is providing her financial assistance and expensive electronic devices in exchange for her testimony and have threatened to revoke such assistance and/or incarcerate her if she does not testify as they believe she should to implicate Joshua Shue in criminal actions.

Other witnesses for the defense will testify that Hazel Iral has a less than stellar respect for the truth, with a penchant for lying when it suits her purposes.

Defendant Joshua Shue believes that the credibility of Hazel Iral is paramount to the State because her testimony is essential. It is necessary that she be psychologically examined before trial. It is respectfully submitted Hazel Iral suffers displaced anger toward her mother which may cause a bias in her which cannot be ascertained without a competent forensic examination. An unbiased

1 examination by a trained mental health specialist such as a forensic psychiatrist is the only way to
2 ascertain if Hazel Iral is fully competent and/or able to testify truthfully and that she has not been
3 manipulated by others by threat or suggestion to testify in a certain way.

4 Evidence will show that Hazel Iral has already been pushed and pulled by the sophisticated
5 adults employed at Child Protective Service as case workers as well as the LVMPD detectives
6 working this case on multiple occasions. She has a desperate need for unbiased medical attention to
7 diagnose her psychological condition, both for her own mental health welfare and possible treatment,
8 as well as to ensure her competency in the matter before court.

9 THE LAW

10 HAZEL IRAL, THE ALLEGED VICTIM OF USE OF A CHILD IN PRODUCTION OF 11 PORNOGRAPHY SHOULD BE ORDERED TO UNDERGO PSYCHIATRIC OR 12 PSYCHOLOGICAL EVALUATION BY A COURT APPOINTED DOCTOR.

13 Courts have long recognized that in cases involving sexual crimes, where the credibility
14 of the victim is at issue, a court ordered psychological examination of the witness is warranted.
15 In the case of Ballard v. Superior Court, 49 Cal. Rptr. 302, 410 P.2d 838 (1966), the defendant, a
16 doctor, was accused of rape by allegedly having sexual intercourse with a female patient while
17 she was under anesthesia. Defendant's counsel moved that the trial court order a psychiatric
18 evaluation of the complaining witness. The California Supreme Court held that the trial court
19 was not required to order such an examination in all cases where the crime of rape was alleged,
20 but the Court also held that the trial judge had the authority to do so in the sound exercise of its
21 discretion. The Court noted:

22 "In urging psychiatric interviews for complaining witnesses in sex
23 cases, some prominent psychiatrists have explained that a woman
24 or girl may falsely accuse a person of a sex crime as a result of a
25 mental condition that transforms into fantasy a wishful biological
26 urge. Such a charge may likewise flow from an aggressive
27 tendency directed to the person accused or from a childish desire
28 for notoriety. (Cit. omitted)

26 Thus the testimony of a sympathy arousing child may lead to the
27 conviction of an unattractive defendant, subjecting him to a lengthy
28 prison term." 410 P.2d 846. (Emphasis added)

1 Courts in other jurisdictions have held that it is within the discretion of the trial court to order
2 a psychiatric examination of a complaining witness in a case where the complaining witness'
3 testimony is the critical evidence against the Defendant. State v. Wahrlich, 105 Ariz. 102, 459 P.2d
4 730 (1969); State v. Vincent, 450 P.2d 998 (Hawaii, 1969); State v. Kahina, 498 P.2d 642.

5 Similarly, in Washington v. State, 96 Nev. 305, 608 P.2d 1101 (Nev. 1980) the Nevada
6 Supreme Court held that psychiatric examination of the victim in a sexual assault is a matter that is
7 left to the sound discretion of the trial court. In the case of Warner v. State, 102 Nev. 635, 729 P.2d
8 1359 (1986), a conviction for sexual assault was reversed because of ineffective assistance of
9 counsel, where the defense counsel did not request the Court to order a psychological examination.

10 In this instant case there exist more than ample reason to order a psychiatric examination of
11 the alleged victim. The testimony of Hazel Iral concerning the creation of suggestive photos, her age,
12 when the photos were taken and whether she consented or actually produced any of the photos
13 herself.

14 Defendant directs the court to the recent decision from the Nevada Supreme Court in the case
15 of Lickey v. State, 108 Nev. 191, 827 P.2d 824, where the Nevada Supreme Court again reversed
16 a conviction because the trial court refused to order a psychological evaluation of the victim. The
17 Defendant submits in the instant case, as in Lickey, *supra*, the Defendant will be substantially
18 prejudiced if he is not granted the opportunity to have an independent court ordered psychiatrist
19 examine the victim to determine if the victim is suffering from psychological problems that would
20 render her testimony inherently suspect..

21 Again, in Keeney v. State, 109 Nev. 220, 850 P.2d 311, the Nevada Supreme Court stated:

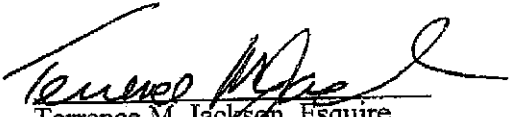
22 "generally a psychological examination of a sexual assault victim
23 should be permitted if the defendant has presented a compelling
24 reason therefor. (Citation omitted)."
25 A compelling reason exists where the corroboration evidence is de
26 minimus or non-existent, and the defense has a reasonable basis for
27 questioning the effect of the victim's mental state or her veracity."
28 109 Nev. 224, 225. (Emphasis added).

The credibility of Hazel Iral is highly suspect in this case. Her mental state was in doubt
at the time of the alleged crime and the Defendant submits there still exist substantial doubts as

1 to her mental status. She should be examined by a court appointed psychiatrist or psychologist to
2 resolve these doubts.

3 WHEREFORE, for the above stated reasons Defendant respectfully requests the court enter
4 an order granting a psychiatric or psychologic examination of the alleged victim, Hazel Iral.

5 DATED this 27th day of September, 2013.

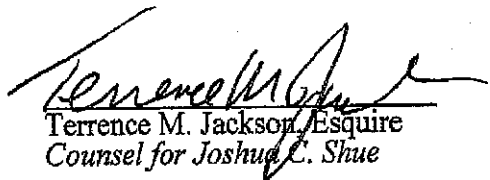
6
7 
8 Terrence M. Jackson, Esquire
9 Nevada Bar No. 00854
10 624 South Ninth Street
11 Las Vegas, Nevada 89101
12 T(702) 386-0001 / Fax (702) 386-0085
13 Counsel for Joshua Caleb Shue

14 **NOTICE OF MOTION**

15 **TO: CLARK COUNTY DISTRICT ATTORNEY:**

16 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring
17 the above and foregoing **MOTION FOR PSYCHIATRIC EXAMINATION OF ALLEGED**
18 **VICTIM** on for hearing on the 8 day of Oct., 2013, at the hour of 9:30 a.m./p.m.
19 in Department XXI of the above-entitled Court or as soon thereafter as counsel may be heard.

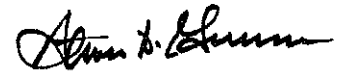
20 DATED this 27th day of September, 2013.

21 
22 Terrence M. Jackson, Esquire
23 Counsel for Joshua C. Shue

24 **CERTIFICATE OF SERVICE**

25 I hereby certify that service of **MOTION FOR PSYCHIATRIC EXAMINATION OF**
26 **VICTIM**, was made this 27TH day of September, 2013, by electronic efile service to: Clark County
27 District Attorney, Attn.: Leah Beverly, Deputy District Attorney, at PDMotions@ccdavn.com.

28 BY: /s/ Ila Wills
Employee of Terrence M. Jackson



CLERK OF THE COURT

1 **MOTN**
2 Terrence M. Jackson, Esquire
3 Nevada Bar No. 00854
4 624 South Ninth Street
5 Las Vegas, Nevada 89101
6 Ph (702) 386-0001 / Fax (702) 386-0085
7 *Attorney for Defendant Joshua C. Shue*

8 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
9 **OF THE STATE OF NEVADA**
10 **COUNTY OF CLARK**

11 **STATE OF NEVADA,**

CASE NO.: C-13-288172-1

12 **Plaintiff,**

DEPT NO.: XXI

13 **v.**

14 **JOSHUA C. SHUE,**
15 **#1550230,**

16 **Defendant.**

17 **MOTION TO VACATE AND RESET TRIAL DATE**

18 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE
19 M. JACKSON, ESQ., and moves this Court to enter an Order vacating the trial date set for
20 October 7, 2013.

21 As grounds for this Motion, Defendant states that recent investigation has developed facts
22 which require additional investigation into new areas which are necessary to complete before
23 trial in order to render effective assistance of counsel.


24 It should be noted that the State has recently added numerous additional witnesses to its
25 witness list and has not supplied any additional discovery. If possible, these witnesses need to be
26 contacted pre-trial. One witness in particular, Gerado Huerta, has no listed address. Locating him
27 will be difficult and may be time consuming. Another key witness, Hazel Iral, needs to be
28 examined by a medical doctor for a psychological examination. Based upon recently developed
information, counsel has filed a Motion for such a psychological examination.

Counsel for Defendant has not been dilatory in preparing for trial. He has interviewed
witnesses, filed motions and reviewed the available discovery.

1 This Motion for a continuance is made in good faith and not for the purposes of delay.
2 WHEREFORE, for the above stated reasons Defendant respectfully requests the court enter an
3 Order granting a continuance.

4 DATED this 27th day of September, 2013.

5 Respectfully Submitted,


6
7 
8 Terrence M. Jackson, Esquire
9 Nevada Bar No. 00854
10 624 South Ninth Street
11 Las Vegas, Nevada 89101
12 T(702) 386-0001 / Fax (702) 386-0085
13 Counsel for Joshua Caleb Shue

14 **NOTICE OF MOTION**

15 **TO: CLARK COUNTY DISTRICT ATTORNEY:**

16 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring
17 the above and foregoing **MOTION TO VACATE AND RESET TRIAL DATE** on for hearing on
18 the 10 day of 10, 2013, at the hour of 9:00^{AM} a.m./p.m. in Department XXI of the
19 above-entitled Court or as soon thereafter as counsel may be heard.

20 DATED this 27th day of September, 2013.

21 
22 Terrence M. Jackson, Esquire
23 Counsel for Joshua C. Shue

24 **CERTIFICATE OF SERVICE**

25 I hereby certify that service of **MOTION TO VACATE AND RESET TRIAL DATE**, was
26 made this 27TH day of September, 2013, by electronic efile service to: Clark County District
27 Attorney, Attn.: Leah Beverly, Deputy District Attorney, at PDMotions@ccdanv.com.

28 BY: /s/ Ila Wills
Employee of Terrence M. Jackson


CLERK OF THE COURT

1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH C. BEVERLY
6 Deputy District Attorney
7 Nevada Bar #12556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13 Plaintiff,

14 -vs-

15 JOSHUA C. SHUE, aka,
16 Joshua Caleb Shue, #1550230
17 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

18 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR PSYCHIATRIC**
19 **EXAMINATION OF ALLEGED VICTIM**

20 DATE OF HEARING: October 8, 2013
21 TIME OF HEARING: 9:30 AM

22 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
23 District Attorney, through LEAH C. BEVERLY, Deputy District Attorney, and hereby
24 submits the attached Points and Authorities in Opposition to Defendant's Motion for
25 Psychiatric Examination of Alleged Victim.

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

///

///

POINTS AND AUTHORITIES

Defendant Joshua Shue is seeking to have one of the victims in the instant case, Hazel Iral, submit to a psychiatric exam by a court appointed doctor. Defendant claims that Hazel has a history mental instability and as such, her credibility is highly suspect and should be examined. As support for the instant Motion, Defendant claims that Hazel has a history of being a runaway, self destructing, heavy alcohol consumption and a "less than stellar respect for the truth." Defendant also claims that the State and its agents are pressuring Hazel into testifying falsely by providing her with financial assistance and threatening to incarcerate Hazel if she does not testify against the Defendant.

As an initial matter, Defendant has failed to provide any evidence whatsoever to support the outlandish claims he is making against Hazel and the State of Nevada and its agents. None of Defendant's claims about the State or its agents are true. In fact, all claims are completely false. Furthermore, the claims against Hazel are untrue and Defendant has failed to provide any support for the "facts" he claims to have regarding Hazel.

The cases cited by Defendant in the instant motion to support his request for a psychiatric exam all involve cases where there are allegations of sexual assault. Defendant fails to mention, however, that this is not a sexual assault case. Defendant has failed to cite to any law that stands for the proposition that in any case where a victim's credibility may be at issue, the court can order a psychiatric examination of the victim. If that were the case, the court could order any victim, in any type of case to undergo a psychiatric exam. Such result would be ludicrous. If Defendant wants to challenge the credibility of the victim, he will have more than ample time to do so on cross examination.

Additionally, even if this were a sex assault case, there is still no basis for Hazel to undergo a psychiatric examination. In Koerschner v. State, the Nevada Supreme Court resolved the ambiguity in its previous decisions regarding the basis of psychiatric examinations for child victims in sex assault cases and held:

///

///

1 In this, we return to the statement in Washington that the trial
2 judge should order an examination if the defendant presents a
3 compelling reason for such an examination...We now also hold
4 that whether a compelling need exists for such an intrusion is not
5 a factor to be considered along with the other three factors.
6 Rather it is the overriding judicial question which must be
7 resolved based upon the other three factors. Thus, compelling
8 reasons to be weighed, not necessarily to be given equal weight,
9 involve whether the State actually calls or obtains some benefit
10 from an expert in psychology or psychiatry, whether the
11 evidence of the offense is supported by little or no corroboration
12 beyond the testimony of the victim, and whether there is a
13 reasonable basis for believing that the victim's mental or
14 emotional state may have affected his or her veracity.

15 Koerschner v. State, 116 Nev. 1111, 1116-17; 13 P.3d 451, 455 (2000). In the instant case,
16 Defendant has failed to present a compelling reason for a psychiatric examination of Hazel.
17 As noted above, this is not a sexual assault case. It is a case involving child pornography. In
18 fact, Defendant specifically filed a Motion in Limini requesting that the lead detective in this
19 case not refer to any allegations of sexual assault because sex assault is not charged in this
20 case. The State did not object to that Motion in Limini and advised that they State would
21 make sure not to reference any allegations of sexual assault between Defendant and victim
22 Hazel.

23 Furthermore, the State has no intention of calling any experts in this case or
24 benefiting from any experts in psychology or psychiatry. Additionally, the offenses in this
25 case are supported by much more than Hazel's testimony. In fact, the offenses in this case
26 are all captured on videos and photographs, found on the Defendant's computer and camera,
27 found inside the Defendant's apartment. Therefore, corroboration is great in this case.
28 Finally, Defendant has failed to present any reasonable basis for believing the victim's
mental or emotional state may have affected Hazel's veracity. All of Defendant's claims are
bare and inflammatory allegations unsupported by any available evidence. Whether or not
Hazel was a runaway or a "cutter" has absolutely nothing to do with whether the Defendant
videotaped Hazel and her brother in the bathroom of the home. In fact, the majority of
Hazel's testimony at the grand jury focused on identifying herself and her brother in the

1 various videos. Unless Hazel is lying about identifying herself, her veracity is really not an
2 issue in this case. As Defendant has failed to meet the requirements for a psychiatric
3 examination, the instant motion should be denied.

4 **CONCLUSION**

5 Based on the foregoing, the State respectfully asks this Court to deny Defendant's
6 Motion.

7 DATED this 7th day September, 2013.

8 Respectfully submitted,

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

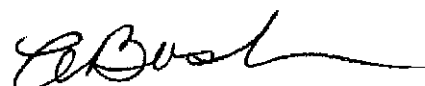
11 BY 

12 LEAH C. BEVERLY
13 Deputy District Attorney
Nevada Bar #12556

14
15 **CERTIFICATE OF FACSIMILE TRANSMISSION**

16
17 I hereby certify that service of State's Opposition to Defendant's Motion for
18 Psychiatric Examination of Alleged Victim, was made this 7th day of October, 2013, by
19 facsimile transmission to:

20
21 TERRENCE M. JACKSON, ESQ.
FAX #702-386-0085

22 
23 Secretary for the District Attorney's Office

24
25
26
27
28 12F13527X: LCB/ckb/L3

1 ACKN
2 TERRENCE M. JACKSON
3 Nevada Bar No.: 00854
4 624 South Ninth Street
5 Las Vegas, NV 89101
6 (702) 386-0001 / Fax (702) 386-0085
7 Counsel for Joshua C. Shue


CLERK OF THE COURT

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IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA C. SHUE,
#1550230

Defendant.

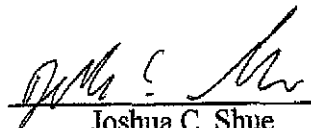
CASE No.: C-13-288172-1

DEPT. No.: XXI

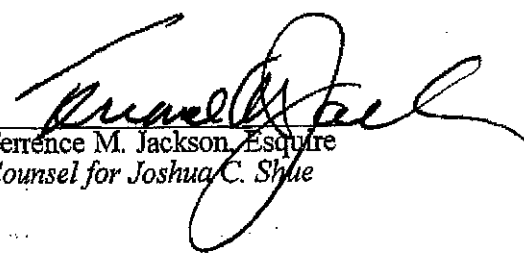
ACKNOWLEDGMENT
OF TRIAL DATE

I, JOSHUA C. SHUE, hereby acknowledge the date of my trial in case C-13-288172-1 has been set for June 2, 2014 at 9:30 a.m. in District Court 21. I understand I must be present on that date.

DATED this 11 day of October, 2013.


Joshua C. Shue

Respectfully submitted,


Terrence M. Jackson, Esquire
Counsel for Joshua C. Shue

1 **ROPP**
Terrence M. Jackson, Esquire
2 Nevada Bar No. 00854
624 South Ninth Street
3 Las Vegas, Nevada 89101
Ph (702) 386-0001 / Fax (702) 386-0085
4 *Attorney for Defendant Joshua C. Shue*


CLERK OF THE COURT

5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
7 **OF THE STATE OF NEVADA**
8 **COUNTY OF CLARK**

9
10 STATE OF NEVADA,

CASE NO.: C-13-288172-1

11 Plaintiff,

DEPT NO.: XXI

12 v.

13 JOSHUA C. SHUE,
14 #1550230,

Defendant.

15
16 **REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR**
17 **PSYCHIATRIC EXAMINATION OF ALLEGED VICTIM**
18

19 COMES NOW the Defendant, Joshua C. Shue, by and through his attorney, TERRENCE M.
20 JACKSON, ESQ., and replies to the Government's Response to his Motion for a psychiatric
21 examination of the alleged victim, Hazel Iral, dated October 7, 2013.

22 The prosecution in their Response does not dispute the case law cited by the defense, but
23 makes instead two very weak arguments which can be easily rebutted.

24 The prosecution's principle argument is that there was no factual support for Defendant's
25 contention that the prosecution's witness, Hazel Iral, has serious psychological issues that may likely
26 impinge on her credibility. The Government even states that Defendant's claims against Hazel are
27 "outlandish" and the claims against Hazel and Government Agents are all completely false.

28 Defendant states that the prosecution must not have done any investigation into the

1 background of Hazel Iral to be unaware of her psychological difficulties. An evidentiary hearing will
2 establish this conclusively.

3 The attached affidavit of licensed investigator, Blair Abbott, details information he received
4 in face to face interviews with witnesses who are intimately familiar with Hazel Iral. These
5 interviews were voluntary and conducted in the Law Office of Terrence M. Jackson. The affidavit
6 of Blair Abbott also details the belief of witness Anita Iral that her daughter, Hazel Iral, is being
7 psychologically coerced and manipulated by the Las Vegas Metropolitan Police. Anita Iral advised
8 Blair Abbott that Detective Ryan threatened Hazel Iral with arrest and that "someone was going to
9 jail and if it wasn't Joshua Shue it would be her." Furthermore, Anita Iral also believes that the State
10 has provided financial support to Hazel Iral which she believes is contingent on Hazel Iral's
11 cooperation with the Metropolitan Police.

12 The second argument the Government makes, in addition to the argument that the defense
13 Motion is based solely upon 'base allegations' is that a psychological evaluation of Hazel Iral is
14 unnecessary because her testimony is **not** essential to the case. They state ... "Hazel's veracity is not
15 at issue in the case." The Government apparently would like to have Hazel Iral, the center of the
16 case, not be subject to questioning or investigation. The constitutional right to a broad cross-
17 examination to explore various defenses and test the credibility of Hazel Iral on different issues
18 seems unnecessary to the State.

19 Without revealing the defense theory of the case or detailing areas of cross-examination in
20 advance, counsel asserts that the credibility of Hazel Iral will have a direct impact on whether or not
21 the State can prove their case beyond a reasonable doubt.

22 Counsel will be happy to provide the court a sealed affidavit detailing potential areas of
23 questioning or issues of a defense that will be directly impacted by the credibility of Hazel Iral.
24 Defendant submits it is a fundamental principle of law that a defendant should not have to give his
25 work product to the state before trial.

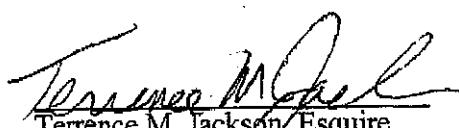
26 It is respectfully submitted the prosecution seems particularly fearful that a psychological
27 examination of Hazel Iral will destroy their case. It should be noted that the Clark County District
28 Attorney's Office sexual assault unit has been shown recently to have abused its power by hiding

1 and/or destroying vouchers for the payment of government witnesses. This type of improper
2 prosecutorial behavior cannot be tolerated. (See Exhibit A)

3 Defendant is concerned his due process rights may have been violated in this case because
4 government denials they have paid their primary witness are contradicted by other evidence.

5
6 DATED this 23~~rd~~ day of October, 2013.

7
8 Respectfully Submitted,

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11 
12 Terrence M. Jackson, Esquire
13 Nevada Bar No. 00854
14 624 South Ninth Street
15 Las Vegas, Nevada 89101
16 T(702) 386-0001 / Fax (702) 386-0085
17 Counsel for Joshua Caleb Shue

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CERTIFICATE OF SERVICE

I hereby certify that service of **REPLY TO STATE'S OPPOSITION TO DEFENDANT'S**
MOTION FOR PSYCHIATRIC EXAMINATION OF ALLEGED VICTIM, was made this
23~~rd~~ day of October, 2013, by electronic efile service to:

Clark County District Attorney,
Attn.: Leah Beverly, Deputy District Attorney, at
PDMotions@ccdavnv.com.

BY: /s/ Ila Wills
Employee of Terrence M. Jackson

...

AFFIDAVIT OF BLAIR ABBOTT

STATE OF NEVADA

COUNTY OF CLARK

)
)
)

Blair Abbott, being first duly sworn deposes and states:

1. Affiant is a licensed, professional investigator, in good standing and licensed to practice in both the State of Nevada and Arizona.

2. Affiant has previously worked as a licensed private investigator for thirty-one (31) years and is trained and experienced in interviewing witnesses.

3. At the request of counsel, Terrence M. Jackson, on September 16, 2013, I interviewed three witnesses in the case of State of Nevada v. Joshua Shue (case no.: C-13-288172-1). The witnesses are Anita Iral, Curt Iral and Franzke Iral, the mother and older and younger brother, respectively, of the alleged victim, Hazel Iral.

4. The interviews were conducted in the Law Office of Terrence M. Jackson. Each witness was interviewed separately. Present during each interview were attorney Terrence Jackson and his legal assistant Ila Wills and myself.

5. Anita Iral was questioned about the charges relating to Joshua Shue and about her daughter's relationship to Joshua Shue. Ms. Anita Iral advised that her daughter Hazel Iral was reluctant to testify but that she believed Hazel had been pressured by the Las Vegas Metropolitan Police Department Detective Ryan Jaeger. Anita Iral stated that Hazel was actually threatened with arrest if she did not cooperate in the investigation. Ms. Iral stated further that her daughter has various psychological difficulties including self abuse, i.e., cutting herself with a razor, and that she had also been a runaway and had problems in school.

6. Anita Iral stated she believes that agents of the State, possibly including the District Attorney prosecuting the case (Leah Beverly) were providing financial resources to Hazel Iral, which they threatened to cut off if she did not cooperate with the prosecution of Joshua Shue. Anita noted that within the past few months Hazel has a new laptop computer as well as an expensive new cell phone, both items she had wanted and asked for, but Anita had previously told her they did not have the funds to provide these items quickly and she would have to wait until Christmas. (Possibly a digital

1 camera too)

2 7. Curt Iral, the middle child and 15 year old brother of Hazel Iral, was also interviewed. He
3 confirmed that Hazel had serious psychological issues. He was aware of her self-cutting on her arms,
4 and stated she also cut her hair every time she had a fight with her boyfriend, recalling one incident
5 in particular where she cut her hair three times in the span of just a few weeks. He also stated
6 vehemently that he doesn't believe what she says because "she frequently lies."

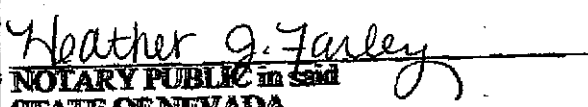
7 8. I am attempting to interview Hazel Iral to confirm whether she has been threatened by law
8 enforcement agents or CPS. I will also request all vouchers paid to her by the government, as was
9 done in other cases and will subpoena all vouchers or receipts of payment by the Clark County
10 Victim Witness Office, the Las Vegas Metropolitan Police Department and Child Protective Services,
11 and/or the Clark County District Attorney's Office.

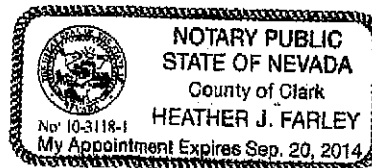
12
13 Further affiant sayseth naught.

14
15 
BLAIR ABBOTT

16 SUBSCRIBED AND SWORN to

17
18 before me this 23rd day of Oct, 2013.

19
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21 
22 NOTARY PUBLIC in said
STATE OF NEVADA
COUNTY OF CLARK



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IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
COUNTY OF CLARK

CASE NO.: C-13-288172-1
DEPT NO.: XXI

EXHIBIT 'A'

2009 PU

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LOCALLY O

CRIME

DA defends paying witnesses

By BETHANY BARNES
A version of this story was
posted on lasvegassun.com
at 2 a.m. Sunday.

A controversial practice by the District Attorney's Office that first came to light in 2009 — paying witnesses to attend pre-trial meetings with prosecutors — resurfaced last week in Clark County District Court and could have ramifications in future criminal cases.

Defense attorneys first discovered the practice after a witness admitted she'd lied under oath because she wanted her \$50 payment.

Where did she go after she met with prosecutors? To buy crack cocaine, according to news accounts.

the Nevada American Civil Liberties Union and Public Defender Phil Kohn questioned the legality of the payments. The District Attorney's Office said it was a practice that had been in place for more than 20 years in Clark County.

Newspaper articles about the practice were published. Nothing changed.

Fast forward to 2013 and the attorneys whose case revealed the practice once again threw a fit over witness payments — and a judge and jury took heed.

At issue isn't the legality of payments, but the District Attorney's Office's handwritten records of receipts for the vouchers, which witnesses redeem for cash.

It's tough to cross-examine witnesses about what they may have received when the District Attorney's Office burns the receipts, defense attorneys Dayvid Figler and Daniel Bunin argued during a two-week trial that wrapped last week.

Clark County District Judge Elissa Cadish agreed.

Cadish instructed jurors they could view the witnesses as less credible because the District Attorney's Office destroyed evidence that would have showed the amount witnesses had been paid.

The county budgets about \$1.2 million for witness fees and mileage, said county spokesman Erik Pappa. Last year, the county spent about \$860,000 of the budgeted amount.

Figler had called Felicia Hernandez, a victim's advocate in the office, to the stand after the District Attorney's Office said there was no way see how much witnesses had been paid because the handwritten records had been destroyed.

The District Attorney's Office regularly burns witness vouchers.

[See Witnesses, Page 5]

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RECEIPTS ARE REDEEMED FOR CASH, LATER BURNED

er receipts every three years, regardless of their pertinence to an ongoing case, Hernandez testified.

"It's not digital. It's not because we are trying to thwart Mr. Figler and his efforts," argued prosecutor Mary Kay Holthus. "It's because we're the county and we're the government and this is how we work."

But according to the Pappa, that isn't how it works.

These records officially belong to the county comptroller, the county's central coordinating financial agency. The retention schedule calls for imaging and scanning the records so they can be stored electronically and retained for six years.

Bunin said he didn't understand why the District Attorney's Office couldn't produce the records, particularly when the defense filed a motion asking for records of the payments in 2009.

"I don't know if they take these types of requests very seriously

over at the DA or if they just think this is the normal way of operating business," Bunin said.

"If they are doing everything on paper, I don't know why they are. They can scan it," Bunin said.

Prosecutors viewed raising questions about the payments as pointless shenanigans in an unwinnable case for the defense.

The jury saw the case differently.

On Oct. 7, a jury acquitted Gary T. Miller of 24 counts, which included charges of first-degree kidnapping and sexual assault with a minor under 14.

The case had issues beyond the payments.

"If I bought the testimony, don't you think I would have bought better testimony than that?" prosecutor Parker Brooks joked in the courtroom during a break.

While the destroyed records don't appear to have been a deciding factor for jurors, it's the

first time the pretrial payment controversy has been stirred up since 2009.

Kohn said he'd assumed the District Attorney's Office had stopped compensating witnesses for pretrial conferences after the 2009 controversy. Now that Kohn knows the practice is still happening, he'll be telling his attorneys to ask about payments, he said.

Clark County District Attorney Steve Wolfson said he was concerned about the instruction to the jury and said that he would look into it. He noted he was unfamiliar with the judge's ruling until told about it by the Sun.

"Hindsight is 20-20. If you knew that it would be an issue in a particular case, then you would go to the extra effort to retain those records," Wolfson said. "But when we handle literally thousands and thousands of cases every year, I don't know that it would be the smart expenditure of monies."

He added he didn't know enough about the issue.

Wolfson maintained compensating witnesses for pretrial meetings was legal.

Nevada law says witnesses are entitled to \$25 for "attending the courts of the State."

Meetings with prosecutors count as "court business," Wolfson said, suggesting defense attorneys also could pay their witnesses for pretrial meetings.

Bunin said that might be how Wolfson was reading the law. But if the defense were to pay a witness to meet before a trial, Bunin said he'd expect the attorney would be indicted.

Sentiment among other defense attorneys has been that they'd get in trouble for trying to pay any witness other than an expert witness.

In court, Holthus scoffed at the idea the payment could be viewed as a benefit, saying it would be better characterized as inadequate

compensation because testifying often requires the witness to do everything on hold.

Defense attorneys, however, say they have a right to know what the payments are.

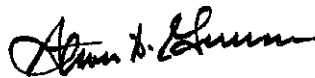
Kohn said witness payments were relevant to every case.

"They have a system that broken and they have a policy place to cover up that system Figler told the judge at trial. When the only people who are controlling their own record destroy them, there's not much more to be said."

Bunin's hopes to be able to raise the pretrial payment issue with the Nevada Supreme Court. The problem is he and Figler keep winning cases in which they raised the issue, so they can appeal.

It's a matter of waiting for the right case to come along, Bunin said.

betlhany.barnes@lasvegassun.com / 990-7714 / @betsbarn



CLERK OF THE COURT

1 **OPPM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH C. BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9
10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 JOSHUA C. SHUE,
14 aka Joshua Caleb Shue, #1550230
15 Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

16 **STATE'S SUR-REPLY TO DEFENDANT'S REPLY TO STATE'S OPPOSITION**
17 **TO DEFENDANT'S MOTION FOR PSYCHIATRIC EXAMINATION**
18 **OF ALLEGED VICTIM**

19 DATE OF HEARING: NOVEMBER 7, 2013
20 TIME OF HEARING: 9:30 AM

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
22 District Attorney, through LEAH C. BEVERLY, Deputy District Attorney, and hereby
23 submits the attached Points and Authorities in Sur-Reply to Defendant's Reply to State's
24 Opposition to Defendant's Motion for Psychiatric Examination of Alleged Victim.

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

28 ///

POINTS AND AUTHORITIES

The State stands by all representations and arguments made in the State's initial Opposition to Defendant's Motion for Psychiatric Examination of Alleged Victim filed October 7, 2013. In addition, in Defendant's Reply to the State's Opposition, they attach an affidavit from their investigator detailing how the victim's mother, Anita Iral *believed* that victim Hazel Iral was being pressured by Detectives at Metro to cooperate in the investigation. The affidavit also states that Anita *believes* the State aka Deputy District Attorney Leah Beverly is providing Hazel with computers, phones and cameras. Again, Defense Counsel fails to provide any basis for these "beliefs." It is also interesting to note that Anita Iral is not a cooperating witness in this case as evidenced by her testimony at the Grand Jury Proceedings. See Grand Jury Transcript (GJT) pg 64-69. In fact, Anita admitted during testimony at the Grand Jury that she told her daughter Hazel not to speak to the cops about this case. GJT, pg. 65. At the Grand Jury, Detective Jaeger also testified about how uncooperative Anita Iral was. The following exchange occurred:

Q: Did you ever during the course of your investigation have a chance to speak to her mother?

A: Yes...

Q: And was she cooperative in your investigation?

A: No

Q: What was her demeanor? What was her attitude while you were talking to her?

A: She was put in a bind where, Joshua I thing was the breadwinner, Joshua was kind of paying her way. With him in jail or them being apart I don't think she could make it on her own so she was taking Joshua's side. She needed his support and I think she truly loved him and she was under the impression that Hazel was the reason that they had broken up.

Q: Did you during the course of your conversation with Hazel's mother ever threaten her in any manner?

1 A: I don't know about threaten her but I told her what was going to happen. I
2 went back to we found a bunch of videos on the computer and we didn't know
3 the location that those videos took place so I met with hazel so she could kind
4 of view the videos and tell us if it was her apartment, if it was his apartment.
5 And before I did that I reached out to the mom and said I'm going to meet with
6 Hazel. The mom wasn't too happy with it. She did tell me how much she did
7 not like me and how much she thought I was wrecking her life.

8 GJT, 17-18. While Defense Counsel fails to attach an affidavit from Anita who is making all
9 of these claims about her own daughter, it is also clear that Anita is willing to say whatever
10 she can to protect the Defendant at any cost.

11 Additionally, the State asks this Court to refer to the attached affidavit from Deputy
12 District Attorney Leah Beverly in regards to the claims that the State is providing Hazel Iral
13 with any type of improper assistance and/or gifts.

14 Finally, counsel's beliefs and unfounded rhetoric that the district attorney's office
15 sexual assault unit has been shown to be abusing their power by hiding or destroying
16 vouchers is simply improper argument in any case and in particular, this case. The vouchers
17 related to payments made to Hazel Iral during the course of this case have not been
18 destroyed and are attached as Exhibit 1 to the instant Reply. As Defendant has failed to meet
19 the burden for a psychiatric examination of the victim, his motion should be denied.

20 CONCLUSION

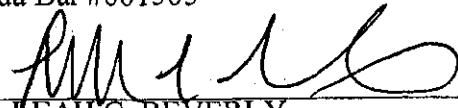
21 Based on the foregoing, the State respectfully asks this Court to deny Defendant's
22 Motion.

23 DATED this 6th day November, 2013.

24 Respectfully submitted,

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

28 BY


LEAH C. BEVERLY
Chief Deputy District Attorney
Nevada Bar #012556


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Sur-Reply To Defendant's Reply To State's
Opposition To Defendant's Motion For Psychiatric Examination Of Alleged Victim, was
made this 6th day of November, 2013, by facsimile transmission to:

TERRENCE M. JACKSON, ESQ.
386-0085

BY:



C. Cintola
Employee of the District Attorney's Office

AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } ss:

Leah C. Beverly, being first duly sworn, deposes and says:

1. That I am the Deputy District Attorney assigned to prosecute the case of State of Nevada vs. Joshua Shue.
2. That I was assigned to prosecute this case on October 9, 2012.
3. That on December 27, 2012, I spoke to victim Hazel Iral for the first time via telephone. At no point during that conversation did I ever threaten Hazel, or promise her any benefits.
4. On February 19, 2013, I met with Hazel Iral and her foster mother in person to discuss the case. At no point during our discussion did I ever threaten Hazel or force her to cooperate, promise her any benefits or provide her with any computers, cell phones, cameras or any other devices or gifts.
5. On March 8, 2013, I met with Hazel Iral in person to prepare her for the upcoming grand jury. At no point during our discussion did I ever threaten Hazel or force her to cooperate, promise her any benefits or provide her with any computers, cell phones, cameras or any other devices or gifts.
6. On March 12, 2013, Hazel testified at the grand jury. At no point before or after her grand jury testimony did I ever threaten Hazel or force her to cooperate, promise her any benefits or provide her with any computers, cell phones, cameras or any other devices or gifts.
7. Since the grand jury, I have had several phone conversations with Hazel regarding the status of the case. In none of those conversations have I ever threatened Hazel or forced her to cooperate, promised her any benefits or provided her with any computers, cell phones, cameras or any other devices or gifts.


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8. On October 31, 2013, I spoke to Detective Jaeger. He informed me that he has never threatened to prosecute Hazel or arrest her if she did not cooperate in the investigation.
9. On November 6, 2013, my investigator Marco Rafalovich and I contacted Hazel Iral. Hazel indicated that neither I nor Detective Jaeger have ever threatened to arrest or prosecute her if she did not cooperate in this case. Hazel also confirmed that I have never provided her with any type of gifts.

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

Executed on 11-6-2013
(Date)


LEAH C. BEVERLY

LB/cc/L3

EXHIBIT "1"

[Redacted content]

OFFICE OF THE DISTRICT ATTORNEY
VICTIM-WITNESS ASSISTANCE CENTER
CLARK COUNTY, NEVADA

No. 433943

DATE:

3-8-13

This voucher is valid for 15 days from date of issue.

PAY TO THE ORDER OF

Hazel Neal

CASE NO.

49

Second Signature Required For Fees Over \$100

1 Days @ \$25.00 \$

25.00

MILEAGE/MISC. \$

0

TOTAL \$

25.00

SIGNATURE OF RECIPIENT

I hereby certify that I have appeared to testify in the above cited case, and am entitled to a witness fee.

[Signature]
VWAC REPRESENTATIVE

EXHIBIT "1"

SUBPOENA

THE STATE OF NEVADA
vs.
SHUE, JOSHUA C

CASE # XXXXXXXXX CATEGORY: SEX OFFENSE
AGENCY # 1200049037 ITAGB 1208231707 MPD 1417397 ITAGC

STEVEN WOLFSON, CLARK COUNTY DISTRICT ATTORNEY, AND THE STATE OF NEVADA SEND GREETINGS TO:

IRAL, HAZEL (01)
6650 W WARM SPRINGS RD
#1041
LAS VEGAS NV 89118

WORK ADDRESS:
HAZELANNEMARIE@GMAIL.COM
LAS VEGAS NV 89000

HOME PHONE: (702) 771-6221 *Not valid*

WORK PHONE: NONE

YOU ARE COMMANDED TO APPEAR BEFORE THE

CLARK COUNTY GRAND JURY
REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, RM 00136
LAS VEGAS, NV 89101

DEPARTMENT #

G

on the 12TH DAY OF MARCH, 2013 AT 8:00 O'CLOCK A.M. to testify for the State of Nevada.

SPECIAL INSTRUCTIONS: NONE

DATED: 03/01/2013

BY: *[Signature]*
LEAH BEVERLY
DEPUTY DISTRICT ATTORNEY

TEAM TRACK: L-3
Please keep this subpoena and bring it with you to court.

*** IMPORTANT ***

PLEASE CALL (702) 671-2570 BETWEEN 8:00 A.M.
AND 5:00 P.M. THE DAY BEFORE YOUR SCHEDULED
GRAND JURY APPEARANCE.

P

OFFICE OF THE DISTRICT ATTORNEY
VICTIM-WITNESS ASSISTANCE CENTER
CLARK COUNTY, NEVADA

No. **43351**

DATE: 3/12/13

This voucher is valid for 15 days from date of issue.

PAY TO THE ORDER OF Irish, Hazel CASE NO. G.J.

Second Signature Required For Fees Over \$100

1 Days @ \$25.00 \$ 25.00

0 MILEAGE/MISC. \$ 0.00

TOTAL \$ 25.00

SIGNATURE OF RECIPIENT

V.S. Quinlan
VWAC REPRESENTATIVE

I hereby certify that I have appeared to testify in the above cited case, and am entitled to a witness fee.

When you call to verify receipt of your subpoena, please notify us if there are any changes to your address or telephone number. Thank you.

CHARGES: CAPTURING IMAGE OF PRIVATE AREA OF ANOTHER; USE MIN OR IN PORN; PREP/ADVERT/DISTR PORN-LVMPD/CED

PROSECUTOR: LEAH BEVERLY

DEFENDANT: SHUE, JOSHUA C
CASE #: XXXXXXX
CATEGORY: SEX OFFENSE

COURT DATE: 03/12/2013 08:00AM
DEPARTMENT: G

Please check the box above if there are any changes to your address or phone number, and make the changes below.

IRAL, HAZEL (01)

HOME: 6650 W WARM SPRINGS RD
#1041
LAS VEGAS NV 89118
HOME PHONE: (702) 771-8221

WORK: HAZELANNEMARIE@GMAIL.COM
LAS VEGAS NV 00000

WORK PHONE: NONE

I hereby acknowledge receipt of this Subpoena, and by my signature promise to appear at the place and date indicated thereon.

OPA Per Leah
SIGNATURE OF WITNESS

3.8.13
DATE

3.4.13 PM

Alan D. Shue
CLERK OF THE COURT

MDIS
TERRENCE M. JACKSON, ESQUIRE
Nevada Bar No. #0854
Law Office of Terrence M. Jackson
624 South Ninth Street
Las Vegas, Nevada 89101
(702)386-0001
(702)386-0085 FAX

Counsel for Joshua C. Shue

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSHUA C. SHUE,
#1550230

Defendant.

Case No: C-13-288172-1

Dept. No.: XXI

MOTION FOR DISCOVERY

COMES NOW Defendant, JOSHUA SHUE, by and through his counsel, TERRENCE M. JACKSON, ESQ., and moves this honorable court to enter an appropriate order compelling the State of Nevada to release statutorily and Constitutionally compelled discovery. This Motion is based upon the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, NRS 174.635 *et seq.*, the accompanying Points and Authorities, all prior pleadings filed in this case and such further facts as will come before this court on a hearing on this Motion.

Defendant respectfully requests the following items in discovery be provided immediately:

- (1) Records of the cash payments to all witnesses by the Clark County District Attorney's Office or by the Las Vegas Metropolitan Police Department to any of the witnesses for the instant case;
- (2) The substance of any destroyed records regarding this case;
- (3) The records of a written or verbal promise of leniency made to any witnesses including agreements to dismiss charges, not prosecute charges, reduce charges or reduce sentence(s);

- 1 (4) Any threats to prosecute any witness;
- 2 (5) Any promises to a witness to relocate or assist a witness to gain housing, any
- 3 payments for rental assistance or subsidized housing and any records thereof;
- 4 (6) The criminal records of any testifying witnesses including all felony convictions and
- 5 all issues relating to dishonesty or fraud including juvenile records if they relate to
- 6 credibility;
- 7 (7) The mental health records of Hazel Iral in the possession of the Clark County District
- 8 Attorney or Child Protective Services;
- 9 (8) The relevant disciplinary records of Detective Ryan Jaeger, including but not limited
- 10 to any records that show infractions for intimidating witnesses and/or his use of
- 11 inappropriate police tactics that violate due process or that reflect on his lack of
- 12 credibility;
- 13 (9) Any other discovery evidence compelled by the United States Constitution and *Brady*
- 14 *v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972).

15 MEMORANDUM OF POINTS AND AUTHORITIES

16 ARGUMENT

17 I. STATE'S OBLIGATION TO PROVIDE DISCOVERY PURSUANT TO THE

18 UNITED STATES CONSTITUTION

19 According to NRS 174.235 and *Brady v. Maryland*, 373 U.S. 83 (1963), the state has a duty
20 to disclose material evidence. Failure to do so results in a violation of Due Process under the Fifth
21 and Fourteenth Amendments of the United States Constitution. The rule applies regardless of how
22 the state has chosen to structure its overall discovery process. *Brady v. Maryland*, 373 U.S. 83
23 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Strickler v. Greene*, 527 U.S. 263 (1999). The
24 government has a duty to disclose *Brady* material even in the absence of a request by the defense.
25 See, *Kyles*, supra. The Nevada Supreme Court has addressed the import of NRS 174.235:

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

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

7 A prosecutor’s duty under *Brady* necessarily requires the cooperation of other government
8 agents who might possess *Brady* material. *United States v. Blanco*, No. 03-10390, U.S. Court of
9 Appeals, Ninth Circuit, p. 17276 (December 27, 2004). In *United States v. Zuno-Arce*, 44 F.3d 1420
10 (9th Cir.195) (as amended), the Court explained why “it is the government’s, not just the
11 prosecutor’s, conduct which may give rise to a *Brady* violation.” *Id.* at 1427. It noted:

12 “Exculpatory evidence cannot be kept out of the hands of the defense just
13 because the prosecutor does not have it, where an investigating agency does. That
14 would undermine *Brady* by allowing the investigating agency to prevent production
15 by keeping a report out of the prosecutor’s hands until the agency decided the
16 prosecutor ought to have it, and by allowing the prosecutor to tell the investigators
17 not to give him certain materials unless he asked for them.”

18 *Id.*; see also *United States v. Monroe*, 943 F.2d 1007, 1011 n.2 (9th Cir.1991)(stating that “the
19 prosecution must disclose and [*Brady*] information within the possession or control of law
20 enforcement personnel”) (quoting *United States v. Hsieh Hui Mei Chen*, 754 F.2d 817, 824 (9th Cir.
21 1985)).

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

25 A. Materiality

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

 Even if a specific request has not been made, reversal is also warranted “if there exists a

1 reasonable probability that, had the evidence been disclosed, the result of the proceeding would have
2 been different.” *United States v. Bagley*, 473 U.S. 667, 682, 685 (1985); *Pennsylvania v. Ritchie*, 480
3 U.S. 39, 57 (1986). A ‘reasonable probability’ is a probability sufficient to undermine confidence
4 in the outcome. *Bagley*, 473 U.S. at 678, 685; *Ritchie*, 480 U.S. at 57; *Roberts*, 110 Nev. at 1128-29.
5 Therefore, absent a specific request for *Brady* material, anything that might have created a
6 probability that the confidence of the verdict was undermined is considered material. Where a
7 specific request is made, however, anything that creates a reasonable possibility that the evidence
8 might have affected the fact-finder’s judgment is material.

9 All of the evidence requested in this case is material because it relates to the police
10 investigation of this incident or the reliability of the witness testimony.

11 **B. Relevance to Guilt or Punishment**

12 *Brady* material applies not only to evidence which might affect the defendant’s guilt, but also
13 includes evidence which could serve to mitigate a defendant’s sentence if convicted. *Jiminez v. State*,
14 112 Nev. 610, 918 P.2d 687 (1996). Essentially, anything which could convince the court to impose
15 something less than a maximum sentence, or rebut alleged aggravating circumstances would be
16 relevant to punishment.

17 All of the requested material is relevant to the question of the defendant’s guilt or
18 punishment. The requested material relates to the police investigation of the incident in question or
19 the reliability of witness testimony.

20 **C. Favorability to the Accused**

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

28 “Due process does not require simply the disclosure of “exculpatory”

1 evidence. Evidence also must be disclosed if it provides grounds for the defense to
2 attack the reliability, thoroughness, and good faith of the police investigation, to
3 impeach the credibility of the state's witnesses, or to bolster the defense case against
4 prosecutorial attacks. Furthermore, "discovery in a criminal case is not limited to
5 investigative leads or reports that are admissible in evidence." Evidence "need not
6 have been independently admissible to have been material." (citations omitted)

7
8 Therefore, *Brady* material under this standard, would include criminal records or other
9 evidence concerning state's witnesses which might show their bias or otherwise impeach their
10 credibility. All of the requested material relates to the police investigation or the reliability of the
11 complaining witness' testimony and could result in impeachment evidence.

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

13 The prosecution may assert that it has an "open file" policy and that the requested material
14 is not available in its file. This argument is unavailing. In *Strickler v. Green*, 527 U.S. at 283, the
15 United States Supreme Court explicitly held that a prosecutor's open file policy does not in any way
16 substitute for or diminish the state's obligation to turn over *Brady* material. The Nevada Supreme
17 Court is in accord. "It is a violation of due process for the prosecutor to withhold exculpatory
18 evidence, and his motive for doing so is immaterial." *Jiminez v. State*, 112 Nev. 610, 618, 918 P.2d
19 687, 692 (1996). Furthermore, "even if the detectives withheld their reports without the prosecutor's
20 knowledge, 'the state attorney is charged with constructive knowledge and possession of evidence
21 withheld by other state agents, such as law enforcement officers.'" *Id.* 112 Nev. at 620 (citation
22 omitted).

23 In *Kyles v. Whitley*, 514 U.S. 419 (1995), the United States Supreme Court made it clear that
24 the prosecutor has an affirmative obligation to obtain *Brady* material and provide it to the defense,
25 even if the prosecutor is initially unaware of its existence. In so finding, the Supreme Court noted
26 that "[t]he prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its
27 origins to early 20th century strictures against misrepresentation and is of course most prominently
28 associated with this Court's decision in *Brady v. Maryland* ..." *Id.* 514 U.S. at 432. The *Kyles* Court
also made it clear that this obligation exists even where the defense does not make a request for such
evidence. *Id.*

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

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

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

10 There can be little question, therefore, that despite its "open file policy," the prosecution has
11 an affirmative duty to seek out the previously discussed *Brady* material, regardless of whether such
12 material is in the hands of the prosecutor or in the hands of some other entity acting on behalf of the
13 state. All requested in the instant matter are known or thought to be in the hands of the prosecutor
14 or police.

15 II. STATE'S OBLIGATION TO PROVIDE DISCOVERY UNDER NEVADA LAW

16 This Motion shall also serve as a request under NRS 174.235 that the State allow the
17 defendant to inspect and copy any and all evidence which the defendant is entitled to under Nevada
18 law as listed in the above statute.

19 CONCLUSION

20 In order for Mr. Shue to exercise his constitutional right to a fair trial, it is imperative that
21 the State disclose and permit the defense to have a copy of all material evidence in a timely fashion
22 prior to trial. Should this information be provided for the first time during trial, the defense will
23 demand dismissal of all charges against Mr. Joshua Shue for a *Brady* violation that violates the Due
24 Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

25 DATED this 3rd day of December, 2013.

26 /s/ Terrence M. Jackson
27 TERRENCE M. JACKSON, ESQUIRE
28 Counsel for Defendant, Joshua C. Shue

1 NOTICE OF MOTION

2
3 TO: CLARK COUNTY DISTRICT ATTORNEY

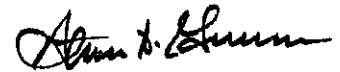
4 YOU WILL PLEASE TAKE NOTICE that a Motion for Discovery in the above-captioned
5 case will be heard on the 17 day of December, 2013, at the hour of 9:30 am AM/PM in the
6 Clark County Courthouse.

7
8 Terrence M. Jackson, Esquire

9
10
11 CERTIFICATE OF FACSIMILE

12
13
14 A copy of the above and foregoing Motion for Discovery was sent via facsimile after e-filing
15 via the Clark County Courts *WizNet* website to the District Attorney's Office (702-455-2294) to the
16 attention of **Deputy District Attorney Leah Beverly** this 4th day of December, 2013.

17
18 By: /s/ Ila C. Wills
19 An employee of T.M. Jackson, Esq.
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28



CLERK OF THE COURT

RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH C. BEVERLY
Deputy District Attorney
Nevada Bar #012556
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-

JOSHUA C. SHUE,
Aka Joshua Caleb Shue, #1550230

Defendant.

CASE NO: C-13-288172-1

DEPT NO: XXI

STATE'S RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY

DATE OF HEARING: DECEMBER 17, 2013

TIME OF HEARING: 9:30 AM

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

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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1 POINTS AND AUTHORITIES

2 ARGUMENT

3 The State concedes that its obligation to Defendant in this and every other case is to
4 provide discovery pursuant to the provisions of NRS 174.235 *et seq.*, together with any
5 exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963) and
6 its progeny.

7 NRS 174.235 states:

8 1. Except as otherwise provided in NRS 174.233 to NRS
9 174.295 inclusive, at the request of a defendant, the prosecuting
10 attorney shall permit Defendant to inspect and to copy or
11 photograph any:

12 (a) Written or recorded statements or confessions
13 made by Defendant, or any written or recorded statements made
14 by a witness the prosecuting attorney intends to call during the
15 case in chief of the state, or copies thereof, within the possession,
16 custody or control of the state, the existence of which is known,
17 or by the exercise of due diligence may become known, to the
18 prosecuting attorney;

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

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

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

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

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

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

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

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

8 Id. at 390.

9 In an attempt to justify his acquisition of the requested items, Defendant relies upon
10 Mazzan v. Warden, 116 Nev. 48, 993 P.2d 25 (2000). At first blush, Mazzan appears to give
11 the defense a blank check for acquiring any and all things that exist. However, a closer
12 reading of this case reveals that it did not remove the other requirements of materiality
13 pursuant to Brady and its progeny:

14 Brady and its progeny require a prosecutor to disclose evidence
15 favorable to the defense when that evidence is *material* either to
guilt or to punishment. See Jimenez v. State, 112 Nev. 610, 618-
16 19, 918 P.2d 687, 692 (1996).

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

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

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

22 Id. at 66-67, 36.

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

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

27 There will only be a Brady violation if the prosecution fails to provide material
28 evidence. As stated in Mazzan, evidence is material if there is a reasonable probability that

1 the result would have been different if the evidence had been disclosed. A reasonable
2 probability is shown when the nondisclosure undermines confidence in the outcome of the
3 trial.

4 Obviously, Mazzan and the majority of the cases that discuss Brady violations are
5 post-conviction proceedings. However, in those cases, it was required that it be shown that
6 the excluded evidence was material in that it might have changed the outcome of the case.
7 Because Defendant is asking for items which he contends are possibly exculpatory under the
8 blanket of Mazzan and consequently Brady, it is the State's position that Defendant should
9 have to show materiality to obtain them.

10 **The State responds to Defendant's list of requests as follows:**

- 11 1. Records of cash payments ie-witnesses fees- have already been provided to
12 defense counsel.
- 13 2. The State is unaware of any destroyed records.
- 14 3. No promises of leniency exist.
- 15 4. No threats to prosecute any witnesses exist.
- 16 5. No promises to relocate witnesses exist.
- 17 6. As a user of the National Crime Information Center (NCIC) database, the State
18 is prohibited from disseminating criminal history information to non-criminal
19 justice agencies as defined by Title 28 Code of Federal Regulations (CFR)§
20 20.3, which describes a criminal justice agency as: (1) Courts; and (2) a
21 government agency or any subunit thereof which performs the administration
22 of criminal justice pursuant to a statute or executive order, and which allocates
23 a substantial part of its annual budget to the administration of criminal justice.
24 Unless specifically authorized by federal law, access to the NCIC/III for non-
25 criminal justice purposes is prohibited. A 1989 United States Supreme Court
26 case looked at this issue from the standpoint of an invasion of privacy and
27 ruled accordingly:

28 ///

1 Accordingly, we hold as a categorical matter that a third party's
2 request for law enforcement records or information about a
3 private citizen can reasonably be expected to invade that citizen's
4 privacy, and that when the request seeks no "official
information" about a Government agency, but merely records
that the Government happens to be storing, the invasion of
privacy is "unwarranted."

5 United States Department of Justice v. the Reporters Committee for Freedom
6 of the Press, 109 S.Ct. 1468, 1485 (1989).

7 Criminal defense attorneys, public or private, and pro per defendants,
8 are not within the definition of "criminal justice agency." Nor is the criminal
9 defense function considered a "criminal justice purpose." Therefore,
10 Defendant is not entitled to the criminal history information he seeks.

11 However, if the State learns that any witness it intends to call at trial has a
12 prior felony conviction within the last ten (10) years which would be
13 admissible for impeachment purposes under NRS 50.095, the State will
14 disclose that information to the Defendant immediately. Likewise, if the State
15 learns that any witnesses it intends to call at trial has a prior misdemeanor
16 conviction bearing on truthfulness, the State will disclose that information as
17 well.

18 7. The State does not have any "mental health" records for victim Hazel Iral. In
19 so much as Defendant request any CPS records, the State objects to the
20 disclosure of any CPS records, as they are irrelevant to any issue in the instant
21 case.

22 8. If Detective Jaeger has any prior discipline infractions bearing on his
23 credibility, the State will inform Defense Counsel. However, the State objects
24 to any disclosure of the actual discipline reports if any even exist.

25 9. All other discovery has already been provided.

26 ///

27 ///

28 ///

1 Pursuant to NRS 174.245, the State requests any discovery in the defense possession to
2 include but not limited to:

- 3 1. Any audio/transcripts of any interviews conducted by defense counsel or his
4 investigator of Anita Iral, Curt Iral or any other witnesses in the instant case.
5 2. Any notes of witness interviews taken by defense counsel or his investigator.
6 3. Any photos taken by defense counsel or his investigator regarding this case.

7 **CONCLUSION**

8 The State will continue to provide discovery as required by statutory and
9 constitutional authority. As any new information becomes available, the State will disclose it
10 pursuant to its statutory and constitutional duties, as well as its "open file" policy.

11 DATED this 11th day of December, 2013.

12 Respectfully submitted,

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

15
16 BY 

17 LEAH C. BEVERLY
18 Deputy District Attorney
Nevada Bar #012556

19 **CERTIFICATE OF FACSIMILE TRANSMISSION**

20 I hereby certify that service of State's Response To Defendant's Motion For
21 Discovery, was made this 11th day of December, 2013, by facsimile transmission to:

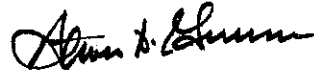
22 TERRENCE JACKSON, ESQ.
23 386-0085

24
25 BY: 

26 C. Cintola
Employee of the District Attorney's Office

27 LB/cc/L3
28

1 **MVTD**
2 **TERRENCE M. JACKSON, ESQUIRE**
3 Nevada Bar No. #0854
4 Law Office of Terrence M. Jackson
5 624 South Ninth Street
6 Las Vegas, Nevada 89101
7 (702)386-0001
8 (702)386-0085 FAX


CLERK OF THE COURT

9 *Counsel for Joshua C. Shue*

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 **THE STATE OF NEVADA,**

13 **Plaintiff,**

14 **-VS-**

15 **JOSHUA C. SHUE,**
16 **#1550230**

17 **Defendant.**

Case No: C-13-288172-1
Dept. No.: XXI

MOTION TO VACATE TRIAL
DATE AND RESET

18 COMES NOW the Defendant, JOSHUA SHUE, by and through his counsel, TERRENCE
19 M. JACKSON, ESQ., and moves this honorable court to vacate and reset trial date. As grounds for
20 this Motion, Defendant states he needs additional time to investigate and prepare and to file
21 additional necessary pretrial motions.

22 This Motion is further based upon the accompanying Affidavit of Counsel incorporated
23 herein and such further facts as will come before this court on a hearing on this Motion.

24 DATED this 26th day of March, 2014.

25 /s/ Terrence M. Jackson

26 TERRENCE M. JACKSON, ESQUIRE

27 *Counsel for Defendant, Joshua C. Shue*

28 ...

AFFIDAVIT OF TERRENCE M. JACKSON

STATE OF NEVADA }
 } ss:
COUNTY OF CLARK }

TERRENCE M. JACKSON, being first duly sworn, deposes and states:

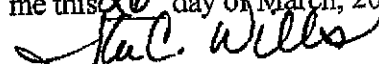
1. Affiant is an attorney in good standing, licensed to practice law in the State of Nevada;
2. Affiant is the attorney representing Joshua Shue in case no.:C-13-288172-1 ;
3. Affiant further believes that the alleged victim, Hazel Iral, has been receiving substantial economic assistance from the State of Nevada for many months;
4. Affiant states that Hazel Iral has expressed a reluctance to testify on numerous occasions to her mother, Anita Iral and to defense investigator Blair Abbott;
5. On March 20, 2014, Hazel Iral attempted to commit suicide. Affiant believes anxiety concerning the upcoming trial led directly to this attempt;
6. Anita Iral, the mother of Hazel Iral, has asked Affiant to request the court have an attorney appointed to represent Hazel Iral's interest in this case. Anita Iral advised Affiant her daughter has been subjected to enormous pressure by the State of Nevada and its representatives;
7. Affiant needs additional time to prepare motions regarding prosecutorial misconduct and to investigate further the legal/medical competence of Hazel Iral;
8. Counsel further urges this Honorable Court appoint an attorney for Hazel Iral before any further court proceedings occur.

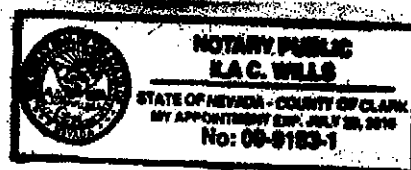
Further Affiant sayeth naught,


TERRENCE M. JACKSON, ESQUIRE

SUBSCRIBED and SWORN to before

me this 26th day of March, 2014.



NOTARY PUBLIC in and for
STATE OF NEVADA
COUNTY OF CLARK



NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY

YOU WILL PLEASE TAKE NOTICE that a Motion to Vacate Trial and Reset Trial Date in the above-captioned case will be heard on the 08 day of APRIL, 2014, at the hour of 9:30A AM/PM in the Clark County Courthouse.


Terrence M. Jackson, Esquire

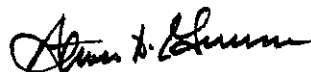
CERTIFICATE OF SERVICE

I certify I am an employee of the Law Office of Terrence M. Jackson, a person competent to serve papers and not a party to the above-entitled action and that on the 26th day of March, 2014, I served a true and correct file stamped copy of the foregoing MOTION TO VACATE TRIAL DATE AND RESET to the District Attorney's Office via the email service address noted below.

PDMotions@ccdany.com

Attn.: Deputy District Attorney Leah Beverly

By: /s/ Ila C. Wills
An employee of T.M. Jackson, Esq.



CLERK OF THE COURT

NOTM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH C. BEVERLY
Deputy District Attorney
Nevada Bar #12556
200 Lewis Ave
Las Vegas, Nevada 89155-2211
(702) 671-2600
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSHUA SHUE, #1550230

Defendant.

Case No. C288172

Dept No. XXI

NOTICE OF MOTION AND MOTION IN LIMINE

DATE OF HEARING: April 10, 2014

TIME OF HEARING: 9:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through LEAH C. BEVERLY, Deputy District Attorney, and files this Notice of Motion and Motion in Limine.

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.

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DEPARTMENT XXI
NOTICE OF HEARING
DATE 4-10-14 TIME 9:30 AM
APPROVED BY S. MacCannell

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NOTICE OF HEARING

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 XXI thereof, on Thursday, the 10th day of April, 2014, at the hour of 9:30 o'clock AM, or as soon thereafter as counsel may be heard.

DATED this 3rd day of April 2014.

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

BY


LEAH C. BEVERLY
Deputy District Attorney
Nevada Bar #12556

STATEMENT OF THE CASE

An Indictment was filed on March 13, 2013 charging Joshua Shue (hereinafter "Defendant") with one count of Child Abuse and Neglect, 29 counts of Use of Child in Production, 10 counts of Possession of Visual Presentation Depicting Sexual Conduct of a Child, and one count of Open and Gross Lewdness. Defendant plead not guilty on March 28, 2013. On April 17, 2013, Defendant filed a Pre-trial Petition for Writ of Habeas Corpus. The State filed its Return on April 30, 2013. On August 19, 2013, the Court denied Defendant's Petition.

On September 27, 2013, Defendant filed a Motion for Psychiatric Examination of the Victim. In the Motion, Defendant claimed victim Hazel had a history of serious mental instability. No proof was provided of this alleged history. The State file its Opposition on October 7, 2013. Defendant filed a Reply on October 23, 2013. The State filed a Sur-Reply on November 6, 2013. The Court denied Defendant's Motion on November 7, 2013.

On December 3, 2013, Defendant filed a Motion for Discovery. As part of the Motion, Defendant requested the mental health records of victim hazel. The State filed a Response on

1 December 11, 2013. As part of the Response, the State agreed to turn over CPS records to the
2 Court for in-camera review but noted there were no other "mental health" records of victim
3 Hazel. On December 17, 2013, the Court ordered the CPS records turned over but noted that
4 the State could not provide discovery that did not exist.

5 On March 26, 2014, Defendant filed a Motion to Continue trial. As part of the request,
6 Defendant claimed victim Hazel tried to commit suicide on March 20, 2014 due to the
7 overwhelming pressure being asserted on her to testify by the State of Nevada.

8 STATEMENT OF FACTS

9 During the late night hours of August 22, 2012, victim Hazel Iral returned home to the
10 apartment she shared with her mother, two brothers and her mother's boyfriend Joshua Shue
11 ("Defendant"). Grand Jury Transcript, ("GJT"), 36. Upon returning home, Hazel and
12 Defendant began to talk about Hazel's outing that evening. Id. At some point that evening,
13 Defendant used his camera to take a picture underneath Hazel's skirt. Id. After offering Hazel
14 a Shirley temple drink that "tasted different", Defendant began kissing Hazel on her mouth
15 despite the fact that Hazel had no sexual attraction to Defendant and did not want to kiss him.
16 GJT, 36-37.

17 The following day, Hazel reported this incident to the police causing Detective Ryan
18 Jaeger to interview Defendant on August 23, 2012. GJT, 11. During this interview, Defendant
19 admitted to taking a picture with a blue camera under Hazel's skirt. GJT, 12. Following this
20 interview, Detective Jaeger obtained a search warrant for the apartment where Defendant lived
21 with Hazel which authorized him to seize all digital equipment located in the apartment. GJT,
22 15. Detective Jaeger then obtained a second search warrant to actually search the electronic
23 items. GJT 16. Of particular relevance to this case was Defendant's Sony Vio laptop.

24 Upon conducting a forensic analysis on the computer, Detective Vince Ramirez
25 uncovered that the computer was registered to Defendant. GJT, 25. In addition, Ramirez found
26 over 140 video files as well as regular photographs in folders labeled "Yummm" and "Hmmm"
27 depicting children engaging in bathroom activities and children engaging in sexual activities.
28 GJT, 25, 28.

1 Hazel Iral later identified herself and her brother Curt Iral as the subject of all of the
2 video files listed in the Indictment. GJT, 38-57. In all of the videos, Defendant is seen setting
3 up a video camera in the bathroom of the apartment and either Hazel or Curt are recorded in
4 the bathroom showering, using the restroom, putting on lotion and conducting other bathroom
5 routines. Id. All of the videos show full frontal nudity of the children's genitals. Id. Hazel
6 specifically testified that each of the videos were recorded on a different day because she and
7 her brother only showered once a day. Id. Hazel also testified that both she and her brother
8 were under 18 at the time these videos were created. Id.

9 POINTS AND AUTHORITIES

10 **I. THE STATE SEEKS A PRE-TRIAL RULING PROHIBITING DEFENSE** 11 **COUNSEL TERRY JACKSON FROM ASKING ANY QUESTIONS OF** 12 **VICTIM HAZEL IRAL HER MENTAL HEALTH STATUS.**

13 Throughout the course of the litigation in the instant case, Defense Counsel Terry
14 Jackson has made very clear that he is interested in probing into the alleged mental health
15 status of victim Hazel Iral. Defense Counsel has claimed on numerous occasions that victim
16 Hazel has a long standing history of mental instability and has requested from this Court
17 mental health records of Hazel. As of March 26, 2014, Defense Counsel is still claiming that
18 Hazel is mentally instable and has now attempted to commit suicide.

19 As an initial matter, Defense Counsel has failed to provide any evidence of this alleged
20 "history of mental instability." Until March 19, 2014, there is no evidence that victim Hazel
21 has ever had any time of mental health issues. While the State acknowledges that on March
22 19, 2014, victim Hazel checked herself into the hospital because of depression and anxiety
23 due to having to face Defendant Shue in the upcoming trial, this is a far cry from the long-
24 standing mental health issues Defense Counsel claims Hazel has. Furthermore, as discussed
25 in detail below, even if victim Hazel did suffer from mental health issues, the State submits
26 that such issue is completely irrelevant to the charges in the instant case. As such, Defense
27 Counsel should be prohibited from asking these question to Hazel in front of the jury.

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1 NRS 48.015 states:

2 As used in this chapter, "relevant evidence" means evidence having any tendency to
3 make the existence of any fact that is of consequence to the determination of the action more
4 or less probable than it would be without the evidence.

5 (Emphasis added). In the instant case, Defendant is charged with 39 counts of a mix of
6 Use of Child in Production and Possession of Visual Presentation Depicting Sexual Conduct
7 of a Child. Defendant is also charged with one count of Child Abuse or Neglect and one count
8 of Open or Gross Lewdness.

9 NRS 200.710(2) states in relevant part:

10 A person who knowingly uses, encourages, entices, coerces or permits a minor to be
11 the subject of a sexual portrayal in a performance is guilty of a category A felony and shall be
12 punished as provided in NRS 200.750, regardless of whether the minor is aware that the sexual
13 portrayal is part of a performance.

14 NRS 200.730 states in relevant part:

15 A person who knowingly and willfully has in his or her possession for any purpose any
16 film, photograph or other visual presentation depicting a person under the age of 16 years as
17 the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in
18 or simulate, sexual conduct:

19 NRS 200.508 states in relevant part:

20 A person who willfully causes a child who is less than 18 years of age to suffer
21 unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed
22 in a situation where the child may suffer physical pain or mental suffering as the result of
23 abuse or neglect...

24 (b) If substantial bodily or mental harm does not result to the child:

25 (1) If the person has not previously been convicted of a violation of this section or of a
26 violation of the law of any other jurisdiction that prohibits the same or similar conduct, is
27 guilty of a category B felony and shall be punished by imprisonment in the state prison for a
28 minimum term of not less than 1 year and a maximum term of not more than 6 years...

1 4. As used in this section:

2 (a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature,
3 sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age
4 of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140
5 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed
6 or threatened with harm.

7 NRS 201.210 states in relevant part:

8 A person who commits any act of open or gross lewdness is guilty:

9 (a) For the first offense, of a gross misdemeanor.

10 Based on the elements of the charged crime, it is clear that whether or not Hazel
11 suffered mental health issues either before or after the crimes were committed in this case is
12 completely and utterly irrelevant.

13 The central issue under the Use of Child in Production charges is whether or not
14 Defendant used Hazel and her brother subject of a sexual portrayal in a performance. The
15 statute does not require that Hazel fail to consent to being the subject of a sexual portrayal.
16 Even if Hazel agreed to let Defendant film her, it is irrelevant to whether or not Defendant
17 violated NRS 200.710. Therefore, it is unclear how Hazel's mental status makes it more or
18 less probable that Defendant used Hazel in a sexual portrayal.

19 The central issue in the Possession of Visual Presentation Depicting Sexual Conduct of
20 a Child is whether Defendant knowingly possessed media depicting a child under 16 as the
21 subject of a sexual portrayal. Hazel's mental health has no bearing on this issue. In fact, Hazel
22 is not even the named victim in any of the Possession counts. Whether or not Hazel had mental
23 health issues ever in her life has absolutely nothing to do with whether the Defendant
24 videotaped Hazel and her brother in the bathroom of the home. In fact, the majority of Hazel's
25 testimony at trial will be limited to identifying herself and her brother in the various videos.
26 Unless Hazel is lying about identifying herself, her mental health is not an issue in this case.

27 With regards to the Open and Gross Lewdness charge and the Child Abuse charges,
28 again, Hazel's mental health status has no bearing on the elements in the statute. Whether or

1 not Hazel suffered from depression or not is irrelevant to whether Defendant videotaped and/or
2 took a picture up Hazel's skirt (the basis of the child abuse charge) or whether Defendant
3 inappropriately kissed Hazel (the basis of the open and gross lewdness charge). Even if it were
4 true that Hazel suffered from long standing history of mental instability which the State
5 strongly rejects, there is no evidence that her mental health affects her veracity or ability to
6 recall events. As such, any questions regarding mental health are irrelevant.

7 Furthermore, even if Hazel's alleged mental health issues had any type of relevance in
8 this case, the evidence is far more prejudicial than probative. NRS 48.035 states in relevant
9 part, "Although relevant, evidence is not admissible if its probative value is substantially
10 outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the
11 jury." It is clear from his repeated Motions that Defense Counsel wants to question Hazel
12 regarding mental health issues solely for the purpose of painting Hazel as a disturbed and crazy
13 teenager who wanted to be filed by Defendant. Defense counsel has never made any offer of
14 proof as to how this evidence is relevant or more probative than prejudicial. Questioning Hazel
15 about her mental health when it has no relevance to the charged crimes is encouraging the jury
16 to dismiss Hazel as just another teenage girl looking for attention. The questioning also is
17 aimed at deflecting the jury's attention away from the perpetrator of these crimes and trying
18 to "blame the victim." This is not a sexual assault case. There is simply no value in inquiring
19 into Hazel's mental health.

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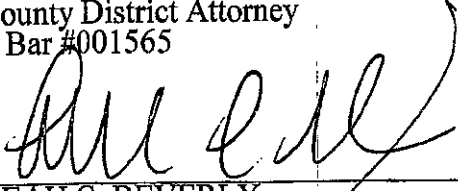
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1 If this Court is not inclined to grant the State's Motion based on the written
2 documents, the State would ask for a proffer of proof from Defense Counsel regarding the
3 relevance of Hazel's mental health prior to the State's Motion being decided.

4 DATED this 3rd day of April 2014.

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

9 BY


10 LEAH C. BEVERLY
11 Deputy District Attorney
12 Nevada Bar #12556

13 **CERTIFICATE OF FACSIMILE TRANSMISSION**

14 I hereby certify that service of Notice of Motion and Motion In Limine, was made
15 this 3rd day of April, 2014, by facsimile transmission to:

16
17 TERRENCE JACKSON, ESQ.
18 702-386-0085

19
20 BY


21 C. Jimenez
22 Secretary for the District Attorney's Office

23
24
25
26
27
28 cmj/L3

Alvin J. Shuman

CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
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Nevada Bar #001565
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State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSHUA SHUE,
ID#1550230

Defendant.

Case No. C288172

Dept No. XXI

**STATE'S OPPOSITION TO DEFENDANT SHUE'S MOTION TO VACATE TRIAL
AND RESET**

DATE OF HEARING: April 8, 2014
TIME OF HEARING: 9:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,
through LEAH C. BEVERLY, Deputy District Attorney, and hereby submits the attached
Points and Authorities in Opposition to Defendant's Motion to Vacate Trial and Reset.

This Opposition is 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

THE CURRENT JURY TRIAL DATE OF JUNE 2, 2014 SHOULD NOT BE MOVED

In the instant case, Defendant Shue is seeking to continue the trial in this matter currently set for June 2, 2014. The Indictment in this case was filed on March 13, 2013 and trial was initially set for October 7, 2013. On September 27, 2013, Defense Counsel for Defendant Shue filed a Motion to Vacate Trial and Reset. The State did not oppose this Motion. At Calendar Call on October 3, 2013, the trial date was vacated and reset to June 2, 2014. It should be noted that although the State did not oppose the initial Motion to Continue, the State was ready to proceed to trial in October, 2013, and is currently ready to proceed on the June 2, 2014 date.

The State objects to any request for a continuance for multiple reasons. Counsel for Shue has had ample time to prepare for this trial. As of early January 2014, all outstanding discovery was provided. There are no longer any outstanding discovery issues. Counsel has been on this case since November of 2012 and this is his second request for a continuance.

Counsel indicates in his affidavit number 3 that victim Hazel Iral has been receiving substantial economic assistance from the State of Nevada for many months. As the State has represented over and over and over again, this is simply not true. The State at multiple hearings has reiterated to Defense Counsel that neither the District Attorney's Office nor members of the Las Vegas Metropolitan Police Department have provided any type of economic assistance to victim Hazel.

Counsel also claims in his affidavit number 4 that Hazel Iral has expressed reluctance to testify to her mother and defense counsel investigator Blair Abbott. The State is unsure how this qualifies as a basis to continue this trial. Almost every witness in every criminal case in Clark County is reluctant to testify. Most witnesses and/or victims do not want to come face to face with the perpetrator of crimes against them. While the State highly questions the veracity of the statements in Defense Counsel's "affidavit", even if it were true that victim Hazel expressed reluctance to testify, that is not a basis to continue a trial. The issue is whether the Defendant is guilty, not whether a witness is reluctant to testify.

1 Counsel claims in his affidavit number 5 that on March 20, 2014, Hazel attempted to
2 commit suicide because of the anxiety of the upcoming trial. This is an absolutely
3 inflammatory statement that is not supported by any facts. While the State acknowledges that
4 victim Hazel was having some issues with depression in March of 2014 and admitted herself
5 to the hospital, for Defense Counsel to claim that Hazel's issues were directly related to
6 anxiety about testifying in the instant case is absurd. Counsel is simply trying to delay this
7 trial in hopes that the longer delay will prevent victim Hazel from testifying. Furthermore,
8 the State is unclear how this is a basis to continue the trial. The State recently filed a Motion
9 in Limini to prevent any questions during trial regarding Hazel's mental state because such
10 evidence is completely irrelevant to the facts of consequence in the instant case. As such, the
11 State is unclear how whether Hazel attempted suicide or not is a basis to continue a trial.
12 Counsel is merely trying to delay the inevitable fate of his client.

13 In his affidavit number 6, counsel claims Anita Iral would like an attorney appointed
14 to represent Hazel's interests against the "enormous pressure by the State of Nevada and its
15 representatives." Again, the State disputes any type of pressure placed on victim Hazel.
16 Additionally, Hazel is not a child. She is 19 years old. If she feels so much pressure from the
17 State of Nevada as Defense Counsel so adamantly believes, she is more than welcome to hire
18 her own attorney. To ask the court to appoint Hazel an attorney is ridiculous. Hazel has not
19 committed any crimes, she is not a juvenile and she is not being pressured in any way. Hazel
20 is no different than any other witness or victim in any other criminal case in this state.
21 Finally, the State is unsure how this is a basis to continue the trial.

22 Counsel claims in his affidavit number 7 that he needs more times to file motions
23 regarding prosecutorial misconduct and investigate the legal/medical competence of Hazel
24 Iral. Defense counsel has filed numerous motions already in this case claiming prosecutorial
25 misconduct and challenging the mental state of Hazel. All of those allegations have been
26 rejected. As noted above, Hazel's mental status is irrelevant to this case. Counsel has had
27 over a year and a half to perform whatever investigations he pleases. At this point, Counsel
28 is merely trying to delay these proceedings further in hopes that Hazel will not appear at

1 trial.

2 As there is simply no reason to delay this case any further, the State request that this
3 motion be denied and the current trial date stand.

4 **CONCLUSION**

5 For the foregoing reasons, the State respectfully requests that this Court deny
6 Defendant's Motion to Continue Trial.

7 DATED this 30 day of April, 2014.

8 Respectfully submitted,

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

11
12 BY 

13 LEAH BEVERLY
14 Deputy District Attorney
Nevada Bar #012556

15 **CERTIFICATE OF FACSIMILE TRANSMISSION**

16 I hereby certify that service of State's Opposition to Defendant's Shue's Motion to
17 Vacate Trial and Reset, was made this 30 day of April, 2014, by facsimile transmission
18 to:
19

20 TERRENCE JACKSON, ESQ.
21 702-386-0085

22
23 BY 

24 C. Jimenez
25 Secretary for the District Attorney's Office
26
27
28

cmj/L3

Employee, Clark County Public Defender's Office