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Apr 25 2018 01:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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Nevada Bar #006528
200 Lewis Street
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.
RIGOBERTO INZUNZA,
#448039,

Defendant(s).

Case No. C-17-321860-1
Dept. No. V

NOTICE OF APPEAL

TO: RIGOBERTO INZUNZA, Defendant; and

TO: P. DAVID WESTBROOK, Deputy Public Defender and

TO: CAROLYN ELLSWORTH, District Judge, Eighth Judicial District Court,
Dept. No. V

NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the
above entitled matter, appeals to the Supreme Court of Nevada from the Order Granting
Defendant's Motion to Dismiss filed April 11, 2018.

Dated this 16th day of April, 2018.

STEVEN B. WOLFSON,
Clark County District Attorney

BY /s/ Jonathan E. VanBoskerck
JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006352

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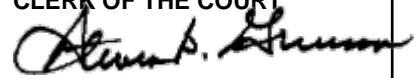
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Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

RIGOBERTO INZUNZA,
#448039,

Defendant.

Case No. C-17-321860-1

Dept. No. V

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

The State of Nevada

2. Identify the judge issuing the decision, judgment, or order appealed from:

Judge Carolyn Ellsworth

3. Identify all parties to the proceedings in the district court:

RIGOBERTO INZUNZA

The State of Nevada

4. Identify all parties involved in this appeal:

RIGOBERTO INZUNZA

The State of Nevada

5. Name, law firm, address, and telephone number of all counsel on appeal and party or parties whom they represent:

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528
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Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2750

P. DAVID WESTBROOK
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685

Counsel for Appellant
State of Nevada

Counsel for Respondent
Rigoberto Inzunza

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: Appointed

7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Appointed

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A

9. Date proceedings commenced in the district court:

Indictment, filed March 9, 2017.

DATED this 16th day of April, 2018.

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

BY */s/ Jonathan E. VanBoskerck*

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P. DAVID WESTBROOK
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JUDGE CAROLYN ELLSWORTH
Eighth Judicial District Court, Dept. V
Regional Justice Center, 16th Fl.
200 Lewis Avenue
Las Vegas, Nevada 89101

JEV/jg

State of Nevada
vs
Rigoberto Inzunza












Location: **Department 5**
Judicial Officer: **Ellsworth, Carolyn**
Filed on: **03/09/2017**
Case Number History:
Cross-Reference Case Number: **C321860**
Defendant's Scope ID #: **448039**
Grand Jury Case Number: **16BGJ081X**
ITAG Case ID: **1863111**

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008	Case Flags:	Appealed to Supreme Court Custody Status - In Custody Bail Modified Charge Description Updated
2. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
3. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
4. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	F	03/01/2008		
5. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
6. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
7. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
8. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
9. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	F	03/01/2008		
10. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	F	03/01/2008		
11. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
12. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
13. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
14. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	F	03/01/2008		
15. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	F	03/01/2008		
16. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	F	03/01/2008		














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Case Number	C-17-321860-1
Court	Department 5
Date Assigned	03/10/2017
Judicial Officer	Ellsworth, Carolyn












DEPARTMENT 5
CASE SUMMARY
CASE NO. C-17-321860-1

PARTY INFORMATION		
Defendant	Inzunza, Rigoberto	<i>Lead Attorneys</i> Public Defender <i>Public Defender</i> 702-455-4685(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)
DATE	EVENTS & ORDERS OF THE COURT	INDEX
03/09/2017	 Grand Jury Indictment (11:45 AM) (Judicial Officer: Gonzalez, Elizabeth)	
03/09/2017	 Indictment <i>Indictment</i>	
03/09/2017	 Warrant <i>Indictment Warrant</i>	
03/10/2017	 Indictment Warrant Return	
03/15/2017	Initial Arraignment (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 03/15/2017, 03/20/2017	
03/15/2017	Indictment Warrant Return (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 03/15/2017, 03/20/2017	
03/15/2017	<i>CANCELED All Pending Motions</i> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - Duplicate Entry</i>	
03/15/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)	
03/20/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)	
03/24/2017	 Transcript of Proceedings <i>Reporter's Transcript of Proceedings, March 8, 2017</i>	
05/01/2017	 Motion <i>Motion For Own Recognizance Release, Or, In The Alternative, For Setting Of Reasonable Bail</i>	
05/02/2017	 Notice of Change of Hearing Filed By: Plaintiff State of Nevada <i>Notice of Change of Hearing</i>	
05/09/2017	 Opposition Filed By: Plaintiff State of Nevada <i>Opposition to Defendant s Motion for Own Recognizance Release or, In the Alternative, for Setting of Reasonable Bail</i>	
05/10/2017	 Ex Parte Order <i>Ex Parte Order For Production Of Grand Jury Exhibits And Instructions</i>	

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-17-321860-1

05/10/2017	 Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 05/10/2017, 05/15/2017 Events: 05/01/2017 Motion <i>Defendant's Motion for Own Recognizance Release, or, In the Alternative, for Setting of Reasonable Bail</i>
11/13/2017	 Notice of Witnesses and/or Expert Witnesses <i>State's Notice of Witnesses and/or Expert Witnesses</i>
11/13/2017	 Supplemental Witness List <i>State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>
11/14/2017	 Supplemental Witness List <i>State's Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>
11/14/2017	 Notice of Expert Witnesses Filed By: Defendant Inzunza, Rigoberto <i>Defendant's Notice of Expert Witnesses, Pursuant to NRS 174.234(2)</i>
11/20/2017	 Ex Parte Application <i>Ex Parte Application for an Order Shortening time</i>
11/20/2017	 Order Shortening Time <i>Order Shortening Time</i>
11/20/2017	 Motion to Compel <i>Motion to Compel Production of Discovery Brady Evidence</i>
11/27/2017	Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 11/27/2017, 11/29/2017 <i>Calendar Call - Complex</i>
11/27/2017	Motion to Compel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 11/27/2017, 11/29/2017 <i>Defendant's Motion to Compel Production of Discovery / Brady Evidence</i>
11/27/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
11/27/2017	 Opposition <i>State's Opposition to Defendant s to Compel Production of Discovery and Brady Materials</i>
11/28/2017	 Order for Production of Inmate <i>Order for Production of Inmate</i>
11/28/2017	 Receipt of Copy <i>Receipt of Copy for Discovery Provided</i>
11/29/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
12/04/2017	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i> <i>Jury Trial - Complex</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-17-321860-1










01/05/2018	 Ex Parte Order Filed By: Defendant Inzunza, Rigoberto <i>Ex Parte Order for Transcript</i>
01/19/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Calendar Call/Defendant's Motion to Compel Productions of Discovery/Brady Evidence -- 11-27-17</i>
01/19/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: Calendar Call; Defendant's Motion to Compel Production of Discovery/Brady Evidence -- 11-29-17</i>
01/25/2018	 Motion for Own Recognizance Release/Setting Reasonable Bail Filed By: Defendant Inzunza, Rigoberto <i>Motion for Own Recognizance Release Based on Change in State's Assessment of Defendant's Likelihood of Flight/Danger to the Community and to Serve the Requirements of Due Process, Fundamental Fairness and Substantial Justice</i>
01/25/2018	 Order Shortening Time Filed By: Defendant Inzunza, Rigoberto <i>Order Shortening Time</i>
01/29/2018	Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
01/29/2018	Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Motion for Own Recognizance Release Based On Change In State's Assessment of Defendant's Likelihood of Flight/Danger to the Community, and to Serve the Requirements of Due Process, Fundamental Fairness and Substantial Justice</i>
01/29/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
01/30/2018	 Filed Under Seal Filed By: Defendant Inzunza, Rigoberto <i>Ex Parte Order for Release of Counseling Records File Under Seal</i>
01/30/2018	 Ex Parte Order Filed By: Defendant Inzunza, Rigoberto <i>Ex Parte Order for Transcript</i>
02/05/2018	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i> <i>Jury Trial - Complex Criminal</i>
02/26/2018	 Motion Filed By: Other Saunders, Diana <i>Motion to Vacate Ex Parte Order for Release of Counseling Records on Order Shortening Time</i>
02/26/2018	 Motion to Dismiss Filed By: Defendant Inzunza, Rigoberto <i>Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights</i>
02/28/2018	 Motion to Vacate (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 02/28/2018, 03/19/2018

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-17-321860-1

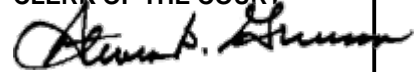
Diana Saunder's Motion to Vacate Ex Parte Order for Release of Counseling Records On Order Shortening Time

03/02/2018	 Motion to Dismiss Filed By: Defendant Inzunza, Rigoberto <i>Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights</i>
03/02/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: Evidentiary Hearing -- 1-29-18</i>
03/07/2018	 Opposition to Motion Filed By: Defendant Inzunza, Rigoberto <i>Opposition To Saunders' Motion To Vacate Ex Parte Order Fro Release of Counseling Records</i>
03/13/2018	 Opposition <i>State's Opposition to Defendant s Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights</i>
03/13/2018	 Motion Filed By: Defendant Inzunza, Rigoberto <i>Motion To File Defendant's "Offer of Proof" Under Seal For In Camera Review and Motion To Compel Saunders To File the Subject Counseling Records Under Seal, For In Camera Review, As Required By The Equal Protection Clauses of the State and Federal Constitutions</i>
03/14/2018	 Reply Filed by: Other Saunders, Diana <i>Interested Party Diana Saunders Reply to Defendant s Opposition to Saunders Motion to Vacate ex Parte Order for Release of Counseling Records and Opposition to Defendant s Motion to File Defendant s Offer of Proof under Seal</i>
03/15/2018	 Reply to Opposition Filed by: Defendant Inzunza, Rigoberto <i>Reply To State's Opposition To Defendant's Motion To Dismiss, Pursuant To Doggett v. United States, For Violation of State and Federal Constitutional Rights</i>
03/16/2018	 Order Shortening Time Filed By: Defendant Inzunza, Rigoberto <i>Order Shortening Time</i>
03/16/2018	 Ex Parte Application Party: Defendant Inzunza, Rigoberto <i>Ex Parte Application For Order Shortening Time for Hearing Defendant's Motion to File Defendant's "Offer of Proof" Under Seal For in Camera Review and Motion to Compel Saunders To File the Subject Counseling Records Under Seal, For In Camera Review, as Required by the Equal Protection Clauses of the State and Federal Constitutions</i>
03/19/2018	Motion to Dismiss (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights</i>
03/19/2018	 Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 03/19/2018, 03/28/2018 <i>Defendant's Motion to File Defendant's "Offer of Proof" Under Seal For In Camera Review and Motion to Compel Saunders to File the Subject Counseling Records Under Seal, For In Camera Review, As Required By The Equal Protection Clauses of the State and Federal</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-17-321860-1

	<i>Constitutions</i>	
03/19/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)	
03/21/2018	 Response Filed by: Other Saunders, Diana <i>Response to Defendant s Motion to File Offer of Proof Under Seal for In Camera Review and Motion to Compel Saunders to File the Subject Counseling Records Under Seal, For In Camera Review, as Required By The Equal Protection Clauses of the State and Federal Constitutions</i>	
03/28/2018	 Ex Parte Order Filed By: Defendant Inzunza, Rigoberto <i>Ex Parte Order for Transcript</i>	
04/04/2018	 Evidentiary Hearing (11:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Evidentiary Hearing: Defendant's Motion to Dismiss Pursant to Doggett vs. United States, for Violation of State and Federal Constitutional Rights</i>	
04/11/2018	 Order Filed By: Plaintiff State of Nevada <i>Order for Transcript.</i>	
04/11/2018	 Order <i>Order Granting Defendant's Motion to Dimiss</i>	
04/16/2018	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>	
04/16/2018	 Notice of Appeal (criminal) Party: Plaintiff State of Nevada <i>Notice of Appeal</i>	
04/16/2018	 Case Appeal Statement Filed By: Plaintiff State of Nevada <i>Case Appeal Statement</i>	
04/17/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: All Pending Motions -- 3-19-18</i>	
04/23/2018	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>	

DATE	FINANCIAL INFORMATION	
	Defendant Inzunza, Rigoberto	
	Total Charges	0.00
	Total Payments and Credits	0.00
	Balance Due as of 4/20/2018	0.00



1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 THE STATE OF NEVADA,

5 *Plaintiff,*

6 -vs-

7 RIGOBERTO INZUNZA,

8 *Defendant.*

CASE NO: C-17-321860-1

DEPT NO: V

9
10 **ORDER GRANTING DEFENDANT'S MOTION TO DISMISS**

11 This matter first came on for hearing before the above-entitled Court on the 19th day
12 of March, 2018, on Defendant's "Motion to Dismiss, Pursuant to *Doggett v. United States*,
13 for Violation of State and Federal Constitutional Rights", with Plaintiff represented by
14 Jacob Villani, Chief Deputy District Attorney, and the defendant present in custody with his
15 attorney P. David Westbrook, Chief Deputy Public Defender. The Court ordered that an
16 evidentiary hearing be held to determine a factual basis for the Court to undergo the legal
17 analysis required by *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972)
18 and *Middleton v. State*, 114 Nev. 1089, 968 P.2d 296 (1998). Specifically, the Court
19 indicated that it wished to hear evidence as to the cause of the delay between the filing of
20 the Criminal Complaint until the date of the defendant's arrest and whether or not the
21 defendant was aware of the charges against him prior to his arrest. The evidentiary hearing
22 commenced on the 4th day of April, 2018 with Plaintiff represented by Jacob Villani, Chief
23 Deputy District Attorney, and the defendant present in custody with is attorney P. David
24 Westbrook, Chief Deputy Public Defender.

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1 **FACTUAL BACKGROUND**

2 A Criminal Complaint was filed on December 5, 2014 charging Mr. Inzunza with
3 fifteen charges, including Sexual Assault with a Minor Under Fourteen Years of Age and
4 Lewdness with a Child Under the Age of Fourteen. An arrest warrant was also issued for
5 Mr. Inzunza on December 5, 2014 on the strength of an affidavit for arrest submitted by
6 North Las Vegas Police Detective Mark Hoyt, who was the investigating detective. It is
7 unclear when Mr. Inzunza was arrested on the warrant. Mr. Inzunza asserts that he was
8 arrested on the warrant in New Jersey on January 29, 2017. The North Las Vegas Justice
9 Court case search indicates that the arrest warrant was served on February 11, 2017.
10 Apparently, the defendant was extradited from the State of New Jersey to Nevada.
11 Thereafter, at the time set for preliminary hearing in Justice Court on the Criminal
12 Complaint, the District Attorney notified the North Las Vegas Justice Court that Mr.
13 Inzunza had been indicted on the charges and the case pending in Justice Court was
14 dismissed.

15 The Indictment was filed March 9, 2017. At the District Court arraignment on March 20,
16 2017, Mr. Inzunza waived his Nevada right to a trial within sixty days, but specifically,
17 through counsel, stated that he was not waiving his right to speedy trial under the 6th
18 Amendment to the United States Constitution. The Court set trial for December 4, 2017.
19 Defense did not object to this date, nor did the defense request an earlier setting. At calendar
20 call on November 29, 2017, the defense objected to discovery (i.e. a video of the detective's
21 interview with the child and a police report) produced later than 30 days before trial, and so
22 the Court granted a trial continuance to February 5, 2018 because defense counsel
23 represented he could not proceed to trial as scheduled due to his need to have a defense
24 expert review the video.

25 At the calendar call on January 29, 2018, the defense again requested a continuance to
26 further investigate the case and trial was set for April 23, 2018. Mr. Inzunza filed the instant
27 Motion to Dismiss on March 2, 2018. The State filed its Opposition on March 13, 2018.
28 Defense filed its reply on March 15, 2018.

1 At the evidentiary hearing, Detective Mark Hoyt testified that after doing his
2 investigation, he submitted the case to the District Attorney's office and did nothing further
3 with the matter until he was later contacted by the District Attorney's office following the
4 defendant's arrest in New Jersey. He stated that this was his practice because under the
5 procedures in place at the North Las Vegas Police Department, the practice was to hope that
6 a suspect would eventually be arrested on the warrant which would be entered into NCIC.
7 He stated that although the records department of the North Las Vegas Police Department
8 would be notified as to the acceptance of the case for prosecution and the granting of an
9 arrest warrant, there was no procedure in place to notify him that the warrant had issued and
10 the Complaint filed. Rather, the records department would enter the warrant into NCIC. He
11 made no affirmative inquiry of the D.A. as to the status of his case submission because he
12 had a very heavy case load and this case was just a typical or "ordinary" sexual assault case.
13 Although he had been given information as to the potential whereabouts of the defendant in
14 the State of New Jersey, as well as the name of the defendant's landscaping business, the
15 telephone number of the business and information concerning the defendant's Facebook
16 page and its contents, he could not recall whether he made any effort to locate the defendant
17 (during his investigation) with that information. In fact, Detective Hoyt's testimony was
18 that he would only attempt to locate a suspect who was within Nevada; that he discounted
19 the Facebook information because Facebook pages can be opened with false information;
20 and that in any event, he did nothing to locate the defendant following the issuance of the
21 arrest warrant because he did not know about the warrant due to his normal practice of
22 making no further inquiries once the case was submitted to the D.A. The detective reiterated
23 that the practice of the North Las Vegas Police Department was to hope that a suspect
24 would eventually be arrested on a warrant entered in NCIC.

25 The State submitted no witness or evidence that the defendant had any knowledge of the
26 charges filed against him until he was arrested approximately two (2) years and two (2)
27 months after the filing of the Criminal Complaint. Detective Hoyt admitted that he had
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1 never interviewed or spoken to the defendant. The defendant, via the declaration of defense
2 counsel attached to the moving papers, maintained that he first learned of the existence of
3 the warrant for his arrest on January 29, 2017 when he was arrested on said warrant. He
4 also maintained that his city of residence and place of work appeared on his Facebook
5 profile under his own name; that his Facebook profile was open to the public, and that the
6 information was accurate between November 3, 2014 and the date of his arrest on the
7 warrant—he was not in hiding.

8 Although given an opportunity to present any evidence to rebut a presumption of
9 prejudice, the State offered nothing.

10 DISCUSSION

11 I. Legal Standards

12 The Sixth Amendment to the United States Constitution provide that “[i]n all
13 criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.” *U.S.*
14 *Const. amnd.VI*. The United States Supreme Court has established that the right to a speedy
15 trial is a fundamental right, which is imposed upon the states through the Due Process
16 Clause of the Fourteenth Amendment. *Barker v. Wingo*, 407 U.S. 514, 515, 92 S.Ct. 2182
17 (1972). In *Barker v. Wingo*, the Court established a four-part balancing test to determine
18 whether a defendant’s right to a speedy trial has been violated. The four factors to consider
19 are: length of delay, the reason for the delay, the defendant’s assertion of his right, and
20 prejudice to the defendant. *Id.* at 530.

21 In order to trigger a speedy trial analysis, “an accused must allege that the interval
22 between accusation and trial has crossed the threshold dividing ordinary from
23 ‘presumptively prejudicial’ delay.” *Doggett v. U.S.*, 505 U.S. 647, 112 S.Ct. 2686 (1992).
24 Courts have generally found delay “presumptively prejudicial” as it approaches the one year
25 mark. *Id.* at 652, fn. 1.

26 Before analyzing the last three factors, Mr. Inzunza must first show that the delay in
27 his case between the complaint and trial triggers the speedy trial analysis.

28 //

II. Analysis

- a. The length of delay from the filing of the Criminal Complaint to trial is sufficient to trigger the speedy trial analysis.

Mr. Inzunza argues that the delay in his case meets the standard for “presumptively prejudicial.” The State argues that the length of delay in this case is considerably less than the delay in *Doggett*. In *Doggett*, the Court found that eight and a half years between indictment and arrest clearly triggered the speedy trial inquiry. *Doggett*, 505 U.S. at 652. Other courts have found shorter delays sufficient to trigger the analysis. For example, in *U.S. v. Shell*, 974 F.2d 1035, 1036 (9th Cir. 1992), the court determined that a five year delay created a strong presumption of prejudice. The Nevada Supreme Court held that a delay of almost two and a half years necessitates further inquiry. *Middleton v. State*, 114 Nev. 1089, 1110, 968 P.2d 296 (Nev. 1998). The Ninth Circuit also found that a delay of fourteen and a half months from the date of arrest to the start of trial did not “exceed the threshold needed to trigger judicial examination” because of the nature and seriousness of the charges and because the case potentially involved the death penalty. *U.S. v. Tanh Huu Lam*, 251 F.3d 852 (9th Cir. 2001). As a guideline, the Court noted in *Doggett* that delays approaching one year are “presumptively prejudicial.” *Doggett*, 505 U.S. at 652, fn. 1. However, this inquiry also depends on the nature of the charges. *Id.*

Here, the Court has focused primarily on the delay between the date of the filing of the first charging document (i.e. the Criminal Complaint) and the defendant’s arrest. The Court specifically found that the delays of the trial date following his indictment were occasioned by the defendant, who waived his State right to trial within 60 days of arraignment, and by subsequent requests to continue made by the defense. However, the Court cannot ignore the approximately 26 month delay between the date of the original charging document and his arrest on those charges. Trial has not yet commenced. The nature of Mr. Inzunza’s charges is serious, but they are not complex, nor are the charges ones that carry the death penalty. Moreover, in the cases considering the complexity of the matter as a factor in trial delay, these were usually delays which occurred after the

1 defendant was brought before the court following arrest. Even without considering the time
2 of delay after arrest, a delay of nearly two years and three months is sufficient to trigger the
3 speedy trial inquiry.

4 b. The State is primarily responsible for the delay.

5 Once the speedy trial analysis has been triggered, the next factor to consider is the
6 reason(s) for the delay. The inquiry is whether the government or the criminal defendant is
7 more to blame for that delay. *Doggett*, 505 U.S. at 651. The reasons for delay should be
8 assigned weight. For example, an intentional attempt by the State to delay trial in order to
9 hamper the defense should be weighted heavily. *Barker*, 407 U.S. at 531. Neutral reasons
10 such as negligence or overcrowded courts should be weighted less heavily, but should still
11 be considered “since the ultimate responsibility for such circumstances must rest with the
12 government rather than with the defendant.” *Id.* Lastly, valid reasons, such as a missing
13 witness, should justify appropriate delays. *Id.*

14 The Court should determine which party is primarily responsible for the delay. In
15 *Doggett*, the government made no serious effort to locate Doggett abroad. *Doggett*, 505
16 U.S. at 652. Doggett had a warrant for his arrest and the government gave notice of his
17 warrant to all United States Customs stations and to other law enforcement organizations, in
18 addition to putting Doggett’s name in the National Crime Information Center (NCIC) and
19 the Treasury Enforcement Communication System. *Id.* at 649. Eventually, Doggett returned
20 to the United States where he married, earned a college degree, and lived under his own
21 name. *Id.* Doggett was arrested almost six years after he returned to the United States and
22 eight and a half years after his indictment. *Id.* at 650. The Court did not reject the district
23 court’s finding that the government was negligent in pursuing Doggett. *Id.* at 647.

24 Further, the Ninth Circuit has also addressed reasons for delay. In *U.S. v. Shell*, 974
25 F.2d 1035, 1036 (1992), the government lost the defendant’s file in 1984 and did not
26 resume its search for him until 1989. The government’s mishandling of the file created a
27 five year delay. *Id.* After addressing other factors, the court went on to affirm the dismissal
28 of the indictment. *Id.* In *U.S. v. Reynolds*, 231 Fed. Appx. 629, 631 (9th Cir. 2007)

1 (unpublished decision), the government presented evidence of attempts to apprehend
2 Reynolds for only six of the fifty six months of delay, and during the other fifty months,
3 Reynold's warrant was listed in the NCIC database. The court found that the actions of the
4 government did not constitute diligence, and "because the government did not explain fifty
5 months of delay in Reynold's case and there [was] no evidence that Reynolds knew of the
6 indictment or was in any way responsible for the delay, the district court erred in not
7 weighing the second *Barker* factor in Reynold's favor. *Id.* In *U.S. Corona-Verbera*, 509
8 F.3d 1105, 1115 (9th Cir. 2007), the government put Corona-Verbera's name into NCIC,
9 into the border computer system, and also contacted Unsolved Mysteries and America's
10 Most Wanted, both of which aired segments on the defendant. The Court found that with
11 those efforts the government exercised due diligence. *Id.*

12 However, courts have held that if the delays are due to the defendant's actions, this
13 factor should weigh against the defendant. In *U.S. v. Tanh Huu Lam*, 251 F.3d 852, 857 (9th
14 Cir. 2001), the court agreed with the district court's finding that the second *Barker* factor
15 weighed heavily against Lam because every continuance was asked for by Lam's counsel.
16 In *Farmer v. State*, 405 P.3d 114, 123 (Nev. 2017), the Court held that the second *Barker*
17 factor weighed against Farmer because almost all of the delay was attributable to the
18 defense. In *Middleton v. State*, 114 Nev. 1089, 1110, 968 P.2d 296 (1998), Middleton's trial
19 was delayed due to a petition for a writ of habeas corpus, a motion to reconsider the petition
20 after denial, a motion to sever, and a motion to dismiss. There was also an appeal after the
21 district court granted Middleton's pretrial habeas petition. *Id.* The Court concluded that the
22 delay was more Middleton's actions than the state's actions. *Id.*

23 Another component to consider when analyzing the reasons for delay is whether or
24 not the defendant was aware of the case against him or her. This also closely relates to
25 *Barker* factor three. The defendant "is in the best position to stop the clock and avoid the
26 damage." *U.S. v. Aguirre*, 994 F.2d 1454, 1458 (9th Cir. 1993). In *Aguirre*, the court held
27 that where "the government diligently pursues the defendant and the defendant is aware the
28 government is trying to find him, even severe prejudice would still not be enough to tip the

1 balance in [the defendant's] favor." *Id.* In *Reynolds*, 231 Fed. Appx. at 631, the court noted
2 that "without knowledge of the indictment, Reynolds could not have acquiesced in the
3 delay."

4 At the evidentiary hearing in the present case, the State called Detective Hoyt as a
5 witness. Detective Hoyt was the detective assigned to Mr. Inzunza's case and his testimony
6 included the general procedures of the North Las Vegas Police Department (NLVPD) and
7 his specific inquiries in the instant case. The alleged victim's mother provided Detective
8 Hoyt with Mr. Inzunza's phone number and address, which she apparently retrieved from
9 Mr. Inzunza's public Facebook profile. Detective Hoyt testified that he could not locate Mr.
10 Inzunza locally and that Mr. Inzunza resided in New Jersey. Detective Hoyt did not attempt
11 to call law enforcement in New Jersey about Mr. Inzunza, nor did he attempt to contact Mr.
12 Inzunza with the information from the alleged victim's mother. According to his testimony,
13 Detective Hoyt submitted the case to the State. At this point, the case was out of Detective
14 Hoyt's hands. After the Criminal Complaint and arrest warrant were filed, the records
15 department of NLVPD placed the warrant in NCIC.

16 Detective Hoyt testified that he did not conduct any further investigation after
17 submitting the case to the State. Due to heavy workloads, detectives at NLVPD do not
18 typically look at cases once they are submitted to the State, unless and until a defendant is
19 arrested on the warrant. Here, the complaint and warrant were filed December 5, 2014. The
20 arrest warrant was not served until January 29, 2017. The State dismissed the Criminal
21 Complaint and filed an Indictment on March 9, 2017. However, from December 5, 2014 to
22 January 29, 2017, the only step taken to apprehend Mr. Inzunza was putting the arrest
23 warrant in NCIC. The Court finds that this does not equal due diligence on behalf of the
24 State and that the State's gross negligence caused the delay of over two years.

25 Additionally, there is no evidence that Mr. Inzunza was aware of the charges against
26 him. When the Court ordered the evidentiary hearing, it was very specific about what
27 information it was looking for. The Court wanted to know what steps NLVPD took to track
28 down and extradite the defendant and whether or not the defendant was aware of the

1 charges against him. Detective Hoyt testified that he had no contact with Mr. Inzunza.
2 Further, the State presented no evidence that Mr. Inzunza was aware of the charges. As the
3 government was grossly negligent in causing the delay between the filing of the Criminal
4 Complaint and the arrest of Mr. Inzunza, and because Mr. Inzunza was not aware of the
5 charges against him, the Court finds that the State is solely responsible for the delay.

6 It should be noted that trial has not yet commenced and that Mr. Inzunza has
7 contributed to the delay between the time of arrest and the pending trial. Mr. Inzunza was
8 arraigned in District Court on March 20, 2017. The Court set the first trial setting for
9 December 4, 2017. Mr. Inzunza did not object to this date, nor did he request an earlier
10 setting. At calendar call on November 29, 2017, defense counsel raised a complaint about
11 discovery so the Court granted a trial continuance to February 5, 2018. At calendar call on
12 January 29, 2018, the defense again requested a continuance to further investigate the case.
13 However, the Court is not considering the time after Mr. Inzunza's arrest, and is instead
14 concerned with the delay from the first formal accusation (the Criminal Complaint) until the
15 time of arrest.

16 c. Mr. Inzunza did not waive his Sixth Amendment right to a speedy trial.

17 The third *Barker* factor to consider is invocation of the right to a speedy trial. The
18 right to a speedy trial "primarily protects those who assert their rights, not those who
19 acquiesce in the delay- perhaps hoping the government will change its mind or lose critical
20 evidence." *Aguirre*, 994 F.2d at 1457. "Failure to assert the right will make it difficult for a
21 defendant to prove that he was denied a speedy trial." *Barker*, 407 U.S. at 532. However, a
22 defendant "is not to be taxed for invoking his speedy trial right only after his arrest."
23 *Doggett*, 505 U.S. at 654. In *Reynolds*, the court stated that without "knowledge of the
24 indictment, Reynolds could not have acquiesced in the delay." 231 Fed. Appx. at 631.
25 Further, in *U.S. v. Salgado-Ramiro*, 2017 WL 6507854, 2 (unpublished opinion), the court
26 stated that there was no evidence that Salgado-Ramiro asserted his right to a speedy trial
27 during the delay, and held that he "cannot be required to assert a right that he is totally
28 unaware has accrued."

1 Here, the defense argues that Mr. Inzunza waived his statutory right to a trial within
2 60 days pursuant to NRS 178.556(2), but that he preserved his federal speedy trial rights.
3 The State argues that Mr. Inzunza did not affirmatively assert his right to a speedy trial.
4 Again, the Court is not considering what events may have happened after Mr. Inzunza's
5 arrest and is instead focusing on the delay from the first official accusation (i.e. the Criminal
6 Complaint) to Mr. Inzunza's arrest. There is no evidence in the record, nor was any
7 presented at the evidentiary hearing, that Mr. Inzunza knew about the charges against him.
8 Therefore, he could not have asserted his right to a speedy trial before his arrest on the
9 warrant and this factor cannot be weighed against him.

10 d. Because the State was solely responsible for the delay, Mr. Inzunza does not need to
11 show prejudice and the State did not rebut the presumptive prejudice.

12 The speedy trial right is to protect the defendant and prejudice should be assessed in
13 light of the interests of the defendant. *Barker*, 407 U.S. at 532. The Court should address the
14 following three interests when determining prejudice to a defendant: 1) to prevent
15 oppressive pretrial incarceration; 2) to minimize anxiety and concern of the accused; and 3)
16 to limit the possibility that the defense will be impaired. *Id.* The last of these is most serious
17 because "the inability of a defendant to adequately prepare his case skews the fairness of the
18 entire system." *Id.* Some possible impairments include the unavailability of witnesses or if
19 defense witnesses are unable to recall events of the distant past. *Id.* However, there are
20 circumstances that give rise to presumptive prejudice. "[A]ffirmative proof of particularized
21 prejudice is not essential to every speedy trial claim." *Doggett*, 505 U.S. at 655. The Court
22 in *Doggett* noted that "negligence [is not] automatically tolerable simply because the
23 accused cannot demonstrate exactly how it has prejudiced him." 505 U.S. at 657. Although
24 negligence should be weighted less than a deliberate intent to harm the defense, it still "falls
25 on the wrong side of the divide between acceptable and unacceptable reasons for delaying a
26 criminal prosecution once it has begun." *Id.* The government is afforded the opportunity to
27 persuasively rebut presumptive prejudice. *Id.* at 658.

28 //

1 The Nevada Supreme Court addressed the *Barker* factors and presumptive prejudice
2 in *Middleton v. State*, 114 Nev. 1089, 968 P.2d 296 (1998). The Court found in *Middleton*
3 that a delay of “less than two and a half years did not give rise to such presumptive
4 prejudice, especially since Middleton was responsible for most of the delay.” *Middleton* 114
5 Nev. at 1110. In *Middleton*, the Court required a showing of actual prejudice because the
6 delay was much more attributable to Middleton rather than the State due to his extensive
7 pretrial litigation and because Middleton did not assert his right to a speedy trial. *Id.*

8 Here, Mr. Inzunza argues that, according to *Doggett*, he is not required to show
9 actual prejudice. The State argues only that none of the four *Barker* factors favor Mr.
10 Inzunza and that any prejudice suffered by him is of his own making. The delay in this case
11 is far less than the delay in *Doggett*. *Doggett* faced a delay of nearly eight and a half years,
12 while Mr. Inzunza’s delay from the Criminal Complaint to his arrest was roughly twenty six
13 months. This is approximately six years less than the delay in *Doggett*. The delay is actually
14 slightly less than the delay in *Middleton*, where the court found that Middleton was required
15 to show prejudice on a delay of less than two and a half years. However, this case is
16 distinguishable from *Middleton* because in *Middleton*, factors two and three of the *Barker*
17 criteria weighed against Middleton. Middleton was primarily responsible for the delay and
18 he did not assert his right to a speedy trial when he knew about the charges against him.
19 Here, the 26 month delay was solely due to the State’s gross negligence and Mr. Inzunza
20 did not assert his right to a speedy trial because he was unaware of the charges against him.

21 While it is true that when weighing *Barker* factor number two, negligence should
22 receive less weight than intentional hampering of the defense, the Court finds that the
23 government’s lack of diligence in apprehending Mr. Inzunza is grossly negligent. Therefore,
24 more weight is applied to factor number two than mere negligence.¹ This is yet another
25 distinction between the instant case and *Middleton*.

26
27 ¹ The defense argued, at the time of the evidentiary hearing that the Detective’s testimony supported a finding of
28 intentional delay. However, case law suggests that intentional delay would require evidence demonstrating a specific
intent to hamper the defense so as to amount to bad faith. While the Court found Detective Hoyt’s testimony to be
shocking, it did not feel that the delay was intended to prejudice and hamper the defense, but rather was the result of
willful neglect due to ignorance on the part of the detective as to the possible ramifications of such neglect.

1 Further, the State has not persuasively rebutted the presumptive prejudice in this
2 case. The State offered no rebuttal evidence at the evidentiary hearing. Additionally, the
3 State did not address prejudice in its Opposition to Defendant's Motion to Dismiss
4 regarding the period of delay between the complaint and Mr. Inzunza's arrest. The State's
5 argument is that Mr. Inzunza caused any prejudice himself. This does not persuasively rebut
6 the presumptive prejudice in the delay from the filing of the complaint to arrest. Therefore,
7 Mr. Inzunza does not need to make a showing of actual prejudice. The State also suggested,
8 at the time of the evidentiary hearing, that to grant the defendant's motion would "set a
9 dangerous precedent." This Court takes no pleasure in ruling in a manner that results in the
10 dismissal of such serious charges before a trial, but nonetheless must apply the precedent
11 already set by the United States Supreme Court.²

12 CONCLUSION

13 Based on the foregoing, then, the Court finds that Mr. Inzunza's Sixth Amendment
14 right to speedy trial was violated by the delay between the filing of the Criminal Complaint
15 and his arrest on those charges some 26 months later.

16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant's
17 Motion to Dismiss, Pursuant to *Doggett v. United States*, for Violation of State and Federal
18 Constitutional Rights is **GRANTED**. The Defendant shall be released from custody unless
19 a stay is granted by the appellate court.

20 DATED this 11th day of April, 2018.

21 
22 CAROLYN ELLSWORTH
23 DISTRICT JUDGE
24
25
26

27 ² It is interesting to note that Justice Thomas' dissenting opinion quoted the old saying of "bad facts make bad law" and
28 decreed that "so too odd facts make odd law" *Supra* at 505 U.S. 659, in his dissent from the majority's decision in
Doggett. But *Doggett* is precedent followed by many courts in the intervening 26 years since its publication, which this
court likewise feels obliged to follow.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th of April, 2018 she served the foregoing Order Regarding Defendant's Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights by faxing, mailing, or electronically serving a copy to counsel as listed below:

Jacob J. Villani, Chief Deputy District Attorney
200 Lewis Ave.
Las Vegas, Nevada 89155

P. David Westbrook, Chief Deputy Public Defender
309 South Third St. Suite 226
Las Vegas, Nevada 89155
2300 W. Sahara Ave, Suite 680 Box 32
Las Vegas, Nevada 89102


Shelby Lopaze, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 09, 2017

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

March 09, 2017 11:45 AM Grand Jury Indictment

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 10B

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
Villani, Jacob J. Attorney

JOURNAL ENTRIES

- Deputy District Attorney Jay Raman also present on behalf of the State.

John Blackwell, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 16BGJ081X to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-17-321860-1, Department V.

State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$750,000.00 BAIL, INDICTMENT WARRANT ISSUED, and matter SET for Arraignment. COURT FURTHER ORDERED, Exhibits 1 - 7 to be lodged with the Clerk of the Court.

I.W. (CUSTODY)

3-15-17 9:00 AM INITIAL ARRAIGNMENT (DEPT V - Ellsworth)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 15, 2017

C-17-321860-1 State of Nevada
 vs
 Rigoberto Inzunza

March 15, 2017 9:00 AM All Pending Motions

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

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Inzunza, Rigoberto Defendant
 Luong, Vivian Attorney
 State of Nevada Plaintiff
 Westbrook, P D. Attorney

JOURNAL ENTRIES

- INITIAL ARRAIGNMENT INDICTMENT WARRANT RETURN

Deft. not present. Mr. Westbrook stated the Deft. was not present as he was in North Las Vegas on a preliminary hearing; additionally, Mr. Villani was also in NLV on the same matter which was anticipated to be dismissed as this was the Grand Jury return case for the same matter. COURT SO NOTED and ORDERED, matters CONTINUED for Deft. and the State's appearance.

IW (CUSTODY)

3/20/17 - 9:00 AM - INITIAL ARRAIGNMENT INDICTMENT WARRANT RETURN

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 20, 2017

C-17-321860-1 State of Nevada
 vs
 Rigoberto Inzunza

March 20, 2017 9:00 AM All Pending Motions

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

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Inzunza, Rigoberto Defendant
 State of Nevada Plaintiff
 Villani, Jacob J. Attorney
 Westbrook, P D. Attorney

JOURNAL ENTRIES

- INITIAL ARRAIGNMENT INDICTMENT WARRANT RETURN

Mr. Westbrook stated the Deft. would be entering a not guilty plea. DEFT. INZUNZA ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial. Upon Court's inquiry, Defense counsel's oral motion for discovery and State's oral motion for reciprocal discovery is GRANTED. Mr. Westbrook to prepare written order. Deft. has 21 days from today or filing of transcript to file writ. Mr. Westbrook anticipated more than one week for trial. Colloquy regarding the timeframe in which the Court could offer a setting with its current complex trial settings. Statement by Mr. Westbrook's regarding whether his client was waiving his right to a speedy trial under the federal statutes.

CUSTODY

11/27/17 - 9:00 AM - CALENDAR CALL

C-17-321860-1

12/4/17 - 1:30 PM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 10, 2017**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

May 10, 2017	9:00 AM	Motion for Own Recognizance Release/Setting Reasonable Bail	Defendant's Motion for Own Recognizance Release, or, In the Alternative, for Setting of Reasonable Bail
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HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto State of Nevada Villani, Jacob J. Westbrook, P D.	Defendant Plaintiff Attorney Attorney
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JOURNAL ENTRIES

- Deft. present in custody. Argument by Mr. Villani in opposition of the motion; noting the Deft. must have known that he had an order. Argument in support of the motion; noting the Deft. could live with his sister, Norma Goldsmith, who was present today in court. COURT NOTED, it was inclined to modify the bail to \$150,000.00 contingent on the Deft. being monitored on House Arrest at his sister's residence. Argument by Mr. Westbrook regarding reasonable bail. Following colloquy regarding whether a risk assessment should be done, COURT ORDERED, matter CONTINUED for a risk assessment to be completed.

CUSTODY

PRINT DATE: 04/20/2018

Page 5 of 23

Minutes Date: March 09, 2017

5/15/17 - 9:00 AM - DEFT.'S MOTION FOR OR RELEASE, OR IN THE ALTERNATIVE, FOR
SETTING OF REASONABLE BAIL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 15, 2017**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

**May 15, 2017 9:00 AM Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- Deft. present in custody. COURT NOTED, it did not receive the risk evaluation (RE). Counsel concurred they did not receive the RE either. COURT ADVISED, it was willing to lower the bail but it would not grant an OR release. Colloquy regarding what counsel anticipated the RE would indicate. Argument in support of the motion by Mr. Westbrook; noting what reasonable bail was and that the Deft. could reside at his sister's house. Mr. Villani stated he looked into whether the Deft.'s sister had a criminal record and nothing was found. COURT ORDERED, BAIL MODIFIED to \$75,000.00 TOTAL BAIL; however, Bail CAN ONLY BE POSED AFTER DEFT. IS APPROVED FOR HOUSE ARREST (HA) residing at his sister's house.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 27, 2017

C-17-321860-1 State of Nevada
 vs
 Rigoberto Inzunza

November 27, 2017 9:00 AM All Pending Motions

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

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Inzunza, Rigoberto	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- CALENDAR CALL ... DEFT.'S MOTION TO COMPEL PRODUCTION OF DISCOVERY7 BRADY EVIDENCE

Mr. Villani requested until Wednesday to file an opposition to the motion. Mr. Westbrook stated he filed the motion on time, ten days in advance; however, the Clerk's office wouldn't accept the motion. COURT NOTED the motion needed to be filed 15 days in advance. Further, Mr. Westbrook stated he was not ready for trial due to the contents of the motion not being provided to him; therefore, he considered it a State continuance. Colloquy regarding whether discovery motion was a boilerplate motion. Mr. Westbrook stated he had indicated specific requests within the motion; noting there were six pages of school records that had not been turned over, he believed there were more school records, the records were exculpatory and Brady material. COURT ADVISED, the law cited was abrogated by Statute over twenty years ago and now only a request needed to be made and there was a new statutory scheme. COURT NOTED, it disagreed with Mr. Westbrook in that the State had to answer every question proposed that was not discovery and the State did not have to advise counsel of every meeting or witnesses whom were spoken to; however, the State did have to comply with

Brady and its progeny. COURT ORDERED, matters CONTINUED to Wednesday for the State's response.

CUSTODY

11/29/17 - 9:00 AM - CALENDAR CALL ... DEFT.'S MOTION TO COMPEL PRODUCTION OF DISCOVERY / BRADY EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2017

C-17-321860-1 State of Nevada
 vs
 Rigoberto Inzunza

November 29, 2017 9:00 AM All Pending Motions

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

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Inzunza, Rigoberto	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- Deft. present in custody.

CALENDAR CALL: Argument by Mr. Westbrook that the State violated NRS 174.285 (1) and (2) by failing to turn over discovery; noted he received new discovery yesterday and advised the discovery request was made. Further advised, the new discovery included a video that his expert needed to review; therefore, he could not proceed to trial but believed it should be considered that the State was not ready for trial and their request to continue the trial. Mr. Villani stated as soon as he was made aware of the discovery, he requested it and it was provided it to opposing counsel upon receipt. Further, Mr. Villani argued a file review was never made and stated the new discovery consisted of a supplemental police report which was nothing of substance, it was not exculpatory, and it was not a discovery violation. Further argument by Mr. Westbrook that Mr. Villani had not exercised the due diligence required by the Statute and to turn over the discovery 30 days before trial. Mr. Villani stated the CAC (Children's Assessment Center) and the detective both interviewed the child at the CAC, but he was not aware of the detective's interview until he had started preparing for trial and he just received the statement yesterday. COURT NOTED, Mr. Westbrook will need to review the

statement and should have adequate time to review the statement; however, it did not see it as the State not being ready for trial. COURT ORDERED, trial continuance GRANTED. Mr. Westbrook moved to release the Deft. and advised the Deft.'s family could not come up with bail. COURT ADVISED, it was not inclined to entertain a motion to release the Deft., as it previously heard the bail motion and the bail setting was changed, but a new piece of evidence being disclosed did not change its analysis of the bail and if something changes counsel could file another motion. COURT ORDERED, jury trial SET on the February stack; ADVISED, this case would be competing with the other cases based upon in-custody status and whichever case was older.

Matter TRAILED for other cases to be heard prior to the Discovery motion.

Matter RECALLED. Same parties present as before.

DEFT.'S MOTION TO COMPEL PRODUCTION OF DISCOVERY BRADY EVIDENCE:

Argument by Mr. Westbrook in support of the motion; noting whether there was a due process violation and requesting the discovery he was entitled to under Brady and the statutes, whether it be inculpatory or exculpatory. COURT NOTED, evidence could not be withheld; however, ADVISED, it was not in the habit of ordering the defense or prosecution to follow the law, as it expected counsel to follow the laws as it was their ethical duty; FURTHER, the State had an obligation to turn over anything that was exculpatory or Brady material; therefore, inquired if there was a specific request. Colloquy regarding the motion, opposition, and email dialogue. Further colloquy regarding discovery requests and whether a motion needed to be filed. Further argument by Mr. Westbrook in support of the motion; moved to release his client because the state failed to turn over discovery in a timely manner and his client now had to remain in custody longer. COURT FURTHER NOTED, the bail was to ensure the Deft.'s appearance and protect the community it was not to punish the prosecution office for failing to turn over discovery. Mr. Villani argued regarding CAC information, information that was also accessible to the defense, and regarding certain items which may not be available. Further, argument by Mr. Villani regarding Mr. Westbrook's email, whether the defense did its own investigation or had requested a file review. Further, advised he would never hold something back that he planned on using in his case in chief, he would turn over anything that was specifically requested, and anything he has had already been turned over. FURTHER NOTED, the State had an obligation to turn over anything that was in the custody of a State actor in this case and who was involved in the investigation of this case. Mr. Villani so agreed. Further argument by Mr. Westbrook. COURT ADVISED, it was up to the State to make the decision whether it was exculpatory or whether it was disclosed. Further argument by Mr. Westbrook. Exhibit presented (see worksheet). FURTHER NOTED, Mr. Westbrook filed a motion to compel and ADVISED that he needed to make a request and he could file a notice of request for discovery. Further argument by Mr. Westbrook requesting the State provide everything in the motion. COURT FURTHER ADVISED, it was not in the practice of ordering counsel to comply with the law and as to matters relating to Discovery, that the State was not objecting to turning over anything or withholding anything. Further argument by Mr. Westbrook requesting what the detective had. Mr. Villani stated there were items in the evidence vault and Mr. Westbrook could make an appointment to go look at the evidence. COURT DIRECTED, Mr. Westbrook to schedule that with Mr. Villani. Mr. Westbrook

argued for information related to Darrington Rivers. COURT ADVISED, the State could review that and decide if it should be turned over. Mr. Villani stated the review had been done, it was turned over and advised that was a separate matter that was disclosed at the same time. Further arguments by Mr. Westbrook requesting any additional information there may be. COURT ADVISED, the State only had to provide the recorded statement from Mr. Rivers and Mr. Westbrook also had to do his own investigation. COURT ORDERED, the motion is DENIED as it was an improper motion and Brady did not require a motion, there was nothing specific indicated that there was a failure to comply with Chapter 174, but it was not being denied as to the merits of the request because it remained to be seen if the State does not do what it was supposed to do and turn the discovery over. COURT FURTHER ORDERED, request to release the Deft. for a sanction of a discovery violation was DENIED as it did not think it was appropriate concerning bail to say because something was not turned timely or because the trial was continued. COURT DIRECTED Mr. Villani to prepare the order indicating that the Court acknowledged the State's obligation under Brady and its progeny, and it was not in the habit of ordering counsel to comply with the law. COURT ADVISED, Mr. Westbrook he could file a motion narrowing it down if he feels he was not getting what he had requested. Upon Mr. Westbrook's inquiry, COURT ADVISED, the record reflects the motion filed was intended as Mr. Westbrook's request.

CUSTODY

1/29/18 - 9:00 AM - CALENDAR CALL

5/5/18 - 1:30 PM - JURY TRIAL - COMPLEX CRIMINAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 29, 2018**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

January 29, 2018 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- CALENDAR CALL ... DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE BASED ON CHANGE IN STATE'S ASSESSMENT OF DEFENDANT'S LIKELIHOOD OF FLIGHT/DANGER TO THE COMMUNITY, AND TO SERVE THE REQUIREMENTS OF DUE PROCESS, FUNDAMENTAL FAIRNESS AND SUBSTANTIAL JUSTICE

Mr. Westbrook stated he was still waiting for the State to turn over discovery; therefore, he was not ready for trial; advised he had provided a list of items he wanted turned over. Upon Court's inquiry, Mr. Villani stated he had turned over everything and Mr. Westbrook had asked for everything in the motion during an elevator ride. Statement by Mr. Westbrook regarding his request for information to be disclosed regarding Darrington Rivers' case. Colloquy regarding why a motion to continue was not filed. Mr. Westbrook stated he was not waiving the Deft.'s right to a speedy trial and he did not file a motion to continue as he did not want it to seem like it was his motion to continue. Mr. Villani announced ready; advised there were 5-7 witnesses and anticipated over one week for trial with half days in this Dept. Further, Mr. Villani stated the Darrington Rivers case had the same victim, that Deft. took a plea, never went to trial, and is in prison. Additionally, Mr. Villani stated North Las

Vegas does not keep their notes and Mr. Westbrook was informed of that. Further, Mr. Villani argued in opposition to the motion for own recognizance release; advised the Deft. rejected the offer and it is now off the table. Upon Court's inquiry regarding whether the Defense was ready, Mr. Westbrook argued that the state was not ready statutorily or legally. Further, Mr. Westbrook summarized the circumstances related to the offer and argued that if his client were a risk to flee the State would not have let the Deft. out based on the negotiation. COURT ADVISED, it was not sure why this case could not go forward if the defense has been given the statement of the other person who was doing time for sexual assault and there were no notes; therefore, it sounded like the State had fulfilled its obligation; however, if later discovery or Brady materials are withheld that was another issue. Further, argument by Mr. Westbrook regarding why he could not proceed as he needed the records from Diana Saunders and all the information from the Darrington Rivers case. Mr. Villani stated he subpoenaed Ms. Saunders and requested all the records to be provided; however, he was not sure whether she would provide the records. COURT ADVISED, an order to produce the records in camera could be issued. Mr. Westbrook moved for an evidentiary hearing. COURT ADVISED it was not going to do that, as counsel could file a motion and NOTED this matter was on for calendar call. Mr. Westbrook sworn and testified as to the reason a trial continuance was needed. COURT NOTED, the reason for the trial continuance was because of Mr. Westbrook and not because of the State's actions. Colloquy regarding Mr. Westbrook preparing an order for in camera review of the documents and the information the order will need to contain. COURT NOTED, it would have to seal the order and it would review the documents in camera. COURT ORDERED, jury trial VACATED and RESET. Counsel anticipated one week and two days for trial.

As to the motion for own recognizance (OR) release, COURT NOTED the factors were listed but not addressed, it had already lowered the Deft.'s bail previously and ADVISED it frowned upon OR releases at entry of the plea as a motion should be reviewed and the statutory factors addressed. COURT ORDERED, motion for OR release DENIED and bail STANDS as set.

CUSTODY

4/16/18 - 9:00 AM - CALENDAR CALL

4/23/18 - 1:30 PM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 28, 2018**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

February 28, 2018 9:00 AM Motion to Vacate

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto	Defendant
	LaBounty, Daniela	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- Deft. present in custody. Mr. Westbrook requested to be allowed to file a response to the motion. Colloquy regarding the prior hearing, the Court's order and the motion to quash. Mr. Westbrook stated it wasn't just about Brady and it was discoverable as the State intended to call Ms. Saunders in their case in chief. Ms. LaBounty stated records were not produced to the police; argued that records between Ms. Saunders and her patient were protected, she did not get a subpoena for any records, the order was broad and a timeframe was not indicated wherein Ms. Saunders had been treating the patient for some time. COURT ORDERED the order IS STAYED; Mr. Westbrook is ALLOWED to file a response, the State can file a response if it would like to which will be due at the same time as Mr. Westbrook's response. Ms. Rhoades stated she did not believe the State will be filing a response. FURTHER ORDERED, matter CONTINUED and the parties were notified of the following briefing schedule:

Defense response is DUE BY 3/7/18,
Ms. Saunders' reply is DUE BY 3/14/18.

Colloquy regarding the motion filed by Mr. Westbrook not being set on calendar due to there being no notice of motion.

CUSTODY

3/19/18 - 9:00 AM - MOTION TO VACATE EX PARTE ORDER FOR RELEASE OF COUNSELING RECORDS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2018

C-17-321860-1 State of Nevada
 vs
 Rigoberto Inzunza

March 19, 2018 9:00 AM All Pending Motions

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

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Inzunza, Rigoberto	Defendant
	LaBounty, Daniela	Attorney
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Deft. present in custody. Daniela LaBounty, Esq. present on behalf of Diana Saunder's.

DIANA SAUNDER'S MOTION TO VACATE EX PARTE ORDER FOR RELEASE OF COUNSELING RECORDS ON ORDER SHORTENING TIME.

Ms. LaBounty argued to vacate the ex parte order as the recorder were privileged; advised her client reported to the police per her obligation under the law. Argument in opposition by Mr. Westbrook noting there were exceptions to the privilege, whether the records were relevant and should be turned over. Further, Mr. Westbrook argued the offer of proof more than met the exceptions, regarding false allegations, the victim's state of mind which brought therapy into play. Additionally, Mr. Westbrook argued about the circumstances related to the therapist going to the police, at the request of her client, and the facts discussed regarding the Deft. and Mr. Rivers; further, the victim suffered from a mental illness and the privilege was waived as it related to pretrial discovery by doing that. Further argument by Ms. LaBounty that a mental illness was not a waiver; further the

relevance was not enough to overcome the privilege. Additionally, Ms. LaBounty argued any further delay of this matter was a burden to her client. COURT FINDS the privilege is held by the client or patient, who was not here stating she was waiving the privilege, and nothing submitted arises to a showing that there was an exception to the privilege and the order was overly broad and ; therefore, ORDERED, motion GRANTED.

DEFENDANT'S MOTION TO FILE DEFENDANT S "OFFER OF PROOF" UNDER SEAL FOR IN CAMERA REVIEW, AND MOTION TO COMPEL SAUNDERS TO FILE THE SUBJECT COUNSELING RECORDS UNDER SEAL FOR IN CAMERA REVIEW AS REQUIRED BY THE EQUAL PROTECTION CLAUSES OF THE STATE AND FEDERAL CONSTITUTIONS.

COURT NOTED, master calendar placed this matter on calendar in error and ADVISED it would take up whether the offer of proof would be filed under seal, but it didn't believe Ms. LaBounty's client needed to be here for that. Mr. Westbrook stated to streamline matters and avoid further hearings, the offer of proof could be filed under seal. COURT ADVISED, the only items that should be filed under seal are items which have a showing, otherwise, items should be redacted. Ms. LaBounty requested the defense withdraw the motion for the proof to be filed under seal. Mr. Westbrook stated his offer of proof needed to remain with the record under seal for appellant purposes. COURT NOTED, it decided whether something is filed under seal, otherwise, an offer of proof should be a rescitation of facts. COURT ADVISED it was not going to keep bringing Ms. LaBounty back because the Defense had not properly filed the motion; however, this motion would remain on 3/28/18. Colloquy regarding whether this motion was set on calendar today or 3/28/18. Ms. LaBounty advised she would prepare the order granting her motion to vacate; however, the motion to file under seal also included a countermotion to produce records under seal; therefore, inquired if the countermotion was denied as moot being that the motion to vacate was granted. COURT NOTED, it was not sure why the countermotion to produce the records in camera was filed, as it had already done that and that was the whole subject matter of the motion to vacate the order. Mr. Westbrook stated he filed the motion because as he was preparing his offer of proof, it occurred to him that there was an equal protection violation, and if they did not have to produce the records in camera, then why should he have to and respond to it and expose his client. COURT ADVISED on 3/28/18 it would only be considering whether the defense's offer of proof was going to be filed under seal; FURTHER, as it looked at the offer of proof and saw the defense arguing Brady, and nothing in the offer of proof went beyond what Mr. Westbrook was arguing today; however, it would look closer at the motion to determine if it would be filed under seal, but it did not see that it rose to the level that any exception had been shown. COURT ORDERED, the countermotion to produce records under seal is DENIED. Mr. Westbrook inquired if the Court was denying the motion without reading the motion. COURT ADVISED, it heard Mr. Westbrook's arguments on the motion today and they were intertwined; however, if Mr. Westbrook wanted to argue that it should reconsider it, it would look at it and reconsider it. COURT ORDERED, motion RESET to its original setting on March 28, 2018. Upon Ms. LaBounty's inquiry on whether she needed to appear for the continuance hearing, COURT ADVISED, counsel she did not have to appear if she did not want to.

DEFENDANT S MOTION TO DISMISS PURSUANT TO DOGGETT VS. UNITED STATES, FOR VIOLATION OF STATE AND FEDERAL CONSTITUTIONAL RIGHTS.

Upon Court's inquiry, Mr. Villani stated the criminal complaint was filed 12/3/2014. Colloquy regarding when the Deft. was arrested on the original warrant which was 1/29/17 and the First Appearance in Justice was 1/15/17, which could be a misprint and actually be 2/15/17. Mr. Westbrook stated the Deft. had indicated he was arrested on 1/27/2017. Upon Court's inquiry, Mr. Villani stated he did not know what steps North Las Vegas (NLV) took to track the Deft. down. COURT ORDERED, matter SET for evidentiary hearing to address what steps NLV took and as the victim's family gave NLV information about the Deft.'s whereabouts, did the victim's family notify him or was there any evidence he knew; noted the four prongs it has to analyze in Doggett.

CUSTODY

3/28/18 - 9:00 AM - DEFENDANT'S MOTION TO FILE DEFENDANT S "OFFER OF PROOF" UNDER SEAL FOR IN CAMERA REVIEW, AND MOTION TO COMPEL SAUNDERS TO FILE THE SUBJECT COUNSELING RECORDS UNDER SEAL FOR IN CAMERA REVIEW AS REQUIRED BY THE EQUAL PROTECTION CLAUSES OF THE STATE AND FEDERAL CONSTITUTIONS

4/4/18 - 11:00 AM - EVIDENTIARY HEARING: DEFENDANT S MOTION TO DISMISS PURSUANT TO DOGGETT VS. UNITED STATES, FOR VIOLATION OF STATE AND FEDERAL CONSTITUTIONAL RIGHTS

4/16/18 - 9:00 AM - CALENDAR CALL

4/23/18 - 1:30 PM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 28, 2018**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

March 28, 2018 9:00 AM Motion

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto	Defendant
	LaBounty, Daniela	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Deft. present in custody. Mr. Villani not present.

COURT NOTED, its inclination as to the motion to seal and ADVISED it had looked at the offer of proof, and it thought there was some legitimacy to keep private some disclosure about thoughts, impressions, and if there were privileged communications. COURT ADVISED, it did not find there were privileged attorney client communications indicated in the offer of proof, but there were potentially some thoughts and impressions of counsel. Mr. Westbrook stated some of the items were based on client communications but were not identified as such. Colloquy regarding which items were not believed to be client communications and which were included in the police report. Mr. Westbrook stated number four was not from the police report. COURT FURTHER ADVISED, its intent was to redact the things that should not be disclosed and which should be sealed. Mr. Westbrook stated if this goes up to the Supreme Court they would need to see this information. Colloquy regarding filing a redacted document and filing a document under seal. Mr. Westbrook argued that there was privileged attorney client information throughout the document. COURT summarized the items within the document that needed to be redacted and the items which did not as they were contained within the police report. Further argument by Mr. Westbrook noting the State

had not opposed his motion to seal the document, but a non-party had opposed his motion, who had no standing to oppose his motion. Additionally, Mr. Westbrook argued everything in the document was trial strategy, under the sixth amendment the Deft. had a right to a fair trial, the Deft. was told the document would be filed under seal, and it was a violation of attorney client privilege; therefore, the document should be sealed. COURT ADVISED, the Supreme Court was clear about its ruling that everything does not get to be sealed; therefore, it was not going to seal everything at the drop of a hat because it was not proper; however, it was willing to allow some items to be redacted. FURTHER ADVISED, Ms. Saunder's counsel was not here objecting to the order to seal, but was here because of the equal protection argument to compel the release of the documents under seal. COURT NOTED, it had started to read the motion but did not finish it, as it had to get the order shortening time signed and back to Mr. Westbrook for timely filing and service to be done; however, it has since read the whole motion; ADVISED it was not swayed by the argument what was good for the goose was not good for the gander was not equal protection. Further argument by Mr. Westbrook that Bradley forced him to file the offer of proof, it was a violation of his client's rights forcing him to reveal strategy, it was unconstitutional that Ms. Saunder's did not have to provide an offer of proof, and if he files something under seal, but it does not get filed under seal (FUS) or rejected and returned, it violated his client's rights. COURT ADVISED, just because counsel says something should be FUS does not mean it should be and it would have to make a decision on whether it should be FUS. COURT ORDERED, a redacted version be filed and the entire document to be filed under seal. Mr. Westbrook stated he would normally ask for a stay so he could take the matter up on a writ of mandamus or prohibition; however, he would like next week's matter to proceed; therefore, requested the Court hold off on filing the document until after next week's hearing has been decided. Argument by Ms. LaBounty in opposition to the motion, noted the law did not put any more importance on any privilege, her client had a privilege and her client's client also had a privilege, Bradley did not force counsel to file an offer of proof, and treatment records or therapy would not go towards a defense. Further, argument by Mr. Westbrook regarding Bradley and that his client's right was superior because his client was facing life in prison. Colloquy regarding how long the April 4, 2018 setting was anticipated to take. Mr. Westbrook stated he could prepare affidavits, to save time if the Court and State would accept those, to speed the April 4 matter along. Sarah Overly, Dep. D.A. now present on behalf of the State. Upon Court's inquiry regarding whether the State opposed it holding off on filing the document until after the April 4, 2018 hearing, Ms. Overly advised she could not speak to this matter as she did not have the file and was only going to report back what the ruling was. COURT SO NOTED. Ms. LaBounty stated she had prepared the order on the motion to vacate. COURT DIRECTED, Mr. Westbrook to prepare the order for the motion to file under seal.

CUSTODY

4/4/18 - EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 04, 2018**

C-17-321860-1 State of Nevada
vs
Rigoberto Inzunza

April 04, 2018 11:00 AM Evidentiary Hearing

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Inzunza, Rigoberto	Defendant
	State of Nevada	Plaintiff
	Villani, Jacob J.	Attorney
	Westbrook, P D.	Attorney

JOURNAL ENTRIES

- Deft. present in custody. Mr. Villani stated there was not a lot of information to be provided as to why there was a delay and summarized how the North Las Vegas police relied on NCIC, how a warrant is put into NCIC, and that the warrant goes into play if the party is put into custody. Colloquy regarding the Doggett case. Further, Mr. Villani stated he was in a position that he did not have the information the court was looking for; however, argued that was just one factor to consider, the Deft. waived his right to a speedy trial, and as of the arrest everyone was put on notice. COURT NOTED, this was about the time from the charging document to the arrest, and that was what triggered the sixth amendment, then the burden is on the defendant to show prejudice and a due process violation; however, it did not have that here. FURTHER NOTED, it was concerned there was a two years and two month delay. FURTHER, if there was bad faith or negligence that would fall under a different factor in the analysis. Sworn testimony by Mark Hoyt. Exhibits presented (see worksheet). Mr. Westbrook stated he had seven witnesses who would say they were not contacted. Mr. Villani stated he was fine with those witnesses testifying; however, objected to Mr. Westbrook filing declarations and argued the relevance of their filing. COURT NOTED, Mr. Westbrook's due diligence was not in question here as the question was what had been done after the complaint was

filed. Argument by Mr. Villani regarding the timing issues, the North Las Vegas policy and procedures, there was due diligence as the warrant was put in NCIC and the Deft. was picked up because of the warrant; additionally, it was still within the statute of limitation. COURT ADVISED, the statute of limitation had no bearing here. Further, argument by Mr. Villani that there was no invocation of a speedy trial. Upon Court's inquiry, Mr. Villani stated he did not know whether the Deft. knew about this matter. COURT ADVISED, the argument was regarding a delay for the issuance of the charging document, that violated the Deft. s sixth amendment right to a speedy trial, and while the Deft. waived his right to a trial within sixty days, he did not waive his right to a speedy trial. Argument by Mr. Westbrook noting the State was responsible for all the continuances except the last continuance. COURT ADVISED it disagreed as it could have given this case a trial within sixty days but that was a different issue. Further, argument by Mr. Villani noting the reason for delay, and while North Las Vegas could have done more, he did not think it was purposeful, the Deft. was in New Jersey, whether prejudice had transpired, and if there was anything to indicate the Deft. would have been arrested even if the leads were followed up on. Mr. Westbrook argued that the Court's hands were tied and regarding whether there was intentional delay. Further argument by Mr. Villani regarding presumptive prejudice. Mr. Villani argued in opposition of dismissing the case. Colloquy regarding whether the presumption shifted to the State, regarding prior trial continuances, the reasons for the continues, and whether counsel was ready for trial. Mr. Westbrook argued that the witness testified that he understood the Deft. had a right to a speedy trial, regarding the first continuance made by the state, the State not turning over discovery. COURT NOTED, it had granted the continuance because the discovery was not produced timely. Further colloquy and arguments regarding the prior requests for trial continuances and invocation under the sixth amendment. COURT ORDERED, matter TAKEN UNDER ADVISEMENT and ADVISED it would prepare the order. Exhibits presented and ADMITTED.

CUSTODY

Defendant(s): RIGOBERTO INZUNZA, aka, Rigoberto Lopez Inzunza, #0448039

Case No(s): 16BGJ081X (RANDOMLY TRACKS TO DC Track 12 & XXI OR IX & X) Track 3
(Judge to determine track and department)

Charge(s): (11) CTS - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105) and
(5) CTS - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975)

Def. Counsel(s): PD

WARRANT (1 WEEK): 750K 3/15 @ 9 DCS

DEFT IS IN CUSTODY @ CCDC (14FN2148X - PH 3/15 IN NLV 1)

Exhibits:

1. Proposed Indictment
2. Jury Instructions
3. Photo
4. Diagram
5. Diagram
6. Diagram
7. Diagram

Exhibits 1 - 7 to be lodged with the Clerk of the Court.

EXHIBIT(S) LIST

Case No.: C321860

~~Revocation Date:~~

11/29/17

Dept. No.: 5

Judge:

Carolyn Ellsworth

Plaintiff:

The State of Nevada

Court Clerk:

Andrea Natali

Recorder:

Lara Corcoran

Counsel for Plaintiff:

Jake Villani, Dep PA

Defendant:

VS.

Rigoberto

Counsel for Defendant:

D. Westbrook

REVOCATION HEARING BEFORE THE COURT

Defendant's

~~STATE'S~~ EXHIBITS

[illegible]

EXHIBIT(S) LIST

Case No.:

1 | 29 | 18

✓

Judge:

Carolyn Elsworth

Court Clerk:

Andrea Natali

Plaintiff:

The State of Nevada

Recorder:

Lara Corcoran

Counsel for Plaintiff:

VS.

Jake Villani Chf. Dep. DA

Defendant:

Rigoberto Inzunza

Counsel for Defendant:

D. Westbrook

Hearings

REVOCATION HEARING BEFORE THE COURT

~~STATE'S EXHIBITS~~

[illegible]

EXHIBIT(S) LIST

Case No.: C321860

Hearing Date: APR - 4 2018

Dept. No.: 5

Judge:

~~CAROLYN ELLSWORTH~~

Court Clerk: **ANDREA NATALI**

Plaintiff: The State of Nevada

Recorder: LARA CORCORAN

Counsel for Plaintiff: Jake Villani Chf. Dep. D.A.

VS.

Defendant: Rigober to INZUNZA

Counsel for Defendant: P.D. Westbrook, Dep.
P.D.

Hearing BEFORE THE COURT

Defendant's EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS ST.
LAS VEGAS, NV 89155-2212

DATE: April 20, 2018
CASE: C-17-321860-1

RE CASE: STATE OF NEVADA vs. RIGOBERTO INZUNZA

NOTICE OF APPEAL FILED: April 16, 2018

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

☐

Case Appeal Statement

- NRAP 3 (a)(1), Form 2

☐

Order

☒

Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

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; ORDER GRANTING DEFENDANT'S MOTION TO DISMISS; DISTRICT
COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

RIGOBERTO INZUNZA,

Defendant(s).

Case No: C-17-321860-1

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 20 day of April 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk