

NOASC
TERRENCE M. JACKSON, ESQ.
Nevada Bar No. 00854
Law Office of Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
T: 702-386-0001 / F: 702-386-0085
Terry.jackson.esq@gmail.com
Counsel for Anthony Castaneda

Electronically Filed
Feb 01 2018 10:22 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	District Case No.: C-11-272657-1
)	
Plaintiff,)	Dept.: V
v.)	
)	
ANTHONY CASTANEDA,)	NOTICE OF APPEAL
#2799593,)	
Defendant.)	
_____)	

NOTICE is hereby given that the Defendant, ANTHONY CASTANEDA, by and through his attorney, TERRENCE M. JACKSON, ESQ., hereby appeals to the Nevada Supreme Court, from the Findings of Fact, Conclusions of Law and Order, file-stamped JANUARY 18, 2018.

Defendant, ANTHONY CASTANEDA, further states he is indigent and requests that the filing fees be waived.

Respectfully submitted this 24th day of January, 2018.

/s/ Terrence M. Jackson
Terrence M. Jackson, Esquire
Nevada Bar No. 00854
Law Office of Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
T: 702-386-0001 / F: 702-386-0085
Terry.jackson.esq@gmail.com
Counsel for Anthony Castaneda

1 **CERTIFICATE OF SERVICE**

2 I hereby certify I am an assistant to Terrence M. Jackson, Esq., not a party to this action, and
3
4 on the 24th day of January, 2018, I served a true, correct and e-filed stamped copy of the foregoing:
5 Defendant, ANTHONY CASTANEDA'S, NOTICE OF APPEAL as follows:

6 [X] Via Electronic Service (Odyssey eFile and Serve) to the Eighth Judicial District Court;

7 [X] Via the NSC Drop Box on the 1st floor of the Nevada Court of Appeals, located at 408 E.
8 Clark Avenue in Las Vegas, Nevada;

9
10 [X] and by United States first class mail to the Nevada Attorney General and the Defendant as
11 follows:

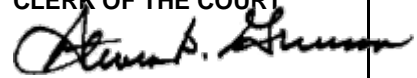
12
13 STEVEN B. WOLFSON
14 Clark County District Attorney
15 steven.wolfson@clarkcountynvda.com

STEVEN S. OWENS
Chief Deputy D.A. - Criminal
APPELLATE DIVISION
steven.owens@clarkcountynvda.com

16
17
18 ANTHONY CASTANEDA
19 35 West Owens, Apt. # 308B
20 Las Vegas, NV 89030

ADAM P. LAXALT
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

21
22
23
24 By: /s/ Ila C. Wills
25 Assistant to T. M. Jackson, Esq.



ASTA
TERRENCE M. JACKSON, ESQ.
Nevada Bar No. 00854
Law Office of Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
T: 702-386-0001 / F: 702-386-0085
Terry.jackson.esq@gmail.com

Counsel for Anthony Castaneda

IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	District Case No.: C-11-272657-1
)	
Plaintiff,)	Dept.: V
)	
v.)	
)	
ANTHONY CASTANEDA,)	CASE APPEAL STATEMENT
#2799593,)	
Defendant.)	
)	

1. Appellant(s): ANTHONY CASTANEDA
2. Judge: CAROLYN ELLSWORTH
3. Appellant(s): ANTHONY CASTANEDA

Counsel:

Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
(702) 386-0001

4. Respondent: STATE OF NEVADA

Counsel:

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

5. Appellant(s)'s Attorney Licensed in Nevada: YES

Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: YES

Permission Granted: N/A

6. Appellant Represented by Appointed Counsel in District Court: YES

7. Appellant Represented by Appointed Counsel on Appeal: YES

8. Appellant Granted Leave to Proceed in Forma Pauperis: YES

9. Date Commenced in District Court: April 18, 2011.

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

Type of Judgment or Order Being Appealed: Denial of Post-Conviction Petition Writ of Habeas Corpus.

11. NO.

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated this 24th day of January, 2018.

/s/ *Terrence M. Jackson*

Terrence M. Jackson, Esquire

Nevada Bar No. 00854

Law Office of Terrence M. Jackson

624 South Ninth Street

Las Vegas, NV 89101

T: 702-386-0001 / F: 702-386-0085

Terry.jackson.esq@gmail.com

Counsel for Anthony Castaneda

• • •

• • •

• • •

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- [X] Via Electronic Service (Odyssey eFile and Serve) to the Eighth Judicial District Court;
- [X] Via the NSC Drop Box on the 1st floor of the Nevada Court of Appeals, located at 408 E. Clark Avenue in Las Vegas, Nevada;
- [X] and by United States first class mail to the Nevada Attorney General and the Defendant as follows:

ADAM P. LAXALT
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701

By: /s/ Ila C. Wills

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

State of Nevada
vs
Anthony Castaneda

§	Location:	Department 5
§	Judicial Officer:	Ellsworth, Carolyn
§	Filed on:	04/18/2011
§	Case Number History:	
§	Cross-Reference Case	C272657
§	Number:	
§	Defendant's Scope ID #:	2799593
§	ITAG Booking Number:	1100013914
§	ITAG Case ID:	1232893
§	Lower Court Case # Root:	11F03995
§	Lower Court Case Number:	11F03995X
	Supreme Court No.:	64515

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008	Case Flags:	Appealed to Supreme Court Custody Status - Nevada Department of Corrections Charge Description Updated In Custody - CCDC
2. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011		
3. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008		
4. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011		
5. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008		
6. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011		
7. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008		
8. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011		
9. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008		
10. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011		
11. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD <i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	11/25/2008		
12. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD	F	11/25/2008		

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

	<i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011
13.	POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD	F	11/25/2008
	<i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011
14.	POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD	F	11/25/2008
	<i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011
15.	POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD	F	11/25/2008
	<i>Filed As:</i> POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	F	4/20/2011

Statistical Closures

06/23/2015 Jury Trial - Conviction - Criminal
07/03/2014 Jury Trial - Conviction - Criminal
01/10/2014 Jury Trial - Conviction - Criminal




Warrants

Bench Warrant - Castaneda, Anthony (Judicial Officer: Ellsworth, Carolyn)
11/21/2014 3:19 PM Returned - Served
Fine: \$0
Bond: \$0













Bench Warrant - Castaneda, Anthony (Judicial Officer: Ellsworth, Carolyn)
04/22/2013 2:47 PM Returned - Served
Hold Without Bond

DATE	CASE ASSIGNMENT
	Current Case Assignment Case Number C-11-272657-1 Court Department 5 Date Assigned 10/15/2011 Judicial Officer Ellsworth, Carolyn












PARTY INFORMATION		
Defendant	Castaneda, Anthony	<i>Lead Attorneys</i> Jackson, Terrence Michael <i>Court Appointed</i> 7023860313(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
04/15/2011	Bail Set \$100,000.00	
04/18/2011	 Criminal Bindover	
04/20/2011	 Information Information	
04/21/2011	 Initial Arraignment (9:00 AM) (Judicial Officer: De La Garza, Melisa)	

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

	Events: 04/18/2011 Criminal Bindover
04/21/2011	 Motion for Own Recognizance Release/Settting Reasonable Bail Filed By: Defendant Castaneda, Anthony
05/02/2011	 Motion for Own Recognizance Release/Settting Reasonable Bail (9:00 AM) (Judicial Officer: Cory, Kenneth) Events: 04/21/2011 Motion for Own Recognizance Release/Settting Reasonable Bail <i>Motion for Own Recognizance Release, Or, In the Alternative, For Settting of Reasonable Bail</i>
05/03/2011	 Reporters Transcript <i>Reporter's Transcript Continuation of Preliminary Hearing - April 14, 2011</i>
05/03/2011	 Reporters Transcript <i>Reporter's Transcript of Preliminary Hearing - April 11, 2011</i>
06/24/2011	Case Reassigned to Department 5 <i>Case reassigned from Judge Kenneth Cory</i>
06/29/2011	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>Vacated - per Judge Reset</i>
07/05/2011	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Cory, Kenneth) <i>Vacated - per Judge Reset</i>
11/03/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses</i>
11/21/2011	 Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
11/23/2011	 Status Check (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Def't's Presence</i>
11/28/2011	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Cory, Kenneth) <i>Vacated</i>
01/25/2012	 Status Check (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 01/25/2012, 02/01/2012 <i>Discovery/Reset trial</i>
11/02/2012	 Supplemental Witness List <i>Supplemental Notice of Witnesses and/or Expert Witnesses</i>
11/19/2012	 Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
11/26/2012	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
01/28/2013	 Notice of Witnesses and/or Expert Witnesses <i>Defendant's Notice of Witnesses, Pursuant to NRS 174.234</i>
01/28/2013	 Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

01/28/2013	 Motion <i>Motion To Continue Firm Trial Date</i>
01/31/2013	 Stipulation and Order <i>Stipulation and Order Regarding Discovery of Child Pornographic Materials</i>
01/31/2013	 Supplemental Witness List <i>Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>
02/04/2013	CANCELED Jury Trial - FIRM (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
02/05/2013	 Jury Trial - FIRM (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
02/05/2013	 Amended Information Filed By: Plaintiff State of Nevada
02/05/2013	 Motion for Discovery <i>Motion for Discovery</i>
02/06/2013	 Status Check: Reset Trial Date (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Trial Setting</i>
02/08/2013	 Opposition <i>State's Opposition to Defendant's Discovery Motion</i>
02/11/2013	 Motion for Discovery (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Def't's</i>
02/20/2013	 Order Filed By: Defendant Castaneda, Anthony
04/19/2013	 Notice of Witnesses and/or Expert Witnesses <i>Defendant's Supplemental Notice of Witnesses, Pursuant to NRS 174.234</i>
04/21/2013	Plea (Judicial Officer: Ellsworth, Carolyn) 1. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Not Guilty PCN: Sequence: 2. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Not Guilty PCN: Sequence: 3. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Not Guilty PCN: Sequence: 4. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Not Guilty

DEPARTMENT 5
CASE SUMMARY
CASE No. C-11-272657-1

PCN: Sequence:

5. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

6. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

7. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

8. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

9. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

10. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

11. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

12. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

13. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

14. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

15. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Not Guilty

PCN: Sequence:

04/22/2013


















Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

04/29/2013

CANCELED Jury Trial - FIRM (1:30 PM) (Judicial Officer: Ellsworth, Carolyn)
Vacated - per Judge


DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

05/01/2013	 Request (9:00 AM) (Judicial Officer: Hardcastle, Kathy) <i>REQUEST: QUASHING OUTSTANDING BENCH WARRANT</i>
05/01/2013	Bench Warrant Return <i>quashed</i>
05/06/2013	 Notice of Hearing <i>State's Notice of Hearing Motion and Motion to Move the Trial Date</i>
05/20/2013	 Motion to Continue Trial (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>State's Notice of Hearing Motion and Motion to Move the Trial Date</i>
06/17/2013	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
06/24/2013	CANCELED Jury Trial - FIRM (1:00 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i> <i>3-4 days</i>
06/24/2013	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
06/28/2013	 Supplemental <i>Third Supplemental Notice of Witnesses</i>
07/01/2013	 Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
07/08/2013	 Jury Trial (1:00 PM) (Judicial Officer: Ellsworth, Carolyn) 07/08/2013-07/12/2013, 07/15/2013-07/16/2013
07/08/2013	 Amended Information <i>2nd Amended Information</i>
07/08/2013	 Stipulation and Order <i>Regarding Composition and Dissemination of Child Pronographic Materials</i>
07/08/2013	 Stipulation and Order <i>Regarding Reference to Bestiality</i>
07/10/2013	 Jury List
07/10/2013	 Stipulation and Order
07/11/2013	 Amended Jury List
07/12/2013	 Motion to Dismiss <i>Motion To Dismiss</i>
07/16/2013	 Instructions to the Jury
07/16/2013	 Proposed Jury Instructions Not Used At Trial


DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

Defendant's

07/16/2013

 Verdict

07/16/2013

 Proposed Jury Instructions Not Used At Trial
Plaintiff's (State's)

07/16/2013

Disposition (Judicial Officer: Ellsworth, Carolyn)
1. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
2. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
3. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
4. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
5. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
6. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
7. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
8. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
9. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
10. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:
11. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD
Guilty
PCN: Sequence:

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

12. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Guilty
PCN: Sequence:

13. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Guilty
PCN: Sequence:

14. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Guilty
PCN: Sequence:

15. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Guilty
PCN: Sequence:

09/26/2013



PSI

09/26/2013



PSI - Psychosexual Evaluation

10/02/2013



Motion

Motion To Vacate Counts Two Through Fifteen Facts

10/07/2013



Notice

Offer of Proof Regarding Defendant's Motion to Call a Computer Expert to Rebut Detective Ehlers' Surprise Trial Testimony

10/11/2013



Motion

Motion To Reconsider Defendant's Motion For Mistrial Due to Prosecutorial Misconduct

10/14/2013

Sentencing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
10/14/2013, 10/28/2013, 10/30/2013

10/14/2013

Motion to Vacate (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
10/14/2013, 10/28/2013

Defendant's Motion To Vacate Counts Two Through Fifteen Facts

10/14/2013



All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

All Pending Motions 10/14/13

10/14/2013



Motion

Motion to Reconsider Defendant's Motion for Mistrial Due to Prosecutorial Misconduct

10/16/2013



Opposition

State's Opposition to Defendant's Motion to Vacate Counts Two Through Fifteen

10/18/2013








Opposition

State's Opposition to Defendant's Motion to Reconsider Defendant's Motion for Mistrial Due to Prosecutorial Misconduct

10/18/2013

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1





	 Motion <i>Motion to Strike Offer of Proof Regarding Defendant's Motion to Call a Computer Expert to Rebut Detective Elhers' Surprise Trial Testimony as Defendant's Offer of Proof Improperly Supplements the Record</i>
10/21/2013	 Memorandum <i>Memorandum Concerning Previously Filed Offer Of Proof And Motion To Reconsider Defendant's Motion To Call An Expert Witness In Rebuttal</i>
10/21/2013	 Memorandum <i>Memorandum Concerning Previously Filed Offer of Proof and Motion to Reconsider Defendant's Motion to Call an Expert Witness In Rebuttal</i>
10/28/2013	Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Def't's Motion to Reconsider Def't's Motion for Mistrial Due to Prosecutorial Misconduct</i>
10/28/2013	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions: 10/28/13</i>
10/28/2013	CANCELED All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - On in Error</i>
10/30/2013	Motion to Strike (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>State's Motion to Strike Offer of Proof Regarding Defendant's Motion to Call a Computer Expert to Rebut Detective Elhers' Surprise Trial Testimony as Defendant's Offer of Proof Improperly Supplements the Record</i>
10/30/2013	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions: 10/30/13</i>
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 1. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Suspended-Period of Probation: Fixed: 5 Years
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 2. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 3. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 4. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

	Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 5. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 6. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 7. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 8. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 9. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 10. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 11. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Case Number (All counts)
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 12. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

Term: Minimum:28 Months, Maximum:72 Months
Concurrent: Charge (All counts)

10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 13. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)														
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 14. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)														
10/30/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 15. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts) Suspended-Period of Probation: Fixed: 5 Years Condition 1. Sex Offender Conditions - (See Minutes) 2. Register As A Sex Offender 3. Additional Condition, If P&P is approached that Deft. has found a job that requires internet usage, issue must be brought back before the Court to determine remedy. 4. Comply With Curfew Imposed By Probation Officer 5. Counseling Program, Attend counseling to address issues related to this charge. 6. Pay All Fines, Fees, & Costs, including indigent defense fee 7. Lifetime Supervision Other Fees 1. , \$760.00 Fee Totals: <table border="0" style="margin-left: 40px;"><tr><td>Administrative Assessment Fee</td><td style="text-align: right;">25.00</td></tr><tr><td>\$25</td><td></td></tr><tr><td>DNA Analysis Fee</td><td style="text-align: right;">150.00</td></tr><tr><td>\$150</td><td></td></tr><tr><td>Indigent Defense Civil Assessment</td><td style="text-align: right;">150.00</td></tr><tr><td>Fee - ASK</td><td></td></tr><tr><td>Fee Totals \$</td><td style="text-align: right;">325.00</td></tr></table>	Administrative Assessment Fee	25.00	\$25		DNA Analysis Fee	150.00	\$150		Indigent Defense Civil Assessment	150.00	Fee - ASK		Fee Totals \$	325.00
Administrative Assessment Fee	25.00														
\$25															
DNA Analysis Fee	150.00														
\$150															
Indigent Defense Civil Assessment	150.00														
Fee - ASK															
Fee Totals \$	325.00														
11/25/2013	 Notice of Appeal (criminal) <i>Notice Of Appeal</i>														
11/25/2013	 Case Appeal Statement <i>Case Appeal Statement</i>														
11/25/2013	 Request <i>Request For Rough Draft Transcripts</i>														
12/19/2013	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re: Arraignment April 21, 2011</i>														

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

12/19/2013	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re: Arraignment April 21, 2011</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 1 7-8-13</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 2 7-9-13</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 3 7-10-13</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial Day 4 July 11, 2013</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 5 7-12-13</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 6 -- 7-15-13</i>
12/20/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 7 -- 7-16-13</i>
12/23/2013	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Defendant's Motion to Vacate Counts Two Through Fifteen/Sentencing -- 10-14-13</i>
12/26/2013	 Order Admitting Defendant to Probation & Fixing Terms <i>Order Admitting Defendant to Probation & Fixing the Terms Thereof</i>
12/31/2013	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty)</i>
01/06/2014	 Request <i>Request for Rough Draft Transcripts</i>
01/10/2014	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
01/27/2014	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript - Calendar Call - November 21, 2011</i>
01/27/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Status Check: Defendant's Presence (01/25/12--Status Check: Discovery/Reset Trial) - heard on November 23, 2011</i>
01/27/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Status Check: Discovery/Reset Trial - heard on January 25, 2012</i>
01/27/2014	 Recorders Transcript of Hearing <i>Recorder's Rought Draft Transcript - Defendant's Motion for Own Recognizance</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

Release/Setting, or, in the Alternative, for Setting Reasonable Bail - May 2, 2011

01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Calendar Call - heard on November 19, 2012</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Status Check: Discovery/Reset Trial - heard on February 1, 2012</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Calendar Call - heard on January 28, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Jury Trial - Day 1 - heard on February 5, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Status Check: Reset Trial Date - heard on February 6, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Defendant's Motion for Discovery - heard on February 11, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Calendar Call - heard on April 22, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Request: Quashing Outstanding Bench Warrant - heard on May 1, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - State's Notice of Hearing Motion and Motion to Move the Trial Date - heard on May 20, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - Calendar Call - heard on July 1, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - All Pending Motions; Sentencing (Verdict 07/16/13) - heard on October 28, 2013</i>
01/28/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript - All Pending Motions; Sentencing [Verdict 07/16/13] - heard on October 30, 2013</i>
04/17/2014	 Probation Violation Report
05/12/2014	 Revocation of Probation (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 05/12/2014, 05/19/2014, 05/21/2014
05/21/2014	Amended Sentence (Judicial Officer: Ellsworth, Carolyn) 15. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge (All counts)

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

Suspended-Period of Probation: Fixed: 5 Years

Condition

1. Sex Offender Conditions - (See Minutes)
2. Register As A Sex Offender
3. Additional Condition, If P&P is approached that Deft. has found a job that requires internet usage, issue must be brought back before the Court to determine remedy.
4. Comply With Curfew Imposed By Probation Officer
5. Counseling Program, Attend counseling to address issues related to this charge.
6. Pay All Fines, Fees, & Costs, including indigent defense fee

Other Fees

1. , \$760.00

Fee Totals:

Administrative	
Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Indigent Defense	
Civil Assessment	150.00
Fee - ASK	

Fee Totals \$ 325.00

Comment (05/21/14 - PROBATION REINSTATED WITH ADDED CONDITIONS)

Condition

1. Lifetime Supervision, Removed
2. Additional Condition, Defendant to show proof of medical appointment in event that Defendant cannot attend the counseling session.

06/16/2014



Amended Judgment of Conviction

Amended Judgment of Conviction

07/02/2014



Criminal Order to Statistically Close Case

Criminal Order to Statistically Close Case

11/21/2014



Parole & Probation Bench Warrant

Bench Warrant

11/21/2014



Probation Violation Report

04/24/2015



Probation Violation Report - Supplemental

05/18/2015



Probation Violation Report

06/03/2015

CANCELED Revocation of Probation (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Vacated - On In Error

06/10/2015



Revocation of Probation (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

06/10/2015, 06/22/2015

06/22/2015

Amended Sentence (Judicial Officer: Ellsworth, Carolyn)

15. POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD

Adult Adjudication

Sentenced to Nevada Dept. of Corrections

Term: Minimum:28 Months, Maximum:72 Months

Concurrent: Charge (All counts)

Credit for Time Served: 273 Days

Other Fees

1. , \$760.00

Fee Totals:

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1









Administrative Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Indigent Defense Civil Assessment Fee - ASK	150.00
Fee Totals \$	325.00

06/23/2015	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
07/02/2015	 Amended Judgment of Conviction <i>ORDER FOR REVOCATION OF PROBATION AND SECOND AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)</i>
06/03/2016	 Application to Proceed in Forma Pauperis Filed By: Defendant Castaneda, Anthony
06/03/2016	 Filed Under Seal Filed By: Defendant Castaneda, Anthony <i>Financial Certificate</i>
07/19/2016	 Amended Judgment of Conviction <i>THIRD AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)</i>
07/21/2016	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed in Part, Vacated in Part and Remand</i>
12/07/2016	 Motion <i>Motion For The Appointment Of Counsel Request For Evidentiary Hearing</i>
12/07/2016	 Petition <i>Petition To Appoint Counsel</i>
12/13/2016	 Notice of Motion <i>Notice Of Motion</i>
12/13/2016	 Motion <i>Motion To Withdraw Counsel</i>
12/20/2016	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
12/28/2016	 Opposition <i>State's Opposition to Defendant's Motion for the Appointment of Counsel and Request for Evidentiary Hearing</i>
01/04/2017	Motion for Appointment of Attorney (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Motion For The Appointment Of Counsel Request For Evidentiary Hearing</i>
01/04/2017	Motion to Withdraw Plea (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Motion to Withdraw Counsel</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

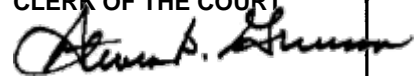
01/04/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions: 1/4/17</i>
01/11/2017	 Order for Petition for Writ of Habeas Corpus
02/16/2017	 Notice of Motion <i>Notice of Motion and Motion for Enlargement of Time for Opposition to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
02/24/2017	 Order <i>Order Enlarging Time</i>
02/24/2017	 Ex Parte <i>Ex Parte Motion for an Order to Enlarge Time for State to File Opposition to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
02/27/2017	CANCELED Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Law Clerk</i> <i>State's Motion for Enlargement of Time for Opposition to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
02/28/2017	 Order <i>Order Regarding Motions of January 4, 2017</i>
03/29/2017	 Opposition <i>State's Opposition to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
04/05/2017	CANCELED Status Check (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - On In Error</i> <i>STATUS CHECK: FILING OF SUPPLEMENTAL PETITION</i>
04/17/2017	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
04/26/2017	 Confirmation of Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
05/02/2017	 Application to Proceed in Forma Pauperis Filed By: Defendant Castaneda, Anthony
05/10/2017	 Motion <i>Motion to Amend Writ of Habeas Corpus</i>
05/10/2017	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
05/25/2017	 Order Appointing Counsel Party: Defendant Castaneda, Anthony <i>Order Appointing Counsel</i>
07/25/2017	 Supplemental Filed by: Defendant Castaneda, Anthony <i>Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-11-272657-1

09/20/2017	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant s Supplemental Points and Authorities In Support of Petition for Writ of Habeas Corpus for Post Conviction Relief</i>
09/25/2017	 Reply Filed by: Defendant Castaneda, Anthony <i>Reply to State's Opposition to Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post Conviction Relief</i>
10/16/2017	 Argument (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Argument: Petition for Writ of Habeas Corpus</i>
01/18/2018	 Amended Judgment of Conviction <i>FOURTH AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)</i>
01/18/2018	 Findings of Fact, Conclusions of Law and Order
01/24/2018	 Case Appeal Statement Filed By: Defendant Castaneda, Anthony <i>Case Appeal Statement</i>
01/24/2018	 Notice of Appeal (criminal) Party: Defendant Castaneda, Anthony <i>Notice of Appeal</i>
01/25/2018	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>

DATE	FINANCIAL INFORMATION
------	-----------------------

Defendant Castaneda, Anthony	
Total Charges	325.00
Total Payments and Credits	0.00
Balance Due as of 1/25/2018	325.00



1 FCL

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

CASE NO: C-11-272657-1

8 ANTHONY CASTANEDA,
9 #2799593

DEPT NO: V

10 Defendant.

11 **FINDINGS OF FACT, CONCLUSIONS OF**
12 **LAW AND ORDER**

13 DATE OF HEARING: OCTOBER 16, 2017
14 TIME OF HEARING: 9:00 AM

15 THIS CAUSE having come on for hearing before the Honorable CAROLYN
16 ELLSWORTH, District Judge, on the 16th day of October, 2017; the Petitioner not being
17 present, TERRENCE JACKSON, ESQ.; the Respondent being represented by STEVEN B.
18 WOLFSON, Clark County District Attorney, by and through TALEEN PANDUKHT, Chief
19 Deputy District Attorney; and having considered the matter, including briefs, transcripts,
20 arguments of counsel, and documents on file herein, the Court makes the following findings
21 of fact and conclusions of law:

22 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

23 **PROCEDURAL BACKGROUND**

24 On April 20, 2011, ANTHONY CASTANEDA (hereinafter "Defendant") was
25 charged by way of Information with 15 counts of Possession Of Visual Presentation
26 Depicting Sexual Conduct Of A Child (Category B Felony - NRS 200.700, 200.730).

27 //

28 //

1 On July 8, 2013, a jury trial convened and lasted six days. On July 16, 2013, the jury
2 returned a guilty verdict for all 15 counts. Defendant was sentenced to the Nevada
3 Department of Corrections as follows: as to Count 1 – a maximum of 72 months and
4 minimum of 28 months; as to Count 2 – a maximum of 72 months and minimum of 28
5 months, to run concurrent to Count 1; as to Count 3 – a maximum of 72 months and
6 minimum of 28 months, to run concurrent to Count 2; as to Count 4 – a maximum of 72
7 months and minimum of 28 months, to run concurrent to Count 3; as to Count 5 – a
8 maximum of 72 months and minimum of 28 months, to run concurrent to Count 4; as to
9 Count 6 – a maximum of 72 months and minimum of 28 months, to run concurrent to Count
10 5; as to Count 7 – a maximum of 72 months and minimum of 28 months, to run concurrent
11 to Count 6; as to Count 8 – a maximum of 72 months and minimum of 28 months, to run
12 concurrent to Count 7; as to Count 9 – a maximum of 72 months and minimum of 28
13 months, to run concurrent to Count 8; as to Count 10 – a maximum of 72 months and
14 minimum of 28 months, to run concurrent to Count 9; as to Count 11 – a maximum of 72
15 months and minimum of 28 months, to run concurrent to Count 10; as to Count 12 – a
16 maximum of 72 months and minimum of 28 months, to run concurrent to Count 11; as to
17 Count 13 – a maximum of 72 months and minimum of 28 months, to run concurrent to
18 Count 12; as to Count 14 – a maximum of 72 months and minimum of 28 months, to run
19 concurrent to Count 13; and as to Count 15 – a maximum of 72 months and minimum of 28
20 months, to run concurrent to Count 14. Defendant received 160 days credit for time served.
21 Defendant's sentence was suspended and placed on probation for a fixed 5-year term. In
22 addition, a special sentence of lifetime supervision was imposed. On November 25, 2013,
23 Defendant filed a Notice of Appeal. A Judgment of Conviction ("JOC") was filed on
24 December 31, 2013.

25 On May 21, 2014, Defendant appeared in court with counsel for a probation violation
26 hearing. On June 16, 2014, an Amended Judgment of Conviction ("AJOC") was filed to
27 reflect Defendant's reinstatement to probation under the original conditions, except that the
28 previously imposed condition of lifetime supervision was vacated.

1 On July 2, 2015, Defendant's probation was revoked and his original sentence was
2 modified to a maximum of 72 months and a minimum of 24 months, on each count
3 concurrently, with 273 days credit for time served. A Second Amended Judgment of
4 Conviction was filed on the same date.

5 On July 16, 2016, the Nevada Supreme Court entered its Order vacating in part the
6 Second Amended Judgment of Conviction, finding that Defendant could only be properly
7 charged and convicted with one count of Possession of Visual Presentation Depicting Sexual
8 Conduct Of A Child. On July 19, 2016, a Third Amended Judgment of Conviction was filed
9 to reflect the Nevada Supreme Court's Order. Remittitur issued July 21, 2016.

10 On December 7, 2016, Defendant filed a Motion for the Appointment of Counsel and
11 Request for Evidentiary Hearing. On December 28, 2016, the State filed its Opposition to
12 Defendant's Motion for the Appointment of Counsel and Request for Evidentiary Hearing.
13 On January 4, 2017, Defendant's motion and request were denied.

14 On December 20, 2016, Defendant filed a Petition for Writ of Habeas Corpus (Post-
15 Conviction). On March 29, 2016, the State filed its Opposition to Defendant's Petition.

16 On April 26, 2017, Terrence Jackson was confirmed as counsel. On July 25, 2017,
17 Defendant, through counsel, filed the instant Supplemental Points and Authorities In Support
18 of Petition for Writ of Habeas Corpus for Post-Conviction Relief ("Supplement"). The State
19 filed an Opposition to Defendant's Supplemental Points and Authorities in Support of
20 Petition For Writ of Habeas Corpus for Post-Conviction Relief on September 20, 2017.
21 Defendant filed a Reply to State's Opposition to Defendant's Supplemental Points and
22 Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief on
23 September 25, 2017.

24 On January 17, 2018, the Court discovered a clerical error in the Third Amended
25 Judgment of Conviction and filed a *nunc pro tunc* Fourth Amended Judgment of Conviction
26 which conformed to the previous order of the Court which had modified the underlying
27 sentence at the time of revocation of probation on June 22, 2015.

1 The Court denied Defendant's Petition for Writ of Habeas Corpus on October 16,
2 2017, as follows.

3 **FACTUAL BACKGROUND**

4 The Nevada Supreme Court, in its Order of Affirmance, filed on July 21, 2016,
5 summarized the facts of the instant matter as follows:

6 The charges against Defendant originated in a report by a former
7 housemate of his to the Las Vegas Metropolitan Police
8 Department ("Metro"). The former housemate reported that, after
9 moving out of Defendant's house, she and her boyfriend found
10 mixed in with their belongings a USB flash drive similar to one
11 Defendant customarily kept on his key chain. When they opened
12 the flash drive, they discovered that it held copies of Defendant's
13 driver's license, birth certificate, Social Security card and
14 military records, as well as a file of pornographic images, some
15 depicting children.

16 Metro obtained a search warrant to view the contents of the flash
17 drive. On the flash drive, in addition to Defendant's
18 identification, detectives found a subfolder named "girl pics."
19 This subfolder contained pornographic images, including several
20 that an FBI database established as known images of child
21 pornography downloadable from the World Wide Web. Based on
22 this evidence, detectives obtained a search warrant for
23 Defendant's home and home computers. The home computers, a
24 desktop and a laptop, contained each of the child pornography
25 images found on the flash drive and several additional known
26 images of child pornography as well, for a total of 15 separate
27 depictions, with most being found on both the desktop and the
28 laptop. Defendant was interviewed by a detective while the
search was underway. After the interview concluded, he came
into the room where another detective had one of the illegal
images open on the computer. Reportedly, Defendant saw what
was on the screen and said, "Those are kids, I'm sorry."

21 The State charged Defendant with 15 counts of knowingly and
22 willfully possessing 15 image files depicting sexual conduct of a
23 child in violation of NRS 200.730. Before trial, the State and
24 Defendant stipulated not to publish the charged images in open
25 court but, rather, to put copies of them into evidence in a sealed
26 envelope for the jury to examine if it so chose. They further
27 stipulated, quoting language from NRS 200.730, that each of the
28 15 charged images depicted a child "under the age of 16 years as
the subject of a sexual portrayal or engaging in, or simulating, or
assisting others to engage in or simulate, sexual conduct."

26 After a six-day trial, the jury convicted Defendant on all 15
27 counts. The district court judge sentenced Defendant to a
28 minimum of 28 months and maximum of 72 on each count, the
sentences to run concurrently. The district court suspended the
sentences and placed Defendant on probation for a 5-year term.

ANALYSIS

I. DEFENDANT'S CLAIMS OF INEFFECTIVE ASSISTANCE OF TRIAL AND APPELLATE COUNSEL ARE WITHOUT MERIT

“[T]he purpose of the effective assistance guarantee of the Sixth Amendment is not to improve the quality of legal representation...[but] simply to ensure that criminal defendants receive a fair trial.” Cullen v. Pinholster, 563 U.S. 170, 189, 131 S.Ct. 1388, 1403 (2012) (internal quotation marks and citation omitted); see also Jackson v. Warden, Nev. State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975) (“Effective counsel does not mean errorless counsel.”). To prevail on a claim of ineffective assistance of counsel as it relates to a guilty plea, a defendant must prove that he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of Strickland v. Washington, 466 U.S. 668, 686-687, 104 S.Ct. 2052, 2063-2064 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323(1993). Under this test, the defendant must show first, that his counsel’s representation fell below an objective standard of reasonableness, and second, but for counsel’s errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 687-688, 694, 104 S.Ct. at 2065, 2068. This Court need not consider both prongs, however if a defendant makes an insufficient showing on either one. Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004).

“The benchmark for judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland, 466 U.S. at 686, 104 S.Ct. at 2052. Indeed, the question is whether an attorney’s representations amounted to incompetence under prevailing professional norms, “not whether it deviated from best practices or most common custom.” Harrington v. Richter, 562 U.S. 86, 105, 131 S.Ct. 770, 788 (2011); see also Strickland, 466 U.S. at 689, 104 S.Ct. at 2065 (“There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way.”). Accordingly, the role of a court in considering alleged ineffective assistance of counsel is “not to pass upon the merits of the action not

1 taken but to determine whether, under the particular facts and circumstances of the case, trial
2 counsel failed to render reasonably effective assistance.” Donovan v. State, 94 Nev. 671,
3 675, 584 P.2d 708, 711 (1978). In doing so, courts begin with the presumption of
4 effectiveness and the defendant bears the burden of proving, by a preponderance of the
5 evidence, that counsel was ineffective. Means v. State, 120 Nev. 1001, 1011-1012, 103 P.3d
6 25, 32-33 (2004) (holding “that a habeas corpus petitioner must prove the disputed factual
7 allegations underlying his ineffective- assistance claim by a preponderance of the
8 evidence.”). This analysis does not indicate that the court should “second guess reasoned
9 choices between trial tactics,” Donovan, 94 Nev. at 675, 584 P.2d at 711, but rather, the
10 court must determine whether counsel made a “sufficient inquiry into the
11 information...pertinent to his client’s case.” Doleman v. State, 112 Nev. 843, 846, 921 P.2d
12 278, 280 (1996).

13 Further, even if counsel’s performance was deficient, “it is not enough to show that
14 the errors had some conceivable effect on the outcome of the proceeding.” Harrington, 562
15 U.S. at 104, 131 S.Ct. at 787 (quotations and citations omitted). Instead, the defendant must
16 demonstrate that but for counsel’s incompetence the results of the proceeding would have
17 been different:

18 In assessing prejudice under Strickland, the question is not
19 whether a court can be certain counsel’s performance had no
20 effect on the outcome or whether it is possible a reasonable doubt
21 might have been established if counsel acted differently.
22 Instead, Strickland asks whether it is reasonably likely the results
23 would have been different. This does not require a showing that
24 counsel’s actions more likely than not altered the outcome, but
25 the difference between Strickland’s prejudice standard and a
26 more-probable-than-not standard is slight and matters only in the
27 rarest case. The likelihood of a different result must be
28 substantial, not just conceivable.

24 Id. at 111-112, 131 S.Ct. at 791-792 (internal quotation marks and citations omitted).

25 For claims of ineffective assistance of appellate counsel, the prejudice prong is
26 slightly different. There is a strong presumption that appellate counsel’s performance was
27 reasonable and fell within “the wide range of reasonable professional assistance.” See United
28 States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990) (citing Strickland, 466 U.S. at 689, 104

1 S.Ct. at 2065). A claim of ineffective assistance of appellate counsel must still satisfy the
2 two-prong test set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102,
3 1114 (1996). In order to satisfy Strickland's second prong, the defendant must show that the
4 omitted issue would have had a reasonable probability of success on appeal. Id.

5 Appellate counsel is not required to raise every non-frivolous issue on appeal. Jones
6 v. Barnes, 463 U.S. 745, 751-754, 103 S.Ct. 3308, 3312-3314 (1983). The professional
7 diligence and competence required on appeal involves "winnowing out weaker arguments on
8 appeal and focusing on one central issue if possible, or at most on a few key issues." Id. at
9 751-52, 103 S.Ct. at 3313. In particular, a "brief that raises every colorable issue runs the
10 risk of burying good arguments...in a verbal mound made up of strong and weak
11 contentions." Id. at 753, 103 S.Ct. at 3313. For judges to second-guess reasonable
12 professional judgments and impose on appointed counsel a duty to raise every 'colorable'
13 claim suggested by a client would disserve the very goal of vigorous and effective
14 advocacy." Id. at 754, 103 S.Ct. at 3314.

15 All told, "[s]urmounting Strickland's high bar is never an easy task." Padilla v.
16 Kentucky, 559 U.S. 356, 371, 130 S.Ct. 1473, 1485 (2010). Here, this Court finds
17 Defendant's arguments fall far short of satisfying Strickland.

18 **A. Ground One of Defendant's Supplement is Without Merit**

19 In Ground One of his Supplement, Defendant alleged that trial counsel was
20 ineffective for failing to "notice a necessary expert witness," and failing to contact "any of
21 the employees who worked for Defendant's software security services company SpyBox."
22 Supplement at 2-6. Specifically, Defendant alleged that the expert counsel consulted "would
23 have rebutted Detective Ehler's critical testimony." Id. However, deciding which witnesses
24 to call is a virtually unchallengeable decision. Dawson v. State, 108 Nev. 112, 117, 825 P.2d
25 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).
26 Additionally, as to Defendant's expert witness claim, the United States Supreme Court stated
27 that a defense expert witness is not required solely because the State used an expert witness.
28 Harrington, 562 U.S. at 111, 131 S.Ct. at 791 ("Strickland does not enact Newton's third law

1 for the presentation of evidence, requiring for every prosecution expert an equal and opposite
2 expert from the defense.”).

3 In the instant matter, defense counsel argued at trial that the late notice of a rebuttal
4 expert was warranted because Det. Ehlers’s testimony strayed from what was included in his
5 report. Jury Trial - Day 4 Recorder’s Transcript (“4 RT”), filed December 20, 2013, 57-66.
6 Defendant’s trial counsel cannot be ineffective for Det. Ehlers’s unanticipated testimony. See
7 Harrington, 562 U.S. at 110, 131 S.Ct. at 791 (“an attorney may not be faulted for a
8 reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be
9 remote possibilities”). Moreover, Defendant’s assertion is misguided as Defendant’s trial
10 counsel had no reason to call an expert.

11 On July 11, 2016, at the very outset of Det. Ehler’s cross-examination, defense
12 counsel attacked Det. Ehlers’s testimony on direct examination. 4 RT 20. On that same date,
13 defense counsel requested leave of the court to call a computer expert (“Mare”) to rebut Det.
14 Ehler’s testimony. 4 RT 57-66. Defense counsel preserved the proffered expert testimony of
15 Leon Mare (“Mare”) by filing an Offer of Proof Regarding Defendant’s Motion to Call a
16 Computer Expert to Rebut Detective Ehlers’ Surprise Trial Testimony on October 7, 2013.
17 However, even if Mare testified, this Court finds Defendant is still unable to establish any
18 prejudice because trial counsel successfully argued each of the arguments Mare would have
19 made during Det. Ehlers’s cross- examination and re-cross. 4 RT 21-27, 27-31, 32-33, 47-49,
20 50, 51-52, 75-77, 104-105; see Offer of Proof Regarding Defendant’s Motion to Call a
21 Computer Expert to Rebut Detective Ehlers’ Surprise Trial Testimony, filed on October 7,
22 2013, 4-5. Lastly, the question of prejudice is governed by the law of the case because the
23 Nevada Supreme Court concluded on direct appeal that Defendant was able to make the
24 points he wanted to make without calling an expert. NV Supreme Court Clerk’s
25 Certificate/Judgment, filed July 7, 2016. Therefore, Defendant’s claim is without merit.

26 //

27 //

28 //

1 **B. Ground Two of Defendant’s Supplement is Without Merit**

2 In Ground Two of his Supplement, Defendant alleged that trial counsel was
3 ineffective for failing “to file a meritorious pretrial Writ of Habeas Corpus.” Supplement at
4 7. Specifically, Defendant alleged that there was a “double jeopardy issue of charging fifteen
5 counts for simultaneously possessing fifteen digital images,” and that a pretrial Writ of
6 Habeas Corpus would have likely been granted due to an alleged double jeopardy violation.
7 Id. However, this Court finds Defendant’s claim fails as the prejudice Defendant contends
8 occurred is purely speculative.

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance
11 of the evidence.” Means, 120 Nev. at 1012, 103 P.3d at 33. However, what pre-trial motions
12 to file and when to object are strategic decisions, and strategic decisions are virtually
13 unchallengeable. Doleman, 112 Nev. at 848, 921 P.2d at 280; Rhyne, 118 Nev. at 8, 38 P.3d
14 at 167 (2002). Moreover, here the defendant did not suffer any prejudice as the trial court
15 sentenced the defendant to the same sentence for all 15 counts and ran the sentences
16 concurrently, and thereafter the Supreme Court granted the defendant’s appeal which
17 resulted in the Judgment of Conviction being revised to reflect conviction of a single count.
18 Therefore, Defendant’s claim is without merit.

19 **C. Ground Three of Defendant’s Supplement is Without Merit**

20 In Ground Three of his Supplement, Defendant alleged that trial counsel was
21 ineffective for failing “to file a meritorious motion to suppress.” Supplement at 9.
22 Specifically, Defendant alleged that there was “significant evidence of false statements in the
23 search warrant affidavit.” Supplement at 9-10. However, this Court finds that Defendant’s
24 claim is without merit as the search warrant was still supported by probable cause
25 irrespective of Hines’s alleged lie. In response to defense counsel’s allegation of Hines
26 committing perjury, this Court stated:

27 //

28 //

1 My recollection was she said that her answer to the one question
2 at preliminary hearing, which was: Did you immediately
3 recognize the thumb drive -- I'm paraphrasing, of course -- as
4 Mr. Castaneda's? She said, No. And that was -- then you said,
5 Well, were you lying then? She said, Yes. So that's the only -- to
6 my way of thinking as far as having heard everything, it appears
7 to me the only thing that she admitted that she lied about was that
8 one statement.

9 4 RT 128. Based on the Court's response, Defendant was not entitled to a Franks hearing
10 since he failed to demonstrate that the investigators engaged in any misconduct. Weber v.
11 State, 121 Nev. 554, 584, 119 P.3d 107, 127 (2005). Moreover, a search warrant cannot be
12 overturned solely because of a witness's alleged lie, and will only be re-examined for
13 probable cause if a defendant makes a substantial preliminary showing that the affidavit
14 contains intentionally or recklessly false statements. Franks v. Delaware, 438 U.S. 154, 155,
15 98 S.Ct. 2674, 2676 (1978). Defendant fails to make such a showing. Therefore, this Court
16 finds that Defendant's claim is without merit.

17 **D. Ground Four of Defendant's Supplement is Without Merit**

18 In Ground Four of his Supplement, Defendant alleges that trial counsel was
19 ineffective for failing to "prepare a necessary jury instruction based upon the case of United
20 States v. Flyer." Supplement at 10. However, a jury instruction based on Flyer would be
21 inappropriate as Defendant's reliance on Flyer is misplaced. In Flyer, the defendant was
22 convicted of possession of child pornography. Id. Although the defendant successfully
23 argued that the evidence was insufficient to support his conviction, this Court finds that Flyer
24 is inapplicable to the instant matter. Id. The Court in Flyer reasoned:

25 Where a defendant lacks knowledge about the cache files, and
26 concomitantly lacks access to and control over those files, it is
27 not proper to charge him with possession and control of the child
28 pornography images located in those files, without some other
indication of dominion and control over the images.

(emphasis added). 633 F.3d at 919 (quoting United States v. Kuchinski, 469 F.3d 853, 862
(9th Cir. 2006).

//

//

1 In Flyer, the Court stated that there was no evidence that the defendant “had accessed,
2 enlarged, or manipulated any of the charged images,” or that the defendant could “recover or
3 view any of the charged images in unallocated space or that he even knew of their presence.”
4 633 F.3d at 919-920. In the instant matter, the evidence adduced at trial supports a finding
5 that Defendant did not lack access to and control over the files at issue. In addition to the
6 charged images found on the thumb drive, each charged image was also found on
7 Defendant’s shuttle desktop under Defendant’s user account. 3 RT 118, 132. The images that
8 were found in the “unallocated space” were merely duplicates of the images found on
9 Defendant’s shuttle desktop. 3 RT 123, 126-127; 4 RT 68-69. Hines testified that she has
10 seen Defendant using the computer with the charged images at “[e]very waking hour of the
11 day.” 2 RT 213. Det. Ehlers testified that if an image was in unallocated space, “it would
12 show that a user actually had contact or interaction with it as opposed to it just being placed
13 there or downloaded at one time, never viewed or touched.” 4 RT 99. These testimonies,
14 coupled with Defendant’s background in computers, support this Court’s finding that
15 Defendant did in fact have access to and control over the files in question. See 4 RT 136-
16 138. Accordingly, a jury instruction based upon Flyer would have been inappropriate.
17 Therefore, this Court finds that Defendant’s claim is without merit.

18 **E. Ground Five of Defendant’s Supplement is Without Merit**

19 In Ground Five of Defendant’s Supplement, Defendant alleged that appellate counsel
20 was ineffective for not raising Ground Four and a sufficiency of the evidence claim on
21 appeal. Supplement at 12. However, this Court finds that Defendant’s claim fails. As
22 discussed supra, a jury instruction based upon Flyer is inappropriate. Accordingly, there was
23 no basis for appellate counsel to raise this issue on appeal.

24 As to Defendant’s sufficiency of the evidence claim, Defendant already raised this
25 argument on appeal to the Nevada Supreme Court, and the Nevada Supreme Court rejected
26 it. See Castaneda v. State, Docket No. 64515 (Opinion, June 16, 2016). Accordingly, this
27 Court finds that this issue is barred under the law of the case. See State v. Loveless, 62 Nev.
28 312, 317, 150 P.2d 1015, 1017 (1944) (quoting Wright v. Carson Water Co, 22 Nev. 304,

1 308, 39 P. 872, 873-874 (1895)) (“The decision (on the first appeal) is the law of the case,
2 not only binding on the parties and their privies, but on the court below and on this court
3 itself. A ruling of an appellate court upon a point distinctly made upon a previous appeal is,
4 in all subsequent proceedings in the same case upon substantially the same facts, a final
5 adjudication, from the consequences of which the court cannot depart.”). As explained in
6 Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975), “[t]he doctrine of the law of the
7 case cannot be avoided by a more detailed and precisely focused argument subsequently
8 made after reflection upon the previous proceedings.” See also Pellegrini v. State, 117 Nev.
9 860, 879, 34 P.3d 519, 532(2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d
10 1263, 1275 (1999)) (“Under the law of the case doctrine, issues previously determined by
11 this court on appeal may not be reargued as a basis for habeas relief.”).

12 In rejecting Defendant’s insufficiency of the evidence claim, the Nevada Supreme
13 Court held the following:

14 Here, although Castaneda elicited testimony that a virus could
15 have accessed the files, other testimony established that the
16 downloads were more likely the product of conscious human
17 endeavor. Similarly, while Castaneda’s housemates at one time
18 had access to Castaneda’s desktop, other evidence indicated that
19 they did not have access to Castaneda’s password-protected user
20 account on the desktop or his laptop. The jury also was entitled to
21 consider that fact that the same images appeared on more than
22 one device and that, when he saw that a detective had opened one
23 of the illegal images, Castaneda commented that “Those are kids,
24 I’m sorry.” Viewed in the light most favorable to the State, the
25 evidence was sufficient to support the jury’s conviction of
26 Castaneda for knowingly and willfully possessing the charged
27 images in violation of NRS 200.730.

28 Castaneda, Docket No. 64515 at 16 (emphasis in original). To the extent Defendant tries to
vary his insufficiency of the evidence argument in the instant petition, this Court rejects
Defendant’s attempt to re-litigate an issue that has already been ruled on by the Nevada
Supreme Court as it constitutes an abuse of the writ pursuant to NRS 34.810(2). Regardless,
such variation cannot defeat the law of the case. See Hogan v. Warden, Ely State Prison, 109
Nev. 952, 860 P.2d 710 (1993); Pellegrini, 117 Nev. at 879, 34 P.3d at 532. Accordingly,
there was no basis for appellate counsel to raise this issue on appeal. Therefore, this Court

1 finds Defendant's claim is without merit.

2 **II. DEFENDANT FAILS TO DEMONSTRATE CUMULATIVE**
3 **ERROR**

4 In Ground Six of his Petition, Defendant argued that ineffective assistance of both his
5 trial and appellate counsel resulted in cumulative error. Supplement at 12. However, because
6 Defendant failed to show any instances of error and fails to demonstrate cumulative error
7 sufficient to warrant reversal, this Court finds that his claim is without merit.

8 The Nevada Supreme Court has not endorsed application of its direct appeal
9 cumulative error standard to the post-conviction Strickland context. McConnell v. State, 125
10 Nev. 243, 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-
11 conviction review. Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denied, 549
12 U.S. 1134, 1275 S.Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice
13 on series of errors, none of which would by itself meet the prejudice test.").

14 Nevertheless, even where available a cumulative error finding in the context of a
15 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See
16 Harris By and Through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact, logic
17 dictates that there can be no cumulative error where the defendant fails to demonstrate any
18 single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir. 2007)
19 ("where individual allegations of error are not of constitutional stature or are not errors, there
20 is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
21 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
22 543, 552-553 (5th Cir. 2005)). Since Defendant has not demonstrated any claim warrants
23 relief under Strickland, there are no errors to cumulate.

24 In addressing a claim of cumulative error, the relevant factors are: (1) whether the
25 issue of guilt is close; (2) the quantity and character of the error; and (3) the gravity of the
26 crime charged. Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 854-5 (2000). As discussed
27 above, the issue of guilt was not close as the evidence against Defendant was overwhelming.
28 Even assuming that some or all of Defendant's allegations of deficiency have merit, he has

1 failed to establish that, when aggregated, the errors deprived him of a reasonable likelihood
2 of a better outcome at trial. Accordingly, even if counsel was in any way deficient, there is
3 no reasonable probability that Defendant would have received a better result but for the
4 alleged deficiencies. Further, Defendant certainly has not shown that the cumulative effect of
5 these errors was so prejudicial as to undermine the court's confidence in the outcome of
6 Defendant's case. Defendant's sentence was not changed by the Supreme Court Order.
7 Moreover, this Court ran all of Defendant's counts concurrent. Therefore, this Court finds
8 that Defendant's cumulative error claim is without merit and is thus denied.

9 **ORDER**

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

12 DATED this 18th day of January, 2018.

13 
14 _____
15 DISTRICT JUDGE

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that service of the above and foregoing was made this 18th day of
18 January, 2018, to:

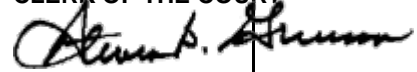
19 TERENCE JACKSON, ESQ.

terry.jackson.esq@gmail.com

20 TALEEN PANDUKHT, ESQ.

taleen.pandukht@clarkcountyda.com

21
22
23 BY 
24 _____
25 Shelby Lopaze, Judicial Executive Assistant
26
27
28



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTHONY CASTANEDA,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-11-272657-1

Dept No: V

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on January 18, 2018, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 25, 2018.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 25 day of January 2018, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

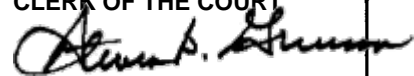
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Anthony Castaneda # 2799593	Terrence M. Jackson, Esq.
330 S. Casino Center Blvd.	624 S. Ninth St.
Las Vegas, NV 89101	Las Vegas, NV 89101

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



1 FCL

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

CASE NO: C-11-272657-1

8 ANTHONY CASTANEDA,
9 #2799593

DEPT NO: V

10 Defendant.

11 **FINDINGS OF FACT, CONCLUSIONS OF**
12 **LAW AND ORDER**

13 DATE OF HEARING: OCTOBER 16, 2017
14 TIME OF HEARING: 9:00 AM

15 THIS CAUSE having come on for hearing before the Honorable CAROLYN
16 ELLSWORTH, District Judge, on the 16th day of October, 2017; the Petitioner not being
17 present, TERRENCE JACKSON, ESQ.; the Respondent being represented by STEVEN B.
18 WOLFSON, Clark County District Attorney, by and through TALEEN PANDUKHT, Chief
19 Deputy District Attorney; and having considered the matter, including briefs, transcripts,
20 arguments of counsel, and documents on file herein, the Court makes the following findings
21 of fact and conclusions of law:

22 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

23 **PROCEDURAL BACKGROUND**

24 On April 20, 2011, ANTHONY CASTANEDA (hereinafter "Defendant") was
25 charged by way of Information with 15 counts of Possession Of Visual Presentation
26 Depicting Sexual Conduct Of A Child (Category B Felony - NRS 200.700, 200.730).

27 //

28 //

1 On July 8, 2013, a jury trial convened and lasted six days. On July 16, 2013, the jury
2 returned a guilty verdict for all 15 counts. Defendant was sentenced to the Nevada
3 Department of Corrections as follows: as to Count 1 – a maximum of 72 months and
4 minimum of 28 months; as to Count 2 – a maximum of 72 months and minimum of 28
5 months, to run concurrent to Count 1; as to Count 3 – a maximum of 72 months and
6 minimum of 28 months, to run concurrent to Count 2; as to Count 4 – a maximum of 72
7 months and minimum of 28 months, to run concurrent to Count 3; as to Count 5 – a
8 maximum of 72 months and minimum of 28 months, to run concurrent to Count 4; as to
9 Count 6 – a maximum of 72 months and minimum of 28 months, to run concurrent to Count
10 5; as to Count 7 – a maximum of 72 months and minimum of 28 months, to run concurrent
11 to Count 6; as to Count 8 – a maximum of 72 months and minimum of 28 months, to run
12 concurrent to Count 7; as to Count 9 – a maximum of 72 months and minimum of 28
13 months, to run concurrent to Count 8; as to Count 10 – a maximum of 72 months and
14 minimum of 28 months, to run concurrent to Count 9; as to Count 11 – a maximum of 72
15 months and minimum of 28 months, to run concurrent to Count 10; as to Count 12 – a
16 maximum of 72 months and minimum of 28 months, to run concurrent to Count 11; as to
17 Count 13 – a maximum of 72 months and minimum of 28 months, to run concurrent to
18 Count 12; as to Count 14 – a maximum of 72 months and minimum of 28 months, to run
19 concurrent to Count 13; and as to Count 15 – a maximum of 72 months and minimum of 28
20 months, to run concurrent to Count 14. Defendant received 160 days credit for time served.
21 Defendant's sentence was suspended and placed on probation for a fixed 5-year term. In
22 addition, a special sentence of lifetime supervision was imposed. On November 25, 2013,
23 Defendant filed a Notice of Appeal. A Judgment of Conviction ("JOC") was filed on
24 December 31, 2013.

25 On May 21, 2014, Defendant appeared in court with counsel for a probation violation
26 hearing. On June 16, 2014, an Amended Judgment of Conviction ("AJOC") was filed to
27 reflect Defendant's reinstatement to probation under the original conditions, except that the
28 previously imposed condition of lifetime supervision was vacated.

1 On July 2, 2015, Defendant's probation was revoked and his original sentence was
2 modified to a maximum of 72 months and a minimum of 24 months, on each count
3 concurrently, with 273 days credit for time served. A Second Amended Judgment of
4 Conviction was filed on the same date.

5 On July 16, 2016, the Nevada Supreme Court entered its Order vacating in part the
6 Second Amended Judgment of Conviction, finding that Defendant could only be properly
7 charged and convicted with one count of Possession of Visual Presentation Depicting Sexual
8 Conduct Of A Child. On July 19, 2016, a Third Amended Judgment of Conviction was filed
9 to reflect the Nevada Supreme Court's Order. Remittitur issued July 21, 2016.

10 On December 7, 2016, Defendant filed a Motion for the Appointment of Counsel and
11 Request for Evidentiary Hearing. On December 28, 2016, the State filed its Opposition to
12 Defendant's Motion for the Appointment of Counsel and Request for Evidentiary Hearing.
13 On January 4, 2017, Defendant's motion and request were denied.

14 On December 20, 2016, Defendant filed a Petition for Writ of Habeas Corpus (Post-
15 Conviction). On March 29, 2016, the State filed its Opposition to Defendant's Petition.

16 On April 26, 2017, Terrence Jackson was confirmed as counsel. On July 25, 2017,
17 Defendant, through counsel, filed the instant Supplemental Points and Authorities In Support
18 of Petition for Writ of Habeas Corpus for Post-Conviction Relief ("Supplement"). The State
19 filed an Opposition to Defendant's Supplemental Points and Authorities in Support of
20 Petition For Writ of Habeas Corpus for Post-Conviction Relief on September 20, 2017.
21 Defendant filed a Reply to State's Opposition to Defendant's Supplemental Points and
22 Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief on
23 September 25, 2017.

24 On January 17, 2018, the Court discovered a clerical error in the Third Amended
25 Judgment of Conviction and filed a *nunc pro tunc* Fourth Amended Judgment of Conviction
26 which conformed to the previous order of the Court which had modified the underlying
27 sentence at the time of revocation of probation on June 22, 2015.

1 The Court denied Defendant's Petition for Writ of Habeas Corpus on October 16,
2 2017, as follows.

3 **FACTUAL BACKGROUND**

4 The Nevada Supreme Court, in its Order of Affirmance, filed on July 21, 2016,
5 summarized the facts of the instant matter as follows:

6 The charges against Defendant originated in a report by a former
7 housemate of his to the Las Vegas Metropolitan Police
8 Department ("Metro"). The former housemate reported that, after
9 moving out of Defendant's house, she and her boyfriend found
10 mixed in with their belongings a USB flash drive similar to one
11 Defendant customarily kept on his key chain. When they opened
12 the flash drive, they discovered that it held copies of Defendant's
13 driver's license, birth certificate, Social Security card and
14 military records, as well as a file of pornographic images, some
15 depicting children.

16 Metro obtained a search warrant to view the contents of the flash
17 drive. On the flash drive, in addition to Defendant's
18 identification, detectives found a subfolder named "girl pics."
19 This subfolder contained pornographic images, including several
20 that an FBI database established as known images of child
21 pornography downloadable from the World Wide Web. Based on
22 this evidence, detectives obtained a search warrant for
23 Defendant's home and home computers. The home computers, a
24 desktop and a laptop, contained each of the child pornography
25 images found on the flash drive and several additional known
26 images of child pornography as well, for a total of 15 separate
27 depictions, with most being found on both the desktop and the
28 laptop. Defendant was interviewed by a detective while the
search was underway. After the interview concluded, he came
into the room where another detective had one of the illegal
images open on the computer. Reportedly, Defendant saw what
was on the screen and said, "Those are kids, I'm sorry."

21 The State charged Defendant with 15 counts of knowingly and
22 willfully possessing 15 image files depicting sexual conduct of a
23 child in violation of NRS 200.730. Before trial, the State and
24 Defendant stipulated not to publish the charged images in open
25 court but, rather, to put copies of them into evidence in a sealed
26 envelope for the jury to examine if it so chose. They further
27 stipulated, quoting language from NRS 200.730, that each of the
28 15 charged images depicted a child "under the age of 16 years as
the subject of a sexual portrayal or engaging in, or simulating, or
assisting others to engage in or simulate, sexual conduct."

26 After a six-day trial, the jury convicted Defendant on all 15
27 counts. The district court judge sentenced Defendant to a
28 minimum of 28 months and maximum of 72 on each count, the
sentences to run concurrently. The district court suspended the
sentences and placed Defendant on probation for a 5-year term.

ANALYSIS

I. DEFENDANT'S CLAIMS OF INEFFECTIVE ASSISTANCE OF TRIAL AND APPELLATE COUNSEL ARE WITHOUT MERIT

“[T]he purpose of the effective assistance guarantee of the Sixth Amendment is not to improve the quality of legal representation...[but] simply to ensure that criminal defendants receive a fair trial.” Cullen v. Pinholster, 563 U.S. 170, 189, 131 S.Ct. 1388, 1403 (2012) (internal quotation marks and citation omitted); see also Jackson v. Warden, Nev. State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975) (“Effective counsel does not mean errorless counsel.”). To prevail on a claim of ineffective assistance of counsel as it relates to a guilty plea, a defendant must prove that he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of Strickland v. Washington, 466 U.S. 668, 686-687, 104 S.Ct. 2052, 2063-2064 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323(1993). Under this test, the defendant must show first, that his counsel’s representation fell below an objective standard of reasonableness, and second, but for counsel’s errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 687-688, 694, 104 S.Ct. at 2065, 2068. This Court need not consider both prongs, however if a defendant makes an insufficient showing on either one. Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004).

“The benchmark for judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland, 466 U.S. at 686, 104 S.Ct. at 2052. Indeed, the question is whether an attorney’s representations amounted to incompetence under prevailing professional norms, “not whether it deviated from best practices or most common custom.” Harrington v. Richter, 562 U.S. 86, 105, 131 S.Ct. 770, 788 (2011); see also Strickland, 466 U.S. at 689, 104 S.Ct. at 2065 (“There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way.”). Accordingly, the role of a court in considering alleged ineffective assistance of counsel is “not to pass upon the merits of the action not

1 taken but to determine whether, under the particular facts and circumstances of the case, trial
2 counsel failed to render reasonably effective assistance.” Donovan v. State, 94 Nev. 671,
3 675, 584 P.2d 708, 711 (1978). In doing so, courts begin with the presumption of
4 effectiveness and the defendant bears the burden of proving, by a preponderance of the
5 evidence, that counsel was ineffective. Means v. State, 120 Nev. 1001, 1011-1012, 103 P.3d
6 25, 32-33 (2004) (holding “that a habeas corpus petitioner must prove the disputed factual
7 allegations underlying his ineffective- assistance claim by a preponderance of the
8 evidence.”). This analysis does not indicate that the court should “second guess reasoned
9 choices between trial tactics,” Donovan, 94 Nev. at 675, 584 P.2d at 711, but rather, the
10 court must determine whether counsel made a “sufficient inquiry into the
11 information...pertinent to his client’s case.” Doleman v. State, 112 Nev. 843, 846, 921 P.2d
12 278, 280 (1996).

13 Further, even if counsel’s performance was deficient, “it is not enough to show that
14 the errors had some conceivable effect on the outcome of the proceeding.” Harrington, 562
15 U.S. at 104, 131 S.Ct. at 787 (quotations and citations omitted). Instead, the defendant must
16 demonstrate that but for counsel’s incompetence the results of the proceeding would have
17 been different:

18 In assessing prejudice under Strickland, the question is not
19 whether a court can be certain counsel’s performance had no
20 effect on the outcome or whether it is possible a reasonable doubt
21 might have been established if counsel acted differently.
22 Instead, Strickland asks whether it is reasonably likely the results
23 would have been different. This does not require a showing that
24 counsel’s actions more likely than not altered the outcome, but
25 the difference between Strickland’s prejudice standard and a
26 more-probable-than-not standard is slight and matters only in the
27 rarest case. The likelihood of a different result must be
28 substantial, not just conceivable.

24 Id. at 111-112, 131 S.Ct. at 791-792 (internal quotation marks and citations omitted).

25 For claims of ineffective assistance of appellate counsel, the prejudice prong is
26 slightly different. There is a strong presumption that appellate counsel’s performance was
27 reasonable and fell within “the wide range of reasonable professional assistance.” See United
28 States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990) (citing Strickland, 466 U.S. at 689, 104

1 S.Ct. at 2065). A claim of ineffective assistance of appellate counsel must still satisfy the
2 two-prong test set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102,
3 1114 (1996). In order to satisfy Strickland's second prong, the defendant must show that the
4 omitted issue would have had a reasonable probability of success on appeal. Id.

5 Appellate counsel is not required to raise every non-frivolous issue on appeal. Jones
6 v. Barnes, 463 U.S. 745, 751-754, 103 S.Ct. 3308, 3312-3314 (1983). The professional
7 diligence and competence required on appeal involves "winnowing out weaker arguments on
8 appeal and focusing on one central issue if possible, or at most on a few key issues." Id. at
9 751-52, 103 S.Ct. at 3313. In particular, a "brief that raises every colorable issue runs the
10 risk of burying good arguments...in a verbal mound made up of strong and weak
11 contentions." Id. at 753, 103 S.Ct. at 3313. For judges to second-guess reasonable
12 professional judgments and impose on appointed counsel a duty to raise every 'colorable'
13 claim suggested by a client would disserve the very goal of vigorous and effective
14 advocacy." Id. at 754, 103 S.Ct. at 3314.

15 All told, "[s]urmounting Strickland's high bar is never an easy task." Padilla v.
16 Kentucky, 559 U.S. 356, 371, 130 S.Ct. 1473, 1485 (2010). Here, this Court finds
17 Defendant's arguments fall far short of satisfying Strickland.

18 **A. Ground One of Defendant's Supplement is Without Merit**

19 In Ground One of his Supplement, Defendant alleged that trial counsel was
20 ineffective for failing to "notice a necessary expert witness," and failing to contact "any of
21 the employees who worked for Defendant's software security services company SpyBox."
22 Supplement at 2-6. Specifically, Defendant alleged that the expert counsel consulted "would
23 have rebutted Detective Ehler's critical testimony." Id. However, deciding which witnesses
24 to call is a virtually unchallengeable decision. Dawson v. State, 108 Nev. 112, 117, 825 P.2d
25 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).
26 Additionally, as to Defendant's expert witness claim, the United States Supreme Court stated
27 that a defense expert witness is not required solely because the State used an expert witness.
28 Harrington, 562 U.S. at 111, 131 S.Ct. at 791 ("Strickland does not enact Newton's third law

1 for the presentation of evidence, requiring for every prosecution expert an equal and opposite
2 expert from the defense.”).

3 In the instant matter, defense counsel argued at trial that the late notice of a rebuttal
4 expert was warranted because Det. Ehlers’s testimony strayed from what was included in his
5 report. Jury Trial - Day 4 Recorder’s Transcript (“4 RT”), filed December 20, 2013, 57-66.
6 Defendant’s trial counsel cannot be ineffective for Det. Ehlers’s unanticipated testimony. See
7 Harrington, 562 U.S. at 110, 131 S.Ct. at 791 (“an attorney may not be faulted for a
8 reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be
9 remote possibilities”). Moreover, Defendant’s assertion is misguided as Defendant’s trial
10 counsel had no reason to call an expert.

11 On July 11, 2016, at the very outset of Det. Ehler’s cross-examination, defense
12 counsel attacked Det. Ehlers’s testimony on direct examination. 4 RT 20. On that same date,
13 defense counsel requested leave of the court to call a computer expert (“Mare”) to rebut Det.
14 Ehler’s testimony. 4 RT 57-66. Defense counsel preserved the proffered expert testimony of
15 Leon Mare (“Mare”) by filing an Offer of Proof Regarding Defendant’s Motion to Call a
16 Computer Expert to Rebut Detective Ehlers’ Surprise Trial Testimony on October 7, 2013.
17 However, even if Mare testified, this Court finds Defendant is still unable to establish any
18 prejudice because trial counsel successfully argued each of the arguments Mare would have
19 made during Det. Ehlers’s cross- examination and re-cross. 4 RT 21-27, 27-31, 32-33, 47-49,
20 50, 51-52, 75-77, 104-105; see Offer of Proof Regarding Defendant’s Motion to Call a
21 Computer Expert to Rebut Detective Ehlers’ Surprise Trial Testimony, filed on October 7,
22 2013, 4-5. Lastly, the question of prejudice is governed by the law of the case because the
23 Nevada Supreme Court concluded on direct appeal that Defendant was able to make the
24 points he wanted to make without calling an expert. NV Supreme Court Clerk’s
25 Certificate/Judgment, filed July 7, 2016. Therefore, Defendant’s claim is without merit.

26 //

27 //

28 //

1 **B. Ground Two of Defendant’s Supplement is Without Merit**

2 In Ground Two of his Supplement, Defendant alleged that trial counsel was
3 ineffective for failing “to file a meritorious pretrial Writ of Habeas Corpus.” Supplement at
4 7. Specifically, Defendant alleged that there was a “double jeopardy issue of charging fifteen
5 counts for simultaneously possessing fifteen digital images,” and that a pretrial Writ of
6 Habeas Corpus would have likely been granted due to an alleged double jeopardy violation.
7 Id. However, this Court finds Defendant’s claim fails as the prejudice Defendant contends
8 occurred is purely speculative.

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance
11 of the evidence.” Means, 120 Nev. at 1012, 103 P.3d at 33. However, what pre-trial motions
12 to file and when to object are strategic decisions, and strategic decisions are virtually
13 unchallengeable. Doleman, 112 Nev. at 848, 921 P.2d at 280; Rhyne, 118 Nev. at 8, 38 P.3d
14 at 167 (2002). Moreover, here the defendant did not suffer any prejudice as the trial court
15 sentenced the defendant to the same sentence for all 15 counts and ran the sentences
16 concurrently, and thereafter the Supreme Court granted the defendant’s appeal which
17 resulted in the Judgment of Conviction being revised to reflect conviction of a single count.
18 Therefore, Defendant’s claim is without merit.

19 **C. Ground Three of Defendant’s Supplement is Without Merit**

20 In Ground Three of his Supplement, Defendant alleged that trial counsel was
21 ineffective for failing “to file a meritorious motion to suppress.” Supplement at 9.
22 Specifically, Defendant alleged that there was “significant evidence of false statements in the
23 search warrant affidavit.” Supplement at 9-10. However, this Court finds that Defendant’s
24 claim is without merit as the search warrant was still supported by probable cause
25 irrespective of Hines’s alleged lie. In response to defense counsel’s allegation of Hines
26 committing perjury, this Court stated:

27 //

28 //

1 My recollection was she said that her answer to the one question
2 at preliminary hearing, which was: Did you immediately
3 recognize the thumb drive -- I'm paraphrasing, of course -- as
4 Mr. Castaneda's? She said, No. And that was -- then you said,
5 Well, were you lying then? She said, Yes. So that's the only -- to
6 my way of thinking as far as having heard everything, it appears
7 to me the only thing that she admitted that she lied about was that
8 one statement.

9 4 RT 128. Based on the Court's response, Defendant was not entitled to a Franks hearing
10 since he failed to demonstrate that the investigators engaged in any misconduct. Weber v.
11 State, 121 Nev. 554, 584, 119 P.3d 107, 127 (2005). Moreover, a search warrant cannot be
12 overturned solely because of a witness's alleged lie, and will only be re-examined for
13 probable cause if a defendant makes a substantial preliminary showing that the affidavit
14 contains intentionally or recklessly false statements. Franks v. Delaware, 438 U.S. 154, 155,
15 98 S.Ct. 2674, 2676 (1978). Defendant fails to make such a showing. Therefore, this Court
16 finds that Defendant's claim is without merit.

17 **D. Ground Four of Defendant's Supplement is Without Merit**

18 In Ground Four of his Supplement, Defendant alleges that trial counsel was
19 ineffective for failing to "prepare a necessary jury instruction based upon the case of United
20 States v. Flyer." Supplement at 10. However, a jury instruction based on Flyer would be
21 inappropriate as Defendant's reliance on Flyer is misplaced. In Flyer, the defendant was
22 convicted of possession of child pornography. Id. Although the defendant successfully
23 argued that the evidence was insufficient to support his conviction, this Court finds that Flyer
24 is inapplicable to the instant matter. Id. The Court in Flyer reasoned:

25 Where a defendant lacks knowledge about the cache files, and
26 concomitantly lacks access to and control over those files, it is
27 not proper to charge him with possession and control of the child
28 pornography images located in those files, without some other
indication of dominion and control over the images.

(emphasis added). 633 F.3d at 919 (quoting United States v. Kuchinski, 469 F.3d 853, 862
(9th Cir. 2006).

//

//

1 In Flyer, the Court stated that there was no evidence that the defendant “had accessed,
2 enlarged, or manipulated any of the charged images,” or that the defendant could “recover or
3 view any of the charged images in unallocated space or that he even knew of their presence.”
4 633 F.3d at 919-920. In the instant matter, the evidence adduced at trial supports a finding
5 that Defendant did not lack access to and control over the files at issue. In addition to the
6 charged images found on the thumb drive, each charged image was also found on
7 Defendant’s shuttle desktop under Defendant’s user account. 3 RT 118, 132. The images that
8 were found in the “unallocated space” were merely duplicates of the images found on
9 Defendant’s shuttle desktop. 3 RT 123, 126-127; 4 RT 68-69. Hines testified that she has
10 seen Defendant using the computer with the charged images at “[e]very waking hour of the
11 day.” 2 RT 213. Det. Ehlers testified that if an image was in unallocated space, “it would
12 show that a user actually had contact or interaction with it as opposed to it just being placed
13 there or downloaded at one time, never viewed or touched.” 4 RT 99. These testimonies,
14 coupled with Defendant’s background in computers, support this Court’s finding that
15 Defendant did in fact have access to and control over the files in question. See 4 RT 136-
16 138. Accordingly, a jury instruction based upon Flyer would have been inappropriate.
17 Therefore, this Court finds that Defendant’s claim is without merit.

18 **E. Ground Five of Defendant’s Supplement is Without Merit**

19 In Ground Five of Defendant’s Supplement, Defendant alleged that appellate counsel
20 was ineffective for not raising Ground Four and a sufficiency of the evidence claim on
21 appeal. Supplement at 12. However, this Court finds that Defendant’s claim fails. As
22 discussed supra, a jury instruction based upon Flyer is inappropriate. Accordingly, there was
23 no basis for appellate counsel to raise this issue on appeal.

24 As to Defendant’s sufficiency of the evidence claim, Defendant already raised this
25 argument on appeal to the Nevada Supreme Court, and the Nevada Supreme Court rejected
26 it. See Castaneda v. State, Docket No. 64515 (Opinion, June 16, 2016). Accordingly, this
27 Court finds that this issue is barred under the law of the case. See State v. Loveless, 62 Nev.
28 312, 317, 150 P.2d 1015, 1017 (1944) (quoting Wright v. Carson Water Co, 22 Nev. 304,

1 308, 39 P. 872, 873-874 (1895)) (“The decision (on the first appeal) is the law of the case,
2 not only binding on the parties and their privies, but on the court below and on this court
3 itself. A ruling of an appellate court upon a point distinctly made upon a previous appeal is,
4 in all subsequent proceedings in the same case upon substantially the same facts, a final
5 adjudication, from the consequences of which the court cannot depart.”). As explained in
6 Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975), “[t]he doctrine of the law of the
7 case cannot be avoided by a more detailed and precisely focused argument subsequently
8 made after reflection upon the previous proceedings.” See also Pellegrini v. State, 117 Nev.
9 860, 879, 34 P.3d 519, 532(2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d
10 1263, 1275 (1999)) (“Under the law of the case doctrine, issues previously determined by
11 this court on appeal may not be reargued as a basis for habeas relief.”).

12 In rejecting Defendant’s insufficiency of the evidence claim, the Nevada Supreme
13 Court held the following:

14 Here, although Castaneda elicited testimony that a virus could
15 have accessed the files, other testimony established that the
16 downloads were more likely the product of conscious human
17 endeavor. Similarly, while Castaneda’s housemates at one time
18 had access to Castaneda’s desktop, other evidence indicated that
19 they did not have access to Castaneda’s password-protected user
20 account on the desktop or his laptop. The jury also was entitled to
21 consider that fact that the same images appeared on more than
22 one device and that, when he saw that a detective had opened one
23 of the illegal images, Castaneda commented that “Those are kids,
24 I’m sorry.” Viewed in the light most favorable to the State, the
25 evidence was sufficient to support the jury’s conviction of
26 Castaneda for knowingly and willfully possessing the charged
27 images in violation of NRS 200.730.

28 Castaneda, Docket No. 64515 at 16 (emphasis in original). To the extent Defendant tries to
vary his insufficiency of the evidence argument in the instant petition, this Court rejects
Defendant’s attempt to re-litigate an issue that has already been ruled on by the Nevada
Supreme Court as it constitutes an abuse of the writ pursuant to NRS 34.810(2). Regardless,
such variation cannot defeat the law of the case. See Hogan v. Warden, Ely State Prison, 109
Nev. 952, 860 P.2d 710 (1993); Pellegrini, 117 Nev. at 879, 34 P.3d at 532. Accordingly,
there was no basis for appellate counsel to raise this issue on appeal. Therefore, this Court

1 finds Defendant's claim is without merit.

2 **II. DEFENDANT FAILS TO DEMONSTRATE CUMULATIVE**
3 **ERROR**

4 In Ground Six of his Petition, Defendant argued that ineffective assistance of both his
5 trial and appellate counsel resulted in cumulative error. Supplement at 12. However, because
6 Defendant failed to show any instances of error and fails to demonstrate cumulative error
7 sufficient to warrant reversal, this Court finds that his claim is without merit.

8 The Nevada Supreme Court has not endorsed application of its direct appeal
9 cumulative error standard to the post-conviction Strickland context. McConnell v. State, 125
10 Nev. 243, 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-
11 conviction review. Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denied, 549
12 U.S. 1134, 1275 S.Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice
13 on series of errors, none of which would by itself meet the prejudice test.").

14 Nevertheless, even where available a cumulative error finding in the context of a
15 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See
16 Harris By and Through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact, logic
17 dictates that there can be no cumulative error where the defendant fails to demonstrate any
18 single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir. 2007)
19 ("where individual allegations of error are not of constitutional stature or are not errors, there
20 is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
21 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
22 543, 552-553 (5th Cir. 2005)). Since Defendant has not demonstrated any claim warrants
23 relief under Strickland, there are no errors to cumulate.

24 In addressing a claim of cumulative error, the relevant factors are: (1) whether the
25 issue of guilt is close; (2) the quantity and character of the error; and (3) the gravity of the
26 crime charged. Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 854-5 (2000). As discussed
27 above, the issue of guilt was not close as the evidence against Defendant was overwhelming.
28 Even assuming that some or all of Defendant's allegations of deficiency have merit, he has

1 failed to establish that, when aggregated, the errors deprived him of a reasonable likelihood
2 of a better outcome at trial. Accordingly, even if counsel was in any way deficient, there is
3 no reasonable probability that Defendant would have received a better result but for the
4 alleged deficiencies. Further, Defendant certainly has not shown that the cumulative effect of
5 these errors was so prejudicial as to undermine the court's confidence in the outcome of
6 Defendant's case. Defendant's sentence was not changed by the Supreme Court Order.
7 Moreover, this Court ran all of Defendant's counts concurrent. Therefore, this Court finds
8 that Defendant's cumulative error claim is without merit and is thus denied.

9 **ORDER**

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

12 DATED this 18th day of January, 2018.

13 
14 DISTRICT JUDGE

15
16 **CERTIFICATE OF SERVICE**


17 I hereby certify that service of the above and foregoing was made this 18th day of
18 January, 2018, to:

19 TERRENCE JACKSON, ESQ.

terry.jackson.esq@gmail.com

20 TALEEN PANDUKHT, ESQ.

taleen.pandukht@clarkcountyda.com

21
22
23 BY 
24 Shelby Lopaze, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 21, 2011

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

April 21, 2011 9:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Castaneda, Anthony	Defendant
	Geller, Warren, ESQ	Attorney
	Mitchell, Scott Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. CASTANEDA ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE.
COURT ORDERED, matter set for trial.

CUSTODY

6-29-11 9:00 AM CALENDAR CALL (DEPT. I)

7-05-11 1:30 PM JURY TRIAL (DEPT. I)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 02, 2011**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

**May 02, 2011 9:00 AM Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

HEARD BY: Cory, Kenneth**COURTROOM:** RJC Courtroom 16A**COURT CLERK:** Michele Tucker**RECORDER:** Beverly Sigurnik**REPORTER:****PARTIES**

PRESENT:	Castaneda, Anthony	Defendant
	Geller, Warren, ESQ	Attorney
	Monroe, Vicki Jean	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant present in custody. Arguments by Mr. Geller. Ms. Monroe argued regarding photographs on computer. Statement by Defendant. Statements by the Court. COURT ORDERED, Motion GRANTED with the following CONDITIONS:

1. Any law enforcement agencies may make unannounced visits to the Defendant's residence and search any computer on the premises.
2. Defendant is restricted from using any computer which connects to the internet.

COURT FURTHER ORDERED, trial date VACATED and RESET.

O.R.

11/21/11 9:00 AM CALENDAR CALL

11/28/11 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 21, 2011

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

November 21, 2011 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Geller, Warren, ESQ Attorney
 State of Nevada Plaintiff
 Villegas, Victoria A. Attorney

JOURNAL ENTRIES

- CALENDAR CALL

Mr. Geller advised Deft. is not present, but believes he thinks it is Wednesday which is usual calendar call dates. Further, advised he is not ready for trial based on discovery issues. Warren Geller, sworn and testified regarding motion to continue. State concurred with discovery issues. Good cause showing, COURT ORDERED, trial date VACATED and matter CONTINUED for Deft. to be present, and later for status check on discovery and to reset trial.

O.R.

11/23/11 9:00 AM STATUS CHECK: DEFT'S PRESENCE

1/25/12 9:00 AM STATUS CHECK: DISCOVERY/RESET TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 23, 2011

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

November 23, 2011 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Denise Trujillo

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:	Castaneda, Anthony	Defendant
	Geller, Warren, ESQ	Attorney
	Raman, Jay	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: DEFT'S PRESENCE

Deft. present, out of custody. COURT directed Deft. to stay in contact with his counsel.

O.R.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 25, 2012

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

January 25, 2012 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Rue, Jeffrey T. Attorney
 State of Nevada Plaintiff
 Sweetin, James R. Attorney

JOURNAL ENTRIES

- STATUS CHECK: DISCOVERY/RESET TRIAL

Deft. not present. Mr. Rue advised Deft. has been snowed in out of state and requested matter be CONTINUED. There being no opposition, COURT SO ORDERED.

O.R.

CONTINUED TO: 2/1/12 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2012

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

February 01, 2012 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R.	Attorney

JOURNAL ENTRIES

- STATUS CHECK: DISCOVERY/RESET TRIAL

Deft. present at liberty. At request of Ms. Ballou, COURT ORDERED, matter SET for trial.

O.R.

11/19/12 9 AM CALENDAR CALL

11/26/12 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2012

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

November 19, 2012 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 16A

COURT CLERK: Kristen Brown

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R.	Attorney

JOURNAL ENTRIES

- CALENDAR CALL

Deft. present at liberty. Erika Ballou sworn and testified as to why she is not prepared for trial. State announced ready but has no opposition to continuance. COURT ORDERED, trial date VACATED and trial SET for a FIRM SETTING. COURT ADMONISHED Deft. to stay in contact with his attorney and provide proof he was in the hospital.

O.R.

1/28/13 9 AM CALENDAR CALL

2/4/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 28, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

January 28, 2013 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R.	Attorney

JOURNAL ENTRIES

- Deft present at liberty. Motion to Continue Firm Trial Date FILED IN OPEN COURT. Ms. Ballou announced not ready; requested Trial date be continued. Court noted the Deft was instructed to provide proof he was in the hospital and admonished to stay in contact with counsel. State announced ready. Statements by Ms. Ballou regarding forensic report; requested if court will not continued trial that matter be set on a Tuesday. Court noted Deft cannot claim counsel is ineffective if the Deft is not staying in contact with counsel. Matter RECALLED. Mr. Piro present for Ms. Ballou on behalf of Deft and requested Trial date be set for Tuesday. COURT ORDERED, Trial date SET on Tuesday.

O.R.

2/5/13 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 05, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

February 05, 2013 9:00 AM Jury Trial - FIRM

HEARD BY: Ellsworth, Carolyn **COURTROOM:**

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney

JOURNAL ENTRIES**- JURY TRIAL**

IN THE ABSENCE OF THE JURY PANEL. In the absence of the Deft. Ms. Ballou FILED Motion for Discovery IN OPEN COURT and advised they just received some pertinent discovery on Thursday and renewed motion for continuance or a motion to suppress. Deft. present. Arguments by counsel regarding discovery. Upon Court's inquiry, Mr. Rue advised of the information they would be able to obtain if trial is continued. CONFERENCE AT THE BENCH. MATTER RECALLED. State advised they are now offering Deft. opportunity to plead to 4 counts, but will not allow an Alford plea. Deft. refused negotiations and advised he understood the consequences if found guilty. State advised they are not going to renew the their offer after today. COURT ORDERED, matter CONTINUED for discovery, but advised counsel this is going to be a very short setting. Mr. Rue advised there is still an outstanding issue with reports from 2 detectives. Court reiterated that discovery has to be done expediently. At request of State, Amended Information FILED IN OPEN COURT. Exhibits RETURNED to the State. State requested time to respond to discovery motion. COURT ORDERED, matter SET TOMORROW for trial setting and 2/11/3 for Discovery Motion.

BOND

2/6/13 9 AM STATUS CHECK: TRIAL SETTING

2/11/13 9 AM DEFT'S MOTION FOR DISCOVERY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 06, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

**February 06, 2013 9:00 AM Status Check: Reset Trial
Date**

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Rue, Jeffrey T.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney

JOURNAL ENTRIES

- STATUS CHECK: RESET TRIAL DATE

Deft. present at liberty. Counsel advised they can not go to trial the week of 2/19/13. Colloquy between Court and counsel regarding trial setting. COURT ORDERED, matter SET trial on a FIRM setting.

O.R.

4/22/13 9 AM CALENDAR CALL

4/29/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 11, 2013

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

February 11, 2013 9:00 AM Motion for Discovery

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney

JOURNAL ENTRIES

- Deft not present. Ms. Ballou requested Deft s presence be waived as the Deft lives out of state. There being no objection by the State, COURT ORDERED, Deft's presence WAIVED. As to Defendant s Motion for Discovery:

1. Any and all 911 calls relating to LVMPD Event # 100208-1406. Statements by Counsel. State advised it is unaware if this exists and noted it will turn over if discovered. There being no objection by State, COURT ORDERED, Motion GRANTED.
2. Any and all 311 calls relating to LVMPD Event # 100208-1406. There being no objection by State, COURT ORDERED, Motion GRANTED.
3. Any and all CAD logs relating to LVMPD Event # 100208-1406. There being no objection by State, COURT ORDERED, Motion GRANTED.
4. Any and all radio traffic relating to LVMPD Event # 100208-1406. Colloquy between Court and Counsel regarding radio traffic. Ms. Ballou advised she will withdraw this request. Mr. Rue noted they were unable to determine if the radio traffic was relevant under Brady without this request being made; noted there was a statement by the Defendant that was not provided to them. COURT

ORDERED, Motion DENIED.

5. Any and all information relating to other suspects in LVMPD Event # 100208-1406. COURT ORDERED, Motion GRANTED and noted if the State has this information they are obligated to turn it over to the Defense.
6. Any and all statements made by Anthony Castaneda, taped or otherwise. Statements by Ms. Ballou. COURT ORDERED, Motion GRANTED as unopposed.
7. Any and all statements made by Tami Hines, taped or otherwise. State advised they only know of statements made by Ms. Hines to the police. Statements by Ms. Ballou. COURT ORDERED, Motion GRANTED and noted if the State has any written, audio recordings, or oral statements containing any exculpatory or Brady material the State is obligated to turn it over to the Defense.
8. Any and all statements made by any other witness, taped or otherwise. COURT ORDERED, Motion GRANTED and noted if the State has any written, audio recordings, or oral statements containing any exculpatory or Brady material the State is obligated to turn it over to the Defense.
9. Any and all criminal history relating to Anthony Castaneda. COURT ORDERED, Motion DENIED as Deft can obtain his own criminal history.
10. Any and all relevant criminal history relating to Tami Hines. There being no objection by the State, COURT ORDERED, Motion GRANTED.
11. Any and all relevant criminal history relating to any other witness. There being no objection by the State, COURT ORDERED, Motion GRANTED of any known witnesses.
12. Any and all photographs relating to LVMPD Event # 100208-1406 (for the child pornographic images this is limited as outlined in the Stipulation and Order). There being no objection by the State, COURT ORDERED, Motion GRANTED as State has indicated it has already provided this material.
13. Any and all video surveillance relating to LVMPD Event # 100208-1406. COURT ORDERED, Motion pursuant to Brady and if the State does not have any material it doesn't have to produce.
14. Any and all officer and/or detective reports for LVMPD Event # 100208-1406. There being no objection by the State, COURT ORDERED, Motion GRANTED
15. Any and all officer and/or detective notes for LVMPD Event # 100208-1406. State noted there are notes but they are not privileged. COURT ORDERED, Motion GRANTED in that if the notes are a work product done in preparation for this matter it is excluded and if the notes contain any exculpatory or Brady material the State is obligated to turn it over to the Defense. State is to make an affirmative inquiry as to the existence of notes.
16. Any and all exculpatory evidence in the possession or constructive possession of the state. There being no objection by the State, COURT ORDERED, Motion GRANTED
17. Any and all information regarding any benefits afforded to any of the state's witnesses in exchange for their assured cooperation in the prosecution of the instant case. State advised there are no promises made to any witnesses except witness fees. There being no Objection by the State, COURT ORDERED, Motion GRANTED.
18. Any and all curriculum vitae of any experts the state intends to call at trial. There being no Objection by the State, COURT ORDERED, Motion GRANTED.
19. Any and all information regarding the compensation of any of the state's expert witness(es). State advised it does not believe any expert witnesses are being paid but noted it will look into the matter. COURT ORDERED, Motion GRANTED if State determines witnesses are being compensated.

20. any other reports, witness statements, affidavits, declarations, video, or other material the state is relying on in its case in chief. There being no Objection by the State, COURT ORDERED, Motion GRANTED. FURTHER, Court instructed Ms. Ballou to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 22, 2013

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

April 22, 2013 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
Dania Batiste
Athena Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Marc Schifalacqua, Deputy District Attorney, present for the State of Nevada.
Erika Ballou and John Piro, Deputy Public Defenders, present on behalf of Defendant Castaneda.
Defendant Castaneda not present.

COURT ORDERED, No Bail Bench Warrant to ISSUE. COURT FURTHER ORDERED, trial date
VACATED.

B. W. (O. R.)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 01, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

May 01, 2013 9:00 AM Request

HEARD BY: Hardcastle, Kathy **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Dania Batiste

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Fattig, John T	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- REQUEST: QUASHING OUTSTANDING BENCH WARRANT

Deft. present at liberty. Arguments by counsel. State opposed defense's request. COURT ORDERED, bench warrant QUASHED and FIRM TRIAL DATE set. Court noted this is the last continuance, as this matter has been continued several times.

O.R.

6/17/13 9:00 AM CALENDAR CALL

6/24/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 20, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

May 20, 2013 9:00 AM Motion to Continue Trial

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Fattig, John T	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATE'S NOTICE OF HEARING MOTION AND MOTION TO MOVE TRIAL DATE

Deft. present at liberty. Colloquy between Court and counsel regarding trial setting. COURT ORDERED, matter SET for trial, firm setting.

O.R.

7/1/13 9 AM CALENDAR CALL

7/8/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 01, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 01, 2013 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
Andrea Natali

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES**- CALENDAR CALL**

Deft. present at liberty. Counsel announced ready. Mr. Westbrook advised he just got into this case, but noted Deft. stated he has some technical evidence that has not been turned over to the State. Further, he is going to sit down with him, and will provide anything necessary to the state as soon as possible so they can retain expert if needed. Counsel advised trial should take approximately 4 -5 days, 9 witnesses. State advised they have some scheduling issues and will be flying in some out of state witnesses on Wednesday. Counsel agreed that the "Hernandez" can be held prior to trial. COURT ORDERED, matter SET for trial.

O.R.

7/8/13 1:00 PM JURY TRIAL

M. ANTHONY / BALLOU & WESTBROOK
4-5 DAYS
2 OUT-OF-STATE WITNESSES
9 WITNESSES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 08, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 08, 2013**1:00 PM****Jury Trial****HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES**- TRIAL BY JURY**

IN THE ABSENCE OF THE JURY PANEL. Stipulation and Order FILED in OPEN COURT regarding evidence being admitted and sent back to the jury room, but not being shown during trial. Second Amended Information FILED in OPEN COURT to reflect the current District Attorney. State left courtroom. Hernandez hearing/canvass held. State present and stipulation put on record regarding not mentioning bestiality unless door is opened by Deft's. Mr. Westbrook moved for oral Motion in Limine regarding restricting State from mentioning the 400 images found on computer that were not charged. Arguments by counsel. Court believes it is important for State to show how photo's were found. Further arguments by counsel. Court doesn't know what witnesses are going to say but they will not be able to talk about prior bad acts. Mr. Westbrook objected to exhibit 71. State withdrew that exhibit and it will not be used or admitted during trial. IN THE PRESENCE OF THE JURY PANEL. Voir dire oath given and jury selection commenced.

EVENING RECESS

CONTINUED TO: 7/9/13 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 09, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 09, 2013 9:00 AM Jury Trial

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES**- JURY TRIAL**

IN THE PRESENCE OF THE JURY PANEL. Jury selection continued. Twelve jurors and two alternates selected and sworn. Clerk read information and advised of Deft's pleas of NOT GUILTY. Court instructed jury as to trial procedure. Opening statements by counsel. IN THE ABSENCE OF THE JURY. Mr. Westbrook moved to suppress which may lead to miss-trial based on witness stating she lied and therefore committed perjury. Further believes State should prosecute witness and case dismissed. COURT doesn't find witness committed perjury. Further statements by Mr. Westbrook. COURT directed defense counsel to put in writing and submit by noon, and State can respond orally. FURTHER, Court advised counsel can NOT refer to witness as a "Perjurer".

EVENING RECESS

CONTINUED TO: 7/9/13 2 1 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 10, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

July 10, 2013

1:00 PM

Jury Trial

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- JURY TRIAL

IN THE ABSENCE OF THE JURY. Counsel filed stipulation in open court. Exclusionary rule invoked. IN THE PRESENCE OF THE JURY. Testimony and exhibits per worksheet. IN THE ABSENCE OF THE JURY. Mr. Chen requested clarification regarding other images found on computer. Arguments by counsel. Deft. will stipulate there was child pornography on his computer, just not how or who placed it there. COURT ORDERED, State will not mention amount of images found on computer. IN THE PRESENCE OF THE JURY Testimony resumed.

EVENING RECESS

CONTINUED: 7/10/13 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 11, 2013**9:00 AM****Jury Trial****HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES**- JURY TRIAL**

IN THE PRESENCE OF THE JURY. COURT read stipulation by counsel regarding exhibits 1 -15 to the jury. IN THE ABSENCE OF THE JURY. Mr. Westbrook advised he is concerned with testimony on analysis as the analysis was not done in this case and noted witness is guessing to the benefit of the State. Arguments by counsel. Mr. Westbrook requested he be allowed to call an expert as this is new information. Arguments by counsel. COURT advised they had the opportunity to notice experts. IN THE PRESENCE OF THE JURY. Testimony resumed. IN THE ABSENCE OF THE JURY. Jury instructions settled. Mr. Westbrook objected for record on not being allowed to call expert. Arguments by counsel regarding Mr. Westbrooks motion to dismiss. IN THE PRESENCE OF THE JURY. State rested. IN THE ABSENCE OF THE JURY. Deft. advised of his right to testify. IN THE PRESENCE OF THE JURY. Defense rested. IN THE ABSENCE OF THE JURY. Mr. Westbrook moved for miss-trial based on burden shifting. Arguments by counsel. COURT stated findings and

ORDERED, Motion DENIED, as Court does not find this to be burden shifting.

12:00 PM: Andrea Davis, Court Clerk present.

IN THE PRESENCE OF THE JURY. Continued testimony and exhibits (See worksheets).

IN THE ABSENCE OF THE JURY. Mr. Westbrook moved to extend the subpoena as to Witness Paul Ehlers as he may need to call him for his case in chief. Following further arguments by Counsel, COURT ORDERED, Witness Subpoena to be EXTENDED until tomorrow at noon; Mr. Ehlers to provide Ms. Anthony with his phone number for the State to notify him if he is going to be recalled to testify. Court advised Counsel Juror No. 2 was observed sleeping on numerous occasions throughout the trial. Arguments by counsel regarding whether Juror No. 2 should be dismissed and questioned by Court. Arguments by Mr. Westbrook regarding dismissing Juror No. 6 noting there was a language barrier. Upon inquiry from the Court as to proof of a language barrier, Mr. Westbrook stated Juror No. 6 did not seem to be paying attention during testimony. Further arguments by Counsel regarding Juror No. 4. and Juror No. 2. COURT advised counsel Juror No. 6 would not be questioned and would remain on the Jury panel and, ORDERED, Juror No. 2 brought into the courtroom for questioning. Juror No. 2 responded to questioned propounded by the Court regarding the number of times he had fallen asleep during the trial and if he had missed parts of witness testimony. CONFERENCE AT BENCH. Juror No. 2 is advised to wait outside of the courtroom. COURT advised it was inclined to replace Juror No. 2. State had no objection. Mr. Westbrook objected to dismissing the Juror. Further Arguments by Counsel. COURT ORDERED, Juror No. 2 REPLACED with Alternate Juror No. 1. Amended Jury List FILED IN OPEN COURT. Arguments by Counsel as to Motion to Dismiss regarding whether the witness perjured herself and whether the charges should be dismissed against the Defendant. COURT finds there was sufficient evidence to meet the bindover standards of evidence and there was no evidence of perjury and, ORDERED, motion DENIED. Colloquy regarding calendar, motions in limine, jury instructions, and Court schedule.

IN THE PRESENCE OF THE JURY. COURT advised Alternate Juror No. 1 to take the seat of Juror No. 6 and Juror is sworn. Continued testimony and exhibits (See worksheets).

IN THE ABSENCE OF THE JURY: Mr. Westbrook objected to the contents of the audio recording that were played for the jury; noted he had previously objected to mentioning the number of pictures the detective claimed were found on Defts. computer; stated there were stipulations in place that had been violated. Further, Mr. Westbrook moved for a Mistrial noting the jury has been misled by the contents of audio recording. State argued in opposition of Mr. Westbrook's motion noting there was no stipulation in place with respect to mentioning the number of pictures found; summarized which redactions were agreed upon by the parties. COURT stated FINDINGS and, ORDERED, Motion for Mistrial DENIED. Further arguments by counsel.

IN THE PRESENCE OF THE JURY. Continued testimony and exhibits (See worksheets).
CONFERENCE AT BENCH. Court ADMONISHED the Jury and ORDERED them to return the

following day at the time given and, ORDERED, Jury Trial CONTINUED.

CONTINUED TO: 7/12/13 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 12, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

July 12, 2013 10:30 AM Jury Trial

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- JURY TRIAL

IN THE PRESENCE OF THE JURY. Testimony resumed. IN THE ABSENCE OF THE JURY. Mr. Westbrook submitted additional instructions based on testimony. Arguments by counsel. Court agrees with this except for the one line. Jury instructions settled, and Deft's and State's proposed instruction not given will be filed. IN THE PRESENCE OF THE JURY. COURT instructed jury. Closing statements by State. Upon Court's inquiry, jury advised they did not want to stay late for continued closing as they have other plans. COURT ORDERED, matter CONTINUED for continuing closing arguments.

EVENING RECESS

CONTINUED TO: 7/12/13 1 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 15, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 15, 2013**1:00 PM****Jury Trial****HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES****- JURY TRIAL**

IN THE ABSENCE OF THE JURY. Mr. Chen advised upon statement by Mr. Westbrook, he determined there was a small error on his power point regarding the date. Mr. Westbrook advised he tried to get a copy of the power point used by the State. Court advised he can not use their power point as it is not evidence but Court can advised jury of the error. Colloquy between Court and counsel regarding thumb drive and evidence. COURT advised counsel they need to confine their closing to the evidence. IN THE PRESENCE OF THE JURY. Court advised jury of error in the power point. Closing arguments continued. At 3:30 PM this date, jury retired to begin deliberations. Mr. Westbrook objected to State's closing as prosecutorial misconduct and moved to dismiss the case with prejudice. Arguments by counsel. COURT does not find there was prosecutorial misconduct and ORDERED, Motion DENIED.

EVENING RECESS**CONTINUED DELIBERATIONS: 7/16/13 9 AM**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 16, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

July 16, 2013 9:00 AM Jury Trial

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES**- JURY TRIAL**

Jury deliberations continued.

IN THE ABSENCE OF THE JURY. COURT noted the PowerPoint presentation used during the Defense closing argument had a Tagalog phrase indicated which caused concern for the court and was translated to say that the Deft. was innocent. COURT advised counsel it did not warrant a mistrial and ADMONISHED Defense Counsel from directing arguments at a particular juror.

At 12:39 PM, jury returned to Court and clerk read verdict as follows:

As to CT 1 POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) - GUILTY

As to CT 2 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A

CHILD (F)- GUILTY

As to CT 3 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 4 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 5 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 6 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 7 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 8 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 9 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 10 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 11 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 12 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 13 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 14 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

As to CT 15 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F) GUILTY

Jury Polled at the request of Mr. Westbrook; unanimous decision. Court thanked and excused the Jury. Arguments by counsel regarding whether Deft. should be remanded, whether bail should be modified, whether Deft. was a flight risk, and whether Deft. should have restrictions to internet access. COURT ORDERED, Deft. REMANDED; Bail MODIFIED to \$50,000.00 cash or surety, and matter referred to Division of Parole and Probation (P&P) for Presentence Investigation Report (PSI) with Psycho Sexual Report, and SET for Sentencing. Following further Arguments by Counsel, COURT FURTHER ORDERED, if Deft. posts Bond, Deft. is not to access the outside internet; however, closed system lines would be allowed through his employer. Statement by Deft regarding internet access and regarding whether he worked on site or from home. COURT FURTHER ORDERED, Deft. to turn over all computer equipment to his attorney pending the sentencing date; Deft. is to work from his employer s locations and an officer would be allowed to verify if the Deft. had removed all computer equipment from his house.

CUSTODY

10/14/2013 9:00 AM - SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 14, 2013**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

October 14, 2013 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO VACATE COUNTS TWO THROUGH FIFTEEN...SENTENCING

Deft. present in custody. Court noted it did not sign an order shortening time, and it will hear arguments by will continue sentencing. State advised they did not receive motion and requested opportunity to reply in writing. COURT advised as response was due today, it can give State 2 days to respond. Mr. Westbrook requested O.R. release pending next hearing. COURT ORDERED, Motion DENIED. Mr. Westbrook FILED Motion to Reconsider Deft's Motion for Mistrial Due to Prosecutorial Misconduct in OPEN COURT. Colloquy between Court and counsel regarding "declaration" State advised they need a few weeks to reply to that motion. Mr. Westbrook stated he has no opposition to setting everything at the same time. COURT ORDERED, ALL MOTIONS CONTINUED, and upon Mr. Westbrooks inquiry, advised sentencing will happen after hearing of motions.

CUSTODY

PRINT DATE: 01/25/2018 Page 34 of 52 Minutes Date: April 21, 2011

CONTINUED TO: 10/28/13 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 28, 2013

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

October 28, 2013 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Teresa Slade

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D	Attorney
	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Thomas, Michelle L.	Attorney
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO VACATE COUNTS TWO THROUGH FIFTEEN
FACTS.....DEFENDANT S MOTION TO RECONSIDER DEFENDANT'S MOTION FOR MISTRIAL
DUE TO PROSECUTORIAL MISCONDUCT.....SENTENCING

Colloquy regarding State's motion to strike which was vacated in error. COURT ORDERED Motion
to Strike RESET. Court noted it wants to rule on motions, then proceed with sentencing.

As to Defendant's Motion to Reconsider Motion for Mistrial, arguments by Counsel. COURT stated
findings and ORDERED, Motion to Reconsider Motion for Mistrial DENIED, as there was sufficient
evidence for a jury to come back with a verdict.

As to Defendant's Motion to Vacate Counts Two through Fifteen Facts, colloquy between Court and

Counsel regarding whether or not there is one unit of production, the creation date of the images, and the State's request to strike Mr. Westbrook's statement regarding an expert. Court stated, it is making its rulings based on the evidence heard at trial and not from Mr. Westbrook's testimony. Further arguments by Counsel. COURT stated findings, as the legislative intent is to protect the victims and ORDERED Motion to Vacate Counts DENIED.

Pursuant to State's request, and the fact that Court has not seen or ruled on the motion to strike, COURT ORDERED Sentencing CONTINUED.

CUSTODY

10/30/13 9:00 AM STATE'S MOTION TO STRIKE....SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 30, 2013**

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

October 30, 2013 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- STATE'S MOTION TO STRIKE OFF OF PROOF REGARDING DEFT'S MOTION TO CALL A COMPUTER EXPERT TO REBUT DETECTIVE ELHER'S SURPRISE TRIAL TESTIMONY AS DEFT'S OFFER OF PROOF IMPROPERLY SUPPLEMENTS THE RECORD

Deft. present in custody. Court noted this appears to be a counter-motion and stated it listened to JAVS and advised what happened during trial in regards to Court's decision regarding their rebuttal expert. Further, can't come in after trial and file these types of motions, they may be put in a post conviction relief petition. Arguments by counsel. Court advised these motions can be filed, but they are not part of the trial record as they were filed after verdict was reached. Further arguments by counsel. COURT ORDERED, Motion DENIED. Mr. Westbrook corrected a mistake he made for the record.

DEFT CASTANADA ADJUDGED GUILTY of CT'S 1 THROUGH 15 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (F). Statements by Deft. and counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$760 Psycho-sexual Assessment fee, \$150.00 to Civil Indigent Defense Fund, and a \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED to:

CT 1 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC);

CT 2 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 1;
CT 3 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 2;
CT 4 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 3;
CT 5 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 4;
CT 6 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 5;
CT 7 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 6;
CT 8 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 7;
CT 9 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 8;
CT 10 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 9;
CT 11 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 10;
CT 12 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 11;
CT 13 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 12;
CT 14 - a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 13;
CT 15 -a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of TWENTY EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT TO 14 with 160 DAYS credit for time served. SENTENCE SUSPENDED; placed on probation for a FIXED FIVE (5) YEARS under the following SPECIAL CONDITIONS:

1. Pursuant to NRS 176A.410, the following terms are imposed:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime;

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.
(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is license pursuant to Chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of the defendant s current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the

parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division of Parole and Probation.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the Chief Parole and Probation Officer of the Chief Parole and Probation Officer's designee and a written agreement is entered into and signed in the manner set forth in NRS 176A.410(5).

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(q) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, institution of higher education has the meaning ascribed to it in NRS 179D.045.

2. Register as a sex offender within the first 48 hours of leaving courthouse.

3. If P&P is approached that Deft. has found a job that requires internet usage, issue must be brought back before the Court to determine remedy.

4. Abide by any curfew imposed by P&P.

5. Attend counseling to address issues related to this charge.

6. Pay fees including the indigent defense fee.

Pursuant to statute a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation,

- parole or imprisonment and register as a sex offender in accordance with NRS 179D.460 within 48 hours after sentencing.

NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 12, 2014

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

May 12, 2014 9:00 AM Revocation of Probation

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- REVOCATION OF PROBATION

Deft. present in custody. Charles Mendoza of Parole and Probation (P & P) present. Mr. Westbrook requested matter be continued for Judge Ellsworth and advised Court Deft's violation was saying he wasn't guilty at counseling, when he has always maintained his innocence. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 5/19/14 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 19, 2014

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

May 19, 2014 9:00 AM Revocation of Probation

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Castaneda, Anthony Defendant
 Dixon, William J. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- REVOCATION OF PROBATION

Deft. present in custody. Officer Mendoza of Parole and Probation (P&P) present. Mr. Westbrook sent email indicating he is at the doctor's office and needs a continuance. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 5/21/14 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 21, 2014**

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

May 21, 2014 9:00 AM Revocation of Probation

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Ying Pan

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	State of Nevada	Plaintiff
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- Officer Mendoza of Parole and Probation (P & P) present.

Argument by Mr. Westbrook in support of relief requested, stating Defendant wanted to remain innocent when he was in the prior counseling program but the social worker deemed him to be uncooperative, he found Defendant another counseling program, and Defendant was using a network computer at work but he did not surf the internet. Statement by Defendant. Mr. Chen opposed, noting Defendant was found guilty of his charges by the Jury, the State is concerned as to Defendant's attitude toward the program as he was late for this counseling or missed his appointments, and it appeared Defendant refused to participate to the counseling program. Mr. Westbrook replied he would go to the new counseling facility with Defendant and explained the situation. COURT ORDERED, Probation REINSTATED. Court ADMONISHED Defendant to show proof of medical appointment in event that Defendant cannot attend the counseling session. Pursuant to the Statute, COURT FURTHER ORDERED, the condition of Life Time Supervision is REMOVED. Mr. Westbrook to prepare an Amended Judgment of Conviction.

NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 10, 2015

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

June 10, 2015 9:00 AM Revocation of Probation

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Castaneda, Anthony	Defendant
	Flinn, William W.	Attorney
	Rue, Jeffrey T.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- REVOCATION OF PROBATION

Deft. present in custody. Mr. Rue requested matter be CONTINUED 2 weeks. COURT SO ORDERED.

CUSTODY

CONTINUED TO: 6/22/15 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 22, 2015

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

June 22, 2015 9:00 AM Revocation of Probation

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Castaneda, Anthony	Defendant
	Chen, Alexander G.	Attorney
	Rue, Jeffrey T.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- REVOCATION OF PROBATION

Deft. present in custody. Officer Mendoza of Parole and Probation (P & P) present. Deft. stipulated to violations and revocation. Conference at the bench. COURT ORDERED, Deft's probation is REVOKED, and pursuant to negotiations, ORIGINAL sentence is MODIFIED to a MAXIMUM of SEVENTY TWO (72) MONTHS, and a MINIMUM of TWENTY FOUR (24) MONTHS, on each count concurrently, with 273 DAYS CREDIT for time served.

NDC

CLERK'S NOTE: After Court, Judge confirmed that negotiations were for each of the 15 counts, concurrently./dt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 04, 2017

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

January 04, 2017 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Fraser, Jennifer A. Attorney
Pandukht, Taleen R. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION TO WITHDRAW AS COUNSEL...DEFT'S MOTION FOR APPOINTMENT OF COUNSEL & REQUEST FOR EVIDENTIARY HEARING

Deft. not present. COURT ORDERED, Motion to Withdraw as counsel is GRANTED. As to appointment of counsel and evidentiary hearing, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE as premature, Deft. has filed petition for Writ of Habeas Corpus, and State will need to respond and address petition so Court can decide if there is a need for appointment of counsel and evidentiary hearing.

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 17, 2017

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

**April 17, 2017 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Luong, Vivian Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT NOTED, the Deft. previously requested counsel be appointed; therefore, it will appoint counsel for this matter and it would contact Mr. Christensen's office thereto; ORDERED, matter SET for Confirmation of Counsel.

NDC (COC-NDC)

4/26/17 - 9:00 AM - CONFIRMATION OF COUNSEL

CLERK'S NOTE: A copy of the foregoing minute order was distributed to the following party via general mail:
Anthony Castaneda
1142611, 10D-12
HDSP PO BOX 650
Indian Springs, NV 89070
(4/18/17 amn).

PRINT DATE: 01/25/2018

Page 49 of 52

Minutes Date: April 21, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 26, 2017

C-11-272657-1 State of Nevada
 vs
 Anthony Castaneda

April 26, 2017 9:00 AM Confirmation of Counsel

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Castaneda, Anthony Defendant
 Jackson, Terrence Michael Attorney
 Pandukht, Taleen R. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in the Nevada Dept. of Corrections.

Mr. Jackson CONFIRMED AS COUNSEL for the Deft.; advised he would contact the public defender's office to obtain the file. At the request of counsel, COURT ORDERED, matter SET for Argument; Briefing schedule SET as follows:

Defense Supplemental Petition DUE BY 7/25/17,
State's Reply DUE BY 9/25/17,
Defense Reply DUE BY 10/9/17,

COURT ADVISED, it would determine if there was a need to set an evidentiary hearing after reviewing the pleadings filed.

NDC

10/16/17 - 9:00 AM - ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 16, 2017**

C-11-272657-1 State of Nevada
vs
Anthony Castaneda

October 16, 2017 9:00 AM Argument

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali
Nicole Taylor

RECORDER: Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Jackson, Terrence Michael	Attorney
	Pandukht, Taleen R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present, incarcerated in the Nevada Dept. of Corrections. COURT NOTED, it read the supplement and the State's opposition. Argument by Mr. Jackson that the defense failed to raise a Flyer instruction, the State mischaracterized its burden, the defense did not meet the Strickland standard, the Deft. was prejudiced and the Deft. did not get proper representation. Opposition by Ms. Pandukht noting the Defense was zealous with its representation of the Deft., the images were on a thumb drive and on the Deft.'s laptop under his user identification (ID), there was no reason for an evidentiary hearing and it was belied by the record. Statement and further argument by Mr. Jackson. COURT NOTED it agreed with the State for the reasons and augments indicated in the State s opposition; FINDS there was no showing of prejudice in this case and the sentence wasn't changed by the Supreme Court ruling; therefore, ORDERED petition DENIED.

NDC

STATE'S EXHIBIT LIST

TRIAL OR HEARING DATE

7/8/13

Case No.	C272657	Clerk:	Troyillo
Dept.	V	Judge:	CAROLYN ELLSWORTH
Pltf(s):	State	Recorder:	Corcoran
		Pltf's Counsel:	Anthony / Chen
Def't(s):	Anthony Castaneda	Def't's Counsel:	Westbrook / Ballou

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
1	PHOTO- 2 girls	7/10	NO		7/10/13
2	PHOTO- 1 girl	↓	↓		↓
3	PHOTO- 1 girl	↓	↓		↓
4	PHOTO- vagina	7/10	NO		7/10/13
5	PHOTO- 2 kids	↓	↓	↓	↓
6	PHOTO- 6 pictures of little girl (block)	7/10	NO		7/10/13
7	PHOTO- little girls (block)	"	"		"
8	PHOTO- little girl	7/10	NO		7/10/13
9	PHOTO- girl/man	"	"		"
10	PHOTO- girl	7/10	NO		7/10/13
11	PHOTO- girl	"	"		"
12	PHOTO- Block of photos	"	"		"
13	PHOTO- 2 girls	↓			↓
14	PHOTO- girl	7/10	NO		7/10
15	PHOTO- girl	7/9	Obj		7/9
16	PHOTO- USB	7/10	NO		7/10
17	PHOTO- US Army Diploma Radiology	"	"		"
18	PHOTO- US Army Diploma Basic health Services Course	"	"		"
19	PHOTO-NetWare Certificate	"	"		"

T:\DEPT 18\EXHIBIT LIST FORMS-GENERIC.doc

STATE'S EXHIBIT LIST

CASE NO. _____

TRIAL OR HEARING DATE 0272057

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
20	PHOTO- Introduction to Data Communications Certificate	7/10	NO		7/10
21	PHOTO- Microsoft letter	↓			↓
22	PHOTO- Educational Services Certificate	↓			↓
23	PHOTO- New Horizons Certificate	↓			↓
24	PHOTO- New Horizons Certificate	↓			↓
25	PHOTO- New Horizons Certificate	↓			↓
26	PHOTO- New Horizons Certificate	↓			↓
27	PHOTO- CSUF Diploma	7/10	NO		7/10
28	PHOTO- DL, UNLV Rebel Card, SS Card	7/9	NO		7/9
29	PHOTO- Army Discharge	7/10	"		7/10
30	PHOTO- Birth Certificate	7/9	NO		7/9
31	PHOTO- American Registry of Radiologic Technologists	7/10	"		7/10
32	House Diagram	7/9	NO		7/9
33	PHOTO- front door	7/9	NO		7/9
34	PHOTO- Room A	↓	↓		↓
35	PHOTO- Room B	↓	↓		↓
36	PHOTO- Room C	7/9	NO		7/9
37	PHOTO- close up of Desk in Room C	↓	↓		↓
38	PHOTO- Shuttle computer	↓	↓		↓
39	PHOTO- Back of Shuttle computer	↓	↓		↓
40	PHOTO- Room D	7/9	NO		7/9
41	PHOTO- Room D close up	↓			↓
42	PHOTO- Room J	↓			↓
43	PHOTO- Room J Door	↓			↓
44	PHOTO- Room E	↓			↓
45	PHOTO- Hitachi hard drive	↓			↓
46	PHOTO- Room F	7/9	NO		7/9/13

T:\DEPT 18\EXHIBIT LIST FORMS-GENERIC.doc

STATE'S EXHIBIT LIST

CASE NO. _____

TRIAL OR HEARING DATE 7/22/13

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
47	PHOTO- Dell laptop	7/9	NO		7/9/13
48	PHOTO- Room G				
49	PHOTO- Room H				
50	PHOTO- Desk in Room H				
51	PHOTO- HP laptop in Room H				
52	PHOTO- Room I				
53	PHOTO- Room M				
54	PHOTO- Room N				
55	PHOTO- Room K				
56	PHOTO- Room L				
57	PHOTO- Bed w/ stripes				
58	PHOTO- Acer Monitor				
59	PHOTO- Room O				
60	PHOTO- Room Q				
61	PHOTO- Room P				
62	PHOTO- Room w/ fan and tote				
63	PHOTO- Upside down laptop on ground				
64	PHOTO- Vaio laptop on ground				
65	PHOTO- Room D with bookshelves				
66	PHOTO- Phone on shelf				
67	PHOTO- hand holding phone				
68	PHOTO- phone w/ battery out				
69	PHOTO- hard drive				
70	PHOTO- Fujitsu hard drive	7/9		NO	7/9/13
71	PHOTO- Rolls of film				
72	PHOTO- Room Q	7/9		NO	7/9/13
73	PHOTO- Cox Bill	"		"	"

T:\DEPT 18\EXHIBIT LIST FORMS-GENERIC.doc

STATE'S EXHIBITS

CASE NO. Q272657

[illegible]

DEFT'S EXHIBITS

CASE NO. C272657

[illegible]

Court's EXHIBITS

CASE NO. C272657-1

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF
ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

ANTHONY CASTANEDA,

Defendant(s).

Case No: C-11-272657-1

Dept No: V

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 25 day of January 2018.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk