IN THE SUPREME COURT OF THE STATE OF NEVADA

Christian S. Miles

Petitioner,

vs

Jeniffer P. Togliatti, District Court Judge
Eighth Judicial District Court
Respondents,

and

The State of Nevada,
Real Party in Interest

No. 77220

Supreme Court No. ~~75839~~

District Court No. C-15-306436-1

FILED

OCT 22 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

Petition for Writ of Mandamus/Prohibition From the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark.

APPELLANT'S APPENDIX

Christian S. Miles #2888634
Petitioner/In Proper person
Clark County Detention Center
330 South Casino Center
Las Vegas, NV 89101

18-41309

INDEX OF APPENDIX

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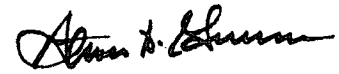

CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL S. MARTINEZ
Chief Deputy District Attorney
Nevada Bar #10671
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 5/18/15
1:00 PM
C. COLUCCI

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTIAN STEPHON MILES,
#2888634

Defendant.

CASE NO: C-15-306436-1

DEPT NO: IX

INFORMATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That CHRISTIAN STEPHON MILES, the Defendant(s) above named, having committed the crimes of **SEX TRAFFICKING OF A CHILD UNDER 18 YEARS OF AGE (Category A Felony - NRS 201.300.2a1 - NOC 58004); FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50053); LIVING FROM THE EARNINGS OF A PROSTITUTE (Category D Felony - NRS 201.320 - NOC 51006) and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1) - NOC 55226)**, on or between February 8, 2015 and February 13, 2015, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

COUNT 1 - SEX TRAFFICKING OF A CHILD UNDER 18 YEARS OF AGE

did wilfully, unlawfully, and feloniously harbor, obtain and/or maintain, G.K., a child under eighteen years of age, to engage in prostitution.

COUNT 2 - FIRST DEGREE KIDNAPPING

did wilfully, unlawfully, and feloniously, lead, take, entice, carry away or kidnap G.K., a minor, with the intent to keep, imprison, or confine said G.K., from BECKY YORK, her parents, guardians, or other person or persons having lawful custody of G.K., or with the intent to hold G.K. to unlawful service, or to perpetrate upon the person of G.K. any unlawful act, to-wit: prostitution.

COUNT 3 - LIVING FROM THE EARNINGS OF A PROSTITUTE

did then and there wilfully, unlawfully, feloniously, and knowingly accept, receive, levy, or appropriate money, without consideration, from G.K., the proceeds of prostitution activity.

COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: G.K., being approximately 17 year(s) of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, and/or cause G.K. to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, by encouraging and/or directing the said G.K., to engage in prostitution.

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

BY _____
SAMUEL S. MARTINEZ
Chief Deputy District Attorney
Nevada Bar #10671

///

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///

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

NAME	ADDRESS
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
GATUS, JUSTINE	LVMPD #9868
K.G.	C/O CCDA
YORK, BECKY	C/O METRO VICE

DA#15F03450X/jm
LVMPD EV#1502133799
(TK2)

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MC
PP
DA
AOR-
Robert
Beckett

MOT
CHRISTIAN MILES #2888634
CLARK COUNTY DETENTION CENTER
330 S CASINO CTR
LAS VEGAS, NV, 89101

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA Plaintiffs, vs. CHRISTIAN STEPHON MILES, #2888634 Defendant.	) CASE NO. C-15-306436-1) DEPT. NO. IX

NOTICE OF MOTION

TO: THE STATE OF NEVADA; Respondent;

TO: STEVEN WOLFSON, DISTRICT ATTORNEY, its Attorney

YOU WILL PLEASE TAKE NOTICE that Motion to Dismiss for Insufficient Information will come on for hearing before the above-entitled Court on the 5 day of Jun. 2018, at the hour of 9:00 am o'clock ___ M. In Department IX, of said Court.

DATED this 6th day of May 2018

CHRISTIAN STEPHON MILES

Christian Miles

CHRISTIAN STEPHON MILES #2888634
CLARK COUNTY DETENTION CENTER
330 S CASINO CTR
LAS VEGAS, NV, 89101

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330 S CASINO CTR
LAS VEGAS, NV, 89101

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA Plaintiffs, vs. CHRISTIAN STEPHON MILES, #2888634 Defendant.	CASE NO. C-15-306436-1 DEPT. NO.IX 06-05-18 @ 9:00 am

MOTION TO DISMISS INSUFFICIENT INFORMATION

COMES NOW, CHRISTIAN STEPHON MILES, proceeding in proper person, moves this Honorable Court for an ORDER to dismiss all the charges set forth in the information with prejudice.

This Motion is made and based on all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing.

DATED this 6th day of May, 2018

CHRISTIAN STEPHON MILES

Christian Miles

CHRISTIAN STEPHON MILES #2888634
CLARK COUNTY DETENTION CENTER
330 S CASINO CTR
LAS VEGAS, NV, 89101

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POINTS AND AUTHORITIES

The Fourteenth Amendment of the U.S. Constitution provides in relevant part:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws..."

The Double Jeopardy Clause of the Fifth Amendment states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb."

Under the Sixth Amendment of the U.S. Constitution, a Defendant is entitled "to be informed of the nature and cause of the accusation

NRS 173.075 provides:

1. The indictment or information must be a plain, concise and definite written statement of the essential facts constituting the offense charged. It must be signed by the attorney general acting pursuant to a specific statute or district attorney. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to the statement.

2. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant commited the offense are unknown or that the defendant committed it by one or more specified means.

3. The indictment or information must state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission is not a ground

for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice.

The Information filed in this case is insufficient. (See Information filed May 12th 2015). The information violates NRS 173.075. Defendants Sixth Amendment Constitutional right to be informed of the nature and cause of the accusation against him, so that he may prepare a defense, and Defendant's fifth Amendment Constitutional right to invoke the Double Jeopardy Clause. The defense argues as follows.

ARGUMENT

POINT 1

THE INFORMATION IS INSUFFICIENT AND UNCONSTITUTIONAL.

The information is the first pleading by the State in a criminal action (see NRS 173.015) and must contain "a plain, concise and definite written statement of the essential facts constituting the offense charged." NRS 173.075(1). In the information, the prosecution is required to make a definite statement of facts constituting the offense in order to adequately notify the accused of the charges and to prevent the prosecution from circumventing the notice requirement by changing theories of the case. See Simpson v. District Court, 88 Nev. 654, 503 P.2d 1225 (1972). In accord with these principles, the Nevada Supreme Court has held that an information which alleges the commission of the offense solely in the conclusory language of the statute is insufficient. See Farlywine v. Sheriff, 94 Nev. 100, 572 P.2d 599 (1978).

///

1 In pertinent part, the information provides:
2 "That CHRISTIAN STEPHON MILES, the Defendant(s) above named,
3 on or between February 8, 2015 and February 13, 2015, within the
4 County of Clark, State of Nevada, contrary to the form, force and
5 effect of statutes in such cases, and against the peace and dignity
6 of the State of Nevada,
7 COUNT 1- SEX TRAFFICKING OF A CHILD UNDER 18 YEARS OF AGE
8 did willfully, unlawfully, and feloniously harbor, obtain and/or
9 maintain, G.K., a child under eighteen years of age, to engage in
10 prostitution.
11 COUNT 2 - FIRST DEGREE KIDNAPPING
12 did willfully, unlawfully, and feloniously, lead, take, entice, carry away
13 or kidnap G.K., a minor, with the intent to keep, imprision, or confine
14 said G.K., from Becky York, her parents, guardians, or other person
15 or persons having lawful custody of G.K., or with the intent to hold
16 G.K. to unlawful service, or to perpetrate upon the person of G.K.
17 any unlawful act, to-wit: prostitution.
18 COUNT 3- LIVING FROM THE EARNINGS OF A PROSTITUTE
19 did then and there willfully, unlawfully, feloniously, and know-
20 ingly, accept, receive, levy, or appropriate money, without con-
21 sideration, from G.K., the proceeds of prostitution activity.
22 COUNT 4- CHILD ABUSE, NEGLECT, OR ENDANGERMENT
23 did willfully, unlawfully, and feloniously cause a child under the
24 age of 18 years, to-wit: G.K., being approximately 17 years(s) of age,
25 to suffer unjustifiable physical pain or mental suffering as a result
26 of abuse and neglect, to wit: sexual exploitation, and/or cause
27 G.K. to be placed in a situation where she might have suffered un-
28

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justifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, by encouraging and/or directing the said G.K. to engage in prostitution."

In this present case, all counts set forth in the information fail to contain statements of essential facts constituting the offense charged. NRS 173.075(1). An accusation must include such a discription of the acts alleged to have been committed as will enable the accused to defend against the accusation. Simpson v. District Court, 88 Nev. 639, 523 P.2d 1225 (1972); The information must specify the acts of criminal conduct upon which the state is relying. Bielling v. Sheriff, 89 Nev. 117, 508 P.2d 546 (1973). Conclusory allegations are insufficient. Earlywine v. Sheriff, 94 Nev. 100, 575 P.2d 599 (1978). ~~See Sheriff v. Levinson, 95 Nev. 436, 596 P.2d 232 (1979); Earlywine v. Sheriff, supra.~~ The information alleges that the defendant committed the crimes of sex trafficking of a child under 18 Years of age (NRS 201.300.2a1), in Count one (1), first degree kidnapping (NRS 200.310; 200.320), in Count two (2), living from the earnings of a prostitute, (NRS 201.320), in Count three (3), child abuse, neglect, or endangerment (NRS 200.508(1)), in Count four (4). The allegations set-forth in each count of the information are phrased solely in conclusory statutory language, and are therefore insufficient. Where the statutory language is conclusory, allegations phrased solely in such language are insufficient. See Sheriff v. Levinson, 95 Nev. 436, 596 P.2d 232 (1979); Earlywine v. Sheriff, Supra.

It is indicated by NRS 173.075(2) that an indictment or information should either include the means by which the offense was accomplished, or show that the means are unknown. See West v. State, 119 Nev. 410, 419, 75 P.3d 808, 814 (2003) ("The

Legislature has also provided that an information must specify the means by which the charged offense was committed or allege that the means are unknown.")

Here, the information has failed to comply with NRS 173.075(2). All the Counts set forth in the information fail to include the means by which the offense was accomplished, or show that the means are unknown.

In addition, "The state is required to give adequate notice to the accused of the various theories of prosecution." State v. Eight Judicial Dist. Court, 116 Nev. 374, 377, 997 P.2d 126, 129 (2000) (citing Alford v. State, 111 Nev. 1409, 906 P.2d 714 (1995)). The information "standing alone must contain the elements of the offense intended to be charged and must be sufficient to apprise the accused of the nature of the offense so that he may adequately prepare a defense." Laney v. State, 86 Nev. 173, 466 P.3d 666, 669 (1970); see also NRS 173.075(1); NRS 173.085; Simpson v. Eighth Judicial Dist. Court, 88 Nev. 654, 659, 503 P.2d 1225, 1229 (1972).

The State fails to give adequate notice to the defendant of the various theories of prosecution. The information is insufficient to apprise the defendant of the nature of the offenses set forth in information.

A. Defendant Has Not Received Adequate Notice of the Charges So That He May Prepare a Defense.

Defendant is entitled "to be informed of the nature and cause of the accusation" against him. U.S. Const. Amend. VI. "No principle of procedural due process is more clearly established than that notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge, if desired, are among the

constitutional rights of every accussed in a criminal proceeding in all courts, state or federal." Cole v. Arkansas, 333 U.S. 196, 201 (1948)

Here, defendant's Sixth Amendment constitutional right and Fourteenth Amendment Constitutional right to due process of law have been violated. The State has failed to comply with NRS 173.035, the Nevada Supreme Court's holdings cited and incorporated by reference in this motion, and the Sixth and Fourteenth Amendment of the Constitution. The Information is not a plain concise and definite written statement of the essential facts constituting the offenses charged. The Information is insufficient and it deprives defendant of adequate notice of the charges against him and prejudices defendant to such an extent that he is unable to adequately defend against the charges. Therefore, the charges set forth in the Information should be dismissed.

B. Defendant is Unable to Invoke the Double Jeopardy Clause.

The Double Jeopardy Clause of the Fifth Amendment states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." U.S. Constitutional Amendment V.

The prohibition of double jeopardy applies not only to "life or limb," but also to "imprisonment and monetary penalties." See Dep't of Revenue v. Kurth Ranch, 511 U.S. 767, 769 n.1 (1994). The protection applies to both misdemeanor and felony charges. See Ex parte Lange, 85 U.S. 163, 168-69 (1874) (double jeopardy protection applies to every indictment or information charging party with crime or misdemeanor).

Under Blockburger v. United States, 284 U.S. 299, 304 (1932), if the same transaction violates two distinct statutory provisions,

the test to determine whether there are multiple offenses is whether each provision requires proof of a fact that the other does not.

Here Defendant cannot invoke the Double Jeopardy Clause because the information is not a plain, concise, and definite written statement of the essential facts constituting the offenses charged. The Information fails to provide any facts constituting the offenses charged altogether; therefore, Defendant cannot determine whether each statutory provision requires proof of a fact the other does not.

CONCLUSION

Wherefore based on the foregoing, the defendant, Christian S. Miles respectfully request, that this case be dismissed with prejudice.

Dated this 6th day of May, 2018

Respectfully submitted,

By: Christian Miles

Christian S. Miles

/In proper person

Christian Miles #2888634
C.C.D.C.
330 S. Casino Ctr
Las Vegas, Nv, 89101

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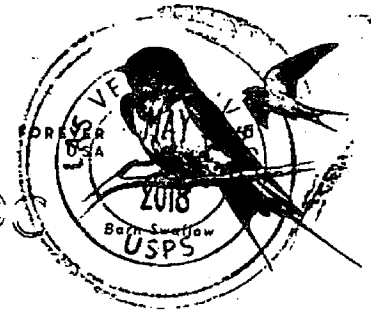

Steven D. Grierson, Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV, 89155-1160

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CHRISTIAN MILES #2888634
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330 S CASINO CTR
LAS VEGAS, NV, 89101

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA Plaintiffs, vs. CHRISTIAN STEPHON MILES, #2888634 Defendant.	) CASE NO. C-15-306436-1) DEPT. NO. IX) DATE OF HEARING September 14, 2018) TIME OF HEARING 10:00 am

Reply to ~~Defen~~ State's Opposition to Defendant's Motion to Dismiss Insufficient Information

COMES NOW, CHRISTIAN STEPHON MILES, proceeding in proper person, ~~moves this Honorable Court for an ORDER~~ hereby submits the attached Points and Authorities in Defendant's Reply to State's Opposition to Defendant's Motion to Dismiss Insufficient Information

This Motion is made and based on all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing.

DATED this 20th day of July, 2018.

CHRISTIAN STEPHON MILES

Christian Miles

CHRISTIAN STEPHON MILES #2888634
CLARK COUNTY DETENTION CENTER
330 S CASINO CTR
LAS VEGAS, NV, 89101

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POINTS AND AUTHORITIES

Both the United States and Nevada Constitution require an indictment or information to allege a criminal offense in a manner that is sufficient to put the defendant on notice of the offense charged and the essential facts constituting the offense "in order to permit adequate preparation of a defense." Jennings v. State, 116 Nev. 488, 490, 998 P. 2d 557, 559 (2000); See NRS 173.075 (1) ("The indictment or the information must be a plain, concise and definite written statement of the essential facts constituting the offense charged.").

To that end, the Nevada Supreme Court has held that a charging document "which alleges the commission of the offense solely in the conclusory language of the statute is insufficient." Sheriff v. Levinson, 95 Nev. 436, ~~556~~ 596 P. 2d 232, 233 (1979). See Earlywine v. Sheriff, 94 Nev. 100, 575 F. 2d 599 (1978). Instead, the indictment or information must include " 'a statement of the acts constituting the offense in ordinary and concise language'" and put the defendant on notice of the State's theory of prosecution. Viray v. State, 121 Nev. 159, 162, 111 P. 3d 1029, 1082 (2005) (quoting Jennings, 116 Nev. At ~~559~~ 490). Where one offense may be committed by one or more specific means, an accused must be prepared to defend against all means alleged. See State v. Kirkpatrick, 94 Nev. 628, 630, 584 P. 2d 630, 671-72 (1978).

STATEMENT OF RELEVANT FACTS

On May 7th 2015, a preliminary hearing was held and Gabrielle King testified as a witness for the State. Gabrielle King (King) alleged in her testimony that she was "going to run away" and "leave with" the defendant. PRELIMINARY HEARING TRANSCRIPTS, pages 5-6, lines 25-1 (herein after(PHT, [Page Number (S)], [Line Number (s)])). King alleged in her testimony that she "inboxed" the defendant "on Facebook" and "told him to come pick her up from her home, PHT, 6, 6-10, that she didn't tell her mother, Becky York that she was leaving

her home, PHT, 7, 5-7, and that she "got in" the defendant's car with her bags and they drove off, therafter her mother, Becky York "pulled up on the side" of the car "trying to flag" her and the defendant down, but they "got away from her." PHT,7, 21-25.

King alleged in her testimony that "he [defendant] was explaining to me to get down, like what he was going to and what was going to happen, so he told me he was going to post pictures on the site and I was going to get clients and I was going to have sex with them and I was going to get money and I was going to give it to him." PHT, 11, 12-17. The prosecutor Samuel S. Martinez (Martinez), asked King "And the defendant explained that process to you?" PHT, 11, 18, 19, and King alleged in her testimony "...,yes.", PHT, 11, 20. Martinez stated to the Court that "She [King] testified previously that he [defendant] had explained why he was taking the pictures and that he was going to post her photos on different websites." PHT, 15, 6-9. Martinez set a timeframe stating to the Court "When he [defendant] picked her [King] up when she thought was going to go to the grandma's house." PHT, 21, 1-3, the Court stated "Right at that time" PHT, 21, 5, and thereafter Martinez asked King "Did there come a point in time after that when you were with the defendant that he explained to you what he wanted you to do?"PHT, 21, 6-8, and King alleged in her testimony "No. He explained to me before we even met." PHT, 21, 9-10.

King alleged in her testimony that her and the defendant "went to go get me a phone because I didn't have one at the time, and then he [defendant] processed some type of texting so where the clients would text my phone but he will also get the text and he would reply to them." PHT, 12, 8-12. Martinez asked King "So he [defendant] bought you the cell phone; is that correct?" PHT, 12, 13-14, and King "Yes." In her testimony. PHT, 12, 15. Martinez asked King "And then associated with that cell phone, you had your own phone number?" PHT, 12, 16-17,

and King alleged "Yes." In her testimony. PHT, 12, 18. King was asked "What is the name of the app that you describe where two parties can get the same message?" PHT, 24, 5-6, and King testified "TextNow." PHT, 24, 7, and was asked "What was the phone number for that [TextNow]?" PHT, 24, 12, and King testified that the phone number was "517-2010" PHT, 24, 13. King testified that the model of the cellular phone allegedly provided to her by the defendant was a "Galaxay l,..." PHT, 25, 7-8, and testified that the phone number for that cellular phone was "517-1020" PHT, 34, 12-14. Martinez asked King "Did he [defendant] tell you or explain to you what the purpose of that [TextNow] app or device was on his phone?" PHT, 13, 7-8, and King testified "No,..." PHT, 13, 9.

King testified that "An incall is when someone comes to the suite and I have sex with them and they give me money. An outcall is when I go out to them or to their suite and I have sex with them and get money." PHT, 16, 2-6, and alleged in her testimony that she had sex with "five or six" men for money and made "500.," total on the incalls and "gave it to" the defendant, PHT, 16, 7-25. King also alleged in her testimony that she went on "one" outcall that the defendant drove her to, PHT, 17, 2-18, and alleged in her testimony that she gave the money she made on the outcall to the defendant. PHT, 18, 2-23.

On April 21st, 2017, an evidentiary hearing was held, during that hearing Detective Justine Gatus (detective Gatus), Gabrielle King (King), Becky York (York), and Mark Hunt (Hunt) testified as witnesses.

Detective Gatus was asked by the defendant during direct examination, "is your statement on the warrant affidavit that King said Miles met her in her neighborhood while he was driving the silver convertible car consistent with what the alleged victim told you in the recorded interview on March 4th of 2015?", and Detective Gatus testified "...no, it's not." Recorder's

Transcript of Proceeding, Friday April 21st, 2017, pages 15, lines 14-18 (hereinafter (4/21/2017, [Page Number(s)], [Line Number(s)])). Detective Gatus was asked "...did she [King] state to you in there [recorded interview] that King said Miles met her in her neighborhood while he was driving the silver convertible colored car?" , Detective Gatus testified "...no, she did not." , and was asked thereafter "What did she say in the recorded interview?" , Detective Gatus testified "In the recorded interview she said it was an old BMW... I think white." 4/21/2017, 1;15-22. Detective Gatus was also asked "Did you give any regard in your warrant affidavit to the statement that Gabby King stated the defendant was driving a white BMW; did you state that in your warrant affidavit?", and Detective Gatus testified "No." 4/21/2017, 14, 15-18. King was asked by the defendant during direct examination "Now would it be fair to say that you actually never told the detective that I was driving a silver convertible car?" , and King testified "Yeah." 4/21/2017. 86, 2-4.

Detective Gatus was asked by the Defendant during direct examination "Now do you recall stating on your warrant affidavit that at some point Miles pulled over the vehicle to the side of the road and used a circulatory tool with razor blades to cut the GPS device off King's ankles, Miles told King, don't move, as he was cutting the strap of the device, so that King would not get cut by the razor blades?" , and Detective Gatus testified "Yes." 4/21/2017, 27, 12-17. Detective Gatus was asked "And did she [King] go on to state later that the GPS was cut off at the house based on the recorded statement?" , Detective Gatus testified "Yes, based on the recorded statement." 4/21/2017, 31, 1-3, and Detective Gatus was asked "And in her first statement to you was that the GPS [got cut off] when?" , Detective Gatus testified "On the road." , and was asked thereafter "In her second statement was the GPS got cut off when?" , and Detective Gatus testified "At your house." 4/21/2017, 32-33, 23-3. Detective Gatus was asked

"Okay. So you have two different stories that wasn't consistent; right?", and Detective Gatus testified "Correct." 4/21/2017, 31, 13-15. Detective Gatus was also asked "...did you actually include her statement in regards to how the GPS got cut off in your warrant affidavit?" and Detective Gatus testified "No." 4/21/2017, 31, 4-6.

Detective Gatus was asked by the Defendant during direct examination "Now do you also recall on the warrant affidavit stating that a room was obtained for Gabby King to engage in prostitution in that during this time Miles told King that she would have to get to work soon and that he would have his more experienced girls show her how to work as a prostitute; do you recall saying that on your warrant affidavit?" and Detective Gatus testified "Yes." 4/21/2017, 17,13-18. Detective Gatus was asked "Okay. Now during the recorded interview, again she stated that he had drove me back up to the Suites and Porsha, she had bought the room, and he grabbed my bags and stuff and he was like, oh, you're [going to] be sleeping here tonight?", Detective Gatus testified "Correct.", and was asked "Okay. And that's when again you asked her if up to that point, did he tell you you were [going to] be working as a prostitute?", Detective Gatus testified "That is correct.", and was asked thereafter "And can you go ahead and read her answer to you?', Detective Gatus testified "She said no." 4/21/2017, 23, 6-14. Detective Gatus was also asked "Okay. And when you said working, did you mean working as a prostitute?", and Detective Gatus testified "Yes." 4/21/2017, 24, 12, 14. Detective Gatus was asked by Samuel S. Martinez (Martinez) during cross-examination "Some of the information that the victim provided you was that Miles told her that she would have to get to work soon and that he would have his more experienced girls show King—or show her how to work as a prostitute?" Detective Gatus testified "Yes." 4/21/2017, 65, 17-20. King was asked during direct examination by the Defendant "Now would it be fair to say that you never actually told the detective that I

would have my more experienced girls show you how to work as a prostitute?" , and King testified "Yeah, you didn't say that." 4/21/2017, 87, 14-19.

Detective Gatus was asked by Martinez during cross-examination "Did she [King] indicate also that the Defendant took several pictures of her digitally imposed on a phone number diagonally across the photograph and posted those things on Craigslist?" , Detective Gatus testified "Yes." And was asked thereafter "Okay. And was that for the purpose of advertising her for prostitution related services?" Detective Gatus testified "Yes." 4/21/2017, 65-66, 24-5.

King was asked by Martinez during cross-examination "do you remember telling Justine that that was to be able to post the photographs on Craigslist to advertise you?" , and King testified "I don't know if it was on Craigslist,..." 4/21/2017, 99, 15-17.

Detective Gatus was asked by the Defendant during direct examination "Do you also recall stating that King stated Miles would drive his prostitutes, including King, to their pre-arranged dates?" , and Detective Gatus testified "Yes." 4/21/2017, 25, 14-22. Detective Gatus was asked by Martinez "And she [King] also stated to you that he would drive his prostitutes, including the victim, to their prearranged dates; is that correct?" , and Detective Gatus testified "Yes." 4/21/2017, 67, 13-15. King was asked by the Defendant during direct examination "And would it also be fair to say that you never at any point in time, during any interview with the detective, tell her that I drove other prostitutes around?" , and King testified "Yes." 4/21/2017, 88, 8-11.

Detective Gatus was asked by the Defendant during direct examination "do you recall stating in your affidavit that Miles then drove King to the Boulevard Mall located at 3528 South Maryland Parkway, Las Vegas, Nevada 89169 to go shopping. While there Miles bought King clothing. Do you recall stating that?" , and Detective Gatus stated "Yes." 4/21/2017, 37, 5-9.

Detective Gatus was asked "in the recorded interview that you conducted with the alleged victim, do you recall her stating that clothing was actually bought from Walmart and not the mall?" , Detective Gatus testified "I remember in that statement she said she did go to Walmart, yes." , and was asked thereafter "Did she say the heel were bought at the mall?" , Detective Gatus testified "No, she says they were bought at Walmart." 4/21/2017, 37-38, 24-13. Detective Gatus was asked "did she state in the recorded interview, that you're aware of at this time of any clothing being bought at the mall?", and Detective Gatus testified "...no." 4/21/2017, 38-39, 22-1. Detective Gatus also was asked "Now is the statement on your warrant affidavit that the Defendant allegedly bought her clothing from the mall, is that consistent with the...recorded interview that you had with the alleged victim?" , and Detective Gatus testified "It is not consistent with the recorded interview." 4/21/2017, 39, 20-23.

Detective Gatus was asked by the Defendant "Do you recall what the TextNow number the alleged victim [King] said she was using?' , and Detective Gatus alleged "702-291-2355" in her testimony. 4/21/2017, 62, 3-7. Detective Gatus was also asked by the Defendant "...is there any reason to believe why there'd be evidence that suggests that this was not the number that was in the TextNow application, 702-291-2355?" , and Detective Gatus alleged in her testimony "No, that's the number I saw in the TextNow application." 4/21/2017, 62, 20-23. King was asked by the Defendant "Now do you remember actually having an LG cellular phone between the dates of February 8th 2015 and February 13th, 2015?" , and King testified "Yes." 4/21/2017, 93, 18-21. And was asked thereafter by the Defendant "Okay. And it's your testimony that that TextNow number was 517-2010?" , and King testified "Yes." 4/21/2017, 94, 15-17.

King previously testified at the preliminary hearing that her mother, Becky York, allegedly last seen her getting into defendant's car and that her mother followed the defendant's

car to catch up with her but it was not successful. PHT, 6-8, 25-5. Becky York testified at the Evidentiary hearing that she "stopped at Rhodes Ranch gate" while her husband mark Hunt allegedly followed the vehicle. 4/21/2017, 116, 16-18. Mark Hunt was asked by the Defendant during direct examination "Now at the time you were following the vehicle, do you know where your fiancée was at the time?" , Mark hunt testified "I believe she was at home." And was asked thereafter "She was at home?" , Mark Hunt testified "Yes." 4/21/2017, 111, 1-5.

King previously testified at the preliminary hearing that the defendant allegedly posted her photos on "Craigslist," so she could "get clients as in Johns." To engage in prostitution. PHT, 10-11, 17-20. King admitted at the evidentiary hearing that she does not "know if it was on Craigslist,..." 4/21/2017, 99, 13-17.

On January 29th, 2018, an Evidentiary Hearing was held, and during that hearing Officer James Jacobs (Officer Jacobs), Gabrielle King (King), Becky York (York), Mark Hunt (Hunt), Detective Justine Gatus (Detective Gatus), and Detective Vicente Ramirez (Detective Ramirez) testified as witnesses.

Officer Jacobs testified that "February 12th [, 2015] I got contacted by her [King] mother and father regarding Gabrielle and her whereabouts, since previously she cut off her GPS device that we placed on her, and that she will be at Arizona Charlie's at a specific time, and that...me and my partner would meet her and her father and her mother at, I think it's called the sandwich shop, across the street from Arizona Charlie's and at that time, we were going to hopefully get Gabrielle out of the van she was in." Recorder's Transcript of Hearing, Monday January 29th, 2018, page 9, lines 16-23 (hereinafter (1/29/2018, [Page Number(s)], [Line Number(s)])). Officer Jacobs testified that "There was a person that was...helping the mother, father do the

contacting...the father would contact me saying we're going to meet here at this time and we'll get Gabrielle. I said okay. So, me and my partner met them at the sandwich shop. We saw the van come up and we followed into the parking lot of Arizona Charlie's. Dad got out of the car, I got out of the car, my partner stayed in the car. I opened the sliding glass door, [and]...I told Gabrielle to come on out." 1/29/2018, 10, 4-12. Officer Jacobs went on to testify that "She [King] was kind of resistant. I handcuffed her and took her to the car, read her Miranda rights, and then I took her down to booking." 1/29/2018, 10, 14-15, Officer Jacobs was asked by the defendant during direct examination thereafter "Okay. Now, you did previously testify that you were with your partner; who was your partner that you were with?" , and Officer Jacobs testified "Gary Reed." 1/29/2018, 10, 16-18. Officer Jacobs was asked "...Now, did she [King] give you any type of statement at the time of arrest?" Officer Jacobs testified "Yes, she did." 1/29/2018, 10, 19, 21, and testified that "I remember. She said that she was kidnapped." 1/29/2018, 12, 21, and testified that "...she just said that she was kidnapped while walking down the street,...And I said okay, I'll let Officer Gatus know about that. And I left it at that." 1/29/2018, 13, 5-8, Officer Jacobs was asked thereafter "Okay. And did you actually let [Detective] Gatus know of the statements that she told to you that day?" , and Officer Jacobs testified "I notified her on phone." 1/29/2018, 13, 9-11. Officer Jacobs was also asked "Okay. Now, also, when you made that arrest did you confiscate any property from the alleged victim?" and Officer Jacobs testified "No." 1/29/2018, 14, 23-25.

Detective Gatus was asked during direct examination by the defendant "...did you include in that [warrant] affidavit that Gabrielle King told you that she was kidnapped and taken against her will?" 1/29/2018, 57-58, 24-1, and Detective Gatus went on to testify that "It does not appear that I ever stated that King verbally told me she was kidnapped, no." 1/29/2018, 58,

7-8. Detective was also asked "Have you spoken to Officer Jacobs in regards to this case?" , Detective Gatus testified "if that is the probation officer, I did speak with him very long ago; It was right after she was taken into custody, and he provided me with…the GPS of…where that tracker was at." 1/29/2018, 60-61, 25-4, Detective Gatus was asked thereafter "Okay. And it's at that time also where he told you that the alleged victim was allegedly kidnapped; isn't that correct?" , Detective Gatus testified "I don't remember him saying that she was kidnapped,…" 1/29/2018, 61, 5-8, and Detective was asked thereafter "So, did he [Officer Jacobs] state that to you, or are you just saying you don't remember?" , Detective Gatus testified "Not that I remember, no." 1/29/2018, 61, 9-11. King was asked during direct examination "…Okay. Now, would it surprise you that Officer Jacobs testified that you reported being kidnapped; would that surprise you?" , King testified "Yes, it would surprise me." 1/29/2018, 17, 14-17, and King was asked "Okay. So, what is your testimony for here today as far as being arrested on February 13th; were you kidnapped?" , and King testified "No, I was not kidnapped at the time." 1/29/2018, 18, 2-7.

King previously testified at the preliminary hearing that when she was allegedly with the defendant on or between the dates of February 8th, 2015, she allegedly had a cell phone with her that the defendant allegedly bought her which also was allegedly used to engage in prostitution, on in-calls and outcalls. PHT, 11-17, 1-25. King was asked by Martinez during cross-examination at the evidentiary hearing "So, the time that you left your house on February 8th [2015] to the time that you got arrested on February 13 [2015] you had a cell phone with you?", King testified "No.", and was asked thereafter "You did not?" King testified "No." 1/29/2018, 28, 2-7.

King previously testified at the preliminary hearing that she went on "One". Outcall to engage in prostitution that the defendant allegedly drove her to. PHT, 12-18, 2-4: King also previously testified at that hearing that after she allegedly engaged in prostitution at the outcall, she allegedly "gave it to" the defendant, then drove "back to the suite" and "just fell asleep." PHT, 18-19, 5-11. This alleged outcall was believed by the State to have allegedly taken place on February 10th, 2015. (See State's Opposition to Defendant's Supplemental Motion to Suppress Cellular Evidence filed December 26th, 2017). G.K. testified at the evidentiary hearing that she was with a friend named Darrell from "February 10th," of 2015 to "the 11th." of February 2015, 1/29/2018, 25-26, 7-9, and testified during cross-examination by Martinez that she "spent the whole day." with Darrell. 1/29/2018, 34, 10-13.

ARGUMENT

POINT 1

THE STATE'S OPPOSITION IS WITHOUT MERIT

A prosecutor may not argue facts or inferences not supported by the evidence. Collier v. State, 101 Nev. 473 (1985). Nor may he disparage legitimate defense tactics, Pickworth v. State, 95 Nev. 547 (1979). See Williams v. State, 103 Nev. 106, 110 (1987) ("a prosecutor may not argue facts or inferences not supported by the evidence.")

NRS 199.210 provides:

A person who, upon any trial, hearing, inquiry, investigation or other proceeding authorized by law, offers or procures to be offered in evidence, as genuine, any book, paper, document record or other instrument in writing knowing the same to have been forged or fraudulently altered, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

The State, through Samuel S. Martinez, has deliberately fabricated evidence, and argued facts and inferences unsupported by the evidence in its oppositions.

A. **The Prosecution Has Violated The Rules of Professional Conduct.**

The State has engaged in criminal acts that reflects adversely on its honesty, trustworthiness and fitness as a lawyer, and has engaged in conduct involving dishonesty, fraud, deceit, misrepresentation and conduct that is prejudicial to the administration of justice.

Nev. Sup. Ct. R. Prof. Conduct 1.0 provides in relevant part:

As used in these Rules, the following terms shall have the meanings described:

(d) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable and has a purpose to deceive.

(f) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(m) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency or other body acting as an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will make a binding legal judgement directly affecting a party's interest in a particular matter.

Nev. Sup. Ct. R. Prof. Conduct 3.3 provides in relevant part:

(a) A lawyer shall not knowingly:

(1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(3) Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal...

(b) A lawyer who represents a client in an adjudication proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Nev. Sup. Ct. R. Prof. Conduct 3.4 provides in relevant part:

A lawyer shall not:

(a) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act.

(b) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to be a witness that is prohibited by law;

Nev. Sup. Ct. R. Prof. Conduct 8.4 provides:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;

(e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conductor other law; or

(f) Knowingly assist a judge or judicial officer in conduct that is in violation of applicable rules of judicial conduct or other law.

The prosecutor's primary duty is not to convict, but to see that justice is done. Williams v. State, 103 Nev. 106, 734 P. 2d 700 (1907). The State has made deliberate material false statements of facts, deliberately fabricated evidence, has failed to correct the false statements of material facts and has offered evidence in its opposition that it knows to be false. The State has deliberately violated the Nevada Rules of Professional Conduct and has committed crimes against defendant in violation of NRS 199.210 and NRS 199.310. The State has abandoned its duty to seek justice and has instead brought fraud upon the Court.

B. The State Has Made Deliberate False Statements Of Facts It Knows Not To Be True.

The State deliberately falsely states in its opposition that "G.K.'s step-father reported that he last saw G.K. getting into a vehicle bearing Nevada license plate 473APF." (State'sOpposition to Defendant's Motion To Dismiss Insufficient Information, p. 2,

filed May 24, 2018 (hereinafter (State's Opposition, [Page Number(s)]))). The alleged vehicle the State is referring to is "A Volvo [,] silver [colored] convertible" car, which the alleged step-father allegedly "copied the plate and vehicle information." Recorder's Transcript of proceedings, 6/1/17, 6, 2-5. Detective Gatus testified that G.K. stated to her in the recorded interview that she was allegedly picked up from her neighborhood in "an old BMW…I think white." 4/21/2017, 11, 15-22. G.K. confirmed in her testimony at the evidentiary hearing that she told Detective Gatus that the car she was allegedly picked up from her neighborhood in was a white BMW. 1/29/2015, 46, 11-19. Here, based on G.K.'s and Detective Gatus' testimony, G.K. was not picked up from her neighborhood in a Silver Volvo convertible car bearing Nevada license plate 473APF. G.K. has already reported to Detective Gatus and testified under oath that she was picked up in a white BMW, and not the Silver Volvo convertible car bearing Nevada license plate 473APF as falsely suggested by the State. The State is aware of G.K.'s recorded interview and testimony which she continues to allege she was picked up in the white BMW. Therefore, the State's false statements should be disregarded.

The State goes on to deliberately falsely state in its opposition that "Defendant arranged for approximately between four (4) and six (6) men to have sexual relations with G.K. in exchange for money… The money G.K. obtained from those sexual encounters was given to the Defendant…." State's Opposition, 2, "Some of these encounters were… Outcalls, meaning Defendant would drive G.K. to the location where the men were staying… Detective Gatus was able to retrieve and review text messages between G.K. and Defendant during the time period between February 9, 2015 and February 13, 2015… The following is a brief excerpt and example of the communications between Defendant and G.K. pertaining to the Defendant's role in G.K.'s engaging in prostitution: On February 10, 2015:

Defendant: You got an Outcall.
G.K.: Omfg
Defendant: Lmfao bae I'm down the st
G.K.: I was finna go to sleep
Defendant: Yeh, but he got 150 after this we go to sleep
G.K.: Ugh…my vagina. Hurt but fuck it
Defendant: Let me know when you there
G.K.: Done Defendant: OK"State's Opposition, 3.

G.K. testified that she was with a friend named Darrell from "February 10th," of 2015 to "the 11th." of February 2015, 1/29/2018, 25-26, 7-9, and testified during cross-examination by the State that she "spent the whole day." With Darrell. 1/29/2018, 34, 10-13. There is no evidence that a forensic examiner retrieved the alleged text messages from the LG cellular phone. The Defense and the State are unable to confirm that the text messages existed on the LG cellular phone since the phone "no longer works despite the parties' efforts to charge it and/or view it." (See State's Opposition to Defendant's Omnibus Motion to Dismiss for Destruction of Evidence, filed ~~March 23~~ February 8, 2018). There is also no evidence that (1) defendant sent the text messages to the alleged cellular phone, (2) that the defendant owned or used the alleged number that sent the alleged text messages to the LG cellular phone on or between the dates of February 8th,- February 13th, 2015, or that (3) G.K. owned the LG cellular phone or sent the alleged text messages to Defendant. Here, the State has made deliberate false statements in its opposition that suggest Defendant drove G.K. to an Outcall to engage in prostitution on February 10th, 2015, and contacted G.K. via text messages regarding the alleged prostitution activity, which is unsupported by the evidence. The State's falsified statements are also a deliberate fabrication of alleged facts known to the State to be false based on its knowledge of the testimony of G.K. and its knowledge of its statements that are unsupported by the evidence. G.K. has already testified that she was not with defendant on February 10th, 2015, moreover, the text messages are false

evidence manufactured by the State and used in its opposition as genuine. Therefore, the State's false statements on the subject should be disregarded.

The State deliberately falsely states in its opposition that "On or between February 8, 2015 and February 13, 2015, G.K. (a 15-year-old child) began working for the Defendant as a prostitute." State's Opposition, 3. G.K. testified for the State at the preliminary hearing that on the day she allegedly "went to The Suite on Boulder, [February 8th, 2015]" she "didn't have no clients," PHT, 11-12, 23-1, and testified at the evidentiary hearing that she was with a friend named Darrell from "February 10th," 2015 to "the 11th." of February 2015, 1/29/2018, 25-26, 7-9, and "spent the whole day." with Darrell. 1/29/2018, 34, 10-13. G.K. also was not 15 years of age on or between February 8th, 2015 and February 13, 2015. (See Information, filed May 12, 2015). Here, the State has made deliberate false statements in its opposition that suggest G.K., allegedly 15 years old at the time, was engaging in prostitution for the defendant on or between the dates of February 8th, 2015, and February 13th, 2015. G.K. has already testified that on February 8th, 2015, she didn't have clients, and that she was not with Defendant on February 10th, 2015- February 11th, 2015. The State is aware of this testimony, however, the State falsely suggests that G.K. was with the Defendant and engaging in prostitution on days G.K. has testified that she was not. Therefore, the State's falsified facts on the subject should be disregarded.

C. The State's Argument is Without Merit.

The State argues the following in its opposition:

> In Levinson, the Nevada Supreme Court held that the information in that case provided adequate notice to the accused because it contained a specific date, location, and the offenses that occurred. Id. The Court was not concerned with whether the information could have been more artfully drafted, but only whether as a practical matter, provided adequate notice to the accused. the information
> Id.

As was the was the case in Levinson, the Information in this case contains specific date range (February 8, 2015- February 13, 2015), a location (Clark County, State of Nevada), and factual details as to the offenses committed, namely the identity of the victim (G.K.), that G.K. is a child, and that he harbored that child to engage in prostitution, that Defendant did lead G.K. away from her parents with the intent to hold G.K. to unlawful service, or to perpetrate upon her acts of prostitution, and did receive money from G.K. that were proceeds from prostitution activity, and that he placed G.K. in a situation where she might have suffered unjustifiable pain or mental suffering through sexual exploitation, more specifically, by encouraging G.K. to engage in prostitution.

The State's argument is misplaced and entirely without merit.

First, in Sheriff, Clark County v. Levinson, 95 Nev. 436 (1979), the Court held that "an information which alleges the commission of the offense solely in the conclusory language of the statute is insufficient." 95 Nev. At 437 (citing Earlywine v. Sheriff, 94 Nev. 100, 575 P. 2d 599 (1928). The State has omitted the Courts holding, In Levinson, from its opposition, however, all the Counts set forth in the information alleges the commission of the offense solely in the conclusory language of the statute. For example, Defendant is alleged to have "obtain[ed] and/or maintain[ed], G.K., a child under eighteen years of age; to engage in prostitution." (Information, p. 2). NRS 201.300 provides that: A person...[i]s guilty of sex trafficking if the person...harbors...obtains or maintains a child to engage in prostitution." Here, Count 1 alleges the commission of the offense solely in the conclusory statutory language of NRS 201.300. Count one (1) fails to allege the means by which Defendant allegedly obtained or maintained G.K. to engage in prostitution. Moreover, it contains no facts to support the latter charge. Therefore, Count one (1) should be dismissed on those issues alone. Defendant is alleged to have "lead, t[ook], entic[ed], carr[ied] away or kidnap[ped] G.K., a minor, with the intent to keep, imprison, or confine said G.K., from Becky York, her parents, guardians, or other person or persons having lawful custody of G.K., or with the intent to hold G.K. to unlawful service, or to perpetrate upon the person of G.K. any unlawful act, to-wit: prostitution." (Information, p. 2).

NRS 200.310 provides: ...a person who leads, takes, entices, or carries away... any minor with the intent to keep, imprison, or confine the minor from... his parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree which is a category A felony. Here, Count two (2) alleges the commission of the offense solely in conclusory statutory language of NRS 200.310. Also relevant, it fails to allege the means by which Defendant allegedly "lead, t[ook], carr[ied] away or kidnap[ped] G.K.," and fails to allege the means by which Defendant "inten[ded] to keep, imprison, or confine said G.K., from [her parents or guardian] Becky York." and fails to allege the means by which Defendant allegedly "inten[ded] to hold G.K. to unlawful service," and fails to allege the means by which Defendant allegedly "perpetrate[d] upon the person of G.K. any unlawful act, to wit: prostitution." or that the alleged conduct was unlawful. Moreover, it contains no facts to support the latter charge. Therefore, Count two (2) should be dismissed on those issues alone.

Defendant is alleged to have "knowingly accept[ed], receive[d], lev[ied], or appropriate[d] money, without consideration, from G.K., the proceeds of prostitution activity." (Information, p. 2). NRS 201.320 provides: A person who knowingly accepts, receives, or appropriates any money...without consideration, from the proceeds of any prostitute, is guilty of a category D felony...". Here, Count three (3) alleges the commission of the offense solely in the conclusory statutory language of NRS 201.320, and fails to allege the means by which the offense was allegedly committed. Moreover, it contains no facts to support the latter charge. Defendant is alleged to have "cause[d] a child under the age of 18 years, to wit G.K., being approximately 17 year[s] of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, and/or cause G.K. to be placed in a

situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, by encouraging and/or directing the said G.K., to engage in prostitution." (Information, p. 3) Here, Count four (4) alleges the commission of the offense solely in the conclusory statutory language of NRS 200.508. Also relevant, Count four (4) fails to allege the means by which Defendant allegedly caused G.K. "to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect," and fails to allege the means by which Defendant allegedly "cause[d] G.K. to be placed in a situation where she might have suffered unjustifiable physical or mental suffering as a result of abuse or neglect,". Moreover, it contains no facts to support the latter charge.

Secondly, In Levinson, The Nevada Supreme Court held that the information in that case contained "a sufficiently clear statement of the facts surrounding the alleged commission of the offense to apprise" Levinson "of the charges against him" . Id. at 438. The information in this case fails to contain any facts surrounding the alleged commission of the offenses charged. Moreover, each count of the information in Levinson provided a "definite date and location for the commission of the offense," Id. at 437. The Information in this case does not provide a definite date and location for the commission of the offense. The State's reliance on Levinson is misplaced and entirely without merit. Therefore, the State's argument should be disregarded and the Defense Motion should be Granted.

CONCLUSION

Wherefore, based on the foregoing, the Defendant, Christian S. Miles, respectfully requests that the Motion to Dismiss Insufficient Information, be Granted.

Dated this 20th day of July 2018

Respectfully submitted,

By Christian Miles

Christian Stephon Miles #2888634

/ in proper person

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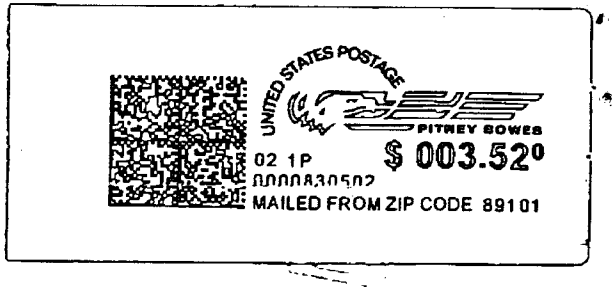

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- **CHRISTIAN STEPHON MILES, #2888634** Defendant.	CASE NO: **C-15-306436-1** DEPT NO: **IX**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS INSUFFICIENT INFORMATION

DATE OF HEARING: JUNE 15, 2018
TIME OF HEARING: 10:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through SAMUEL S. MARTINEZ, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in State's Opposition to Defendant's Motion to Dismiss Insufficient Information.

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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POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On May 12, 2015, the State filed an Information charging Defendant Christian Miles ("Defendant") with one (1) count of Sex Trafficking of a Child Under 18 Years of Age (Category A Felony); one (1) count of First Degree Kidnapping (Category A Felony); one (1) count of Living from the Earnings of a Prostitute (Category D Felony); and one (1) count of Child Abuse, Neglect, or Endangerment (Category B Felony).

On June 28, 2016, after a Faretta canvass, Defendant was allowed to represent himself and Bob Beckett, Esq., was appointed as stand-by counsel. On May 15, 2018, Defendant filed the instant motion. The State's Opposition follows.

STATEMENT OF RELEVANT FACTS

On February 8, 2015, Becky York called the police to report that her daughter, G.K., was missing. At the time, G.K. was on juvenile house arrest and was wearing a GPS monitoring device. G.K.'s step-father reported that he last saw G.K. getting into a vehicle bearing Nevada license plate 473APF. On February 11, 2015, LVMPD Vice Section – FBI Child Exploitation Task Force Detecitve Justine Gatus became involved with the case. Also on February 11, 2015, G.K.'s GPS device was located underneath the Flamingo Road/US 95 overpass. Detective Gatus conducted a records check on the license plate number and found that the vehicle was registered to the Defendant. Defendant did not have her mother's or step-fathers permission to go anywhere or do anything with the Defendant. On February 13, 2015, G.K. was located and arrested for her juvenile probation violation and thereafter transported to Clark County Juvenile Hall. On March 4, 2015, Detective Gatus conducted an interview with G.K.

On or between February 8, 2015 and February 13, 2015, G.K. (a 15 years old child) began working for the Defendant as a prostitute. Evidentiary Hearing 4/21/17 p.97-98. Defendant arranged for approximately between four (4) and six (6) men to have sexual relations with G.K in exchange for money. Id. at 98-100. The money G.K. obtained from those sexual encounters was given to the Defendant. Id. at 98. Some of these encounters were

in-calls, meaning the men would come to Defendant's room where G.K. was staying, or out-calls, meaning Defendant would drive G.K. to the location where the men were staying. Id. at 100. Detective Gatus was able to retrieve and review text messages between G.K. and Defendant during the time period between February 9, 2015 and February 13, 2015. Id. at 101-103. *See also* Defense Exhibit A for 4/21/17 evidentiary hearing. The following is a brief excerpt and example of the communications between Defendant and G.K. pertaining to the Defendant's role in G.K.'s engaging in prostitution: On February 10, 2015:

> Defendant: You got an Outcall.
> G.K: Omfg
> Defendant: Lmfao bae I'm down the st
> G.K.: I was finna go to sleep
> Defendant: Yeh, but he got 150 after this we go to sleep
> G.K.: Ugh... my vagina. Hurt but fuck it
> Defendant: Let me know when you there
> G.K.: Done
> Defendant: Ok

See Defense Exhibit A from 4/21/17 evidentiary hearing.

ARGUMENT

As stated above, on May 12, 2015, the State filed an Information charging Defendant Christian Miles ("Defendant") with one (1) count of Sex Trafficking of a Child Under 18 Years of Age (Category A Felony); one (1) count of First Degree Kidnapping (Category A Felony); one (1) count of Living from the Earnings of a Prostitute (Category D Felony); and one (1) count of Child Abuse, Neglect, or Endangerment (Category B Felony).

"In the information, the prosecution is required to make a definite statement of facts constituting the offense in order to adequately notify the accused of the charges and to prevent the prosecution from circumventing the notice requirement by changing theories of the case." Sheriff, Clark County v. Levinson, 95 Nev. 436, 437 (1979) *citing* Simpson v. District Court, 88 Nev. 654, 503 P.2d 1225 (1972). In Levinson, the Nevada Supreme Court held that the information in that case provided adequate notice to the accused because it contained a specific date, location, and the offenses that occurred. Id. The court was not concerned with whether

the information could have been more artfully drafted, but only whether as a practical matter, the information provided adequate notice to the accused. Id.

As was the case in Levinson, the Information in this case contains a specific date range (February 8, 2015-February 13, 2015), a location (Clark County, State of Nevada), and factual details as to the offenses committed, namely the identity of the victim (G.K.), that G.K. is a child, and that he harbored that child to engage in prostitution, that Defendant did lead G.K. away from her parents with the intent to hold G.K. to unlawful service, or to perpetrate upon her acts of prostitution, and did receive money from G.K. that were proceeds from prostitution activity, and that he placed G.K. in a situation where she might have suffered unjustifiable pain or mental suffering through sexual exploitation, more specifically, by encouraging G.K. to engage in prostitution.

The factual information contained in the charging document in this case is sufficiently clear to apprise Defendant of the charges against him. Moreover, as this Court is undoubtedly aware, Defendant has already had the opportunity to cross-examine the State's witnesses extensively in this case on multiple occasions. Claiming now that he cannot adequately prepare a defense is somewhat humorous and completely without merit. As such, Defendant's motion should be denied.

CONCLUSION

Based on the foregoing, the State respectfully requests that Defendant's motion be denied.

DATED this 24th day of May, 2018.

Respectfully submitted,

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

BY /s/ Samuel S. Martinez
SAMUEL S. MARTINEZ
Chief Deputy District Attorney
Nevada Bar #010671

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 24th day of May, 2018, by electronic transmission to:

ROBERT BECKETT, ESQ.
Email Address: vegaslawllc@gmail.com

BY: /s/ J. Georges
Secretary for the District Attorney's Office

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 25th day of May, 2018, by U.S. Mail, postage pre-paid, addressed to:

CHRISTIAN MILES, ID#2888634
c/o CCDC
330 S. Casino Center Blvd.
Las Vegas, Nevada 89101

BY: /s/ J. Georges
Secretary for the District Attorney's Office

jg/SVU

DISTRICT COURT
CLARK COUNTY, NEVADA

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

C-15-306436-1 State of Nevada
vs
Christian Miles

September 28, 2018 **3:00 AM** **Motion to Dismiss**

HEARD BY: Togliatti, Jennifer **COURTROOM:**

COURT CLERK: Athena Trujillo

RECORDER:

PARTIES PRESENT: None.

JOURNAL ENTRIES

This Court, having reviewed Defendant's Motion To Dismiss For Insufficient Information, the State's Opposition, the Defendant's Reply to State's Opposition to Defendant's Motion To Dismiss Insufficient Information, and having considered oral argument, FINDS that Defendant's Motion To Dismiss For Insufficient Evidence is without merit and is therefore DENIED.
Defendant, *in propria persona*, is charged by way of Information with the following counts: (1) Sex Trafficking of a Child Under 18 Years of Age, (2) First Degree Kidnapping, (3) Living From the Earnings of a Prostitute, and (4) Child Abuse, Neglect, or Endangerment. These charges stem from the allegation that between February 8, 2015 to February 15, 2015, Defendant took the victim, G.K. from her home in Clark County Nevada, to engage in acts of prostitution.

The sufficiency of an Information is determined by "whether the indictment adequately alleges the elements of the offense and fairly informs the defendant of the charge, not whether the government can prove its case." *United States v. Blinder*, 10 F.3d 1468, 1471 (9th Cir. 1993) (quoting *United States v. Buckley*, 689 F.2d 893, 897 (9th Cir. 1982)). An Indictment, is sufficient if the offense is clearly and distinctly set forth in ordinary and concise language in such a manner as to enable a person of common understanding to know what is intended. *Brimmage v. State*, 93 Nev. 434, 440, 567 P.2d 54, 58 (1977).
In *Sheriff, Clark County v. Levinson*, the Court stated that, "[i]n the Information, the prosecution is required to make a definite statement of facts constituting the offense in order to adequately notify the accused of the charges and to prevent the prosecution from circumventing the notice requirement by changing theories of the case." *Sheriff, Clark County v. Levinson*, 95 Nev. 436, 437 (1979) *citing Simpson v. District Court*, 88 Nev. 654, 503 P. 2d 1225 (1972). The Court in *Levinson* found that the accused was given adequate notice when the Information contained a ***specific date, location, and type of offense***. *Id.* The question before the *Levinson* court

was not whether the Information was artfully drafted, but instead, whether the Information provided ***adequate notice*** to the accused. This is the same question before the Court in the instance case.

The Information at issue is charging Defendant with four separate offenses. The State is alleging that all four offenses took place in Clark County Nevada, on or between February 8, 2015 and February 13, 2015. In applying the above standards to the current Information, this Court FINDS that the Information ***adequately*** informs Defendant of the offenses charged.
Additionally this Court FINDS that the Information in this case is ***adequate*** to put Defendant on notice of ***where*** the alleged offenses took place, because the State has alleged that the offenses took place in Clark County Nevada.

The Court FINDS that the six day time period (February 8, 2015 to February 13, 2015), in which the State is alleging the offenses took place, is ***adequate*** to put Defendant on notice of ***when*** the alleged offenses occurred. This six day time period alleged by the State is specific enough to allow Defendant to prepare any defenses, alibis, or to seek witnesses in his favor, or other theories he may have as a result of the specific time frame the State is alleging the offenses occurred during.
The Court FINDS that the each alleged count contains enough facts to put Defendant on notice of the types of offenses Defendant is being alleged to have committed. Defendant's argument that the Information lacks essential facts regarding the offenses charged, as well as Defendant's argument that the Information is inadequate because it fails to inform the Defendant of the various theories of prosecution, is without merit. As stated in *Blinder*, the question is not whether the State can prove its case against Defendant, instead it is whether the State alleged enough facts so that Defendant has been put on notice of the charges against him.

The Court also FINDS that Defendant's argument that the Information is insufficient because it only contains conclusory language is misplaced. At the Information stage of the proceedings, the State is under no obligation to present their entire case to the Defendant via the Information, nor are they under any obligation to present all evidence they plan to use against Defendant at trial via the Information. Moreover, it is clear from Defendant's motions that were filed in response to the charges, that Defendant is well aware of the charges against him and has been proceeding with his Defense accordingly.
For the aforementioned reasons, this Court FINDS that the Information adequate because it puts Defendant on notice of ***where*** the alleged crimes were committed, ***when*** the alleged crimes took place, and ***what*** the alleged crimes are, and for those reasons Defendant's Motion to Dismiss For Insufficient Information is DENIED.

CLERK'S NOTE: A copy of this minute order has been e-mailed to Sam Martinez, Deputy District Attorney, Robert Beckett, Esq., and mailed to:

Christian Miles, #2888634
CCDC
330 South Casino Center
Las Vegas, NV 89101