1	IN THE SUPREME COURT OF THE STATE OF NEVADA			
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3	JOSHUA CALEB SHUE,)			
4) Electronically Filed			
5) Case Tracie 1/42 Lindeman			
6	vs.) Clerk of Supreme Court			
7	THE STATE OF NEVADA,			
8	Respondent.)			
9)			
10	APPELLANT'S MOTION REQUESTING TRANSMITTAL OF EXHIBITS PURSUANT TO NRAP 30(d)			
11				
12	COMES NOW Appellant, JOSHUA CALEB SHUE, by and through			
13	Deputy Public Defender William M. Waters, and pursuant to Nevada			
14	Rules of Appellate Procedure 30(d) and 10(b)(1) asks this Court			
15	to direct the District Court to send a copy of State's exhibits			
16	1, 2, 3 - 11, and 75 to this Court for use when reaching a			
17	decision on the issues on appeal.			
18	This Motion is based upon the following Memorandum and			
19 20	all papers and pleadings on file herein.			
21	DATED this 4th day of December, 2015.			
22	PHILIP J. KOHN CLARK COUNTY PUBLIC DEFENDER			
23	CHARK COONTI POBLIC DEFENDER			
24				
25	By <u>/s/William M. Waters</u> WILLIAM M. WATERS, #9456			
26	Deputy Public Defender			
27	309 So. Third Street, Suite #226 Las Vegas, Nevada 89155-2610			
28	(702) 455-2685			
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	⊥ Docket 67/28 Document 2015-37030			

Docket 67428 Document 2015-37030

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1	MEMORANDUM OF POINTS AND AUTHORITIES			
2	Rule 30(d) of the Nevada Rules of Appellate Procedure			
3	allows an appellant to include copies of relevant and necessary			
4 5	exhibits in the appendix. However, if an exhibit is not able to			
6	be reproduced, a party may:			
7	file a motion requesting the Supreme			
8	Court to direct the district court clerk to transmit the original exhibits. The Supreme			
9	Court will not permit the transmittal of original exhibits except upon a showing that			
10	the exhibits are relevant to the issues raised on appeal, and that the Supreme			
11	Court's review of the original exhibits is			
12	necessary to the determination of the issue.			
13	NRAP 30(d).			
14	Appellant was tried and convicted in the Eighth			
15	Judicial District Court for creating and possessing images of			
16	minors as either the subject of a sexual portrayal in a			
17 18	performance or as depicting minors engaged in sexual conduct,			
19	i.e., child pornography. At trial the State admitted all videos			
20	images as exhibit 1 and photographic evidence as exhibits 2, 3 -			
21	11, and 75. Appellant asks that this Court direct the District			
22	Court Clerk's office to transmit the aforementioned exhibits to			
23	this Court for purposes of appeal.			
24	It is crucial for this Court to review the videos and			
25	images located on the exhibits when reaching a decision on the			
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27	merits of Appellant's case. The videos and still images are			
28	important because they were shown to the jury at trial and are			
	repeatedly referenced in Appellant's Opening Brief, Respondent's			
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Answering Brief, and Appellant's Reply Brief. Accordingly, the
exhibits are necessary for Appellant's appeal.

3	Finally, because Appellant's case and the images at issue			
4	involve a mixed question of law and fact this Court should			
5				
6	review, <i>de novo</i> , whether the images constitute child			
7	pornography. See U.S. v. Amirault, 173 F.3d 28, 33 (1 st Cir.			
8	1999); <u>Comm v. Rex</u> , 469 Mass. 36, 42, 11 N.E.3d 1060, 1067			
9	(2014) ("the United States Supreme Court had emphasizedthat			
10	'cases involving speech under the First Amendment require			
11	independent appellate review of the offending material to ensure			
12				
13	that protected speech is not infringed.'")(<i>citing</i> Bose Corp. v.			
14	Consumers Union of U.S., Inc., 466 U.S. 485, 504-05 (1984)).			
15	Based upon the foregoing, Appellant respectfully requests			
16	this Court order the district court to transmit State's Exhibit			
17	1, 2, 3 - 11, and 75 to this court for review.			
18	Respectfully submitted,			
19				
20	PHILIP J. KOHN CLARK COUNTY PUBLIC DEFENDER			
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22				
23	By <u>/s/ William M. Waters</u> WILLIAM M. WATERS, #9456			
24	Deputy Public Defender 309 So. Third Street, Suite #226			
25	Las Vegas, Nevada 89155-2610			
26	(702) 455-2685			
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1	CERTIFICATE OF SERVICE				
2		I hereby certify that this document was filed			
3	electroni	cally with the Nevada Supreme Court on the 4 th day of			
4		2015. Electronic Service of the foregoing document			
5		made in accordance with the Master Service List as			
6	follows:	made in accordance with the Mabter Bervice hist as			
7 8					
° 9	ADAM LAXA STEVEN S.				
10		I further certify that I served a copy of this			
11	document by mailing a true and correct copy thereof, postage				
12	pre-paid,	addressed to:			
13		JOSHUA SHUE			
14		NDOC No: 1133873 c/o High Desert State Prison			
15	-	P.O. Box 650			
16		Indian Springs, NV 89018			
17					
18		BY <u>/s/Carrie M. Connolly</u> Employee, Clark County Public			
19 20		Defender's Office			
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