

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

v.

RIGOBERTO INZUNZA,

Respondent.

Electronically Filed
Sep 24 2018 02:51 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 75662

APPELLANT'S APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 24th day of September, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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1 JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
2 CLARK COUNTY, NEVADA

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 RIGOBERTO INZUNZA, aka,
7 Rigoberto Lopez Inzunza #0448039,

8 Defendant.

CASE NO: 14FN2148X

DEPT NO:

CRIMINAL COMPLAINT

9 The Defendant above named having committed the crimes of SEXUAL ASSAULT
10 WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS
11 200.364, 200.366 - NOC 50105) and LEWDNESS WITH A CHILD UNDER THE AGE OF
12 14 (Category A Felony - NRS 201.230 - NOC 50975), in the manner following, to-wit: That
13 the said Defendant, on or between September 1, 2009 and October 31, 2010, at and within the
14 County of Clark, State of Nevada,

15 COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

16 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
17 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital
18 penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will,
19 or under conditions in which Defendant knew, or should have known, that E.J. was mentally
20 or physically incapable of resisting or understanding the nature of Defendant's conduct.

21 COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

22 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
23 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital
24 penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will,
25 or under conditions in which Defendant knew, or should have known, that E.J. was mentally
26 or physically incapable of resisting or understanding the nature of Defendant's conduct.

27 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

28 did then and there wilfully, unlawfully, and feloniously sexually assault and subject

1 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital
2 penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will,
3 or under conditions in which Defendant knew, or should have known, that E.J. was mentally
4 or physically incapable of resisting or understanding the nature of Defendant's conduct.

5 COUNT 4 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

6 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
7 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital
8 penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will,
9 or under conditions in which Defendant knew, or should have known, that E.J. was mentally
10 or physically incapable of resisting or understanding the nature of Defendant's conduct.

11 COUNT 5 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

12 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
13 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital
14 penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will,
15 or under conditions in which Defendant knew, or should have known, that E.J. was mentally
16 or physically incapable of resisting or understanding the nature of Defendant's conduct.

17 COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

18 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
19 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: fellatio: by
20 placing his penis on or in the mouth of the said E.J., against her will, or under conditions in
21 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
22 of resisting or understanding the nature of Defendant's conduct.

23 COUNT 7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

24 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
25 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: fellatio: by
26 placing his penis on or in the mouth of the said E.J., against her will, or under conditions in
27 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
28 of resisting or understanding the nature of Defendant's conduct.

1 COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

2 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
3 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: fellatio: by
4 placing his penis on or in the mouth of the said E.J., against her will, or under conditions in
5 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
6 of resisting or understanding the nature of Defendant's conduct.

7 COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

8 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
9 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: fellatio: by
10 placing his penis on or in the mouth of the said E.J., against her will, or under conditions in
11 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
12 of resisting or understanding the nature of Defendant's conduct.

13 COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
14 AGE

15 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
16 E.J., a female child under fourteen years of age, to sexual penetration, to-wit: fellatio: by
17 placing his penis on or in the mouth of the said E.J., against her will, or under conditions in
18 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
19 of resisting or understanding the nature of Defendant's conduct.

20 COUNT 11 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

21 did then and there wilfully, lewdly, unlawfully, and feloniously commit a lewd or
22 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: E.J., said
23 child being under the age of fourteen years, by touching and/or rubbing and/or fondling the
24 said E.J.'S genital area with his penis, with the intent of arousing, appealing to, or gratifying
25 the lust, passions, or sexual desires of said Defendant, or said child.

26 COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

27 did then and there wilfully, lewdly, unlawfully, and feloniously commit a lewd or
28 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: E.J., said

1 child being under the age of fourteen years, by touching and/or rubbing and/or fondling the
2 said E.J.'S genital area with his penis, with the intent of arousing, appealing to, or gratifying
3 the lust, passions, or sexual desires of said Defendant, or said child.

4 COUNT 13 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

5 did then and there wilfully, lewdly, unlawfully, and feloniously commit a lewd or
6 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: E.J., said
7 child being under the age of fourteen years, by touching and/or rubbing and/or fondling the
8 said E.J.'S genital area with his penis, with the intent of arousing, appealing to, or gratifying
9 the lust, passions, or sexual desires of said Defendant, or said child.

10 COUNT 14 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

11 did then and there wilfully, lewdly, unlawfully, and feloniously commit a lewd or
12 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: E.J., said
13 child being under the age of fourteen years, by touching and/or rubbing and/or fondling the
14 said E.J.'S genital area with his penis, with the intent of arousing, appealing to, or gratifying
15 the lust, passions, or sexual desires of said Defendant, or said child.

16 COUNT 15 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

17 did then and there wilfully, lewdly, unlawfully, and feloniously commit a lewd or
18 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: E.J., said
19 child being under the age of fourteen years, by touching and/or rubbing and/or fondling the
20 said E.J.'S genital area with his penis, with the intent of arousing, appealing to, or gratifying
21 the lust, passions, or sexual desires of said Defendant, or said child.

22 All of which is contrary to the form, force and effect of Statutes in such cases made and
23 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
24 this declaration subject to the penalty of perjury.

25
26
27 12/03/14

28 14FN2148X/jjd
NLVPD EV# 1419610
(TK)



Follow-Up Report

Case No. 141118019610
E-Police No.
Report No. 141118019610.3
Report Date: 2/15/2017

1

Page 1 of 1

Subject:	WFOJ	Routing	
Case Report Status	A - Approved	Case Status	O - Open
Case Attachments	Yes	Date Entered	2/15/2017 11:30:37 AM
Occurred On	8/1/2005 8:00:00 AM	Entered By	NL1810 - Santos, Andrew
(and Between)		Date Verified	2/15/2017 3:04:08 PM
Location	330 S CASINO CENTER	Verified By	NL1180 - Semper, Darrell
Jurisdiction	X	Date Approved	2/16/2017 6:44:38 PM
Grid	MTRO - Metro	Approved By	NL0985 - Cheng, Luz
Sector	X	Connecting Cases	
Map		Disposition	Active
Census/Geo		Clearance Reason	
Call Source	Field	Date of Clearance	
		Reporting Agency	North Las Vegas Police Department
		Division	Detectives
		Notified	
Vehicle Activity		Means	
Vehicle Traveling		Other Means	
Cross Street		Motive	
		Other Motives	

Offense Detail: 50975 - Lewdness W/Child < 14, (1st) - 201.230.2

Offense Description	50975 - Lewdness W/Child < 14, (1st) - 201.230.2	Location	20 - Residence/Home	No. Prem.	
IBR Code	11D - Forcible Fondling	Offense	Yes	Entered	
IBR Group	A	Completed?		Entry Method	
Crime Against	PE	Hate/Bias	88 - None (No Bias)	Type Security	
Using		Domestic Violence	No	Gang Related	No
Tools Used		Fraud Related	No		
Criminal Activity					
Weapons	99 - None				

Report Narrative On January 29, 2017, Rigoberto Inzunza (CS# 0448039) was arrested by the Monmouth County Sheriff's Department for an outstanding North Las Vegas Warrant (14CRN002215-000) under case # 14FN2148X. The warrant and extradition were confirmed by NLVPD Records on this same date.

On January 30, 2017, Detective Anthony Gomez #1270, contacted the victim in this case who said they were available and willing to prosecute. On this same day, he contacted Clark County District Attorney's (DA) Office and requested approval for extradition.

On January 30, 2017, Clark County Chief DA Rhodes approved extradition.

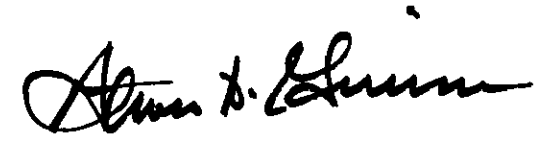
On February 2, 2017, Inzunza signed a waiver of extradition.

On February 11, 2017, PTS of America transported Clarke to the Clark County Detention Center where he was booked for the warrant.

Attachments: waiver of extradition.

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA



CLERK OF THE COURT

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RIGOBERTO INZUNZA, aka Rigoberto)
Lopez Inzunza,)
)
Defendant.)

GJ No. 16BGJ081X
DC No. C321860

Taken at Las Vegas, Nevada

Wednesday, March 8, 2017

4:03 p.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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

12:00 1 GRAND JURORS PRESENT ON MARCH 8, 2017
2
3 JOHN BLACKWELL, Foreperson
4 JANE REYLING, Deputy Foreperson
12:00 5 STACEY EARL, Secretary
6 MARGARET FREE, Assistant Secretary
7 MAYRA ALMONTE
8 ISABEL DARENSBOURG
9 BLANCA FISSELLA
12:00 10 PHILLIP HOLGUIN
11 GREGORY KRAMER
12 CAROLE LARKINS
13 REGLA MEGRET
14 CHARLOTTE MILLER
12:00 15 ADOLPH PEBELSKE, JR.
16 ELIZABETH ROMOFF
17 DERRICK SIMMONS
18 FRANCES STOLDAD
19
12:00 20 Also present at the request of the Grand Jury:
21 Jacob Villani,
22 Chief Deputy District Attorney
23
24
25

12:00

1

INDEX OF WITNESSES

2

Examined

3

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ELISIANA JONES

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12:00

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ELIZABETH GUERRA

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12:00

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INDEX OF EXHIBITS

2

3

Grand Jury Exhibits

Identified

4

1 - PROPOSED INDICTMENT

5

12:00

5

2 - INSTRUCTIONS

5

6

3 - PHOTOGRAPH

11

7

5 - DIAGRAM OF THE FEMALE ANATOMY

19

8

6 - DIAGRAM OF THE FEMALE ANATOMY

12

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7 - DIAGRAM OF FEMAL ANATOMY

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12:00 1 LAS VEGAS, NEVADA, MARCH 8, 2017

2 * * * * *

3

4 DANETTE L. ANTONACCI,

12:00 5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MR. VILLANI: Good afternoon ladies and
04:03 10 gentlemen of the Grand Jury. My name is Jake Villani
11 and I will be presenting Grand Jury case number
12 16BGJ081X, State of Nevada versus Rigoberto Inzunza.
13 The record will reflect that I have marked a copy of the
14 proposed Indictment as Exhibit Number 1 and that all
04:03 15 members of the Grand Jury have a copy of it. The
16 defendant in this case is charged with the crimes of
17 sexual assault with a minor under 14 years of age and
18 lewdness with a child under the age of 14, committed at
19 and within the County of Clark, State of Nevada, on or
04:03 20 between September 1st of 2009 -- sorry -- March of 2008
21 and October 31st of 2010.

22 I'm required by law to advise you of the
23 elements of these charges. I provided written
24 instructions to each of the grand jurors and marked a
04:04 25 copy of the instructions provided as Exhibit Number 2.

04:04 1 Are there any grand jurors who do not have a copy of the
2 instructions?

3 Seeing no hands.

4 My first witness is Elisiana Jones.

04:04 5 Spelling of the first name E-L-I-S-I-A-N-A.

6 THE FOREPERSON: Please raise your right
7 hand.

8 You do solemnly swear the testimony you are
9 about to give upon the investigation now pending before

04:04 10 this Grand Jury shall be the truth, the whole truth, and
11 nothing but the truth, so help you God?

12 THE WITNESS: Yes.

13 THE FOREPERSON: Please be seated.

14 You are advised that you are here today to

04:05 15 give testimony in the investigation pertaining to the
16 offenses of sexual assault with a minor under 14 years
17 of age, and lewdness with a child under the age of 14,
18 involving Rigoberto Inzunza.

19 Do you understand this advisement?

04:05 20 THE WITNESS: Yes.

21 THE FOREPERSON: Please state your first
22 and last name and spell both for the record.

23 THE WITNESS: Elisiana Jones.

24 E-L-I-S-I-A-N-A, J-O-N-E-S.

04:05 25 ///

04:05 1 ELISIANA JONES,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth,
4 and nothing but the truth, testified as follows:

04:05 5
6 EXAMINATION

7

8 BY MR. VILLANI:

9 Q. Elisiana, when were you born?

04:05 10 A. 01/18/1999.

11 Q. January 8, 1999?

12 A. Yes.

13 Q. Do you know a man by the name of Rigoberto
14 Inzunza?

04:05 15 A. Yes.

16 Q. How do you know Rigoberto Inzunza?

17 A. From Pahrump where we used to live and he
18 was a friend of, my mom's friend and then he moved in
19 with us.

04:05 20 Q. You say you knew him from Pahrump. Did he
21 also live here in Las Vegas?

22 A. Yes.

23 Q. Do you know about how old Rigoberto was?

24 A. No.

04:06 25 Q. Was he your age?

04:06 1 A. No.

2 Q. Was he your mom's age?

3 A. A little older.

4 Q. A little older than your mom. Okay.

04:06 5 All right. Now when you moved here to Las

6 Vegas, was that into the Yerba Lane Apartments?

7 A. Yes.

8 Q. And that was on Yerba Lane street; correct?

9 A. Yes.

04:06 10 Q. That's here in Clark County, Nevada?

11 A. Yes.

12 Q. Did you start living there around September

13 of 2008?

14 A. Yes.

04:06 15 Q. And was Rigoberto living there with you at

16 the time?

17 A. Yes.

18 Q. Did you call him Rigoberto?

19 A. No, we called him Rigo.

04:06 20 Q. And that's R-I-G-O, correct?

21 A. Yes.

22 Q. While you were at that Yerba Lane

23 apartment, did Rigoberto ever touch you inappropriately?

24 A. Yes.

04:06 25 Q. And how would he do that? What would he

04:07 1 use to touch you?

2 A. Do I have to say the word?

3 Q. Yeah.

4 A. His penis.

04:07 5 Q. Okay.

6 A. His fingers.

7 Q. Okay.

8 A. His tongue.

9 Q. Okay.

04:07 10 And did he make you do anything to him?

11 A. Uhm, yes.

12 Q. What would he make you do to him?

13 A. He would make me suck his penis.

14 Q. And is this all at the Yerba Lane

04:07 15 Apartments?

16 A. Yes.

17 Q. So I want to start step by step here. Who
18 were you living with at those apartments?

19 A. My mom, my mom's -- no. My mom, me and my
04:07 20 sister, my two brothers and Rigo.

21 Q. And what were the sleeping arrangements?
22 How many bedrooms were there?

23 A. There was three bedrooms. Me, my siblings
24 and my mom who would all sleep in one room, there was an
04:08 25 office in the middle and he would sleep in the room by

04:08 1 himself.

2 Q. And when he would touch you
3 inappropriately, in what room would he touch you
4 inappropriately?

04:08 5 A. In his room.

6 Q. How would get you into his room?

7 A. By waking me up when all my brothers and
8 sister was asleep and taking me there.

9 Q. Where was your mom at the time?

04:08 10 A. She did night shift so she was working.

11 Q. Was she always working when Rigoberto would
12 touch you?

13 A. Yes.

14 Q. So would he wake up any of your other
04:08 15 siblings and bring them into his room?

16 A. No.

17 Q. It was just you?

18 A. Yes.

19 Q. Now while you were living at those Yerba

04:08 20 Lane Apartments, you were there September 2008 through
21 about December of 2008?

22 A. Yes.

23 Q. About that long?

24 While you were there, how often would he do

04:08 25 these things to you?

04:08 1 A. Almost every night.

2 Q. You say almost every night. Now every time
3 he did those to you, was your mom not home?

4 A. Yes.

04:09 5 Q. And then every time he did that to you was
6 it the same thing of wake you up and bring you over to
7 his room?

8 A. Yes.

9 Q. First I want to talk about you said he
04:09 10 would use his hands. I'm going to show you, first let
11 me show you Grand Jury Exhibit Number 3. Do you
12 recognize the person in Grand Jury Exhibit 3?

13 A. Yes.

14 Q. Who is that?

04:09 15 A. Rigo.

16 Q. Just talking about while you were at the
17 Yerba Lane Apartments and just talking about when Rigo
18 would use his hands on you. I'm showing you a diagram
19 that's been marked as Grand Jury Exhibit Number 7. Do
04:09 20 you recognize that as a diagram of the female anatomy?

21 A. Yes.

22 Q. If I give you my pen, can you put an X
23 where he would touch you with his fingers.

24 And how often would he use his fingers

04:10 25 versus using his tongue versus using whatever else?

04:10 1 A. Not so often.

2 Q. So the hand was less often?

3 How many times did it happen at the Yerba
4 Lane Apartments?

04:10 5 A. I don't know, I'm sorry.

6 Q. Okay. Did it happen at least once?

7 A. Yes.

8 Q. Did it happen more than once?

9 A. Yes.

04:10 10 Q. Now I want to talk about, you said he used
11 his tongue on you. Did he use his tongue at the Yerba
12 Lane Apartments?

13 A. Yes.

14 Q. How often would he do that?

04:10 15 A. Quite often.

16 Q. So that was more often than the hand?

17 A. Yes.

18 Q. Showing you Grand Jury Exhibit Number 6.

19 Do you recognize that as a diagram of the female

04:11 20 anatomy?

21 A. Yes.

22 Q. Could you put an X where he would put his
23 tongue?

24 Now do you remember how many times he did

04:11 25 that with his tongue?

04:11 1 A. No, I'm sorry.

2 Q. Did he do it one time, at least one time?

3 A. More.

4 Q. More than one time.

04:11 5 Now you mentioned he would make you do

6 something to his penis. What would he make you do to

7 his penis?

8 A. He would make me suck on it.

9 Q. And how often would he do that?

04:11 10 A. Quite often.

11 Q. And this is at the Yerba Lane apartment?

12 A. Yes.

13 Q. Do you remember what grade you were in in

14 the Yerba Lane apartment?

04:11 15 A. Third or fourth grade.

16 Q. And what would he tell you to do when it

17 was, when he wanted you to suck on his penis?

18 A. He would just tell me to do it.

19 Q. Would he say suck on my penis?

04:12 20 A. Yeah.

21 Q. Do you remember how often that would

22 happen?

23 A. Quite often.

24 Q. More or less often than the hand?

04:12 25 A. Less.

04:12 1 Q. And more or less often than the tongue?
2 A. Less.
3 Q. So less often than both. Do you remember
4 approximately how many times he did that?

04:12 5 A. No, I'm sorry.

6 Q. Okay. Did he do it at least one time?

7 A. Yes. Sorry.

8 Q. That's okay. Did he do it more than one
9 time?

04:12 10 A. Yes.

11 Q. Would stuff ever come out of his penis
12 while you were sucking on it?

13 A. No.

14 Q. Now did he ever touch you anywhere else
04:12 15 inappropriately?

16 A. My boobs.

17 Q. Would that be above or below your clothing?

18 A. Below.

19 Q. So underneath your clothes?

04:13 20 A. Yes.

21 Q. Was that also at the Yerba Lane Apartments?

22 A. Yes.

23 Q. And how often would he do that?

24 A. Not that often.

04:13 25 Q. Did he do it once?

04:13 1 A. Yes.

2 Q. Did he do it more than once?

3 A. Yes.

4 Q. And that was while you were living at the

04:13 5 Yerba Lane Apartments?

6 A. Yes.

7 Q. Now I want to, after you moved out of the

8 Yerba Lane Apartments, did you move into a house?

9 A. Yes.

04:13 10 Q. Was that house located on Celeste Avenue?

11 A. Yes.

12 Q. Is that house also here in Clark County?

13 A. Yes.

14 Q. And that would have been around September

04:13 15 of 2008 when you moved out?

16 A. Yes.

17 Q. Now when you moved into the Celeste avenue

18 house, who were you living with?

19 A. My mom's friend Shannon, Rigo, my mom's

04:13 20 friend Shannon's kids, me and my siblings and my mom.

21 Q. And was that a one story house or a two

22 story house?

23 A. A one story.

24 Q. And do you remember how many bedrooms there

04:14 25 were?

04:14 1 A. There were three.

2 Q. Three bedrooms. And where would you sleep?

3 A. I would sleep in the master bedroom.

4 Q. And who else slept with you in the master

04:14 5 bedroom?

6 A. My mom and my siblings.

7 Q. And who slept in the other two bedrooms?

8 A. My mom's friend Shannon, she would sleep

9 with her daughter in the other room, and then he would

04:14 10 sleep right next to her room, Rigo.

11 Q. So your mom's friend Shannon had the second

12 room and then Rigo had the third room?

13 A. Yes.

14 Q. Now did your mom also work nights while you

04:14 15 were at the Celeste Avenue house?

16 A. Yes.

17 Q. Did Rigo ever touch you inappropriately at

18 the Celeste Avenue house?

19 A. Yes.

04:14 20 Q. And how would he do that at the Celeste

21 Avenue house? What manner would he touch you? Was it

22 the same or different than he touched you at the Yerba

23 Lane apartment?

24 A. It was the same.

04:15 25 Q. And how would it happen? So at the Yerba

04:15 1 Lane apartment he would go in your bedroom and get you
2 and bring him into your bedroom. How would it happen at
3 the Celeste Avenue house?

4 A. It would happen exactly the same.

04:15 5 Q. And he would touch you with his hands
6 there?

7 A. Yes.

8 Q. And would he also touch you with his tongue
9 there?

04:15 10 A. Yes.

11 Q. And this is while you're living at that
12 house; correct?

13 A. Yes.

14 Q. And so you were third, fourth grade in this
04:15 15 time as well?

16 A. Yes.

17 Q. And did he also have you suck on his penis
18 at the house?

19 A. Yes.

04:15 20 Q. And did he have you do, did he touch you in
21 any other manner at that house?

22 A. No.

23 Q. No? Okay.

24 Now did you, now you mentioned at the Yerba

04:15 25 Lane Apartments he would touch your breasts. Is that

04:15 1 the same at the house?

2 A. Yes.

3 Q. Now I want to go through individually how
4 often would he touch you with his fingers at the house?

04:16 5 A. Quite the same as the other place.

6 Q. At least once during the time you were
7 living there?

8 A. More.

9 Q. More than once? Okay.

04:16 10 How about with his tongue while he was at
11 the house?

12 A. More than once.

13 Q. At the Celeste Avenue house?

14 A. Yes.

04:16 15 Q. And then how about how often would he ask
16 you to suck on his penis at the house?

17 A. More often.

18 Q. Once or more than once?

19 A. More than once.

04:16 20 Q. And did you want to do any of these things?

21 A. No.

22 Q. Did he make any, did he say anything to you
23 regarding if you tell or anything like that what the
24 consequences would be?

04:16 25 A. Yes, it would involve harming family or

04:16 1 trying to get me in trouble.

2 Q. How often would he tell you those things?

3 A. Not often but he told me quite a lot.

4 Q. Did he ever use his penis to touch your

04:17 5 vagina at the Celeste Avenue house?

6 A. Yes.

7 Q. And how would that happen?

8 A. Uhm, he would either get on top of me or he
9 would make me go on top of him.

04:17 10 Q. Were you both naked on the bottom when this
11 would happen?

12 A. Yes.

13 Q. Could you feel his penis on your vagina at
14 that time?

04:17 15 A. Yes.

16 Q. Would he ever go into your vagina?

17 A. No.

18 Q. So it was rubbing on your vagina?

19 A. Yes.

04:17 20 Q. Show you Grand Jury Exhibit Number 5. Do
21 you recognize that as a diagram of the female anatomy?

22 A. Yes.

23 Q. Can you put an X where you would feel his
24 penis on your vagina?

04:17 25 Now did that happen once or more than once

04:17 1 while you were at the Celeste Avenue house?

2 A. More than once.

3 Q. When you moved out of the Celeste Avenue
4 house, how long had you been there?

04:18 5 A. About a year.

6 Q. Okay. About a year. Where did you move
7 when you got out of the Celeste Avenue house?

8 A. Uhm, Webster Circle.

9 Q. And that's here in Clark County too?

04:18 10 A. Yes.

11 Q. Where did you, who did you live with at the
12 Webster Circle house?

13 A. My mom, Shannon, my siblings and Rigo.

14 Q. And so did Rigo kind of follow you from the
04:18 15 apartment to the Celeste Avenue house and then to the
16 Webster Circle house?

17 A. Yes.

18 Q. And he was living with you guys that whole
19 time?

04:18 20 A. Yes.

21 Q. How many bedrooms were in this, the Webster
22 Circle house?

23 A. Three.

24 Q. And where did you sleep?

04:19 25 A. Uhm, I slept with my, I slept with my mom

04:19 1 and my siblings. Shannon had her room and Rigo had his
2 room.

3 Q. Okay. So three bedrooms and kind of the
4 same sleeping arrangements as the Celeste Avenue house?

04:19 5 A. Yes.

6 Q. Did Rigo ever touch you inappropriately at
7 the Webster Circle house?

8 A. Yes.

9 Q. Was it the same or different at the Yerba
04:19 10 apartment or the Celeste Avenue house?

11 A. It was the same.

12 Q. Was your mom working nights then as well?

13 A. Yes.

14 Q. Was Shannon ever home when these things
04:19 15 happened?

16 A. Sometimes but sometimes not.

17 Q. And was Shannon awake, asleep, where was
18 she when this was going on?

19 A. She was either asleep or she was out with
04:19 20 her friends.

21 Q. So to your knowledge Shannon didn't know
22 what was going on between you and Rigo?

23 A. No.

24 Q. Would he do the same thing, go into your
04:19 25 bedroom and wake you up?

04:19 1 A. Yes.

2 Q. Did you ever notice any of your siblings
3 waking up at the same time?

4 A. No.

04:20 5 Q. He would bring you into his room?

6 A. Yes.

7 Q. And did he touch you with his fingers at
8 the Webster Circle house?

9 A. Yes.

04:20 10 Q. In the same manner as he did in the other
11 houses?

12 A. Yes.

13 Q. Once or more than once?

14 A. More than once.

04:20 15 Q. Did he touch you with his tongue at the
16 Webster Circle house?

17 A. Yes.

18 Q. Was it the same way he did it at the other
19 house?

04:20 20 A. Yes.

21 Q. Once or more than once?

22 A. More than once.

23 Q. Do you remember any specific dates that any
24 of these things occurred on?

04:20 25 A. No, I'm sorry.

04:20 1 Q. And was like birthday, any sort of anchor
2 points, first day of school, anything you can remember
3 whatsoever?

4 A. No.

04:20 5 Q. Okay. Did he make you suck on his penis at
6 the Webster Circle house?

7 A. Yes.

8 Q. Once or more than once?

9 A. More than once.

04:20 10 Q. And did he rub on your genital opening with
11 his penis at the Webster Circle house?

12 A. Yes.

13 Q. Once or more than once?

14 A. More than once.

04:20 15 Q. And I don't know if we asked this, sorry.
16 Back at the Celeste Avenue, was it once or more than
17 once with the penis there?

18 A. More than once.

04:21 19 Q. Now when he used his hands, his tongue, his
20 penis in all these places, is he doing it in the same
21 area that you marked on those exhibits?

22 A. Yes.

23 Q. Now you disclosed all of this to a person
24 at the Children's, the CAC; correct?

04:21 25 A. Yes.

04:21 1 Q. Do you remember having an interview over
2 there?

3 A. Yes.

4 Q. Now the day you disclosed that, you had
04:21 5 actually been in a mental hospital the day before;
6 right?

7 A. Yes.

8 Q. And why were you in there?

9 A. I threw a rock at my brother's head.

04:21 10 Q. And then did you go up on the roof?

11 A. Yes.

12 Q. Did the police have to come there?

13 A. The police and the fire department.

14 Q. And how long had you been in that mental
04:21 15 facility until?

16 A. I was there for a week, they took me out
17 and I went back for another week.

18 Q. So you went back for another week after the
19 interview?

04:22 20 A. Yes.

21 Q. Now this isn't the only person who has
22 molested you like this, is it?

23 A. No.

24 Q. Was there another person that you knew by
04:22 25 DD?

04:22 1 A. Yes.

2 Q. What happened with DD?

3 A. Uhm, we were playing hide and go seek in
4 the dark, it's a game that me and my siblings like to

04:22 5 play, his, my step dad that was living with us at the
6 time, his family was having a party, they live across
7 the street, and he came to play with us. He kept
8 following me and things happened.

9 Q. Okay. So needless to say things happened
04:22 10 meaning you were molested in some way by DD; correct?

11 A. Yes.

12 Q. Now was that during the time that these
13 things were going on with Rigo?

14 A. No.

04:22 15 Q. When was that?

16 A. After Rigo had left.

17 Q. So after Rigo left a separate man actually
18 took advantage of you?

19 A. Yes.

04:23 20 Q. But all of these incidents we discussed
21 were, this is all Rigo; correct?

22 A. Yes.

23 Q. No chance you're mixing up the incidents,
24 right?

04:23 25 A. No.

04:23 1 MR. VILLANI: That concludes my questioning
2 of this witness. Are there any questions from the grand
3 jurors?

4 Seeing no hands.

04:23 5 THE FOREPERSON: By law, these proceedings
6 are secret and you are prohibited from disclosing to
7 anyone anything that has transpired before us, including
8 evidence and statements presented to the Grand Jury, any
9 event occurring or statement made in the presence of the
04:23 10 Grand Jury, and information obtained by the Grand Jury.

11 Failure to comply with this admonition is a
12 gross misdemeanor punishable up to 364 days in the Clark
13 County Detention Center and a \$2,000 fine. In addition,
14 you may be held in contempt of court punishable by an
04:23 15 additional \$500 fine and 25 days in the Clark County
16 Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: Yes.

19 THE FOREPERSON: Thank you. You're

04:23 20 excused.

21 THE WITNESS: Thank you.

22 MR. VILLANI: My next witness is Elizabeth
23 Guerra.

24 THE FOREPERSON: Please raise your right

04:24 25 hand.

04:24 1 You do solemnly swear the testimony you are
2 about to give upon the investigation now pending before
3 this Grand Jury shall be the truth, the whole truth, and
4 nothing but the truth, so help you God?

04:24 5 THE WITNESS: Yes.

6 THE FOREPERSON: Please be seated.

7 You are advised that you are here today to
8 give testimony in the investigation pertaining to the
9 offenses of sexual assault with a minor under 14 years
04:24 10 of age, and lewdness with a child under the age of 14,
11 involving Rigoberto Inzunza.

12 Do you understand this advisement?

13 THE WITNESS: Yes.

14 THE FOREPERSON: Please state your first
04:24 15 and last name and spell both for the record.

16 THE WITNESS: Elizabeth Guerra.

17 E-L-I-Z-A-B-E-T-H, G-U-E-R-R-A.

18 ELIZABETH GUERRA,

19 having been first duly sworn by the Foreperson of the
04:25 20 Grand Jury to testify to the truth, the whole truth,
21 and nothing but the truth, testified as follows:

22 EXAMINATION

23 BY MR. VILLANI:

24 Q. Elizabeth, you're Elisiana's mom; correct?

04:25 25 A. Correct.

04:25 1 Q. Do you recall living at the Yerba Lane
2 Apartments with Elisiana and Rigoberto?

3 A. Yes.

4 Q. Approximately what were the dates that you
04:25 5 lived there? Was it --

6 A. September 2008 till December.

7 Q. So approximately September 2008 through
8 December of 2008?

9 A. Correct.

04:25 10 Q. And then once you moved from those
11 apartments, where did you move to?

12 A. To 6632 Celeste Avenue.

13 Q. And how long were you at that Celeste
14 Avenue address?

04:25 15 A. Until February.

16 Q. Was Rigoberto also living there with you?

17 A. Correct.

18 Q. And then after you left the Celeste Avenue
19 address, where did you move?

04:25 20 A. To 3135 Webster Circle.

21 Q. How long were you at the Webster Circle
22 address with Rigoberto?

23 A. He was there until September 2009.

24 Q. And September 2009 Rigoberto was no longer
04:26 25 living at the Webster Circle address; correct?

04:26 1 A. Correct.

2 MR. VILLANI: I have no further questions
3 for this witness. Do any of the grand jurors have any
4 questions?

04:26 5 Seeing no hands.

6 THE FOREPERSON: By law, these proceedings
7 are secret and you are prohibited from disclosing to
8 anyone anything that has transpired before us, including
9 evidence and statements presented to the Grand Jury, any
04:26 10 event occurring or statement made in the presence of the
11 Grand Jury, and information obtained by the Grand Jury.

12 Failure to comply with this admonition is a
13 gross misdemeanor punishable up to 364 days in the Clark
14 County Detention Center and a \$2,000 fine. In addition,
04:26 15 you may be held in contempt of court punishable by an
16 additional \$500 fine and 25 days in the Clark County
17 Detention Center.

18 Do you understand this admonition?

19 THE WITNESS: Yes.

04:26 20 THE FOREPERSON: Thank you. You're
21 excused.

22 THE WITNESS: Thank you.

23 MR. VILLANI: And ladies and gentlemen of
24 the Grand Jury, for your information, regarding the
04:26 25 person referred to as DD with Elisiana, his name is

04:27 1 Darrington Rivers. He pled guilty to a charge of
2 attempt lewdness with a minor under the age of 14. That
3 charging document encompassed conduct between
4 February 2009 and, I'm sorry, between January 18, 2009
04:27 5 and January 18, 2011. Elisiana was the victim of that
6 conduct. He was sentenced on December 10th of 2015.

7 That concludes my presentation of evidence.
8 Do any of the grand jurors have any questions regarding
9 the evidence or elements of the offenses alleged?

04:27 10 Seeing no hands, this matter is submitted
11 for your deliberation.

12 (At this time, all persons, other than
13 members of the Grand Jury, exit the room at 4:27 p.m.
14 and return at 4:29 p.m.)

04:29 15 THE FOREPERSON: Mr. District Attorney, by
16 a vote of 12 or more grand jurors a true bill has been
17 returned against the defendant Rigoberto Inzunza
18 charging the crimes of sexual assault with a minor under
19 14 years of age and lewdness with a child under the age
04:30 20 of 14, in Grand Jury case number 16BGJ081X. We instruct
21 you to prepare an Indictment in conformance with the
22 proposed Indictment previously submitted to us.

23 MR. VILLANI: Thank you.

24 (Proceedings concluded.)

04:30 25 --oo0oo--

REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : SS
COUNTY OF CLARK)

I, Danette L. Antonacci, C.C.R. 222, do
hereby certify that I took down in Shorthand (Stenotype)
all of the proceedings had in the before-entitled matter
at the time and place indicated and thereafter said
shorthand notes were transcribed at and under my
direction and supervision and that the foregoing
transcript constitutes a full, true, and accurate record
of the proceedings had.

Dated at Las Vegas, Nevada,
March 22, 2017.

/s/ Danette L. Antonacci

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

04:30

1

AFFIRMATION

2

Pursuant to NRS 239B.030

3

4

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
16BGJ081X:

04:30

5

6

7

8

X Does not contain the social security number of any
person,

9

04:30

10

-OR-

11

___ Contains the social security number of a person as
required by:

12

13

A. A specific state or federal law, to-
wit: NRS 656.250.

14

-OR-

04:30

15

16

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

17

18

/s/ Danette L. Antonacci

19

Signature

3-22-17

Date

04:30

20

21

Danette L. Antonacci

Print Name

22

23

Official Court Reporter

Title

24

25

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 09 2017

BY

DULCE MARIE ROMEA, DEPUTY

C-17-321860-1

IND
Indictment
4630310



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-17-321860-1

-vs-

DEPT NO: Y

RIGOBERTO INZUNZA, aka,
Rigoberto Lopez Inzunza, #0448039

Defendant.

INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant above named, RIGOBERTO INZUNZA, aka, Rigoberto Lopez Inzunza, accused by the Clark County Grand Jury of the crime(s) of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105) and LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), committed at and within the County of Clark, State of Nevada, on or between March 1, 2008 and October 31, 2010, as follows:

COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on one or more occasions at the Yerba Lane address, then and there wilfully, unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration: by inserting his finger(s) into the genital opening of the said E.J., against her will, or under conditions in which Defendant knew, or should have known, that E.J. was mentally or physically incapable of resisting or

1 understanding the nature of Defendant's conduct.

2 COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

3 did on one or more occasions at the Yerba Lane address, then and there wilfully,
4 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
5 years of age, to sexual penetration, to-wit: cunnilingus: by placing his tongue on or in the
6 genital opening of the said E.J., against her will, or under conditions in which Defendant knew,
7 or should have known, that E.J. was mentally or physically incapable of resisting or
8 understanding the nature of Defendant's conduct.

9 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

10 did on one or more occasions at the Yerba Lane address, then and there wilfully,
11 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
12 years of age, to sexual penetration, to-wit: fellatio: by placing his penis on or in the mouth of
13 the said E.J., against her will, or under conditions in which Defendant knew, or should have
14 known, that E.J. was mentally or physically incapable of resisting or understanding the nature
15 of Defendant's conduct.

16 COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

17 did on one or more occasions at the Yerba Lane address, then and there wilfully,
18 lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or
19 any part or member thereof, a child, to-wit: E.J., said child being under the age of fourteen
20 years, by touching and/or rubbing and/or fondling the said E.J.'S breasts, with the intent of
21 arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or
22 said child.

23 COUNT 5 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

24 did on one or more occasions at the Celeste Avenue address, then and there wilfully,
25 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
26 years of age, to sexual penetration, to-wit: digital penetration: by inserting his finger(s) into
27 the genital opening of the said E.J., against her will, or under conditions in which Defendant
28 knew, or should have known, that E.J. was mentally or physically incapable of resisting or

1 understanding the nature of Defendant's conduct.

2 COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

3 did on one or more occasions at the Celeste Avenue address, then and there wilfully,
4 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
5 years of age, to sexual penetration, to-wit: cunnilingus: by placing his tongue on or in the
6 genital opening of the said E.J., against her will, or under conditions in which Defendant knew,
7 or should have known, that E.J. was mentally or physically incapable of resisting or
8 understanding the nature of Defendant's conduct.

9 COUNT 7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

10 did on one or more occasions at the Celeste Avenue address, then and there wilfully,
11 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
12 years of age, to sexual penetration, to-wit: fellatio: by placing his penis on or in the mouth of
13 the said E.J., against her will, or under conditions in which Defendant knew, or should have
14 known, that E.J. was mentally or physically incapable of resisting or understanding the nature
15 of Defendant's conduct.

16 COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

17 did on one or more occasions at the Celeste Avenue address, then and there wilfully,
18 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
19 years of age, to sexual penetration, to-wit: intercourse: by touching and/or rubbing and/or
20 fondling the said E.J.'S genital opening with his penis, against her will, or under conditions in
21 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
22 of resisting or understanding the nature of Defendant's conduct.

23 COUNT 9 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

24 did on one or more occasions at the Celeste Avenue address, then and there wilfully,
25 lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or
26 any part or member thereof, a child, to-wit: E.J., said child being under the age of fourteen
27 years, by touching and/or rubbing and/or fondling the said E.J.'S genital area with his penis,
28 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of

1 years of age, to sexual penetration, to-wit: fellatio: by placing his penis on or in the mouth of
2 the said E.J., against her will, or under conditions in which Defendant knew, or should have
3 known, that E.J. was mentally or physically incapable of resisting or understanding the nature
4 of Defendant's conduct.

5 COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
6 AGE

7 did on one or more occasions at the Webster Circle address, then and there wilfully,
8 unlawfully, and feloniously sexually assault and subject E.J., a female child under fourteen
9 years of age, to sexual penetration, to-wit: intercourse: by touching and/or rubbing and/or
10 fondling the said E.J.'S genital opening with his penis, against her will, or under conditions in
11 which Defendant knew, or should have known, that E.J. was mentally or physically incapable
12 of resisting or understanding the nature of Defendant's conduct.

13 COUNT 15 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

14 did on one or more occasions at the Webster Circle address, then and there wilfully,
15 lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or
16 any part or member thereof, a child, to-wit: E.J., said child being under the age of fourteen
17 years, by touching and/or rubbing and/or fondling the said E.J.'S genital area with his penis,
18 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
19 said Defendant, or said child.

20 COUNT 16 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

21 did on one or more occasions at the Webster Circle address, then and there wilfully,
22 lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or
23 any part or member thereof, a child, to-wit: E.J., said child being under the age of fourteen

24 ///

25 ///

26 ///

27 ///


28 ///

1 years, by touching and/or rubbing and/or fondling the said E.J.'S breasts, with the intent of
2 arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or
3 said child.

4 DATED this 9 day of March, 2017.

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

8 BY

9 
10 JACOB VILLANI
11 Chief Deputy District Attorney
12 Nevada Bar #011732

13 ENDORSEMENT: A True Bill

14 
15 Foreperson, Clark County Grand Jury
16

1 Names of Witnesses and testifying before the Grand Jury:

2 E.J., c/o CCDA, 200 Lewis Avenue, LV, NV 89101

3 GUERRA, ELIZABETH, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

4
5 Additional Witnesses known to the District Attorney at time of filing the Indictment:

6 BERNAK, KRISTINA, CAC

7 CUSTODIAN OF RECORDS, NLV DETENTION CENTER

8 CUSTODIAN OF RECORDS, NLV PD COMMUNICATIONS

9 CUSTODIAN OF RECORDS, NLVPD RECORDS

10 HOYT, MARK, NLVPD# 1334

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27 16BGJ081X/14FN2148X/ed-GJ

28 NLVPD EV# 1419610

**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

PRINT DATE: 03/28/2017

Page 1 of 2

Minutes Date: March 20, 2017

AA 000045

C-17-321860-1

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

**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 continued 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

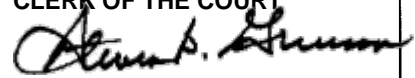
Vegas does not keep their notes and Mr. Westbrook was informed of that. Further, Mr. Villani argued in opposition to the motion for own recognizance release; advised the Deft. rejected the offer and it is now off the table. Upon Court's inquiry regarding whether the Defense was ready, Mr. Westbrook argued 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



PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
P. DAVID WESTBROOK, CHIEF DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9278
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-1762
westbrpd@ClarkCountyNV.gov
Attorney for Defendant

DISTRICT COURT, LAS VEGAS

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-17-321860-1
)	
v.)	DEPT. NO. V
)	
RIGOBERTO INZUNZA,)	DATE: March 19, 2018
)	TIME: 9:00 a.m.
Defendant.)	

**MOTION TO DISMISS, PURSUANT TO *DOGGETT* v. *UNITED STATES*, FOR
VIOLATION OF STATE AND FEDERAL CONSTITUTIONAL RIGHTS**

COMES NOW, the Defendant, RIGOBERTO INZUNZA, by and through P. DAVID WESTBROOK, Chief Deputy Public Defender, and hereby moves the court to dismiss this case because the State has violated his Sixth Amendment right to a speedy trial and his due process rights under the Fifth and Fourteenth Amendments to United States Constitution and Article One, Section Eight of the Nevada Constitution.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, the authorities cited below, and oral argument at the time set for hearing this Motion.

DATED this 26th day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ P. David Westbrook
P. DAVID WESTBROOK, #9278
Chief Deputy Public Defender

AA 000049

DECLARATION

P. DAVID WESTBROOK makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada and I am the Deputy Public Defender assigned to represent the defendant, Mr. Inzunza, in the instant matter. The following is based on conversations with my client, interviews of witnesses in this case, discovery provided by the State, and the record on file.

2. Between November 3, 2014 and the date of his arrest, Mr. Inzunza lived at 740 Ridge Avenue, Lakewood, NJ and worked at LanceScaping, 605 Higgins Avenue, Brielle, NJ. Mr. Inzunza's city of residence and place of work both appear on his Facebook profile, which is listed under his legal name. Mr. Inzunza's profile was (and is) set to "public" because he uses Facebook to advertise his landscaping business.

3. Mr. Inzunza did not change his mobile phone number when he moved from Las Vegas to New Jersey in 2010. His "Nevada" number was active while Mr. Inzunza lived in New Jersey. On or about January 30, 2018, I spoke with Norma Goldsmith, Mr. Inzunza's sister. Ms. Goldsmith confirmed that Mr. Inzunza has had the same mobile number for many years and that he did not change the number when he moved to New Jersey in 2010.

4. Mr. Inzunza was never contacted about this case by either the North Las Vegas Police Department or the Clark County District Attorney's Office between the date of the initial accusation (November 3, 2014) and the date of his arrest (January 29, 2017). They did not call his mobile phone. They did not visit his home. They did not call his employer. They did not send mail to his residential or business addresses. They did not contact him through email or social media.

5. Mr. Inzunza first learned of the existence of the warrant for his arrest on the day of his arrest, January 29, 2017, **818 days** after the initial police report in this case.

6. During meetings with Mr. Inzunza, he has expressed great anxiety and concern due to his pre-trial confinement and the delay in bringing his matter to trial. He has expressed to me that he fears for his life inside the Clark County Detention Center and that the

1 nature of the charges against him puts him at an even greater risk of violence than the average
2 inmate.

3 I declare under penalty of perjury that the foregoing is true and correct to the best of my
4 information and belief. (NRS 53.045).

5 EXECUTED this 23rd day of February, 2018.

6 /s/ P. David Westbrook
7 P. DAVID WESTBROOK
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STATEMENT OF FACTS

1 Rigoberto Inzunza pleaded not guilty to 16 felony counts, including Sexual Assault with a
2 Minor Under 14 and Lewdness with a Child Under 14. The complaining witness in the case, E.J.,
3 made her initial disclosure to police on **November 3, 2014**. See Ex. A. According to the North Las
4 Vegas "Crime Report," police were in possession of Mr. Inzunza's home and work addresses as
5 early as November 3, 2014, but no later than November 18, 2014.

6 On November 6, 2014, E.J. emailed three photographs to Detective Mark Hoyt. See Ex. B.
7 The photographs appear to show Mr. Inzunza's car (with visible license plate), his work trailer,
8 and possibly his residence. His work phone number is clearly visible on the side of his trailer: 732-
9 223-1444. The pictures were taken from Mr. Inzunza's Facebook page, which was (and remains)
10 open to public viewing. Mr. Inzunza uses Facebook to promote his business, so he was literally
11 *advertising* his whereabouts to anyone who cared to look.

12 In November of 2014, the State knew exactly where Mr. Inzunza was and how to contact
13 him, but failed to act on that information for **818 days**. He was arrested in New Jersey on January
14 29, 2017 and transported to Nevada, where he was arraigned on March 15, 2017.

ARGUMENT

I. THE COURT SHOULD DISMISS THIS CASE BECAUSE THE STATE HAS VIOLATED MR. INZUNZA'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL.

A. Argument Summary:

19 The Sixth Amendment to the United States Constitution provides, in pertinent part, "in all
20 criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." The right to
21 a speedy trial is a fundamental right enforced against the states through the Fourteenth
22 Amendment of the United States Constitution. Barker v. Wingo, 407 U.S. 514, 515 (1972). The
23 criteria for determining whether a constitutional violation of speedy trial rights has occurred was
24 first set forth in Barker v. Wingo, and explained further in Doggett v. U.S., 505 U.S. 647 (1992).
25 The four factors to be considered are: (1) whether the delay was uncommonly long; (2) whether
26 the government or the defendant is more to blame for the delay; (3) whether, in due course, the
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1 defendant asserted his right to a speedy trial; and (4) the prejudice to the defendant. Doggett, 505
2 U.S. at 651.

3 Once the right to a speedy trial has been violated, dismissal “is the only possible remedy.”
4 Barker v. Wingo, 407 U.S. supra at 522. A speedy trial violation cannot be cured after the fact. For
5 example, simply having a trial “as soon as possible” cannot remedy a speedy trial violation
6 because a *late* trial simply compounds the prejudice against the defendant.

7
8 As of this writing, three years, three months, and 23 days have elapsed since the initial
9 police report. For two years, two months and 26 days, Mr. Inzunza was completely unaware that
10 an arrest warrant existed in this case. The State knew exactly where Mr. Inzunza was and how to
11 contact him, but made no attempt to do so. After finally initiating an arrest, it took 45 days to
12 transport Mr. Inzunza from his New Jersey home to Nevada. Mr. Inzunza has now been
13 incarcerated for **393 days** without a trial. Mr. Inzunza’s fundamental right to a speedy trial and
14 associated due process rights have been violated and the only just remedy is dismissal.

15
16 **B. Application of the four-factor Doggett test requires dismissal.**

17 **FACTOR ONE: The delay of more than two years between the accusation and**
18 **Mr. Inzunza’s arrest was uncommonly long and presumptively**
prejudicial.

19 With respect to the length of the delay, the Doggett Court held that the “accused must
20 allege that the interval between accusation and trial has crossed the threshold dividing ordinary
21 from ‘presumptively prejudicial’ delay.” Doggett, supra, 505 U.S. at 651-52. Furthermore, the
22 Court noted that “the presumption that pretrial delay has prejudiced the accused intensifies over
23 time.” Id. at 652. The Court highlighted that most lower courts have found that delay of at least
24 one year is “presumptively prejudicial.” Id. at 652, fn. 1.

25
26 In this case, **two years, two months and 26 days** elapsed between the filing of the initial
27 report and Mr. Inzunza’s arrest. Another **45 days** elapsed between Mr. Inzunza’s arrest and his
28

1 arraignment in Justice Court. If courts have generally found that a one year delay is
2 “presumptively prejudicial,” then certainly a delay of nearly two-and-one-half times that length
3 meets the standard for dismissal under Doggett.

4 **FACTOR TWO: The State is to blame for the uncommonly long delay.**

5 The Doggett Court held that, although the government did make some efforts to locate the
6 defendant, its failure to do so was negligent. Id. at 652. Indeed, the Doggett Court noted that the
7 government could have found the defendant within minutes had its agents bothered to try,
8 explaining that, “[w]hile the government’s lethargy may have reflected no more than [the
9 defendant’s] relative unimportance in the world of drug trafficking, it was still findable
10 negligence, and the finding stands.” Id. at 652-653.

12 In this case, the State had far more information about Mr. Inzunza’s whereabouts than the
13 federal government in Doggett, but made far *less* of an effort to secure his arrest or even inform
14 him of the charges. Unlike Mr. Inzunza, Doggett had left the country at some point and spent time
15 in custody outside of the United States before returning. Federal agents made “some” efforts to
16 try to locate and apprehend Doggett, including sending word of his arrest warrant to all United
17 States Custom stations and updating national registries and NCIC. Id. at 648-649. But, it’s not
18 like they had Doggett’s home address, work address, or phone number. And, in 1980, Facebook
19 did not exist.
20

21 In this case, the State *did* have Mr. Inzunza’s home address, work address, and phone
22 number. Facebook does exist now, and Mr. Inzunza has an open profile that advertises his
23 landscaping business. In fact, on November 6, 2014, the complaining witness emailed three
24 photographs from Mr. Inzunza’s Facebook page to the lead detective in this case. See Ex. B.
25 There is absolutely no question that the State knew precisely where Mr. Inzunza was located, but
26 did absolutely nothing to advance the prosecution against him.
27
28

1 The Doggett Court noted that federal agents were negligent because they “could have
2 found him within minutes.” Doggett, supra, 505 U.S. at 654. The State’s lack of diligence in this
3 case is far more egregious. They did not need to “find” Mr. Inzunza; they already knew where he
4 was. They simply needed to pick up a telephone.

5 The State violated Mr. Inzunza’s speedy trial and associated due process right before he
6 ever set foot in court. Thus, it is not necessary to analyze delays occurring *after* Mr. Inzunza’s
7 arraignment in order to meet the second prong of Doggett/Barker. However, the record also
8 demonstrates that the State is responsible for significant delays after Mr. Inzunza’s district court
9 arraignment as well, which has certainly increased the prejudice suffered by Mr. Inzunza.

11 The State filed its criminal complaint on December 5, 2014. At arraignment, Mr. Inzunza
12 was given the earliest available trial date: December 4, 2017, one day short of **three years** after
13 the filing of the criminal complaint. At the November 27, 2017 calendar call, the Court
14 determined that the District Attorney violated NRS 174.285 by producing new discovery the
15 previous day, rather than 30 days before trial, as required by statute. The State’s discovery
16 violation necessitated a continuance.

18 At the next calendar call, January 29, 2018, defense counsel informed the Court that, once
19 again, the State had failed to turn over discovery, including evidence it intended to use in its case-
20 in-chief (*e.g.*, information regarding counselor Diana Saunders). The defense had specifically
21 requested this evidence (and more) both in writing, in a November 27, 2017 Motion to Compel
22 Discovery, and in person during a conversation with Deputy District Attorney, Jake Villani. See
23 Ex. C.¹ The evidence has still not been produced.

25 It is now February of 2018. Mr. Inzunza has been deprived of his liberty interests for over
26

27 ¹ This contemporaneous record of the conversation between Mr. Westbrook and Mr. Villani was
28 also submitted as a court exhibit during the November 29, 2017 calendar call argument.

1 a year without a trial. In addition, the State's continued refusal to provide discovery, or even
2 *discuss* discovery issues in good faith, threatens to delay Mr. Inzunza's trial even further.

3 **FACTOR THREE: Mr. Inzunza invoked his federal right to a speedy trial.**

4 Like Doggett before him, Mr. Inzunza did not know about his case until after he was
5 arrested, at which point, it was already too late for a "speedy trial". The Barker Court specified
6 that this does not preclude a speedy trial claim. "One reason for this position is that there are a
7 number of situations, such as where the defendant is unaware of the charge or where the
8 defendant is without counsel, in which it is unfair to require a demand..." Barker, supra, 407
9 U.S. at 529, fn.28. Furthermore, "A defendant has no duty to bring himself to trial, the State has
10 that duty as well as the duty of insuring that the trial is consistent with due process." Id. at 527.

12 At his arraignment, Mr. Inzunza waived his right to a trial within 60 days pursuant to NRS
13 178.556(2), but expressed his intent to preserve his *federal* speedy trial rights. These rights are
14 distinct, and waiving the first does not constitute a waiver of the second. Thus, Doggett meets the
15 third prong of the Doggett/Barker test.

17 **FACTOR FOUR: Mr. Inzunza is suffered both presumptive and actual prejudice
18 from the delay.**

19 Prejudice generally derives from (1) oppressive pre-trial incarceration; (2) anxiety and
20 concern caused by excessive confinement and delay; or (3) impairment to the defendant's ability
21 to present a defense. Id. at 654. Additionally, the Doggett court recognized that actual prejudice
22 is difficult to show: "Barker explicitly recognized that impairment of one's defense is the most
23 difficult form of speedy trial prejudice to prove because time's erosion of exculpatory evidence
24 and testimony 'can rarely be shown.' . . . Thus, we generally have to recognize that excessive
25 delay presumptively compromises the reliability of a trial in ways that neither party can prove or,
26 for that matter, identify." Doggett, 505 U.S. at 655 (citations omitted.) The Doggett Court
27 suggested that, had the Government acted in bad faith, dismissal would be nearly automatic. Id.
28

1 at 657. However, “[a]lthough negligence is obviously to be weighed more lightly than a
2 deliberate intent to harm the accused’s defense, it still falls on the wrong side of the divide
3 between acceptable and unacceptable reasons for delaying a criminal prosecution once it has
4 begun.” *Id.* at 657. Furthermore, “our toleration of such negligence varies inversely with its
5 protactedness . . . and its consequent threat to the fairness of the accused’s trial.” *Id.* at 657
6 (internal citations omitted).

7
8 Characterizing the government’s actions as “egregious,” the Doggett Court determined
9 that the delay entitled the defendant to a presumption of prejudice and that the defendant need not
10 specify how he was prejudiced by the delay. *Id.* at 657-58. Accordingly, the Doggett Court
11 reversed the decision of the lower court, which had ruled against the defendant, and ordered the
12 case dismissed. *Id.* at 658. Although Doggett does not *require* Inzunza to quantify his actual
13 prejudice, this case does contain clear and quantifiable examples of prejudice which are
14 summarized below.

15
16 **1) Mr. Inzunza has suffered oppressive pre-trial incarceration.**

17 As of this writing, Mr. Inzunza has languished in the Clark County Detention Center for
18 **393 days**. All deprivation of liberty is “oppressive,” but in Clark County, it is particularly so.

19 The Court is already well-aware of the catastrophic overcrowding problem in our
20 detention facilities. Inmates spend the vast majority of their time locked in their rooms with no
21 reasonable access to exercise, showers, communication, and in many cases, medical and
22 psychiatric care. There is a legitimate question as to whether the Clark County detention facilities
23 meet the minimum requirements of the Eighth Amendment. And there is no sign that the situation
24 will improve anytime soon.

25
26 Defense counsel has filed two motions requesting Mr. Inzunza’s release from custody, but
27 despite Mr. Inzunza’s absence of criminal history and the State’s lack of proof that he poses a
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1 legitimate flight risk or danger to the community, the Court has declined to alleviate Mr. Inzunza's
2 suffering, even after determining that his initial trial date was delayed because the State violated
3 NRS 174.285. Thus, Mr. Inzunza's pretrial incarceration continues, along with the associated
4 prejudice.

5 **2) Mr. Inzunza has suffered anxiety and concern caused by excessive**
6 **confinement and delay.**

7 As stated in the Declaration of Counsel (above), Mr. Inzunza fears for his life. As an
8 inmate accused of a sex offense, there is a target on his back in the jail and he suffers severe
9 anxiety each and every day he remains behind bars.

10 **3) The State's delay has impaired Mr. Inzunza's ability to present a**
11 **defense.**

12 In a sexual assault case like this, where there is no evidence apart from the allegation of a
13 complaining witness, delay is particularly damaging to the defense. Countering a mere allegation
14 is extremely difficult to begin with, but it becomes exponentially harder with the passage of time.
15 For example, at this point, presenting an alibi defense is impossible. Too much time has passed
16 for Mr. Inzunza to reliably account for his whereabouts during the time period these acts were
17 alleged to have occurred. Tracking down possible defense witnesses is now far more difficult and
18 their value will be intrinsically limited by the delay. Memory does not improve over time.
19 Additionally, the State will attempt to argue to the jury that the lack of physical evidence is
20 attributable to the delay, rather than the defense position: that there is no physical evidence
21 because the acts never occurred.
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1 **CONCLUSION**

2 The instant motion meets all four factors of the Doggett/Barker test, establishing a
3 violation of Mr. Inzunza's right to a speedy trial and his associated due process rights under the
4 Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Mr. Inzunza
5 therefore respectfully requests that this Court dismiss this case.
6

7 DATED 26th day of February, 2018.

8 PHILIP J. KOHN
9 CLARK COUNTY PUBLIC DEFENDER

10 By /s/P. David Westbrook
11 P. DAVID WESTBROOK, #9278
12 Deputy Public Defender
13
14

15 **NOTICE OF MOTION**

16 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff;

17 YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
18 above and foregoing Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of
19 State and Federal Constitutional Rights on for hearing before the Court on the 19 day of March
20 2018 at 9:00 a.m. in Department 5 of the District Court.
21

22 DATED 2nd day of March, 2018.

23 PHILIP J. KOHN
24 CLARK COUNTY PUBLIC DEFENDER

25
26 By /s/P. David Westbrook
27 P. DAVID WESTBROOK, #9278
28 Deputy Public Defender

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District Attorney's Office
E-Mail Address:
Jennifer.Georges@clarkcountyda.com

Case Name: Rigoberto Inzunza
Case No.: C-17-321860-1
Dept. No.: V

EXHIBIT A



Crime Report

Case No. 141118019610
E-Police No.
Report No. 141118019610.1
Report Date: 11/18/2014

1
Page 1 of 5

Subject: SEXUAL ASSAULT	Routing
--------------------------------	---------

Case Report Status A - Approved	Case Status O - Open	Reporting Officer NL1334 - Hoyt, Mark
Case Attachments	Date Entered 11/18/2014 2:57:12 PM	
Occurred On 8/1/2005 8:00:00 AM (and Between)	Entered By NL1334 - Hoyt, Mark	
Location 3526 W CHEYENNE AVE	Date Verified 11/20/2014 2:17:56 PM	
Jurisdiction S	Verified By NL0701 - Glazier, Thomas	
Grid NA3 - 0	Date Approved 11/20/2014 6:40:24 PM	Assisted By
Sector A	Approved By NL0985 - Cheng, Luz	
Map	Connecting Cases	
Census/Geo	Disposition Active	
Call Source Phone	Clearance Reason	
	Date of Clearance	
	Reporting Agency North Las Vegas Police Department	
	Division	
	Notified	
Vehicle Activity	Means	
Vehicle Traveling	Other Means	
Cross Street	Motive	
	Other Motives	

Offense Detail: 50975 - Lewdness W/Child < 14, (1st) - 201.230.2

Offense Description 50975 - Lewdness W/Child < 14, (1st) - 201.230.2	Location 20 - Residence/Home	No. Prem. Entered
IBR Code 11D - Forcible Fondling	Offense Completed? Yes	Entry Method
IBR Group A	Hate/Bias 88 - None (No Bias)	Type Security
Crime Against PE	Domestic Violence No	Gang Related No
Using	Fraud Related No	
Tools Used		
Criminal Activity		
Weapons 99 - None		

Suspect S1: Inzunza, Rigoberto

Suspect Number S1	DOB 5/22/1964	Place of Birth
Name Inzunza, Rigoberto	Age 41	SSN [REDACTED]
AKA	Sex M - Male	DLN
Alert(s)	Race W - White	DLN State
C/S No	Ethnicity H - Hispanic Origin	DLN Country
MF No	Ht. 5' 6"	Occupation/Grade
Address 740 Ridge AVE	Wt. 150	Employer/School
CSZ Lakewood, NJ 08701	Eye Color BRO - Brown	Employer Address LanceScaping
	Hair Color BLK - Black	605 Higgins AVE
	Hair Style	Employer CSZ Brielle, NJ
	Hair Length	Res. County Clark
	Facial Hair	Res. Country
	Complexion	Resident Status N - Nonresident
	Build	Suspect MO
	Teeth	Other MO
		Habitual Offender Status
Email Address		
Scars/Marks/Tattoos		
Attire		
Notes		

Telephone Numbers
Number Type Phone Number

Victim V1: [REDACTED]

Victim Code V1	Victim Of 50975 - Lewdness W/Child < 14, (1st) - 201.230.2
Victim Type I - Individual	



Crime Report

Case No. 141118019610
E-Police No.
Report No. 141118019610.1
Report Date: 11/18/2014

2
Page 2 of 5

Name [REDACTED]
DOB [REDACTED]
AKA
Alert(s)
Elderly Abuse
Address 720 Easy ST
CSZ LV, NV 89030
Email Address
Altire
Injury N - None
Circumstances

Emergency Contact Name
Place of Birth
Age 06
Sex F - Female
Race W - White
Ethnicity U - Unknown
Ht. 5' 2"
Wt. 175
Eye Color BRO - Brown
Hair Color BRO - Brown
Facial Hair
Complexion
Build

SSN
DLN
DLN State
DLN Country
Occupation/Grade 10th
Employer/School Western HS
Employer Address
Employer CSZ
Res. County Clark
Res. Country
Resident Status N - Nonresident
Testify

Law Enforcement Type
Officer Killed or Assignment
Assaulted Activity
Information Other ORI

Justifiable Homicide
Circumstances

Telephone Numbers
Number Type Phone Number
CELL - Cell 702 428-9206

Victim Offender Relationships

Offender Relationship
S1 CO - Cohabitant

Victim Notes

Witness W1: Williams, Harry

Witness Code W1
Name Williams, Harry
AKA
Alert(s)
Address 720 Easy ST
CSZ LV, NV 89030
Email Address
Altire

DOB [REDACTED]
Age 16
Sex M - Male
Race B - Black
Ethnicity
Ht.
Wt.
Eye Color
Hair Color
Facial Hair
Complexion
Build

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ
Res. County Clark
Res. Country
Resident Status
Testify

Witness Notes Elisiana's step father

Telephone Numbers
Phone Type Phone Number
CELL - Cell 702 428-9213

Witness W2: Guerra, Elizabeth

Witness Code W2
Name Guerra, Elizabeth
AKA
Alert(s)
Address 720 Easy ST
CSZ LV, NV 89030
Email Address
Altire

DOB [REDACTED]
Age 24
Sex F - Female
Race W - White
Ethnicity U - Unknown
Ht.
Wt.
Eye Color
Hair Color
Facial Hair
Complexion
Build

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ
Res. County Clark
Res. Country
Resident Status



Crime Report

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Case No. 141118019610
E-Police No.
Report No. 141118019610.1
Report Date: 11/18/2014

Page 3 of 6

Witness Notes Elisiana's mother

Telephone Numbers

Phone Type Phone Number
CELL - Cell 702 428-9206

Witness W3: Saunders, Diana

Testify

Witness Code W3
Name Saunders, Diana
AKA
Alert(s)
Address
CSZ

DOB [REDACTED]
Age 20
Sex F - Female
Race
Ethnicity
Ht.
Wt.

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School

Therapist
Elements of
Motivation
6871 W Charleston
BLVD
LV, NV 89117
Clark

Email Address
Altire

Eye Color

Hair Color
Facial Hair
Complexion
Build

Employer Address
Employer CSZ
Res. County
Res. Country
Resident Status
Testify

Witness Notes Elisiana's therapist

Telephone Numbers

Phone Type Phone Number
CELL - Cell 248 765-5674

Report Narrative

On 11-06-14, I received this possible sexual assault report for follow up investigations. After reading NLVPD Officer McGee's original report, I learned that Elizabeth Guerra came into the North Las Vegas Police Department, located at 1301 E. Lake Mead Blvd to file a report that her daughter, 15 year old [REDACTED] had been sexually assaulted by two men, identified as 41 year old Rigoberto Inzunza and 30 year old Darrington Rivers. Elizabeth stated she was also at the lobby with [REDACTED] therapist, Diana Saunders. Elizabeth stated there were several incidents that dated back to when [REDACTED] was 6 years old involving Rigoberto and there was only one incident involving Darrington in North Las Vegas. Elizabeth stated she had Saunders come to the department with her because she did not know much of the details that [REDACTED] told Saunders during a therapy session and told Saunders that she did not want to know due to her getting too angry. Officer McGee then spoke to Saunders who told her that [REDACTED] did not want to talk to her about the incidents because she did not like talking about it. Saunders then told Officer McGee that on 10-30-14, she was at [REDACTED] residence, located at 720 Easy St in Las Vegas for a scheduled therapy appointment when [REDACTED] disclosed that Darrington exposed himself to her in October of 2010 when they were playing hide and seek at her house. Darrington took [REDACTED] to a dark room where he exposed his penis and told [REDACTED] to suck his dick. [REDACTED] told Darrington "no" so Darrington took [REDACTED] hand and placed it on his penis. Darrington then asked [REDACTED] for oral sex and forced [REDACTED] to fondle his penis. The report also stated that Elizabeth's fiancé, Harry Williams heard what was being said and confronted Darrington via the telephone on 10-31-14. Darrington denied the accusations but on 11-01-14, Darrington sent Harry a Facebook message stating that something did occur between him and [REDACTED] and that he was sorry for what had happened. Officer McGee then asked to hear about what had occurred between [REDACTED] and Rigoberto. When Elizabeth heard that Officer McGee wanted [REDACTED] and Saunders to talk about Rigoberto, she excused herself from the room because she did not want to hear what [REDACTED] told Saunders. [REDACTED] disclosed to Saunders that Rigoberto touched her inappropriately from December of 2005 till October of 2009. Rigoberto would come into [REDACTED] bedroom and force her to perform oral sex on him. When Saunders asked [REDACTED] to talk more about what had occurred, she became very uncomfortable in front of Officer McGee so Saunders continued to talk about the abuse and told Officer McGee that [REDACTED] suffers from an unconfirmed mental disorder. Saunders then told Officer McGee that [REDACTED] did disclose to her that Rigoberto did digitally penetrate her vagina. The original report also states that Darrington lives in Las Vegas and that he is employed at McCarran Airport and that Rigoberto is believed to be living in New Jersey, per his Facebook page.

On 11-06-14, I called Elizabeth and explained the interview process to her. Elizabeth stated she was concerned that [REDACTED] would not talk to me and that she asked if Saunders could come to the interview in case [REDACTED] did not want to talk unless she was present. I explained that the interview would be conducted at the Children's Assessment Center (CAC) and that Saunders could come but that I wanted to have [REDACTED] interviewed by the Forensic Interviewer first. I also went to Elizabeth's address located at 720 Easy Street in Las Vegas to obtain a copy of [REDACTED] Individualized Education Program (IEP) because the CAC needed a copy of that, prior to the interview that was scheduled on 11-12-14 at 0930 hours. On 11-12-14 at about 0950 hours, Forensic Interviewer Kristina Bernak conducted a recorded interview with [REDACTED] at the

AA 000064



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CAC while I watched from the observation room. [REDACTED] stated she attends Western High School and is in the 10th grade. [REDACTED] understood what was expected of her during the interview and identified the people she lives with. [REDACTED] stated she was at Desert Willow Treatment Center and that her mother had to come to get her from there to attend the interview. [REDACTED] stated she was a Desert Willow because she threw a rock at her brother and then went onto the roof of the home to get away from her brother. [REDACTED] also talked about her biological father living in Oregon and that she does not see him.

When Kristina asked [REDACTED] why she was there talking that day, she stated because she was molested. [REDACTED] stated the first time this occurred, she was living in Pahrump Nevada and that the person that molested her was Rigo. [REDACTED] described this house in Pahrump as having two houses together and that Rigo lived in the other house than her but that he would watch her and her siblings when her mother went to work. [REDACTED] stated Rigo would make her sleep in his bed and that he touched her in inappropriate places. When Kristina asked [REDACTED] to go into more details about what Rigo touched, [REDACTED] stated she did not want to say what happened and that she wanted to write it down so Kristina gave [REDACTED] a piece of paper. [REDACTED] then wrote vagina, boobs and butt and stated Rigo touched all of them and described the first time he did that was when he touched her vagina with his finger and it made her feel uncomfortable. [REDACTED] stated Rigo told her not to tell her mother so she didn't. [REDACTED] stated things would occur in his room when he watched the kids and that Rigo eventually moved in with them and that was when the incidents would occur in her bedroom. Elisiana stated her brothers and sisters were home when Rigo touched her but stated they were sleeping or he would make her lay next to him when they were all in his bed. [REDACTED] stated they would be underneath the covers when he would wake her up by touching her with his fingers. When asked to go into more details about what Rigo did with his fingers, [REDACTED] stated he would move his fingers back and forth, inside of her vagina. [REDACTED] stated she would always be wearing clothing but that he would put his fingers underneath her clothing and that when they were laying on his bed, she would be facing away from Rigo. [REDACTED] stated Rigo touched her every night that he lived with them and that when he lived next door, Rigo touched her probably once a week. [REDACTED] stated no other part of Rigo's body touched her body and that he would never make her touch any other part of his body. [REDACTED] also stated that Rigo never touched her in any other location other than his house or her house.

[REDACTED] then talked about how Rigo made her suck his dick in the living room of their house or when he made her go to his room. [REDACTED] talked about being woken up by Rigo on a regular basis and told what to do when they got to his room. When Kristina asked Elisiana what Rigo's dick looked like, she refused to answer that question. [REDACTED] stated when Rigo made her suck his dick, he made her mouth do what he wanted her to do and that it made her feel disgusting. [REDACTED] then talked about stuff coming out of his dick and that he would tell her to stop and then go to the restroom. Elisiana stated when the stuff came out of his penis and into her mouth, she would spit the stuff onto the floor or in a trash can and then she would go back to bed. [REDACTED] stated Rigo would always touch her at night and that her mother was usually at work. When Kristina asked [REDACTED] how often she had to suck Rigo's dick, she stated every day for years and that she was 10 years old when Rigo last forced her to suck his dick.

Kristina then asked [REDACTED] to talk about the last time that she remembered Rigo making her do things. [REDACTED] stated on the last incident, Rigo was not living with them and talked about how Rigo was a friend of her family's so he would come over to parties or that he would take her and her siblings to parties with him. [REDACTED] talked about this incident as when Rigo spent the night and slept on the couch. He came into her bedroom and touched her vagina and described this as Rigo touching her vagina the same way as the other incidents. [REDACTED] talked about this incident by stating that her mother came into the house so he stopped touching her vagina and then left the residence.

[REDACTED] then talked about another incident by stating she was sleeping on the couch when he pulled a chair up next to her and began talking to her. Rigo then reached underneath the covers and began touching her and stated he stopped because he left. [REDACTED] stated this last incident lasted about 30 minutes.

As [REDACTED] talked about certain incidents, she would tell Kristina that she wanted to write things down. When she did this on one occasion, Kristina read back "rub dick on vagina" as if that was what [REDACTED] wrote on the piece of paper. When Kristina asked to go into more details about Rigo rubbing his dick on her vagina, [REDACTED] stated he would get on top of her when they both had their clothes off and he would rub his dick. [REDACTED] stated these incidents occurred when they were in his bedroom and that he would always tell her to take her clothes off. [REDACTED] stated she would be sleeping when he would tell her to go to his room and that this occurred more than one time and that she did not remember if anything came out of his dick. When asked, [REDACTED] stated Rigo only stopped when she asked him to stop. When Kristina asked [REDACTED] to clarify the dick to vagina incident, [REDACTED] stated she felt Rigo's dick rubbing against her vagina and it felt weird and that this type of incident occurred about one time a month. When Kristina tried to clarify if Rigo penetrated her vagina with his dick, [REDACTED] stated he would only rub the outside of her vagina.

When Kristina asked if anything happened in Las Vegas, [REDACTED] stated it did in two different places, one being in an apartment near a Wal-Mart and the other incident occurred on Webster Circle in NLV and that Rigo lived with them in both places. [REDACTED] further described Rigo living with them as stating when they moved away from Pahrump, Rigo was not around for about one year then Rigo moved back in with them when they lived in Las Vegas. [REDACTED] stated the sexual abuse started back up the first day Rigo moved in with them in Las Vegas.

It appeared that [REDACTED] needed a break so Kristina paused the interview so [REDACTED] could sit outside with her mother and Saunders. After a few minutes, [REDACTED] went back into the room with Kristina and talked about Darrington sexually abusing her. After [REDACTED] disclosed sexual abuse involving Darrington, I made contact with Darrington on 11-17-14 at McCarran Airport. During a recorded interview, Darrington confessed to inappropriate sexual contact with [REDACTED] and was arrested



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under NLVPD Case #141103018752.

██████████ stated she first told her mother and Saunders what had occurred with both Rigo and DD about one week ago after a session with Saunders. ██████████ also stated that Rigo told her that he would hurt her family if she ever told anyone so that was why she never told anyone until now.

I then had Kristina bring in a picture of Rigoberto and Darrington and had ██████████ confirm their identity. Without hesitation, ██████████ stated DD was Darrington and Rigo was Rigoberto.

I then conducted a recorded interview with Elizabeth and Harry while still at the CAC. Elizabeth confirmed that she and Harry confronted Darrington about the allegations and that they lived on Webster Circle from March 2007 to January of 2011. Elizabeth also stated that Rigoberto moved into the Webster address with them in September of 2009 and moved out in October of 2010, after an incident involving him and Darrington. During my interview with Elizabeth and Harry, Elizabeth had three photos saved on her cellular telephone of Rigoberto's Facebook page. These photos were of two screen shots of an older model white Honda Accord with New Jersey license plate S80-CJP that Elizabeth stated were of Rigoberto's vehicle. There was also a photo of a white trailer that read LanceScaping LLC with a telephone number of 732-223-1444. Elizabeth stated that was where Rigoberto's Facebook page stated he worked at. Elizabeth also gave me a copy of dates and places where they had lived.

Because Rigoberto lives in New Jersey, I did not interview him prior to submitting this case to the Clark County District Attorney's Office for their review. Based on ██████████ disclosure (also based on Darrington's confession telling me that ██████████ disclosure to me was what had truly occurred between her and Darrington), I believe probable cause exists to charge Rigoberto Inzunza with 2 counts of Sexual Assault Victim under 14 for Rigoberto digitally penetrating ██████████ vagina while they lived on Webster Circle in NLV. I also believe probable cause exists to charge Rigoberto Inzunza with 4 counts of Lewdness with a Minor under 14 for the sexual contact with ██████████, that includes counts for Rigoberto forcing his penis onto ██████████ vagina, while they lived on Webster Circle. I am also requesting that the Clark County District Attorney's Office review this report for charges against Rigoberto Inzunza for the sexual contact that ██████████ disclosed that occurred in Pahrump, Nevada.

Attachments: copies of the screen shots of Rigoberto's vehicle and place of employment in New Jersey; a copy of dates and addresses that Elizabeth stated they lived in, a copy of ██████████ IEP and a copy of what ██████████ wrote during her interview.



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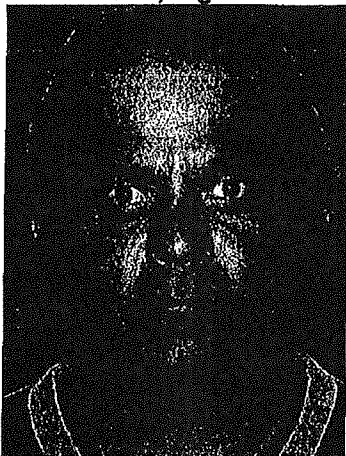
Subject: LEWDNESS W CHILD <14	Routing
-------------------------------	---------

Case Report Status A - Approved	Case Status O - Open	Reporting Officer NL2146 - McGee, Renee
Case Attachments No	Date Entered 11/3/2014 6:07:46 PM	
Occurred On 12/1/2005 6:07:56 PM	Entered By NL2146 - McGee, Renee	
(and Between) 9/1/2009 6:01:00 AM	Date Verified 11/4/2014 4:06:40 AM	
Location 3135 WEBSTER CIR	Verified By NL1076 - Middlebrook, George	
Jurisdiction S	Date Approved 11/12/2014 8:35:32 AM	
Grid NC4 - 0	Approved By NL1259 - Scarff, Denise	Assisted By
Sector C	Connecting Cases	
Map	Disposition Active	
Census/Geo	Clearance Reason	
Call Source Phone	Date of Clearance	
	Reporting Agency North Las Vegas Police Department	
	Division Patrol	
	Notified	
Vehicle Activity	Means	
Vehicle Traveling	Other Means	
Cross Street	Motive	
	Other Motives	

Offense Detail: 50975 - Lewdness W/Child < 14, (1st) - 201.230.2

Offense Description 50975 - Lewdness W/Child < 14, (1st) - 201.230.2	Location 20 - Residence/Home	No. Prem. Entered
IBR Code 11D - Forcible Fondling	Offense Yes	Entry Method
IBR Group A	Completed? Hate/Bias	Type Security
Crime Against PE	88 - None (No Bias)	Gang Related No
Using	Domestic Violence No	
Tools Used	Fraud Related No	
Criminal Activity N - None/Unknown		
Weapons 99 - None		

Suspect S1: Inzunza, Rigoberto



Suspect Number S1	DOB [REDACTED]	Place of Birth MX
Name Inzunza, Rigoberto	Age 41	SSN [REDACTED]
AKA	Sex M - Male	DLN 1601241972
Alert(s)	Race W - White	DLN State NV - Nevada
CS No 448039	Ethnicity H - Hispanic Origin	DLN Country USA - United States of America
MF No	Ht. 5' 6"	Occupation/Grade Landscaper
Address 740 RIDGE AVE.	Wt. 150	Employer/School LanceScaping
CSZ Lakewood, NJ 08701	Eye Color BRO - Brown	Employer Address 605 Higgins AVE
	Hair Color BLK - Black	Employer CSZ Brielle, NJ



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Email Address
Scars/Marks/Tattoos
Attire

Hair Style
Hair Length

Facial Hair 01 - Clean Shaven
Complexion MBR - Medium Brown
Build M - Medium
Teeth

Res. County
Res. Country

USA - United States of America
N - Nonresident

Resident Status
Suspect MO
Other MO
Habitual Offender Status

Notes

NJ OLN/159976577305642

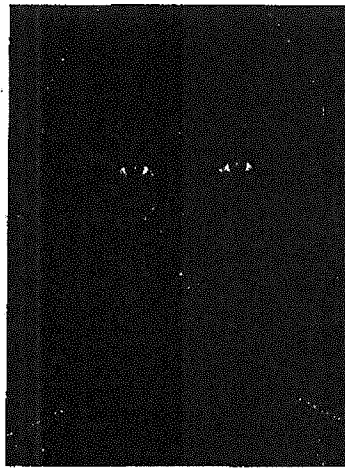
Telephone Numbers

Number Type Phone Number

Suspect S2: Rivers, Darrington



Darrington Rivers
Them dude shd did went down between us but how we got to that point is hard explain from what I can remember there was a lot off horse playing with the kids and I'm sorry form the day that went down I couldn't find the word to say that it did happen yesterday for noting especially over there at Y'all house without faking for the worse what could off happen at that point and for that I'm sorry too. I haven't tell Tainisha about it but I'm going too any way that's the wife shd't no hiding that. And I won't have no problem with that if Elizabeth tell her cell if she want's. I got to mention it.



Suspect Number S2
Name Rivers, Darrington
AKA
Alert(s)
CS No 8106005

MF No
Address Hartford HLS
CSZ LV, NV 89166

Email Address
Scars/Marks/Tattoos
Attire

DOB [REDACTED]
Age 21
Sex M - Male
Race B - Black
Ethnicity H - Hispanic Origin

HL 6' 5"
Wt 180
Eye Color BRO - Brown
Hair Color BLK - Black
Hair Style B - Braided
Hair Length S - Short
Facial Hair 03 - Full Beard and Mustache
Complexion DRK - Dark
Build L - Large
Teeth

Place of Birth Belize
SSN [REDACTED]
DLN 1704223996
DLN State NV - Nevada
DLN Country USA - United States of America

Occupation/Grade
Employer/School
Employer Address
Employer CSZ
Res. County
Res. Country
Resident Status

Clark
N - Nonresident

Suspect MO
Other MO
Habitual Offender Status

Notes Possible address only. Info found via Facebook app, shown as location email was sent from.

Address on DL: 836 QUICKSAND LN, NLV, NV

Telephone Numbers

Number Type Phone Number
CELL - Cell 702 371-4709

Victim V1: [REDACTED]

Victim Code V1

Victim Of 50975 - Lewdness W/Child < 14, (1st) - 201.230.2



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Victim Type **I - Individual**

Name [REDACTED]
DOB [REDACTED]
AKA
Alert(s)
Elderly Abuse
Address **720 Easy ST**
CSZ **NLV, NV 89030**

Email Address
Altire
Injury **N - None**
Circumstances

Place of Birth
Age **06**
Sex **F - Female**
Race **W - White**
Ethnicity **N - Not of Hispanic Origin**
Ht. **5' 2"**
Wt. **175**
Eye Color **BRO - Brown**
Hair Color **BRO - Brown**
Facial Hair
Complexion **LGT - Light**
Build **HVY - Heavy**

Emergency Contact Name

SSN
DLN
DLN State
DLN Country
Occupation/Grade **10th grade**
Employer/School **Western HS**
Employer Address
Employer CSZ
Res. County
Res. Country
Resident Status
Testify **N - Nonresident**

Law Enforcement
Officer Killed or
Assaulted
Information
Type
Assignment
Activity
Other ORI

Justifiable Homicide
Circumstances

Telephone Numbers

Number Type Phone Number
HM - Home **702 428-9206**

Victim Offender Relationships

Offender Relationship
S1 **FC - Former Cohabitant**
S2 **FR - Victim Was Friend**

Victim Notes **NETRMS populated incorrect age and will not change. Age of victim is 15 yo.**

Other Entity: O3 -- Williams, Harry

Entity Code **O3**
Entity Type **CARD - Carded**

Name **Williams, Harry**
AKA
Alert(s)
Address **710 Easy ST**
CSZ **LV, NV 89107**

Email Address
Altire

DOB [REDACTED]
Age **17**
Sex **M - Male**
Race **B - Black**
Ethnicity **N - Not of Hispanic Origin**
Ht. **5' 8"**
Wt. **230**
Eye Color **BRO - Brown**
Hair Color **BLK - Black**
Facial Hair
Complexion **DBR - Dark Brown**
Build **HVY - Heavy**

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade **None**
Employer/School **None**
Employer Address
Employer CSZ
Res. County **Clark**
Res. Country
Resident Status **N - Nonresident**

Entity Notes **Guerra's live-in fiance**

Telephone Numbers

Number Type Phone Number
CELL - Cell **702 428-9213**

Other Entity: o1 -- Guerra, Elizabeth



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Entity Code **O1**
Entity Type **P - Person Reporting**

Name **Guerra, Elizabeth**
AKA
Alert(s)

Address **720 Easy ST**

CSZ **LV, NV 89107**

Email Address
Attire

DOB [REDACTED]
Age **24**
Sex **F - Female**
Race **W - White**
Ethnicity **N - Not of Hispanic Origin**

Ht. **5' 4"**
Wt. **200**
Eye Color **BLU - Blue**
Hair Color **BRO - Brown**
Facial Hair
Complexion **LGT - Light**
Build **HVY - Heavy**

Place of Birth
SSN **2002323737**
DLN
DLN State **NV - Nevada**
DLN Country **USA - United States of America**
Occupation/Grade **None**
Employer/School **None**
Employer Address
Employer CSZ
Res. County **Clark**
Res. Country
Resident Status **N - Nonresident**

Entity Notes **Age 33**

Telephone Numbers

Number Type Phone Number
CELL - Cell **702 428-9206**
CELL - Cell **702 428-9213**

Other Entity: **O2 -- Saunders, Diana**

Entity Code **O2**
Entity Type **P - Person Reporting**

Name **Saunders, Diana**
AKA
Alert(s)

Address
CSZ

Email Address
Attire

DOB [REDACTED]
Age **21**
Sex **F - Female**
Race **W - White**
Ethnicity **N - Not of Hispanic Origin**
Ht. **5' 4"**
Wt. **125**

Eye Color **BRO - Brown**
Hair Color **BRO - Brown**
Facial Hair
Complexion **LGT - Light**
Build **Thin - Thin**

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade **Therapist**
Employer/School **Elements of Motivation**
Employer Address **6871 W Charleston**
Employer CSZ **LV, NV 89117**
Res. County
Res. Country
Resident Status **N - Nonresident**

Entity Notes **Victim's therapist since 08/2012.**

Telephone Numbers

Number Type Phone Number
CELL - Cell **248 765-5674**



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Report Narrative

On Monday 11/3/14 at about 1555 hours, I was dispatched to the North Las Vegas Police Department Lobby, located at 1301 East Lake Mead Boulevard, reference a possible sexual assault report.

Upon arrival, I made contact with a White female adult who identified herself as Elizabeth Guerra. She told me she was there regarding her 15 year old daughter, who was present and identified as [REDACTED]. Guerra said [REDACTED] informed her she was sexually assaulted by a former live-in babysitter, identified as Rigoberto Inzunza, from December of 2005 to October of 2009 at their previous address, which was 3135 Webster in North Las Vegas. She also advised of a singular incident of lewdness that occurred in October of 2010 at the same address on Webster involving Guerra's fiancé's friend, identified as Darrington Rivers. I asked Guerra if she could speak with me in private, away from [REDACTED], and she said she would only talk to me if her therapist was with her. She then pointed to a White female adult, later identified as Diana Saunders, who introduced herself. She said she was [REDACTED] therapist and had been treating her since August of 2012. Guerra told me Saunders was present when [REDACTED] divulged the above information, and knew more about the assault because she had to leave the room when [REDACTED] began providing details of the incidents.

Guerra, Saunders and I then went into a private room adjacent to the lobby. As soon as the door closed, Guerra told me she would only answer questions and would not tell me what happened in story format. Guerra said she was molested when she was a child and it would be too difficult for her to have the same discussion concerning her daughter. She said Saunders was present during the entire conversation with [REDACTED], so she could tell me what happened instead. I then asked Saunders to tell me what happened, and she said the following: On Thursday, 10/30/14, she was at a scheduled appointment with [REDACTED] at her family home, located at 720 Easy Street. She and Guerra sat down with [REDACTED] to confront her about money that had gone missing from the home. Guerra told [REDACTED] she suspected her of taking the money and was going to find out if she was lying. She added that he always finds out what is going on her and would get to the bottom of it. [REDACTED] became upset and blurted out, "You don't always know what's going on with me. There is a lot you don't know." Guerra pressed [REDACTED] about the statement and told her she needed to tell her what was going on. [REDACTED] finally told her Rivers exposed himself to her during a visit in the month of October of 2010. She said Rivers was playing hide and seek with [REDACTED] and her siblings, when she and Rivers ended up in a dark room alone together. She said Rivers pulled his pants down and asked her to "suck his dick." [REDACTED] said no, then Rivers took her hand and placed it on his penis. Saunders said she asked [REDACTED] how she knew his pants were down if it was dark in the room. [REDACTED] told her she could feel that she was touching bare skin when he placed her hand on his penis. Guerra then said she had no clue anything happened between [REDACTED] and Rivers because he had been around the family many times since then. I asked her if [REDACTED] indicated there was any penetration and she said no. She told me [REDACTED] told her it was only Rivers pulling his pants down, exposing himself, propositioning her for oral sex and forcing her to fondle his penis. I asked Guerra if she knew where in the home it happened and she said [REDACTED] could not say. She went on to tell me when her fiancé, identified as Harry Williams, heard of the above statement and decided to confront Rivers about it via telephone on 10/31/14. Rivers denied the accusation over the phone, but on 11/1/14 he sent Williams a Facebook message where he acknowledged the incident did happen. Saunders showed me a screen shot of the message, which I read. Rivers wrote "shit did went down between us but how we got to that point is hard to explain from what I can remember there was a lot off (of) horse playing with the kids and I'm sorry form (from) the day that went down. I couldn't find the word to say that it did happen." I had Saunders forward me the message, which I later attached to this report.

I then asked Guerra if she could tell me what happened between [REDACTED] and Inzunza. She said she was going to excuse herself and have Saunders tell me what [REDACTED] said. Guerra told me she chose not to listen when [REDACTED] began providing details because she would want to hurt Inzunza if she knew exactly what happened. Once Guerra left the room, Saunders told me the following: [REDACTED] said Inzunza touched her inappropriately while he lived with them on Webster from December 2005 and October 2009. [REDACTED] said Inzunza would come into her bedroom at night and force her to perform oral sex on him. Saunders asked her to describe exactly what happened and she said [REDACTED] became very uncomfortable. She said [REDACTED] was mentally slow and immature, so she would say "v" for vagina and "p" for penis. Jones told her Inzunza put his "p" in her mouth and licked her "v." She asked [REDACTED] if there was ever any penetration of his "p" into her "v" and she said no. Saunders told me [REDACTED] denied any penetration by penis, but said he did use his hands. [REDACTED] would not confirm if any digital penetration occurred. She added that [REDACTED] said while the lewdness was occurring, Inzunza threatened to hurt her family if she told anyone what was going on.

I had Guerra come back and asked her if she had Rivers' contact information. She told me she did not have a cell phone, but gave me his wife's cell phone number instead. His wife's name was Tarnisha Rivers and the cell phone number provided was 702-371-4709. She told me River's had recently moved and did not have his current address. She was able to find a possible street name of Hartford Hills in Las Vegas (89166) through Facebook. I asked her if he was currently employed and she said he worked at the McCarran Airport as a ramp agent. I asked Guerra for his identifying information and she described him as the following: about 6'5" tall weighing about 180 pounds, dark complexion, with a full beard and short twisted braids. His Nevada driver's license (DL) listed him as having brown eyes and black hair. The address on his DL was not updated, as it still showed an address in North Las Vegas.

I ran a wants and records check on Rivers and it returned with no local priors.

I then asked for Inzunza's information and she told me he moved from Nevada years ago, and according to his Facebook profile he now resides in Lakewood, NJ. A recent photo posted by Inzunza within the last five days showed him as an employee of LanceScaping as a landscaper. The listed address and phone number for the company was 605 Higgins Ave, Brielle, NJ 08730 732-223-1444. No other contact information was available.



Crime Report

Case No. 141103018752
E-Police No.
Report No. 141103018752.1
Report Date: 11/3/2014

6

Page 6 of 6

I ran a wants and records check on Inzunza and it returned with priors for DUI, contributing to the delinquency of a minor, resisting a police officer and traffic related offenses. He had one prior arrest for statutory sexual seduction on 7/31/85. His physical descriptors listed were 5'6", 160 pounds with black hair and brown eyes. A current Facebook photo of Inzunza showed him as clean shaven with a medium brown skin tone.

I contacted Child Protective Services and there were no open cases for Guerra, [REDACTED] or Williams. I gave Guerra a Victim's Information Guide and explained its use.

I determined [REDACTED] was not in any immediate danger, since neither of the suspects lived with [REDACTED] and the last incident occurred in 2010. For the same reason, Detectives were not called to respond. Based on my interviews with Guerra and Saunders, I was unable to determine if any penetration occurred with Rivers or Inzunza. This report of lewdness with a child under 14 years of age is being forwarded to the Detective Bureau for follow up investigation.

Attachments: One copy of Rivers' Facebook message.

EXHIBIT B

11/13/2014

Cityofnorthlasvegas.com Mail - Elisiana



Mark Hoyt <hoytm@cityofnorthlasvegas.com>

ElisianaJones

1 message

#14 19610

Harry Williams <yrrah1010@gmail.com>

Thu, Nov 6, 2014 at 2:13 PM

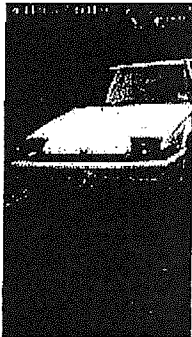
To: hoytm@cityofnorthlasvegas.com

Picture that we found of rigoberto on Facebook his place of employment that was just updated monday the nov 4th and what looks like his vehicle

3 attachments



Screenshot_2014-10-30-21-37-02.png
431K



Screenshot_2014-10-30-21-35-50.png
821K



Screenshot_2014-10-30-21-33-33.png
310K

EXHIBIT C

AA 000075

David Westbrook

From: David Westbrook
Sent: Wednesday, November 29, 2017 1:04 PM
To: David Westbrook
Cc: Jeffrey Maningo; Bruce McAllister
Subject: INZUNZA CASE: Memorializing Conversation Between Myself and Jake Villani

He Bruce and Jeff: I just wanted to memorialize an elevator conversation I had with Jake Villani with these contemporaneous notes. This exchange has been preserved to the best of my recollection and typed within 10-20 minutes of the conversation. I am emailing both of you to establish a time stamp.

11/29/2017

Approx: 12:40 PM

Westbrook: Just so it is clear, since the court wants us to talk more face to face, I want you to provide everything I request in the Motion.

Villani: [Sarcastic] Oh, so why don't I just provide everything in the world? You can have everything in the world. Would you like all the GPS stuff too?

Westbrook: Yes, if it exists. I'm not asking for things that don't exist.

Villani: Well you don't say that in your motion.

Westbrook: It's obvious I'm not asking for fictional—

Villani: These are so general--

Westbrook: How is my asking for specific police records of the Detective's interview with a specific, named psychologist, "too general?"

Villani: It doesn't exist?

Westbrook: You asked?

Villani: He said it doesn't exist.

Westbrook: What about his notes?

Villani: He doesn't have notes.

Westbrook: You asked?

Villani: <no response>

Westbrook: They always have notes.

J: How do you know?

M: I just went through a trial with Hamner and found that Metro keeps paper notes, notes in a computer file DA's can access, and notes in a separate computer database that DA's can't access.

J: Are you aware this is North Las Vegas?

M: Of course, you think North Las Vegas doesn't take notes?

J: You don't even know what you're talking about. I'm done.

M: Did you ask him if he had notes?

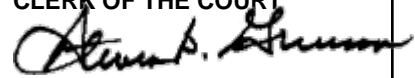
J: I don't answer to you.

<Elevator Doors Open, Villani walks away, I walk after him>

M: Did you ask him if he had notes?

J: <Walks away without responding>

P. David Westbrook
Chief Deputy Public Defender
702-455-1762
westbrpd@ClarkCountyNV.gov



OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JACOB J. VILLANI
Chief Deputy District Attorney
Nevada Bar #011732
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-VS-

**RIGOBERTO INZUNZA,
#0448039**

Defendant.

CASE NO: **C-17-321860-1**

DEPT NO: **V**

**STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS, PURSUANT
TO DOGETT V. UNITED STATES, FOR VIOLATION OF STATE AND
FEDERAL CONSTITUTIONAL RIGHTS**

DATE OF HEARING: **MARCH 19, 2018**
TIME OF HEARING: **9:00 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JACOB J. VILLANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Dismiss, Pursuant to Doggett v. United States, for Violation of State and Federal Constitutional Rights.

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

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On March 9, 2017, the State of Nevada (“State”) filed an Indictment charging
4 Defendant Rigoberto Inzunza (“Defendant”) with Counts 1 through 3, 5 through 8 and 11
5 through 14 – Sexual Assault with a Minor Under Fourteen Years of Age; Counts 4, 9, 10, 15
6 and 16 – Lewdness with a Child Under the Age of 14. The District Court set bail in the amount
7 of \$750,000.00, the same amount set by the North Las Vegas Justice of the Peace during
8 Defendant’s initial justice court arraignment.

9 On March 20, 2017, Defendant was arraigned by this Court, pleaded not guilty, waived
10 his right to trial within 60 days, and his trial was set to begin on December 4, 2017.

11 On May 1, 2017, Defendant filed a Motion for Own Recognizance Release or, In the
12 Alternative, for Setting of Reasonable Bail.

13 On May 15, 2017, this Court lowered Defendant’s bail to \$75,000.00.

14 On November 20, 2017, one week before Calendar Call, Defendant filed a Motion to
15 Compel Production of Discovery and Brady Evidence.

16 On November 28, 2017, the State received a recorded statement of the victim and two
17 largely duplicative police reports from the lead detective on the case during a pretrial
18 interview. The State immediately copied these items and made them available for the defense.

19 On November 29, 2017, Defendant argued his discovery motion. After hearing lengthy
20 argument from both sides, this Court denied Defendant’s discovery motion, noting that the
21 motion did not contain specific requests and that a motion for discovery is not required under
22 Nevada law, only a request. The Court also denied Defendant’s request to release from custody
23 as a sanction against the State for the late disclosure of the recently discovered interview with
24 the victim. Defendant’s trial was continued to February 5, 2018.

25 On January 25, 2018, two court days before calendar call, Defendant filed a Motion for
26 Own Recognizance Release Based on Change in State’s Assessment of Defendant’s
27 Likelihood of Flight/Danger to the Community, and to Serve the Requirements of Due
28 Process, Fundamental Fairness, and Substantial Justice.

1 On January 29, 2018, at calendar call, this Court denied Defendant's motion, and
2 granted defense counsel's oral motion to continue the trial so he could further investigate his
3 case and try to obtain the victim's counseling records. Defendant's trial was continued to April
4 23, 2018.

5 On March 2, 2018, Defendant filed the instant motion.

6 ARGUMENT

7 Defendant argues, citing federal case law, that this Court should dismiss his case.
8 Defendant bases this argument on two cases (the only two cases cited throughout his motion):
9 Barker v. Wingo, 407 U.S. 514 (1972) and Doggett v. U.S., 505 U.S. 647 (1992). Defendant's
10 understanding of the law and the procedural history in this case are incorrect, so his motion
11 should be denied.

12 In Barker v. Wingo, the Supreme Court affirmed a lower court finding that a defendant's
13 speedy trial right had not been violated because the defendant had not wanted a speedy trial
14 and because he had not been prejudiced by the delay. Id. at 515. In so holding, the Supreme
15 Court stated:

16 We reject, therefore, the rule that a defendant who fails to demand a
17 speedy trial forever waives his right. This does not mean, however,
18 that the defendant has no responsibility to assert his right. We think
19 the better rule is that the defendant's assertion of or failure to assert
20 his right to a speedy trial is one of the factors to be considered in an
21 inquiry into the deprivation of the right. Such a formulation avoids the
22 rigidities of the demand-waiver rule and the resulting possible
23 unfairness in its application. It allows the trial court to exercise a
24 judicial discretion based on the circumstances, including due
consideration of any applicable formal procedural rule. It would
permit, for example, a court to attach a different weight to a situation
in which the defendant knowingly fails to object from a situation in
which his attorney acquiesces in long delay without adequately
informing his client, or from a situation in which no counsel is
appointed. It would also allow a court to weigh the frequency and
force of the objections as opposed to attaching significant weight to a
purely pro forma objection.

25 407 U.S. at 528-529. The "demand-waiver rule" referenced by the Court, *supra*, provided that
26 a defendant waived any consideration of his right to speedy trial for any period prior to which
27 he had not demanded a trial. Under this rigid approach, a prior demand was a necessary
28 condition to the consideration of the speedy trial right. Id. at 525. Apparently at the time the

1 Barker case was decided, some states required defendants to affirmatively invoke their speedy
2 trial right.

3 To the contrary, Nevada has no such rigid rule. Here, Defendant affirmatively waived
4 his right to a speedy trial (trial within 60 days) at his arraignment. Defendant tries to get around
5 this fact by claiming that he “expressed his intent to preserve his *federal* speedy trial rights”
6 (emphasis in original) after he waived his statutory right to a speedy trial. Defendant
7 apparently thinks that this Court should have foreseen that by waiving his 60-day trial right
8 and setting his trial more than 60-days out, he actually wanted his trial sooner because he
9 reserved his federal speedy trial right. This argument is illogical, obnoxious, and counsel’s
10 intent to set up a straw man argument to later knock down by vocalizing his retention of the
11 “federal” right at arraignment is now clear.

12 Ultimately, the Barker Court opined that courts should approach speedy trial cases on
13 an *ad hoc* basis, and (as noted in Defendant’s motion) identified four factors which courts
14 should assess in determining whether a particular defendant has been deprived of his right:
15 length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice
16 to the defendant. Id. at 530.

17 In Doggett v. U.S., Doggett was indicted on federal drug charges in 1980, but left the
18 country before the DEA could arrest him. The DEA knew that Doggett was later imprisoned
19 in Panama, but after requesting that he be expelled back to the United States, never followed
20 up on his status. Once the DEA discovered that he had left Panama for Colombia, it made no
21 further attempt to locate Doggett. Thus, the DEA was unaware that Doggett reentered this
22 country in 1982 and subsequently married, earned a college degree, found steady employment,
23 lived openly under his own name, and stayed within the law. The United States Marshal's
24 Service eventually located Doggett during a simple credit check on individuals with
25 outstanding warrants. Doggett was arrested in September 1988, 8 1/2 years after his
26 indictment. Id. at 658-659. Under these facts, the Supreme Court applied the Barker analysis
27 and held that the government's failure to prosecute Doggett for over eight years following his
28 indictment clearly violated his right to a speedy trial.

1 Addressing the four Barker factors argued in Defendant's motion:

2 **Length of Delay**

3 Defendant was at large for less than three years, and was ultimately located, arrested in
4 New Jersey, and transported to Nevada to face his charges. The length of the delay is
5 considerably less than the 8 ½ years in the Doggett case, and the circumstances vary greatly.

6 **The Reason for the Delay**

7 While there was a delay in arresting the Defendant, the delay was not extraordinarily
8 long. Additionally, the most recent delay of Defendant's jury trial was wholly the fault of the
9 defense. Certainly, the defense cannot be heard to complain about Defendant having his trial
10 delayed when he initially waived his right to a speedy trial, then requested and was granted a
11 continuance to seek evidence which he deemed necessary to his defense. The fault regarding
12 why Defendant's trial did not go forward on February 5, 2018 lies solely with the defense, not
13 with the State.

14 **Defendant's Assertion of His Right**

15 As noted, *supra*, Defendant did not affirmatively assert his right to a speedy trial. In
16 fact, he affirmatively waived his right to a speedy trial.

17 **Prejudice to the Defendant**

18 Any prejudice suffered by the Defendant in this case is of his own making. Defendant's
19 case has been pending for almost exactly one year as of this writing. Assuming his trial goes
20 forward on April 23, 2018, he would have seen a jury trial within a year and two months after
21 being arraigned on 16 counts of sexual crimes against a child, all of which carry potential life
22 sentences. As this Court knows well, such a delay is far from extraordinary in this jurisdiction.

23 None of the four factors articulated in the Barker case favor Defendant. The State
24 acknowledges that the defense needed additional time to review the interview made available
25 to them on November 28, 2017, and that this may have caused Defendant's trial to be
26 continued the first time. However, it is unknown whether Defendant would have actually been
27 prepared to go forward even if he had the statement at issue prior to November 28th, as
28 evidenced by his subsequent request for a continuance to obtain counseling records. Between

1 November 29, 2017 and January 25, 2018 (the time set for Defendant's continued calendar
2 call), Defendant apparently did nothing to prepare for his trial. Counsel then filed a motion for
3 own-recognizance release on order shortening time and appeared at calendar call accusing the
4 State of not providing reports that his office acknowledged receiving months prior (*See*
5 Receipt of Copy for Discovery Provided, filed November 28, 2017), and privileged counseling
6 records of the victim which the State never had and could not obtain without a court order.
7 This Court ultimately had defense counsel sworn and granted Defendant's oral motion to
8 continue the trial once again. The State was prepared to proceed to trial on both November 28,
9 2017 and January 25, 2018. With the filing of the instant motion, Defendant makes clear his
10 intention to continue to litigate the minutiae of his reasons for not being prepared for trial, and
11 ignore his duty to actually prepare for trial.

12 CONCLUSION

13 If Defendant wanted to have his trial proceed promptly, he could have exercised his
14 right to have a trial within 60 days, which he instead affirmatively waived. Defendant cannot
15 request that his trial be delayed, then be heard to complain about how long it is taking his trial
16 to proceed. Even with the delays, Defendant's trial has the potential to proceed a little more
17 than a year after his initial arraignment, which is all but unprecedented when taking into
18 account the charges in this case. Based upon the foregoing argument, the State respectfully
19 requests that this Court deny Defendant's Motion to Dismiss, Pursuant to Doggett v. United
20 States, for Violation of State and Federal Constitutional Rights.

21 DATED this 13th day of March, 2018.

22 Respectfully submitted,

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

25
26 BY /s/ JACOB J. VILLANI
27 JACOB J. VILLANI
28 Chief Deputy District Attorney
Nevada Bar #011732

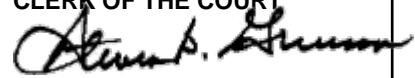
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made this 13th day of
3 MARCH 2017, to:

4 DAVID WESTBROOK, DPD
5 mcmahaae@ClarkCountyNV.gov

6
7 BY /s/ HOWARD CONRAD
8 Secretary for the District Attorney's Office
9 Special Victims Unit

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ROPP
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
P. DAVID WESTBROOK, CHIEF DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9278
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-1762
westbrpd@ClarkCountyNV.gov
Attorney for Defendant

DISTRICT COURT, LAS VEGAS

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-17-321860-1
)	
v.)	DEPT. NO. V
)	
RIGOBERTO INZUNZA,)	DATE: March 19, 2018
)	TIME: 9:00 a.m.
Defendant.)	

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

COMES NOW, the Defendant, RIGOBERTO INZUNZA, by and through P. DAVID WESTBROOK, Chief Deputy Public Defender, and hereby submits his Reply to the State's Opposition to Defendant's Motion to Dismiss pursuant to Doggett v. United States.

This Reply is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, the authorities cited below, and oral argument at the time set for hearing this Motion.

DATED this 15th day of March, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ P. David Westbrook
P. DAVID WESTBROOK, #9278
Chief Deputy Public Defender

AA 000084

DECLARATION

P. DAVID WESTBROOK makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada and I am the Deputy Public Defender assigned to represent the defendant, Mr. Inzunza, in the instant matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief. (NRS 53.045).

EXECUTED this 15th day of March, 2018.

/s/ P. David Westbrook

P. DAVID WESTBROOK

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1 not be clearer, which is evidently why the State chose not to cite to the law. Mr. Inzunza did not
2 waive his federal speedy trial right when he waived his right to a trial within 60 days.

3 **B. There is no logical basis for the State’s claim that waiver of the 60-day rule**
4 **constitutes waiver of the federal speedy trial right and a ruling to the contrary**
5 **would be disastrous for our justice system.**

6 The State conceded that, at the time he waived his right to a trial within 60 days, Mr.
7 Inzunza informed the Court that he intended to preserve his federal speedy trial right. Opp. at 4.
8 However, the State argues that it is “illogical” to conclude that the Court could have foreseen that,
9 when Mr. Inzunza *reserved* his right to a speedy trial right, he *wanted* a speedy trial. Opp. at 4.
10 The State appears to have a strange definition of the word, “illogical,” and no definition of the
11 word, “irony.”

12 At arraignment, the Court was very clear about the realities of its schedule. There was
13 simply no room to set a trial within 60 days. Mr. Inzunza was given the earliest available trial
14 date: December 4, 2017, which was **259 days** later. The Court also noted that there were other
15 cases set for that period. This is precisely the reason why Mr. Inzunza expressly reserved his
16 federal right to a speedy trial—he was concerned that his trial could be delayed beyond **one year**,
17 which is the time when prejudice presumptively attaches to a speedy trial claim under federal law.
18 See Doggett v. U.S., 505 U.S. 647, 652, fn.1 (1992). Inzunza wanted to make it clear that, while
19 he was waiving his statutory right to a trial within 60 days, he did not intend to waive his right to
20 a speedy trial under federal law, especially given his custody status. Thus, reserving his federal
21 speedy trial right was *logical*.

22 Along with defying the law and logic, adopting the State’s position would be disastrous
23 public policy. NRS 178.556 provides the statutory right to a preliminary hearing within 15 days
24 and a trial within 60 days. These rights are often waived by defendants for a variety of reasons,
25 but imagine for a moment, that they were not. Imagine how our courts would function if *every*
26 preliminary hearing were set within 15 days and *every* trial within 60 days. The word, “bedlam,”
27 would not begin to describe it.

28 ///

1 When a defendant waives his right to a trial within 60 days or a preliminary hearing within
2 15 days, he can certainly suffer prejudice, but he can at least be comfortable in the knowledge that
3 the prejudice is, to some extent, limited. However, if waiving the statutory right to a trial within
4 60 days effectively waived the federal right to a trial within *a year or longer*, virtually no one
5 would do it. And in most cases, lawyers who did would be presumptively ineffective.

6 Public policy disfavors the deprivation of liberty and the crippling of our social
7 institutions. Adopting the State's argument in this case would do both.

8 **C. The Barker/Doggett factors strongly favor dismissal.**

9 1. Length of Delay

10
11 The State does not dispute that **818 days** passed between the time of the report and Mr.
12 Inzunza's arrest, it merely points out that the period of time in the Doggett case (8 ½ years) was
13 longer. This point is irrelevant and, once again, ignores the law. The Doggett Court noted that any
14 period greater than one year is generally considered to be "presumptively prejudicial." Doggett,
15 supra, 505 U.S. at 652, fn.1. Mr. Inzunza's case was delayed more than double that amount before
16 he was even *arrested*, which is far more than enough, under the law, to trigger a finding in Mr.
17 Inzunza's favor.

18 2. The Reason for the Delay

19 a) *Pre-Arrest Delay*

20 The State concedes that the delay in arresting Mr. Inzunza was in no way Mr. Inzunza's
21 fault. The State does not dispute that police knew exactly where Inzunza was for well over two
22 years, but chose to do nothing. The State's only argument as to the pre-arrest delay is that it "was
23 not extraordinarily long." The State failed to even attempt to support this naked assertion with
24 legal authority.

25 b) *Post-arrest Delay*

26 The State does not deny responsibility for the continuance of the December 4th trial date.
27 This means there is no dispute that the State is responsible for the first **1,127 days** of the delay to
28 Mr. Inzunza's trial. The State does claim the defense is "solely responsible" for the February 5,

1 2018 delay, but the defense denies this because the delay was caused by the State's continued
2 refusal to turn over discovery. That said, the question is irrelevant. Even if Mr. Inzunza were
3 solely responsible for the *last* trial delay, it would not excuse the State's actions over the prior
4 1,127 days. Mr. Inzunza's rights were violated long before February 5, 2018 and nothing short of
5 a time machine can change that fact.

6 **3. Defendant's Assertion of His Right**

7 The State admits that, at the time he waived his right to a trial within 60 days, Inzunza
8 expressly reserved his federal speedy trial right. The State's only arguments, which again, are
9 unsupported by any law whatsoever, are (1) that it is "illogical" to conclude Inzunza wanted a
10 speedy trial when he reserved his right to one, and (2) that waiving the statutory 60 days is the
11 same as waiving the right to a speedy trial under the 6th Amendment. These arguments are
12 unsupported by the record, would make disastrous public policy, and are directly contradicted by
13 Nevada law. See Anderson, supra, 86 Nev. at 834; Randolph, supra, 93 Nev. at 534.

14 **4. Prejudice to the Defendant**

15 The State addressed prejudice by claiming, "Any prejudice suffered by the Defendant in
16 this case is of his own making." Opp at 5. This claim is belied by the record.

17 The State has admitted responsibility for the first **1,127 days** Mr. Inzunza's trial was
18 delayed. Mr. Inzunza was arrested January 29, 2017 and his case was last continued February 5,
19 2018, a period of **372 days**. Thus, the State has **admitted** that it is responsible for Mr. Inzunza
20 spending **over one year** in custody without a trial. The prejudice suffered by Mr. Inzunza due to
21 this period of "oppressive pre-trial incarceration" is grounds for dismissal. Doggett, supra, 505
22 U.S. at 654.

23 The State did not even try to address Mr. Inzunza's other, specific claims of prejudice,
24 including:

- 25 (1) Mr. Inzunza has suffered anxiety and concern caused by excessive confinement and
26 delay;
27 (2) The delay has impaired Mr. Inzunza's ability to present a defense in ways including,
28 but not limited to, the following:

- a. The delay has made it impossible for Mr. Inzunza to present an alibi defense because too much time has passed for Mr. Inzunza to reliably account for his whereabouts during the relevant period;
- b. Tracking down possible defense witnesses is now far more difficult;
- c. The value of defense witnesses will be intrinsically limited by the delay because memory degrades with time.
- d. The State will attempt to argue that the lack of physical evidence is attributable to delay—the delay the State caused.

To be clear: the State did not argue a lack of prejudice. The State recognizes the existence of prejudice, but argues that it is the fault of Mr. Inzunza and his attorney. However, making this argument, the State expressly limits Mr. Inzunza's responsibility for the prejudice to the period between February 5, 2018 and the present. So, even if the Court fully credits the State's position, then the Court must nonetheless conclude the following:

- (1) Mr. Inzunza suffered prejudice between April 4, 2014 and February 5, 2018;
- (2) The prejudice was caused by the delay to his trial;
- (3) The State was responsible for the delay.

These are the facts and they are not in dispute.

CONCLUSION

Mr. Inzunza's Motion to Dismiss meets all four factors of the Doggett/Barker test, establishing a violation of Mr. Inzunza's right to a speedy trial and his associated due process rights under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Mr. Inzunza therefore respectfully requests that the Court dismiss this case.

DATED this 15th day of March, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ P. David Westbrook
P. DAVID WESTBROOK, #9278
Chief Deputy Public Defender

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By: /s/ Sara Ruano
Secretary for the Public Defender's Office



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

RIGOBERTO INZUNZA,
AKA RIGOBERTO LOPEZ
INZUNZA,

Defendant.

CASE#: C321860-1
DEPT. V

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE
WEDNESDAY, APRIL 4, 2018

**RECORDER'S TRANSCRIPT OF HEARING: EVIDENTIARY
HEARING: DEFENDANT'S MOTION TO DISMISS PURSUANT TO
DOGGETT VS. UNITED STATES FOR VIOLATION OF STATE AND
FEDERAL CONSTITUTIONAL RIGHTS**

APPEARANCES:

For the State:

JACOB J. VILLANI, ESQ.
Chief Deputy District Attorney

For the Defendant:

P. DAVID WESTBROOK, ESQ.
Deputy Public Defender

RECORDED BY: LARA CORCORAN, COURT RECORDER

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1
2 Las Vegas, Nevada, Wednesday, April 4, 2018
3

4 [Hearing began at 11:35 a.m.]

5 THE COURT: All right, are we ready? Let's go on the record.

6 THE RECORDER: We are.

7 THE COURT: Okay, we're on the record in State of Nevada
8 versus Rigoberto Inzunza, case number C17321860. And this is the
9 evidentiary hearing set in relation to the Defendant's Motion to Dismiss
10 Pursuant to *Doggett versus United States* for Violation of State and
11 Federal Constitutional Rights.

12 I'd just say that basically *Doggett* is Sixth Amendment Right to
13 speedy trial and so the Court had asked for an evidentiary hearing
14 concerning the -- why there was the delay from the time of the filing of
15 the Complaint and to -- until the arrest. So, what steps were taken by
16 the North Las Vegas Police Department to get him arrested and whether
17 or not the Defendant was aware of the charges against him prior to his
18 actual arrest. So that was the purpose of the hearing. And that would
19 be pursuant to factors that I would need to consider under the analysis
20 set forth in *Barker versus Wingo*.

21 Okay, are we ready?

22 MR. WESTBROOK: We are.

23 MR. VILLANI: If I could just give a little preamble, Your Honor,
24 maybe I can give an offer of proof.

25 So, the four factors in *Barker*, the first kind of has been

1 deemed to be a triggering factor, right, but the delay itself, whether or
2 not it's more than a year? If it's more than a year basically most courts
3 have found that's a triggering factor for the other factors to come into
4 play.

5 Then we ask, what was the reason for the delay, whether the
6 Defendant invoked his right to a speedy trial, and finally whether the
7 Defendant suffered any prejudice. These are the factors we're dealing
8 with. Now, in speaking with my Detective we're not going to gain much
9 information from him as far as the why is concerned. The why is
10 basically that they had the information saying that, hey he might be in
11 New Jersey, when they submitted the case? It would have done them
12 no good to contact New Jersey police, because our office hadn't
13 approved it and a warrant hadn't issued. And they don't get notified
14 when a warrant issues.

15 From our -- basically our office approves it and then the
16 warrant goes out. So the failing was in failing to check up and then
17 seeing that a warrant was approved and then following up on the
18 information from New Jersey. North Las Vegas relies heavily on NCIC
19 as does Metro is my understanding. But my specific conversation with
20 my Detective they rely on NCIC. The warrant goes into NCIC and they
21 basically sit back and wait for somebody to have police contact. And
22 that's the reason for the delay.

23 So if we're going to gain any information from my witness,
24 that's going to be it. And so, if the Court's going to make their decision
25 solely based off of that factor, then that's what I'll tell you you'll receive

1 from his testimony and nothing more.

2 THE COURT: Okay. And do you know why North Las Vegas
3 isn't notified when a warrant is -- when a Complaint has been filed?

4 MR. VILLANI: It's -- it just has to do with -- it's not that North
5 Las Vegas -- I don't know that he can speak for the entire police
6 department, since the Detective isn't notified. So, basically they submit
7 it to our office, our office either approves or denies it. And if the person
8 isn't in custody or what have you, they're just not notified. The warrant
9 goes into NCIC and then that person is eventually picked up due to
10 police contact.

11 I will say that I believe it's the *Doggett* case where the guy
12 went back and forth between countries. And it was the DEA case where
13 there was 8½ years, I can't remember if that was *Doggett* or *Barker*, but
14 there was an 8½ year timeline. He was going back and forth between
15 the U.S. We're dealing with apples and oranges here as far as
16 resources are concerned and --

17 THE COURT: It doesn't matter -- the person who has it.

18 MR. VILLANI: Well --

19 THE COURT: -- the law is very clear that that part there's a
20 presumption that the Government has more resources. And the
21 Supreme Court, in fact in *Doggett* addressed that and basically said,
22 hey, okay we can understand that there may be resources, but that's
23 your problem Government, you know. You need to --

24 MR. VILLANI: I know.

25 THE COURT: -- bring the resources you need. And so, I

1 mean, to me what you're telling me is somebody whether it was the
2 District Attorney's Office, -- I mean, normally when you're -- you submit a
3 case and there's a request for an arrest warrant it's done on an
4 affidavit --

5 MR. VILLANI: Mm-hmm.

6 THE COURT: -- by the Detective.

7 MR. VILLANI: It is.

8 THE COURT: So, one would expect that the Detective would
9 have enough of an interest to follow-up on whether or not that happened
10 and do something then, so --

11 MR. VILLANI: So the issue we're running into, and I have
12 those conversations as well, is so by the time our office approves
13 sometimes it can be a week, sometimes it can be a month, sometimes it
14 could be multiple months depending on our screening's caseload. So by
15 that time he's received five, ten, other cases that he's now out actively
16 working. And whether or not it's an excuse I'm not here to argue, but
17 that's the reason is the lack of resources essentially on our end?

18 And I guess my argument to the New Jersey information is
19 there's been nothing presented to show what if anything would have
20 come of that. It's not like it was Rigoberto Inzunza Landscaping, it was
21 Lancescaping. And it was somebody else owned the company and it
22 was a couple of photographs that were taken by the family off of
23 Facebook.

24 And I've been trying to get the reports from the people who
25 actually arrested him and I've been unable to do so. They were

1 supposed to fax them over to me. I haven't received them yet. I
2 followed up this morning; they were supposed to fax them again. I
3 haven't received anything, but so I -- because I was interested in seeing
4 was it a traffic stop? Were you doing a general NCIC search and he
5 popped up? Was it an employment records check? Because there's a
6 variety of reasons he could have been contacted.

7 But basically the States in a position here where I don't have
8 the information the Courts looking for, but my argument is that's just one
9 of the factors the Court's to consider. I have yet to find a *Doggett* or
10 *Barker* case where the Defendant waived his speedy trial right, where he
11 waived his 60 day right to trial. And all of the Nevada cases even
12 though *Barker* says from indictment, all the Nevada cases focus on, well
13 here's the time he was arrested, and then here's the time his trial was.

14 So the difference between an Indictment a criminal complaint
15 being issued and the arrest date is quite different, because at the arrest
16 date everybody's put on notice. I think we can all agree on that.

17 THE COURT: Right. The focus here, my concern, the Court's
18 concern is because most of the cases that talk about this have talked
19 about it in terms of federal cases where everything's indicted.

20 MR. VILLANI: Right.

21 THE COURT: That's how you have a charge. You don't have
22 the -- although I did find one case where there was a criminal Complaint
23 as well. But, so we're talking about the time from the charging document
24 to arrest, so that is what triggers the Sixth Amendment.

25 MR. VILLANI: Right.

1 THE COURT: Because the time before that is a due process
2 issue and then there's the requirement for -- that is -- that the burden is
3 on the Defendant to show actual prejudice --

4 MR. VILLANI: Right.

5 THE COURT: -- under our due process argument, but we
6 don't have that. We have here the argument that from the Complaint,
7 the charging document --

8 MR. VILLANI: Mm-hmm.

9 THE COURT: -- which is the equivalent to an Indictment, until
10 the time of the arrest. And granted yes, most cases by the time they're
11 decided there has either been a dismissal and then an appeal or a trial
12 and then an appeal. And so most of them have come for a decision
13 before the appellate courts in the posture of there has been a trial and
14 now we have some additional considerations.

15 Now, there is a difference between the invocation of the
16 State's statutory 60 day right to request a trial within 60 days, which the
17 State has as well.

18 MR. VILLANI: Mm-hmm.

19 THE COURT: State may demand a trial within 60 days and
20 the constitutional right to speedy trial. And so, just because someone
21 says, well I don't need a trial within 60 days. And here the Defendant
22 expressly stated that he wasn't waiving his Sixth Amendment Right to
23 speedy trial. And he wanted that to be clear, because he wasn't
24 demanding a trial within 60 days under the State statute.

25 And so again, it comes down to the -- and what I'm focusing

1 on what I'm concerned about is that over 2 year, so 2 years and 2
2 months delay from the time the charging documents were filed until he is
3 arrested. Thereafter frankly, any delays that have been -- have occurred
4 thereafter there haven't been all that many. And I think that some of
5 them have been the result of the Defense. But I'm still again, focusing
6 on that 2 years and 2 months, because even if that was the only delay
7 that had occurred the Court is saying that's a presumptive trigger for the
8 analysis.

9 MR. VILLANI: And it's a --

10 THE COURT: And I need to look at the other factors. Why
11 was there a delay?

12 MR. VILLANI: Mm-hmm.

13 THE COURT: Which is -- you're telling me, because they
14 didn't really look for him.

15 MR. VILLANI: Because it's not pattern and practice for them
16 to go and try to revisit that sort of issue, yes, that's --

17 THE COURT: Okay.

18 MR. VILLANI: -- so basically, you know, whether the Court
19 wants to take that as reason or as lack of reason, I understand. I was
20 able to find a Nevada, well okay.

21 THE COURT: It's important, okay, and so you may still want
22 to call your witness, because an intentional --

23 MR. VILLANI: Mm-hmm.

24 THE COURT: -- you know, if it was a bad faith intention to
25 prejudice the Defendant --

1 MR. VILLANI: Okay.

2 THE COURT: -- then --

3 MR. VILLANI: Then I'm more --

4 THE COURT: -- you're done.

5 MR. VILLANI: -- if that's the Court's concern, yes I will call

6 him.

7 THE COURT: So I think you better, you know, call the

8 witness. So and also, then I want to hear from that witness, because I

9 would assume Defense wants to cross-examine regarding that. And

10 then, you know, obviously if it's just negligence then that's a different,

11 you know, factor in the analysis.

12 MR. VILLANI: Okay.

13 THE COURT: But, you know, it progresses and it with like

14 over 2 year -- and I found one case where it -- they said, you know, the

15 presumptive prejudice kind of attaches at 20 months. And so, you're

16 looking at presumptive prejudice, --

17 MR. VILLANI: Mm-hmm.

18 THE COURT: -- which then shifts the burden to you, State, to

19 prove, to rebut I should say the presumption of prejudice.

20 MR. VILLANI: Okay, and --

21 THE COURT: So I don't know if you're prepared to do that as

22 well, but --

23 MR. VILLANI: I --

24 THE COURT: -- that would be the analysis.

25 MR. VILLANI: -- I'll do my best. I have everything that I could

1 possibly have at my disposal, short of flying somebody in from the other
2 jurisdiction. I do have a case that I would like to provide to the Defense
3 and the Court. I did find it's *Middleton versus State*. It's a Supreme
4 Court of Nevada case. Basically where they say, the delay in this case
5 of less than 2½ years does not give rise to such presumptive prejudice,
6 especially since *Middleton* was responsible for most of the delay. It's --

7 MR. WESTBROOK: The key to that case, Your Honor, is that
8 *Middleton* was responsible for most of the delay, clearly not the case
9 here.

10 THE COURT: Exactly, I read *Middleton*.

11 MR. VILLANI: Okay.

12 MR. WESTBROOK: As did I.

13 MR. VILLANI: Okay, good. Then I'm ready to call my first
14 witness, Mark Hoyt.

15 THE MARSHAL: What was the name again, counselor?

16 MR. VILLANI: Hoyt.

17 THE MARSHAL: Thank you.

18 THE MARSHAL: Sir, can you please take the witness stand.
19 Remain standing, raise your right hand face the Court Clerk and be
20 sworn in.

21 **MARK HOYT**

22 [having been called as a witness and being first duly sworn testified as
23 follows:]

24 MR. HOYT: Yes, I do.

25 THE CLERK: Please be seated. If you'd please state and

1 spell your first and last name for the record.

2 MR. HOYT: It's Mark Hoyt, M-A-R-K, H-O-Y-T.

3 THE COURT: You may proceed.

4 MR. VILLANI: Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 BY MR. VILLANI:

7 Q Sir, how are you employed?

8 A I am a Detective with the North Las Vegas Police Department.

9 Q How long have you been a Detective with North Las Vegas
10 Police Department?

11 A Since September of 2008.

12 Q What is your current assignment?

13 A I am part of the Special Victim's Unit.

14 Q How long have you been with the Special Victim's Unit?

15 A Since September of 2008.

16 Q On November 6th, 2014, or thereabout, did you become
17 assigned to a case of an alleged sexual assault from a young lady by the
18 name of Elizabeth Jones or I'm sorry, Elisa Jones?

19 A Yes, I was.

20 Q Can you tell us how you got assigned to that case and what
21 investigatory steps you took?

22 A We get assigned by cases. If it's a patrol case it'll go through
23 the patrol sergeant; gets assigned to the Detective Bureau and then it's
24 assigned by a detective sergeant or a lieutenant. And I don't really know
25 why you get a case, you just get a case. I would imagine per caseload.

1 And after that I contacted the mom of this -- they were down at the South
2 Area Command that day.

3 I went down there and briefly got a synopsis of what occurred
4 and opted to schedule a forensic interview with the child -- at the CAC,
5 Children's Assessment Center.

6 Q Okay. Did you then accompany them to the Children's
7 Assessment Center, or no?

8 A It was a few days later, but yes.

9 Q Following the interview at the Children's Assessment Center
10 what information were you given?

11 A There was a disclosure made by the victim at the CAC. I
12 gathered a little bit more facts. There was two defendants. I gathered
13 the facts on identifying them and took action, I guess if you will.

14 Q Was one of those defendants, Rigoberto Inzunza?

15 A Yes.

16 Q And then was the other one Darrington Rivers?

17 A Yes, he was.

18 Q And do you recall anything about the timeline of the
19 disclosure, you're investigations into both of those cases? How did you
20 approach that?

21 A There was a few years between the disclosure that was made.
22 I believe she disclosed first to a counsellor during a therapy session.
23 That's common when it comes to juvenile victims. They'll wait. Just
24 scared, don't want to come forward. She finally came forward during a
25 counseling session. And I acted on the information that I got through her

1 disclosure, and then tried to make contact with both suspects.

2 Q And how did you go about trying to make contact with both
3 suspects?

4 A I actually made contact with Darrington Rivers. Contacted him
5 at work over at McCarran Airport, where he subsequently confessed and
6 he was arrested. I tried to do the follow-ups with Rigoberto, but I could
7 not locate him. So I submitted that case to the District Attorney's Office,
8 for prosecutorial review.

9 Q Now, at the time of the submission you were provided with an
10 email that had photographs attached purporting to be where Rigoberto
11 was, correct?

12 A Correct, yes.

13 Q Can you talk about how that came about?

14 A That was the mother of the victim. She had -- she gave me all
15 the information that I was using to try to make contact with both. And
16 the -- some of those emails included some Facebook pictures, screen
17 shots, if you will, of possible locations for Rigoberto.

18 Q Did you do any follow-up on those Facebook pictures,
19 screenshots that you recall?

20 A I did not, no. I did local stuff, but it's Facebook, so it's -- can't
21 really trust the stuff on Facebook right now.

22 Q Okay. Being provided with that with that stuff how come you
23 didn't follow-up on the photographs on anything that was provided to
24 you?

25 A With the information given to me I tried to find local stuff. At

1 the time there was not an arrest warrant that was issued. So, going
2 through all of my leads that I've exhausted to try to locate him locally, I
3 just submitted the case. We have a caseload of over 50 cases. We,
4 you know, just don't have the time. I wish we had the comfort of a small
5 caseload to where we can follow-up as much as we can, but submitting
6 the case to the District Attorney's Office that could take several weeks to
7 several months to get a word back, even if we even get a word.

8 If it's issuing an arrest warrant we don't even get notified. The
9 only time we get notified is either the charge was amended or denied or
10 if they a -- the District Attorney's Office is requesting additional
11 information for their review. But other than that, pretty much just out-of-
12 sight out-of-mind when it comes to follow-up when it comes to after the
13 submission.

14 We rely heavily on NCIC for its intended purpose to try to
15 make, you know, someone ever comes in contact with the person if they
16 issued a warrant. We rely on that, but it's pretty rare that we have time
17 to follow-up. It goes into a case file and out-of-sight out-of-mind for us
18 until we get subpoenaed in this instance.

19 Q Could you talk about your reliance on NCIC? What's your
20 understanding of once a case -- once somebody is flagged in NCIC as
21 having a warrant kind of how that works?

22 A So it goes -- first of all we submit the case to the District
23 Attorney's Office. It goes to their prosecutorial review. It could take two
24 weeks to four weeks apparently depending on their caseload. From
25 there is goes to a Judge's signature. It could take a week or two to get

1 that. And then from the Judge's signature it goes over to the police
2 department jurisdiction where it lies and it has to be put into NCIC by the
3 Records Department.

4 Once it's in NCIC, it's a national data base so if we -- I don't
5 have knowledge that it was ever granted, the warrant. So we submit
6 these cases in hopes and even on my paragraph it says, that I believe
7 probably cause exists to charge this person with this incident. But we
8 don't ever get notified. So we rely heavily on NCIC. If they ever come in
9 contact with law enforcement or if there's ever a background check done
10 through employment and they run an NCIC check, we rely on that to
11 where that jurisdiction will come in contact with that person and then
12 take appropriate actions.

13 Q So when you're referring to us, your using the word we a lot.

14 A I'm sorry.

15 Q Do you mean detectives that submit cases?

16 A Detectives that submit cases and then we, the police
17 department, coming in contact with somebody that has a -- an a warrant
18 that's placed into NCIC, so.

19 Q So what you just described is you submit a case it's approved
20 by our office, sent to a Judge for signature and then you said the Judge
21 then from there it goes back to the Records Department of the
22 originating police department, right?

23 A Correct.

24 Q So in this case that would be North Las Vegas Police
25 Department, right?

1 A Correct.

2 Q Okay. So your Records Department actually does get notified
3 that there is a there's been a warrant issued for this person, right?

4 A They're the ones that place the warrant into NCIC, yes.

5 Q Does your Records Department then notify you that a warrant
6 has been issued?

7 A No.

8 Q Okay. So it's not common for you to receive that information?

9 A No, it is not.

10 Q Okay. When is the next time you had contact with this case?
11 In other words, how did this case, because you said it went back kind of
12 out-of-sight, out-of-mind. How did this case pop back up on your radar?

13 A Through -- I believe it was a the subpoena. So we'll get
14 subpoenaed through the District Attorney's Office, saying that there's an
15 upcoming court appearance. So that's --

16 Q And at that point you retrieve the file and --

17 A -- that's when I review the file.

18 Q -- so are you ever notified yourself of the fact that if a
19 defendants arrested in another jurisdiction out-of-state, do you as the
20 Detective on the case, get notified?

21 A No, I don't.

22 Q Okay. And so are you notified -- I know your office has a -- I'm
23 sorry your department has somebody that deals with extraditions,
24 correct?

25 A Correct, yes we have a fugitive detail.

1 Q Okay, a fugitive detail. When that fugitive detail gets
2 information that there's been an arrest made, do they then notify the
3 lead detectives that there's been an arrest made?

4 A It all depends. I've probably been notified the almost ten
5 years I've been at the department in the Detective Bureau, maybe twice,
6 three times that I've been notified that someone has been picked up on
7 an arrest warrant. It's not common.

8 Q Do you recall in this case if you were notified or not?

9 A I don't recall.

10 MR. VILLANI: All right, Your Honor, I'll pass the witness.

11 THE COURT: Cross?

12 **CROSS-EXAMINATION**

13 BY MR. WESTBROOK:

14 Q Good morning, Officer.

15 A Good morning.

16 Q Detective, excuse me.

17 A It's okay.

18 Q So your testimony here today is that your own Records
19 Department doesn't notify the lead detective when an arrest warrant is
20 issued in one of your own cases?

21 A That is correct.

22 Q You've been here for ten years, right?

23 A Yes.

24 Q You're aware that this is how the Records Department works,
25 right? And you have been for the last ten years?

1 A Correct.

2 Q So you're aware that cases can fall through the cracks, right?

3 A I would imagine so, I guess.

4 Q Well you just testified that it happens, right?

5 A That what happens?

6 Q It happens. Cases fall through the cracks, out-of-sight out-of-

7 mind, right?

8 A I don't believe that the cases fall -- I don't understand why --

9 Q Okay.

10 A -- what you mean by fall through the cracks.

11 Q Okay, let me be clearer.

12 A Okay.

13 Q You said that it's common practice --

14 A Okay.

15 Q -- for you to not be notified when an arrest warrant issues.

16 A Correct.

17 Q Correct?

18 A Yes.

19 Q Okay. So it must happen quite often that a case sits out there

20 for a long time without you being notified, right?

21 A Correct.

22 Q You've been there for ten years so you're aware that this

23 happens, right?

24 A Yes.

25 Q Internally, the North Las Vegas Police Department is aware

1 that there's this communication problem, right?

2 A I don't -- who's calling it a problem? I don't know who's calling
3 it a problem.

4 Q You don't think it's a problem? Is that fair to say?

5 A It's fair to say, yes.

6 Q Okay. You think that it's okay if a case languishes out there
7 for 2 or 3 years with nobody following up on it? That's not a problem to
8 you?

9 A No.

10 Q Okay. Have you taken any steps to improve communication
11 between yourself and the Records Department?

12 A No, not personally.

13 Q Has your department taken any steps to create better
14 communications between the detectives who investigate the cases and
15 the Records Department who apparently are getting these records?

16 A I can't speak for the communication between the two, but I can
17 tell you we have a Problem Solving Unit. And they sometimes if they
18 have time they'll go into what's called, Warrant Pro, or check NCIC to
19 see if there's any active warrants for local warrants. And they'll do
20 follow-up. Sometimes we get -- I get emails from the PSU Unit saying
21 that they picked up an arrest warrant by somebody, but as far as the
22 communication I don't know how it could be corrected.

23 Q Okay.

24 A They deal with so many.

25 Q 50 you said, right?

1 A I have 50 cases on my screen alone, but we have six
2 detectives that are doing this in --

3 Q Okay.

4 A -- Clark County I mean, you know, I don't know how many
5 they have so how long it might take. But in North Las Vegas, there's
6 only six detectives that are doing the SVU, yes.

7 Q Okay. You said you did local stuff, right? To -- you said in
8 reference to what you did to find him. You said I could not find him, I did
9 local stuff.

10 A I can't remember exactly what I did, but I would have done
11 some kind of a search, followed up maybe on what the mom told me
12 where he could possibly be. She told me that she believed that she --
13 he was in a different state. I'd follow-up just like I did with Darrington
14 Rivers, found him, so.

15 Q Sure. You actually reviewed an email that she sent you, right?

16 A Right, right.

17 Q That email actually had a picture of his truck which had his
18 phone number on it, right?

19 A Correct.

20 MR. VILLANI: Objection as to whether or not that was his
21 truck. I don't think that's been -- that's been a proved.

22 BY MR. WESTBROOK:

23 MR. WESTBROOK: Okay you got a picture --

24 THE COURT: All right.

25 MR. WESTBROOK: -- that the person sending this email

1 purported to be Mr. Inzunza's truck, correct?

2 MR. VILLANI: That's an objection as well, misstates the
3 evidence.

4 MR. WESTBROOK: I could get the exhibit out, I guess, if he
5 really wants to object.

6 THE COURT: Well, I'm looking at this --

7 MR. WESTBROOK: I mean, he just testified to receiving it,
8 so --

9 THE COURT: -- and I'm looking at the police report, the crime
10 report. Is this his?

11 MR. WESTBROOK: The last three pages of it.

12 THE COURT: Right.

13 MR. WESTBROOK: And my copy's really bad, it was just a
14 black and white photocopy.

15 THE COURT: All right. Overruled, go ahead.

16 MR. WESTBROOK: Okay.

17 BY MR. WESTBROOK:

18 Q So you got a picture of a truck with a phone number on it,
19 right?

20 A Correct.

21 Q You never called that phone number did you?

22 A I can't recall if I did or not.

23 Q Okay. When you are doing an investigation you keep records,
24 right?

25 A We do, yes.

1 Q Okay. Written records?

2 A Correct, yes.

3 Q You keep detective notes, right?

4 A We do.

5 Q Okay.

6 A Well, until the case is submitted and then we destroy

7 everything --

8 Q Really? You destroy --

9 A -- other than the case file.

10 Q -- the records. Did you destroy records in this case?

11 A Well, we -- case notes

12 Q You destroyed your case notes in this case?

13 A Correct.

14 Q So you had case notes detailing your investigation, but you
15 consciously destroyed them?

16 A Yes.

17 Q Okay. How did you destroy them?

18 A Just shred them. We have a shredder pile.

19 Q Okay. So they were just written notes?

20 A Just written notes.

21 Q Were they ever in a computer anywhere?

22 A No.

23 MR. WESTBROOK: Your Honor, may I approach the
24 witness?

25 THE COURT: Yes.

1 MR. WESTBROOK: I only have one copy of this, but it was in
2 your discovery that you turned over.

3 MR. VILLANI: Okay.

4 MR. WESTBROOK: Your Honor, I'm going to mark this as
5 Exhibit B if I could and then --

6 THE COURT: All right.

7 MR. WESTBROOK: -- see if I can authenticate it.

8 THE CLERK: Doing two jobs.

9 BY MR. WESTBROOK:

10 Q Officer, do you recognize this?

11 A To be -- I don't recognize it, but it could have been --

12 Q What's that number on the top right?

13 A That's our case number.

14 Q Okay. Does this appear to be something from this case?

15 A Yes.

16 Q Have you ever seen these notes before?

17 A I can't remember. It's been almost four years.

18 Q Okay. Do you have your case file with you?

19 A I don't, no.

20 Q Did you review your case file in preparation for this case?

21 A Just read the report.

22 Q Okay. Go ahead and read those over and I want to ask you a
23 few questions about them.

24 A Okay.

25 Q Okay. You said the case number on this is for this case,

1 right?

2 A It is, yes.

3 Q You're the lead detective in this case, right?

4 A Yes, I am.

5 Q If something is in your office and it has this case number on it
6 you have access to it, right?

7 A I do, yes.

8 Q Okay. You haven't reviewed your file is that right, in this case
9 today, is that right?

10 A Not my file, no.

11 Q Okay. What did you review in preparation for this day?

12 A Just my report.

13 Q The arrest report that was issued?

14 A The submission, yes.

15 Q Okay. Was there anything about -- was this document any
16 part of that report that you reviewed?

17 A Just parts of my communication with the mother after the
18 forensic interview of the child.

19 Q Okay.

20 A Like the dates on when they were -- when they lived at
21 Webster and stuff like that, so.

22 Q When you say mother, you mean the mother of the alleged
23 victim in the case?

24 A Correct.

25 Q You're not talking about my client's mom?

1 A No, no, sorry.

2 Q You never called my client's mom, right?

3 A No.

4 THE COURT RECORDER: Mr. Westbrook, do mind if -- that's
5 on, but --

6 MR. WESTBROOK: Absolutely, I'll go over here.

7 THE COURT RECORDER: Thank you.

8 BY MR. WESTBROOK:

9 Q So, this says; moved to Pahrump, May 2003. Rego [phonetic]
10 was neighbor in Pahrump, from March 2004 to January 2005. Would
11 this be part of your investigation of the case in looking for, you know,
12 looking into the background information of the suspect?

13 A I just got that from the mother of the victim. I wouldn't have
14 checked to just make sure that there was anything like verification of the
15 address in Pahrump. I would have never --

16 Q I see, so this is information that you got from the mother of the
17 victim?

18 A Correct.

19 Q So these are your notes?

20 A You know what; they look like what is written in my reports. I
21 don't remember physically writing that, but it has our case number and
22 it's something that is coincides with my reports, so --

23 Q Okay.

24 A -- yes. But I don't remember writing that; it's been so long.

25 Q Okay, so why you don't remember this document? Do the

1 notes written in here accurately reflect the notes that you took as part of
2 your investigation to build your report?

3 A Yes.

4 Q Okay. I'd like to submit this as Defense Exhibit B, Detective's
5 notes.

6 THE COURT: May I see it.

7 MR. WESTBROOK: Yes, Your Honor, I'm sorry that's my only
8 copy. I wasn't expecting to need it.

9 MR. VILLANI: May I have voir dire on that document, Your
10 Honor?

11 THE COURT: Yes. Yes, I'm -- I don't -- I'm not sure that
12 characterizing it as Detective's notes is probably accurate given what is
13 stated in the report.

14 MR. VILLANI: May I, Your Honor?

15 THE COURT: You may.

16 MR. VILLANI: Thank you.

17 **VOIR DIRE REGARDING DETECTIVE'S NOTES**

18 BY MR. VILLANI:

19 Q Is it possible the mom provided this typed document to you?

20 A It is absolutely possible.

21 Q Okay. So these aren't necessarily your notes? When you
22 take notes with a case, the ones that you were talking about that you
23 shred, are those handwritten or are they typed?

24 A Those are handwritten.

25 Q Okay. So this is not consistent, this document Defense B is

1 not consistent with the notes you generally take in your cases?

2 A Correct. I've never done a screen like a shot, like a Word
3 document like that, --

4 Q Okay.

5 A -- never before.

6 Q Okay. So the hand written notes you take that you then
7 incorporate into your report before shredding them, those are
8 handwritten?

9 A Those are hand written, yes.

10 MR. VILLANI: Okay. I don't object to the submission. I object
11 to the submission as Detective notes.

12 THE COURT: All right.

13 **VOIR DIRE REGARDING DETECTIVE NOTES BY THE COURT**
14 **BY THE COURT:**

15 Q I want to ask a question. So I'm looking at your report. You
16 reviewed it before you came to testify?

17 A Yes, ma'am.

18 Q Okay, the document that's just attached as to the motion.

19 MR. WESTBROOK: Thank you, Your Honor.

20 **BY THE COURT:**

21 Q Okay. And it says, crime report: page 5, on the one, two, third
22 paragraph down, it says, Elisabeth also gave me a copy of dates and
23 places where they have lived.

24 A Okay.

25 Q Does that refresh your recollection about what she gave you?

1 A It does not. I don't remember exactly what it was that she
2 gave me. I wish I could remember exactly what that piece of paper was,
3 if it even was a piece of paper, an email or something, I don't remember.

4 Usually when I write my reports I go off of the interview that I
5 did. That I conducted that was recorded after the forensic interview.
6 That could have been something that I got from her after, I don't
7 remember ever receiving that. Unfortunately, I'm sorry it's been -- too
8 many time has passed or too many cases in between.

9 Q Okay. So you don't have a present recollection of what you
10 did in the investigation. But when -- did you -- when you wrote this
11 report did you do it close in time to when you met with the mother of the
12 alleged victim whose first name is apparently Elisabeth?

13 A Yes, I did.

14 Q Did you do that?

15 A So the report that's written is from the notes and the recorded
16 statement that I got from her the same day that we did the forensic
17 interview at the CAC.

18 Q Okay.

19 A I wouldn't have gone off of those notes. I would imagine I
20 would not have, because my report is reflected from the interviewed -- or
21 the recorded interview that I did with the mom after that.

22 Q Okay. Listen to my question.

23 A Okay.

24 Q That's all I'm asking. So your report date is November 18th,
25 2014, is that the date you did your report? That's what's noted here?

1 A I don't know exactly what day it was that I did it.

2 THE COURT: All right. I was trying to lay a foundation for --

3 MR. WESTBROOK: Sorry.

4 THE COURT: -- past recollection recorded, but I'm not getting
5 there, because he's --

6 MR. WESTBROOK: Thank you, Your Honor.

7 THE COURT: We can admit this, but --

8 MR. WESTBROOK: I'd like to admit it just as an Exhibit of
9 what may or may not be Detective notes.

10 MR. VILLANI: No, I --

11 THE COURT: I'm not going to admit it as detective notes,
12 because I think it's pretty clear that he's indicated he doesn't ever do
13 typed notes. Basically, the -- all the evidence I do have I would draw the
14 reasonable inference that it's the copy that she gave him based upon his
15 testimony that he never types up his notes, so. You can admit it, --

16 **[DEFENSE EXHIBIT B - ADMITTED]**

17 MR. WESTBROOK: Thank you, Your Honor.

18 THE COURT: -- but that's how -- give it the weight.

19 MR. WESTBROOK: Well maybe we'll get to the bottom of it
20 someday.

21 THE COURT: Okay.

22 **CROSS-EXAMINATION CONTINUED**

23 BY MR. WESTBROOK:

24 Q Not everything you write in your report, I'm sorry excuse me,
25 let me rephrase that. Not everything that you put in your notes makes it

1 into the final report, right?

2 A Yes.

3 Q Okay.

4 A Ultimately, yes.

5 Q So once you shred your notes all that stuff is gone forever,
6 right?

7 A Well we have recorded forensic interview and the interview
8 with the mom, but yes.

9 Q The contents of your notes is gone forever once you shred it?

10 A Correct, yes.

11 Q And you shred your notes in every case?

12 A Yes, I do.

13 THE COURT: Okay, let's -- that's not the scope of this here.

14 MR. WESTBROOK: That's all I had, Your Honor.

15 THE COURT: Okay.

16 MR. WESTBROOK: That's all I had on that.

17 MR. VILLANI: Also can I get a clarification. The question was
18 kind of worded in a negative, the answer was yes. So the question was,
19 do you incorporate into your report everything that's in your notes or you
20 don't? The way it was phrased can I just get an answer to that
21 question? Because I'm unclear as to what the answer was.

22 THE COURT: Well you're getting back on redirect. Why don't
23 you do that?

24 MR. VILLANI: Okay, that's fine.

25 MR. WESTBROOK: I can just ask it real quick.

1 BY MR. WESTBROOK:

2 Q You don't put everything that's in your written notes into the
3 report, right?

4 A I'm sorry, yes I do. Yes.

5 Q You put every single word that's in your notes, the written
6 notes, into the report?

7 A Not verbatim, but yes. I summarize it, yes.

8 Q But not verbatim?

9 A No.

10 Q You summarize?

11 A Not verbatim.

12 Q Okay. So you don't put every single word that's in the written
13 notes into the report, do you?

14 A Okay, then no.

15 Q Okay. You said you investigated Darrington Rivers at this
16 same time, right?

17 A Yes, give or take weeks or months.

18 Q Okay. And that case would be under a separate event
19 number, because it was a different defendant, right?

20 A Correct.

21 Q There'd be a separate file for that case, is that right?

22 A Yes.

23 Q Let's see here. You testified that when you request -- you do
24 your affidavit to request an arrest warrant. And then it can take a couple
25 of weeks for the DAs to process it; maybe a week for the Judge to sign

1 it; maybe two, three weeks for it to eventually the warrant to be issued
2 and to get back to the Records Department at your office, right?

3 A Correct. I don't know the exact time, but it takes weeks.

4 Q Okay. Well in this case you made your request by affidavit on
5 the 19th of November, 2014, is that right?

6 A That's correct.

7 Q Okay. And the criminal Complaint was issued on December
8 3rd, 2014, right?

9 A That's correct.

10 Q So a couple of weeks, not many weeks, right?

11 A They're all different. I don't know how long it takes.

12 Q Okay. And you're comfortable not knowing how long it takes,
13 right?

14 A Yes. I -- there's I don't have any other answer for yes.

15 Q Okay.

16 A There's nothing else that I can do.

17 Q You said you exhausted leads, but you can't say what leads
18 you exhausted in trying to find Mr. Inzunza, correct?

19 A Correct. I can't remember exactly what I did.

20 Q Was one of those leads ever opening up Facebook?

21 A I'm sure, yes.

22 Q Do you think you opened up Facebook, great?

23 MR. WESTBROOK: This is currently marked as Defense
24 Exhibit A, Your Honor, but to avoid confusion that the Exhibit A that's, --

25 THE RECORDER: You can't speak over here.

1 MR. WESTBROOK: -- sorry. To avoid confusion with the
2 Exhibit A that is associated with the motion, should we remark it as C?

3 THE COURT: I don't think that's --

4 MR. WESTBROOK: We're okay? Yeah.

5 THE COURT: -- necessary. Yes it will be --

6 MR. WESTBROOK: Okay, just checking. May I approach?

7 THE COURT: -- exhibit to the hearing.

8 MR. VILLANI: Can I see that, please?

9 MR. WESTBROOK: I'm going to give you a copy. Your
10 Honor, here's a courtesy copy.

11 THE COURT: Thank you.

12 BY MR. WESTBROOK:

13 Q I'm holding what is marked as Defense proposed Exhibit A.

14 A Okay.

15 Q Do you recognize that?

16 A Yes.

17 Q What is it?

18 A It's a Facebook profile.

19 Q Anyone's particular Facebook page?

20 A Rigoberto Inzunza's.

21 Q Okay. And is it your testimony here today that you checked
22 this Facebook page and still couldn't find Mr. Inzunza?

23 A It's social media. I'm a 13 -- I have a persona of a 13 year old
24 girl right now on Facebook. So I don't really rely too much on social
25 media information, so, but yes.

1 Q Okay, so your testimony here --

2 A I looked at it, but I may not followed to the T exactly what it
3 says to locate people.

4 Q Okay, so your testimony here today is that you checked
5 Facebook to look for Mr. Inzunza and with the information on Facebook
6 you couldn't find him? Is that your testimony here today?

7 A Yes, with the information from Facebook, I did not find him.

8 Q Okay. Let's turn to the second page of this document? Here I
9 can unclip it for you.

10 A Sorry.

11 Q Do you see what's in the middle of the page there?

12 A Yes, I do.

13 Q Okay, what is it?

14 A It's a Pindrop of him being -- well of him saying that he's at this
15 location.

16 Q Well it's not him saying, right? It's an automatic thing. It's
17 GPS had tracked him to that location, right?

18 A If he's behind the phone or the devise that's doing it, then yes.

19 Q So presuming he has his phone with him, his Facebook page
20 is saying that on this exact date and time, which happens to be in this
21 point, June 20th, 2016, right?

22 A Correct.

23 Q Okay. You could have found him at the Azteca Restaurant in
24 Belmar, New Jersey, right?

25 A There's no way, unless you check the EXIF data on the photo,

1 but Facebook always strips the EXIF data so there's really no way of
2 knowing exactly where he was.

3 Q You mean, you couldn't have called the restaurant?

4 A I could have.

5 Q Yeah. Next page please. Do you recognize the other --

6 A Another Pindrop?

7 Q Another Pindrop?

8 A Mm-hmm.

9 Q See that's also Azteca. Sorry I'm going to give you this one.

10 A No, that's okay.

11 Q Also another Pindrop, right?

12 A Yes.

13 Q This one Ocean County Park, correct?

14 A Correct.

15 Q All right. Next page, another Pindrop this one Sea Girt Beach,
16 New Jersey, right?

17 A Correct.

18 Q Okay, so not only is he on Facebook with all of his
19 associations, his friends, etcetera listed, but he's also got, you would
20 agree GPS active so that his phone checks in automatically when he
21 goes places, right?

22 A A devise, yes.

23 Q A devise does?

24 A A devise does, yes.

25 Q Did you call any friends on his friends list?

1 A No.

2 Q Did you try to friend Mr. Inzunza and send him a message?

3 A No.

4 Q This is an open profile so you have no problem getting into it.

5 Did you leave a message on his wall? There's a warrant for your arrest,

6 please call me.

7 A At the time there wasn't a warrant for his arrest.

8 Q Okay. Two and a half weeks later there was. Two and a half

9 weeks later did you go into Facebook and leave a little message on his

10 wall?

11 A I did not.

12 Q No? Did you ever call his mom, Rafaela DeGoldsmith?

13 A I can't recall if I did or not?

14 Q Okay. Do you have any records of making these phone calls?

15 A I wouldn't have any records, no.

16 Q Okay.

17 A Unless it goes through the police department phone, but --

18 Q Are all the records that you have, have they been produced to

19 the State?

20 A Yes.

21 Q Every record in your file's been produced to the State?

22 A Yes.

23 Q Does that include computer records?

24 A No. I -- probably not.

25 Q Okay. So there's computer records that haven't been

1 produced, fair to say?

2 A Are you meaning like IP address --

3 Q I'm talking records.

4 A -- everything on the computers?

5 Q Yes.

6 A It's never been done, in my tenure. I don't know if anybody,
7 but no.

8 Q Okay.

9 A No computer records of my personal computer or my
10 computer through work has been sent to the District Attorney, no.

11 Q Okay. And the records that are housed digitally on the work
12 system have then -- have they been sent to the District Attorney?

13 A Other than the reports, no.

14 Q Okay. Do you recall calling Guadalupe Lopez DeHughes, his
15 sister?

16 A I don't recall. The only information that I tried was everything
17 from the victim's mother. I don't know. I can't recall if there was a
18 phone number. I wouldn't document the stuff after the fact if I'm trying to
19 locate him during the time that I was trying to also locate Darrington. I
20 didn't document -- I wouldn't document every phone call that I had made
21 to try to find him. It's -- I just don't do that.

22 Q Okay.

23 A I don't have time to do it.

24 Q So it's your testimony that you did everything based on the
25 information you got from the victim and her mother?

1 A Correct.

2 Q Okay. You testified earlier that you didn't call the phone
3 number on the side of the truck of which you received a picture though,
4 right?

5 A From Facebook, no.

6 Q Okay. So you didn't do everything, that's wrong? You could
7 have called that number; you didn't do it, right?

8 A Okay, yes.

9 Q Just tell me if you remember these names, I assume the
10 answers going to be no, but I want to just check. Kayla Hughes, his
11 niece. Did you ever call her?

12 A No.

13 Q Melissa Collaso, friend for over 20 years. Did you ever
14 contact her?

15 A No.

16 Q Did you ever contact James Blomgren, brother-in-law and
17 friend for 46 years?

18 A No.

19 Q Did you ever contact Maria Guadalupe Bortolotti, cousin?

20 A It wasn't given to me, so no.

21 Q Okay. Emmanuel Nicholas Vosdoganis, did you ever contact
22 his nephew?

23 THE COURT: Mr. Westbrook, I'm not sure, -- I mean, he's
24 pretty much said he didn't do anything.

25 MR. WESTBROOK: I'm just checking, Your Honor, because

1 this could allow me to not call a bunch of witnesses. So if I could just get
2 to the last two names I'll be done.

3 THE COURT: Did you call anybody, any friends or associates
4 of the Defendant that who was the suspect in your case?

5 THE WITNESS: No, ma'am, there was very limited
6 information that I got from the mother and the victim, so.

7 MR. WESTBROOK: All right. I think I might pass the witness.
8 Just give me one second, Your Honor.

9 BY MR. WESTBROOK:

10 Q Prior to the preparation for this hearing did you have any direct
11 contact with the State, Mr. Villani, specifically?

12 A Yes.

13 Q Okay. Was that involving, you know, providing discovery or
14 was it about something else?

15 A It was about providing discovery, yes.

16 MR. WESTBROOK: Okay. I'll pass the witness.

17 THE COURT: Cross -- or I mean redirect?

18 MR. VILLANI: Thank you, Your Honor, just a few.

19 **REDIRECT EXAMINATION**

20 BY MR. VILLANI:

21 Q Mr. Westbrook was asking you if you provide a computer
22 records to our office, and your answer was, other than the reports, no.
23 What other computer records exist that aren't being provided or what
24 were you thinking of when you were answering that?

25 A The only thing I'm thinking of is downloading my entire

1 computer and giving it to you that has contents of everything that I've
2 done within that timeframe. No I have not. The only other thing that I
3 have is just the reports that I've generated on the computer, the work
4 computer.

5 Q Okay. So we're not talking about notes being kept, stuff that
6 would be germane to the case? What you're talking about is the digital
7 file itself basically showing all the steps you've taken within your
8 computer, or what are you talking about?

9 A So I don't -- it's rare that we keep track of our daily basis, if
10 you will, like what we do on a case. We might write like an update after
11 30 days that's -- I don't typically do that because I try to get my reports
12 done in a timely manner. It doesn't always happen, because due to
13 caseload or whatever is going on in my personal life, or whatever. But
14 as far as any kind of digital evidence it's just the reports that are
15 generated. There is nothing else.

16 When he was -- I took it as everything that's going to be in my
17 computer did I give it over to the -- I'm sorry the District Attorney and I
18 did not.

19 Q Okay.

20 A But it's -- I -- we don't ever do that, so.

21 Q Mr. Westbrook asked, he referenced the leads exhausted, you
22 know, you exhausted all your local leads. Now I know you don't
23 remember exactly what you did from your testimony with this particular
24 case. What do you generally do when you're looking for a defendant?
25 Do you have particular steps you take in every case or does it vary case

1 by case? Can you --

2 MR. WESTBROOK: Objection, relevance, Your Honor.

3 The -- what's important here is what he did in this case and he can't
4 recall a single thing.

5 THE COURT: Sorry, are you trying to lay a foundation for
6 habit or something?

7 MR. VILLANI: Yes, that's -- and I'm just trying to -- if he can't
8 remember what he did in this particular case, understandable it's so long
9 ago. I'm wondering if he has a pattern and practice of what he does in
10 every case that could give us some information as to how he tries to
11 seek out defendants.

12 THE COURT: Well I'd like to know. So in every case once --
13 if the case is submitted to the District Attorney's Office, you're done?
14 You don't do anything more unless they call you, is that it?

15 THE WITNESS: That's correct, yes.

16 THE COURT: Okay.

17 MR. VILLANI: That's fine.

18 BY MR. VILLANI:

19 Q Now Mr. Westbrook said you feel it's not a problem for a case
20 to languish two to three years and your answer was, yes. Why don't you
21 feel that's a problem?

22 A If I had control over it then I would be, I would have a problem.
23 But I don't have control. I don't know what people's actions are if they
24 leave the State, if they leave the country, if they never come back. I
25 don't know. All I know is that I believe that there is probable cause to

1 exist to submit the cases to the District Attorney's Office for prosecutorial
2 review. If there was then they issued the arrest warrant and then from
3 there we -- we're never notified. We're in hopes that NCIC does what it
4 is entailed to do. But if I had further control or if I had a five case
5 caseload and I can follow-up at a later date with these, then yes. I have
6 a problem with it, but unfortunately I can't -- there's -- it's out of my
7 control.

8 Q Does it benefit you at all as an SVU Detective to allow a
9 suspect to languish out of custody without being arrested on a warrant?

10 A It does not benefit me, no -- it, no.

11 MR. VILLANI: Okay. That's all I have, Your Honor.

12 MR. WESTBROOK: I just -- brief follow-up, Your Honor.

13 **RECROSS EXAMINATION**

14 BY MR. WESTBROOK:

15 Q You have a very large caseload, right?

16 A Yes.

17 Q Puts a lot of pressure on you, doesn't it?

18 A Yes.

19 Q Okay. I understand and emphasize. When someone
20 languishes out of your state 2, 3 years and the case doesn't go forward
21 that's less work for you, right?

22 A For me personally, the work is done. I've submitted my case
23 to the District Attorney in hopes that they issue the arrest warrant. If
24 they do then out-of-sight, out-of-mind for me, so.

25 Q Sure. If they arrest him and he comes back then that's more

1 work for you, right?

2 A Well it's just court appearances. It's not work; it's not tedious
3 work.

4 Q But if he stays gone forever then you don't do anymore work
5 on the case. It's out of sight out of mind, right?

6 A Well, yes.

7 Q You said if I had control over it, it would concern me. You
8 could have checked with the Records Department just a few weeks after
9 you submitted your affidavit, right?

10 A Yes, but we never do. I never do.

11 Q You never do, but you would have control over that. You
12 could do it if you wanted too, right?

13 A I could, yes.

14 MR. WESTBROOK: Nothing further.

15 MR. VILLANI: Just one, Your Honor.

16 **FURTHER REDIRECT EXAMINATION**

17 BY MR. VILLANI:

18 Q Why don't you check with the Records Department?

19 A After we submit the case to the District Attorney's Office it
20 goes into a file and it goes into a file cabinet. In there we're hoping that
21 that arrest warrant is issued. And then after that we're hoping that NCIC
22 in another jurisdiction would hopefully pick him up, if not ours. So this is
23 just in hopes that he is located. I wish there was more we could do. I
24 just --

25 **QUESTIONS BY THE COURT**

1 BY THE COURT:

2 Q Do you ever like contact the jurisdiction -- if you have
3 information on a suspect and you do Special Victims, so you're talking
4 about sexual assault victims?

5 A Yes.

6 Q And what's the penalty for -- if somebody's convicted of sexual
7 assault?

8 A It varies, but it's huge. It's very large.

9 Q Life?

10 A Life, yes.

11 Q Life with the possibility, okay. So you ever -- you've been
12 given information in this case. You were given information that this
13 Defendant resided in the State of New Jersey, specifically had a
14 business. The name of the business, the phone number on the trailer
15 and landscaping, you know, the truck. Did you think, maybe I could call
16 the jurisdiction, New Jersey, a tiny state?

17 A Sure, yes. So at that point when I submit the case the arrest
18 warrant is not issued, so if it takes a month or two to be issued, and
19 we're never notified and it's out-of-sight out-of-mind. I understand if it's
20 a high profile case maybe I've called a jurisdiction or two in my past ten
21 years of being there, but this is a -- I hate to say it but a common sexual
22 assault. We deal with this a lot. So much so, to where it's just common
23 practice for us to submit the case, and hopes that a warrant's issued.

24 If something were to arise and it was brought back to our
25 attention then I could have, but at that time we -- there wasn't an issued

1 warrant, so I don't know. I could call the jurisdiction and say can you
2 find out if this person's there. However, there's nothing to do when you
3 do because there's no issued warrant yet. And that doesn't happen for
4 sometimes it's, you know, it took three weeks here, I guess, on this
5 case. But depending on the caseload for screening and the Judge that
6 signs it, and then putting it into NCIC it could take a month or so. We
7 just don't have the time. I wish we had more time to deal with it.

8 That's why we rely on the Problem Solving Unit to try to find
9 local. They could have even done some checks to see if he was local.
10 If they -- if he was go by a house, go by a residence, you know, call
11 some numbers to try to locate him. But we're in hopes of that NCIC hit
12 as being the go to, hopefully to get this person into custody. But --

13 Q Okay, but do you --

14 A -- to answer your question, I did not.

15 Q -- do you understand that under our constitution there's a right
16 to speedy trial?

17 A Yes.

18 Q And that that starts to attach as soon as an arrest warrant has
19 -- a Complaint a charging document has been filed.

20 A Yes.

21 Q And you knew that? And did you know that you're potentially
22 then by not following up jeopardizing the Defendant's right to a speedy
23 trial?

24 A If I know where he is, I guess, but I don't know exactly -- what
25 I have is Facebook. I don't really rely on information from Facebook. I

1 could, but I -- in this case and in other cases I haven't. I've submitted
2 several cases to the District Attorney's Office, we've -- for prosecutorial
3 review and I've had several cases that have gone into arrest warrant.
4 It's just not common practice for us to follow-up. We just -- I wish we
5 had the time to do it.

6 Q So essentially if you live in North Las Vegas and you happen
7 to be a victim of very serious crime, too bad. They're never going to
8 catch the defendant the suspect or the case could get dismissed.
9 Because you never follow-up, is that basically it?

10 A Hopefully with NCIC and our PSU unit hopefully they get --
11 they get arrested.

12 Q Okay. So you're still not understanding about this right to
13 speedy trial thing, the Sixth Amendment?

14 A Okay.

15 Q So did you go through the academy?

16 A Yes.

17 Q Okay. Okay. Did they talk to you about the -- how long have
18 you been a Detective?

19 A Almost ten years.

20 Q Okay. So the case law regarding right to speedy trial *Barker*
21 *versus Wingo*, the *Doggett* case for that matter, has all been Black Letter
22 Law since you've been a Detective. You don't remember anything about
23 that? How about -- how you need to try and follow those leads so that at
24 least you're telling the Defendant: Hey we want you. You've committed
25 a crime, you need to come in and talk to us. Try and locate him,

1 because otherwise you're jeopardizing the case. You don't know
2 anything about that?

3 A I do know that, yes. I just -- I --

4 Q You do know that, okay?

5 A -- we just -- I wish we had the time to do it.

6 Q Okay, so you intentionally just left it because you figured well if
7 we ever pick him up, well that will be good enough?

8 A I don't intentionally do that, ma'am, no. I just -- it's with the
9 caseload that we have we just hope that he gets picked up in a timely
10 manner. I never intentionally, not do something, against the Sixth
11 Amendment, no ma'am.

12 Q Okay. Sorry, questions as a result of my questions?

13 MR. WESTBROOK: Just one thing, Your Honor.

14 You don't need an arrest warrant to interview a suspect do
15 you?

16 THE WITNESS: No.

17 MR. WESTBROOK: Nothing further.

18 THE COURT: Any questions as a result?

19 MR. VILLANI: No, Your Honor.

20 THE COURT: Thank you, for your testimony.

21 THE WITNESS: Thank you.

22 THE COURT: And that was the only witness you had to call?

23 MR. VILLANI: Yes, Your Honor.

24 THE COURT: Mr. Westbrook, is there --

25 MR. WESTBROOK: Your Honor, in the interest of time I

1 actually have seven witnesses outside who will all testify that they were
2 never contacted by law enforcement. But I think that the Court could
3 probably find that based on the Officer's testimony. I do have it in a
4 declaration. Would the Court accept a declaration in lieu of the live
5 testimony; it'll save us some time?

6 THE COURT: I don't know.

7 MR. VILLANI: I mean, well he testified that he didn't -- I don't
8 think that we need a declaration admitted. But he testified that he never
9 contacted these people. He never had any information regarding these
10 people, so I'm fine with that stipulation. He never contacted the seven
11 witnesses Mr. Westbrook has outside.

12 MR. WESTBROOK: I just wanted to show the declaration,
13 because it shows that among other things despite my caseload I went
14 and called people. I think that's sort of an important point, but also it
15 specifically names people that this officer or any officer could have easily
16 gotten my client's information from. It puts their names in; they wanted
17 to put their name on it. They all showed up today to testify despite the
18 fact that it's the middle of a workday. A lot of people had to take time off.
19 I don't think we need them to come in here if we do the declaration, but if
20 not, I guess I need to put them on.

21 THE COURT: Well I don't think we need them to come in. I
22 don't know that, you know, what the declaration says, because counsel's
23 just offered to stipulate that none of these witnesses were called by the
24 Detective.

25 MR. WESTBROOK: And that's all the declaration says. I'd

1 just like to submit it for filing.

2 THE COURT: But this is your declaration?

3 MR. WESTBROOK: It's my declaration of all the people that
4 were spoken to and how they would have testified coming in here today.
5 I prepared that just in case we got to this point to speed things up.

6 THE COURT: This is just one and I have two copies. Is
7 that --

8 MR. WESTBROOK: Yeah, one of them was courtesy copy.

9 THE COURT: All right, so let's see. All right, do you have any
10 objection to him filing this declaration?

11 MR. VILLANI: I do, Your Honor. I don't see its relevance.
12 The testimony was, he was getting all the information regarding this
13 case from the victim's mother. There's nothing in this declaration that
14 indicates the victim's mother was familiar with any of the people on this
15 list or their information regarding where these people lived.

16 I mean, I think it's great Mr. Westbrook went out and
17 contacted these people, but I don't know -- he had access to his client,
18 which is something the Detective was obviously lacking in this case. So
19 I don't see the relevance of admitting this declaration basically saying
20 none of these people were contacted, because it doesn't fit at all with the
21 testimony that was just presented.

22 THE COURT: Well, you know, I agree with that, I mean, that's
23 -- it's fine that you contacted these people. I don't --

24 MR. WESTBROOK: The issue is due diligence, Your Honor.

25 THE COURT: Correct and --

1 MR. WESTBROOK: And --

2 THE COURT: -- the Detective --

3 MR. WESTBROOK: -- had none.

4 THE COURT: That your due diligence is not at issue.

5 MR. WESTBROOK: Yeah.

6 THE COURT: Okay. So I stipulate that you've been diligent
7 in contacting friends and relatives of the Defendant, but --

8 MR. WESTBROOK: And --

9 THE COURT: -- my question here was what if anything the
10 Defendant did after the Complaint was filed or frankly before the
11 Complaint was filed. Because I was hoping that there might be, you
12 know, some additional information gleamed from him or any other
13 witness. Because remember, I was pretty specific what I wanted to
14 know. I wanted to know what steps they took to track the Defendant
15 down and find him, particularly after the warrant was issued and whether
16 or not the Defendant was aware of the charges against him. And I think
17 I said at that particular time, you know: Did the ex-wife or however she
18 was related to him, the mother of the child, --

19 MR. VILLANI: Right.

20 THE COURT: -- you know. Did she potentially call him and
21 say: You know, I called the police and they're looking for you and they're
22 -- that testimony I haven't had either.

23 So all I've had is the Detective to say he didn't do anything.
24 And that's his practice and they don't have the ability to do anything.
25 They don't bother following up, the Detectives don't. The police

1 department knew there was a warrant. There was a Complaint that had
2 issued, but nothing was done because they just figured it's good enough
3 if sometime in the distant future they're picked up on the warrant. So --

4 MR. VILLANI: But -- and I'm not looking to argue with Court's
5 points at all. I just, I think it's a little unfair to say he did nothing. We
6 were dealing with two Defendants in this case. One that was brought to
7 justice, plead guilty. The other one being out-of-state, I think the
8 testimony is basically been, it's a timing issue, right? So the pictures
9 that the Court has were submitted with the case. Meaning they were
10 submitted to our office with the case. His testimony was pattern and
11 practice, not his, of the department, is you submit it to the DA's office. It
12 goes into a file and you wait to hear what happens.

13 So in this case, criminal Complaint was filed, arrest warrant
14 was issued. His testimony is he wouldn't of heard of any of that, so file
15 still sits in the drawer. They rely obviously heavily on NCIC. They did
16 their due diligence in the Records Department putting it in NCIC.

17 Now could there be a better way they handled it? I don't
18 know, with caseloads, I don't know what goes on on their side. But what
19 he did do is make sure it was in NCIC and he was picked up because of
20 that NCIC entry. And he was arrested in another jurisdiction and
21 transported here.

22 Now it was 2, 2½ years later, but he was picked up and we're
23 still within the statute of limitations. Which I think is the ultimate guide --

24 THE COURT: Don't go there this -- the cases have already
25 said the statute of limitations has no bearing on this inquiry.

1 MR. VILLANI: But the --

2 THE COURT: And that a Court erred when it used that
3 argument.

4 MR. VILLANI: But the seminal case on this was 8½ years.
5 And we are at most at 2½ years. And like I said before, there was no
6 invocation of a speedy right. I mean, that is one of four elements that
7 has to fall our way on this test. Because although he said: Oh I'm
8 invoking my Federal --

9 THE COURT: Wait, wait, wait. Are you arguing that he knew
10 before his arrest?

11 MR. VILLANI: I don't know if he knew before his arrest. What
12 I'm saying is --

13 THE COURT: Okay, so is --

14 MR. VILLANI: -- when they --

15 THE COURT: -- counsel, you can't invoke a right to speedy
16 trial if he doesn't know he's wanted.

17 MR. VILLANI: No, I get that. I get that so he's here and then
18 the 60 day statutory right, the State right is waived. No, I'm fine with
19 that. And then we have two continuances and now we're here. And the
20 allegation is I'm not getting my speedy trial right. Well he had an
21 opportunity to have a trial within 60 days, despite being in the wind for
22 2½ years.

23 THE COURT: His argument isn't that. His argument is, well I
24 don't want to a put words in your mouth, but as I understand --

25 MR. WESTBROOK: When is --

1 THE COURT: -- the Defense argument is that it's the delay
2 from the issuance of the charging document, the Complaint in this case,
3 until his arrest that has violated his Sixth Amendment Right to speedy
4 trial, which he's stated. While he was willing to waive the setting within
5 the 60 days he was not willing to waive his right to speedy trial, because
6 he was planning on filing this motion. And that's why I said the Court is
7 only focusing on that first.

8 Because frankly I agree, that once he's in custody and we're
9 up -- we're moving a pace; and that continuance that were granted, were
10 granted at the Defendant's request. But that doesn't change the fact
11 that we've already gone past before he's ever placed into custody, we've
12 already gone past the triggering time period.

13 And yes in *Doggett*, it was 8½ years, but there the Court was
14 focusing on the fact that the State knew or the Government knew where
15 he was and didn't try and get him. They did some things, but they did try
16 and get him back. So it's a little bit of a different case. But we still have
17 some of the same facts. We have the fact that the Government
18 conceded in that case that he didn't know he was wanted. And that
19 appears to be the case here. He didn't -- there's no -- nothing to indicate
20 that he knew that he was wanted, because the Detective said he could
21 never get ahold of him. If he'd been able to get ahold of him and
22 interview him and he confessed, then justice would have been done in
23 North Las Vegas. But if you don't get that, then we get nothing.

24 MR. WESTBROOK: And, Your Honor, just to add to your
25 recitation of my point was exactly right with one exception. It extends

1 beyond his initial arrest date. Because as the State admitted in the last
2 hearing and in their opposition, the State was responsible for all
3 continuances except for the last one. Now we argue that that wasn't our
4 fault either, but set that aside. So we're talking about continuances up
5 until the February court date. The State has admitted responsibility for it
6 because of the discovery issue.

7 MR. VILLANI: And --

8 MR. WESTBROOK: So that's all. But again I know you're --
9 where you're focusing and I agree that it's important to focus there.

10 THE COURT: Because I disagree with your characterization
11 after, because you could have -- the Court would have given you a trial
12 within 60 days if you'd wanted that. And so that's to me -- that's a
13 different ball of wax.

14 MR. WESTBROOK: Okay.

15 THE COURT: But we still have this other delay.

16 MR. VILLANI: And so if I may address the factors then, the
17 four factors.

18 THE COURT: Okay, go ahead.

19 MR. VILLANI: Okay. So the first factor triggering factor, I
20 think we all agree. And the Courts basically you get close to a year and
21 it's triggered. And so what that triggers is the next three factors. The
22 second factor is your reason. What is the reason for the delay? Okay I
23 think it's -- neither side can argue that part of the reason for the delay is
24 the fact that the Defendant was not in our jurisdiction. He was outside of
25 our jurisdiction.

1 Now could the -- could North Las Vegas have done more to
2 get him, yes? Do I think it's purposeful that they didn't? Do I think that
3 that they sat on their hands just because it somehow benefits them or
4 somehow gives them less of a workload? No I don't believe that at all.
5 But the fact of the matter is from the State's perspective the reason is is
6 because he was in New Jersey. Now whether he was fleeing or whether
7 hey, he just decided to pick-up and rebuild his life in New Jersey, fine.
8 But the reason being he was in New Jersey.

9 Now the next factor is, did he invoke his speedy trial right?
10 Which no, he did not. There's a State speedy trial right. There's a State
11 60 days. He stood up here and said: No I don't want my trial within 60
12 days.

13 Now we go to the last factor, which specific prejudice
14 articulated. What specific prejudice has he suffered due to the lapse of
15 time here? Because it appears Mr. Westbrook was able to track down
16 all these people who will be able to testify in his behalf. And so my
17 question is what specific prejudice has transpired beyond what was
18 already present with the late disclosure of the victim? So the victim
19 disclosed years after this abuse occurred. So he's already got some
20 prejudice there being that, well I would have to go back and find all of
21 these witnesses. Okay that's already existing. But what prejudice
22 beyond that has been -- has the Defendant suffered based upon the
23 delay in him being arrested for 2½ years? And so I think the factors
24 once we get into the *Doggett* and *Barker* the *Barker* test weigh in favor
25 of the State here. And that's my argument here, Your Honor.

1 I'm not saying that North Las Vegas did a perfect job here. I'm
2 not saying they did what they should. I'm saying if anything it's
3 attributable as to negligence and not as to gross negligence, certainly
4 not as the purposeful conduct. And I'm asking the Court to rely on that.
5 Because otherwise we're setting a precedent here where if we don't get
6 defendants into custody within 2 years and there's nothing even
7 indicating that had these leads been followed up on that he would have
8 been taken into custody. There's nothing indicating that it was credible.
9 That if they would have called that number it's credible that he was
10 employed there. There's nothing indicating that these locations on
11 Facebook, -- I mean, Mr. Westbrook said, well did you call the
12 restaurant. I'm guessing he would have been long gone from the
13 restaurant if that was even on there at the time Detective Hoyt looked at
14 Facebook.

15 So I'm submitting it on that, Your Honor. We believe that the
16 *Barker* and *Doggett* factors weigh in our favor.

17 THE COURT: Okay, well. All right, so --

18 MR. WESTBROOK: I think your hands are tied, Your Honor.
19 That's my only argument that I would make. And I think they were tied
20 by the Detective.

21 THE COURT: I just want to say that it's -- I'm not setting the
22 precedence. The Supreme Court has set the precedent. Now that
23 maybe much to the sorrow, and over the dissent, the imminent dissent of
24 Justice Douglas, -- a Justice Thomas, but nonetheless the precedent is
25 there. And it's been followed throughout many decisions, including our

1 own Supreme Court has cited to *Doggett*.

2 And so when you say that I -- if I dismiss the case or I make --
3 that I would be setting a precedent, and I have to go through an
4 analysis. At this point frankly I don't, you know, I'll let Mr. Westbrook,
5 you can argue whether you think there's any indication of an intentional
6 attempt to delay to hamper the Defense, I don't think so. I think it's --

7 MR. WESTBROOK: There doesn't have to be. That's my
8 argument.

9 THE COURT: I know. There doesn't have to be.

10 MR. WESTBROOK: But also I think there, I --

11 THE COURT: I think it's -- I find that it's gross negligence on
12 the part of North Las Vegas.

13 MR. WESTBROOK: Sure. And --

14 THE COURT: -- Police Department, which is --

15 MR. WESTBROOK: And I would argue a step --

16 THE COURT: -- is the State.

17 MR. WESTBROOK: And I would argue a step further. I'm
18 sorry to interrupt, my bad.

19 THE COURT: Okay. Well so then we have to go to the next
20 part of the analysis. So once you're finding that it's over what is the
21 common delay, which they've -- now the Courts have said like the year
22 mark. And then I've got -- I found one case where it said, well it's more
23 like 20 months maybe. Then you have to presume prejudice. There's a
24 -- yeah, there's a -- that's what your missing here.

25 MR. VILLANI: Well was it -- that --

1 THE COURT: And that's in *Barker versus Wingo*, that --

2 MR. VILLANI: But *Middleton* addresses that from our
3 Supreme Court, Your Honor, the presumptive prejudice. And so the 2½
4 years isn't enough for that presumptive prejudice.

5 MR. WESTBROOK: In a case where the defendant was
6 responsible, not this case.

7 MR. VILLANI: Well --

8 THE COURT: So where there is -- there's no indication that
9 he had -- was on any notice. Yes, it's true that he has a responsibility to
10 assert his right. But if he didn't have any notice of it, then he can't assert
11 his right if he doesn't have a notice of it. And so again, I'm focusing not
12 on the time period after he was taken into custody. I'm focusing on this
13 gap of 2 years, over 2 years, 2 years 2 months if I calculated correctly.
14 And then there's a presumption of prejudice to the Defendant that can
15 be rebutted by the State.

16 And I found one case where the Court had said: No, he wasn't
17 deprived, you know, there was no prejudice and that there was a
18 reversal by the Ninth Circuit. And so, yes -- that's -- it was not a
19 published decision. But what I'm relying on was their speaking of
20 saying: Okay now the District Court should have afforded the
21 Government an opportunity to rebut the presumption of prejudice. There
22 it was a 50 month delay that was attributable to the Government's
23 negligence. So they said that was sufficient to then shift the burden
24 back to the Government. And so it was remanded back to the
25 Government to show, okay, so you can now rebut the presumption of

1 prejudice.

2 Do you want to --

3 MR. VILLANI: The only other witness I could call, Your Honor,
4 would be her mom. And I don't know that a phone call made to the
5 Defendant saying -- I don't know that that was ever done. I don't know
6 whether it was done.

7 I guess, you know, in order to live your life to be employed
8 generally you have to enter employment. Sometimes they do
9 background checks. This is what NCIC is for and this is how the State's
10 rely upon it. I know, and I see you shaking your head, Your Honor. But I
11 see a big difference between *Doggett* and *Barker*, because of the
12 resources of the Federal Government, and because we're talking about
13 the DEA here. That guy left the country. The DEA has fingers
14 everywhere. The North Las Vegas Police Department just doesn't have
15 that ability and neither do a lot of small state police departments. And so
16 they rely on upon NCIC.

17 I realize the Supreme Court said: Well resources are not to be
18 taken into consideration there, but I think there has to be a big
19 difference. I mean, why else do we have this 60 day trial rate in Nevada
20 as a separate statutory issue? Why don't we just rely upon the Federal
21 Sixth Amendment speedy trial right? Well our Supreme -- our
22 Legislature has determined that once you are arraigned you have a right
23 to trial within 60 days. And if you invoke that right and that rights
24 violated then we talk about whether or not your speedy trial rights have
25 been violated.

1 THE COURT: The State has the right to give a Defendant
2 more rights than the United States Constitution does. It can't take away.

3 MR. VILLANI: Right.

4 THE COURT: Okay. So by saying that a defendant at the
5 time of arraignment may demand to have a trial within 60 days it's not
6 even couched in the statute in terms of speedy trial. It's just you have a
7 right to demand and there's another statute that gives the State the right
8 to demand --

9 MR. VILLANI: Well I --

10 THE COURT: -- a trial within 60 days.

11 MR. VILLANI: -- kind of.

12 THE COURT: And sometimes the State does that. But that
13 doesn't change the Sixth Amendment analysis.

14 MR. VILLANI: But what we're also talking about with the
15 analysis is the fact that they -- the way the Federal Government does
16 things. They convene a Grand Jury, they present evidence to the Grand
17 Jury, the Grand Jury finds probable cause and then an Indictment is
18 issued. I mean, here we're talking about a case being submitted to our
19 office. A criminal Complaint is issued and a warrant is issued for the
20 arrest.

21 Now a lot of times when these guys are contacted pursuant to
22 the arrest warrant they'll be interviewed when they're taken into custody.
23 So the cases proceed differently. So the Federal Government doesn't
24 have to go and go back to Justice Court and start from ground zero once
25 the guy is taken into custody on a warrant from an Indictment. They just

1 go straight to trial.

2 In the State it's different. Once we get this guy into custody
3 we still have make a probable cause showing. I still had to show the
4 Grand Jury that I had probable cause to hold this guy to answer in
5 District Court. So it's -- I just see it as very different what we're
6 comparing here between what the Court was working with with *Barker*
7 and -- or with *Doggett* and what we're working with --

8 THE COURT: Well the Court --

9 MR. VILLANI: -- here.

10 THE COURT: -- in *Middleton*, you know, acknowledges
11 *Doggett*. It doesn't say, you know, it doesn't say, oh gee what, you
12 know, there's a carve out in it somewhere in the Constitution it says,
13 gee, you know, the Sixth Amendment Right doesn't apply in Nevada,
14 because it's a small state.

15 MR. VILLANI: All right.

16 I understand that. My argument is that I don't believe his
17 speedy trial right has been violated. I don't believe that's the case. I
18 don't believe this is a long enough time between an arrest warrant being
19 issued and him being arrested and taken into custody on that arrest
20 warrant to justify dismissal of the case. And that's my only argument.

21 THE COURT: I wish that was the case, but the problem is
22 that we have and I think it was interesting in the dissent in *Doggett*. I
23 think that Justice Thomas, who wrote the main dissent, said you know:
24 sometimes bad facts make bad law. And I guess the Supreme Court
25 might not be immune from that. But, and sometimes there may be

1 unintended consequences.

2 But this is precedent from the United States Supreme Court
3 that has been followed by all the Circuit Courts Appeal, the Ninth Circuit.
4 We're talking about constitutional issues. It's been followed by our
5 Supreme Court. And so if you don't have anything that you can offer to
6 rebut a presumption of prejudice here where I've gone through an
7 analysis, that shows it has been triggered because it's been more than a
8 year. There was gross negligence on the part of the police department,
9 hence because police department is an arm of the State.

10 The State, the Government in this case and they -- maybe
11 that's due to their lack of resources, well then they need to do what -- it's
12 up to the Government to make sure that there's resources. Does that
13 mean tax the people, maybe so? But if they make these choices I don't
14 like it. In fact I abhor it. The thought to me that if you live in North Las
15 Vegas and you potentially are victimized in a sexual assault crime on a
16 child, you know, your child, that they're not going to do what is
17 necessary to bring such a person to justice before trial and you know,
18 and get to the bottom of it with a trial in front of a jury;' that's pretty
19 disheartening.

20 But there's also, there was no opportunity for him to assert his
21 right prior to his being arrested. So I can't look at that, you know,
22 because he didn't have the opportunity. And then what is triggered is
23 then a presumption, because it's been so long of prejudice, which then
24 puts it into the State's ballpark to show to rebut that presumption. And if
25 you don't have anything to give to me then I feel like my hands are tied.

1 MR. VILLANI: Well I guess, so what I'm not understanding is
2 where the Court sees this presumption's kicking in? Now I see the test
3 kicking in on the first prong when it's been a year. So that's what kicks
4 the test in. I'm not seeing where the presumption of then shifts to the
5 State. I'm seeing the factors. I'm seeing okay, provide a reason,
6 provide -- and I'm also not seeing where the Court gets the idea that the
7 invocation -- he has to be given an opportunity to invoke. I haven't found
8 a case yet where the invocation was anything less than him standing up
9 and saying, yes I want a speedy trial in front of this Court.

10 So you're saying he didn't have an opportunity to invoke his
11 right prior to being arrest because he's supposedly had no idea that
12 these charges were pending.

13 THE COURT: Okay. So let's say it was 8 years. Let's say it
14 was 10 years before he gets arrested.

15 MR. VILLANI: Right.

16 THE COURT: And then he says I don't need a trial within 60
17 days but I'm not waiving my right to speedy trial under the Sixth
18 Amendment.

19 MR. VILLANI: Right.

20 THE COURT: Okay. So basically I take that as an invocation
21 of a right to speedy trial. But prior to that he didn't know, yes you could.
22 If you knew that there were charges pending against you. That there
23 was a warrant for your arrest and you knew that the State could show he
24 knew there was a warrant for his arrest, then whole different ballgame.
25 He could have turned himself in. He could have invoked his right and

1 said, prove it. You bear the burden of proof. Prove it, let's go.

2 But he didn't have that opportunity, because nobody making --
3 lifting a finger to even follow-up on the case.

4 MR. VILLANI: But I guess I fail to see how the behavior post-
5 invocation doesn't factor into that analysis. How the two continuances to
6 his speedy trial when the State was ready to go both times, how the two
7 continuances don't weigh against that analysis of his invocation. If we're
8 calling, I waive my 60 days, but I meant Federal right, okay if that's his
9 invocation, how then does subsequent actions not weigh against that?

10 MR. WESTBROOK: I'm sorry, Your Honor, but there's a
11 factual finding that the State did not produce discovery in a timely
12 fashion prior to the first continuance and that's the basis for the
13 continuance. The State admitted this at the last hearing and now going
14 back on it. They're estopped from now arguing that it wasn't their fault
15 when they already admitted in the last hearing that it was.

16 MR. VILLANI: You keep saying there was some admission.
17 Here's what I'll admit to. We -- I received a recording during a pretrial
18 with my lead Detective while I was pre-trialing for the trial. I turned it
19 over immediately. The recording, I don't know what was it; an hour
20 maybe 45 minutes was on there. I turned it over; still saying I'm ready,
21 but I understand if the Defense wants a continuance to review that
22 recording. Okay so that's the extent to which my admission as far as the
23 first continuance will go.

24 But then we have the second continuance where nothing was
25 done. Talk about sitting on hands. Nothing was done by the Defense to

1 walk in here on a motion for OR at calendar call then saying: Well, you
2 know, they didn't get me counseling records. And I specifically asked in
3 there counseling records. And now this Court is well aware that has
4 been litigated ad nauseam, those counseling records.

5 So I don't see how none of that subsequent action, doesn't
6 weigh against this Sixth Amendment invocation that was initially made.

7 MR. WESTBROOK: Your Honor, first of all it doesn't because
8 the law says that it doesn't. He invoked his right to a speedy trial and it
9 was violated before he ever walked in the room, because of the -- I'm
10 shocked with what I saw on the stand. I'm sure the Court is as well.
11 The complete lack of any kind of effort, and not only lack of effort, but
12 the lack of caring about even making an effort.

13 Your Honor, you did a much better job questioning him than I
14 did, because you asked him something that I should have thought of,
15 which is do you know there's such a thing as a right to a speedy trial?
16 And he said yes.

17 He understands that defendants have a right to a speedy trial.
18 And he made it very clear that he knows that it's violating the right to a
19 speedy trial when they just let these things languish. With making no
20 effort whatsoever and that he doesn't care about it, which is why I think
21 it's bad faith. I mean, understanding that there's an issue like this and
22 that someone's rights are being violated and then chooses to do nothing
23 about it, and then just throwing your hands up, because I'm a real busy
24 guy. That's bad faith to me, but regardless a bad faith showing isn't
25 required and I understand the Court's position.

1 But it's a matter of record in this case that the first continuance
2 was made because the State violated its requirements under the NRS.
3 We have -- it's on the record that's the reason the continuance was
4 made. They factually and legally violated the NRS by not turning over
5 requested discovery that was part of their case-in-chief at least 30 days
6 prior to the trial. Okay that's on the record. We can't go back in time
7 and pretend it's not what the record is.

8 THE COURT: And that is true. It was not -- I'm not tagging
9 you with that.

10 MR. VILLANI: No it's --

11 THE COURT: I, you know, you personally I'm not saying that.
12 And you know, it goes back to why weren't you given this by the
13 Detective originally?

14 MR. VILLANI: Right.

15 MR. WESTBROOK: Which is why we have Kyle's [sic] and --

16 THE COURT: So now that I see, I've heard his testimony. So
17 I see why.

18 MR. VILLANI: Right.

19 THE COURT: But then, you know, I granted the continuance
20 because it wasn't produced in a timely manner under the statute.

21 MR. VILLANI: Right. And my only -- the other point I would
22 like to make there is that had a file review been requested prior to trial,
23 which none was. But had one been requested, I would've -- everything
24 would have been available to inspect, photograph, or copy to save that.
25 But none was requested. There was never -- so even if I had that, I only

1 had -- I had an obligation to make it available to inspect, photograph, or
2 copy under the Nevada Revised Statute. But I had no obligation to
3 produce it, to put it in their hand. That's not an obligation the State has.
4 We have to make everything available to inspect, copy, or photograph.

5 Now it's different than the pre-prelim discovery statute where
6 we do. The statute does say you must provide these items, but the
7 pretrial statute says we need to make available to inspect, copy or
8 photograph any exculpatory evidence, reports, that sort of thing. We do
9 it as a courtesy in this office. We provide all this discovery as a
10 courtesy, but we have no obligation to do so.

11 THE COURT: All right. So now you're getting back to the
12 same dilemma that caused the memo to be issued from the District
13 Attorney's Office saying we don't have an open file policy. And that is
14 the Court saying: Okay, you have an open file policy now the other side
15 gets to rely on that. So if you're doing things as a courtesy I'm sure they
16 appreciate that, but now they also get to rely on that.

17 But in this case we're talking about how many angels can
18 dance on the head of a pin, because that's not what happened here.
19 Because you didn't have it.

20 MR. VILLANI: Right.

21 THE COURT: So do they have to request a file review when
22 the common practice is upon request will -- we will produce all the things
23 that we're required to do under the statute under Chapter 174?

24 And yes you could put out another memo saying, we're not
25 going to do that anymore. Now you need to come over, look at the file

1 and flag with stickies what you want copied and then we'll copy it for
2 you.

3 MR. VILLANI: But --

4 THE COURT: But you probably don't want to do that because
5 that would cause a lot more work for you. But here it wasn't, you know,
6 there's not a requirement for them to ask for a specific file review of the
7 Detective's file.

8 MR. VILLANI: No.

9 THE COURT: All they have to do is make a request --

10 MR. VILLANI: Right.

11 THE COURT: -- to the State and for those things and it
12 triggers your obligation.

13 MR. VILLANI: I agree.

14 THE COURT: And because you didn't have that, because it
15 wasn't provided to you. You didn't find out about it until you were pre-
16 trialing the Detective. That was problematic and so I can do all kinds of
17 things. I have pretty wide discretion as to how I address a violation of a
18 discovery request, failure to produce. So I addressed it by agreeing to
19 what I intended to be a short continuance. It was the next continuance
20 that was granted because the Defense indicated that they needed more
21 time as I recall. If I'm --

22 MR. VILLANI: It was for counseling records, which they didn't
23 have at the time of the first continuance. So assuming -- and I agree
24 with the Court, provided late, received late, that's fine. But that first one
25 even if completely on our shoulders, they wouldn't have been ready to

1 go, because then they requested another continuance for stuff they
2 didn't have at the first continuance.

3 So even if we provided that I'm assuming that the argument
4 would've been made by the Defense: Well they don't have counseling
5 records, so we haven't turned those over, because it was that basis that
6 formed the basis for that second continuance.

7 MR. WESTBROOK: Your Honor, that wasn't all, if I may. I
8 think we're getting too far afield here, because this isn't a discovery
9 issue. What this is is a speedy trial issue and my client's speedy trial
10 rights have absolutely been violated. And I agree that the Court's hands
11 are tied here. They're tied by obviously a Detective and apparently a
12 police department that does not care actively as a policy about speedy
13 trial rights or I might suggest the rights of victims in these cases. It's
14 frankly terrifying what I heard here today. I can't believe the
15 lackadaisical attitude of that department. I've never heard anything like
16 that before and it's amazing.

17 But to set the record straight, we heard evidence today that
18 there's still discovery that the State intends to prove to provide in its
19 case-in-chief that has not been turned over. As you recall I asked this
20 officer whether there was a separate case for Darrington Rivers.

21 Mr. Villani, in one of the discovery hearings said, that wasn't a
22 thing, that doesn't exist. There's no separate case for Darrington Rivers.
23 There is a separate case for Darrington Rivers this Detective just
24 confirmed that. That has not been turned over. That has been a basis
25 of my discovery request to Mr. Villani since the very beginning of this

1 case.

2 MR. VILLANI: I --

3 MR. WESTBROOK: So it's a fantasy to say that everything's
4 been turned over or that it's somehow my fault.

5 MR. VILLANI: And here's how that dovetails --

6 MR. WESTBROOK: But it's also not part of this case right
7 now.

8 MR. VILLANI: -- into the instant issue is it is relevant, because
9 it shows that it was the Defendant's fault, but that we are now this long
10 without having a jury trial. It's -- that's what it's relevant to is okay
11 invocation under the Sixth Amendment. But you didn't have the
12 information you needed to proceed to trial anyway and you still don't
13 presumably.

14 And as far as Darrington Rivers is concerned the Court can
15 look at the receipt of copy. He has those reports. And I'll point the Court
16 to the reports that I turned over that he signed, his office signed. The
17 receipt of copy, it's in Odyssey. Those Darrington Rivers reports I can
18 give them to you right now. They've had them the entire time, since that
19 ROC was filed. So that's kind of how -- that's why it dovetails in.

20 THE COURT: All right, again though. So this isn't, you know,
21 this isn't just the discovery issue. This is really not -- the time period I'm
22 looking at is the time period is the 2 years and 2 months, that's what I'm
23 looking at.

24 MR. VILLANI: Okay.

25 THE COURT: Because prior to that he doesn't have the

1 opportunity to invoke. So that's what I'm focusing on and I think that's
2 what I'm required to focus on now. If the Supreme Court, our Court, I
3 think that because it's a constitutional dimensions, it would end up going
4 up the food chain. But they want to carve out and say, well now if you
5 don't even though there was this time if you don't after you've finally
6 been taken into custody no matter how long it is, you don't move that
7 trial along then you've waived the 10 year delay, because it could be 10.
8 Because based upon your argument that you're talking about it only
9 attaches once he's in Court and able to say, I want a speedy trial or I
10 don't want a speedy trial.

11 MR. VILLANI: I mean, there are multiple --

12 THE COURT: I agree that somebody could retroactively
13 waive their right to speedy trial, but that didn't happen here.

14 MR. VILLANI: Yeah and I guess, I see a distinct difference
15 between him actually saying: Look I have a right to a trial within 60 days,
16 yeah I want that. And I don't want the trial within 60 days, but I'm
17 maintaining my arguments on the Federal. I see a distinct difference in
18 that. To me that's a waiver of your speedy trial right. And I understand
19 the Court disagrees with that, but if -- is the Court's ruling then narrowly
20 tailored to that 2½ years? Because there's nothing I can do about that.
21 The 2½ years before he was taken into custody, that's what the Court's
22 taking issue with and believes that violated his speedy trial right?
23 Because I just need to -- the issue then that's the issue I can take up.

24 THE COURT: Yes.

25 MR. VILLANI: Okay, okay.

1 THE COURT: I'm going to prepare the order since I know,
2 you know, I knew from the get go that no matter where I came down
3 there was going to be an appeal and so I'll just prepare the order and
4 you'll have it in a couple of days.

5 MR. WESTBROOK: Thank you, Your Honor.

6 So is the order that the --

7 THE COURT: I'm taking it under advisement.

8 THE CLERK: Okay, so --

9 MR. WESTBROOK: Right.

10 THE COURT: -- so I can go through my complete analysis in
11 the written --

12 MR. WESTBROOK: Thank you, Your Honor.

13 THE COURT: -- and cite to the appropriate cases, so you'll
14 have it all.

15 MR. WESTBROOK: Just to a housekeeping matter. Exhibit's
16 A and B admitted?

17 THE CLERK: Well you didn't move --

18 MR. WESTBROOK: Or I move to admit.

19 THE CLERK: This is not --

20 MR. WESTBROOK: That's the Facebook page and then
21 whatever those notes were.

22 THE COURT: The Facebook page?

23 MR. WESTBROOK: The one that shows, you know, --

24 THE COURT: That was the --

25 MR. WESTBROOK: -- where he lives and every friend in his

1 life.

2 THE CLERK: Only B was admitted. He didn't move to admit
3 A until at this point, Your Honor, he did --

4 THE COURT: Is the Facebook?

5 THE CLERK: Yes.

6 THE COURT: Is there an objection?

7 MR. VILLANI: No.

8 THE COURT: It will be admitted.

9 **[DEFENSE EXHIBIT A - ADMITTED]**

10 MR. WESTBROOK: And then the declaration I understand
11 that we had the stipulation. I'd like the declaration if it's not filed as a
12 declaration at least made a Court record.

13 THE COURT: You could mark it as offered, right?

14 MR. WESTBROOK: Okay.

15 THE COURT: You can mark it as an Exhibit, but I'm not
16 admitting it, because I don't think it's necessary.

17 MR. WESTBROOK: Okay, so we can mark it as Exhibit C
18 then?

19 THE COURT: Yeah.

20 MR. WESTBROOK: Thank you.

21 THE COURT: All right. Thank you.

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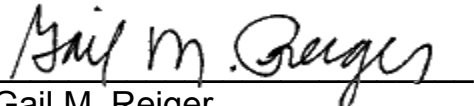
MR. VILLANI: Thank you, Your Honor.

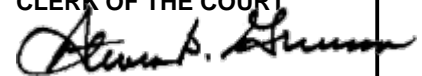
MR. WESTBROOK: Thank you, Your Honor.

[Hearing concluded at 1:10 p.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


Gail M. Reiger
Court Recorder/Transcriber



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.

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1 **II. Analysis**

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

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

19 Here, the Court has focused primarily on the delay between the date of the filing of
20 the first charging document (i.e. the Criminal Complaint) and the defendant’s arrest. The
21 Court specifically found that the delays of the trial date following his indictment were
22 occasioned by the defendant, who waived his State right to trial within 60 days of
23 arraignment, and by subsequent requests to continue made by the defense. However, the
24 Court cannot ignore the approximately 26 month delay between the date of the original
25 charging document and his arrest on those charges. Trial has not yet commenced. The
26 nature of Mr. Inzunza’s charges is serious, but they are not complex, nor are the charges
27 ones that carry the death penalty. Moreover, in the cases considering the complexity of the
28 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.

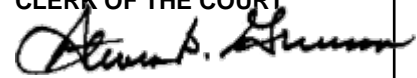
CERTIFICATE OF SERVICE

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
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Las Vegas, Nevada 89155

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Shelby Lopaze, Judicial Executive Assistant



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(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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P. DAVID WESTBROOK
309 South Third Street, Suite 226
Las Vegas, Nevada 89155

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

JEV/jg

14CRN002215-0000

Case Type: CRIMINAL COMPLAINT NLV
Case Status: CLOSED
File Date: 12/05/2014
DCM Track:
Action: SEXUAL ASSAULT AGAINST
CHILD UNDER 14
Status Date: 02/11/2017
Case Judge: HOO, KALANI
Next Event:

[All Information](#) | [Party](#) | [Charge](#) | [Ticket/Citation #](#) | [Event](#) | [Docket](#) | [Disposition](#)

Party Information**INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR**

Disposition
Disp Date

Alias

Party Attorney

Attorney: DEFENDER, PUBLIC
Bar Code: A00330
Address: Phone:

[More Party Information](#)**Party Charge Information****INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR**

Charge # 1 :

50105 - FELONY SEXUAL ASSAULT AGAINST CHILD UNDER 14

Original Charge: 50105 SEXUAL ASSAULT AGAINST CHILD UNDER 14 (FELONY)

Indicted Charge
Amended Charge
DV Related?
Modifiers
Stage Date

Ticket #
ATN #
Tracking #
Place of Offense: NORTH LAS VEGAS
TOWNSHIP
Offense
Location
Date of Offense: 09/01/2014
Complainant

Party Charge Disposition

Disposition Date
Disposition: 03/15/2017
DIS-INDICTED BY GRAND
JURY-DO NOT DESTROY
EVIDENCE

[Sentencing Information](#)**INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR**

Charge # 2 :

50105 - FELONY SEXUAL ASSAULT AGAINST CHILD UNDER 14

Original Charge: 50105 SEXUAL ASSAULT AGAINST CHILD UNDER 14 (FELONY)

Indicted Charge
Amended Charge
DV Related?

**Modifiers
Stage Date**

Ticket #
ATN #
Tracking #
Place of Offense NORTH LAS VEGAS
TOWNSHIP
Offense
Location
Date of Offense 09/01/2014
Complainant

Party Charge Disposition

Disposition Date
Disposition
03/15/2017
DIS-INDICTED BY GRAND
JURY-DO NOT DESTROY
EVIDENCE

[Sentencing Information](#)**INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR****Charge # 3 :****50105 - FELONY** SEXUAL ASSAULT AGAINST CHILD UNDER 14**Original Charge** 50105 SEXUAL ASSAULT AGAINST CHILD UNDER
14 (FELONY)

Indicted Charge
Amended Charge
DV Related?
Modifiers
Stage Date

Ticket #
ATN #
Tracking #
Place of Offense NORTH LAS VEGAS
TOWNSHIP
Offense
Location
Date of Offense 09/01/2014
Complainant

Party Charge Disposition

Disposition Date
Disposition
03/15/2017
DIS-INDICTED BY GRAND
JURY-DO NOT DESTROY
EVIDENCE

[Sentencing Information](#)**INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR****Charge # 4 :****50105 - FELONY** SEXUAL ASSAULT AGAINST CHILD UNDER 14**Original Charge** 50105 SEXUAL ASSAULT AGAINST CHILD UNDER
14 (FELONY)

Indicted Charge
Amended Charge
DV Related?
Modifiers
Stage Date

Ticket #
ATN #
Tracking #
Place of Offense NORTH LAS VEGAS
TOWNSHIP
Offense
Location
Date of Offense 09/01/2014
Complainant

Party Charge Disposition

Disposition Date
Disposition
03/15/2017
DIS-INDICTED BY GRAND
JURY-DO NOT DESTROY
EVIDENCE

[Sentencing Information](#)**INZUNZA, RIGOBERTO LOPEZ - DEFENDANT CR/TR****Charge # 5 :****50105 - FELONY** SEXUAL ASSAULT AGAINST CHILD UNDER 14**Original Charge** 50105 SEXUAL ASSAULT AGAINST CHILD UNDER
14 (FELONY)

Indicted Charge
Amended Charge
DV Related?
Modifiers
Stage Date

Ticket #
ATN #
Tracking #
Place of Offense NORTH LAS VEGAS
 TOWNSHIP
Offense
Location
Date of Offense 09/01/2014
Complainant

Party Charge Disposition
Disposition Date
Disposition
 03/15/2017
 DIS-INDICTED BY GRAND
 JURY-DO NOT DESTROY
 EVIDENCE

[Sentencing Information](#)
[Load Party Charges 6 through 10 Load All 15 Party Charges](#)

Ticket/Citation

Citation # : - NORTH LAS VEGAS TOWNSHIP **Offense Date** 09/01/2014

Agency NORTH LAS VEGAS POLICE
DEPARTMENT

Officer
Second Officer
Complainant

Speed Cited
Speed Limit
Location
Insured/Proof
Accident N
Work Zone
Haz Mat
Points
Priors
License Taken N
BAC

Plate
State
Year
Type
Style
Color

Events

Date/Time	Location	Type	Result	Event Judge
02/15/2017 08:30 AM	DEPARTMENT 1	FELONY ARRAIGNMENT NLV	ARRAIGNMENT HEARING HELD	HOO, KALANI
03/15/2017 09:30 AM	DEPARTMENT 1	PRELIMINARY HEARING NLV	CRIMINAL HEARING HELD	HOO, KALANI

Docket Information

Date	Description	Docket Text	Amount Owed
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #13: LEWDNESS W/CHILD UNDER AGE 14, 1ST	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #11: LEWDNESS W/CHILD UNDER AGE 14, 1ST	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #12: LEWDNESS W/CHILD UNDER AGE 14, 1ST	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #14: LEWDNESS W/CHILD UNDER AGE 14, 1ST	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #15: LEWDNESS W/CHILD UNDER AGE 14, 1ST	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #1: SEXUAL ASSAULT AGAINST CHILD UNDER 14	

Date	Description	Docket Text	Amount Owed
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #2: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #3: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #4: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #5: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #6: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #7: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #8: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #9: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
09/01/2014	BAIL AMOUNT	BAIL AMOUNT Charge #10: SEXUAL ASSAULT AGAINST CHILD UNDER 14	
12/05/2014	COMPLAINT SWORN TO & FILED	COMPLAINT SWORN TO AND FILED: WARRANT OF ARREST ISSUED BY JUDGE HOO BAIL AMOUNT: 750,000 (50,000 X 15)	
12/05/2014	ALERT INFORMATION	ALERT INFORMATION ARREST WARRANT - CRIMINAL issued on: 12/05/2014 For: INZUNZA, RIGOBERTO LOPEZ Bond Amt: \$ 0.00	
02/14/2017	ALERT INFORMATION	ALERT INFORMATION ARREST WARRANT - CRIMINAL served on: 02/11/2017 For: INZUNZA, RIGOBERTO LOPEZ	
02/14/2017	SET FOR COURT APPEARANCE	SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 02/15/2017 Time: 8:30 am Judge: HOO, KALANI Location: DEPARTMENT 1 Result: ARRAIGNMENT HEARING HELD	
02/15/2017	OFFICERS PRESENT NLVJC DEPT 1	K. HOO, JP M. LAVELL, DDA K. ZICHA, CLK (RECORDED JAVS) S. BONAVENTURE, DPD	
02/15/2017	INDIGENT DEFENSE FEE WAIVED	INDIGENT DEFENSE FEE WAIVED	
02/15/2017	ARRAIGNMENT HEARING HELD	ARRAIGNMENT HEARING HELD INITIAL ARRAIGNMENT DEFENDANT PRESENT IN CUSTODY NLV (EXTRADITED FROM NEW JERSEY) COMPLAINT PRESENTED, ADVISED, WAIVES PUBLIC DEFENDER APPOINTED – INDIGENT DEFENSE	

Date	Description	Docket Text	Amount Owed
		FEE WAIVED DEFENDANT WAIVES 15 DAY RULE PRELIMINARY HEARING SET NLV/750,000	
02/15/2017	SET FOR COURT APPEARANCE	SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 03/15/2017 Time: 9:30 am Judge: HOO, KALANI Location: DEPARTMENT 1	
03/15/2017	HEARING HELD	HEARING HELD	
		THIS IS THE TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN CCDC CUSTODY DEP DA STATES THAT SHE HAS NOTE INDICATING DEFENDANT WAS INDICTED ON THESE CHARGES - CASE DISMISSED	
03/15/2017	CASE CLOSED	CASE CLOSED	
03/15/2017	OFFICERS PRESENT NLVJC DEPT 1	K. HOO, JP C. CAMPBELL, DDA R. DAMI, CLK (RECORDED JAVS) J. FRASER, DPD	
03/15/2017	CASE FILE HAS BEEN ELECTRONICALLY SCANNED	CASE FILE HAS BEEN ELECTRONICALLY SCANNED	

Case Disposition

Disposition	Date	Case Judge
CLOSED	03/15/2017	HOO, KALANI