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Respondent.

Electronically Filed
May 20 2020 12:59 p.m.
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Clerk of Supreme Court

Docket 79036 Document 2020-19223

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CHRISTOPHER SENA
Case No. 79036

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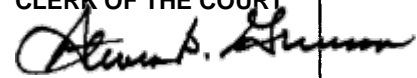
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MOT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

CHRISTOPHER SENA,

Defendant,

CASE NO. C-15-311453-1

DEPT. NO. XIX

DATE: August 2017
TIME: 8:30 a.m.

MOTION TO DISMISS COUNTS FOR VIOLATION OF STATUTE OF LIMITATIONS

Defendant, CHRISTOPHER SENA, through counsel, VIOLET R. RADOSTA, Deputy Public Defender, hereby moves this Honorable Court to dismiss counts 2-53 for failing to comply with the requirements of Nevada Revised Statute 171.095 and NRS 171.085.

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

DATED this 11th day of August, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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1. I am an attorney licensed to practice law in the State of Nevada and I am a
Defender for the Clark County Public Defender's Office, counsel of record for
CHRISTOPHER SENA, in the present matter;

3. I am more than 18 years of age and am competent to testify as to the
herein. I am familiar with the procedural history of the case and the substantive
de by The State of Nevada. I also have personal knowledge of the facts stated
e been informed of these facts and believe them to be true.

EXECUTED this 11th day of August, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

Procedural History

Defendant, CHRISTOPHER SENA, is charged by way of State's Information with the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.), INCEST (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS 200.508(1)), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750). The Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The crimes allegedly occurred on or between May 22, 2001 and June 30, 2014. The alleged victims are A.S., T.S., B.S., R.S., E.C., I.G., T.G., and M.C.

Mr. Sena entered a NOT GUILTY plea to all charges on January 20, 2016. Mr. Sena waived his right to a speedy trial and the jury trial was set for the week of November 14, 2016. That trial date was continued. The current trial date is September 11, 2017.

Factual History

This factual history will only address facts pertinent to this motion to dismiss. The

1 motion addresses charges involving alleged conduct against A.S.. *In light of the voluminous*
2 *nature of the preliminary hearing transcript, the Defense has elected not to attach it as an*
3 *exhibit. Should the Court require a copy, the Defense will be happy to provide one.*

4
5 **Terrie Sena –**

6 Terrie Sena is the mother of A.S., T.S. and R.S. She was married to Christopher Sena
7 from 1990 to 1997. After her divorce from Mr. Sena, Terrie lived at 6012 Yellowstone with
8 Mr. Sena and their children. Terrie Sena lived there, off and on, from 1998 to 2014. Deborah
9 Sena (Christopher Sena's second wife), B.S. and T.S. also lived at the same residence.

10 Terrie Sena was criminally charged for her own actions in this case and accepted a plea
11 negotiation in exchange for her cooperation in testifying against Mr. Sena. Terrie testified about
12 various sexual acts that she engaged in with A.S., R.S. and B.S. while living at 6012
13 Yellowstone.

14 For purposes of this motion, Terrie testified about an alleged incident of sexual assault
15 involving A.S. A.S. was 17 when that alleged incident occurred. Terrie recalled the incident
16 occurred in the living room and Mr. Sena was also present. A.S. had taken off her clothes and
17 was leaning over an ottoman while touching Terrie Sena's breasts. Per Terrie Sena, Mr. Sena
18 had her remove her own top. Terrie Sena's testimony was that Mr. Sena was penetrating A.S.
19 While this was allegedly happening, Terrie Sena was sitting near A.S. on the couch facing her.
20 PHT Vol. I, pp 48-52.

21
22 **A.S.**

23 A.S. testified her birth date is May 22, 1990. PHT Vol. III, pp 6. She was 25 years old
24 on the day of her testimony and she also testified that she graduated high school in 2008. Her
25 biological mother is Terrie Sena and her biological father is Mr. Sena.

26 A.S. lived with Mr. Sena at 6012 Yellowstone Avenue. Her mother, Terrie Sena, and
27 half-brother, R.S. lived there, but would leave and come back several times over the time period
28

1 discussed in this motion of May 2001 through August 2014. Deborah Sena, A.S.'s stepmother,
2 B.S. (half-brother) and T.S. (full biological brother) also lived at the same address.

3 On June 12, 2014, A.S., Deborah and B.S all moved out of the house without telling
4 anyone else. They lived at SafeNest for a short period of time and then moved into an apartment.
5 After Deborah consulted with a divorce lawyer in July or August 2014, A.S., B.S and Deborah
6 reported various acts of sexual abuse to Las Vegas Metropolitan Police Department on
7 September 15, 2014. At that point, A.S. was 24 years old.

8 According to A.S., the first incident of sexual contact was when she was 11 years old
9 when she was living at 6012 Yellowstone Avenue in Las Vegas. She was in the living room,
10 and Mr. Sena came in and asked her to take her clothes off. A.S. did and then Mr. Sena
11 allegedly started touching her breasts. He touched her vagina with his hands and rubbed her
12 clitoris. Mr. Sena allegedly lifted her legs off the bed and penetrated her anus with his penis.
13 Afterwards, Mr. Sena told her to get dressed. PHT Vol. III, pp 12-17. (Counts 2-7 of the
14 Information). She testified that this wasn't the only time this happened. PHT Vol. III, pp17.

15 A.S testified that similar conduct happened frequently until 2009 when she was 19 years
16 old. She said it allegedly happened twice a week, almost every week. She turned 19 in 2009
17 when the conduct became less frequent. (Counts 33-34, 38-39 & 43-44). Between the ages of 11
18 and 13, A.S. testified that similar conduct occurred in the living room, her room, the master
19 bathroom, master bedroom and the boys' room. PHT Vol. III, pp 17-19. (Counts 8-13 & 16-18
20 of the Criminal Information).

21 At the age of 14, the alleged conduct by Mr. Sena changed, per A.S.'s testimony. She
22 alleged that one day after she turned 14, she was taking a shower and Mr. Sena got into the
23 shower with her. He allegedly touched her breasts and had her 'go up against the wall.' Per her
24 testimony, Mr. Sean allegedly inserted his penis into her vagina that day, taking her virginity.
25 After the first time, the same conduct would happen once every two to three weeks. A.S.
26 testified that vaginal intercourse would occur in the living room, the boys' bedroom, the master
27 bedroom, the bathroom and A.S.'s room. PHT Vol. III, pp 22-25. (Counts 21-29 of the Criminal
28

1 Information).

2 A.S. also testified about the alleged first incident of her performing oral sex on Mr. Sena.
3 She testified she was 12 years old. No other details were given regarding the first incident of
4 oral sex. PHT Vol. III, pp 26. A.S. stated there were other alleged incidents of oral sex. She
5 testified that it occurred sometimes once a month and sometimes not at all during a month.
6 (Counts 14-15, 19-20, 30, 35, 40 & 45).

7 A.S. then testified regarding an incident of anal intercourse when Terrie Sena was
8 present. A.S. was 14 years old, but could not recall the month or the day of the week. A.S.
9 recalled that the incident occurred in the office. and the subject turned to sex with Mr. Sena,
10 Terrie and A.S. Mr. Sena got undressed and A.S. got undressed, but Terrie 'became undressed'
11 during the incident per A.S.'s testimony. Terrie Sena gave Mr. Sena oral sex and A.S. watched
12 while that was happening. After the oral sex, Mr. Sena inserted his penis into A.S.'s anus and
13 Terrie watched. After that incident, A.S.'s attitude towards her mother became more hateful.
14 PHT Vol. III, pp 28-32. (Count 52 of the Criminal Information).

15 Finally, A.S. testified regarding an alleged incident between herself and Deborah Sena.
16 A.S. was 17 or 18 and this allegedly occurred a few weeks before high school graduation for
17 A.S.. She was unsure if the alleged incident happened before or after her 18th birthday. PHT
18 Vol. III 44. When A.S. arrived home, Mr. Sena was already naked in the living room and then
19 Deborah came into the living room. She was also naked. Per A.S., there was sexual contact
20 between herself and Deborah. At some point, Mr. Sena inserted his penis into A.S.'s vagina.
21 Then, he allegedly inserted his penis into Deborah's vagina or anus. PHT Vol. III, pp 33-38, 50.
22 The boys got home from school approximately one hour after the incident ended. Additionally,
23 Terrie was not home during the alleged incident. PHT Vol. III, pp 48-49. (Counts 46-51 of the
24 Criminal Information).

25 A.S. recalled the last time 'he did anything' to her was in January 2013. She could not
26 recall any details about the last incident. She recalled it was January 2013 because she knew it
27 was the January before she moved out of the house at 6012 Yellowstone with B.S. and Deborah.
28

1 PHT Vol. III, pp 27She did not specifically remember anything about that last alleged incident.
2 PHT Vol. III, pp 27.

3 When asked, A.S. testified that between ages of 11 and 14, it was primarily anal
4 intercourse that allegedly occurred. A.S. also testified that between ages of 14 and 23, there was
5 allegedly vaginal intercourse and anal intercourse. (Counts 31-33, 36-38 & 41-43) She testified
6 when questioned that the alleged anal intercourse occurred at least once a year every year until
7 she was 23. No specific details about any incident over the age of 18 was provided by A.S.
8 She also testified that he allegedly digitally penetrated her rarely, perhaps once or twice a year.
9 She did not testify about a time frame for this allegation. PHT Vol. III pp 40-41.

10 A.S. testified she didn't tell anyone about the alleged abuse because Mr. Sena had
11 threatened her. She specifically testified that the first time, when she was 11 years old, she told
12 him she was uncomfortable and that it was wrong. Mr. Sena allegedly responded that she would
13 be taken away and sent to juvie. PHT Vol III, pp. 40.

14 This Motion to Dismiss Counts 2-53 follows.

15
16 **ARGUMENT**
17 **POINTS AND AUTHORITES**
18

19 In this case, the Clark County District Attorney's office filed a complaint against Mr.
20 Sena in September 2014, shortly after his arrest. The criminal complaint and subsequent
21 information listed a lengthy violation date range of May 22, 2001 through June 30, 2014. Most
22 of the individual counts did contain specific date ranges, such as in the case of counts 2-20,
23 which state A.S. as the alleged victim and a date range of May 22, 2001 through May 21, 2004
24 for various charges of sexual assault with a minor under 14 and lewdness with a child under 14.
25 Counts 21- 30, 45 and 52 assert the violation date range as May 22, 2004 through May 21, 2006
26 for sexual assault under 16, incest and open or gross lewdness. Once again, the alleged victim is
27 listed as A.S. Counts 31-44 states the violation date range is May 22, 2006 through August 30,

1 2014.¹ Finally, counts 46-51 assert the time frame of those allegations is May 22, 2007 through
2 June 30, 2008. (See Exhibit #1, partial amended criminal information for Counts 2-53
3 attached. These are the counts this motion is addressing.)

4 A.S.'s birthday is May 22, 1990 and she was 24 years old when the criminal complaint
5 was filed in this case in September 2014.
6

7
8 The current version of Nevada Revised Statute 171.095(1)(b) reads:

- 9 1. Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084:
- 10 a. If a felony, gross misdemeanor or misdemeanor is committed in a secret
11 manner, an indictment for the offense must be found or an information or
12 complaint filed, within the periods of limitation prescribed in NRS 171.085²,
13 171.090, and 624.800 after the discovery of the offense, unless a longer period
14 of allowed by paragraph (b) or (c) or the provisions of NRS 202.085.
- 15 b. An indictment must be found, or an information or complaint filed, for any
16 offense constituting sexual abuse of a child as defined in NRS 432B.100 or
17 sex trafficking of a child as defined in NRS 201.200 before the victim is:
- 18 i. Thirty-six years old if the victim discovers or reasonable should have
19 discovered that he or she was a victim or the sexual abuse or sex
20 trafficking by the date on which the victim reaches that age; or
- 21 ii. Forty-three years old if the victim does not discover and reasonably
22 should not have discovered that he or she was the victim of the sexual
23 abuse or sex trafficking by the date on which the victim reaches 36
24 years of age.

25 Nevada Revised Statutes 432B.100 reads:

26 "Sexual abuse" includes acts upon a child constituting

- 27 1. Incest under NRS 201.180

28 ¹ The August 30, 2014 date is contrary to the fact that A.S. testified the last time Mr. Sena committed a sexual act against her was in January 2013. PHT Vol. III, pp 27.

² NRS 171.085(1) states that a complaint or information for sexual assault (and other listed felonies) must be filed within 4 years after the commission of the offense.

2. Lewdness with a child under NRS 201.230
3. Sado-masochistic abuse under NRS 201.262
4. Sexual assault under NRS 200.366
5. Statutory Sexual Seduction under NRS 200.368
6. Open and Gross Lewdness under NRS 201.230
7. Mutilation of genitalia of a female child aiding, abetting, encouraging or planning in the mutilation of genitalia of a female child or removal of a female child from the State for the purpose of mutilating the genitalia of the child under NRS 200.5083.

The defense contends that the current language of NRS 171.095(1)(b) is not applicable to the charges listing A.S. as the alleged victim.³ The Nevada Supreme Court has ‘consistently held that with respect to limitation periods and tolling statutes, the statutes in effect at the time of the offense control.’ Bailey v. State, 120 Nev. 406 (2004) citing State v. Quinn, 117 Nev. 709 (2001).⁴ In light of that holding, the current language of NRS 171.095(1)(b), which allows a criminal complaint or information to be filed until the alleged victim reaches the age of thirty-six, is not applicable.

Looking at the history of NRS 171.095(1)(b), it was amended several times after it was first adopted. For the purposes of this motion, it appears from the historical and statutory notes for this statute that it was amended in 2005, in 2011 and finally the current (and inapplicable) version took effect in 2013. The 2013 amendments changed the maximum age in section 1(b)(1) to thirty-six years and the maximum age in section 1(b)(2) to forty-three years. (This is the version cited above). The 2011 version of the statute (See Exhibit #2, which is attached) stated the maximum age to file a complaint for a charge of sexual abuse of a child in section 1(b)(1) was 21 years and the maximum age to file a complaint for a charge of sexual abuse of a

³ NRS 171.095(1)(b) applies to crimes of sexual abuse of a child per NRS 432B.100. Per the Information in this case, counts 2-30, & 45-52 are clearly crimes of sexual abuse of a child per NRS 432B.100.

⁴ In Bailey, acts were committed against 6 year old sometime between 1/1/95 and 1/1/96. Child told mother at time of offense. Mother did not report. Child told counselor in 2001 and complaint was filed in May 2002. Applicable statute of limitation was one in effect in 1995 per Nevada Supreme Court.

1 child for section 1(b)(2) was 28 years. It appears that the 2005 version contained the same
2 language for sections 1(b)(1) and (2).

3 Per the holding in Bailey, the applicable statute of limitations is the 2001/2005 version of
4 NRS 171.095. (attached as Exhibit #2). NRS 171.095(1)(a) allows the statute of limitations to
5 be tolled on an offense committed in a 'secret manner'. The statute of limitations is tolled until
6 the alleged crime is discovered at which point the applicable statute of limitations begins to run⁵.
7 NRS 171.095 goes on to state that the applicable statute of limitations is applied 'unless a longer
8 period is allowed under subsection (b)', which permits the complaint to be filed up until the 21st
9 birthday of the alleged victim. To recap, the State must file a criminal complaint in this case
10 within either 3 or 4 years (depending on the felony charge) after discovery of the alleged crime if
11 it's committed in a "secret manner" or by the 21st birthday of the alleged victim, whichever is
12 later.

13 A.S. was 24 years old when she first reported the alleged abuse and when the criminal
14 charges were filed against Mr. Sena. Clearly, that is beyond the statute of limitations which
15 allows the criminal charges to be filed up until the day she turns 21 years old, which is the more
16 generous application of NRS 171.095.

17 Per her testimony at the preliminary hearing, A.S. alleged the first incident of sexual
18 abuse occurred when she was approximately 11 years old. She also alleged that there were
19 multiple incidents of sexual assault prior to her 14th birthday. After her 14th birthday, the alleged
20 sexual conduct continued but it also included vaginal sexual intercourse. Counts 2 through 20
21 refer to the alleged conduct between May 22, 2001 and May 21, 2004 when she was between the
22 ages of 11 and 14. Counts 21-30 pertain to the alleged conduct between May 22, 2004 and May
23 21, 2006 when she was between the ages of 14 and one day prior to her 16th birthday. Count 45
24 also alleges conduct between May 22, 2004 and May 21, 2006. Count 52 also alleges conduct
25 that occurred prior to her 16th birthday with Terrie Sena. Lastly, counts 46-51 allege conduct
26 between Deborah Sena, Christopher Sena and A.S. prior to A.S.'s 18th birthday. To be

27 ⁵ Per NRS 171.085, the applicable statute of limitations for the crimes Mr. Sena is charged with is either 3 or 4 years
28 depending on the alleged crime.

1 compliant with the applicable statute of limitations for these allegations, these charges should
2 have been filed by A.S.'s 21 birthday. Since they were not, the defense respectfully requests
3 counts 2-30 and 45-52 be dismissed.

4 Regarding counts 31-44, the violation date range begins prior to A.S.'s 18th birthday and
5 ends after her 18th birthday and this is an important point for the analysis of these counts. Per
6 NRS 171.095(1)(b), any charge of sexual abuse of child pursuant to NRS 432B.100 can be filed
7 until the 21st birthday of the alleged victim. All of the felonies charged in counts 31-44 are
8 listed as charges that are deemed 'sexual abuse' in NRS 432B.100. Per NRS 432B.040, a 'child'
9 is defined as someone under the age of 18. The State has alleged multiple counts that straddle
10 A.S.'s 18th birthday. The Nevada Supreme Court has stated that exemptions to criminal statutes
11 be narrowly construed and read in the light most favorable to the accused. State v. Quinn, 117
12 Nev. 709 (2001). Per NRS 171.095(1)(b), charges of 'sexual abuse of a child' can be filed until
13 the alleged victim's 21 birthday. Counts 31-44 were not filed until after A.S.'s 24 birthday and
14 therefore should be dismissed.

15 Should the State argue that NRS 171.095(1)(a) applies to any or all of counts pertaining
16 to A.S., the defense submits that the burden is on the State to prove that any crimes were
17 committed in a 'secret manner'. Walstrom v. State, 104 Nev. 51 (1988). Additionally, NRS
18 171.095(1)(a) allows for the statute of limitations for any crime committed in a 'secret manner'
19 to be tolled until the crime is discovered. Once the alleged crime is discovered, then the 3 or 4
20 year statute of limitations per NRS 171.085 begins to run. Even if the court determines that
21 these crimes were committed in a 'secret manner', the State has either 3 or 4 years after the
22 crime was discovered to file the criminal complaint. It is important to note that the statute of
23 limitations isn't tolled indefinitely in this scenario. The Nevada Supreme Court held that where
24 a defendant used intimidation to prevent an alleged victim from reporting a crime that was
25 committed in a secret manner, the statute was tolled only until her 18th birthday. Houtz v. State,
26 111 Nev. 457 (1995). The Court reasoned that the statute of limitations could not be tolled
27 indefinitely because that would effectively nullify the statute of limitations and would not protect
28

1 defendants from the “unfairness of [a] prosecution which evidence is stale”. Id., at 461.
2 Considering the violation date listed in counts 31-44, the criminal complaint on those charges
3 needed to be filed either within 4 years from the commission of the crimes or by A.S.’s 21
4 birthday. By delaying the filing of the criminal complaint until after her 24th birthday, the State
5 failed to comply with both NRS 171.095(1)(a) and (b). In light of this violation of NRS
6 171.095(1)(b), the defense respectfully requests counts 31-44 also be dismissed.

7 Finally, the State alleges in Count 53 that Mr. Sena dissuaded A.S. from reporting the
8 crime by telling her if she told anyone, she would be sent to juvie. The criminal Information
9 also alleges that he threatened to kill her or break her legs if she told anyone of the alleged abuse.
10 Per A.S.’s preliminary hearing testimony, after the first alleged incident of sexual abuse, Mr.
11 Sena told her that if she told anyone what had happened, she would be taken away to juvie. PHT
12 Vol. III, pp 40. The allegedly occurred when she was 11 years old. Even if the Court rules that
13 this crime occurred in a ‘secret manner’, which is the State’s burden, that only tolls the
14 requirement of NRS 171.085(2) until A.S.’s 18th birthday per the decision in Houtz. At that
15 point, the applicable statute of limitations of 3 years started to run. The State did not file the
16 criminal complaint regarding Count 53 until more than 6 years after A.S.’s 18th birthday. The
17 defense respectfully requests that Count 53 be dismissed for violation of NRS 171.085 and NRS
18 171.095.

19 CONCLUSION

20 Based on the foregoing, Mr. Sena, respectfully requests that this Honorable Court grant
21 the instant motion, and dismiss counts 2-53 for failing to comply with the statute of limitations
22 requirements delineated in NRS 171.095. U.S.C.A. V, VI, XIV; and Nev. Const. Art. 1 § 8.

23 DATED this 11th day of August, 2017.

24 PHILIP J. KOHN
25 CLARK COUNTY PUBLIC DEFENDER

26 By: /s/ Violet R Radosta
27 VIOLET R. RADOSTA, #5747
28 Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the foregoing Motion on for hearing before the Court on the 23 day of August, 2017 at 8:30 a.m.

DATED this 11th day of August, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic e-filing to the Clark County District Attorney's Office on the 11th day of August, 2017 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

Exhibit 1

ORIGINAL

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

OCT 12 2016

BY: TIA EVERETT
TIA EVERETT, DEPUTY

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
200 Lewis Avenue
Las Vegas, Nevada 89155-2211
(702) 671-2500
Attorney for Plaintiff

C-15-311453-1
AINF
Amended Information
4590060



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-15-311453-1

-vs-

DEPT NO: XIX

CHRISTOPHER SENA,
#0779849

AMENDED
INFORMATION

Defendant.

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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 CHRISTOPHER SENA, the Defendant above named, having committed the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS 200.364, 200.366, 199.480 - NOC 50131), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50106), INCEST (Category A Felony - NRS 201.180 - NOC 50957), OPEN OR GROSS LEWDNESS

(Category D Felony - NRS 201.210 - NOC 50972), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366 - NOC 50095), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS 200.508(1) - NOC 55220), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730 - NOC 50374), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750 - NOC 50367) and USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750 - NOC 50368) in the manner following:

That the said Defendant, on or between May 22, 2001 and June 30, 2014, at and 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 - CONSPIRACY TO COMMIT SEXUAL ASSAULT

did, on or between May 22, 2007 and June 30, 2014, willfully, unlawfully, and feloniously conspire with DEBORAH SENA and/or TERRIE SENA and/or others unknown to commit a sexual assault, by performing those acts described in Counts 46 through 52; 54 through 59; 61 through 77; 79 through 85; 95 through 99; 101 through 103 and 105.

COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by said Defendant using his hand(s) and/or finger(s) to touch and/or rub and or fondle the breast(s) and/or area of the breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

//

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

3 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
5 age, to sexual penetration, to-wit: digital penetration, by said Defendant inserting his hand(s)
6 and/or finger(s) into the genital opening of the said A.S., against the will of the said A.S., or
7 under conditions in which Defendant knew, or should have known, that A.S. was mentally or
8 physically incapable of resisting or understanding the nature of Defendant's conduct.

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

10 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
11 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
12 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
13 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and or fondle the genital
14 area of the said A.S., with the intent of arousing, appealing to, or gratifying the lust, passions,
15 or sexual desires of said Defendant, or said child.

16 COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

17 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
18 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
19 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
20 said Defendant using his penis to touch and/or rub and/or fondle the genital area of the said
21 A.S., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires
22 of said Defendant, or said child.

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

25 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
26 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
27 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
28 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which

1 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
2 resisting or understanding the nature of Defendant's conduct.

3 COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

4 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
5 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
6 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
7 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
8 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
9 said Defendant, or said child.

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

12 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
13 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
14 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
15 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
16 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
17 resisting or understanding the nature of Defendant's conduct.

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

19 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
20 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
21 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
22 said Defendant using his penis to touch and/or rub and or fondle the anal and/or genital area
23 of the said A.S., with the intent of arousing, appealing to, or gratifying the lust, passions, or
24 sexual desires of said Defendant, or said child.

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

26 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
27 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
28 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by

1 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
2 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
3 passions, or sexual desires of said Defendant, or said child.

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

6 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
7 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
8 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
9 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
10 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
11 resisting or understanding the nature of Defendant's conduct.

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

13 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
14 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
15 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
16 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
17 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
18 said Defendant, or said child.

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

20 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
21 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
22 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
23 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
24 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
25 passions, or sexual desires of said Defendant, or said child.

26 //

27 //

28 //

1 COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
2 AGE

3 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
5 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
6 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
7 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
8 mentally or physically incapable of resisting or understanding the nature of Defendant's
9 conduct.

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

11 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
12 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
13 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
14 said Defendant using his penis to touch and/or rub and/or fondle the mouth of the said A.S.,
15 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
16 said Defendant, or said child.

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

19 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
20 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
21 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
22 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
23 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
24 resisting or understanding the nature of Defendant's conduct.

25 COUNT 17 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

26 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
27 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
28 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by

1 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
2 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
3 said Defendant, or said child.

4 COUNT 18 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

5 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
6 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
7 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
8 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
9 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
10 passions, or sexual desires of said Defendant, or said child.

11 COUNT 19 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
12 AGE

13 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
14 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
15 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
16 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
17 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
18 mentally or physically incapable of resisting or understanding the nature of Defendant's
19 conduct.

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

21 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
22 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
23 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
24 said Defendant using his penis to touch and/or rub and/or fondle the mouth of the said A.S.,
25 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
26 said Defendant, or said child.

27 //

28 //

1 COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

2 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
3 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
4 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant inserting his penis
5 into the genital opening of the said A.S., against the will of the said A.S., or under conditions
6 in which Defendant knew, or should have known, that the said victim was mentally or
7 physically incapable of resisting or understanding the nature of Defendant's conduct.

8 COUNT 22 - INCEST

9 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
10 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
11 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
12 which marriages are declared by law to be incestuous and void; the Defendant committing the
13 crime by engaging in sexual intercourse with the said A.S.

14 COUNT 23 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

15 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
16 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
17 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
18 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
19 Defendant knew, or should have known, that the said victim was mentally or physically
20 incapable of resisting or understanding the nature of Defendant's conduct.

21 COUNT 24 - OPEN OR GROSS LEWDNESS

22 did, on or between May 22, 2004 and May 21, 2006, willfully and unlawfully commit
23 an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s) to touch
24 and/or rub and/or fondle the breast(s) of A.S.

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1 COUNT 25 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF
2 AGE

3 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
5 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
6 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
7 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
8 mentally or physically incapable of resisting or understanding the nature of Defendant's
9 conduct.

10 COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

11 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
12 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
13 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant inserting his penis
14 into the genital opening of the said A.S., against the will of the said A.S., or under conditions
15 in which Defendant knew, or should have known, that the said victim was mentally or
16 physically incapable of resisting or understanding the nature of Defendant's conduct.

17 COUNT 27 - INCEST

18 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
19 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
20 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
21 which marriages are declared by law to be incestuous and void; the Defendant committing the
22 crime by engaging in a sexual intercourse with the said A.S.

23 COUNT 28 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

24 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
25 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
26 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
27 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
28 Defendant knew, or should have known, that the said victim was mentally or physically

1 incapable of resisting or understanding the nature of Defendant's conduct.

2 COUNT 29 - OPEN OR GROSS LEWDNESS

3 did, on or between May 22, 2004 and May 21, 2006, willfully and unlawfully commit
4 an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s) to touch
5 and/or rub and/or fondle the breast(s) of A.S.

6 COUNT 30 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF
7 AGE

8 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
9 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
10 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
11 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
12 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
13 mentally or physically incapable of resisting or understanding the nature of Defendant's
14 conduct.

15 COUNT 31 - SEXUAL ASSAULT

16 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
17 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
18 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said
19 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
20 have known, that A.S. was mentally or physically incapable of resisting or understanding the
21 nature of Defendant's conduct.

22 COUNT 32 - INCEST

23 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
24 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
25 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
26 which marriages are declared by law to be incestuous and void; the Defendant committing the
27 crime by engaging in a sexual intercourse with the said A.S.

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1 COUNT 33 - SEXUAL ASSAULT

2 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
3 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
4 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
5 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
6 that A.S. was mentally or physically incapable of resisting or understanding the nature of
7 Defendant's conduct.

8 COUNT 34 - OPEN OR GROSS LEWDNESS

9 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
10 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
11 to touch and/or rub and/or fondle the breast(s) of A.S.

12 COUNT 35 - SEXUAL ASSAULT

13 did, on or between May 22, 2006 and August 30, 2014, then and there, willfully,
14 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
15 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
16 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
17 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
18 of resisting or understanding the nature of Defendant's conduct.

19 COUNT 36 - SEXUAL ASSAULT

20 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
21 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
22 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said
23 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
24 have known, that A.S. was mentally or physically incapable of resisting or understanding the
25 nature of Defendant's conduct.

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1 COUNT 37 - INCEST

2 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
3 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
4 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
5 which marriages are declared by law to be incestuous and void; the Defendant committing the
6 crime by engaging in a sexual intercourse with the said A.S.

7 COUNT 38 - SEXUAL ASSAULT

8 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
9 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
10 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
11 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
12 that A.S. was mentally or physically incapable of resisting or understanding the nature of
13 Defendant's conduct.

14 COUNT 39 - OPEN OR GROSS LEWDNESS

15 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
16 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
17 to touch and/or rub and/or fondle the breast(s) of A.S.

18 COUNT 40 - SEXUAL ASSAULT

19 did, on or between May 22, 2006 and August 30, 2014, then and there, willfully,
20 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
21 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
22 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
23 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
24 of resisting or understanding the nature of Defendant's conduct.

25 COUNT 41 - SEXUAL ASSAULT

26 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
27 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
28 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said

1 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
2 have known, that A.S. was mentally or physically incapable of resisting or understanding the
3 nature of Defendant's conduct.

4 COUNT 42 - INCEST

5 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
6 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
7 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
8 which marriages are declared by law to be incestuous and void; the Defendant committing the
9 crime by engaging in a sexual intercourse with the said A.S.

10 COUNT 43 - SEXUAL ASSAULT

11 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
12 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
13 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
14 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
15 that A.S. was mentally or physically incapable of resisting or understanding the nature of
16 Defendant's conduct.

17 COUNT 44 - OPEN OR GROSS LEWDNESS

18 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
19 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
20 to touch and/or rub and/or fondle the breast(s) of A.S.

21 COUNT 45 - SEXUAL ASSAULT

22 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
23 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
24 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
25 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
26 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
27 of resisting or understanding the nature of Defendant's conduct.

28 //

1 COUNT 46 - SEXUAL ASSAULT

2 did, on or between May 22, 2007 and June 30, 2008, then and there willfully,
3 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
4 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said
5 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
6 have known, that A.S. was mentally or physically incapable of resisting or understanding the
7 nature of Defendant's conduct; Defendant being liable under one or more of the following
8 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
9 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
10 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
11 Defendant aiding and abetting the performance of such acts by counseling, encouraging,
12 inducing or otherwise procuring DEBORAH SENA to commit such acts.

13 COUNT 47 - INCEST

14 did, on or between May 22, 2007 and June 30, 2008, willfully, unlawfully, and
15 feloniously commit fornication or adultery with and/or on A.S., the daughter of and A.S. being
16 within the degree of consanguinity within which marriages are declared by law to be
17 incestuous and void; the Defendant committing the crime by engaging in sexual intercourse
18 with said A.S.; Defendant being liable under one or more of the following principles of
19 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
20 acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy with
21 DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by Defendant
22 aiding and abetting the performance of such acts by counseling, encouraging, inducing or
23 otherwise procuring DEBORAH SENA to commit such acts.

24 COUNT 48 - SEXUAL ASSAULT

25 did, on or between May 22, 2007 and June 30, 2008, then and there willfully,
26 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
27 digital penetration, by said Defendant causing the finger(s) of the said A.S. to be placed into
28 the genital opening of DEBORAH SENA, against the will of the said A.S., or under conditions

1 in which Defendant knew, or should have known, that A.S. was mentally or physically
2 incapable of resisting or understanding the nature of Defendant's conduct; Defendant being
3 liable under one or more of the following principles of criminal liability: (1) by Defendant
4 directly performing such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or
5 others unknown pursuant to a conspiracy with DEBORAH SENA and/or others unknown in
6 performing such acts; and/or (3) by Defendant aiding and abetting the performance of such
7 acts by counseling, encouraging, inducing or otherwise procuring DEBORAH SENA to
8 commit such acts.

9 COUNT 49 - OPEN OR GROSS LEWDNESS

10 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
11 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
12 DEBORAH SENA to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the
13 breast(s) and/or genital area of A.S.; Defendant being liable under one or more of the following
14 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
15 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
16 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
17 Defendant aiding and abetting the performance of such acts by counseling, encouraging,
18 inducing or otherwise procuring DEBORAH SENA to commit such acts.

19 COUNT 50 - OPEN OR GROSS LEWDNESS

20 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
21 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
22 A.S. to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of
23 DEBORAH SENA; Defendant being liable under one or more of the following principles of
24 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
25 acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy with
26 DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by Defendant
27 aiding and abetting the performance of such acts by counseling, encouraging, inducing or
28 otherwise procuring DEBORAH SENA to commit such acts.

1 COUNT 51 - OPEN OR GROSS LEWDNESS

2 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
3 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
4 A.S. to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area of
5 the said A.S.; Defendant being liable under one or more of the following principles of criminal
6 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
7 DEBORAH SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA
8 and/or others unknown in performing such acts; and/or (3) by Defendant aiding and abetting
9 the performance of such acts by counseling, encouraging, inducing or otherwise procuring
10 DEBORAH SENA to commit such acts.

11 COUNT 52 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

12 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
13 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
14 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
15 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
16 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
17 resisting or understanding the nature of Defendant's conduct; Defendant being liable under one
18 or more of the following principles of criminal liability: (1) by Defendant directly performing
19 such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown
20 pursuant to a conspiracy with DEBORAH SENA and/or others unknown in performing such
21 acts; and/or (3) by Defendant aiding and abetting the performance of such acts by counseling,
22 encouraging, inducing or otherwise procuring DEBORAH SENA to commit such acts.

23 COUNT 53 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
24 REPORTING CRIME OR COMMENCING PROSECUTION

25 did, on or about May 22, 2001 and June 30, 2014, then and there, willfully, unlawfully,
26 and feloniously, by intimidation or threats, prevent or dissuade, or hinder or delay A.S., from
27 reporting a crime to anyone by said Defendant telling the said A.S. that the said Defendant
28 would kill and/or break the legs of the said A.S. and/or have A.S. taken away and sent to

1 juvenile detention if the said A.S. told anyone of the sexual acts the said A.S. was forced to
2 commit or have committed upon the said A.S.

3 COUNT 54 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

4 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
5 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
6 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing the penis
7 of the said T.S. to be placed on and/or in the mouth of DEBORAH SENA, against the will of
8 the said T.S., or under conditions in which Defendant knew, or should have known, that T.S.
9 was mentally or physically incapable of resisting or understanding the nature of Defendant's
10 conduct; Defendant being liable under one or more of the following principles of criminal
11 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
12 DEBORAH SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA
13 and/or others unknown in performing such acts; and/or (3) by Defendant aiding and abetting
14 the performance of such acts by counseling, encouraging, inducing or otherwise procuring
15 DEBORAH SENA to commit such acts.

16 COUNT 55 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

17 did, on or between December 2, 2008 and December 1, 2010, willfully, unlawfully,
18 and feloniously cause a child under the age of 18 years, to-wit: T.S. to suffer unjustifiable
19 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or
20 cause T.S. to be placed in a situation where the said T.S. might have suffered unjustifiable
21 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by said
22 Defendant causing and/or directing and/or encouraging the said T.S. to wash said DEBORAH
23 SENA as said DEBORAH SENA washed the said T.S. ; Defendant being liable under one or
24 more of the following principles of criminal liability: (1) by Defendant directly performing
25 such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown
26 pursuant to a conspiracy with DEBORAH SENA and/or others unknown in performing such
27 acts; and/or (3) by Defendant aiding and abetting the performance of such acts by counseling,
28 encouraging, inducing or otherwise procuring DEBORAH SENA to commit such acts.

Exhibit 2

507 P.2d 116,
nnen v. State,
LEXIS 1098
51, 752 P.2d
Sheriff, Clark
551 P.2d 428,
phy v. State,
ev. LEXIS 40
—, 30 P.3d

station, Busi-
s, 1987 Pac.

24.800, an

complaint

complaint

17; 1999, ch.

Wood v. State, 59 Nev. 445, 96 P.2d 441, 1939

171.095. Limitations for offenses committed in secret manner and offenses constituting sexual abuse of child.

1. Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084:

(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090 and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or the provisions of NRS 202.885.

(b) An indictment must be found, or an information or complaint filed, for any offense constituting sexual abuse of a child, as defined in NRS 432B.100, before the victim of the sexual abuse is:

(1) Twenty-one years old if he discovers or reasonably should have discovered that he was a victim of the sexual abuse by the date on which he reaches that age; or

(2) Twenty-eight years old if he does not discover and reasonably should not have discovered that he was a victim of the sexual abuse by the date on which he reaches 21 years of age.

2. If any indictment found, or an information or complaint filed, within the time prescribed in subsection 1 is defective so that no judgment can be given thereon, another prosecution may be instituted for the same offense within 6 months after the first is abandoned.

171.095

PROCEDURE IN CRIMINAL CASES

History.

CrPA 1911, § 74; RL 1912, § 6924; CL 1929, § 10722; 1981, p. 771; 1985, p. 2167; 1987, ch. 123, § 52, p. 271; 1989, ch. 627, § 1, p. 1443; 1993, ch. 177, § 1, p. 305; 1997, ch. 248, § 3, p. 891; 1999, ch. 631, § 18, p. 3525; 2001, ch. 589, § 3, p. 3031; 2005, ch. 331, § 15, p. 1209.

Editor's note.

Acts 2005, ch. 331, § 16, subsection 1 provides that, except as otherwise provided in subsection 2, the provisions of the act do not apply to any acts, omissions, violations or offenses committed before the effective date of the act [June 10, 2005]. Subsection 2 of § 16 provides that the provisions of § 16 do not prohibit the State Contractors' Board from de-

nying an application for a license pursuant to chapter 624 of NRS based on a criminal conviction for an offense committed before the effective date of the act [June 10, 2005].

Effect of amendment.

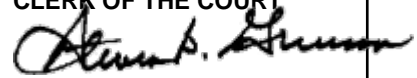
The 2005 amendment, effective June 10, 2005, inserted "624.800" in paragraph 1(a).

Cross references.

As to punishment of felonies, see NRS 193.130.

As to punishment of gross misdemeanors, see NRS 193.140.

As to punishment of misdemeanors, see NRS 193.150.



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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-)
)
)
CHRISTOPHER SENA,)
#0779849)
)
Defendant.)

CASE NO: **C-15-311453-1**
DEPT NO: **XIX**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS
COUNTS FOR VIOLATION OF STATUTE OF LIMITATIONS

DATE OF HEARING: **AUGUST 23, 2017**
TIME OF HEARING: **8:30 A.M.**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in State's Opposition to Defendant's Motion to Dismiss Counts for Violation of Statute of Limitations.

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 PERTINENT TO THIS OPPOSITION

Defendant, CHRISTOPHER SENA, is charged by way of Amended Information with the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), INCEST (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS 200.508(1)), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750)

The Co-Defendants in this case are DEBORAH SENA and TERRIE SENA, both of whom have pled guilty and are currently serving time in prison. The crimes occurred on or between May 22, 2001 and June 30, 2014. The victims are A.S., T.S., B.S., R.S., E.C., I.G., T.G., and M.C.

For the purposes of responding to Defendant's Motion to Dismiss, the State is providing this Court with the relevant testimony from the witnesses at preliminary hearing of this matter, to include, A.S., who is the named victims in the charges being challenged by Defendant.

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The Preliminary Hearing Testimony of Terrie Sena Pertinent to this Opposition

On August 27, 2015, Terri Sena testified that she was familiar with Defendant because he is her ex-husband and they were married from September 1990 to August 1997. Terrie Sena testified that she was familiar with the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County, Nevada, in that she lived there for fifteen (15) years, from 1998 through 2013; and, from January 2014 until June 2014. PHT, Vol. I, pp. 13-14. Terrie Sena testified that over the period of time that she lived at the residence, she lived there with Defendant and his wife, Deborah Sena, Terrie's biological daughter with Defendant, A.S., Terrie's biological son with Defendant, T.S., Terrie's step-son, B.S., who is the biological son of Defendant and Deborah Sena; and, R.S., Terrie Sena's biological son with another man. PHT, Vol. I, pp. 14-16. While living at the residence, Terrie's younger sister, M.C., and her niece, M.C.'s daughter, E.C., occasionally visited her at the Yellowstone address. Terrie Sena testified that her other sister, K.G., also had occasion to visit the residence. PHT, Vol I., pp. 17-18.

Terrie Sena testified that she had been charged with things that happened at the Yellowstone address. Terrie Sena testified that those charges were resolved when she agreed to plead guilty to one count of sexual assault; and, agreed to a sentence of ten years to life in prison, as well as to testify truthfully in the court proceeding. PHT, Vol. I, pp. 18-20. Terrie Sena testified that she was, in fact, sentenced to 10 years to life in prison. PHT, Vol. I, p. 21.

Terrie Sena testified that while she was living at the Yellowstone residence, she became aware that sexual acts were being committed. Terrie Sena testified that when her sister, M.C., would visit from time to time, when M.C. was 15 and 16 years of age. During that time, naked pictures of M.C. were taken by Defendant. PHT, Vol. I, p. 22. Terrie observed State's proposed Exhibits 13-22 and recognized them as photos of her and M.C., naked together, with most of them being photos of M.C. PHT, Vol I, pp. 23-24. Terrie testified that some of the photos were taken in the office of her house, while others were taken in M.C.'s bedroom, at her parent's house, located at 2012 Tonopah, North Las Vegas, Clark County. Nevada. PHT, Vol. I, p. 24. Terrie Sena testified that Defendant took the photographs of her and M.C. PHT,

1 Vol. I, p. 27.

2 Terrie testified that her niece, T.G., also came to the residence to visit, when T.G. was
3 sixteen years of age. Terrie testified that T.G. had come over to have her hair dyed. Terrie
4 Sena further testified that she dyed T.G.'s hair. After washing T.G.'s hair, T.G. went to take
5 a shower and Defendant filmed T.G. taking a shower. Defendant would get on a step stool and
6 hold the camcorder into the bathroom where the shower was. Terrie Sena testified that while
7 Defendant was recording T.G. in the shower, T.G. would have not been able to see him.
8 **(COUNTS 118 AND 119)** PHT, Vol. I, pp. 28-29. Terrie Sena testified that she was giving
9 Defendant oral sex while Defendant was filming T.G. in the shower. Terrie Sena viewed
10 State's proposed Exhibits "5", "8", and "9", and indicated that they were still photos of the
11 video that Defendant made of T.G. in the shower. PHT, Vol. I, p. 30.

12 Terrie Sena testified that her niece, E.C., also came to the residence to visit. Terrie
13 testified that when E.C. visited she had gotten lice at school. All of the kids' hair had to be
14 washed as a result and Terrie Sena took E.C. to the bathroom in the office area to wash her
15 hair. E.C. took a shower and while that occurred, Defendant got the camcorder and recorded
16 E.C. taking a shower, while standing on stool with the camera focused down. **(COUNTS 115**
17 **AND 116)**. Terrie Sena viewed State's proposed Exhibit "6" and identified it as a picture from
18 the video that Defendant took of E.C. taking a shower. PHT, Vol. I, pp. 30-32

19 Terrie Sena testified that she also observed filming of R.S. Defendant told Terrie Sena
20 to go and get R.S. from the front of the house and bring him to the office. When Terrie Sena
21 got back to the office with R.S., she noticed the red light blinking on the computer. Defendant
22 had her unbuckle R.S.'s pants and take them off, before Terrie Sena gave R.S. oral sex. While
23 Terrie Sena was performing oral sex on R.S., Defendant was sitting at his computer
24 masturbating. Defendant then approached Terrie Sena and had her perform oral sex on him.
25 After Terrie Sena performed oral sex on Defendant, he instructed her to remove the rest of
26 R.S.'s clothes and had R.S. remove Terrie Sena's top off, at which time he instructed R.S. to
27 put his penis in Terrie Sena's vaginal opening. PHT, Vol. I, pp. 33-35.

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1 Terrie Sena testified that she had sexual contact two other times in the presence of
2 Defendant. One in the master bedroom and a second incident in the office. During the incident
3 in the master bedroom of the residence Defendant had Terrie Sena lay on the bed with R.S.,
4 undress R.S. and then undress herself. Terrie Sena got on top of R.S. so that his penis
5 penetrated her vaginal opening. Defendant got behind Terrie Sena and engaged in having anal
6 sex with her. PHT, Vol. I, pp. 35-36. Terrie Sena viewed State's proposed Exhibit "7" and
7 indicated that it was a picture of the master bedroom with R.S. laying on the bed while Terrie
8 Sena is getting undressed beside him. At the time the three incidents occurred, R.S. was 14
9 years of age. PHT, Vol. I, p. 38. Terrie Sena testified that the first incident that occurred in the
10 office happened sometime during the fall of 2012. The incident in the bedroom occurred when
11 R.S. was a freshman in high school and 14 years of age. PHT, Vol. I, p. 41-42. Terrie Sena
12 testified that R.S. was born on June 14, 1988 and that he was 14 years of age in 2012. Terrie
13 Sena stated that the incident in the office and the one in the bedroom occurred over a three
14 week period of time, from what she recollected. PHT. Vol. I, pp. 42-43.

15 The third incident occurred in the office. Defendant had Terrie Sena bring R.S. into the
16 office, un-belt R.S.'s pants, and place his penis in her mouth. R.S. then placed his penis in
17 Terrie Sena's vagina, while she was lying flat on her back. The red light was on the computer
18 when the incident occurred which indicated that Defendant was filming it. The last incident
19 occurred in 2014, just before Terrie Sena left the residence. PHT, Vol. I, pp. 44-45.

20 Besides the sexual contact she had with R.S., Terrie Sena also had sexual contact with
21 B.S. Terrie Sena described an incident where she brought B.S. into the office, from the house,
22 and performed oral sex on him. Terrie Sena removed B.S.'s clothes, as well as her own, at
23 which time Defendant told B.S. to touch Terrie Sena's breast and to insert his penis into her
24 vagina as she lay flat on her back. That incident occurred in December 2012. A second
25 incident occurred a month later, in January 2013. During that incident, Defendant had B.S.
26 touch Terrie's breasts with his hands. Terrie put B.S.'s penis in her mouth, and B.S. inserted
27 his penis into Terrie's vagina, while she lay flat on her back, which was recorded by the
28 Defendant. **(COUNTS 79 – 85)** PHT, Vol. I, pp. 45-48.

1 Terrie Sena described an incident that occurred with A.S., in the living room of the
2 house. Terrie Sena was in the living room with Defendant and A.S. Defendant had A.S. lean
3 over the ottoman and Defendant penetrated A.S.'s anus with his penis (**COUNT 52**), while
4 A.S. was touching Terrie Sena's breasts. PHT, Vol. I, pp. 48-49. A.S. was 17 years of age and
5 a senior in High School when the incident occurred. PHT, Vol. I, p. 52.

6 Terrie Sena testified that the first time something sexual happened in the household
7 with R.S. he was five years of age. During that incident, Defendant had Terrie Sena and
8 Deborah Sena bring R.S. and B.S. into the master bedroom. Defendant had Terrie Sena
9 undress B.S. and had Deborah Sena undress R.S., at which time Terrie Sena performed fellatio
10 on B.S. and Deborah Sena performed fellatio on R.S. Defendant was standing on the side of
11 the bed when the incident occurred. Terrie Sena was not aware of whether that incident was
12 recorded or not. PHT, Vol. I, pp. 52-53.

13 **The Preliminary Hearing Testimony of M.C. Pertinent to this Opposition**

14 On August 27, 2015, M.C. testified that she has four sisters and one brother. M.C.
15 testified that her brother's name is Jerry Clark and that he is older than her. M.C. testified that
16 she was 34 years of age and her birthday is May 16, 1981. M.C. testified that she has three
17 sisters, but she is the baby of the family. M.C. testified that the next oldest sister is Terrie Sena
18 whose date of birth is October 26, 1970; then, Kimberly Gresham, whose date of birth is April
19 29, 1964; then Mary Jo, age 51; and, Cheryl. PHT, Vol. I, pp. 136-137.

20 M.C. testified that she has one child, E.C., age 14, date of birth December 21, 2000.
21 M.C. testified that Terrie Sena has three children, A.S., T.S., and R.S. M.C. testified that
22 Kimberly Gresham has two children, Roy and T.G., age 18. PHT, Vol. I, pp. 138-139. M.C.
23 testified that Defendant was married to her sister, Terrie Sena. M.C. testified that she was
24 eight years of age when she first met Defendant and that her sister, Terrie, as eighteen. M.C.
25 testified that she spent time with Defendant and Terrie. PHT, Vol. I, p. 140.

26 M.C. was shown pictures of State's proposed Exhibits 13 through 22 and she identified
27 herself in those pictures. Each of the exhibits were photos of M.C. in the nude and/or in
28 sexually oriented positions. In State's proposed Exhibit "13", M.C. testified that she was 16.

1 M.C. testified that she believed Defendant took that picture as he was the only person in the
2 room with her. PHT, Vol. I, p. 142. M.C. testified that State's proposed Exhibit "14" was
3 taken when she was younger than 16. M.C. testified that she could not remember who took
4 the picture. M.C. testified that she was naked in the picture and that Defendant was the only
5 person who ever took pictures of her naked. **(Count 120)** PHT, Vol. I, pp. 141-144. State's
6 proposed Exhibit "15" was taken the same day as State's proposed Exhibit "14". M.C. was
7 15 years of age and the picture was also taken by Defendant. **(Count 121)** State's proposed
8 Exhibit "16" was also taken that same day and showed a dildo being put into M.C.'s mouth,
9 which was given to her by Defendant. **(Count 122)** PHT, Vol. I, pp. 144-145.

10 State's proposed Exhibit "17" was taken when M.C. was 16 years of age. Defendant is
11 in the picture which shows M.C. putting his penis in her mouth, while Terrie Sena took the
12 picture. PHT, Vol. I, p. 145. M.C. testified that State's Exhibit "17" was taken when she was
13 16 years of age. Terrie Sena is in the picture and appears to be pregnant. M.C. testified that
14 Terrie Sena was pregnant with R.S., who was born on June 14, 1999. M.C. testified the picture
15 was taken before June 1999, by Defendant. PHT, Vol. I, p. 146.

16 M.C. testified that State's proposed Exhibit "19" showed her at the trailer on
17 Yellowstone, when she was approximately 16 years of age. State's proposed Exhibit "20"
18 showed M.C. with her sister, Terrie Sena, when M.C. was 16 years of age. M.C. testified that
19 Defendant took the picture and directed what they were doing in the picture. PHT, Vol. I, p.
20 147. In State's proposed Exhibit "21" M.C. was 15 year old and a sophomore. The picture was
21 taken at her old residence by Defendant. **(Count 123)** In State's proposed Exhibit "22" M.C.
22 was 15 years of age, holding a dildo up to her anal area, which she was directed to do by
23 Defendant. **(Count 124)** PHT, Vol. I, pp. 148-149. M.C. testified that it was Defendant's idea
24 to take the pictures and it was not something she wanted to do. PHT, Vol. I, p. 150.

25 On re-direct, M.C. clarified that in State's proposed Exhibit's 14, 15, 16, 21, and 22,
26 were taken when she was 15 years of age. PHT, Vol. I, p. 188.

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1 **The Preliminary Hearing Testimony of Detective William Karau**

2 **Pertinent to this Opposition**

3 Detective Karau testified that he was employed with the Las Vegas Metropolitan Police
4 Department and had been for 15 years in January. Detective Karau testified that he was
5 assigned to the Juvenile Sexual Abuse section for five years and a few months. On September
6 18, 2014, Detective Karau had occasion to assist in a search warrant at the residence of 6012
7 Yellowstone, Las Vegas, Clark County, Nevada. Detective Karau's role was to assist in
8 keeping an eye on the residence to see if anyone was coming or going from it. At the time
9 SWAT served the search warrant T.S. and Defendant were present at the residence. PHT, Vol.
10 I, pp. 191-192. During the execution of the search warrant they were looking for electronic
11 storage devices and computers, among other things. PHT, Vol. I, p. 193. Those items were
12 located in an office in the back of the property that had a bathroom and a kitchenette in it. The
13 items retrieved were sealed and booked into evidence and taken to the evidence vault. Among
14 the items seized and booked into evidence was No. 25, a Data Travel G3 Thumb drive. PHT,
15 Vol. I, pp. 193-194.

16 **The Preliminary Hearing Testimony of Detective Vince Ramirez**

17 **Pertinent to this Opposition**

18 Vince Ramirez testified that he was employed by the Las Vegas Metropolitan Police
19 Department and had been so employed for 20 years. Detective Ramirez testified that he was
20 currently assigned to Internet Crimes against Children Division and had been since 2000. PHT,
21 Vol. I, pp. 211-212. Detective Ramirez testified that he had occasion to perform a forensic
22 review of certain items seized under LVMPD Event #1409151583. The item was previously
23 seized pursuant to a search warrant executed on Defendant's residence on or about September
24 18, 2014. PHT, Vol.1, pp. 191-195. Specifically, Detective Ramirez received a Data Traveler
25 G3 thumb drive booked as package 6, item No. 25. Detective Ramirez requested an
26 authorization to have that equipment released to take to the lab for a forensic examination.
27 Detective Ramirez testified that he obtained a warrant in order to perform the forensic
28 examination. PHT, Vol. I, p. 212.

1 Detective Ramirez testified that when an item is received for forensic examination a
2 digital copy is made and that copy is used for testing, so as not to touch any of the original
3 evidence. PHT, Vol. I, p. 214. In the course of the analysis, Detective Ramirez obtained 8
4 videos from the electronic storage disk. Those videos were deemed relevant in this case based
5 upon the individuals in the videos. Detective Ramirez testified that the main subject matters in
6 the videos was Defendant, Terrie Sena, Deborah Sena, T.S., B.S. and R.S., all of which were
7 of a sexual nature, involving fellatio and sexual intercourse. PHT, Vol. I, pp. 215-216. The
8 disk of the videos was marked as State's proposed Exhibit "16" and was admitted into
9 evidence. PHT, Vol. I, p. 217.

10 Exhibit 1, video No. 1 (**COUNT 77, 78**) was played in court and showed B.S. and
11 Deborah Sena engaged in sex acts. Defendant is in the video, partially, although not all of his
12 face and only part of his body can be seen. As the video begins, B.S. can be seen laying on
13 his back while Deborah Sena is performing oral sex (fellatio) on him. (**COUNT 71**) Deborah
14 Sena is then shown positioning herself on top of B.S. and she is inserting his penis into her
15 vagina. (**COUNT 72, 73**) Later, after a repositioning shown on the video, Defendant can be
16 seen and then Deborah Sena is shown positioned on her back and B.S. is inserting his penis
17 into her vagina, in a missionary position. PHT, Vol. I, pp. 218-220. (**COUNT 74, 75**) The
18 video then shows B.S. repositioned to the right side of Deborah Sena, while a male individual
19 is having sexual intercourse with her. The video shows Deborah Sena performing oral sex on
20 B.S., (**COUNT 76**) while Christopher Sena is engaging in sexual intercourse with Deborah
21 Sena. PHT, Vol. I, p. 220. A male voice can be heard on the video directing all of the actions
22 that are occurring, which Detective Ramirez believed to be Defendant based upon his body
23 type and the fact that the same voice can be heard instructing on all of the videos. PHT, Vol.
24 I, p. 221. State's proposed Exhibit "2" was a still photograph of B.S. and Deborah Sena from
25 the video that was viewed, and was admitted by the Court. PHT, Vol. I, p. 222.

26 Exhibit 1, video No. 2, (**COUNT 69**) depicts an individual without any clothes on
27 setting up the video camera. As he sits down he is identified as Defendant. Deborah Sena is
28 also in the video along with T.S. Deborah Sena is seen without clothing fondling her breasts

1 while performing oral sex on Defendant. Defendant gets up off the bed and bring back T.S.,
2 telling him to lie down on the bed. Deborah Sena performed oral sex on T.S. (**COUNT 61 in**
3 **alternative to 62**) while Defendant watched and masturbated. Deborah Sena can then be seen
4 laying on her back with T.S. inserting his penis into her vagina. (**COUNT 63 in alternative**
5 **to 64**) Defendant is pictured on the right side of the screen masturbating himself. The video
6 then shows T.S. laying down with Deborah Sena on top of him, helping him insert his penis
7 into her vagina. (**COUNT 65 in alternative to 66**) PHT, Vol. I, pp. 222-224. The video next
8 shows T.S. on his back with Deborah Sena performing oral sex on him (**COUNT 67 in**
9 **alternative to 68**) while Defendant is behind Deborah Sena engaging in sex with her. PHT,
10 Vol. I, p. 225. State's proposed Exhibit "3" was as still photo of T.S. right before he engaged
11 in the missionary position with Deborah Sena, which was admitted by the Court. PHT, Vol. I,
12 p. 226.

13 State's Exhibit "1", Video No. 3, depicted someone setting up a camera and a shower
14 curtain of a standup shower comes into view. Defendant is seen in the video and then T.S. and
15 Deborah Sena are observed entering the shower, neither are wearing clothes. Deborah Sena
16 is observed wiping something off of T.S.'s face. Defendant can be seen walking to the camera
17 and repositioning it. PHT, Vol. I, pp. 226-227. (**COUNTS 55 AND 56**) Detective Ramirez
18 testified that State's proposed Exhibit "4" was a still picture of T.S. and Deborah Sena in the
19 shower, taken from Video No. 3, which was admitted by the Court. PHT, Vol. I, p. 228.
20 (**COUNT 59 AND 60**)

21 Detective Ramirez described Exhibit 1, Video No. 4 as being shot through a door, with
22 the person in the video being T.G., who is in the shower with no clothes on. (**COUNTS 118**
23 **AND 119**) The video then pans down and shows Defendant receiving oral sex. Detective
24 Ramirez believed the Defendant to be the recipient of the oral sex based upon hearing his voice
25 on the video which is similar in nature to all of the others. PHT, Vol. I, pp. 228-229

26 On August 28, 2015, Detective Ramirez continued his preliminary hearing testimony.
27 With regard to Exhibit 1, Video No. 5, Detective Ramirez testified that it depicts video being
28 shot through an opening and is an image of E.C., in the stand-up shower. (**COUNTS 115-116**)

1 State's proposed Exhibit "6" was identified as a picture of E.C. in the shower, from the video
2 he had just observed. The video was admitted in to evidence by the Court. PHT, Vol. II, pp.
3 8-10.

4 Exhibit 1, Video No. 6 (**COUNTS 99 AND 100**) depicted a bedroom seen in previous
5 videos as well as parts of the Defendant in the mirror while he is adjusting the video camera.
6 The video proceeds to show Terrie Sena removing R.S.'s clothes. In the video, Terrie directs
7 R.S. to lie on his back and she places his penis in her mouth. (**COUNT 95**) R.S. is observed
8 using his left hand to fondle Terrie Sena's breast. The video also depicts Terrie positioning
9 R.S.'s hand on her breasts, showing him to massage her breasts, while she masturbates him
10 with her left hand. PHT, Vol. II, pp. 10-11. The video goes on to show R.S. kissing Terrie
11 Sena on her right breast and Terrie Sena continues to orally copulate R.S. The video shows
12 Terrie Sena positioned on her back with R.S. positioned between her legs penetrating her
13 vagina with his penis. (**COUNTS 96 AND 97**) PHT, Vol. II, pp. 11-12. The video shows
14 both Terrie Sena and R.S. stop and appear to look back, after which point they reposition
15 themselves in the missionary position and it appear that R.S. is penetrating Terrie Sena with
16 his penis in her vagina while she massages R.S.'s buttocks. PHT, Vol. II, pp. 12-13. The video
17 continues and Defendant appears and can be seen masturbating. Defendant points to R.S. to
18 get on the right side of Terrie Sena and he positions himself behind Terrie Sena, where he
19 appears to penetrate her vagina or anus while she performs oral sex on R.S. (**COUNT 98**)
20 PHT, Vol. II, p. 13. A conversation is being had during the incident, involving Defendant;
21 however, Detective Ramirez was not able to make out what was being said. PHT, Vol. II, p.
22 14. Detective Ramirez identified a still photograph, taken from the video, of R.S. and Terrie
23 Sena as State's Exhibit "7" PHT, Vol. II, p. 14.

24 Detective Ramirez testified that Exhibit 1, Video No. 7 depicts T.G. in the shower,
25 similar to the previous shower scenes (**COUNT 118 AND 119**); and, identified State's Exhibit
26 No. "8" as a still photograph of T.G. from the video just viewed. PHT, Vol. II, p. 15. Detective
27 Ramirez testified that Exhibit 1, Video No. 8, depicts T.G. in the stand-up shower from the
28 previous video with the same angle filming; and, State's Exhibit "9" as a still photograph of

1 T.G., taken from the video. PHT, Vol. II, p. 16.

2 Detective Ramirez testified that other entries of evidentiary value came off the same
3 electronic storage device to include State's Exhibits 13 through 22 which he identified as being
4 images of M.C. and Terrie Sena. PHT, Vol. II, p. 17. State's proposed Exhibit "10" was
5 identified as a DVD containing images of the printed copies, to include stills of R.S. Terrie
6 Sena and Defendant. Those images were found to be relative to the investigation in that they
7 were a video that had been broken up into unallocated space, and contain images of Terrie
8 Sena, R.S. and Defendant engaging in sexual contact. PHT, Vol. II, pp. 18-19. Exhibit "10"
9 was admitted by the Court. **(COUNTS 103 AND 104)** PHT, Vol. II, p. 19.

10 Detective Ramirez identified frame number 0458 of Exhibit 10 as a room in the
11 residence labeled office. PHT, Vol. II, p. 20. Frame number 750 depicted R.S. sitting on a
12 stool, clothed, and other images of Terrie Sena. PHT, Vol. II, p. 21. Image number 1,000
13 depicts R.S. playing with his foot and Terrie Sena. PHT, Vol. II, p. 21. Image number 1328
14 depicts R.S. standing up and Terrie Sena knelt down and appearing to unbuckle R.S.'s shorts.
15 PHT, Vol. II, p. 21. Image number 1500 depicts R.S. removing his polo shirt, his shorts are
16 off and his penis is exposed. Terrie Sena is kneeling down holding a blue object of clothing
17 and is wearing her brassiere. PHT, Vol. II, p. 22. Image number 1640 depicts R.S. with his
18 shirt partially on and Terrie Sena has her mouth on R.S.'s penis, **(COUNT 101)** with her
19 brassiere off and her breasts exposed. PHT, Vol. II, p. 22. Frame number 4111 depicts R.S.
20 with his shirt partially on top. Terrie Sena has her mouth on R.S.'s penis and Defendant has
21 his pants partially down and is masturbating. PHT, Vol. II, p. 23. In the course of
22 viewing the frames Detective Ramirez was able to see Defendant's face and make a positive
23 I.D. Detective Ramirez explained that the video proceeds with still images of Terrie Sena's
24 mouth on Defendant's penis while she is holding R.S.'s penis and it goes back and forth with
25 the same sexual action, by Terrie Sena placing her mouth on R.S.'s penis. PHT, Vol. II, pp.
26 23-24. **(Count 102)** Detective Ramirez identified State's Exhibits 11 and 12 as follows:
27 Exhibit "11" depicts R.S. sitting in front of Defendant and Terrie Sena is standing to the left
28 of Defendant. Exhibit "12" depicts R.S. standing in front of Defendant, both still clothed, with

1 Terrie Sena is unbuckling the pants of R.S. PHT, Vol. II, p. 25.

2 **The Preliminary Hearing Testimony of E.C. Pertinent to this Opposition**

3 E.C. testified that she was 14 years of age and in the ninth grade. E.C. further testified
4 that she lived with her mom, grandparents, cousin, two sisters, brother, and aunt. PHT, Vol.
5 II, p. 50. E.C. identified Defendant and indicated that he was her aunt's ex-husband. E.C.
6 testified that Defendant had been her uncle her entire life as far as she could remember and
7 she visited his residence at 6012 Yellowstone in North Las Vegas, Clark County, Nevada.
8 E.C. testified that she visited the residence more than one time and she began visiting when
9 she was 10 or 11 years of age, and in the fifth grade. PHT, Vol. II, p. 51. E.C. testified that
10 she went to Defendant's house almost every weekend to visit her aunt Terrie and her cousins,
11 R.S., A.S. and T.S. PHT, Vol. II, p. 52.

12 E.C. testified that when she was 11 years old Defendant would touch her breasts and
13 vagina, underneath her clothes, by having her lift up her shirt and put her pants to her ankles,
14 while they were in the office. PHT, Vol. II, p. 53. E.C. testified that it happened more than
15 one time and Defendant would fondle her breasts with his hands and rub his hands over her
16 vagina. PHT, Vol. II, p. 55. E.C. testified that she went to Defendant's house nearly every
17 weekend from the ages of 11 to 12 or 13, from the third grade through the seventh grade. PHT,
18 Vol. II, p. 56. E.C. testified that Defendant would fondle her breasts and vagina a couple of
19 times during each weekend that she was there during the fifth grade when she was 11 years of
20 age. E.C. remembered Defendant touched her more than three times, as it became a routine.
21 PHT, Vol. II, p. 58-59. E.C. testified that her birthday is December 21, 2000. E.C. testified
22 that the last time something happened was before Deborah Sena left in 2014. PHT, Vol. II, p.
23 60. E.C. testified that she would expect Defendant to touch her when she went over there and
24 she got used to it happening. PHT, Vol. II, p. 62. E.C. testified that she remembered those
25 things happening in the fifth grade, sixth grade, seventh grade, and eighth grade. PHT, Vol II,
26 p. 64. **(COUNTS 107-114).**

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1 E.C. testified that she took a shower at the residence a couple of times. Specifically,
2 E.C. recalled an incident when she had lice in her hair. E.C. was shown a picture of herself
3 that was taken of her in the shower, in the office. E.C. testified the picture was taken sometime
4 between the fifth and seventh grade. E.C. did not know that the picture was being taken. PHT,
5 Vol. II, pp. 65-66. **(COUNTS 115 AND 116).**

6 **The Preliminary Hearing Testimony of T.G. Pertinent to this Opposition**

7 T.G. testified that she was 18 years of age and her date of birth is January 9, 1997. T.G.
8 testified that Terrie Sena is her aunt and her mother's sister. T.G. testified that her mom is
9 Kimberly Grisham and that M.C. is her aunt, and E.C. is her cousin. T.G. testified that she
10 grew up in Las Vegas. PHT, Vol. II, p. 86. While growing up, T.G. spent time with her aunt,
11 Terrie Sena, and visited her residence located at 6012 Yellowstone, Las Vegas, Clark County,
12 Nevada. T.G. was seven or eight years of age when she began visiting Terrie Sena at that
13 address. T.G. visited every weekend until she was 15 years age. T.G. stopped visiting because
14 she no longer wanted to go over to the residence. T.G. testified that Defendant, Terrie Sena, and
15 Deborah Sena lived at the residence when she visited, as did her cousins, T.S., A.S., B.S. and
16 R.S. PHT, Vol. II, pp. 87-88.

17 T.G. testified that Defendant once showed her a picture of her aunt, M.C., giving him
18 oral sex. **(COUNT 117)** T.G. was in the office when he showed her the picture, which was a
19 separate building behind the residence, with computers, a T.V., a couch, a little kitchen, and a
20 bathroom. PHT, Vol. II, p. 89. T.G. testified that Defendant showed her the pictures on the
21 computer and that she was 11 or 12 when that occurred. T.G. testified that they were just
22 looking at pictures and Defendant showed her that one. T.G. testified that she did not really
23 say much to Defendant when he showed her the picture. PHT, Vol. II, pp. 90-91.

24 T.G. testified that she utilized the shower in the office from the time she was 7 until she
25 was 15. T.G. viewed State's Exhibits "5", "8", and "9" and identified herself in those photos.
26 T.G. testified that the photos depicted her in the shower, in the office. T.G. testified that she
27 had no idea that she was being photographed while showering. T.G. testified that she was 13
28 or 14 years of age in the photographs that were taken. **(COUNTS 118 AND 119).** PHT, Vol.

1 II, pp. 91-92. T.G. testified that she did not visit the residence or shower at the residence after
2 she turned 16. PHT, Vol. II, p. 93.

3 **The Preliminary Hearing Testimony of T.S. Pertinent to this Opposition**

4 T.S. testified that he was 20 years of age and his birthday is December 2, 1994. T.S.
5 testified Defendant is his father and Terrie Sena is his biological mother. T.S. testified that
6 Deborah Sena is his stepmom; and, that he has a sister and two brothers. T.S. testified that
7 A.S. is the biological child of Defendant and Terrie Sena; R.S. is the biological child of Terrie
8 Sena; and, B.S. is the biological child of Defendant and Deborah Sena. PHT, Vol. II, pp. 107-
9 108.

10 T.S. testified that he had testified in a previous proceeding regarding sexual conduct
11 that was going on at the trailer located at 6012 Yellowstone. PHT, Vol. II, p. 108. During that
12 time, T.S., Defendant, Terrie Sena, Deborah Sena and the entire family lived there. T.S.
13 resided there from the time he was 5 until he moved out a month after he turned 18. PHT, Vol.
14 II, p. 109.

15 When T.S. was 14 or 15 years of age, he engaged in having sexual intercourse with
16 both of his parents, in the bedroom and in the shower. During the shower incident, he and
17 Deborah Sena had been painting and were dirty. Defendant told T.S. to get in the shower.
18 Deborah Sena was already in the shower, naked. T.S. thought the request was really weird
19 and did not want to do it. When T.S. got in the shower he and Deborah Sena began cleaning
20 each other at Defendant's instruction. **(COUNTS 55 AND 56)** Additionally, Deborah Sena
21 placed her mouth on T.S.'s penis and gave him a "blowjob". **(COUNT 54)**. Deborah Sena
22 also bent over in the shower and T.S. placed his penis around her vaginal area, at Defendant's
23 instruction. T.S. stated that his penis did not go into the hole but did go between the lips of
24 Deborah's vaginal area. **(COUNT 57 AND 58)**. PHT, Vol. II, pp. 110-114.

25 T.S. testified that the incident occurring in the bedroom also happened when he was
26 between the ages of 14 and 15, during the day. T.S. was called into the bedroom by Defendant.
27 When T.S. went into the bedroom Defendant was naked. Defendant told T.S. to remove his
28 clothes. Deborah Sena came into the bedroom and also got naked. T.S. inserted his penis

1 between the lips of Deborah Sena's vaginal area, while Defendant inserted his penis into
2 Deborah Sena's anal opening. T.S. testified that prior to such act but during the same incident
3 Deborah Sena placed his penis in her mouth. PHT, Vol. II, pp. 117-118. T.S. watched the
4 video of himself, Deborah Sena, and Defendant engaging in various sexual acts, in the
5 bedroom. T.S. testified that while he may not remember all of the details, the video speaks for
6 itself. T.S. was shown State's Exhibits "3" and "4" and identified Exhibit "3" as a photograph
7 of him in the shower with Deborah Sena and Exhibit "4" as a photograph of him and Deborah
8 Sena in the bedroom. PHT, Vol. II, pp. 121-122. **(COUNT 61 in the alternative to 62;
9 COUNT 63 in the alternative to 64; COUNT 65 in the alternative to 66; COUNT 67 in
10 the alternative to 68; and COUNT 69)**

11 **The Preliminary Hearing Testimony of B.S. Pertinent to this Opposition**

12 B.S. testified that he was 17 years of age and his date of birth is August 13, 1998. B.S.
13 further testified that he is a senior at Bonanza High School. B.S. testified that he lives with
14 his sister, A.S., but he used to reside at the residence located at 6012 Yellowstone Avenue,
15 North Las Vegas, Clark County, Nevada. B.S. lived at the Yellowstone address from 1998
16 until June of 2014. PHT, Vol. II, pp. 147-149. B.S. testified that he lived at the residence with
17 his half-sister, A.S. and his half-brother, T.S., and R.S. B.S. testified that Defendant and
18 Deborah Sena are his parents and they lived in residence, as did Terrie Sena. PHT, Vol. II, pp.
19 149-151. B.S. testified that when he was 14 years old he engaged in sex acts with Terrie Sena
20 in the back office area. B.S. described the office area as having a computer, animae dolls, a
21 kitchen, and a bathroom. B.S. testified that Defendant was present when he engaged in the
22 sex acts with Terrie Sena. PHT, Vol. II, pp. 152.

23 B.S. testified that Defendant told him to pull down his pants and Terrie Sena gave him
24 oral sex. **(COUNT 79)**. B.S. testified that he put his penis in Terrie Sena's vagina. **(COUNT**
25 **80)** B.S. testified that Defendant stood and watched the entire thing and was trying to direct
26 them. During the incident, Defendant also told B.S. to touch Terrie Sena's boobs with his
27 hands. PHT, Vol. II, pp. 153-156. **(COUNTS 81 AND 82)**.

28 //

1 B.S. testified that Defendant had him come to the back office to have sex with Terrie
2 Sena and touch her breasts, twice. PHT, Vol. II, p. 156.

3 B.S. clarified that the first time he went to the back office his penis went into Terrie
4 Sena's mouth; his penis went into Terrie Sena's vagina; and, he touched Terrie Sena's boobs,
5 when he was 14 years of age. **(COUNTS 79 – 82)** PHT, Vol. II, p. 157.

6 B.S. testified that the second time something happened in the office he was still 14 years
7 old and he had gone into the back office for something early in the morning. B.S. testified that
8 he and Defendant and Terrie Sena were the only people in the office. B.S. testified that
9 Defendant told him and Terrie Sena to have sex and directed them. On that occasion, B.S. put
10 his penis in Terrie Sena's vagina. Although he provided specific testimony that he did, in fact,
11 touch Terrie Sena's breasts each time he went to the office and engaged in sexual acts with
12 her, B.S. also testified that he may have touched T.S.'s breasts on that occasion but he could
13 not remember. **(COUNT 83)** PHT, Vol. II, pp. 161-162.

14 B.S. testified that he had sexual contact with Deborah Sena in the bedroom when he
15 was 14 years of age. B.S. was watching T.V. Defendant called B.S. outside to the pool where
16 Defendant was with Deborah Sena. Defendant and Deborah took off their clothes and began
17 having sex in the pool. B.S. tried to look away but Defendant told him to remove his clothing
18 and told B.S. to watch him and Deborah having sex. **(COUNT 70)** PHT, Vol. II, pp. 163-
19 164. After they left the pool and went back inside the house, Defendant brought B.S. into the
20 bedroom where he and Deborah Sena were. Defendant had B.S. strip and get onto the bed.
21 Defendant instructed Deborah to sit on B.S.'s "dick" which went inside Deborah Sena's
22 vagina. PHT, Vol. II, pp. 165-166. **(COUNTS 72-73)**. B.S. then got on top of Deborah Sena
23 and put his dick back inside her vagina **(COUNT 74-75)**. B.S. testified that before the sexual
24 intercourse occurred, Defendant told Deborah Sena to give B.S. a blow job and she placed his
25 penis in her mouth. **(COUNT 71)**. PHT, Vol. II, pp. 167-168.

26 **B.S. testified that he never told anyone about what had been happening in the house**
27 **due to death threats from the Defendant. Defendant told B.S. and other members of the**
28 **household that he would kill them if they told what was going on with anything. On cross**

1 examination B.S. testified that he mentioned to the police something about [Defendant]
2 threatening to break his legs. PHT, Vol. II, pp. 168-170. (COUNT 86).

3 **The Preliminary Hearing of A.S. Relevant to this Opposition**

4 A.S. testified that she was 25 years of age and her birthday is May 22, 1990. A.S.
5 graduated from high school in early June 2008. A.S. testified that Defendant is her father;
6 Deborah Sena is her stepmother; and, Terrie Sena is her mother. A.S. testified that she had
7 three brothers, B.S., age 17; R.S., a half-brother, age 17; and, T.S., age 20. PHT, Vol. III, pp.
8 6-7. A.S. testified that when she was 11 years old she living at 6012 Yellowstone Avenue,
9 North Las Vegas, Clark County, Nevada, with Defendant, Deborah Sena, Terrie Sena, T.S.,
10 B.S., and R.S. PHT, Vol. III, p. 8. During that time, A.S. would come home from school and
11 Defendant would be there. Defendant would ask A.S. if she loved him and when she said yes,
12 he wanted her to show him that she loved him. Defendant asked A.S. to take her clothes off
13 and touched her breasts area. (COUNT 2) A.S. testified that Defendant rubbed her clit with
14 his fingers, between the lips of her vagina area. (COUNTS 3 AND 4) PHT, Vol. III, pp. 13-
15 14. Defendant told A.S. to get on the bed and removed his dick/penis from his jeans and began
16 rubbing it on the outside of A.S.'s pussy/vagina. (COUNT 5) Defendant instructed A.S. to
17 spread out a little and she was laying on her back on the bed with her legs hanging off the bed.
18 Defendant lifted her legs and spit on his hands, rubbing saliva on his dick/penis. Defendant
19 penetrated A.S.'s anus with his penis which hurt her. (COUNT 6 AND 7) A.S. told
20 Defendant that it hurt her and he told her "It's going to hurt but this is life." Defendant came
21 inside of A.S.'s anus and told her to get dressed because the moms would be home. PHT, Vol.
22 III, pp. 15-16.

23 Defendant had anal intercourse with A.S. frequently, from time she was 11 years in
24 May 2001 until 2009. A.S. testified that it normally happened when the moms were gone
25 during the weekdays, two or three times a week. A.S. testified that on a rare occasion
26 Defendant would go more than a week without doing it, but he never went more than one
27 month without doing` it. In 2009, when A.S. was 19 years of age, it became less frequent.
28 PHT, Vol. III, pp. 17-18. A.S. testified that Defendant would do that to her in his room; in her

1 room; in the master bathroom; in the living room; and, in the boys' room. PHT, Vol. III, p.
2 19-20. **(COUNTS 8, 9, 11, 12, 16, 17, 23, 28, 33, 38, 43).**

3 A.S. testified that Defendant would rub his hands on her boobs, at least once a month,
4 when he was putting his penis in her. PHT, Vol. III, p. 21. **(COUNT 10, 13, 18, 24, 29, 34,**
5 **39, 44)** When A.S. was 14 years of age (May 22, 2004) Defendant began doing other things to
6 her. A.S. testified that she was taking a shower and Defendant came into the bathroom and
7 jumped into the shower with her. Defendant rubbed A.S.'s boobs and then told her to get up
8 against the wall. Defendant tried to put his penis in her anal opening but he inserted into her
9 vagina, taking her virginity. (PHT, Vol. III, p. 22. A.S. testified that Defendant put his penis
10 into her vagina on more than one occasion; and, that it happened every two weeks; never less
11 than once a month. Defendant would put his penis in A.S.'s vaginal opening in the living room;
12 in the boys' room; in the master bedroom; and, in A.S.'s room. PHT, Vol. III, pp. 23-24.
13 **(COUNTS 21, 22, 26, 27, 31,32, 36, 37, 41, 42,).**

14 A.S. testified that there were times that Defendant would put himself inside her vagina
15 and then he would put himself inside her anal opening. There was also times that he would
16 have anal sex one day and vaginal sex the other. PHT, Vol. III, p. 25. A.S. testified that
17 during that time there were days that Defendant would put his penis up against her boobs and
18 he would have her give him a blow job. A.S. was 12 years old the first time she gave Defendant
19 a blow job. A.S. gave Defendant blow jobs from the time she was 12 years old up to 2013.
20 A.S. would do this one or twice a month and some months not at all. A.S. would do this mainly
21 in the living room and the master bedroom. **(COUNTS 14, 15, 19, 20, 25, 30, 35, 40, 45)** A.S.
22 was 23 years old in 2013. A.S. left the house in June 2013. The last time something happened
23 with Defendant was in January 2013. PHT, Vol. III, pp. 25-27.

24 When A.S. was 14 years of age, Defendant, Terrie Sena, and A.S. were in the
25 Defendant's back office. Terrie Sena gave Defendant a blow job, which A.S. described
26 Defendant's penis in Terrie Sena's mouth, while A.S. watched. Defendant inserted his penis
27 into A.S.'s anal opening, while Terrie Sena watched. **(COUNT 52)** PHT, Vol. III, pp. 29-31.

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1 A.S. testified that when she was 17 to 18 years of age, during the last few months of
2 high school, before graduation, A.S. got home from school and Defendant brought Deborah
3 Sena out to where A.S. was. Defendant told A.S. to get naked and wanted her and Deborah
4 Sena play with each other's boobs and rub each other's clits. A.S. played with Deborah Sena's
5 clit and Deborah Sena rubbed the outside area of A.S.'s vagina. (COUNTS 48, 49) Defendant
6 had Deborah Sena get on top of A.S. Defendant inserted his penis into A.S.'s vagina while
7 Deborah was still on top of A.S. (COUNTS 46 AND 47) Defendant removed his penis and
8 put it in Deborah Sena's vagina or anus, while Deborah Sena was on top of A.S., with her
9 nipples touching A.S.'s chest. PHT, Vol. III, pp. 32-36. Defendant had Deborah Sena get on
10 her back and he placed a pillow under Deborah Sena's back before penetrating her again.
11 Defendant had A.S. play with herself so he could watch. A.S. touched the outside of her vagina
12 with her hand. (COUNT 51) PHT, Vol. III, p. 37. A.S. clarified that she touched Deborah
13 Sena's boobs (COUNT 50) and Deborah Sena touched her boobs; that Deborah Sena touched
14 the outside of A.S.'s pussy and A.S. touched Deborah Sena's clit. PHT, Vol. III, p. 38.

15 A.S. testified that she never told anybody in fear of what Defendant would do. A.S.
16 testified that Defendant would use threats and tell her that she was going to be taken away
17 and sent to Juvi. Defendant also told A.S. that she would do those things if she loved him.
18 PHT, Vol. III, pp. 40. (COUNT 53)

19 A.S. testified that between the ages of 11 and 14, Defendant engaged primarily in anal
20 intercourse with her. Additionally, without a doubt, Defendant engaged in vaginal and/or anal
21 intercourse with her at least once a year from the time she was 11 years of age until she was
22 23 years of age. Defendant also put his finger in A.S.'s pussy at least once a year throughout
23 that same time period. PHT, Vol. III, pp. 40-41.

24 A.S. testified that there was incident where she went to the school nurse when she was
25 nine or ten years old, where she talked about physical abuse in the home. PHT, Vol. III, p. 107.
26 At that time, A.S. had a pipe thrown at her when they were cleaning out the garage. Id. She
27 went to the school nurse because her head was hurting so much and she was getting headaches.
28 The school nurse saw the bruising on the back of her head and CPS was called. Id. When A.S.

1 was asked questions about whether it was an accident or happened on purpose, she told them
2 that she did not know if it happened on purpose or not. Id.

3 A.S. testified that she believes that CPS went to the house because when she got home,
4 she got a major butt whipping. PHT, Vol. III, p. 108. A.S. testified that there was no follow-
5 up conversation regarding the incident beyond that; and, the police never came to the house as
6 a result of the report. Id.

7 A.S. testified that she had a conversation with R.S. when he was 13 years old about the
8 physical abuse in the house, which included Defendant throwing remotes and objects at them,
9 hitting and slapping them for something stupid; and, A.S. getting strangled. PHT, Vol. III, p.
10 109.

11 A.S. testified that after they got out of the house she was afraid that Defendant would
12 come after them. PHT, Vol. III, pp. 109-110. A.S. further testified that Defendant had friends
13 in Metro and she felt that those friends would prevent her from making any type of report. Id.,
14 at 110. A.S. testified that they were told by Defendant that Metro could not really do anything
15 for them; and, at one point, Defendant told A.S. to go ahead and call the police, he had 15 to
16 17 minutes before that where he can do whatever he wanted to her. PHT, Vol. III, p. 111. A.S.
17 was 14 year old when that conversation occurred. Id.

18 A.S. testified that she told Detectives she worked at Albertsons located at Sloan and
19 Charleston, for almost two years; and, it was her opinion that Defendant had people in the
20 store watching her. PHT, Vol. III, p. 112. A.S. testified that Defendant had friends that worked
21 with her, to include Ms. Christine, who worked security; and, a guy named Shawn. PHT, Vol.
22 III, pp. 112-113. Shawn was a friend of Defendant's who go to Anita's work sometimes to
23 buy groceries or go to the Hawaiian restaurant next door. Id., at 113. A.S. described how every
24 time Shawn would visit her at work, he would call Defendant on the phone and tell Defendant
25 that he saw her, describe what she was doing, tell Defendant that he was standing right in front
26 of A.S., and ask Defendant if he wanted to speak with A.S. Id.

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1 Two weeks before they left the house, A.S. gave her notice at Albertson. After they
2 were out of the house, when A.S. returned to the store to pick up her check stub, they told her
3 that Defendant was calling them every day with phone calls and was coming in and asking if
4 they had seen her. A.S. testified that Defendant wrote a note on her check stub that said please
5 come home. PHT, Vol. III, p. 114. A.S. thought it was three weeks after they had left the
6 house that she went to get her check stub. PHT, Vol. III, p. 115.

7 A.S. testified that she did not keep boyfriends because every time she brought someone
8 over, Defendant would have his gun on his side to terrorize them and after they left, Defendant
9 would ask A.S. to compare whether he was best or they were better when it came to sex. PHT,
10 Vol. III, p. 116.

11 A.S. testified that they did not go to the police until Defendant sent emails to
12 DEBORAH SENA'S work consisting of nude photos of her and photos of her having sex with
13 the dog, in an attempt to get her fired. PHT, Vol. III, p. 143.

14 **The Preliminary Hearing Testimony of R.S. Pertinent to this Opposition**

15 R.S. testified that he was 17 years of age and his date of birth is June 14, 1998. R.S.
16 testified that he was a senior in high school and attends Sunset High School. R.S. testified that
17 he lives with his biological dad and had been living there since December 2014. R.S. testified
18 that his biological mother is Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified that he lived
19 at the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County Nevada his
20 entire life, until he moved out when he was 16 years old, back in June 2014. PHT, Vol. III,
21 pp. 15-16. When R.S. lived at the residence, he lived there with A.S., T.S., B.S., Deborah Sena,
22 Defendant, and Terrie Sena. PHT, Vol. IV, pp. 17-29.

23 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
24 Defendant sexually abused him. The abuse happened more than once and it happened in R.S.'s
25 room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22. R.S.
26 testified that Defendant made him remove his clothes and he would touch R.S.'s behind where
27 poop comes out, with his dick. R.S. described an incident that occurred when he was 12 or 13,
28 in his bedroom, and Defendant came in and made R.S. remove his clothes, by yelling at him

1 and grabbing him. R.S. was afraid Defendant would come after him and hurt him if he did not
2 do what Defendant said. R.S. got onto the bedroom floor and laid flat on his stomach while
3 Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88)**. PHT, Vol. IV,
4 pp. 27-29. Another incident occurred in the Defendant's office, a separate building at the back
5 of the house, when R.S. was 14 or 15 years old. Defendant showed R.S. videos on his
6 computer. R.S. testified that the video was of Defendant and Terrie Sena having sex in the
7 back office. PHT, Vol. IV, pp. 29-31. **(COUNT 105)**

8 R.S. testified that when he was in junior high school, between 12 or 13 years of age, he
9 and Defendant were in the living room. R.S. had no pants or underwear on, nor did Defendant.
10 Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into R.S.'s butt.
11 R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90)**. R.S. testified
12 that Defendant put his penis inside R.S.'s butt on three occasions when R.S. was in junior high
13 school and 12 or 13 years old; once in R.S.'s bedroom; once in the living room; and, once in
14 Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-36.

15 R.S. testified that Defendant stopped his conduct for a little while when R.S. was 15
16 years of age. R.S. had no idea why it stopped at that time. PHT, Vol. IV, p. 36. R.S. testified
17 that when it started again he was still 15 years old and it went on until R.S. moved out of the
18 residence in June 2014. R.S. testified that it happened on two separate occasions, once in
19 Defendant's office and once in Defendant's room. The incident in the office occurred while
20 Defendant was sitting naked, on his computer chair, and R.S. sat on him and he inserted his
21 penis into R.S.'s butt. **(COUNT 93)**. The incident in Defendant's bedroom occurred with R.S.
22 laying on his stomach, on the bed, and Defendant inserting his penis into R.S.'s butt. **(COUNT**
23 **94)** PHT, Vol. IV, pp. 38-40.

24 R.S. testified that his mom, Terrie Sena, also engaged in sexually abusing him, on two
25 separate occasions. The incidents occurred in the office and in Defendant's room. The first
26 incident occurred in the bedroom prior to R.S. turning 16. R.S. went into the bedroom because
27 his mom was in there. Terrie Sena was talking to R.S. and began taking off his clothes.
28 Defendant was in the hallway and watching what was happening. Terrie Sena took all of

1 R.S.'s clothes off and Defendant R.S. to lay on the bed, on his back. Terrie Sena removed her
2 clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44. **(COUNT 95)**. Defendant
3 instructed Terrie Sena to lay on her back and had R.S. get on top of her and insert his dick into
4 her private spot. **(COUNTS 96 AND 97)**. PHT, Vol. IV, p. 45. Defendant had R.S. get off of
5 Terrie Sena and lay down on his back. Terrie Sena sucked R.S.'s dick while Defendant got
6 behind Terrie Sena. **(COUNT 98)**. R.S. testified that he did not want to do any of those things
7 but he was forced to do it by Defendant. PHT, Vol. IV, p. 46.

8 When R.S. was 12 or 13, he went to Defendant's office so that Defendant could help
9 him with an ingrown toenail. Afterward, Defendant told R.S. to stand up and Terrie Sena
10 removed R.S.'s clothes from the waist down. Terrie Sena sucked on R.S.'s dick. Terrie Sena
11 alternated and began sucking on Defendant's dick and then sucked on R.S.'s dick PHT, Vol.
12 IV, pp. 48-50. **(COUNTS 101 AND 102)**. R.S. testified that Defendant told him that if he
13 ever told somebody he and Terrie Sena would hate him and Defendant would make his life
14 a living hell. PHT, Vol. IV, p. 50. **(COUNT 106)**.

15 **RELEVANT FACTS REGARDING THE INITIAL REPORT TO POLICE**

16 The aforementioned conduct came to light when it was disclosed to a lawyer by
17 DEBORAH SENA, A.S., and B.S.; and, was subsequently reported to the police in September
18 2014. DEBORAH SENA was discussing a divorce with the lawyer. DEBORAH SENA, A.S.,
19 and B.S., had recently left the Sena residence. This only happened after B.S. told A.S. that
20 he was contemplating suicide due to things that were happening in the household. A.S.
21 decided that she was leaving and then took it upon herself to tell DEBORAH SENA that she
22 and B.S. were leaving the residence. DEBORAH SENA proceeded to leave with them;
23 however, it was NEVER her own idea to take the kids and leave. This is evidenced by the
24 testimony of A.S. at the preliminary hearing. PHT, pp. Tuesday, February 17, 2014, pp. 79-
25 82. A.S. testified that she took it upon herself to go and rent a storage unit so that some
26 things could be packed and moved into it before she actually left the residence with her
27 brother, B.S. (PHT, Tuesday, February 17, 2014, p. 83). The fact of the matter is that
28 DEBORAH SENA left the residence was because A.S. and B.S. were leaving, with or

1 without her. DEBORAH SENA had no intention of leaving CHRISTOPHER SENA until
2 A.S. and B.S., the actual real victims in this case, chose to leave.

3 Also, A.S.'s preliminary hearing testimony does indicate that there was fear that she
4 may be caught the morning she and B.S. left the residence, and DEBORAH SENA decided to
5 tag along. A.S. followed through with the plan to get herself and B.S. out of the house sooner
6 than she planned to, because she witnessed CHRISTOPHER SENA slapped B.S., for making
7 her some lunch instead of helping him with cleaning the pool.

8 Trial of this matter is scheduled to commence on September 11, 2017. On August 11,
9 2017, Defendant filed a Motion to Dismiss Counts for Violation of Statute of Limitations.
10 Specifically, the Defendant wishes to have dismissed, all of the charges against A.S., as further
11 alleged in Counts 2 through 53 of the Amended Information. The State's Opposition follows.

12 LEGAL ARGUMENT

13 Count 1 charges Defendant with Conspiracy to Commit Sexual Assault for crimes
14 committed along with Co-Defendant's DEBORAH SENA and/or TERRI SENA. With regard
15 to A.S., specifically, Counts 46 through 52.

16 Counts 2 through 20 of the Amended Information charge the Defendant with various
17 sex crimes involving A.S., occurring on or between May 22, 2001 and May 21, 2004.

18 Counts 21 through 30 and Counts 45 and 52 of the Amended Information charge
19 Defendant with various sex crimes involving A.S., occurring on or between May 22, 2004 and
20 May 21, 2006.

21 Counts 31 through 44 of the Amended Information charges Defendant with various
22 sex crimes involving A.S., occurring on or between May 22, 2006 and August 30, 2014.

23 Counts 46 through 51 of the Amended Information charges Defendant with various
24 crimes involving A.S., occurring on or between May 22, 2007 and May 22, 2008.

25 Count 53 of the Amended Information charges Defendant with *Preventing or*
26 *Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution that*
27 *occurred on or between May 22, 2001 through June 30, 2014.*

28 //

1 First, the State notes that it does not dispute the fact that A.S. was twenty-four (24)
2 years of age at the time the initial police report was completed in this matter (September 15,
3 2014); and, the subsequent Criminal Complaint was filed with the Justice Court in that same
4 month.

5 The State does not dispute that the applicable laws relative to the calculation of the
6 Statute of Limitations to file criminal charges in the subject case are contained in NRS
7 171.085, NRS 171.090, and NRS 171.095 as they existed at the time the charged offenses were
8 committed. *See Bailey v. State*, 120 Nev. 406, 408, 91 P.3d 596, 597 (2004).

9 As applicable to this case, NRS 171.095¹ states:

10 1. Except as otherwise provided in subsection 2:

11 (a) If a felony, gross misdemeanor or misdemeanor is
12 **committed in a secret manner**, an indictment for the
13 offense must be found, or an information or complaint
14 filed, within the periods of limitation prescribed in NRS
15 171.085 and 171.090 **after the discovery of the offense**
16 unless a longer period is allowed by paragraph (b).

17 (b) An indictment must be found, or an information or
18 complaint filed, for any offense constituting sexual
19 abuse of a child, as defined in NRS 432B.100², before
20 the victim of the sexual abuse is:

21 (1) Twenty-one years old if he discovers or
22 reasonably should have discovered that he was a
23 victim of the sexual abuse by the date on which
24 he reaches that age; or

25 (2) Twenty-eight years old if he does not discover
26 and reasonably should not have discovered that
27 he was a victim of the sexual abuse by the date
28 on which he reaches 21 years of age.

¹ These provisions did not change between 2001 and 2013.

² "Sexual abuse" includes acts upon a child constituting:

1. Incest under NRS 201.180;
2. Lewdness with a child under NRS 201.230;
3. Sado-masochistic abuse under NRS 201.262;
4. Sexual assault under NRS 200.366;
5. Statutory sexual seduction under NRS 200.368;
6. Open or gross lewdness under NRS 201.210; and
7. Mutilation of the genitalia of a female child, aiding, abetting, encouraging or participating in the mutilation of the genitalia of a female child, or removal of a female child from this State for the purpose of mutilating the genitalia of the child under NRS 200.5083.

1 2. If any indictment found, or an information or complaint filed,
2 within the time prescribed in subsection 1 is defective so that no
3 judgment can be given thereon, another prosecution may be
4 instituted for the same offense within 6 months after the first is
5 abandoned.

6 The period of limitation prescribed in NRS 171.085 during all times alleged in the
7 charging documents in this matter was as follows:

8 Except as provided in NRS 171.095, an indictment for:

9 1. Theft, robbery, burglary, forgery, arson or sexual
10 assault must be found, or an information or complaint
11 filed, within 4 years after the commission of the offense.

12 2. Any other felony than murder, theft, robbery,
13 burglary, forgery, arson or sexual assault must be found,
14 or an information or complaint filed, within 3 years after
15 the commission of the offense.

16 The period of limitation prescribed in NRS 171.090 during all times alleged in the
17 charging documents in this matter was as follows:

18 Except as otherwise provided in NRS 171.095 . . . an indictment for:

19 1. A gross misdemeanor must be found, or an information or
20 complaint filed, within 2 years after the commission of the
21 offense. . . .

22 The Nevada Supreme Court has held that within the meaning of NRS 171.095, a crime
23 is committed “in a secret manner” when “it is committed in a deliberately surreptitious manner
24 that is intended to and does keep all but those committing the crime unaware that an offense
25 has been committed.” Walstrom v. State, 104 Nev. 51, 56, 752 P.2d 225, 228 (1988). In light
26 of the “inherently vulnerable nature of a child,” sexual abuse of a minor victim can be
27 committed in a secret manner. Id. See also State v. Bentley, 721 P.2d 227, 230 (Kan. 1986)
28 (“Sexual abuse of children, by its very nature, is done in secrecy.”) The State need only prove
by a preponderance of the evidence that a crime was committed in secret. Id. at 54, 227.

In Walstrom, the defendant’s wife investigated a locked footlocker in the defendant’s
truck and discovered multiple images of child pornography. 104 Nev. 51, 52-53, 893 P.2d 225,
226 (1995), *overruled in part, on other grounds by*, Hubbard v. State, 112 Nev. 946, 920 P.2d
991 (1996). The defendant was subsequently charged with lewdness with a minor. Id. At the

1 latest, the pictures had been taken eight years before they were discovered by the defendant's
2 wife. Id. The child portrayed in the pornographic images was never located and did not testify.
3 Id. In finding the crimes had been committed in secret and the statute of limitations was thus
4 tolled until the defendant's wife discovered the photographs, the Court discussed
5 "threats...subtle persuasion, or bribes" by the wrongdoer, as well as a child's fear of not being
6 believed were he or she to report the abuse. Id. at 55, 752 P.2d at 228.

7 Defendant does not appear to dispute that the subject crimes were committed in a
8 "secret manner" by Defendant. However, in Defendant's Motion he cites to the case of Houtz
9 v. State, 111 Nev. 457 (1995) contending that the "secret manner" provision does not apply
10 to the calculation of the Statute of Limitations in the subject case. In the Houtz case, the
11 Nevada Supreme Court concluded that the applicable statute of limitations had run by the time
12 the state commenced the prosecution. The Court found the secret crimes provision did not
13 apply because the victim in that case did not report the offense until he was 25, and the tolling
14 of the statute of limitations based on the "secret offense" provision did not extend beyond the
15 time when the victim reached the age of majority, 18 years of age. Id.

16 First, the State notes that circumstances surrounding the Houtz case and the subject case
17 are quite different. In Houtz, *supra*, unlike the facts of this case, the victim was abused by
18 Houtz, his high school band teacher, during 1977-78 school year, when the victim was under
19 the age of 14. Id. Houtz was a friend of the victim's parents and had told the victim not to tell
20 anyone. Id. Houtz left the jurisdiction in 1979, when the victim was 14 year old. Id. The
21 victim did not report the abuse until September 1990, when he was 25 years of age. Id. In the
22 subject case, A.S. remained in the household of Defendant up until just a few months before
23 reporting the subject crimes to police. Throughout the time A.S. lived within Defendant's
24 household he maintained control over, and fear in, A.S.

25 Additionally, in Houtz, *supra*, the Nevada Supreme Court reviewed a very different
26 statute than we have today. At the time of the crime in Houtz, NRS 171.095 stated in its
27 entirety:

28 //

1 If a felony or misdemeanor is committed in a secret manner, an
2 indictment for the same must be found, or an information or complaint
3 filed, within the periods of limitation prescribed in NRS 171.085 and
4 171.090 after the discovery of the offense; but in any indictment found,
5 or an information or complaint filed, within the time thus prescribed in
6 NRS 171.085 and 171.090 after the discovery of the offense; but if any
7 indictment found, or an information or complaint filed, within the time
8 thus prescribed is defective so that no judgment can be given thereon,
9 another prosecution may be instituted for the same offense within 6
10 months after the first is abandoned.

11 Finally, in Houtz, *supra*, the Nevada Supreme Court failed to address the application of
12 the secret crimes exception of NRS 171.095 to an adult's knowledge of a crime.

13 In State v. Quinn, 117 Nev. 709, 30 P.3d 1117 (2001), after its prior decision in Houtz,
14 *supra*, the Nevada Supreme Court addressed the issue of application of the "secret manner"
15 exception to adults with knowledge. It did this by way of clarifying what constitutes
16 "discovery" of a sexual crime committed upon in a secret manner which would trigger the
17 statute of limitation. Quinn did this by further clarifying its ruling in Houtz in light of the
18 amended version of NRS 171.095 and based upon different facts and circumstances. Such
19 statutory amendments, similar to the applicable statute in the subject case, included additional
20 provisions providing for extending the statute of limitation for offenses committed upon
21 children into their adult years. Such amendments are similar to the above referenced
22 applicable statute in all relevant respects.

23 In Quinn, the defendant was alleged to have committed lewdness and exposed himself
24 to his stepdaughter on numerous occasions. Quinn, 117 Nev. 709 at 711. In the course of the
25 abuse, the victim told her mother who did not immediately report the crime to the police. Id.
26 Ultimately, the crime was reported to the police but only after the statute of limitations period
27 had run over the period between the child's disclosure to her mother and the report to the
28 police. Id. The defendant in Quinn contended that the "secret manner" provision of NRS
171.095 did not apply beyond the time the crime was "discovered" by the child's mother. Id.

1 The Quinn Court disagreed with Defendant. In evaluating the application of NRS
2 171.095, the Quinn Court first recognized that an ambiguity clearly existed in such statute
3 because it "does not specify by whom the crime must be discovered, and is thus open to several

1 interpretations.” Such Court further opined:

2 “If a statute is ambiguous, we then focus on the intent of the
3 legislature, which is discernible through an examination of ‘the
4 context and spirit’ of the statute in question, together with the subject
5 matter and policy involved.’ (citation omitted) Our interpretation
6 ‘should be in line with what reason and public policy would indicate
7 the legislature intended, and should avoid absurd results.’ (citation
8 omitted)”

9 Quinn, 117 Nev. 709 at 713.

10 The Quinn Court went on to revisited their interpretation of the term “discovery” within
11 the subject statute, noting their prior ruling in Walstrom and Houtz, *supra*, and stated:

12 As in *Walstrom* and *Houtz*, our interpretation of the term
13 "discovery" in NRS 171.095 must balance the realities of child
14 sexual abuse crimes against the important fairness interests which
15 underlie criminal statutes of limitation. Accordingly, for purposes
16 of tolling the statute of limitations under the "secret manner"
17 provision of NRS 171.095, **discovery occurs when any person -
18 - including the victim -- other than the wrongdoer (or someone
19 acting in pari delicto with the wrongdoer) has knowledge of
20 the act and its criminal nature, unless the person with
21 knowledge: (1) fails to report out of fear induced by threats
22 made by the wrongdoer or by anyone acting in pari delicto
23 with the wrongdoer; or (2) is a child-victim under eighteen years
24 of age and fails to report for the reasons discussed in *Walstrom*.
25 Under this rule, then, a crime can remain undiscovered even
26 if multiple persons know about it so long as the silence is
27 induced by the wrongdoer's threats.**

28 This approach is highly consistent with our decisions in *Walstrom*
and *Houtz*. By applying the secret manner exception to crimes
involving children, *Walstrom* recognized the realities of child
abuse crimes and the silence that may be induced. Similarly, our
approach here realistically recognizes that a wrongdoer can
perpetrate a secret crime by threatening anyone with knowledge to
remain silent about a crime and prevents the wrongdoer from
unfairly manipulating the statute of limitations to his advantage.
Further, by broadly defining "discovery" to include all those with
knowledge of the act and its criminal nature, our approach is
consistent with the fairness principles advanced in *Houtz*, which
recognizes the legislature's intent in enacting criminal statutes of
limitations, and our interpretative canon requiring criminal
statutes of limitation to be construed narrowly.

29 Id., 117 Nev. 709 at 715-716.

30 The Court concluded the following:

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1 We conclude that for purposes of the "secret manner" provisions
2 of NRS 171.095, "discovery" occurs when any person other than
3 the wrongdoer (or someone acting in pari delicto with the
4 wrongdoer) has knowledge of the act and its criminal nature,
5 unless the person with knowledge: (1) fails to report out of fear
6 induced by threats made by the wrongdoer or by anyone acting
7 in pari delicto with the wrongdoer; or (2) is a child-victim under
8 eighteen years of age and fails to report for the reasons discussed
9 in Walstrom.

10 Id. at 716.

11 Ultimately, the Quinn Court remanded the case to the lower Court to determine if the
12 failure to report of the victim's mother was the result of fear induced by the threats of that
13 defendant or anyone acting with such defendant.

14 In the subject case, the Statement of Facts above, which includes a detail of evidence
15 adduced at a prior preliminary hearing, illustrates ample evidence of the violence, threats of
16 violence, and coercive tactics this Defendant implemented on a regular basis, over an extended
17 period of time, in order to keep A.S. and the other victims living in the household from
18 reporting the sexual and physical abuse he was inflicting on a regular basis. A.S. testified to
19 the affect this had upon her in not reporting the abuse. This is also true with respect to the Co-
20 Defendants. Obviously, the "discovery" of Defendant's abuse of A.S. occurred on the day
21 DEBORAH SENA told her lawyer what had been going on in Defendant's residence
22 throughout the years, which occurred in August 2014. This is when the applicable statute of
23 limitations began to run. A criminal complaint was filed in September of 2014 which is clearly
24 within the statute of limitations for all charges filed.

25 The State of Nevada has an unfettered right to prosecute this Defendant for crimes
26 involving the sexual abuse of A.S. based upon the case law stated above. In fact, this particular
27 case is a classic example of the importance of the provisions of NRS 171.095.

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1 **CONCLUSION**

2 Based upon the above and foregoing Points and Authorities, the State respectfully
3 requests Defendant's Motion to Dismiss be DENIED.

4 DATED this 22nd day of August, 2017.

5 Respectfully submitted,

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #005391

9 BY /s/ JAMES R. SWEETIN
10 JAMES R. SWEETIN
11 Chief Deputy District Attorney
12 Nevada Bar #005144
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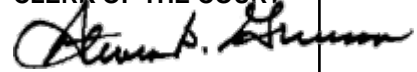
19 **CERTIFICATE OF SERVICE**

20 I hereby certify that service of the above and foregoing was made this 22nd day of
21 August, 2017, to:

22 VIOLET RADOSTA, DPD
23 harrolah@ClarkCountyNV.gov

24 BY /s/ HOWARD CONRAD
25 Secretary for the District Attorney's Office
26 Special Victims Unit
27

28 hjc/SVU



MOT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-15-311453-1
)	
v.	)	DEPT. NO. XIX
)	
CHRISTOPHER SENA,)	
)	:
Defendant,)	
_____)	

REPLY TO STATE'S OPPOSITION TO MOTION TO DISMISS COUNTS FOR
VIOLATION OF STATUTE OF LIMITATIONS

Defendant, CHRISTOPHER SENA, through counsel, VIOLET R. RADOSTA, Deputy Public Defender, hereby files this Reply to the State's Opposition to the Motion to Dismiss for Violation of the Statute of Limitations pursuant to the requirements of Nevada Revised Statutes 171.095 and NRS 171.085.

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

DATED this 28th day of August, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: _____/s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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VIOLET R. RADOSTA makes the following declaration:

1. I am an attorney licensed to practice law in the State of Nevada and I am a Deputy Public Defender for the Clark County Public Defender's Office, counsel of record for Defendant CHRISTOPHER SENA, in the present matter;

2. I make this Declaration in support of Mr. Sena's Reply to the State's Opposition to the Motion to Dismiss for violation of the statute of limitations statute, Nevada Revised Statute 171.095;

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 28th day of August, 2017.

/s/ Violet R. Radosta
VIOLET R. RADOSTA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS**

3 In the State's Opposition under the heading "Relevant Facts Regarding the Initial Report
4 to Police" pp. 24-25, the State references facts regarding how A.S., B.S. and Deborah Sena made
5 the decision to leave the residence and also referenced that the conduct in question was discussed
6 with a divorce lawyer. The references to the preliminary hearing record DO NOT correspond
7 with the dates of the preliminary hearing held in this case. The State is citing to the preliminary
8 hearing record of the State of Nevada v. Deborah Sena, (Justice Court Case number 14F19170A
9 and District Court Case number C-15-303922-1) which was a separate prosecution with a
10 separate case number. The State repeatedly refers to a preliminary hearing transcript from
11 February 2014. Mr. Sena's preliminary hearing took place on August 27, 28, September 3 and
12 18, 2014.

13 Most of the facts referred to in this section come from a completely separate prosecution
14 and are not the factual record in this case. The cases of Deborah Sena and Christopher Sena
15 were never consolidated.

16 The Defense respectfully requests that the Court disregard any facts the State cites to
17 from Deborah Sena's preliminary hearing record.

18 **ARGUMENT**

19 **POINTS AND AUTHORITIES**

20 In its Opposition, the State argues that Counts 2-53 were committed in a 'secret manner'
21 as were not "discovered" until Deborah Sena discussed her case with a divorce attorney
22 sometime over the summer of 2014. Since the State filed its criminal complaint in September
23 2014, the applicable statute of limitations had not expired in the State's opinion.

24 First of all, much of the argument in State's opposition is based on facts that were not
25 presented at the preliminary hearing in this case. The Court cannot rely on facts that were never
26 presented in this case. The State refers to some of these facts 'evidenced by the preliminary
27 hearing record.' What they fail to point out is that it is the preliminary hearing record from
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1 Deborah Sena's completely separate and distinct criminal prosecution. Despite there being a
2 lack of a factual foundation to support the State's argument, the defense will address the State's
3 legal argument.

4 NRS 171.095(1)(a) provides that if a felony, etc is committed in a 'secret manner', the
5 applicable statute of limitations doesn't start running until the felony has been 'discovered'. Per
6 the State's argument, the alleged crimes against A.S. were committed in a secret manner and
7 weren't discovered until A.S.'s stepmother spoke with a divorce attorney. At the time of the
8 purported divorce attorney conversation, A.S. was 24 years old and well beyond the maximum
9 age of 21 allowed in NRS 171.095(1)(b).

10 The State cites to State v. Quinn as support for its argument. 117 Nev. 709 (2001).
11 While Quinn does discuss what constitutes 'discovery' of a sexual crime against a child and lays
12 out a rule that acknowledges if someone who knows about the alleged crime doesn't report the
13 crime out of fear, then the crime remains undiscovered. Quinn is not applicable to the situation
14 before the Court. It is worth noting that the crime in Quinn is indecent exposure, which is not a
15 crime of 'sexual abuse of a child' pursuant to NRS 432B.100 and which brings 171.095(1)(b)
16 into the analysis. The reasoned analysis in Quinn is for a different type of crime that what is
17 charged in the case before the Court today.

18 Quinn does speak to the Nevada Supreme Court's ruling in Houtz v. State, 111 Nev. 457
19 (1995) which the defense relied on in its brief. The Nevada Supreme Court stated in Houtz that
20 NRS 171.095 (1)(a) is tolled only until the alleged victim's 18th birthday, not indefinitely. They
21 specifically stated that rule was following two different statutory rules of construction. One that
22 narrowly construes ambiguous penal statutes and another that construes exemptions to criminal
23 statute of limitations in the light most favorable to the accused. Houtz, at 462. When the
24 Nevada Supreme Court revisited Houtz in the Quinn decision, it did not rollback the holding that
25 NRS 171.095(1)(a), the 'secret manner' subsection, can be tolled; but only until the alleged
26 victim's 18th birthday.

1 Most recently, the Nevada Supreme Court did address NRS 171.095 in Bailey v. State,
2 120 Nev. 406 (2004). In that case, Bailey was charged with lewdness with a child under the age
3 of 14. The court held that regardless of whether the alleged crime was committed in a secret
4 manner, the statute of limitations would be extended to the alleged victim's 21st birthday. The
5 alleged victim in Bailey was six years old at the time of the sexual act. She told her mother who
6 did not report the crime. Several years later, the alleged victim told a school counselor about the
7 alleged abuse. She was approximately 11 years old at the time of the conversation with the
8 school counselor. Criminal charges were filed shortly thereafter. The Nevada Supreme Court
9 rejected the argument that the statute of limitations had begun when the child told her mother.
10 Due to the nature of the offense being one of the crimes listed in NRS 432B.100 as sexual abuse
11 of a child, NRS 171.095(1)(b) applied to that situation regardless of whether the crime was
12 committed in a 'secret manner' or not according to the Court.

13 The same analysis applies to the charges involving A.S. Regardless of whether the
14 crime was committed in a 'secret manner', NRS 171.095(1)(b) applies and extends the statute of
15 limitations to the day of A.S.'s 21st birthday. The Court in Bailey was clear that "the plain
16 language of the statute indicates that, regardless of when the crime was discovered, the State may
17 file a charging document up to the time the child victim reaches age twenty-one." The Court
18 also stated that when subsection (1)(b) applies, the time periods provided for in NRS
19 171.095(1)(a) and NRS 171.085 are inapplicable." Bailey at 409.

20 Under the State's argument in this case, the crimes could be 'undiscovered' for decades if
21 the purported reason for not disclosing was threats made by Mr. Sena at any point during the
22 years of alleged abuse. And, only after A.S. finally told someone outside the family about the
23 alleged abuse, would the statute of limitations begin to run. Quinn did note that "the legislature
24 had never included child sexual abuse among those offenses that are not subject to a statute of
25 limitations." Quinn, at 715. To allow the State's argument to stand would essentially do away
26 with the statute of limitations on cases involving charges of child sexual abuse. All anyone has
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1 to do is say they were frightened of the individual and that's why they never told. Then, under
2 the State's argument, the statute of limitations is tolled indefinitely.

3 To address the State's argument that A.S. did not report the allegations out of fear, the
4 accurate record reflects that Mr. Sena purportedly made statements after the first time a sexual
5 act allegedly occurred. Per A.S.'s testimony, the first incident was when she was 11 years old
6 and when she expressed a desire not to do the things Mr. Sena purportedly wanted her to do, she
7 testified that he said sometime about her being taken to juvie if she didn't cooperate. PHT Vol.
8 III, pp 40. Additionally, the State cites to purported threats made to B.S. and R.S. in its factual
9 recitation. To be clear, there was no testimony that A.S. ever heard those alleged threats. If she
10 didn't hear the supposed threats, the State is precluded from arguing that A.S. didn't reveal the
11 sexual abuse she was suffering because she was fearful for her brothers.

12 Finally, it is worth noting that the alleged victim in this case is 24 years old and had the
13 ability to go to the police at any time, unlike the young children in Bailey and Quinn.

14 CONCLUSION

15 Based on the foregoing, Mr. Sena, respectfully requests that this Honorable Court grant
16 the instant motion, and dismiss counts 2-53 for failing to comply with the statute of limitations
17 requirements delineated in NRS 171.095. U.S.C.A. V, VI, XIV; and Nev. Const. Art. 1 § 8.

18 DATED this 28th day of August, 2017.

19 PHILIP J. KOHN
20 CLARK COUNTY PUBLIC DEFENDER

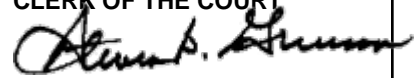
21 By: /s/ Violet R. Radosta
22 VIOLET R. RADOSTA, #5747
23 Deputy Public Defender
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic e-filing to the Clark County District Attorney's Office on the 28th day of August, 2017 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcounttyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office



MOT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
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-

CHRISTOPHER SENA,
#0779849

Defendant.

CASE NO: **C-15-311453-1**

DEPT NO: **XIX**

**STATE'S NOTICE OF MOTION AND MOTION IN LIMINE TO PRESENT THE
COMPLETE STORY OF THE CRIME AND MOTION TO ADMIT EVIDENCE
OF OTHER SEXUAL OFFENSES AND/OR EVIDENCE OF OTHER
CRIMES, WRONGS OR ACTS**

DATE OF HEARING: **AUGUST** ____, 2017

TIME OF HEARING: **8:30 AM**

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and MARY KAY HOLTHUS, Chief Deputy District Attorney, will bring a Motion In Limine To Present The Complete Story Of The Crime And Motion To Admit Evidence Of Other Sexual Offenses And/Or Evidence Of Other Crimes, Wrongs Or Acts before the above entitled Court on the 6 day of **AUGUST**, 2017, at the hour of 8:30 o'clock AM, or as soon thereafter as counsel may be heard.

9:00am

1 **POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS RELATED TO THE CHARGED INCIDENTS**

3 Defendant, CHRISTOPHER SENA, is charged by way of Criminal Information with
4 the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS
5 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
6 YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A
7 CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT
8 WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364,
9 200.), INCEST (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS
10 (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category A Felony - NRS
11 200.364, 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
12 REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS
13 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION
14 (Category A Felony - NRS 200.508(1)), POSSESSION OF VISUAL PRESENTATION
15 DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,
16 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS
17 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN
18 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750).

19 The Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The
20 crimes occurred on or between May 22, 2001 and June 30, 2014. The victims are A.S., T.S.,
21 B.S., R.S., E.C., I.G., T.G., and M.C.

22 A preliminary hearing commenced in this matter on August 27, 2015 and was
23 concluded after four separate days of testimony on September 18, 2015.

24 **The Preliminary Hearing Testimony of Terrie Sena**

25 On August 27, 2015, Terri Sena testified that she was familiar with Defendant because
26 he is her ex-husband and they were married from September 1990 to August 1997. Terrie
27 Sena testified that she was familiar with the residence located at 6012 Yellowstone Avenue,
28 Las Vegas, Clark County, Nevada, in that she lived there for fifteen (15) years, from 1998

1 through 2013; and, from January 2014 until June 2014. PHT, Vol. I, pp. 13-14. Terrie Sena
2 testified that over the period of time that she lived at the residence, she lived there with
3 Defendant and his wife, Deborah Sena, Terrie's biological daughter with Defendant, A.S.,
4 Terrie's biological son with Defendant, T.S., Terrie's step-son, B.S., who is the biological son
5 of Defendant and Deborah Sena; and, R.S., Terrie Sena's biological son with another man.
6 PHT, Vol. I, pp. 14-16. While living at the residence, Terrie's younger sister, M.C., and her
7 niece, M.C.'s daughter, E.C., occasionally visited her at the Yellowstone address. Terrie Sena
8 testified that her other sister, K.G., also had occasion to visit the residence. PHT, Vol I., pp.
9 17-18.

10 Terrie Sena testified that she had been charged with things that happened at the
11 Yellowstone address. Terrie Sena testified that those charges were resolved when she agreed
12 to plead guilty to one count of sexual assault; and, agreed to a sentence of ten years to life in
13 prison, as well as to testify truthfully in the court proceeding. PHT, Vol. I, pp. 18-20. Terrie
14 Sena testified that she was, in fact, sentenced to 10 years to life in prison. PHT, Vol. I, p. 21.

15 Terrie Sena testified that while she was living at the Yellowstone residence, she became
16 aware that sexual acts were being committed. Terrie Sena testified that when her sister, M.C.,
17 would visit from time to time, when M.C. was 15 and 16 years of age. During that time, naked
18 pictures of M.C. were taken by Defendant. PHT, Vol. I, p. 22. Terrie observed State's
19 proposed Exhibits 13-22 and recognized them as photos of her and M.C., naked together, with
20 most of them being photos of M.C. PHT, Vol I, pp. 23-24. Terrie testified that some of the
21 photos were taken in the office of her house, while others were taken in M.C.'s bedroom, at
22 her parent's house, located at 2012 Tonopah, North Las Vegas, Clark County, Nevada. PHT,
23 Vol. I, p. 24. Terrie Sena testified that Defendant took the photographs of her and M.C. PHT,
24 Vol. I, p. 27.

25 Terrie testified that her niece, T.G., also came to the residence to visit, when T.G. was
26 sixteen years of age. Terrie testified that T.G. had come over to have her hair dyed. Terrie
27 Sena further testified that she dyed T.G.'s hair. After washing T.G.'s hair, T.G. went to take
28 a shower and Defendant filmed T.G. taking a shower. Defendant would get on a step stool and

1 hold the camcorder into the bathroom where the shower was. Terrie Sena testified that while
2 Defendant was recording T.G. in the shower, T.G. would have not been able to see him.
3 **(COUNTS 118 AND 119)** PHT, Vol. I, pp. 28-29. Terrie Sena testified that she was giving
4 Defendant oral sex while Defendant was filming T.G. in the shower. Terrie Sena viewed
5 State's proposed Exhibits "5", "8", and "9", and indicated that they were still photos of the
6 video that Defendant made of T.G. in the shower. PHT, Vol. I, p. 30.

7 Terrie Sena testified that her niece, E.C., also came to the residence to visit. Terrie
8 testified that when E.C. visited she had gotten lice at school. All of the kids' hair had to be
9 washed as a result and Terrie Sena took E.C. to the bathroom in the office area to wash her
10 hair. E.C. took a shower and while that occurred, Defendant got the camcorder and recorded
11 E.C. taking a shower, while standing on stool with the camera focused down. **(COUNTS 115**
12 **AND 116)**. Terrie Sena viewed State's proposed Exhibit "6" and identified it as a picture from
13 the video that Defendant took of E.C. taking a shower. PHT, Vol. I, pp. 30-32

14 Terrie Sena testified that she also observed filming of R.S. Defendant told Terrie Sena
15 to go and get R.S. from the front of the house and bring him to the office. When Terrie Sena
16 got back to the office with R.S., she noticed the red light blinking on the computer. Defendant
17 had her unbuckle R.S.'s pants and take them off, before Terrie Sena gave R.S. oral sex. While
18 Terrie Sena was performing oral sex on R.S., Defendant was sitting at his computer
19 masturbating. Defendant then approached Terrie Sena and had her perform oral sex on him.
20 After Terrie Sena performed oral sex on Defendant, he instructed her to remove the rest of
21 R.S.'s clothes and had R.S. remove Terrie Sena's top off, at which time he instructed R.S. to
22 put his penis in Terrie Sena's vaginal opening. PHT, Vol. I, pp. 33-35.

23 Terrie Sena testified that she had sexual contact two other times in the presence of
24 Defendant. One in the master bedroom and a second incident in the office. During the incident
25 in the master bedroom of the residence Defendant had Terrie Sena lay on the bed with R.S.,
26 undress R.S. and then undress herself. Terrie Sena got on top of R.S. so that his penis
27 penetrated her vaginal opening. Defendant got behind Terrie Sena and engaged in having anal
28 sex with her. PHT, Vol. I, pp. 35-36. Terrie Sena viewed State's proposed Exhibit "7" and

1 indicated that it was a picture of the master bedroom with R.S. laying on the bed while Terrie
2 Sena is getting undressed beside him. At the time the three incidents occurred, R.S. was 14
3 years of age. PHT, Vol. I, p. 38. Terrie Sena testified that the first incident that occurred in the
4 office happened sometime during the fall of 2012. The incident in the bedroom occurred when
5 R.S. was a freshman in high school and 14 years of age. PHT, Vol. I, p. 41-42. Terrie Sena
6 testified that R.S. was born on June 14, 1988 and that he was 14 years of age in 2012. Terrie
7 Sena stated that the incident in the office and the one in the bedroom occurred over a three
8 week period of time, from what she recollected. PHT. Vol. I, pp. 42-43.

9 The third incident occurred in the office. Defendant had Terrie Sena bring R.S. into the
10 office, un-belt R.S.'s pants, and place his penis in her mouth. R.S. then placed his penis in
11 Terrie Sena's vagina, while she was laying flat on her back. The red light was on the computer
12 when the incident occurred which indicated that Defendant was filming it. The last incident
13 occurred in 2014, just before Terrie Sena left the residence. PHT, Vol. I, pp. 44-45.

14 Besides the sexual contact she had with R.S., Terrie Sena also had sexual contact with
15 B.S. Terrie Sena described an incident where she brought B.S. into the office, from the house,
16 and performed oral sex on him. Terrie Sena removed B.S.'s clothes, as well as her own, at
17 which time Defendant told B.S. to touch Terrie Sena's breast and to insert his penis into her
18 vagina as she lay flat on her back. That incident occurred in December 2012. A second
19 incident occurred a month later, in January 2013. During that incident, Defendant had B.S.
20 touch Terrie's breasts with his hands. Terrie put B.S.'s penis in her mouth, and B.S. inserted
21 his penis into Terrie's vagina, while she lay flat on her back, which was recorded by the
22 Defendant. **(COUNTS 79 – 85)** PHT, Vol. I, pp. 45-48.

23 Terrie Sena described an incident that occurred with A.S., in the living room of the
24 house. Terrie Sena was in the living room with Defendant and A.S. Defendant had A.S. lean
25 over the ottoman and Defendant penetrated A.S.'s anus with his penis **(COUNT 52)**, while
26 A.S. was touching Terrie Sena's breasts. PHT, Vol. I, pp. 48-49. A.S. was 17 years of age and
27 a senior in High School when the incident occurred. PHT, Vol. I, p. 52.

28 //

1 Terrie Sena testified that the first time something sexual happened in the household
2 with R.S. he was five years of age. During that incident, Defendant had Terrie Sena and
3 Deborah Sena bring R.S. and B.S. into the master bedroom. Defendant had Terrie Sena
4 undress B.S. and had Deborah Sena undress R.S., at which time Terrie Sena performed fellatio
5 on B.S. and Deborah Sena performed fellatio on R.S. Defendant was standing on the side of
6 the bed when the incident occurred. Terrie Sena was not aware of whether that incident was
7 recorded or not. PHT, Vol. I, pp. 52-53.

8 **The Preliminary Hearing Testimony of M.C.**

9 On August 27, 2015, M.C. testified that she has four sisters and one brother. M.C.
10 testified that her brother's name is Jerry Clark and that he is older than her. M.C. testified that
11 she was 34 years of age and her birthday is May 16, 1981. M.C. testified that she has three
12 sisters, but she is the baby of the family. M.C. testified that the next oldest sister is Terrie
13 Sena whose date of birth is October 26, 1970; then, Kimberly Gresham, whose date of birth is
14 April 29, 1964; then Mary Jo, age 51; and, Cheryl. PHT, Vol. I, pp. 136-137.

15 M.C. testified that she has one child, E.C., age 14, date of birth December 21, 2000.
16 M.C. testified that Terrie Sena has three children, A.S., T.S., and R.S. M.C. testified that
17 Kimberly Gresham has two children, Roy and T.G., age 18. PHT, Vol. I, pp. 138-139. M.C.
18 testified that Defendant was married to her sister, Terrie Sena. M.C. testified that she was
19 eight years of age when she first met Defendant and that her sister, Terrie, as eighteen. M.C.
20 testified that she spent time with Defendant and Terrie. PHT, Vol. I, p. 140.

21 M.C. was shown pictures of State's proposed Exhibits 13 through 22 and she identified
22 herself in those pictures. Each of the exhibits were photos of M.C. in the nude and/or in
23 sexually oriented positions. In State's proposed Exhibit "13", M.C. testified that she was 16.
24 M.C. testified that she believed Defendant took that picture as he was the only person in the
25 room with her. PHT, Vol. I, p. 142. M.C. testified that State's proposed Exhibit "14" was
26 taken when she was younger than 16. M.C. testified that she could not remember who took
27 the picture. M.C. testified that she was naked in the picture and that Defendant was the only
28 person who ever took pictures of her naked. **(Count 120)** PHT, Vol. I, pp. 141-144. State's

1 proposed Exhibit “15” was taken the same day as State’s proposed Exhibit “14”. M.C. was
2 15 years of age and the picture was also taken by Defendant. **(Count 121)** State’s proposed
3 Exhibit “16” was also taken that same day and showed a dildo being put into M.C.’s mouth,
4 which was given to her by Defendant. **(Count 122)** PHT, Vol. I, pp. 144-145.

5 State’s proposed Exhibit “17” was taken when M.C. was 16 years of age. Defendant is
6 in the picture which shows M.C. putting his penis in her mouth, while Terrie Sena took the
7 picture. PHT, Vol. I, p. 145. M.C. testified that State’s Exhibit “17” was taken when she was
8 16 years of age. Terrie Sena is in the picture and appears to be pregnant. M.C. testified that
9 Terrie Sena was pregnant with R.S., who was born on June 14, 1999. M.C. testified the picture
10 was taken before June 1999, by Defendant. PHT, Vol. I, p. 146.

11 M.C. testified that State’s proposed Exhibit “19” showed her at the trailer on
12 Yellowstone, when she was approximately 16 years of age. State’s proposed Exhibit “20”
13 showed M.C. with her sister, Terrie Sena, when M.C. was 16 years of age. M.C. testified that
14 Defendant took the picture and directed what they were doing in the picture. PHT, Vol. I, p.
15 147. In State’s proposed Exhibit “21” M.C. was 15 year old and a sophomore. The picture was
16 taken at her old residence by Defendant. **(Count 123)** In State’s proposed Exhibit “22” M.C.
17 was 15 years of age, holding a dildo up to her anal area, which she was directed to do by
18 Defendant. **(Count 124)** PHT, Vol. I, pp. 148-149. M.C. testified that it was Defendant’s idea
19 to take the pictures and it was not something she wanted to do. PHT, Vol. I, p. 150.

20 On re-direct, M.C. clarified that in State’s proposed Exhibit’s 14, 15, 16, 21, and 22,
21 were taken when she was 15 years of age. PHT, Vol. I, p. 188.

22 When interviewed by the police on approximately December 1, 2014, M.C. disclosed
23 specific incidents incidents in which she was sexual abused by Defendant when she was
24 young.

25 She first recalled when she was ten (10) or eleven (11) years of age, she visited
26 Defendant and TERRIE SENA at their apartment in Las Vegas. At that same time, while
27 visiting such apartment, TERRIE SENA told M.C. to go into the master bedroom and speak
28 with Defendant who was waiting for her. Upon entering the bedroom, Defendant was sitting

1 inside the closet in a pair of shorts. Defendant told M.C. he wanted to have a special bond
2 with her that should only be between them. Defendant then exposed his penis to M.C. and
3 told her to touch it which she did. Defendant then told her that since he showed her his penis
4 that she had to show him something. M.C. subsequently removed her shirt and exposed her
5 breasts. Defendant fondled her breasts after which he allowed M.C. to leave the room.

6 On another occasion when M.C. was approximately fifteen (15) or sixteen (16) years
7 of age, in the same apartment, Defendant and M.C. were alone in the the living room while
8 watching a movie. Defendant told M.C. that if she loved him she would have anal sex with
9 him. Defendant removed his pants, put M.C. on her stomach, and had anal intercourse with
10 M.C. until he ejaculated on her back. M.C. remembered the penetration hurting and that she
11 asked Defendant to stop but he didn't until he ejaculated.

12 Also while M.C. was approximately fifteen (15) or sixteen (16) years of age, in the
13 same apartment, Defendant indicated to M.C. that he would stop having sexual intercourse
14 with M.C. and move onto another hobby. Defendant indicated he would need to have sexual
15 intercourse with her on one last time. Defendant pushed her against the wall with the front of
16 her body facing the wall and her standing up. Defendant proceeded to have anal intercourse
17 with M.C. M.C. remembers that Defendant ejaculated in a towel and her anus bled after the
18 incident.

19 **The Preliminary Hearing Testimony of Det. William Karau and Recorded Statement**
20 **Taken from DEBORAH SENA by Detective Karau**

21 Detective Karau testified that he was employed with the Las Vegas Metropolitan Police
22 Department and had been for 15 years in January. Detective Karau testified that he was
23 assigned to the Juvenile Sexual Abuse section for five years and a few months. On September
24 18, 2014, Detective Karau had occasion to assist in a search warrant at the residence of 6012
25 Yellowstone, Las Vegas, Clark County, Nevada. Detective Karau's role was to assist in
26 keeping an eye on the residence to see if anyone was coming or going from it. At the time
27 SWAT served the search warrant T.S. and Defendant were present at the residence. PHT, Vol.
28 I, pp. 191-192. During the execution of the search warrant they were looking for electronic

1 storage devices and computers, among other things. PHT, Vol. I, p. 193. Those items were
2 located in an office in the back of the property that had a bathroom and a kitchenette in it. The
3 items retrieved were sealed and booked into evidence and taken to the evidence vault. Among
4 the items seized and booked into evidence was No. 25, a Data Travel G3 Thumb drive. PHT,
5 Vol. I, pp. 193-194.

6 Approximatley the day before the service of the referenced search warrant, Detective
7 Karau conducted a recorded interview with DEBORAH SENA. The interview was conducted
8 at the Southern Nevada Children's Assessment Center. Detective Karau and Detective
9 Madsen interviewed DEBORAH SENA and informed her that it was a casual information
10 gathering session. Detective Karau informed DEBORAH SENA that she would be walking
11 out the same door she came in, and she was leaving there when they were done. The interview
12 lasted approximately an hour.

13 During the course of the interview DEBORAH SENA showed no emotion and simply
14 answered questions being asked. Detective Karau testified at a previous hearing in
15 DEBORAH SENA's criminal case about his conversation with DEBORAH SENA. He
16 indicated that a few specific things stood out during the interview. First, the report stated that
17 DEBORAH SENA was forced to have sexual contact with B.S. and A.S., yet when she
18 described to the detectives what happened to B.S., DEBORAH SENA initially stated that she
19 and CHRISTOPHER SENA brought him in, but then corrected it by saying that
20 CHRISTOPHER SENA brought him in. Second, when she was asked if she was forced to do
21 anything with A.S., she initially said no, but a few minutes later told the detectives about a
22 sexual encounter with her, CHRISTOPHER SENA, and A.S. Third, when asked if she was in
23 fear during that incident, DEBORAH SENA stated that she felt "weird."

24 DEBORAH SENA told detectives that she was married to CHRISTOPHER SENA for
25 16 years and that B.S. was their biological child. DEBORAH SENA also referred to A.S. as
26 her daughter, and to T.S. as her step-son. She described that in the years preceding the
27 interview she had worked for Cox Communications for 16 years; and, that she supported the
28 family for the last 14 years, because CHRISTOPHER SENA was not working that much.

1 DEBORAH SENA told detectives that when B.S. was three years old
2 CHRISTOPHER SENA told her that she was going to teach B.S. how to have sex with a
3 woman, so she was lying on her back and put B.S. on top of her. DEBORAH SENA
4 stated that CHRISTOPHER SENA was giving instructions on what to do and was trying
5 to manipulate B.S.'s penis into DEBORAH SENA'S vagina. DEBORAH SENA stated
6 that the incident had been recorded somehow. When asked what led up to the incident,
7 she told detectives that she had been in an argument with CHRISTOPHER SENA and he told
8 her that he wanted her to prove his love to her; and, made a comment that TERRIE SENA
9 loves her (sic) more, and if he loved her (sic) he would do those things. (sic). Detective Kurau
10 clarified that CHRISTOPHER SENA told her that if she loved him, she would do those things.

11 DEBORAH SENA described that when B.S. was fourteen or fifteen years old B.S.
12 came into the bedroom and CHRISTOPHER SENA wanted her to have sex with him. B.S. got
13 on top of DEBORAH SENA and had sex with her. B.S. stated that during that incident he
14 mouthed the words "I'm sorry mom" or "I'm sorry". DEBORAH SENA indicated that there
15 was a hidden camera in the room and she viewed the video a few days later.

16 DEBORAH SENA told detectives that she participated in the second incident with B.S.
17 because CHRISTOPHER SENA would threaten her with the previous videos that were made
18 of sexual contact she had. DEBORAH SENA did not indicate that force or violence caused
19 her to do those particular acts.

20 DEBORAH SENA described engaging in sexual conduct with T.S., the first incident
21 occurring in the shower. They had been painting and CHRISTOPHER SENA instructed
22 DEBORAH SENA to get into the shower and help T.S. get paint off of his face, which she
23 did. DEBORAH SENA further stated that she performed oral sex on T.S. and bent over so
24 that T.S.'s penis went between her legs. DEBORAH SENA stated that the incident was
25 recorded by a Sony Handycam. DEBORAH SENA indicated that T.S. was fifteen or sixteen
26 years of age during that incident.

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1 A few months later, CHRISTOPHER SENA and DEBORAH SENA got into an
2 argument at which time DEBORAH SENA told CHRISTOPHER SENA that she did not have
3 sex with T.S. in the shower. She further stated that CHRISTOPHER SENA told her that he
4 wanted her to have sex with T.S., at which time DEBORAH SENA had sex with T.S. in the
5 bedroom.

6 DEBORAH SENA also described having sex with A.S., when A.S. was 17 or 18.
7 DEBORAH SENA described that she was in the living room when CHRISTOPHER SENA
8 and A.S. came in naked. DEBORAH SENA and A.S. kissed each other, fondled each other,
9 and used sex toys, and then CHRISTOPHER SENA engaged in sex with both of them.
10 DEBORAH SENA did not indicate that force was used during that incident

11 DEBORAH SENA told detectives that she left the residence where the acts occurred in
12 June because CHRISTOPHER SENA was verbally abusive calling them lazy or fat asses.
13 According to Detective Karau, **DEBORAH SENA stated she called the police after**
14 **CHRISTOPHER SENA sent an email to her employer that was of DEBORAH SENA**
15 **naked with the family dog, looking like they were having sex.**

16 At approximately this same time, DEBORAH SEAN wrote a statement detailing the
17 events leading up to her leaving the residence. On or about September 15, 2014, DEBORAH
18 SENA wrote a statement in which she detailed a number of violent acts committed upon her
19 and other members of her family which caused members of the family to be fearful of not
20 listening to Defendant. Specifically, DEBORAH SENA indicated that Defendant made it
21 known that if anyone ever called the police on him that he could do quite a bit of damage
22 before the police arrived and that if he ever was put in jail he would eventually get out and
23 either kill or break the legs of the person who put him in jail. Defendant committed regular
24 acts of violence against DEBORAH SENA and family members when things were not done
25 as he wanted.

26 In approximately May 2014, DEBORAH SENA observed B.S. making a sandwich for
27 his sister, A.S. Defendant did not agree with a male making a sandwich for a female and
28 pushed B.S. up against the wall and balled his fist up and told B.S. not to try him. As a result,

1 B.S. walked away. As a result of this contact, B.S. talked to A.S. and indicated he was
2 contemplating suicide. It was after this conversation the B.S. and A.S. left the residence with
3 DEBORAH SENA.

4 **The Preliminary Hearing Testimony of Det. Vince Ramirez**

5 Vince Ramirez testified that he was employed by the Las Vegas Metropolitan Police
6 Department and had been so employed for 20 years. Detective Ramirez testified that he was
7 currently assigned to Internet Crimes against Children Division and had been since 2000. PHT,
8 Vol. I, pp. 211-212. Detective Ramirez testified that he had occasion to perform a forensic
9 review of certain items seized under LVMPD Event #1409151583. The item was previously
10 seized pursuant to a search warrant executed on Defendant's residence on or about September
11 18, 2014. PHT, Vol.1, pp. 191-195. Specifically, Detective Ramirez received a Data Traveler
12 G3 thumb drive booked as package 6, item No. 25. Detective Ramirez requested an
13 authorization to have that equipment released to take to the lab for a forensic examination.
14 Detective Ramirez testified that he obtained a warrant in order to perform the forensic
15 examination. PHT, Vol. I, p. 212.

16 Detective Ramirez testified that when an item is received for forensic examination a
17 digital copy is made and that copy is used for testing, so as not to touch any of the original
18 evidence. PHT, Vol. I, p. 214. In the course of the analysis, Detective Ramirez obtained 8
19 videos from the electronic storage disk. Those videos were deemed relevant in this case based
20 upon the individuals in the videos. Detective Ramirez testified that the main subject matters
21 in the videos was Defendant, Terrie Sena, Deborah Sena, T.S., B.S. and R.S., all of which
22 were of a sexual nature, involving fellatio and sexual intercourse. PHT, Vol. I, pp. 215-216.
23 The disk of the videos was marked as State's proposed Exhibit "16" and was admitted into
24 evidence. PHT, Vol. I, p. 217.

25 Exhibit 1, video No. 1 (**COUNT 77, 78**) was played in court and showed B.S. and
26 Deborah Sena engaged in sex acts. Defendant is in the video, partially, although not all of his
27 face and only part of his body can be seen. As the video begins, B.S. can be seen laying on
28 his back while Deborah Sena is performing oral sex (fellatio) on him. (**COUNT 71**) Deborah

1 Sena is then shown positioning herself on top of B.S. and she is inserting his penis into her
2 vagina. **(COUNT 72, 73)** Later, after a repositioning shown on the video, Defendant can be
3 seen and then Deborah Sena is shown positioned on her back and B.S. is inserting his penis
4 into her vagina, in a missionary position. PHT, Vol. I, pp. 218-220. **(COUNT 74, 75)** The
5 video then shows B.S. repositioned to the right side of Deborah Sena, while a male individual
6 is having sexual intercourse with her. The video shows Deborah Sena performing oral sex on
7 B.S., **(COUNT 76)** while Christopher Sena is engaging in sexual intercourse with Deborah
8 Sena. PHT, Vol. I, p. 220. A male voice can be heard on the video directing all of the actions
9 that are occurring, which Detective Ramirez believed to be Defendant based upon his body
10 type and the fact that the same voice can be heard instructing on all of the videos. PHT, Vol.
11 I, p. 221. State's proposed Exhibit "2" was a still photograph of B.S. and Deborah Sena from
12 the video that was viewed, and was admitted by the Court. PHT, Vol. I, p. 222.

13 Exhibit 1, video No. 2, **(COUNT 69)** depicts an individual without any clothes on
14 setting up the video camera. As he sits down he is identified as Defendant. Deborah Sena is
15 also in the video along with T.S. Deborah Sena is seen without clothing fondling her breasts
16 while performing oral sex on Defendant. Defendant gets up off the bed and bring back T.S.,
17 telling him to lie down on the bed. Deborah Sena performed oral sex on T.S. **(COUNT 61 in**
18 **alternative to 62)** while Defendant watched and masturbated. Deborah Sena can then be seen
19 laying on her back with T.S. inserting his penis into her vagina. **(COUNT 63 in alternative**
20 **to 64)** Defendant is pictured on the right side of the screen masturbating himself. The video
21 then shows T.S. laying down with Deborah Sena on top of him, helping him insert his penis
22 into her vagina. **(COUNT 65 in alternative to 66)** PHT, Vol. I, pp. 222-224. The video next
23 shows T.S. on his back with Deborah Sena performing oral sex on him **(COUNT 67 in**
24 **alternative to 68)** while Defendant is behind Deborah Sena engaging in sex with her. PHT,
25 Vol. I, p. 225. State's proposed Exhibit "3" was as still photo of T.S. right before he engaged
26 in the missionary position with Deborah Sena, which was admitted by the Court. PHT, Vol. I,
27 p. 226.

28 //

1 State's Exhibit "1", Video No. 3, depicted someone setting up a camera and a shower
2 curtain of a standup shower comes into view. Defendant is seen in the video and then T.S.
3 and Deborah Sena are observed entering the shower, neither are wearing clothes. Deborah
4 Sena is observed wiping something off of T.S.'s face. Defendant can be seen walking to the
5 camera and repositioning it. PHT, Vol. I, pp. 226-227. **(COUNTS 55 AND 56)** Detective
6 Ramirez testified that State's proposed Exhibit "4" was a still picture of T.S. and Deborah
7 Sena in the shower, taken from Video No. 3, which was admitted by the Court. PHT, Vol. I,
8 p. 228. **(COUNT 59 AND 60)**

9 Detective Ramirez described Exhibit 1, Video No. 4 as being shot through a door, with
10 the person in the video being T.G., who is in the shower with no clothes on. **(COUNTS 118**
11 **AND 119)** The video then pans down and shows Defendant receiving oral sex. Detective
12 Ramirez believed the Defendant to be the recipient of the oral sex based upon hearing his voice
13 on the video which is similar in nature to all of the others. PHT, Vol. I, pp. 228-229

14 On August 28, 2015, Detective Ramirez continued his preliminary hearing testimony.
15 With regard to Exhibit 1, Video No. 5, Detective Ramirez testified that it depicts video being
16 shot through an opening and is an image of E.C., in the stand-up shower. **(COUNTS 115-116)**
17 State's proposed Exhibit "6" was identified as a picture of E.C. in the shower, from the video
18 he had just observed. The video was admitted in to evidence by the Court. PHT, Vol. II, pp.
19 8-10.

20 Exhibit 1, Video No. 6 **(COUNTS 99 AND 100)** depicted a bedroom seen in previous
21 videos as well as parts of the Defendant in the mirror while he is adjusting the video camera.
22 The video proceeds to show Terrie Sena removing R.S.'s clothes. In the video, Terrie directs
23 R.S. to lie on his back and she places his penis in her mouth. **(COUNT 95)** R.S. is observed
24 using his left hand to fondle Terrie Sena's breast. The video also depicts Terrie positioning
25 R.S.'s hand on her breasts, showing him to massage her breasts, while she masturbates him
26 with her left hand. PHT, Vol. II, pp. 10-11. The video goes on to show R.S. kissing Terrie
27 Sena on her right breast and Terrie Sena continues to orally copulate R.S. The video shows
28 Terrie Sena positioned on her back with R.S. positioned between her legs penetrating her

1 vagina with his penis. **(COUNTS 96 AND 97)** PHT, Vol. II, pp. 11-12. The video shows
2 both Terrie Sena and R.S. stop and appear to look back, after which point they reposition
3 themselves in the missionary position and it appear that R.S. is penetrating Terrie Sena with
4 his penis in her vagina while she massages R.S.'s buttocks. PHT, Vol. II, pp. 12-13. The video
5 continues and Defendant appears and can be seen masturbating. Defendant points to R.S. to
6 get on the right side of Terrie Sena and he positions himself behind Terrie Sena, where he
7 appears to penetrate her vagina or anus while she performs oral sex on R.S. **(COUNT 98)**
8 PHT, Vol. II, p. 13. A conversation is being had during the incident, involving Defendant;
9 however, Detective Ramirez was not able to make out what was being said. PHT, Vol. II, p.
10 14. Detective Ramirez identified a still photograph, taken from the video, of R.S. and Terrie
11 Sena as State's Exhibit "7" PHT, Vol. II, p. 14.

12 Detective Ramirez testified that Exhibit 1, Video No. 7 depicts T.G. in the shower,
13 similar to the previous shower scenes **(COUNT 118 AND 119)**; and, identified State's Exhibit
14 No. "8" as a still photograph of T.G. from the video just viewed. PHT, Vol. II, p. 15. Detective
15 Ramirez testified that Exhibit 1, Video No. 8, depicts T.G. in the stand-up shower from the
16 previous video with the same angle filming; and, State's Exhibit "9" as a still photograph of
17 T.G., taken from the video. PHT, Vol. II, p. 16.

18 Detective Ramirez testified that other entries of evidentiary value came off the same
19 electronic storage device to include State's Exhibits 13 through 22 which he identified as being
20 images of M.C. and Terrie Sena. PHT, Vol. II, p. 17. State's proposed Exhibit "10" was
21 identified as a DVD containing images of the printed copies, to include stills of R.S. Terrie
22 Sena and Defendant. Those images were found to be relative to the investigation in that they
23 were a video that had been broken up into unallocated space, and contain images of Terrie
24 Sena, R.S. and Defendant engaging in sexual contact. PHT, Vol. II, pp. 18-19. Exhibit "10"
25 was admitted by the Court. **(COUNTS 103 AND 104)** PHT, Vol. II, p. 19.

26 Detective Ramirez identified frame number 0458 of Exhibit 10 as a room in the
27 residence labeled office. PHT, Vol. II, p. 20. Frame number 750 depicted R.S. sitting on a
28 stool, clothed, and other images of Terrie Sena. PHT, Vol. II, p. 21. Image number 1,000

1 depicts R.S. playing with his foot and Terrie Sena. PHT, Vol. II, p. 21. Image number 1328
2 depicts R.S. standing up and Terrie Sena knelt down and appearing to unbuckle R.S.'s shorts.
3 PHT, Vol. II, p. 21. Image number 1500 depicts R.S. removing his polo shirt, his shorts are
4 off and his penis is exposed. Terrie Sena is kneeling down holding a blue object of clothing
5 and is wearing her brassiere. PHT, Vol. II, p. 22. Image number 1640 depicts R.S. with his
6 shirt partially on and Terrie Sena has her mouth on R.S.'s penis, **(COUNT 101)** with her
7 brassiere off and her breasts exposed. PHT, Vol. II, p. 22. Frame number 4111 depicts R.S.
8 with his shirt partially on top. Terrie Sena has her mouth on R.S.'s penis and Defendant has
9 his pants partially down and is masturbating. PHT, Vol. II, p. 23. In the course of
10 viewing the frames Detective Ramirez was able to see Defendant's face and make a positive
11 I.D. Detective Ramirez explained that the video proceeds with still images of Terrie Sena's
12 mouth on Defendant's penis while she is holding R.S.'s penis and it goes back and forth with
13 the same sexual action, by Terrie Sena placing her mouth on R.S.'s penis. PHT, Vol. II, pp.
14 23-24. **(Count 102)** Detective Ramirez identified State's Exhibits 11 and 12 as follows:
15 Exhibit "11" depicts R.S. sitting in front of Defendant and Terrie Sena is standing to the left
16 of Defendant. Exhibit "12" depicts R.S. standing in front of Defendant, both still clothed, with
17 Terrie Sena is unbuckling the pants of R.S. PHT, Vol. II, p. 25.

18 **The Preliminary Hearing Testimony of E.C.**

19 E.C. testified that she was 14 years of age and in the ninth grade. E.C. further testified
20 that she lived with her mom, grandparents, cousin, two sisters, brother, and aunt. PHT, Vol.
21 II, p. 50. E.C. identified Defendant and indicated that he was her aunt's ex-husband. E.C.
22 testified that Defendant had been her uncle her entire life as far as she could remember and
23 she visited his residence at 6012 Yellowstone in North Las Vegas, Clark County, Nevada.
24 E.C. testified that she visited the residence more than one time and she began visiting when
25 she was 10 or 11 years of age, and in the fifth grade. PHT, Vol. II, p. 51. E.C. testified that
26 she went to Defendant's house almost every weekend to visit her aunt Terrie and her cousins,
27 R.S., A.S. and T.S. PHT, Vol. II, p. 52.

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1 E.C. testified that when she was 11 years old Defendant would touch her breasts and
2 vagina, underneath her clothes, by having her lift up her shirt and put her pants to her ankles,
3 while they were in the office. PHT, Vol. II, p. 53. E.C. testified that it happened more than
4 one time and Defendant would fondle her breasts with his hands and rub his hands over her
5 vagina. PHT, Vol. II, p. 55. E.C. testified that she went to Defendant's house nearly every
6 weekend from the ages of 11 to 12 or 13, from the third grade through the seventh grade. PHT,
7 Vol. II, p. 56. E.C. testified that Defendant would fondle her breasts and vagina a couple of
8 times during each weekend that she was there during the fifth grade when she was 11 years of
9 age. E.C. remembered Defendant touched her more than three times, as it became a routine.
10 PHT, Vol. II, p. 58-59. E.C. testified that her birthday is December 21, 2000. E.C. testified
11 that the last time something happened was before Deborah Sena left in 2014. PHT, Vol. II, p.
12 60. E.C. testified that she would expect Defendant to touch her when she went over there and
13 she got used to it happening. PHT, Vol. II, p. 62. E.C. testified that she remembered those
14 things happening in the fifth grade, sixth grade, seventh grade, and eighth grade. PHT, Vol II,
15 p. 64. **(COUNTS 107-114).**

16 E.C. testified that she took a shower at the residence a couple of times. Specifically,
17 E.C. recalled an incident when she had lice in her hair. E.C. was shown a picture of herself
18 that was taken of her in the shower, in the office. E.C. testified the picture was taken sometime
19 between the fifth and seventh grade. E.C. did not know that the picture was being taken. PHT,
20 Vol. II, pp. 65-66. **(COUNTS 115 AND 116).**

The Preliminary Hearing Testimony of T.G.

21 T.G. testified that she was 18 years of age and her date of birth is January 9, 1997. T.G.
22 testified that Terrie Sena is her aunt and her mother's sister. T.G. testified that her mom is
23 Kimberly Grisham and that M.C. is her aunt, and E.C. is her cousin. T.G. testified that she
24 grew up in Las Vegas. PHT, Vol. II, p. 86. While growing up, T.G. spent time with her aunt,
25 Terrie Sena, and visited her residence located at 6012 Yellowstone, Las Vegas, Clark County,
26 Nevada. T.G. was seven or eight years of age when she began visiting Terrie Sena at that
27 address. T.G. visited every weekend until she was 15 years age. T.G. stopped visiting because
28

1 she no long wanted to go over to the residence. T.G. testified that Defendant, Terrie Sena, and
2 Deborah Sena lived at the residence when she visited, as did her cousins, T.S., A.S., B.S. and
3 R.S. PHT, Vol. II, pp. 87-88.

4 T.G. testified that Defendant once showed her a picture of her aunt, M.C., giving him
5 oral sex. **(COUNT 117)** T.G. was in the office when he showed her the picture, which was a
6 separate building behind the residence, with computers, a T.V., a couch, a little kitchen, and a
7 bathroom. PHT, Vol. II, p. 89. T.G. testified that Defendant showed her the pictures on the
8 computer and that she was 11 or 12 when that occurred. T.G. testified that they were just
9 looking at pictures and Defendant showed her that one. T.G. testified that she did not really
10 say much to Defendant when he showed her the picture. PHT, Vol. II, pp. 90-91.

11 T.G. testified that she utilized the shower in the office from the time she was 7 until she
12 was 15. T.G. viewed State's Exhibits "5", "8", and "9" and identified herself in those photos.
13 T.G. testified that the photos depicted her in the shower, in the office. T.G. testified that she
14 had no idea that she was being photographed while showering. T.G. testified that she was 13
15 or 14 years of age in the photographs that were taken. **(COUNTS 118 AND 119)**. PHT, Vol.
16 II, pp. 91-92. T.G. testified that she did not visit the residence or shower at the residence after
17 she turned 16. PHT, Vol. II, p. 93.

18 **The Preliminary Hearing Testimony of T.S.**

19 T.S. testified that he was 20 years of age and his birthday is December 2, 1994. T.S.
20 testified Defendant is his father and Terrie Sena is his biological mother. T.S. testified that
21 Deborah Sena is his stepmom; and, that he has a sister and two brothers. T.S. testified that
22 A.S. is the biological child of Defendant and Terrie Sena; R.S. is the biological child of Terrie
23 Sena; and, B.S. is the biological child of Defendant and Deborah Sena. PHT, Vol. II, pp. 107-
24 108.

25 T.S. testified that he had testified in a previous proceeding regarding sexual conduct
26 that was going on at the trailer located at 6012 Yellowstone. PHT, Vol. II, p. 108. During that
27 time, T.S., Defendant, Terrie Sena, Deborah Sena and the entire family lived there. T.S.
28

1 resided there from the time he was 5 until he moved out a month after he turned 18. PHT, Vol.
2 II, p. 109.

3 When T.S. was 14 or 15 years of age, he engaged in having sexual intercourse with
4 both of his parents, in the bedroom and in the shower. During the shower incident, he and
5 Deborah Sena had been painting and were dirty. Defendant told T.S. to get in the shower.
6 Deborah Sena was already in the shower, naked. T.S. thought the request was really weird
7 and did not want to do it. When T.S. got in the shower he and Deborah Sena began cleaning
8 each other at Defendant's instruction. **(COUNTS 55 AND 56)** Additionally, Deborah Sena
9 placed her mouth on T.S.'s penis and gave him a "blowjob". **(COUNT 54)**. Deborah Sena
10 also bent over in the shower and T.S. placed his penis around her vaginal area, at Defendant's
11 instruction. T.S. stated that his penis did not go into the hole but did go between the lips of
12 Deborah's vaginal area. **(COUNT 57 AND 58)**. PHT, Vol. II, pp. 110-114.

13 T.S. testified that the incident occurring in the bedroom also happened when he was
14 between the ages of 14 and 15, during the day. T.S. was called into the bedroom by Defendant.
15 When T.S. went into the bedroom Defendant was naked. Defendant told T.S. to remove his
16 clothes. Deborah Sena came into the bedroom and also got naked. T.S. inserted his penis
17 between the lips of Deborah Sena's vaginal area, while Defendant inserted his penis into
18 Deborah Sena's anal opening. T.S. testified that prior to such act but during the same incident
19 Deborah Sena placed his penis in her mouth. PHT, Vol. II, pp. 117-118. T.S. watched the
20 video of himself, Deborah Sena, and Defendant engaging in various sexual acts, in the
21 bedroom. T.S. testified that while he may not remember all of the details, the video speaks
22 for itself. T.S. was shown State's Exhibits "3" and "4" and identified Exhibit "3" as a
23 photograph of him in the shower with Deborah Sena and Exhibit "4" as a photograph of him
24 and Deborah Sena in the bedroom. PHT, Vol. II, pp. 121-122. **(COUNT 61 in the alternative**
25 **to 62; COUNT 63 in the alternative to 64; COUNT 65 in the alternative to 66; COUNT**
26 **67 in the alternative to 68; and COUNT 69)**

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The Preliminary Hearing Testimony of B.S.

B.S. testified that he was 17 years of age and his date of birth is August 13, 1998. B.S. further testified that he is a senior at Bonanza High School. B.S. testified that he lives with his sister, A.S., but he used to reside at the residence located at 6012 Yellowstone Avenue, North Las Vegas, Clark County, Nevada. B.S. lived at the Yellowstone address from 1998 until June of 2014. PHT, Vol. II, pp. 147-149. B.S. testified that he lived at the residence with his half-sister, A.S. and his half-brother, T.S., and R.S. B.S. testified that Defendant and Deborah Sena are his parents and they lived in residence, as did Terrie Sena. PHT, Vol. II, pp. 149-151. B.S. testified that when he was 14 years old he engaged in sex acts with Terrie Sena in the back office area. B.S. described the office area as having a computer, animae dolls, a kitchen, and a bathroom. B.S. testified that Defendant was present when he engaged in the sex acts with Terrie Sena. PHT, Vol. II, pp. 152.

B.S. testified that Defendant told him to pull down his pants and Terrie Sena gave him oral sex. **(COUNT 79)**. B.S. testified that he put his penis in Terrie Sena's vagina. **(COUNT 80)** B.S. testified that Defendant stood and watched the entire thing and was trying to direct them. During the incident, Defendant also told B.S. to touch Terrie Sena's boobs with his hands. PHT, Vol. II, pp. 153-156. **(COUNTS 81 AND 82)**.

B.S. testified that Defendant had him come to the back office to have sex with Terrie Sena and touch her breasts, twice. PHT, Vol. II, p. 156.

B.S. clarified that the first time he went to the back office his penis went into Terrie Sena's mouth; his penis went into Terrie Sena's vagina; and, he touched Terrie Sena's boobs, when he was 14 years of age. **(COUNTS 79 – 82)** PHT, Vol. II, p. 157.

B.S. testified that the second time something happened in the office he was still 14 years old and he had gone into the back office for something early in the morning. B.S. testified that he and Defendant and Terrie Sena were the only people in the office. B.S. testified that Defendant told him and Terrie Sena to have sex and directed them. On that occasion, B.S. put his penis in Terrie Sena's vagina. **COUNT 83)** B.S. provided specific testimony that he did, in fact, touch Terrie Sena's breasts each time he went to the office and

1 engaged in sexual acts with her, B.S. also testified that he may have touched Terrie Sena's
2 breasts on that occasion but he could not remember. **(COUNTS 84-85)** PHT, Vol. II, pp. 161-
3 162.

4 B.S. testified that he had sexual contact with Deborah Sena in the bedroom when he
5 was 14 years of age. B.S. was watching T.V. Defendant called B.S. outside to the pool where
6 Defendant was with Deborah Sena. Defendant and Deborah took off their clothes and began
7 having sex in the pool. B.S. tried to look away but Defendant told him to remove his clothing
8 and told B.S. to watch him and Deborah having sex. **(COUNT 70)** PHT, Vol. II, pp. 163-
9 164. After they left the pool and went back inside the house, Defendant brought B.S. into the
10 bedroom where he and Deborah Sena were. Defendant had B.S. strip and get onto the bed.
11 Defendant instructed Deborah to sit on B.S.'s "dick" which went inside Deborah Sena's
12 vagina. PHT, Vol. II, pp. 165-166. **(COUNTS 72-73)**. B.S. then got on top of Deborah Sena
13 and put his dick back inside her vagina **(COUNT 74-75)**. B.S. testified that before the sexual
14 intercourse occurred, Defendant told Deborah Sena to give B.S. a blow job and she placed his
15 penis in her mouth. **(COUNT 71)**. PHT, Vol. II, pp. 166-168.

16 B.S. testified that he never told anyone about what had been happening in the house
17 due to death threats from the Defendant. Defendant told B.S. and other members of the
18 household that he would kill them if they told what was going on with anything. On cross
19 examination B.S. testified that he mentioned to the police something about [Defendant]
20 threatening to break his legs. PHT, Vol. II, pp. 168-170. **(COUNT 86)**.

21 **The Preliminary Hearing of A.S.**

22 A.S. testified that she was 25 years of age and her birthday is May 22, 1990. A.S.
23 graduated from high school in early June 2008. A.S. testified that Defendant is her father;
24 Deborah Sena is her stepmother; and, Terrie Sena is her mother. A.S. testified that she had
25 three brothers, B.S., age 17; R.S., a half-brother, age 17; and, T.S., age 20. PHT, Vol. III, pp.
26 6-7. A.S. testified that when she was 11 years old she living at 6012 Yellowstone Avenue,
27 North Las Vegas, Clark County, Nevada, with Defendant, Deborah Sena, Terrie Sena, T.S.,
28 B.S., and R.S. PHT, Vol. III, p. 8. During that time, A.S. would come home from school and

1 Defendant would be there. Defendant would ask A.S. if she loved him and when she said yes,
2 he wanted her to show him that she loved him. Defendant asked A.S. to take her clothes off
3 and touched her breasts area. **(COUNT 2)** A.S. testified that Defendant rubbed her clit with
4 his fingers, between the lips of her vagina area. **(COUNTS 3 AND 4)** PHT, Vol. III, pp. 13-
5 14. Defendant told A.S. to get on the bed and removed his dick/penis from his jeans and began
6 rubbing it on the outside of A.S.'s pussy/vagina. **(COUNT 5)** Defendant instructed A.S. to
7 spread out a little and she was laying on her back on the bed with her legs hanging off the bed.
8 Defendant lifted her legs and spit on his hands, rubbing saliva on his dick/penis. Defendant
9 penetrated A.S.'s anus with his penis which hurt her. **(COUNT 6 AND 7)** A.S. told
10 Defendant that it hurt her and he told her "It's going to hurt but this is life." Defendant came
11 inside of A.S.'s anus and told her to get dressed because the moms would be home. PHT, Vol.
12 III, pp. 15-16.

13 Defendant had anal intercourse with A.S. frequently, from time she was 11 years in
14 May 2001 until 2009. A.S. testified that it normally happened when the moms were gone
15 during the weekdays, two or three times a week. A.S. testified that on a rare occasion
16 Defendant would go more than a week without doing it, but he never went more than one
17 month without doing` it. In 2009, when A.S. was 19 years of age, it became less frequent.
18 PHT, Vol. III, pp. 17-18. A.S. testified that Defendant would do that to her in his room; in her
19 room; in the master bathroom; in the living room; and, in the boys' room. PHT, Vol. III, p.
20 19-20. **(COUNTS 8, 9, 11, 12, 16, 17, 23, 28, 33, 38, 43).**

21 A.S. testified that Defendant would rub his hands on her boobs, at least once a month,
22 when he was putting his penis in her. PHT, Vol. III, p. 21. **(COUNT 10, 13, 18, 24, 29, 34,**
23 **39, 44)** When A.S. was 14 years of age (May 22, 2004) Defendant began doing other things
24 to her. A.S. testified that she was taking a shower and Defendant came into the bathroom and
25 jumped into the shower with her. Defendant rubbed A.S.'s boobs and then told her to get up
26 against the wall. Defendant tried to put his penis in her anal opening but he inserted into her
27 vagina, taking her virginity. (PHT, Vol. III, p. 22. A.S. testified that Defendant put his penis
28 into her vagina on more than one occasion; and, that it happened every two weeks; never less

1 than once a month. Defendant would put his penis in A.S.'s vaginal opening in the living room;
2 in the boys' room; in the master bedroom; and, in A.S.'s room. PHT, Vol. III, pp. 23-24.
3 **(COUNTS 21, 22, 26, 27, 31, 32, 36, 37, 41, 42).**

4 A.S. testified that there were times that Defendant would put himself inside her vagina
5 and then he would put himself inside her anal opening. There was also times that he would
6 have anal sex one day and vaginal sex the other. PHT, Vol. III, p. 25. A.S. testified that
7 during that time there were days that Defendant would put his penis up against her boobs and
8 he would have her give him a blow job. A.S. was 12 years old the first time she gave Defendant
9 a blow job. A.S. gave Defendant blow jobs from the time she was 12 years old up to 2013.
10 A.S. would do this one or twice a month and some months not at all. A.S. would do this
11 mainly in the living room and the master bedroom. **(COUNTS 14, 15, 19, 20, 25, 30, 35, 40,**
12 **45)** A.S. was 23 years old in 2013. A.S. left the house in June 2013. The last time something
13 happened with Defendant was in January 2013. PHT, Vol. III, pp. 25-27.

14 When A.S. was 14 years of age, Defendant, Terrie Sena, and A.S. were in the
15 Defendant's back office. Terrie Sena gave Defendant a blow job, which A.S. described
16 Defendant's penis in Terrie Sena's mouth, while A.S. watched. Defendant inserted his penis
17 into A.S.'s anal opening, while Terrie Sena watched. **(COUNT 52)** PHT, Vol. III, pp. 29-31.

18 A.S. testified that when she was 17 to 18 years of age, during the last few months of
19 high school, before graduation, A.S. got home from school and Defendant brought Deborah
20 Sena out to where A.S. was. Defendant told A.S. to get naked and wanted her and Deborah
21 Sena play with each other's boobs and rub each other's clits. A.S. played with Deborah Sena's
22 clit and Deborah Sena rubbed the outside area of A.S.'s vagina. **(COUNTS 48, 49)** Defendant
23 had Deborah Sena get on top of A.S. Defendant inserted his penis into A.S.'s vagina while
24 Deborah was still on top of A.S. **(COUNTS 46 AND 47)** Defendant removed his penis and
25 put it in Deborah Sena's vagina or anus, while Deborah Sena was on top of A.S., with her
26 nipples touching A.S.'s chest. PHT, Vol. III, pp. 32-36. Defendant had Deborah Sena get on
27 her back and he placed a pillow under Deborah Sena's back before penetrating her again.
28 Defendant had A.S. play with herself so he could watch. A.S. touched the outside of her vagina

1 with her hand. (COUNT 51) PHT, Vol. III, p. 37. A.S. clarified that she touched Deborah
2 Sena's boobs (COUNT 50) and Deborah Sena touched her boobs; that Deborah Sena touched
3 the outside of A.S.'s pussy and A.S. touched Deborah Sena's clit. PHT, Vol. III, p. 38.

4 A.S. testified that she never told anybody in fear of what Defendant would do. A.S.
5 testified that Defendant would use threats and tell her that she was going to be taken away and
6 sent to Juvi. Defendant also told A.S. that she would do those things if she loved him. PHT,
7 Vol. III, pp. 40. (COUNT 53)

8 A.S. testified that between the ages of 11 and 14, Defendant engaged primarily in anal
9 intercourse with her. Additionally, without a doubt, Defendant engaged in vaginal and/or anal
10 intercourse with her at least once a year from the time she was 11 years of age until she was
11 23 years of age. Defendant also put his finger in A.S.'s pussy at least once a year throughout
12 that same time period. PHT, Vol. III, pp. 40-41.

13 The Preliminary Hearing Testimony of R.S.

14 R.S. testified that he was 17 years of age and his date of birth is June 14, 1998. R.S.
15 testified that he was a senior in high school and attends Sunset High School. R.S. testified
16 that he lives with his biological dad and had been living there since December 2014. R.S.
17 testified that his biological mother is Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified that
18 he lived at the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County
19 Nevada his entire life, until he moved out when he was 16 years old, back in June 2014. PHT,
20 Vol. III, pp. 15-16. When R.S. lived at the residence, he lived there with A.S., T.S., B.S.,
21 Deborah Sena, Defendant, and Terrie Sena. PHT, Vol. IV, pp. 17-29.

22 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
23 Defendant sexually abused him. The abuse happened more than once and it happened in R.S.'s
24 room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22. R.S.
25 testified that Defendant made him remove his clothes and he would touch R.S.'s behind where
26 poop comes out, with his dick. R.S. described an incident that occurred when he was 12 or 13,
27 in his bedroom, and Defendant came in and made R.S. remove his clothes, by yelling at him
28 and grabbing him. R.S. was afraid Defendant would come after him and hurt him if he did not

1 do what Defendant said. R.S. got onto the bedroom floor and laid flat on his stomach while
2 Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88)**. PHT, Vol. IV,
3 pp. 27-29. Another incident occurred in the Defendant's office, a separate building at the back
4 of the house, when R.S. was 14 or 15 years old. Defendant showed R.S. videos on his
5 computer. R.S. testified that the video was of Defendant and Terrie Sena having sex in the
6 back office. PHT, Vol. IV, pp. 29-31. **(COUNT 105)**

7 R.S. testified that when he was in junior high school, between 12 or 13 years of age, he
8 and Defendant were in the living room. R.S. had no pants or underwear on, nor did Defendant.
9 Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into R.S.'s butt.
10 R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90)**. R.S. testified
11 that Defendant put his penis inside R.S.'s butt on three occasions when R.S. was in junior high
12 school and 12 or 13 years old; once in R.S.'s bedroom; once in the living room; and, once in
13 Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-36.

14 R.S. testified that Defendant stopped his conduct for a little while when R.S. was 15
15 years of age. R.S. had no idea why it stopped at that time. PHT, Vol. IV, p. 36. R.S. testified
16 that when it started again he was still 15 years old and it went on until R.S. moved out of the
17 residence in June 2014. R.S. testified that it happened on two separate occasions, once in
18 Defendant's office and once in Defendant's room. The incident in the office occurred while
19 Defendant was sitting naked, on his computer chair, and R.S. sat on him and he inserted his
20 penis into R.S.'s butt. **(COUNT 93)**. The incident in Defendant's bedroom occurred with R.S.
21 laying on his stomach, on the bed, and Defendant inserting his penis into R.S.'s butt. **(COUNT**
22 **94)** PHT, Vol. IV, pp. 38-40.

23 R.S. testified that his mom, Terrie Sena, also engaged in sexually abusing him, on two
24 separate occasions. The incidents occurred in the office and in Defendant's room. The first
25 incident occurred in the bedroom prior to R.S. turning 16. R.S. went into the bedroom because
26 his mom was in there. Terrie Sena was talking to R.S. and began taking off his clothes.
27 Defendant was in the hallway and watching what was happening. Terrie Sena took all of
28 R.S.'s clothes off and Defendant told R.S. to lay on the bed, on his back. Terrie Sena removed

1 her clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44. **(COUNT 95).**
2 Defendant instructed Terrie Sena to lay on her back and had R.S. get on top of her and insert
3 his dick into her private spot. **(COUNTS 96 AND 97).** PHT, Vol, IV, p. 45. Defendant had
4 R.S. get off of Terrie Sena and lay down on his back. Terrie Sena sucked R.S.'s dick while
5 Defendant got behind Terrie Sena. **(COUNT 98).** R.S. testified that he did not want to do any
6 of those things but he was forced to do it by Defendant. PHT, Vol. IV, p. 46.

7 When R.S. was 12 or 13, he went to Defendant's office so that Defendant could help
8 him with an ingrown toenail. Afterward, Defendant told R.S. to stand up and Terrie Sena
9 removed R.S.'s clothes from the waist down. Terrie Sena sucked on R.S.'s dick. Terrie Sena
10 alternated and began sucking on Defendant's dick and then sucked on R.S.'s dick PHT, Vol.
11 IV, pp. 48-50. **(COUNTS 101 AND 102).** R.S. testified that Defendant told him that if he
12 ever told somebody he and Terrie Sena would hate him and Defendant would make his life a
13 living hell. PHT, Vol. IV, p. 50. **(COUNT 106).**

14 **Recorded Statement Taken from Defendant by Detective Samples**

15 On or about the day a search warrant was served on Defendant's residence, September
16 18, 2014, Detective Samples made contact with Defendant. Defendant agreed to give a
17 recroded statement to Detective Samples.

18 In such statement, Defendant described sexual conduct between himself and A.S.
19 Defendant indicated that when A.S. was about twenty-two (22) years of age, he, DEBORAH
20 SENA, and A.S. got intoxicated and went into a bedroom. Defendant indicated that it was that
21 time that DEBORAH SENA placed Defendant's penis into the anus of A.S. and he proceeded
22 to have anal sex with her until he ejaculated in her anus. Defendant indicated he had sex with
23 A.S. on a second occasion in which he and A.S. had vaginal intercourse approximately nine
24 months previous to the interview. Defendant also described a time when he, A.S. and TERRIE
25 SENA has sexual intercourse inside his office. Defendant indicated he had vaginal intercourse
26 with both A.S. and TERRIE SENA on that occasion and ejaculated in the vagina of TERRIE
27 SENA.

28 //

1 Defendant also described sexual conduct he observed involving B.S. Specifically,
2 Defendant indicated that, when B.S. was approximately three (3) years of age, he walked in
3 on Deborah “stroking” the penis of B.S. Defendant also indicated that when B.S. was
4 approximately fourteen (14) or fifteen (15) years of age, he watched B.S. and DEBORAH
5 SENA have sexual intercourse inside his bedroom.

6 **II. STATEMENT OF FACTS RELATED TO UNCHARGED CONDUCT SOUGHT**
7 **TO BE ADMITTED**

8 **A. Uncharged Sexual Contact Committed Upon B.S. And R.S.**

9 DEBORAH SENA told detectives that when B.S. was three (3) years old
10 CHRISTOPHER SENA told her that she was going to teach B.S. how to have sex with a
11 woman, so she was lying on her back and put B.S. on top of her. DEBORAH SENA stated
12 that CHRISTOPHER SENA was giving instructions on what to do and was trying to
13 manipulate B.S.’s penis into DEBORAH SENA’S vagina. DEBORAH SENA stated that the
14 incident had been recorded somehow. When asked what led up to the incident, she told
15 detectives that she had been in an argument with CHRISTOPHER SENA and he told her that
16 he wanted her to prove her love to him; and, made a comment that TERRIE SENA loves him
17 more, and if he loved him she would do those things.

18 DEBORAH SENA told police that she reported the above referenced conduct as well
19 as other sexual conduct to the police, through her attorney, because she was being emotionally
20 blackmailed by Defendant. Specifically, she referenced blackmail information held by
21 Defendant to include her sexual conduct with B.S. when he was three (3) years of age, a photo
22 of her sexual contact with an animal as well as other pictures and videos the Defendant had
23 depicting DEBORAH SENA and B.S. in the nude and engaged in sexual conduct.

24 Defendant made reference the event involving sexual contact between a three (3) year
25 old B.S. and DEBORAH SENA during his conversation with police. Specifically, Defendant
26 indicated that, when B.S. was approximately three (3) years of age, he walked in on Deborah
27 “stroking” the erect penis of B.S. while she was nude.

28 //

1 TERRIE SENA has testified in a prior proceedings that the first time something sexual
2 happened in the household with R.S. he was five (5) years of age. During that incident,
3 Defendant had Terrie Sena and Deborah Sena bring R.S. and B.S. into the master bedroom.
4 Defendant had Terrie Sena undress B.S. and had Deborah Sena undress R.S., at which time
5 Terrie Sena performed fellatio on B.S. and Deborah Sena performed fellatio on R.S.
6 Defendant was standing on the side of the bed when the incident occurred. Terrie Sena did
7 was not aware of whether that incident was recorded or not.

8 **B. Uncharged Sexual Contact Committed Upon M.C. And Photos Taken Of**
9 **M.C. By Defendant Constituting Child Pornography**

10 When interviewed by the police on approximately December 1, 2014, M.C. disclosed
11 specific incidents in which she was sexual abused by Defendant when she was young. This
12 occurred in the course of Defendant taking most of the photos of M.C., which constitute child
13 pornography, for which he is currently charged.

14 She first recalled when she was ten (10) or eleven (11) years of age, she visited
15 Defendant and TERRIE SENA at their apartment in Las Vegas. At that same time, while
16 visiting such apartment, TERRIE SENA told M.C. to go into the master bedroom and speak
17 with Defendant who was waiting for her. Upon entering the bedroom, Defendant was sitting
18 inside the closet in a pair of shorts. Defendant told M.C. he wanted to have a special bond
19 with her that should only be between them. Defendant then exposed his penis to M.C. and
20 told her to touch it which she did. Defendant then told her that since he showed her his penis
21 that she had to show him something. M.C. subsequently removed her shirt and exposed her
22 breasts. Defendant fondled her breasts after which he allowed M.C. to leave the room.

23 On another occasion when M.C. was approximately fifteen (15) or sixteen (16) years
24 of age, in the same apartment, Defendant and M.C. were alone in the the living room while
25 watching a movie. Defendant told M.C. that if she loved him she would have anal sex with
26 him. Defedant removed his pants, put M.C. on her stomach, and had anal intercourse with
27 M.C. until he ejaculated on her back. M.C. remembered the penetration hurting and that she
28 asked Defendant to stop but he didn't until he ejaculated.

1 Also while M.C. was approximately fifteen (15) or sixteen (16) years of age, in the
2 same apartment, Defendant indicated to M.C. that he would stop having sexual intercourse
3 with M.C. and move onto another hobby. Defendant indicated he would need to have sexual
4 intercourse with her on one last time. Defendant pushed her against the wall with the front of
5 her body facing the wall and her standing up. Defendant proceeded to have anal intercourse
6 with M.C. M.C. remembers that Defendant ejaculated in a towel and her anus bled after the
7 incident.

8 **C. Uncharged Acts Of Violence Committed Upon Debra Sena And/Or A.S.**
9 **And/Or B.S. And/Or T.S. And/Or R.S.**

10 On or about September 15, 2014, DEBORAH SENA wrote a statement in which she
11 described a number of violent acts committed upon her and other members of her family living
12 in the family residence which caused members of the family to be fearful of not listening to
13 Defendant. Specifically, DEBORAH SENA indicated that Defendant made it known that if
14 anyone ever called the police on him that he could do quite a bit of damage before the police
15 arrived and that if he ever was put in jail he would eventually get out and either kill or break
16 the legs of the person who put him in jail. Defendant committed regular acts of violence
17 against DEBORAH SENA and family members when things were not done as he wanted.

18 In approximately May 2014, DEBORAH SENA observed B.S. making a sandwich for
19 his sister, A.S. Defendant did not agree with a male making a sandwich for a female and
20 pushed B.S. up against the wall and balled his fist up and told B.S. not to try him. As a result,
21 B.S. walked away. As a result of this contact, B.S. talked to A.S. and indicated he was
22 contemplating suicide. It was after this conversation that B.S. and A.S. left the residence with
23 DEBORAH SENA.

24 **D. Emails Sent To Debra Sena And/Or Others By Defendant In September**
25 **2014**

26 In September 2014, after DEBORAH SENA, B.S. and A.S. had left the family
27 residence, Defendant sent a series of e-mail messages to some of his children, DEBORAH
28 SENA, and various individuals employed at Cox Cable.

1 In an e-mail message sent on September 11, 2014, Defendant sent the e-mail to
2 DEBORAH SENA and some of his children. The e-mail indicated Defendant wanted to
3 communicate with them. It was that same day that an e-mail message was received by various
4 individuals at Cox Communications, where DEBORAH SENA worked, from Defendant to
5 which a photo was attached depicting DEBORA SENA in the nude and having apparent sexual
6 contact with a dog.

7 On September 15, 2014, Defendant sent another email to DEBORAH SENA in which
8 he references the possibility of him releasing a video depicting DEBORAH SENA and B.S.
9 Defendant indicates that “instead of spending all that money for a divorce all he had to do was
10 send a small video clip of you and [B.S]”. Defendant further indicates that this would result
11 in DEBORAH SENA having “free room and board and medical”.

12 On September 17, 2014, Defendant sent another email to DEBORAH SENA in which
13 Defendant indicates he may disclose that DEBORAH SENA was having sex with B.S. when
14 he was three (3) years of age as well as disclosing a video of DEBORAH SENA having sex
15 with B.S.

16 ARGUMENT

17 The State seeks the admission of all the above referenced evidence of uncharged
18 conduct of Defendant as Res Gestae or the complete story of the crime. Further, the State
19 submits evidence of sexual conduct related to Sexual Contact with R.S. and B.S. when they
20 were three (3) and/or five (5) years of age at the direction of Defendant as well as sexual acts
21 committed upon M.C. by Defendant is admissible pursuant to NRS 48.045(3) as evidence of
22 other sexual offenses. Finally, the State contends that all of the above referenced evidence of
23 uncharged conduct of Defendant is admissible pursuant to NRS 48.045(2) for the purpose of
24 showing intent, knowledge, motive, opportunity, preparation and plan, and absence of mistake
25 or accident.

26 //

27 //

28 //

I. EVIDENCE OF THE UNCHARGED ACTS ARE ADMISSIBLE AS RES GESTAE OR THE COMPLETE STORY OF THE CRIME

The State submits that the evidence of the referenced uncharged acts committed are admissible under the res gestae, or complete story of the crime doctrine. The general rule of law pertaining to the “complete story” or res gestae was set forth by the Nevada Supreme Court in Dutton v. State, 94 Nev. 461, 581 P.2d 856 (1978), in which the Court stated: “The State is entitled to present a full and accurate account of the circumstances of the commission of the crime, and if such an account also implicates Defendant or Defendants in the commission of other crimes for which they have not been charged, the evidence is nevertheless admissible.”

The facts of Dutton reveal that he and a co-offender entered a police sponsored store which was fronting as a “fencing” operation. Negotiations were entered into with regard to several items of property, including some bronze wear and a camera. As a result of that conduct, he was indicted for possession of the stolen camera. In finding no error with regard to the evidence dealing with his possession of the bronze wear, which was likewise stolen from the victim at the same time as the camera, the Court stated: “Courts have long adhered to the rule that all the facts necessary to prove the crime charged in the indictment, when linked to the chain of events which support that crime, are admissible.”

The principle is long standing that the State is entitled to present, and a jury is entitled to hear, “the complete story of the crime”. Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976); see also, NRS §48.045 and NRS §48.035(3). In Allan, Defendant was charged with one act of fellatio committed upon one boy. At trial, the prosecution sought to introduce evidence that Defendant had shown three boys a pornographic movie on the night in question, and had committed fellatio upon the two other boys as well as the boy named in the Information. The trial court allowed this evidence, and the Nevada Supreme Court upheld the admissibility of the evidence, stating that it was admissible “because the acts complete the story of the crime charged by proving the immediate context of happenings near in time and place.” Allan, 92 Nev. at 320, 549 P.2d at 1403.

1 The complete story of the crime doctrine, or res gestae, applies whenever witnesses
2 cannot describe the crime charged without referring to related uncharged acts. State v. Shade,
3 111 Nev. at 887, 900 P.2d 327, 331 (1995). NRS §48.035(3) codifies the complete story of
4 the crime doctrine, or res gestae rule, and provides as follows:

5 Evidence of another act or crime which is so closely related to an
6 act in controversy or a crime charged that an ordinary witness
7 cannot describe the act in controversy without referring to the
8 other act or crime shall not be excluded, but at the request of an
interested party, a cautionary instruction shall be given explaining
the reason for its admission.

9 In reading this statute as a whole, the Nevada Supreme Court has held that when the
10 doctrine of res gestae is invoked, no weighing of prejudicial effect against the probative value
11 of the evidence is done. Instead, if res gestae applies, this Court must not exclude the evidence
12 of the uncharged acts. State v. Shade, 111 Nev. 887, 900 P.2d 327 (1995).

13 Another Nevada Supreme Court decision with a similar holding is Brackeen v. State,
14 104 Nev. 547, 763 P.2d 59 (1988). In that case, Brackeen was convicted of Burglary and
15 Possession of Credit Card without Consent of the Owner. Brackeen entered a Round Table
16 Pizza Parlor, sat down at a table occupied by the Millers, and began eating their pizza and
17 drinking their beer without their permission. Brackeen then left the pizza parlor and was
18 observed by the Millers to burglarize several automobiles. The trial court allowed into
19 evidence testimony that Brackeen had helped himself to the Millers' pizza and beer even
20 though he had not been charged with that conduct. The Nevada Supreme Court ruled that this
21 evidence was admissible in that it bore on the identification of Brackeen by the Millers. The
22 Court stated:

23 Additionally, the description of Brackeen's pilfering was
24 admissible as an integral part of the Millers' narration of the events
25 leading up to Brackeen's removal of the personal property from
26 the vehicles in the parking lot. We have adopted the rule that the
State is entitled to present a full and accurate account of the
circumstances surrounding the commission of a crime, and such
evidence is admissible even if it implicates the accused in the
commission of other crimes for which he has not been charged.

27 In the recent case of Bellon v. State, 117 P.3d 176 (2005), the Nevada Supreme Court
28 stated:

1 The State may present a full and accurate account of the crime,
2 and such evidence is admissible even if it implicates the defendant
in the commission of other uncharged acts.

3 Id. at 181, citing Bletcher v. State, 111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995).

4 The Nevada Supreme Court further stated:

5 We now reiterate that admission of evidence under NRS 48.035(3)
6 is limited to the statute's express provisions. Under the statute, a
7 witness may only testify to another uncharged act or crime if it is
8 so closely related to the act in controversy that the witness cannot
describe the act without referring to the other uncharged act or
crime.

9 Id. at 181.

10 In the subject case, first, the evidence related to DEBORAH SENA having sexual
11 contact with then three (3) year old B.S. as well as DEBORAH SENA and TERRY SENA
12 having sexual contact with then five (5) year old B.S. and R.S., in the presence and at the
13 direction of Defendant, completes the story as to the ongoing conspiracy between Defendant,
14 DEBORAH SEAN and TERRY SENA to commit sexual acts upon those children within their
15 own household. Evidence of the nature and history of the relationships between these
16 individuals is necessary to understand how such individuals came to commit the charged acts.
17 Additionally, evidence related to uncharged sexual acts committed upon M.C. when she was
18 a child, and the recording of such incidents by Defendant, is necessary to complete the story
19 of how Defendant came to be in possession of photos constituting child pornography in which
20 M.C. is depicted. Such photos were found in Defendant's residence for which Defendant is
21 charged with Possession of Visual Presentation Depicting Sexual Conduct of a Child in Counts
22 120 – 124.

23 Next, evidence of the violence exhibited by Defendant to those members living within
24 his household is necessary to complete the story of why the victims in the subject case were
25 too scarred to reach out for help while suffering the referenced abuse. It further completes the
26 story as to Defendant's power over the subject victims resulting in their submission to the
27 charged sexual abuse over an extended period of time.

28 //

1 Finally, evidence of e-mails sent by Defendant to DEBORAH SENA and others in
2 September of 2014 is necessary to complete the story as to how the abuse came to an end by
3 virtue of how DEBORAH SENA came to report the abuse suffered by her family to the police
4 through her attorney. Based upon the above, the State submits such evidence is clearly
5 admissible as res gestae evidence or to tell the complete story of the crime.

6 **II. PURSUANT TO NRS 48.045(3), EVIDENCE OF UNCHARGED SEXUAL**
7 **OFFENSES COMMITTED IS ADMISSIBLE IN THE SUBJECT CASE**

8 NRS 48.045, as amended and effective as of October 1, 2015, provides:

9 “1. Evidence of a person’s character or a trait of his or her
10 character is not admissible for the purpose of proving that the
11 person acted in conformity therewith on a particular occasion
12 . . .

13 **3. Nothing in this section shall be construed to prohibit the**
14 **admission of evidence in a criminal prosecution for a sexual**
15 **offense that a person committed another crime, wrong or act**
16 **that constitutes a separate sexual offense.** As used in this
17 subsection, “sexual offense” has the meaning ascribed to it in
18 NRS 179D.097.”

19 NRS 48.045 (emphasis added).

20 Further, NRS 179D.097 defines “sexual offense” as follows:

21 1. “Sexual offense” means any of the following offenses:

22 . . .

23 (b) Sexual assault pursuant to [NRS 200.366](#).

24 . . .

25 (j) Open or gross lewdness pursuant to [NRS 201.210](#).

26 . . .

27 (l) Lewdness with a child pursuant to [NRS 201.230](#).

28 . . .

(p) Any other offense that has an element involving a
sexual act or sexual conduct with another.

. . .

(r) An offense that is determined to be sexually motivated
pursuant to [NRS 175.547](#) or [207.193](#).

(s) An offense committed in another jurisdiction that, if
committed in this State, would be an offense listed in this
subsection. . . .”

1 The recent amendments to NRS 48.045 are similar to statutes drafted in a number of
2 other states including: Cal. Evid. Code Sec. 1108; Ariz. R. Evid. 404; Alaska R. Evid. 404;
3 Fla. Stat. Sec. 90.404; Official Code of Georgia Sec. 24-4-413; Illinois Compiled Statutes Sec.
4 5/115-7.3; Louisiana Statutes, Art. 412.2; and Utah Rule of Evidence 404; Kansas Statutes,
5 Sec. 21.5502. As currently amended, NRS 48.045 is almost identical to amendments made to
6 the California Evidence Code in the mid 1990's and subsequently upheld by the California
7 Courts. Additionally, the reasoning of the Nevada Legislature in enacting such amendments
8 was similar to the reasoning of the California legislature.

9 California Evidence Code, section 1108 was added effective January 1, 1996. The
10 statute has since been determined to be valid and constitutional. See People v. Fitch 55 Cal.
11 App. 4th 172, 177-86 (1997). Specifically, the California Supreme Court, in upholding section
12 1108, emphasized the legislative history behind section 1108: "the Legislature's principal
13 justification for adopting section 1108 was a practical one: By their very nature, sex crimes
14 are usually committed in seclusion without third party witnesses or substantial corroborating
15 evidence. The ensuing trial often presents conflicting versions of the event and requires the
16 trier of fact to make difficult credibility determinations. Section 1108 provides the trier of fact
17 in a sex offense case the opportunity to learn of the defendant's possible disposition to commit
18 sex crimes." People v. Falsetta 21 Cal. 4th 903, 915 (1999). Indeed, the Court explained that
19 the "'Legislature has determined the need for this evidence is 'critical' given the serious and
20 secretive nature of sex crimes and the often resulting credibility contest at trial.'" Id. at 911
21 (citation omitted).

22 It is noted that, similar to the effect of the subject amendment on NRS 48.045,
23 California's Section 1108 explicitly supersedes Evidence Code, section 1101's prohibition of
24 evidence of character or disposition. See People v. Soto 64 Cal. App. 4th 966, 984 (1998).
25 The purpose of Section 1108 is to permit trial courts to admit prior sexual assault evidence on
26 a common sense basis, without a precondition of finding a "non-character" purpose for which
27 it is relevant, so that juries are able to rationally assess such evidence. Id. at 983-84. This
28 rational assessment "includes consideration of other sexual offenses as evidence of the

1 defendant's disposition to commit such crimes, and for its bearing on the probability or
2 improbability that the defendant has been falsely or mistakenly accused." Id. at 984 (citation
3 omitted). Evidence of prior sexual conduct is highly probative and is admissible as propensity
4 evidence. As has been indicated in the analogous federal rules, the "presumption is in favor
5 of admission." Id. at 989 (quoting United States v. Sumner 119 F. 3d 658, 662 (8th Cir. 1997)).
6 The California Supreme Court further held that Section 1108 "implicitly abrogates prior
7 decision of this court indicating that 'propensity' evidence is per se unduly prejudicial to the
8 defense." People v. Villatoro, 281 P.3d 390 (Cal. 2012); See also; Falsetta, 21 Cal.4th at 911.

9 The admission of such evidence is, of course, subject to other provisions of the rules of
10 evidence including NRS 48.025 which provides:

11 "1. All relevant evidence is admissible "

12 And NRS 48.035 which provides in relevant part:

13 "1. Although relevant, evidence is not admissible if its
14 probative value is substantially outweighed by the danger of
15 unfair prejudice, of confusion of the issues or of misleading
the jury.

16 Pursuant to NRS 48.045 and NRS 48.035, similar to Cal. Evid. Code Section 1108, as
17 long as the current offenses and the prior offenses are ones defined as qualifying "sexual
18 offenses", the prior offenses are admissible unless the trial court finds them to be inadmissible
19 pursuant to NRS 48.035. See People v. Branch 91 Cal. App. 4th 274, 281 (2001).

20 First, it is noted that the acts related to DEBORAH SENA having sexual contact with
21 then three (3) year old B.S. in the presence and at the direction of Defendant; DEBORAH
22 SENA and TERRY SENA having sexual contact with then five (5) year old B.S. and five (5)
23 year old R.S. in the presence and at the direction of Defendant; and uncharged sexual acts
24 committed upon M.C. by Defendant when she was a child are "Sexual Offenses" as defined
25 by NRS 179D.097. Additionally, Defendant is currently charged with multiple counts of
26 Sexual Assault and Lewdness with a Child. These offenses are delineated by NRS 179D.097
27 as being "sexual offenses." As such, pursuant to NRS 48.045, the referenced uncharged acts
28 are admissible in the subject case as evidence of Defendant's character, or sexual propensity,

1 for the purpose of proving that Defendant acted in conformity with such propensity in
2 committing the sexual acts at issue in the subject case.

3 Under NRS 48.035 the uncharged sexual acts are admissible and relevant. First, the
4 admission of such evidence would not confuse the issues or mislead the jury. It is clear that
5 the sexual acts referenced distinct and separate incidents. The timeframe and conduct is
6 distinct enough that the jury would not be confused. Moreover, the Court, the Defense, and
7 the State will delineate the charged acts from the uncharged acts, and a special jury instruction
8 will give the jury further direction.

9 Finally, the probative value of the evidence of other sexual offenses is clearly more
10 probative than prejudicial. The evidence involving sexual contact between DEBORAH
11 SENA, TERRIE SENA, and three (3) to five (5) year old B.S. and R.S., is very probative of
12 the ongoing conspiracy between DEBORAH SENA, TERRIE SENA, and Defendant to
13 sexually abuse members of their household. Additionally, evidence of sexual conduct between
14 DEBORAH SENA and B.S., when B.S. was three (3) years of age, is very probative of the
15 reason why DEBORAH SENA reported the abuse to the police, through her attorney, due to
16 the fact that her motivation was the result of Defendant's threat to release information of this
17 incident. The evidence related to uncharged sexual acts committed upon M.C. when she was
18 a child, and the recording of such incidents by Defendant, is relevant to Defendant's
19 possession of photos constituting child pornography in which M.C. is depicted. Such photos
20 were found in Defendant's residence for which Defendant is charged with Possession of Visual
21 Presentation Depicting Sexual Conduct of a Child in Counts 120 – 124. The evidence of sexual
22 contact of M.C. by Defendant shows his sexual interest in this child resulting in a desire to
23 maintain child pornography depicting the child.

24 Thus, evidence of the referenced sexual acts should be admitted at Defendant's trial
25 pursuant to NRS 48.045. Such evidence of prior sexual conduct is highly probative and is
26 admissible as propensity evidence.

27 //

28 //

1 **III. THE UNCHARGED ACTS ARE ADMISSIBLE FOR PURPOSES OF**
2 **SHOWING INTENT, KNOWLEDGE, MOTIVE, OPPORTUNITY,**
3 **PREPARATION AND PLAN AND ABSENCE OF MISTAKE OR ACCIDENT**

4 NRS 48.045(2), provides as follows:

5 Evidence of other crimes, wrongs, or acts is not admissible to
6 prove the character of a person in order to show that he acted in
7 conformity therewith. It may, however, be admissible for other
8 purposes, such as proof of motive, opportunity, intent, preparation,
9 plan, knowledge, identity, or absence of mistake or accident.

10 NRS 48.045(2) (emphasis added).

11 In order to admit such evidence, the State must establish that: 1) the act is relevant to
12 the crime charged; 2) the act is proven by clear and convincing evidence; and 3) the evidence
13 is more probative than prejudicial. Cipriano v. State, 111 Nev. 534, 541 (1995), citing Berner
14 v. State, 104 Nev. 695, 697 (1988).

15 Before evidence of a prior bad act can be admitted, the state must show, by plain, clear
16 and convincing evidence that Defendant committed the offense. The state's offer of proof
17 fulfills this requirement. Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985). Under
18 Petrocelli, clear and convincing proof of collateral acts can be established by an offer of proof
19 outside the presence of the jury combined with the quality of the evidence actually presented
20 to the jury. Salgado v. State, 968 P.2d 324 (1998).

21 There has been recent case law in the State of Nevada significantly impacting the
22 admission of certain other bad act evidence. In February, 2002, the Nevada Supreme Court
23 affirmed the conviction of Defendant in the matter of Braunstein v. State, 118 Nev. 68, 40 P.3d
24 413 (2002). In that case, Defendant was convicted of two counts of Sexual Assault of a Child
25 Under the Age of Fourteen Years. At trial, the jury heard testimony from another minor child
26 indicating that Defendant showed her pornography, touched her vagina, and fondled her
27 breasts, two years prior to molesting the victim in the case. Consequently, defendant had been
28 convicted of a crime involving that victim.

On appeal, Braunstein argued that the district court improperly admitted the testimony
of the prior victim in that the Court did not explicitly determine the relevance of the evidence.
Id. In determining that the district court did not err in its decision to admit the evidence of

1 Braunstein's prior conduct the Nevada Supreme Court stated:

2 We perceive no error in the district court's decision to admit A.M.'s
3 testimony. In so ruling, however, we specifically do not rely upon
4 and today repudiate the legal proposition stated in McMichael v.
State [FN10]¹ that evidence showing an accused possesses a
propensity for sexual aberration is relevant to the accused's intent.

5 Braunstein v. State, 118 Nev. at 73.

6 The Nevada Supreme Court's decision in Braunstein abrogated the McMichael
7 decision, in that the Court held that evidence showing an accused possess a propensity for
8 sexual aberration is not relevant to the accused's intent. Additionally, Braunstein overruled
9 Findley v. State, 94 Nev. 212, 577 P.2d 867 (1978), in that the district court can no longer
10 consider evidence showing that an accused possesses a specific emotional propensity for
11 sexual aberration because, as a matter of law, such evidence does not outweigh the prejudicial
12 possibility that jury might convict for general rather than specific criminality. The Nevada
13 Supreme Court specifically held:

14 This court now abandons McMichael, Findley and their progeny
15 and returns to an analysis of evidence of other sex crimes
16 according to the parameters of NRS 48.045(2). We specifically
17 overrule the legal proposition enunciated in Findley that evidence
18 of other acts offered to prove a specific emotional propensity for
sexual aberration is admissible and that, when offered, it
outweighs prejudice. In so doing we ensure that the trial courts
will always properly weigh the probative value of the evidence
against the risk that Defendant will be unfairly prejudiced by its
admission.

19 Braunstein v. State, 118 Nev. at 75.

20
21 Shortly thereafter, the Nevada Supreme Court decided the case of Richmond v. State,
22 118 Nev. 924, 59 P.3d 1249 (2002), in which they held that the motive exception generally
23 applies to establish the identity of the criminal, to prove malice or specific intent, or where the
24 charged crime was motivated by a desire to hide the prior bad act. Under the facts in
25 Richmond, the Court found that the motive exception was inapplicable because Richmond had
26 already begun molesting the charged victim ("A.B.") before he met the other bad act victim

27
28 ¹ FN10. 94 Nev. 184, 189, 577 P.2d 398, 401 (1978), overruled on other grounds by NRS 200.364, 200.366, 201.210
and 201.230.

1 (“A.R.”), and molesting A.B. could not possibly disguise his crimes against A.R. Id. at 932-
2 933.

3 The Richmond Court also found that the common scheme or plan exception is
4 applicable when both the prior act evidence and the crime charged constitute an integral part
5 of an overarching plan explicitly conceived and executed by the defendant. The Nevada
6 Supreme Court stated that the test is not whether the other offense has certain elements in
7 common with the crime charged, but whether it tends to establish a preconceived plan which
8 resulted in the commission of that crime. Id. at 933, citing Nester v. State, 75 Nev. 41, 47,
9 334 P.2d 524, 527 (1959).

10 Under the specific facts of the Richmond case, as Richmond appeared simply to drift
11 from one location to another, taking advantage of whichever potential victims came his way,
12 the Nevada Supreme Court concluded that Richmond’s crimes were not part of a single
13 overarching plan, but were independent crimes that he did not plan until each victim was
14 within his reach. Id. at 934.

15 On March 16, 2006, the Nevada Supreme Court decided Ledbetter v. State, 129 P.3d
16 671 (2006), affirming Ledbetter’s convictions of fourteen (14) counts of Sexual Assault on a
17 Minor Under 14 Years Old and twelve (12) counts of Sexual Assault on a Minor Under 16
18 Years Old. The Nevada Supreme Court further affirmed the trial court’s admission of prior
19 bad acts under the motive exception of NRS 48.045(2):

20 "A presumption of inadmissibility attaches to all prior bad act
21 evidence." The principal concern with admitting this type of
22 evidence is that the jury will be unduly influenced by it and convict
23 a defendant simply because he is a bad person. The presumption
24 of inadmissibility may be rebutted when prior to the admission of
25 this evidence the district court conducts a hearing outside the
26 presence of the jury and finds that the following three factors set
27 forth in Tinch v. State are satisfied: the evidence is relevant, it is
28 clear and convincing, and its probative value is not substantially
outweighed by the danger of unfair prejudice.

Id. at 677 (citations omitted).

It therefore remains the law in Nevada that "whatever might
'motivate' one to commit a criminal act is legally admissible to
prove 'motive' under NRS 48.045(2)," so long as the three-factor
test for admissibility is satisfied.

1 Id. at 678, *citing* Richmond v. State, 118 Nev. 924, 59 P.3d 1249 (2002).

2 The Nevada Supreme Court reasoned as follows:

3 The probative value of explaining to the jury what motivated
4 Ledbetter, an adult man who was in a position to care for and
5 protect his young stepdaughter L.R. from harm, to instead
6 repeatedly sexually abuse her over so many years was very high.
7 The evidence of Ledbetter's prior acts of sexual abuse of T.B. and
J.M. showed Ledbetter's sexual attraction to and obsession with
the young female members of his family, which explained to the
jury his motive to sexually assault L.R.

8 Id. at 679.

9 Finally, the Ledbetter Court found that given the overall strength of the State's case
10 against Ledbetter, we conclude that the danger that the admission of this evidence was unfairly
11 prejudicial was minimal. Id. at 679.

12 The State seeks to introduce evidence of the above referenced uncharged acts.

13 First, the evidence related to DEBORAH SENA having sexual contact with then three
14 (3) year old B.S. as well as DEBORAH SENA and TERRY SENA having sexual contact with
15 then five (5) year old B.S. and R.S., all in the presence and at the direction of Defendant, as
16 well as evidence related to uncharged sexual acts committed upon M.C. is admissible to show
17 Defendant's intent and motive to sexually abuse the children within his household. It is also
18 admissible to show his opportunity and preparation and plan to commit such abuse. It is also
19 admissible to show an absence or mistake or accident. Specifically, such evidence of sexual
20 conduct with B.S. and R.S. is very probative to show that the sexual conduct between members
21 of Defendant's household and DEBORAH SENA AND TERRI SENA was not accidental or
22 something Defendant just happened to walk in on but was actually conduct which was planned
23 and orchestrated by Defendant. Additionally, evidence of uncharged sexual conduct with
24 M.C. which Defendant documented is very probative of the fact that pictures of child
25 pornography involving M.C. found at Defendant's residence were not mistakenly left in the
26 house without Defendant's knowledge but, rather, such photos and videos were not only
27 recorded by Defendant but maintained by Defendant.

28 //

1 Next, evidence of the violence exhibited by Defendant to those members living within
2 his household is necessary to show Defendant's intent, motive, opportunity and preparation
3 and plan to commit the charged crimes. Such evidence clearly shows that the children within
4 Defendant's household were too scarred to reach out for help while suffering the referenced
5 abuse. It further shows Defendant's power over the subject victims resulting in their
6 submission to the charged sexual abuse over an extended period of time.

7 Finally, evidence of e-mails sent by Defendant to DEBORAH SENA and others in
8 September of 2014 is very probative to show Defendant's knowledge of sexual conduct within
9 his household as well as his involvement in such conduct to the extent of maintaining videos
10 and photos of such conduct.

11 Similar to Ledbetter, such evidence is very probative to show a motive for Defendant,
12 a father or uncle to the charged and uncharged victims, many times responsible for their care,
13 to commit such acts upon such children rather than protect them. As noted in Ledbetter:

14 The probative value of explaining to the jury what motivated
15 Ledbetter, an adult man who was in a position to care for and
16 protect his young stepdaughter L.R. from harm, to instead
17 repeatedly sexually abuse her over so many years was very high.
18 The evidence of Ledbetter's prior acts of sexual abuse of T.B. and
J.M. showed Ledbetter's sexual attraction to and obsession with
the young female members of his family, which explained to the
jury his motive to sexually assault L.R.

19 Ledbetter, 129 P.3d at 679. The probative value of specific uncharged acts committed over so
20 many years is "very high". Similar to Ledbetter, such evidence shows Defendant's sexual
21 attraction to and obsession with the children in his family and explains to the jury his motive
22 to sexually assault his own children and nieces.

23 The evidence the State is seeking to admit is relevant, it is clear and convincing, and its
24 probative value is not substantially outweighed by the danger of unfair prejudice pursuant to
25 Ledbetter above and the Tinch case referenced herein.

26 **REMOTENESS**

27 Defendants may attempt to argue that the referenced evidence is too remote in time and
28 should be excluded.

1 In United States v. Simtob, 901 F.2d 799 (9th Cir. 1990), the Federal Court held that
2 prior drug activity by the defendant 10 years previous to arrest on the instant offense was
3 admissible to prove intent.

4 In United States v. Ross, 886 F.2d 264 (9th Cir. 1989), the Federal Court of Appeals
5 affirmed the introduction of bad acts evidence that occurred 13 years previous to the instant
6 offense, and nearly 18 years before trial. The prior bad acts consisted of evidence that the
7 defendant had similarly used his wife's social security number in a fraudulent manner. The
8 court held:

9 The court did not abuse its discretion. The evidence of the prior
10 similar act was admitted to negate a claim of mistake by Ross and
11 to show intent. Given the similarity of the offenses the prior act
was not so remote as to require exclusion. Id. at 266.

12 In United States v. Spillone, 879 F.2d 518 (9th Cir. 1989), the court held that an
13 extortion conviction more than ten years earlier was not too remote to be admissible in the
14 instant loan sharking prosecution. The court refused to adopt a bright line rule regarding
15 remoteness, and declared:

16 Depending on the theory of admissibility and the similarity of the
17 acts, for example, some remote acts may be extremely probative
and relevant. Id. at 519.

18 The court also cited an Eighth Circuit Court of Appeals case, United States v.
19 Engelman, 648 F.2d 473 (8th Cir. 1981), in which a 13 year old prior murder was ruled
20 admissible.

21 In Parker v. United States, 400 F.2d 248 (9th Cir. 1968), the Ninth Circuit Court of
22 Appeals held:

23 The alleged remoteness of the acts sought to be proved is not
24 decisive as to admissibility, although it may affect the weight of
25 the evidence. Other factors are more important such as the unique
or bizarre nature of the conduct involved, the geographical area in
which the conduct took place and the like.

26 Other jurisdictions have also ruled that evidence concerning prior acts is admissible
27 when it is fairly remote in time. In State v. McGuire, 135 Idaho 535, 20 P.3d 719 (2001), the
28 Idaho Court of Appeals ruled that a prior uncharged sexual conduct on multiple victims that

1 was eighteen (18) to twenty three (23) years old was admissible. In State v. Moore, 819 P.2d
2 1143, 1146 47 (Id. 1991), the Idaho Supreme Court ruled that prior acts that were sixteen (16)
3 and twelve (12) years old, that involved two different victims, were admissible to show the
4 defendant's modus operandi. In United States v. Dia, 826 F.Supp 1237 (1993), the Court ruled
5 that evidence of two prior sexual assaults allegedly committed by the defendant sixteen (16)
6 years prior, were admissible to establish intent, identity, and common scheme or plan. In Cox
7 v. State, 326 S.E.2d 796, 797 (Ga. App. 1985), the Georgia Court of Appeals ruled that
8 testimony of two prior molestations by the defendant that were seventeen (17) and twenty two
9 (22) years old were admissible. In State v. Ondricek, 535 N.W.2d 872 (S.D. 1995), the
10 Supreme Court of South Dakota permitted a witness to testify as to uncharged conduct that
11 was up to twenty four (24) years old under a common plan or scheme exception. Likewise,
12 the North Carolina Court of Appeals in State v. Sneed, 424 S.E.2d 449 (N.C. App. 1993)
13 held that testimony of a rape, that the defendant had committed some twenty three (23) years
14 earlier, in order to prove modus operandi and intent.

15 Additionally, in People v. Branch, 91 Cal.App.4th 274, 109 Cal.Rptr.2d 870 (August
16 2001), the California Court of Appeals held that testimony from victims mother that the
17 defendant had sexually assaulted her almost 30 years earlier by inappropriately touching was
18 admissible to establish defendant's intent, plan, or absence of mistake, and was not
19 substantially outweighed by danger of unfair prejudice.

20 Clearly, the referenced evidence is not too remote in time, and is admissible as evidence
21 of other crimes, wrong or acts.

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CONCLUSION

Based upon the foregoing, the State requests the Court grant the State's Motion In Limine to Present the Complete Story of the Crime and Motion to Admit Evidence of Other Sexual Offenses and/or Evidence of Other Crimes, Wrongs or Acts.

DATED this 15th day of August, 2017.

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

BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

BY /s/ MARY KAY HOLTHUS
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814

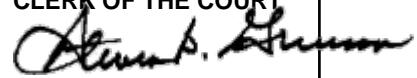
CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 15th day of AUGUST, 2017, to:

VIOLET RADOSTA, DPD
harrolah@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU



MOT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-15-311453-1
)	
v.	)	DEPT. NO. XIX
)	
CHRISTOPHER SENA,)	
)	
Defendant,	)	DATE: September 13, 2017
	)	TIME: 9:00 a.m.

**OPPOSITION TO STATE'S REQUEST TO ADMIT OTHER CRIMES, ACTS OR
WRONGS PURSUANT TO NRS 45.045, AND NRS 48.035, COMPLETE STORY OF
THE CRIME DOCTRINE**

COMES NOW, the Defendant, CHRISTOPHER SENA, by and through VIOLET R. RADOSTA, Deputy Public Defender and hereby moves the Court deny State's request to admit the evidence of other crimes, wrongs or acts pursuant to NRS 48.035(3), NRS 48.045(2) and NRS 48.045(3).

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

DATED this 1st day of September, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

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VIOLET R. RADOSTA makes the following declaration:

1. I am an attorney licensed to practice law in the State of Nevada and I am a Deputy Public Defender for the Clark County Public Defender's Office, counsel of record for Defendant CHRISTOPHER SENA, in the present matter;

2. I make this Declaration in support of Mr. Sena's Opposition to State's Motion to Admit Other Crimes, Wrongs or Acts

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 1st day of September, 2017.

/s/ Violet R Radosta
VIOLET R. RADOSTA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS**

3 **Procedural History**

4 Defendant, CHRISTOPHER SENA, is charged by way of State's Information with
5 the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS
6 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
7 YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD
8 UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT WITH A
9 MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.), INCEST
10 (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS (Category D Felony - NRS
11 201.210), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), PREVENTING OR
12 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING
13 PROSECUTION (Category D Felony - NRS 199.305), CHILD ABUSE AND NEGLECT,
14 SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS 200.508(1)), POSSESSION
15 OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B
16 Felony - NRS 200.700, 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category
17 A Felony - NRS 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN
18 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750). The
19 Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The crimes allegedly
20 occurred on or between May 22, 2001 and June 30, 2014. The alleged victims are A.S., T.S., B.S.,
21 R.S., E.C., I.G., T.G., and M.C.

22 Mr. Sena entered a NOT GUILTY plea to all charges on January 20, 2016. Mr. Sena
23 waived his right to a speedy trial and the jury trial was set for the week of November 14, 2016.
24 That trial date was continued. The current trial date is September 11, 2017.

25
26 **FACTS PERTINENT TO THIS MOTION**

27 Per its Motion, the State is seeking to admit 4 separate allegations or incidents as other
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1 crimes, wrongs or acts during its case in chief.

- 2 1. Uncharged sexual contact by Deborah Sena and Terrie Sena on B.S. and R.S. To be clear
3 the State is actually seeking admission of 2 separate incidents. The first incident allegedly
4 occurred when B.S. was 3 years old., which would have been 2001. Allegedly, Deborah
5 Sena attempted to have sex with her 3-year-old son, B.S. Per the State's Motion, Mr. Sena
6 was present during this alleged incident, but it was Deborah Sena who engage in the sexual
7 contact. The State's motion claims there was video of this incident, but that evidence has
8 not been provided to the defense. Additionally, the State claims Mr. Sena corroborates this
9 incident during his interrogation with LVMPD when he stated he witnessed Deborah
10 masturbating 3-year-old B.S. when she was naked.

11
12 The second incident allegedly occurred in 2003 and involved both Terrie Sena and Deborah
13 Sena performing fellatio on B.S. and R.S. respectfully. The boys were approximately 5
14 years old. Per the State's proffer, Deborah and Terrie actually performed the sexual acts
15 while Mr. Sena was in the room.

- 16 2. Uncharged sexual contact with M.C. M.C. alleged was sexually assaulted by Mr. Sena on
17 2-3 different occasions. M.C. 's birth year is 1981 and she stated in her interview with
18 LVMPD that when she was 10 years old and Mr. Sena was married to her sister Terrie, she
19 would spend time at their apartment. During one visit, Terrie told M.C. to go see Mr. Sena
20 in the bedroom. Once there, M.C. alleges that Mr. Sena exposed his penis to her and asked
21 her to remove her shirt, which she did. M.C. also alleges that when she was 15 or 16, in
22 1996-97, she was sexually assaulted on 2 separate occasions when Mr. Sena forced her to
23 engage in anal sex. She did not report these accusations until Mr. Sena was arrested on
24 these charges. She did not tell her sister, Terrie, what had allegedly happened.

- 25 3. Uncharged acts of Violence Committed Upon Deborah Sena, and/or A.S., B.S., R.S., or T.S.
26 Per the State's motion, they are seeking to admit the testimony that Mr. Sena threatened
27 Deborah Sena that if anyone ever called the police on him that he could do quite a bit of
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1 damage before the police arrived. He also allegedly threatened that if he went to jail, once
2 he got out he would kill or break the legs of the person who put him in jail. The State
3 asserts there were 'regular acts of violence' against Deborah and family members, but no
4 specific incidents were described in the State's motion. The State is also seeking to admit
5 an incident where Mr. Sena pushed B.S. up against a wall, made a fist and told B.S. "not to
6 try him".

7 4. Emails sent to Deborah Sena and/or Others purportedly by Mr. Sena in September 2014.

8 The State is seeking to admit purported emails sent to Deborah Sena after she had left the
9 Mr. Sena and the family residence with B.S. and A.S. The State also asserts some emails
10 were sent to some of the named victims and to various employees of Cox Communications.
11 The emails contained requests to speak with either Deborah or the complaining witnesses.
12 The State asserts that one of the emails contained a naked photo of Deborah Sena apparently
13 having sex with a dog.

14
15 The State is requesting admission of 3 different emails, but hasn't attached the emails and
16 purported attachments as exhibits. The defense requests the emails¹, attachments and
17 documentation that the emails were sent to Cox Communications and sent by Christopher
18 Sena be provided prior to the argument and Petrocelli hearing on this matter, so the defense
19 can be fully apprised of the proffered evidence.

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27 ¹ The defense was recently provided with over 400 pages of discovery from the District Attorney. In that, there were 3-
28 4 emails purportedly from Christopher Sena. The defense rec'd hard copies of the emails and it doesn't appear that
there were any attachments to the emails.

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I. THE FOUR PROFFERED SITUATIONS ARE NOT ADMISSIBLE UNDER NEVADA REVISED STATUTE 48.035(3), THE COMPLETE STORY DOCTRINE

Per NRS 48.035, the Court may allow:

Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded. . .

The State simply asserts the four separate allegations should each be admitted in order to provide a “full account” of the circumstances surrounding the crimes charged.

NRS 48.035 speaks directly to the act or crime itself being so intertwined with another act or crime that one cannot be described without referring to the other. The Nevada Supreme Court has stated that the complete story doctrine should be interpreted quite narrowly. Tabish v. State, 119 Nev. 293, 307 72 P.3d 584, 593 (2003).

The State cites to Dutton v. State, 94 Nev.461 (1978) and Allan v. State, 92 Nev. 318 (1976) to support their position that the proffered incident in this case should be admitted in order to tell the complete story of the crime. In both Dutton and Allan, the other acts admitted by the trial courts had occurred almost contemporaneously with the charged crime. Specifically, in Allan, the admitted testimony was regarding other sexual acts performed on and by the alleged victims at the same time as the charged crime of fellatio. It was obvious that the witnesses could not describe the charge crime of fellatio without also testifying about the additional acts of masturbation and fellatio that occurred. The same analysis can be applied to Brackeen v. State, 104 Nev. 547 (1988), which is also cited to by the State.

In Weber v. State, the Nevada Supreme Court discussed the basis for admission of evidence pursuant to NRS 48.035.

First, the statute applies to testimony by an actual witness who cannot describe the charged crime without referring to another uncharged act; it does not contemplate a hypothetical witness or an abstract viewpoint from which

two or more acts might be considered intertwined. The State has not shown how any specific witness in this case could not describe one group of crimes without referring to the others. Moreover, the statute refers to a witness's ability to "describe"-not "explain"-a charged crime. **Thus, to the extent that the prosecution might want to introduce evidence of other acts to make sense of or provide a context for a charged crime, as opposed to simply introduce an account of events and conduct observed by a witness, [NRS 48.035\(3\)](#) is not a basis for admissibility.** (emphasis added)

121 Nev. 554, 574, 119 P.3d 107, 121 (2005).

The State is seeking to admit the purported acts of Deborah and Terrie Sena with B.S. and R.S. as proof of the continuing conspiracy between Deborah Sena and Chris Sena and between Terrie Sena and Chris Sena. The State has both Deborah and Terrie listed as witnesses for trial. It is anticipated that the State will elicit testimony from both of them regarding the parameters of the conspiracy. Additionally, these alleged incidents occurred when B.S. was 3 and when both boys were 5. Both B.S. and R.S. were born in 1998, placed the violation date in 2001 and 2003 respectively. Per the State's charging document the crime of Conspiracy to Commit Sexual Assault allegedly occurred between 2007 and 2014. The purported acts offered by the State are not relevant as evidence of the alleged conspiracy.

The State is also seeking to admit the alleged sexual assault of M.C. when she was a teenager as part of the complete story of the case. Specifically, the State is alleging the sexual assault is relevant to explain why and how Christopher Sena had possession of naked photos of M.C.

During the preliminary hearing, both Terrie Sena and M.C. testified about the photo sessions that produced the photos in questions. The State is over reaching in an effort to present testimony of the alleged sexual assault of M.C. The photos were not taken on the same day or at the same time as the purportedly assaults, so M.C. would easily be able to describe how and when the photos were taken without referring to the purported assault.

In regard to the allegations of physical violence by Chris Sena, he is already charged with more than one count of Preventing or Dissuading a Witness from Testifying. In order to prove

1 those counts, the State presumably will be offering testimony regarding alleged threats and/or
2 violence committed by Chris Sena.

3 Finally, the State is seeking admission of emails from Chris Sena to family members and to
4 Deborah Sena's workplace. The suggested relevance is the emails were the straw that broke the
5 camel's back and thrust Deborah into reporting the alleged crimes. Per the State's motion, the
6 emails 'are necessary to complete the story as to how the abuse came to an end by virtue of how
7 Deborah Sena came to report the abuse.' As stated in Weber, the State should not be allowed to
8 admit irrelevant evidence in order to provide context to the actions of the witnesses. That is
9 exactly what the State is attempting to do with the emails. The jury doesn't need to know that she
10 went to a divorce attorney because he purportedly sent her and her work colleagues emails that
11 were inappropriate. Given the State's evidence, it is highly doubtful that the jury will need an
12 explanation as to why Deborah decided to consult with a divorce attorney. The State is simply
13 seeking to admit this evidence in an effort to present highly prejudicial evidence against
14 Christopher Sena. As with all the other proffered evidence Deborah could easily tell the jury that
15 she went to a divorce attorney without referring to the alleged emails.

16 The defense respectfully requests the evidence the State seeks to admit as part of the
17 Complete Story Doctrine pursuant to Nevada Revised Statute 48.035(3), not be admitted.

18
19 **II. THE FOUR PIECES OF PROFFERED EVIDENCE ARE NOT**
20 **ADMISSIBLE UNDER THE RECENTLY AMENDED NRS 48.045(3)**

21 The Nevada Legislature amended Nevada Revised Statutes 48.045 and added subsection 3,
22 which went into effect October 1, 2015. NRS 48.045 provides, in part

- 23
24 1. Evidence of a person's character of a trait of his or her character is not admissible for the
25 purpose of proving that the person acted in conformity therewith on a particular
26 occasion. . . .
27 2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a
28 person in order to show that he acted in conformity therewith. It may, however, be
admissible for other purposes, such as proof of motive, opportunity, intent, preparation,
plan, knowledge, identity, or absence of mistake or accident.

- 1 3. Nothing in this section shall be construed to prohibit the admission of evidence in a
2 criminal prosecution for a sexual offense that a person committed another crime, wrong
3 or act that constitutes a separate sexual offense. As used in this subsection, “sexual
4 offense” has the meaning ascribed to it in NRS 179D.097.

5 In its motion, the State is seeking to admit an alleged prior ‘sexual offense’ against Mr. Sena
6 citing to the new subsection 3 in NRS 48.045. The State argues that the new language adopted by
7 the Nevada Legislature in subsection 3 is virtually identical to language in California Evidence
8 Code Section 1108. The State continues that, in light of the fact that Section 1108 was deemed to
9 be constitutional by the California Supreme Court, NRS 48.045(3) is similarly constitutional.
10 Additionally, the State goes into great detail on the legislative history and caselaw supporting
11 California Section 1108 and, then without citing to any authority, claims the same reasoning applied
12 when the Nevada Legislature adopted the new language in NRS 48.045. The defense respectfully
13 disagrees with this argument.

14 Specifically, the State argues that NRS 48.045(3) now allows any prior ‘sexual offense’ to
15 be admitted during a trial for a ‘sexual offense’ for the purpose of propensity evidence. (State’s
16 motion page #36.) The State argues that “evidence of prior sexual conduct is highly probative and
17 is admissible as propensity evidence.” The motion continues and states the California Supreme
18 Court allows propensity evidence to be admitted and has ruled that propensity evidence is no longer
19 deemed ‘per se unduly prejudicial to the defense’. (citing to People v. Villatoro, 281 P.3d. 390
20 (Cal.2012).

21 While the new language of NRS 48.045(3) does refer to the potential admission of a prior
22 act of sexual offense being admitted in sexual offense trials, the State’s argument that the evidence
23 is admissible to prove a propensity to commit sexual crimes is not supported by current Nevada
24 Supreme Court cases. Apparently, to combat that problem, the State cites extensively to California
25 law. While interesting, the history and legality of California law and statutes has little to no
26 relevance to Nevada law. While it can be helpful to look to other jurisdictions for guidance or for
27 creative legal arguments, citing to another jurisdiction’s laws as sole support is somewhat reckless.
28 Nevada’s caselaw is different from California’s in many areas and, it appears, it differs greatly, on

1 the admissibility of bad acts as propensity evidence. Nevada caselaw is clear. “Using uncharged
2 bad acts to show criminal propensity is forbidden and is commonly viewed as grounds for reversal.”
3 Roever v. State, 114 Nev. 867 (1998). Additionally, in Braunstein v. State, 118 Nev. 68, 40 P.3d
4 413 (2002) the Nevada Supreme Court overruled prior caselaw which had allowed prior acts of
5 sexual incidents to be admitted to show a propensity for sexual aberration. These cases are still
6 controlling law in Nevada. There is absolutely no support to the State’s apparent position that NRS
7 48.045(3) now allows for the admission of such evidence to prove a criminal defendant acted in
8 conformity therewith, which is in direct contradiction to subsection 1 of NRS 48.045. Nevada
9 caselaw on the inadmissibility of prior bad act evidence to show propensity is long and detailed.
10 (See Braunstein v. State, 118 Nev. 68, 40 P.3d 413 (2002); Williams v. State, 95 Nev. 830 (1979);
11 Shults v. State, 96 Nev. 742 (1980))

12 The State specifically argues it is seeking admission of the four pieces of evidence as
13 ‘evidence of such Defendant’s character, or sexual propensity, **for the purpose of proving that**
14 **Defendant acted in conformity with such propensity**’ in committing the acts against his
15 biological daughter. Given the current Nevada Supreme Court opinions as to the inadmissibility
16 of any evidence being admissibly to show someone’s ‘sexual propensity’, the State’s argument to
17 admit evidence of the four separate allegations as proof of Mr. Sena’s propensity to commit the
18 alleged crimes he is charged with in the criminal information is in direct conflict with Nevada law.
19 The defense respectfully requests the Court deny the State’s motion to admit these four alleged
20 incidents pursuant to NRS 48.045(3).

21
22 **III. THE FOUR PROFFERED INCIDENTS ARE NOT ADMISSIBLE UNDER**
23 **NRS 48.045(2) TO SHOW INTENT, KNOWLEDGE, MOTIVE,**
24 **OPPORTUNITY, PREPARATION AND PLAN OR ABSENCE OF MISTAKE**
25 **OR ACCIDENT**

26 The Nevada Supreme Court has clearly stated its opinion on the admissibility of alleged bad
27 act evidence. “[I]t is ‘heavily disfavored’ to use prior bad act evidence to convict a defendant
28

1 ‘because bad acts are often irrelevant and prejudicial and force the accused to defend against vague
2 and unsubstantiated charges.’” Richmond v. State, 118 Nev. 924 (2002). The use of prior act
3 evidence pursuant to NRS 48.045(2) ‘should always be approached with circumspection’. Ledbetter
4 v. State, 122 Nev. 252, 129 P. 3d 671 (2006).

5 In its motion, the State argues Mr. Sena’s alleged other crimes, wrong or acts listed in the
6 State’s motion are admissible under every possible exception provided in NRS 48.045(2).

7 The purported acts against B.S. and R.S., which were actually committed by Deborah Sena
8 and Terrie Sena are being offered to show his intent and motive to commit the acts he is criminally
9 charged with. The same assertion is offered regarding the alleged sexual assault of M.C. The State
10 cites to the case of Ledbetter v. State, 122 Nev. 252, 129 P. 3d 671 (2006) to support its argument
11 that the incidents are admissible to prove motive. Specifically, the Court held that the probative
12 value of what motivated Ledbetter, an adult man who is in a position to care for and protect his
13 young stepdaughter from harm, to instead repeatedly sexually abuse her over so many years was
14 very high. Despite its decision, the Nevada Supreme Court specifically cautioned that the ‘motive’
15 exception should be used with ‘circumspection’ in future cases. Id., at 264.

16 Further, those incidents are offered to show his opportunity and preparation/plan to commit
17 the charged crimes. Last, but not least, they are offered to show absence of mistake on the part of
18 Christopher Sena. The State make assertions in its’ motion, but does not explain the analysis of
19 how the alleged incidents by Terrie Sena and Deborah Sena show that Christopher Sena intended to
20 commit crimes years later. For the sake of the argument, the defense has not raised lack of intent
21 as a defense at this point, so the State cannot be allowed to present evidence to rebut a defense that
22 has not been presented. The same can be said for absence of mistake.

23 The State argues that the emails are relevant to show “Defendant’s knowledge of sexual
24 conduct within the household as well as his involved in such conduct to the extent of maintaining
25 videos of such conduct”. The emails purportedly contained attachments showing Deborah Sena
26 engaged in sexual contact with a dog. Mr. Sena is not charged with any crime relating to sexual
27
28

1 conduct with a dog, so his purported knowledge of that situation is not relevant to the criminal
2 charges he is currently facing.

3 In order to deem a prior bad act admissible, the district court must first determine outside
4 the presence of the jury that "(1) the incident is relevant to the crime charged; (2) the act is proven
5 by clear and convincing evidence; and (3) the probative value of the evidence is not substantially
6 outweighed by the danger of unfair prejudice." Tinch v. State, 113 Nev. 1170, 1176 (1997).
7 Recently, the Nevada Supreme Court has given more guidance regarding the first prong of this test
8 in BigPond v. State, 270 P.3d 1244 (2012). The Court stated that regarding the first prong of the
9 Tinch test, in order to over the presumption of inadmissibility the State must prove that the prior
10 bad act is relevant to the crime charged and for a purpose other than proving the defendant's
11 propensity.

12 13 **IV. THE PROFFERED ALLEGATIONS OF SEXUAL ASSAULT ARE TOO** 14 **REMOTE IN TIME TO BE RELEVANT**

15 The sexual incidents offered by the State between Deborah Sena and B.S. and Terri Sena
16 and R.S., as well as the allegations of sexual assault of M.C. are too remote in time to be relevant.
17 The allegations of M.C are more than 20 year old and the allegasiotn involving B.S. and R.S. are
18 almost 15 years old. In Nevada, there are cases where the Supreme Court has ruled that priors of 10
19 and 16 years are too old to be relevant. (see Walker v. State, 116 Nev. 442, 997 P.2d 803 (2000)
20 and Beck v. State, 105 Nev. 910, 784 P.2d 983 (1989) respectively). The Nevada Supreme Court
21 has generally held inadmissible "prior acts that are remote in time." Rosky v. State, 121 Nev. 184,
22 111 P.3d 690 (2005).

23 It is the Defense's contention that prior sexual allegation offers nothing to the State's
24 case. As discussed above, it isn't relevant to show intent or motive or absence of mistake. This is
25 partially due to the age of the alleged act as well as to the fact that Mr. Sena was at most present in
26 the room during the alleged incidents with B.S. and R.S. As the cases cited above demonstrate, the
27 Nevada Supreme Court is extremely wary of bad act evidence and the more remote in time the bad
28

1 act is, the more wary the Nevada Supreme Court is. The State cites many California cases which
2 allow remote incidents to be admitted as evidence, but failed to cite to one Nevada case which
3 allowed such evidence to be deemed admissible.

4 The incidents offered by the State are similar to the crimes charged in the Information only
5 in that they both accuse Mr. Sena of sexual crimes. Those purported similarities are not enough to
6 warrant admission. Add to that the lapse in time of 20 years and it becomes readily apparent that
7 the bad act being offered is not demonstrative of any exception listed in NRS 48.045(2) or NRS
8 48.045(3) and should not be admitted during this trial.

9
10 A. THE STATE HASN'T PROVEN THE ALLEGATIONS BY CLEAR AND
11 CONVINCING EVIDENCE

12 Should the Court decide the acts are relevant to show intent, motive or absence of
13 mistake, there then needs to be an offer of proof by the State to demonstrate clear and convincing
14 evidence exists regarding the alleged bad act. In other words, the Court will need to order a hearing
15 outside the presence of the jury to allow the State to prove the allegations by clear and convincing
16 proof.

17
18 B. THE PROBATIVE VALUE OF THE ACTS ALLEGED TO HAVE HAPPENED
19 IS NOT SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR
20 PREJUDICE

21 Regardless of whether this Court finds the bad act allegations to be relevant in this
22 case, the evidence should be excluded because any probative value of said evidence is not
23 substantially outweighed by the danger of unfair prejudice. Walker v. State, 112 Nev. 819, 921
24 p.2d 923 (1996). The probative value is minimal. The defendant is already charged with multiple
25 offenses multiple victims within the same case. What is the probative value of the additional
26 uncharged acts from 30 years ago? The State has failed to demonstrate the probative value.
27 Conversely, the danger of unfair prejudice is massive. To allow the jury to hear Mr. Sena allegedly
28

1 has been victimizing family members over the last 20 years is tantamount to a conviction on all
2 counts simply because the jury will be outraged.

3 At a minimum, it disparages Mr. Sena's character. At worst, it unfairly suggests to the jury
4 that: If he did something on one occasion, he must have done something in this case. These
5 inferences are impossible to cross examine, and are quite difficult to defend against. Moreover, in
6 terms of defending against the alleged bad acts, the defense may be placed in the unseemly position
7 of having to expend court time and resources rehashing the facts of these other incidents in front of
8 the jury so as to minimize its impact. This is an unnecessary waste of time and money.

9 Simply stated, the prosecution wants to admit the alleged bad acts to suggest to the jury that
10 if Mr. Sena committed an act of sexual assault on one occasion, he must have done so again. This
11 is nothing other than evidence of bad character and it is meant to do exactly what 48.045 is
12 designed to prohibit: suggest that if a person acted one way on one occasion, he must have acted in
13 conformity therewith on another. Simply stated, this is the textbook example of the type of
14 evidence forbidden by 48.045.

15 The defense respectfully requests the State's motion be denied.

17 CONCLUSION

18 The State has failed to demonstrate the relevant grounds for admissibility of the alleged
19 prior bad acts asserted in their motion pursuant to NRS 48.045(2) or NRS 48.045(3). The defense
20 respectfully requests the State's motion be denied.

21 DATED this 1st day of September, 2017.

22 PHILIP J. KOHN
23 CLARK COUNTY PUBLIC DEFENDER

24 By: /s/ Violet R Radosta
25 VIOLET R. RADOSTA, #5747
26 Deputy Public Defender
27
28

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was served via electronic e-filing to the Clark County District Attorney's Office on the 1st day of September, 2017 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

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Steven D. Grierson

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,
11
12 Plaintiff,

13 -vs-

14 **CHRISTOPHER SENA,**
15 **#0779849**

16 Defendant.

CASE NO: **C-15-311453-1**

DEPT NO: **XIX**

17 **ORDER GRANTING STATE'S MOTION IN LIMINE TO PRESENT THE**
18 **COMPLETE STORY OF THE CRIME AND MOTION TO ADMIT**
19 **EVIDENCE OF OTHER SEXUAL OFFENSES AND OR**
20 **EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS**

21 **DATE OF HEARING: SEPTEMBER 25, 2017**
22 **TIME OF HEARING: 11:00 A.M.**

23 **THIS MATTER** having come on for hearing before the above entitled Court on the
24 25TH day of SEPTEMBER, 2017, the Defendant being present, represented by VIOLET
25 RADOSTA, DPD, the Plaintiff being represented by STEVEN B. WOLFSON, District
26 Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and the Court
27 having heard the arguments of counsel and good cause appearing therefor,
28

//

//

//

IT IS HEREBY ORDERED that the STATE'S MOTION IN LIMINE TO PRESENT THE COMPLETE STORY OF THE CRIME AND MOTION TO ADMIT EVIDENCE OF OTHER SEXUAL OFFENSES AND OR EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS is GRANTED with the exception of the photographs depicting sexual conduct with any animals unless defense opens the door by denying he had any knowledge and/or control of the emails/photographs..

DATED this 12th day of October, 2017.

DISTRICT JUDGE

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

BY

JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

hjc/SVU

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OPI
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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-

CHRISTOPHER SENA,
#0779849

Defendant.

CASE NO: C-15-311453-1

DEPT NO: XIX

ORDER FOR PRODUCTION OF INMATE

TERRIE SENA, aka Terrie Lynne Clark, BAC #1141092

DATE OF HEARING: **SEPTEMBER 11, 2017**

TIME OF HEARING: **10:00 A.M.**

TO: CAROLYN MYLES, Warden, Florence McClure Women's Correctional Center;

TO: JOE LOMBARDO, Sheriff of Clark County, Nevada

Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and good cause appearing therefor,

IT IS HEREBY ORDERED that CAROLYN MYLES, Warden of Florence McClure Women's Correctional Center shall be, and is, hereby directed to produce TERRIE SENA, aka Terrie Lynne Clark, in Case Number C-15-311453-1, wherein THE STATE OF NEVADA is the Plaintiff, inasmuch as the said TERRIE SENA, aka Terrie Lynne Clark is currently incarcerated in the Florence McClure Correctional Center located in North Las

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1 Vegas, Nevada, and her presence will be required in Las Vegas, Nevada, commencing on
2 SEPTEMBER 11, 2017, at the hour of 10:00 o'clock A.M., and continuing until completion of
3 the prosecution's case against the said Defendant.

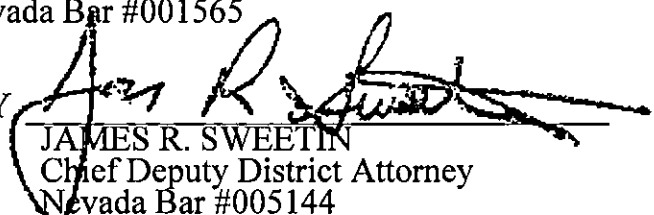
4 **IT IS FURTHER ORDERED** that JOE LOMBARDO, Sheriff of Clark County,
5 Nevada, shall accept and retain custody of the said in the Clark County Detention Center, Las
6 Vegas, Nevada, pending completion of said matter in Clark County, or until the further Order
7 of this Court; or in the alternative shall make all arrangements for the transportation of the said
8 TERRIE SENA, aka Terrie Lynne Clark to and from the Nevada State Prison facility which
9 are necessary to insure the TERRIE SENA, aka Terrie Lynne Clark's appearance in Clark
10 County pending completion of said matter, or until further Order of this Court.

11 DATED this 21st day of August, 2017.

12
13 
14 DISTRICT JUDGE 

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

18 BY


19 JAMES R. SWEETIN
20 Chief Deputy District Attorney
21 Nevada Bar #005144
22
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OPI
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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-

CHRISTOPHER SENA,
#0779849

Defendant.

CASE NO: **C-15-311453-1**

DEPT NO: **XIX**

ORDER FOR PRODUCTION OF INMATE

DEBORAH SENA, BAC #1156686

DATE OF HEARING: SEPTEMBER 11, 2017

TIME OF HEARING: 10:00 A.M.

TO: CAROLYN MYLES, Warden, Florence McClure Women's Correctional Center;

TO: JOE LOMBARDO, Sheriff of Clark County, Nevada

Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and good cause appearing therefor,

IT IS HEREBY ORDERED that CAROLYN MYLES, Warden of Florence McClure Women's Correctional Center shall be, and is, hereby directed to produce DEBORAH SENA, in Case Number C-15-311453-1, wherein THE STATE OF NEVADA is the Plaintiff, inasmuch as the said DEBORAH SENA is currently incarcerated in the Florence McClure Correctional Center located in North Las Vegas, Nevada, and her presence will be required in

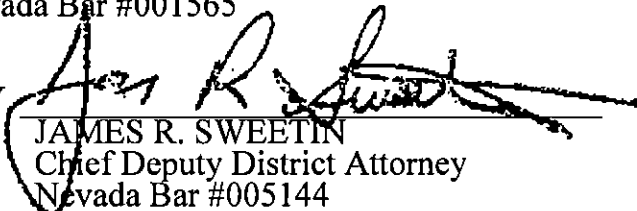
1 Las Vegas, Nevada, commencing on SEPTEMBER 11, 2017, at the hour of 10:00 o'clock
2 A.M., and continuing until completion of the prosecution's case against the said Defendant.

3 **IT IS FURTHER ORDERED** that JOE LOMBARDO, Sheriff of Clark County,
4 Nevada, shall accept and retain custody of the said in the Clark County Detention Center, Las
5 Vegas, Nevada, pending completion of said matter in Clark County, or until the further Order
6 of this Court; or in the alternative shall make all arrangements for the transportation of the said
7 DEBORAH SENA to and from the Nevada State Prison facility which are necessary to insure
8 the DEBORAH SENA's appearance in Clark County pending completion of said matter, or
9 until further Order of this Court.

10 DATED this 25th day of August, 2017.

11
12 
13 DISTRICT JUDGE

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

17 BY 
18 JAMES R. SWEETIN
19 Chief Deputy District Attorney
20 Nevada Bar #005144

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1 **ROC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 THE STATE OF NEVADA,
15
16 Plaintiff,

17 -vs-

18 **CHRISTOPHER SENA,**
19 **#0779849**
20 Defendant.

CASE NO: C-15-311453-1

DEPT NO: XIX

21 **RECEIPT OF COPY**

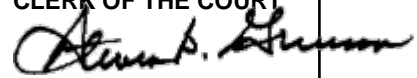
22 RECEIPT OF COPY of the above and foregoing DISCOVERY BATES STAMPED
23 NOS. "1" THROUGH "419" and DIAGRAM OF SENA HOME is hereby acknowledged this
24 23 day of AUGUST, 2017.

25 VIOLET RADOSTA, DPD
26 ATTORNEY FOR DEFENDANT

27 BY

[Signature]
harrolah@clarkcountynv.gov

28 hjc/SVU



PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-15-311453-1
)	
v.	)	DEPT. NO. XIX
)	
CHRISTOPHER SENA,)	
	)	DATE: September 13, 2017
Defendant,	)	TIME: 8:30 a.m. 9:00 am
)	

DEFENDANT'S MOTION TO CONTINUE TRIAL

COMES NOW, the Defendant, CHRISTOPHER SENA, by and through VIOLET R. RADOSTA, Deputy Public Defender and respectfully requests a new trial setting.

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

DATED this 31st day of August, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

1 I declare under penalty of perjury that the foregoing is true and correct. (NRS
2 53.045).

3 EXECUTED this 31st day of August, 2017.

4
5 /s/Violet R. Radosta
6 VIOLET R. RADOSTA
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1 **POINTS & AUTHORITIES**

2 **FACTS**

3 Defendant, CHRISTOPHER SENA, is charged by way of State's Information with over
4 one-hundred and twenty (120) offenses, including CONSPIRACY TO COMMIT SEXUAL
5 ASSAULT (Category B Felony - NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH
6 A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364,
7 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS
8 201.230), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE
9 (Category A Felony - NRS 200.364, 200.), INCEST (Category A Felony - NRS 201.180), OPEN
10 OR GROSS LEWDNESS (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category
11 A Felony - NRS 200.364, 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM
12 FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony -
13 NRS 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION
14 (Category B Felony - NRS 200.508(1)), POSSESSION OF VISUAL PRESENTATION
15 DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,
16 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS
17 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN
18 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750). The
19 Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The crimes allegedly
20 occurred on or between May 22, 2001 and June 30, 2014. The alleged victims are A.S., T.S.,
21 B.S., R.S., E.C., I.G., T.G., and M.C.

22 A preliminary hearing commenced in this matter on August 27, 2015 and was concluded
23 after four separate days of testimony on September 18, 2015. The Justice Court requested
24 written briefs on the bind over argument, eventually heard on December 15, 2015.

25 Mr. Sena pled not guilty to all charges on January 20, 2016. Mr. Sena waived his right to
26 a speedy trial and the jury trial was set for the week of November 14, 2016. The final transcript
27 from the bindover argument was filed with District Court on February 9, 2016.

1 Terrie Sena –

2 Terrie Sena is the mother of A.S., T.S. and R.S. She is also the sister of M.C. and aunt to
3 E.C. and T.G. She was married to Christopher Sena from 1990 to 1997. After her divorce from
4 Mr. Sena, Terrie lived with him and their children at 6012 Yellowstone Avenue. She lived there,
5 off and on, from 1998 to 2014. Mr. Sena's second wife and the mother of B.S., along with B.S.
6 also lived at 6012 Yellowstone during the years of 1998-2014. R.S. was not the biological son
7 of Mr. Sena, despite having the same last name. PHT Vol. I, pp 12-17. Terrie Sena pleaded
8 guilty to one count of Sexual Assault and had already been sentenced to 10 years to life at the
9 time of her testimony. She also agreed to testify truthfully at all subsequent hearings as part of
10 her plea agreement. PHT Vol. I, pp 18-21.

11 Terrie Sena testified that there were 3 separate sexual incidents she participated in with
12 her biological son, R.S. and that all 3 incidents were recorded. She saw the red light on the
13 computer camera was on, so that indicated to her that they were being recorded. She also
14 testified that there were 2 incidents that she participated in with B.S. and that both of those
15 incidents were also recorded to her knowledge. PHT Vol. I, pp 33-47. Terrie Sena testified to
16 multiple other sexual activities she either participated in within the house or watched happen
17 within the house.

18 Terrie Sena testified that Mr. Sena had her bring R.S. to the office on one occasion. She
19 unbuckled R.S.'s pants and performed fellatio. Mr. Sena was in the office while this was
20 occurring. According to Terrie Sena, she then performed fellatio on Mr. Sena. PHT Vol. I, pp
21 33-34. The second incident Terrie Sena testified about occurred in the master bedroom. She
22 took off her own clothes. Mr. Sena 'had her undress R.S.' and then Terrie Sena got on top of
23 R.S. and inserted his penis into her vagina. Mr. Sena then also got on the bed and began having
24 anal sex with Terrie at the same time. After some amount of time, Terrie moved her position and
25 stopped having intercourse with R.S. and just continued having anal intercourse with Mr. Sena
26 while R.S. was still in the room. PHT Vol. I, pp 35-39. The third incident was in the office.
27 Terrie unbuckled R.S.'s pants, engaged in oral sex with him and then laid on her back to have
28

1 sexual intercourse with him. Per Terrie Sena's testimony, Mr. Sena had her get Ryan from the
2 house and bring him back to the office. PHT Vol. I, pp 44.

3 There were 2 incidents of sexual contact with B.S. Per her testimony, Terrie Sena got
4 B.S. from the house and brought him back to the office. She unbuckled his pants, took them off
5 B.S., and took off her own clothes. B.S. touched her breasts because Mr. Sena 'had him' touch
6 her breasts. Terrie then lay on her back and had sexual intercourse with B.S. The second
7 incident also occurred in the office. She unbuckled his pants, performed oral sex and engaged in
8 sexual intercourse with B.S. while lying on her back. B.S. touched her breasts because Mr. Sena
9 made him, per Terrie Sena's testimony. PHT Vol. I, pp 44-48.

10 Terrie also recalled an incident involving A.S. Terrie testified the incident occurred in
11 the living room and Mr. Sena was also present. A.S had taken off her clothes and was leaning
12 over an ottoman while touching Terrie Sena's breasts. Per Terrie Sena, Mr. Sena had her remove
13 her own top. Terrie Sena's testimony was that Mr. Sena was penetrating A.S. It was Terrie's
14 opinion that Mr. Sena was penetrating A.S. anally due to A.S's reaction. While this was
15 allegedly happening, Terrie Sena was sitting near A.S. on the couch facing her. A.S. was 17
16 when that alleged incident occurred. PHT Vol. I, pp 48-52.

17 Terrie Sena also related details of a sexual interaction with herself and Deborah when
18 R.S. and B.S. were both approximately 5 years old. Terrie brought R.S. into the master bedroom
19 at the same time that Deborah brought B.S. into the bedroom. They each took off the pants of
20 the boys and Terrie placed her mouth on the penis of B.S. while Deborah placed her mouth on
21 the penis of R.S. Terrie testified that Mr. Sena made them bring the boys into the bedroom and
22 made them perform oral sex on the boys. PHT Vol. I, pp 52-53. She elaborated on cross that he
23 made her and Deborah perform oral sex by asking them to do it. There was no weapon involved
24 and no threats of physical violence against herself, Deborah or any of the children in order to
25 persuade Terrie to put her mouth on the penis of 5 year old B.S.¹ PHT Vol. I, pp 120-121.

26
27 ¹ There are no charges against Mr. Sena, Terrie Sena or Deborah Sena relating to the allegation of Terrie Sena that
28 she performed fellatio on B.S. when he was 5 years old. The State elicited this testimony of uncharged acts of
Terrie Sena on direct.

1
2 Detective Vincente Ramirez

3 Las Vegas Metropolitan Police Detective Vincente Ramirez testified regarding the
4 forensic review of evidence seized in this case under LMVPD event #1409151583. PHT Vol. I,
5 pp 212.

6 Detective Ramirez reviewed videos and photographs that contained images of individuals
7 that he identified as Christopher Sena, Deborah Sena, Terrie Sena, T.S., B.S. and R.S. as well as
8 other alleged named victims.

9 Video #1 –

10 Showed B.S. and Deborah Sena engaged in sexual acts. PHT Vol. I, pp 218.

11 Video #2 –

12 Detective Vincente Ramirez testified regarding the content of the video. Detective
13 Ramirez described the beginning of this alleged incident. Per the testimony of Detective
14 Ramirez, the video tape showed Deborah Sena fondling her own breasts after she removed her
15 clothes and then performing oral sex on Mr. Sena. The video then showed T.S. entering the
16 frame with Mr. Sena after Mr. Sena left the frame. The video then shows Deborah performing
17 oral sex on T.S., followed by her laying on her back while he inserted his penis into her vagina.
18 Next, T.S. is laying on his back while Deborah is on top of him engaging in sexual intercourse.
19 Per Detective Ramirez's testimony, the video shows Deborah helping T.S. insert his penis into
20 her vagina while he is lying on his back. Finally, Deborah is shown giving T.S. oral sex once
21 again. Mr. Sena is present in the room, and at times, on the bed having sexual intercourse with
22 Deborah while Deborah is engaging the various sexual acts with T.S. PHT Vol. 1, pp. 223-225.
23 Detective Ramirez was unable to testify to the actual words being spoken by anyone in the video.
24 The video ended after T.S. left the room. Mr. Sena was straightening up the bedroom and
25 Deborah was with him. PHT Vol. 1, pp. 225.

1 Video #3 –

2 Detective Ramirez testified that this video showed someone setting up the camera and
3 then the image of a shower and shower curtain can be seen. Allegedly, Mr. Sena and T.S are
4 then visible in the frame. Deborah Sena enters the frame and gets into the shower with T.S. Mr.
5 Sena is then seen walking away from the shower. Both T.S. and Deborah are naked in the scene.

6 Video #4 –

7 Allegedly depicts a young woman in the shower.

8 Video #5 –

9 Allegedly depicts a young woman in the shower

10 Video #6

11 Detective Ramirez testified about video images of this event. He described seeing R.S.
12 and Terrie Sena in the room. Terrie Sena is helping R.S. remove his clothes. She then has him
13 lay on his back on the bed per Detective Ramirez. Next, Terrie removes her own clothes. After
14 removing both R.S.'s clothes and her own clothes, she begins performing oral sex on R.S. While
15 that is happening, Terrie is putting R.S.'s hand on her breast so that he can fondle her breast.
16 During this conduct, Mr. Sena is not in the video frame. After masturbating R.S., Terrie Sena
17 performs oral sex again. Afterwards, she lies on her back, and R.S. then moves towards her as
18 she motions for him to come closer. Terrie then begins having sexual intercourse with R.S.
19 While she is having sexual intercourse with R.S., Terrie Sena is massaging his buttocks. Once
20 again, Mr. Sena is not in the video frame. After Terrie and Ryan switch positions so that Ryan
21 is lying on his back, Mr. Sena enters the frame. Ryan remains on the bed on his back. Terrie
22 Sena then begins to have sexual intercourse on her hands and knees with Mr. Sena. While that is
23 happening, Terrie Sena is performing oral sex on R.S. Detective Ramirez did testify that people
24 are speaking on the video, but he could not testify as to specifically who or what is being said
25 PHT Vol. II, pp. 10-14.

26 Video #7 –

27 Allegedly depicts a woman in the shower identified as T.G.

1 Video #8 –

2 Allegedly depicts a woman in the shower identified as E.C.

3 Detective Ramirez also testified about certain files that had been a video file that had
4 broken up when it when into the unallocated space. The images were of R.S., Terrie Sena and
5 Mr. Sena. There were approximately 4500 to 5000 still images that were the broken down
6 frames from a video. Ramirez testified that on still 1500, Terrie Sena was unbuckling R.S.'s
7 shorts. Still 1640 allegedly showed Terrie Sena's mouth on the penis of R.S. On still 4111,
8 Terrie Sena again appeared to have her mouth on the penis of R.S. Then, on still 4558, it appears
9 that Terrie Sena's mouth is on the penis of Mr. Sena and her hand is on the penis of R.S. PHT
10 Vol. II, pp 18-23.

11
12 E.C.

13 E.C. testified she was 14 years old on the day of her preliminary hearing testimony. Her
14 mother is M.C., another alleged victim in this case. Mr. Sena is E.C.'s uncle through his
15 marriage to Terrie Sena. Terrie Sena is the sister of M.C.

16 E.C. would visit her aunt and cousins, R.S., A.S and T.S. at 6012 Yellowstone. From the
17 ages of 10 or 11 years old until she was 13, she would visit almost every weekend. E.C. testified
18 that when she was 11 years old, Mr. Sena allegedly touched her breasts and vagina. He would
19 allegedly touch her under her clothes. The alleged touching happened in the office sometimes at
20 night and sometimes during the day. PHT Vol. II, pp 51-53.

21 E.C. testified that she was allegedly touched more than one time, but said the touching
22 was always the same. He allegedly used his hands to touch her breasts and her vagina. There
23 was no penetration of her vagina when Mr. Sena allegedly touched her.

24 E.C. went over to the house almost every weekend between the ages of 11-13, except for
25 the period of time for a few years that the two families didn't talk. PHT Vol. II, pp 56-57.

1 E.C. couldn't remember if it happened every weekend she would visit, but also couldn't
2 remember if there was ever a weekend she wasn't allegedly touched. E.C. could not give any
3 details that separate one alleged incident from another. PHT Vol. II, pp 57-58.

4
5 T.S.

6 T.S. testified that he is the biological son of Terrie Sena and Christopher Sena. He was
7 born in 1994, so he was 20 years old on the day he testified. PHT Vol. II, pp 106-107.

8 T.S testified that when he was 14 or 15 there was an incident in the shower with his
9 stepmother Deborah Sena. He testified that after painting the house, he and Deborah got in the
10 shower and started cleaning each other. Deborah got in the shower first. She was naked and was
11 already in the shower when T.S. got into the shower. T.S. testified that Mr. Sena asked T.S. to
12 get in the shower as well. Once in the shower, Deborah gave T.S. a blowjob. T.S. testified that
13 he didn't ask her to do that. He also testified that no one told Deborah to give him a blow job.
14 It was something she did of her own free will. After the blowjob, Deborah bent over at the waist
15 and his penis 'went around her vagina area'. T.S testified that no one told Deborah to bend over.
16 PHT Vol. II, pp 110-114. Specifically regarding Mr. Sena, T.S. testified that he was walking in
17 and out of the bathroom occasionally. He also testified that it was Mr. Sena's idea to put his
18 penis 'around her vaginal area'. PHT Vol. II, pp 110-114.

19 Additionally, T.S. testified that one day he was called into the master bedroom by Mr.
20 Sena. When T.S. arrived, he found Mr. Sena naked. T.S. recalled this incident happened when
21 he was 14 or 15. He removed his clothes when Mr. Sena told him to and then, Deborah Sena
22 walked into the room. She took her clothes off after entering the room. Once T.S entered the
23 room, Deborah Sena didn't say anything. Per T.S.'s testimony, Deborah's 'vaginal area went
24 around [his] penis'. Deborah also performed oral sex on T.S. before the sexual intercourse.
25 When asked if there was another incident of oral sex after the sexual intercourse, T.S. did not
26 recall. PHT Vol. II pp. 115-120.

1 B.S.

2 B.S is the biological son of Deborah Sena and Christopher Sena. He was born August
3 13, 1998, which made him 17 years old on the day of his preliminary hearing testimony. PHT
4 Vol. II pp 147-148.

5 B.S. testified about alleged sexual acts with himself and Terrie Sena that occurred in the
6 back office. He was 14 years old when Terrie Sena allegedly performed oral sex on him. Per his
7 testimony, Mr. Sena was present when this allegedly occurred. Terrie Sena also engaged in
8 sexual intercourse with B.S. on that day. B.S. also testified that he touched her boobs on that
9 day. B.S. recalled that there was a second separate incident when Terrie Sena performed oral
10 sex on him. PHT Vol. II pp 153-159.

11 B.S. also testified about an incident with Deborah Sena. Per his testimony, Mr. Sena
12 dragged B.S. into the master bedroom and had him strip. Deborah Sena was already in the room
13 and she was naked on the bed. B.S lay on the bed and then Deborah Sena got on top of him and
14 inserted his penis into her vagina. Per his testimony, Deborah also performed oral sex on him
15 that day as well. Per his testimony, Deborah was forced to perform fellatio that day, but no
16 further details were testified to regarding how she was forced. PHT Vol. II pp165-168.

17 A.S.

18 A.S. testified her birth date is May 22, 1990. PHT Vol. III, pp 6. She was 25 years old
19 on the day of her testimony and she also testified that she graduated high school in 2008. Her
20 biological mother is Terrie Sena and her biological father is Mr. Sena.

21 According to A.S., the first incident of sexual contact was when she was 11 years old
22 when she was living at 6012 Yellowstone Avenue in Las Vegas. She was in the living room,
23 and Mr. Sena came in and asked her to take her clothes off. A.S. did and then Mr. Sena
24 allegedly started touching her breasts. He also allegedly touched her lower region which A.S.
25 also called her pussy area. He touched her vagina with his hands and rubbed her clitoris. He
26 was allegedly touching her between the lips of her vagina per her testimony. He asked her to get
27 on the bed and then started rubbing his penis against her. Mr. Sena had allegedly unzipped his
28

1 pants and was rubbing his penis against her vagina. A.S. was lying on her back on the bed with
2 her legs hanging over the edge. Mr. Sena allegedly lifted her legs off the bed and penetrated her
3 anus with his penis. Afterwards, Mr. Sena told her to get dressed. PHT Vol. III, pp 12-17.

4 A.S testified that similar conduct happened frequently until 2009 when she was 19 years
5 old. She said it allegedly happened twice a week, almost every week. She turned 19 in 2009
6 when the conduct became less frequent. Between the ages of 11 and 13, A.S. testified that
7 similar conduct occurred in the living room, her room, the master bathroom, master bedroom and
8 the boys' room. PHT Vol. III, pp 17-19. The conduct was similar to the first time, but
9 sometimes he would also rub her boobs. That alleged conduct happened sometimes more than
10 once a week and sometimes less than once a week, but at least once a month. PHT Vol. III, pp
11 21.

12 At the age of 14, the alleged conduct by Mr. Sena changed, per A.S's testimony. She
13 alleged that one day after she turned 14, she was taking a shower and Mr. Sena got into the
14 shower with her. He allegedly touched her breasts and had her 'go up against the wall.' Per her
15 testimony, Mr. Sean allegedly inserted his penis into her vagina that day, taking her virginity.
16 After the first time, the same conduct would happen once every two to three weeks. A.S.
17 testified that vaginal intercourse would occur in the living room, the boys' bedroom, the master
18 bedroom, the bathroom and A.S.'s room. A.S. stated that sometimes there would be anal
19 intercourse when there was vaginal intercourse, sometimes it would only be anal and sometimes
20 it would only be vaginal. No other details were described by A.S. regarding the various
21 incidents of vaginal and anal intercourse. PHT Vol. III, pp 22-25.

22 A.S. also testified about the alleged first incident of her performing oral sex on Mr. Sena.
23 She testified she was 12 years old. No other details were given regarding the first incident of
24 oral sex. A.S. said that oral sex would happen once or twice a month or sometimes not at all in a
25 month until she was 23 years old in 2013. The alleged incidents of oral sex occurred either in the
26 living room or the master bedroom. PHT Vol. III, pp 26.

1 A.S. recalled the last time 'he did anything' to her was in January 2013. She could not
2 recall any details about the last incident. She recalled it was January, 2013 because she knew it
3 was the January before she moved out of the house at 6012 Yellowstone with B.S. and Deborah.
4 PHT Vol. III, pp 27. On cross examination, A.S. realized that she moved out of the house in
5 2014, so she amended her testimony regarding the date of the last alleged incident to January of
6 2014. PHT Vol. III, pp 43.

7 A.S. then testified regarding an incident of anal intercourse when Terrie Sena was
8 present. A.S. was 14 years old, but could not recall the month or the day of the week. A.S.
9 recalled that the incident occurred in the office and the subject turned to sex with Mr. Sena,
10 Terrie and A.S. Mr. Sena got undressed and A.S. got undressed, but Terrie 'became undressed'
11 during the incident per A.S.'s testimony. Terrie Sena gave Mr. Sena oral sex and A.S. watched
12 while that was happening. After the oral sex, Mr. Sena inserted his penis into A.S.'s anus and
13 Terrie watched. A.S. was crying during the alleged incident. After that incident, A.S.'s attitude
14 towards her mother became more hateful. PHT Vol. III, pp 28-32.

15 Finally, A.S. testified regarding an alleged incident between herself and Deborah Sena.
16 A.S. was 17 or 18. It was right before the end of the school year and A.S. was graduating high
17 school. When A.S. arrived home, Mr. Sena was already naked in the living room and then
18 Deborah came into the living room. She was also naked. Per A.S., Mr. Sena wanted the two
19 women to 'play with each other'. A.S. lay down on the floor and Deborah got on top of her.
20 A.S. testified that she played with Deborah's clitoris because she had to. Deborah only touched
21 the outside of A.S.'s vagina. There was no penetration of A.S.'s vagina. Per A.S.'s testimony,
22 he was 'pretty much' telling them what to do. At some point, Mr. Sena inserted his penis into
23 A.S.'s vagina. Then, he allegedly inserted his penis into Deborah's vagina or anus. Deborah
24 was still on top of A.S. while these alleged incidents were occurring. A.S. got out from
25 underneath Deborah at Mr. Sena's request. There was still sexual activity happening between
26 Mr. Sena and Deborah on the floor of the living room. Per her testimony, A.S. then touched her
27 own vagina because Mr. Sena told her to. PHT Vol. III, pp 33-38, 50. The boys got home from
28

1 school approximately one hour after the incident ended. Additionally, Terrie was not home
2 during the alleged incident. PHT Vol. III, pp 48-49.

3 A.S testified that Mr. Sena threatened her over the years that if she told about the abuse
4 she would be sent away or sent to juvie. PHT Vol. III, pp 40.

5 A.S. once again was asked about the frequency of the alleged incidents. She testified
6 that primarily from 11-14 years of age, the sexual contact was anal intercourse. She further
7 testified from 14- 23 years of age it was both anal and vaginal intercourse. She attempted to
8 clarify by stating sometimes the anal intercourse and vaginal intercourse were at the same time,
9 sometimes different times depending on the day. Anal intercourse was always at least once a
10 month, and, without a doubt, at least once a year from the age of 11 to 23. PHT Vol. III, pp 40-
11 41. No additional details about the individual incidents were elicited by the State.

12
13 R.S.

14 R.S. is the biological son of Terrie Sena. R.S. stated that the alleged abuse by Mr. Sena
15 started when he was 12 or 13 years old; when he was in 7th or 8th grade in junior high. PHT Vol.
16 IV, pp 20. He also testified that the alleged abuse stopped for a period of time when he was 15
17 years old. PHT Vol. IV, pp. 36. R.S. testified that he recalled Mr. Sena touching the area of his
18 behind where the poop comes out. R.S. testified that he was touched by Mr. Sena's dick. This
19 happened when he was 12 or 13. He also testified that it allegedly happened in his bedroom
20 when Mr. Sena walked into R.S.'s bedroom and made him take off his clothes. The alleged
21 incident occurred on the floor of the bedroom. PHT Vol. IV, pp. 25-27. R.S. also testified
22 regarding an alleged incident in the living room. He testified regarding the alleged details of Mr.
23 Sena making R.S sit on Mr. Sena's dick while he was sitting on the couch. PHT Vol. IV, pp. 33-
24 35.

25 R.S. recalled 2 separate incidents with his mother Terrie Sena. One incident happened in
26 the office and the other in 'his' room. The first incident R.S testified about was the incident in
27 Mr. Sena's room, apparently 'his' room. R.S. did not remember his age or what grade he was
28

1 attending in school. He did remember he was under the age of 16, though. R.S. went into the
2 room because his mother was in there. Once in there, she began taking off his clothes. Mr. Sena
3 was not in the room when R.S.'s clothes were removed. R.S. got on the bed and then, Terrie
4 Sena removed her clothes. After removing her clothes, she started performing oral sex on R.S.
5 R.S. alleges that then Mr. Sena 'made' Terrie Sena get on her back on the bed, and then makes
6 R.S. get on top of her. Terrie Sena had sexual intercourse with R.S. According to R.S., Mr.
7 Sena makes him get off Terrie Sena. He then lies on the bed and she performs oral sex again on
8 R.S. PHT Vol. IV, pp 41-46.

9 The second alleged incident between Terrie Sena and R.S. occurred in the office. R.S.
10 testified that he came into the room for help with an ingrown toenail. Mr. Sena was the person
11 R.S. was seeking the help from in the office. After arriving in the office and talking with Mr.
12 Sena for a while, Terrie Sena also came into the office. Once in the office, Terrie Sena took off
13 R.S.'s clothes. She also took off her own shirt. She then performed fellatio on R.S. After a
14 while, Terrie Sena started performing oral sex on Mr. Sena at the same time, alternating between
15 R.S. and Mr. Sena. PHT Vol. IV, pp 49-50.

16 Additional witnesses presented by the State were Detective William Kurau, M.C. and
17 T.G.

18 LAW

19 Pursuant to EDCR 7.30(a), any party may, for good cause, move the court for an order
20 continuing the day set for trial of any cause. The Nevada Supreme Court has repeatedly held that
21 "good cause" can take on a variety of forms. See Furbay v. State, 116 Nev. 481, 998 P.2d 553
22 (2000) (trial date continued for good cause do to an unavailable witness); Redman v. State, 108
23 Nev. 227, 828 P.2d 395 (1992) (trial date continued for good cause because defense counsel was
24 not prepared); Snyder v. State, 103 Nev. 275, 738 P.2d 1303 (1987) (trial date continued because
25 defense counsel was in a murder trial).

1 **CONCLUSION**

2 Based on the volume and breadth of the charges that threaten imprisonment for the rest of
3 Mr. Sena's natural life, effectively defending him necessitates continuing his trial. In addition to
4 the undisturbed preparation required for this case, defense counsel's other trial schedule prevents
5 answering ready for this setting.

6
7 DATED this 31st day of August, 2017.

8 PHILIP J. KOHN
9 CLARK COUNTY PUBLIC DEFENDER

10 By: /s/Violet R. Radosta
11 VIOLET R. RADOSTA, #5747
12 Deputy Public Defender
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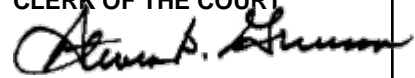
YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 13th day of September, 2017, at ~~8:30 a.m.~~ **9:00 am**.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC FILING

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountydade.com

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OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
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-

**CHRISTOPHER SENA,
#0779849**

Defendant.

CASE NO: **C-15-311453-1**

DEPT NO: **XIX**

STATE'S OPPOSITION TO DEFENDANT'S

MOTION TO CONTINUE TRIAL

DATE OF HEARING: **SEPTEMBER 6, 2017**
TIME OF HEARING: **8:30 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Continue Trial.

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 **PROCERDURAL BACKGROUND RELEVANT TO THIS OPPOSITION**

3 Christopher Sena (hereinafter “Defendant”) was arrested, and an initial criminal
4 complaint was filed, on September 18, 2014. On or about September 22, 2014, the Clark
5 County Public Defender’s Office was appointed to represent Defendant at which time an initial
6 Preliminary Hearing date of October 22, 2014 was set. On October 22, 2014, Deputy Public
7 Defendant Violet Radosta was present before the Justice Court at which time the scheduled
8 Preliminary Hearing was vacated. Ms. Radosta continued to represent Defendant at all future
9 Court appearances. Subsequently, there were four (4) dates set for Preliminary Hearing which
10 were each vacated. On the fifth setting, a Preliminary Hearing was held over the days of
11 August 27 and 28, 2015; September 3 and 18, 2015; and December 15, 2015. As a result of
12 the Preliminary Hearing, Defendant was bound over to stand trial in District Court on the
13 initial information.

14 Defendant’s Initial Arraignment in District Court was on January 20, 2016, at which
15 time Defendant entered a plea of not guilty. The subject case was initially set for trial on
16 November 14, 2016. On October 12, 2016, Defendant moved to continue such trial date which
17 the State opposed. On October 26, 2016, this Court granted Defendant’s Motion to Continue
18 the first trial setting. At that time, this Court discussed the expected length of the subject trial
19 and reviewed its own calendar as well as discussing a new trial date with the parties. After
20 much discussion, this Court set a “Sure Set” trial date of September 11, 2017, almost a year in
21 the future, which was represented to be acceptable to the Court, Defendant, and the State. The
22 Case was set so far in the future to accommodate the parties and the Courts ability to schedule
23 a trial such as this which is expected to be lengthy. This Court noted it was planning on a
24 three (3) week trial after input from the parties.

25 On or about August 30, 2017, Ms. Radosta represented that she had been set to start
26 another trial on September 11, 2017 in District Court 8. Ms. Radosta indicated that this would
27 necessitate the continuance of the subject Sena case. The State was able to determine that on
28 August 23, 2017, District Court 8 set State v. Milewski (C296831) for trial to start on

1 September 11, 2017. Ms. Radosta is defense counsel in the Milewski case. That trial was
2 previously set to start on August 28, 2017, two full weeks prior to the trial date in Sena. The
3 Milewski trial date of August 28, 2017 was initially set on April 15, 2017, almost six (6)
4 months after this Court set a sure set trial date for Sena. It is also noted that when the Milewski
5 trial date was pushed back two weeks on August 23, 2017, to a date on which it would conflict
6 with the “Sure Set” September 11, 2017 trial date this Court had set for the Subject Sena case
7 almost a year before, Ms. Radosta did not notify the Court of this conflict in any way. In fact,
8 the Sena case was never mentioned.

9 Defendant now files the subject Motion to Continue Trial. The State’s Opposition
10 follows.

11 LEGAL ARGUMENT

12 EJDRC 7.30 provides “Any party may, **for good cause**, move the court for an order
13 continuing the day set for trial or any cause. . . .” In the subject case, Defendant moves for a
14 continuance contending that the good cause is, essentially, as follows:

- 15 1. There are a lot of Counts in this case;
- 16 2. There are a lot of complaining witnesses in this case; and
- 17 3. Ms. Radosta is busy with other important cases.

18 The State submits this falls woefully short of a good cause reason to continue the subject trial
19 date.

20 The current “Sure Set” trial date has been outstanding for almost a year. This Court set
21 time aside for the subject trial. The State set time aside for the subject trial. It appears Ms.
22 Radosta has not done the same. In fact, Ms. Radosta’s actions in resetting another trial on top
23 of the subject Sena trial, just weeks before the scheduled Sena trial date, has the effect of
24 unilaterally changing both this Court's and the State's trial calendar without any input from the
25 State or this Court.

26 Upon Ms. Radosta representing to this Court that she was set in another trial set to start
27 the same day as the Sena Case, this Court told her she was to file a Motion to Continue Trial
28 Date if that was her intent. Defendant now files the subject Motion. The State submits it

1 would appear it has been Defendant's intent to vacate this trial date for some time for whatever
2 reason. This should not be a unilateral decision made by Defendant. This Court controls its
3 own calendar. The State sets cases for trial on its calendar and when a case such as this is
4 vacated a substantial hole is created. Finally, the State submits a continuance causes the
5 victims in this case to continue to suffer the anxiety of an upcoming trial they were told was a
6 "Sure Set" date. It causes the State to create more trauma in all of these victims as the date is
7 once again continued and the State must again serve subpoenas for yet another trial date.

8 The State submits the continuance of the subject trial at Defendant's request creates an
9 injustice to this Court, the State, and the victims of Defendant's conduct. Whatever this Court
10 decides in regards to Defendant's Motion to Continue, the State would ask that this Case be
11 given a priority setting which requires that other Courts are made aware of prior to setting
12 another case which might cause defense counsel not to honor the dates set by this Court.

13 CONCLUSION

14 Based upon the above, the State asks that Defendant's Motion to Continue Trial Date
15 be DENIED.

16 DATED this 5th day of September, 2017.

17 Respectfully submitted,

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

20
21 BY /s/ JAMES R. SWEETIN
22 JAMES R. SWEETIN
23 Chief Deputy District Attorney
24 Nevada Bar #005144
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CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 5TH day of
SEPTEMBER, 2017, to:

VIOLET RADOSTA, DPD
harrolah@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

ORIGINAL

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Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 **ROC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 THE STATE OF NEVADA,
15
16 Plaintiff,

17 -vs-

18 **CHRISTOPHER SENA,**
19 **#0779849**
20 Defendant.

CASE NO: C-15-311453-1

DEPT NO: XIX

21 **RECEIPT OF COPY**

22 RECEIPT OF COPY of the above and foregoing LVMPD PROPERTY REPORT and
23 LETTER is hereby acknowledged this 13 day of SEPTEMBER, 2017.

24 VIOLET RADOSTA, DPD
25 ATTORNEY FOR DEFENDANT

26 BY

Kevin P. Mahaae

mcmahaae@ClarkCountyNV.gov

27
28 hjc/SVU

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Steven D. Grierson

1 EXPR
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
5 NEVADA BAR NO. 5747
6 **PUBLIC DEFENDERS OFFICE**
7 309 South Third Street, Suite 226
8 Las Vegas, Nevada 89155
9 Telephone: (702) 455-4685
10 Facsimile: (702) 384-1969
11 radostvr@co.clark.nv.us
12 *Attorneys for Defendant*

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 THE STATE OF NEVADA,)

16 Plaintiff,)

17 v.)

18 CHRISTOPHER SENA,)

19 Defendant,)

CASE NO. C-15-311453-1

DEPT. NO. XIX

20 **EX PARTE ORDER FOR TRANSCRIPT**

21 Upon the ex parte application of the above-named Defendant, CHRISTOPHER SENA,
22 by and through, VIOLET R. RADOSTA, Deputy Public Defender, and good cause appearing
23 therefor,

24 IT IS HEREBY ORDERED that the certified court reporter/recorder someone, prepare at
25 State expense, a transcript of the proceedings for case C-15-311453-1 heard on August 30, 2017
26 and September 25, 2017 in District Court Department for the purpose of trial preparation.

27 DATED this 30th day of October, 2017.

28 *Walt Lynt*
DISTRICT COURT JUDGE *cl*

Submitted by:
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By *Violet R. Radosta*
VIOLET R. RADOSTA, #5747
Deputy Public Defender

1 **CERTIFICATE OF MAILING**

2 The forgoing Ex Parte Order was served by mailing a copy thereof, first class mail,
3 postage prepaid on the 3rd day of November, 2017, to the following:

4 Cristine Erickson
5 District Court #19
6 200 Lewis Avenue
7 Las Vegas, NV 89101

8 
9 An Employee of the
10 CLARK COUNTY PUBLIC DEFENDER'S OFFICE
11
12
13

14 **CERTIFICATE OF ELECTRONIC SERVICE**

15 I hereby certify that service of the above and forgoing Ex Parte Order for Transcript was
16 served via electronic e-filing to the Clark County District Attorney's Office on this 3rd day of
17 November, 2017.

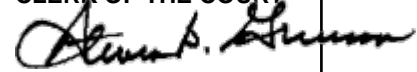
18 District Attorney's Office
19 E-Mail Address:
20 Jennifer.Georges@clarkcountyda.com

21 By: /s/ Annie McMahan
22 An employee of the
23 Clark County Public Defender's Office
24

25 Case Name: State of Nevada vs. Christopher Sena

26 Case No. C-15-311453-1

27 Dept No. XIX
28



MOT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
VIOLET R. RADOSTA, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 5747
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
radostvr@co.clark.nv.us
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-15-311453-1
)	
v.	)	DEPT. NO. XIX
)	
CHRISTOPHER SENA,)	
)	
Defendant,	)	DATE: December 4, 2017
	)	TIME: 8:30 a.m.

MOTION TO SEVER

COMES NOW, the Defendant, CHRISTOPHER SENA, by and through VIOLET R. RADOSTA, Deputy Public Defender and hereby moves this Court sever counts involving A.S. as alleged victim (Counts 2-53), counts involving T.S. as alleged victim (Counts 54-69), counts involving B.S. as alleged victim (Counts 70 - 86), counts involving R.S. as the alleged victim (Counts 87- 106), counts involving E.C. as the alleged victim (Counts 107-116), counts involving T.G. as the alleged victim (Counts 117-119) and counts involving M.C. as the alleged victim (Counts 120 -124) into separate trials. The defense requests 7 distinct and separate jury trials, one for each alleged victim.

/ / / /

/ / / /

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

DATED this 21st day of November, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

By: /s/ Violet R. Radosta
DAVID LOPEZ-NEGRETE, #12027
Deputy Public Defender

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VIOLET R. RADOSTA makes the following declaration:

1. I am an attorney licensed to practice law in the State of Nevada and I am a Deputy Public Defender for the Clark County Public Defender's Office, counsel of record for Defendant CHRISTOPHER SENA, in the present matter;

2. I make this Declaration in support of Mr. Sena's Motion to Sever the current case into separate trials for each of the 7 alleged victims;

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 21st day of November, 2017.

/s/ Violet R. Radosta
VIOLET R. RADOSTA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS**

3 **Procedural History**

4 Defendant, CHRISTOPHER SENA, is charged by way of State's Information
5 with the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony -
6 NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER
7 FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS
8 WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL
9 ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS
10 200.364, 200.), INCEST (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS
11 (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category A Felony - NRS 200.364,
12 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING
13 CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305), CHILD
14 ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS
15 200.508(1)), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
16 CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730), USE OF MINOR IN
17 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750) and
18 USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING PORNOGRAPHY (Category A
19 Felony - NRS 200.700, 200.710.1, 200.750). The Co-Defendant's in this case are DEBORAH
20 SENA and TERRIE SENA. The crimes allegedly occurred on or between May 22, 2001 and
21 June 30, 2014. The alleged victims are A.S., T.S., B.S., R.S., E.C., I.G., T.G., and M.C.

22 Mr. Sena entered a NOT GUILTY plea to all charges on January 20, 2016. Mr. Sena
23 waived his right to a speedy trial and the jury trial was set for the week of November 14, 2016.
24 The Defense filed Petition for Writ of Habeas Corpus on April 4, 2016. The merits of the
25 Petition were argued on October 12, 2016 and the Court ruled on the Petition denied most of the
26 defense's arguments. On October 26, 2016, the defense requested a continuance of the
27 November 14, 2016 trial date and that motion was granted. A new trial date was set for
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1 September 11, 2017.

2 On August 7, 2017, the defense filed a Motion for Discovery. On August 8, 2017, the
3 State filed Notice of witnesses and Expert witnesses. On August 16, 2017, the matter was set for
4 argument on the Motion for Discovery. In the Court's opinion, the defense failed to
5 demonstrate a that they had requested the items delineated in the Motion for Discovery and that
6 they had failed to demonstrate the State had the items and refused to provide them to the defense
7 thereby necessitating a Motion to Compel the State to provide the Discovery. The Court ruled
8 until the Defense demonstrated the State had the items in questions and had failed to provide
9 them to the defense, it would not rule on the Motion for Discovery. The Court took the Motion
10 for Discovery off calendar at that time and stated the Defense was free to re-file it at a later date,
11 if necessary.

12 On August 11, 2017, the Defense filed a motion to dismiss for failure to file the charges
13 involving alleged victim, A.S. before the applicable statute of limitations had run. On August
14 30, 2017, the Court heard oral arguments on the defense motion and denied the motion.

15 The State filed a Motion to Admit Other Crimes or Wrongs under seal. Per Odyssey, the
16 Motion was filed on September 25, 2017.¹ On September 6, 2017, defense requested to
17 continue the September 11, 2017 trial date due to counsel's unavailability because counsel was
18 already in trial on an unrelated matter in District Court VIII. After a brief discussion, the motion
19 to continue was granted a new trial date was set for February 5, 2018.

20 Argument on State's Motion to Admit Other Crimes and/or Wrongs was heard on
21 September 25, 2017. The State was seeking admission of 4 distinct 'other crimes/wrongs'. The
22 Court granted the State's request regarded 3 of the 4 items. On that same day, the Court advised
23 counsel that there was a Court conflict with the February 5, 2018 trial date. A new date of
24 January 16, 2017 was set. While in chambers, defense counsel advised the Court that she
25 already had a 6-victim child sex case set for trial on January 8, 2018, the week prior to January
26 16, 2018. Counsel advised given the number of alleged victims, she expected that trial (State v.

27 ¹ Given the fact that the motion was also argued on September 25, 2017 and the defense filed an Opposition to the
28 Motion on September 1, 2017, it appears the sealed motion was officially filed prior to September 25, 2017.

1 Julio Granados-Elias C-16-319225-1) to last at least 2 weeks. The trial is currently set to start
2 on January 16, 2018, with a calendar call of January 10, 2018.

3 **Description of the Criminal Counts/Criminal Information**

4 Count1 – Conspiracy to commit Sexual Assault listing Terrie Sena and Deborah Sena as
5 the alleged co-conspirators. This count encompasses the conduct alleged in multiple other
6 counts and cites the alleged victims as A.S., T.S., B.S. & R.S.

7 Count 2 through 53 - various crimes concerned alleged victim A.S. There is no
8 corresponding video evidence for these counts.

9 Count 54 through 69 – various crimes concerning alleged victim T.S. It is the defense's
10 understanding that the State is prepared to offer video footage in support of some of these counts.

11 Count 70 through 86 – various crimes concerning alleged victim B.S. Counts 70-78
12 assert Deborah Sena as an alleged co-participant (direct responsibility, conspiracy and aiding and
13 abetting theories are all alleged in the criminal information.) Counts 79-85 allege Terrie Sena as
14 an alleged co-participant (direct responsibility, conspiracy and aiding and abetting theories are
15 all alleged in the criminal information.) It is the defense's understanding that the State is
16 prepared to offer video footage in support of some of these counts.

17 Count 87 through 106 - various crimes concerning alleged victim R.S. Counts 87-94
18 allege Christopher Sena committed various acts of sexual assault against R.S., a minor under 14
19 and/or 16. Counts 95- 103 charge Terrie Sena as an alleged co-participant (direct responsibility,
20 conspiracy and aiding and abetting theories are all alleged in the criminal information.) It is the
21 defense's understanding that the State is prepared to offer video footage in support of some of
22 these counts.

23 Count 107 through 116 – various crimes concerning alleged victim E.C. Counts 107-114
24 & 116 allege Christopher Sena committed various acts of lewdness with a minor under 14
25 against E.C. or possessed visual depiction of E.C.. Count 115 charges Terrie Sena as an alleged
26 co-participant (direct responsibility, conspiracy and aiding and abetting theories are all alleged in
27 the criminal information.) It is the defense's understanding that the State is prepared to offer
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1 video footage in support of some of these counts.

2 Count 117 through 119 – various crimes concerning alleged victim T.G. Count 118
3 Count 115 charges Terrie Sena as an alleged co-participant (direct responsibility, conspiracy and
4 aiding and abetting theories are all alleged in the criminal information.) It is the defense's
5 understanding that the State is prepared to offer video footage in support of some of these counts.

6 Count 120 through 124 – all counts allege Christopher Sena possessed photos or film or
7 some other visual depiction of M.C. in some type of actual or simulated sexual conduct, when
8 M.C. was a minor under the age of 16. It is the defense's understanding that the State is
9 prepared to offer video footage in support of some of these counts.

10 **Factual History**

11 *In light of the voluminous nature of the preliminary hearing transcript, the Defense has*
12 *elected not to attach it as an exhibit. Should the Court require a copy, the Defense will be happy*
13 *to provide one.*

14 **Preliminary Hearing Testimony of Terrie Sena –**

15 Terrie Sena is the mother of A.S., T.S. and R.S. She is also the sister of M.C. and aunt to
16 E.C. and T.G. She was married to Christopher Sena from 1990 to 1997. After her divorce from
17 Mr. Sena, Terrie lived with him and their children at 6012 Yellowstone Avenue. She lived there,
18 off and on, from 1998 to 2014. Mr. Sena's second wife and the mother of B.S., along with B.S.
19 also lived at 6012 Yellowstone during the years of 1998-2014. R.S. was not the biological son
20 of Mr. Sena, despite having the same last name. PHT Vol. I, pp 12-17. Terrie Sena pleaded
21 guilty to one count of Sexual Assault and had already been sentenced to 10 years to life at the
22 time of her testimony. She also agreed to testify truthfully at all subsequent hearings as part of
23 her plea agreement. PHT Vol. I, pp 18-21.

24 Terrie Sena testified that there were 3 separate sexual incidents she participated in with
25 her biological son, R.S. and that all 3 incidents were recorded. She saw the red light on the
26 computer camera was on, so that indicated to her that they were being recorded. She also
27 testified that there were 2 incidents that she participated in with B.S. and that both of those
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1 incidents were also recorded to her knowledge. PHT Vol. I, pp 33-47. Terrie Sena testified to
2 multiple other sexual activities she either participated in within the house or watched happen
3 within the house.

4 There were 2 alleged incidents of sexual contact with B.S. Per her testimony, Terrie
5 Sena got B.S. from the house and brought him back to the office. She unbuckled his pants, took
6 them off B.S., and took off her own clothes. B.S. touched her breasts because Mr. Sena 'had
7 him' touch her breasts. Terrie then lay on her back and had sexual intercourse with B.S. The
8 second incident also occurred in the office. She unbuckled his pants, performed oral sex and
9 engaged in sexual intercourse with B.S. while lying on her back. B.S. touched her breasts
10 because Mr. Sena made him, per Terrie Sena's testimony. PHT Vol. I, pp 44-48.

11 Terrie also recalled an incident involving A.S. Terrie testified the incident occurred in
12 the living room and Mr. Sena was also present. A.S. had taken off her clothes and was leaning
13 over an ottoman while touching Terrie Sena's breasts. Per Terrie Sena, Mr. Sena had her remove
14 her own top. Terrie Sena's testimony was that Mr. Sena was penetrating A.S. While this was
15 allegedly happening, Terrie Sena was sitting near A.S. on the couch facing her. A.S. was 17
16 when that alleged incident occurred. PHT Vol. I, pp 48-52.

17 Terrie Sena also related details of a sexual interaction with herself and Deborah when
18 R.S. and B.S. were both approximately 5 years old. Terrie brought R.S. into the master bedroom
19 at the same time that Deborah brought B.S. into the bedroom. They each took off the pants of
20 the boys and Terrie placed her mouth on the penis of B.S. while Deborah placed her mouth on
21 the penis of R.S. Terrie testified that Mr. Sena made them bring the boys into the bedroom and
22 made them perform oral sex on the boys. PHT Vol. I, pp 52-53. She elaborated on cross that he
23 made her and Deborah perform oral sex by asking them to do it. There was no weapon involved
24 and no threats of physical violence against herself, Deborah or any of the children in order to
25 persuade Terrie to put her mouth on the penis of 5 year old B.S.² PHT Vol. I, pp 120-121.

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27 ² There are no charges against Mr. Sena, Terrie Sena or Deborah Sena relating to the allegation of Terrie Sena that
28 she performed fellatio on B.S. when he was 5 years old. The State elicited this testimony of uncharged acts of
Terrie Sena on direct.

1 **Preliminary Hearing Testimony of M.C.**

2 M.C. is the biological sister of Terrie Sena. She is the youngest of 5 siblings. Terrie is
3 10 years older than M.C. M.C. is also the mother of E.C., another alleged victim in this case.
4 PHT Vol. I, pp. 135-138.

5 M.C. met Mr. Sena when she was 8 years old and she was 34 at the time of her
6 testimony. She spent time with her sister, Terrie and Mr. Sena. She reviewed several photos
7 during the course of her testimony including at least one where she was naked. It was her
8 testimony that her sister, Terrie, was not present when that photo was taken. Per her preliminary
9 hearing testimony, M.C. was approximately 16 years old in the photo and was aware that the
10 photo was taken at the time it was taken. PHT Vol. I, pp. 142-144. There were multiple photos
11 that she reviewed during the preliminary hearing. She testified that Terrie was also present when
12 some of the photos were taken and was aware that the photos were being taken. M.C. also
13 testified that she had previously reviewed the photos about 2 months prior for the purpose of
14 identifying her age in the photos. She was specifically told to look for photos where she was
15 under the age of 16 during that interview. PHT Vol. I, pp. 161-164.

16 **Preliminary Hearing Testimony of Detective William Kurau**

17 Las Vegas Metropolitan Police Department Detective Kurau testified that he assisted in
18 the serving of a search warrant on 6012 Yellowstone Avenue on September 18, 2014. He
19 watched the residence with another detective for several hours prior to SWAT arriving. Once the
20 SWAT team arrived and secured the house and the residents, Detective Kurau searched the
21 residence for the items listed in the search warrant. He impounded several items and had them
22 secured and transported back to his office. PHT Vol. I, pp 191-194.

23 He also testified that he wasn't in charge of the investigation, but the entire juvenile
24 sexual assault unit was involved in the investigation of this case at one point or another. PHT
25 Vol. I, pp 196.

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1 **Preliminary Hearing Testimony of Detective Vincente Ramirez**

2 Las Vegas Metropolitan Police Detective Vincente Ramirez testified regarding the
3 forensic review of evidence seized in this case under LMVPD event #1409151583. PHT Vol. I,
4 pp 212. The defense will only provide a brief summary of the testimony that is pertinent to this
5 motion.

6 Detective Ramirez reviewed videos and photographs that contained images of individuals
7 that he identified as Christopher Sena, Deborah Sena, Terrie Sena, T.S., B.S. and R.S. as well as
8 other alleged named victims not relevant to this writ.

9 Video #1 –

10 Showed B.S. and Deborah Sena engaged in sexual acts. PHT Vol. I, pp 218.

11 Video #2 –

12 Sexual acts involving Deborah and T.S., including fellatio and sexual intercourse.
13 Detective Vincente Ramirez testified regarding the content of the video. Mr. Sena was present
14 during parts of the video and engage in sexual intercourse with Deborah. PHT Vol. 1, pp. 225.

15 Video #3 –

16 Detective Ramirez testified that this video showed someone setting up the camera and
17 then the image of a shower and shower curtain can be seen. Allegedly, Mr. Sena and T.S are
18 then visible in the frame. Deborah Sena enters the frame and gets into the shower with T.S. Mr.
19 Sena is then seen walking away from the shower. Both T.S. and Deborah are naked in the scene.

20 Video #4 –

21 Allegedly depicts a young woman in the shower.

22 Video #5 –

23 Allegedly depicts a young woman in the shower

24 Video #6

25 Detective Ramirez testified about video images of this event. He described sexual acts
26 involving R.S. and Terrie Sena in the room. Mr. Sena is present at times during the sexual acgts
27 of masturbation, fellatio and sexual intercourse between R.S. and Terrie Sena. PHT Vol. II, pp.

1 10-14.

2 Video #7 –

3 Allegedly depicts a woman in the shower identified as T.G.

4 Video #8 –

5 Allegedly depicts a woman in the shower identified as E.C.

6 Detective Ramirez also testified about certain files that had been a video file that had
7 broken up when it when into the unallocated space. The images were of R.S., Terrie Sena and
8 Mr. Sena. There were approximately 4500 to 5000 still images that were the broken down
9 frames from a video. It appears that Terrie Sena had her mouth on the penis of R.S. and MR.
10 Sena. PHT Vol. II, pp 18-23.

11 **Preliminary Hearing Testimony of E.C.**

12 E.C. testified she was 14 years old on the day of her preliminary hearing testimony. Her
13 mother is M.C., another alleged victim in this case. Mr. Sena is E.C.'s uncle through his
14 marriage to Terrie Sena. Terrie Sena is the sister of M.C.

15 E.C. would visit her aunt and cousins, R.S., A.S and T.S. at 6012 Yellowstone. From the
16 ages of 10 or 11 years old until she was 13, she would visit almost every weekend. E.C. testified
17 that when she was 11 years old, Mr. Sena allegedly touched her breasts and vagina. He would
18 allegedly touch her under her clothes. The alleged touching happened in the office sometimes at
19 night and sometimes during the day. PHT Vol. II, pp 51-53. E.C. testified that she was allegedly
20 touched more than one time, but said the touching was always the same.

21 **Preliminary Hearing Testimony of T.G.**

22 T.G. is the niece of Terrie Sena and would spend weekends at her aunt's house at 6012
23 Yellowstone Avenue. These visits began when she was approximately 7 or 8 years old and
24 stopped when she was 15. At the time of her testimony, T.G. was 18 years old. PHT Vol. II pp
25 86-87. When she visited the house, A.S., B.S., T.S., R.S., Terrie Sena and Deborah Sena were
26 all living at the house along with Christopher Sena.

27 / / / /

1 T.G. testified that on one occasion when she was approximately 11 or 12 years old, she
2 and Mr. Sena were going through a bunch of photographs. In those photographs was a photo of
3 her aunt, M.C., performing oral sex on Mr. Sena. They were in the office alone when she saw
4 the photo and there wasn't a conversation about the photograph. T.G. mentioned seeing the
5 photo to M.C. years later. PHT Vol. II pp 89-91, 94.

6 T.G. also recalled that she would take showers while staying at the house. She was
7 shown exhibits during her testimony and identified herself in those photos. She was taking a
8 shower in the photos. PHT Vol. II pp 92.

9 T.G. testified that she would be picked up for the visits by her aunt, Terrie Sena and that
10 sometimes, her cousin, E.C. was also staying at the house. PHT Vol. II pp 95. T.G. recalled that
11 her relationship with Mr. Sena was 'pretty cool' and he one of her favorite uncles. PHT Vol. II
12 pp 100.

13 **Preliminary Hearing Testimony of T.S.**

14 T.S. testified that he is the biological son of Terrie Sena and Christopher Sena. He was
15 born in 1994, so he was 20 years old on the day he testified. PHT Vol. II, pp 106-107. He
16 testified about 2 separate sexual encounters with Deborah Sena. One was in the shower and one
17 was in the master bedroom. He was 14 or 15 years old during each alleged incident. Mr. Sena
18 was purportedly present during both incidents. PHT Vol. II pp. 110-120.

19 The first alleged incident occurred after a day of painting around the house where T.S.
20 and Deborah needed to shower to wash paint off themselves. T.S. was approximately 14 or 15
21 years old. Per T.S., Mr. Sena was present in the bathroom and asked T.S. to get into the shower
22 with Deborah. Deborah was already naked in the shower when T.S. got in. T.S. testified that he
23 and Deborah began to clean each other due to Mr. Sena suggesting it. T.S. recalled that he did
24 not want to get naked and get into the shower with Deborah. PHT Vol. II pp 109-111. While he
25 was in the shower, Deborah performed oral sex on T.S.. She did this on her own without any
26 suggestion from Mr. Sena, although he was present at times during the sex act. PHT Vol. II pp
27 112-113. At some point, Deborah Sena turned around and bent over without being told to do so.

1 At this point, T.S. touched his penis to her vaginal area and it went between her vaginal lips per
2 his testimony. PHT Vol. II pp 114.

3 The second alleged incident began when T.S. was called into the bedroom Mr. Sena and
4 Deborah shared. He was called in by Mr. Sena. Mr. Sena was already naked when T.S entered
5 the bedroom. T.S. then took off his clothes when told to by Mr. Sena. Deborah came into the
6 room shortly thereafter and took off her own clothes without being told to do so. PHT Vol. II pp
7 115-116. There was no conversation between Mr. Sen and Deborah about her removing her
8 clothes or the fact that both he and T.S. were already naked when she entered the room. T.S.
9 then alleged had vaginal intercourse with Deborah while Mr. Sena had anal intercourse with her.
10 Deborah also allegedly performed oral sex on T.S. before the vaginal intercourse. PHT Vol. II
11 pp117-120.

12 T.S. was shown 2 different exhibits and identified himself with Deborah in the shower in
13 one and himself with Deborah in the bedroom in the other exhibit. PHT Vol. II pp 121.

14 **Preliminary Hearing Testimony of B.S.**

15 B.S is the biological son of Deborah Sena and Christopher Sena. He was born August
16 13, 1998, which made him 17 years old on the day of his preliminary hearing testimony. PHT
17 Vol. II pp 147-148.

18 B.S. testified about alleged sexual acts with himself and Terrie Sena that occurred in the
19 back office. He was 14 years old when Terrie Sena allegedly performed oral sex on him. Per his
20 testimony, Mr. Sena was present when this allegedly occurred. Terrie Sena also engaged in
21 sexual intercourse with B.S. on that day. B.S. also testified that he touched her boobs on that
22 day. B.S. recalled that there was a second separate incident when Terrie Sena performed oral
23 sex on him. PHT Vol. II pp 153-159.

24 B.S. also testified about an incident with Deborah Sena. Per his testimony, Mr. Sena
25 dragged B.S. into the master bedroom and had him strip. Deborah Sena was already in the room
26 and she was naked on the bed. B.S lay on the bed and then Deborah Sena got on top of him and
27 inserted his penis into her vagina. Per his testimony, Deborah also performed oral sex on him
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1 that day as well. Per his testimony, Deborah was forced to perform fellatio that day, but no
2 further details were testified to regarding how she was forced. PHT Vol. II pp165-168.

3 B.S. testified that he never told anyone about the alleged abuse because Mr. Sena made
4 death threats. Per B.S.'s testimony, Mr. Sena threatened to kill the family many different things
5 and many different ways if anyone told about the abuse. PHT Vol. II pp 169-170. B.S. also
6 stated that he believed Mr. Sena should be the one punished for the alleged activity in the house.
7 He was more ambivalent about his mother, Deborah, and Terrie receiving punishment for their
8 behavior in the house. PHT Vol. II pp 171-173.

9 **Preliminary Hearing Testimony of A.S.**

10 A.S. testified her birth date is May 22, 1990. PHT Vol. III, pp 6. She was 25 years old
11 on the day of her testimony and she also testified that she graduated high school in 2008. Her
12 biological mother is Terrie Sena and her biological father is Mr. Sena.

13 According to A.S., the first incident of sexual contact was when she was 11 years old
14 when she was living at 6012 Yellowstone Avenue in Las Vegas. She was in the living room,
15 and Mr. Sena came in and asked her to take her clothes off. A.S. did and then Mr. Sena
16 allegedly started touching her breasts. He touched her vagina with his hands and rubbed her
17 clitoris. Mr. Sena allegedly lifted her legs off the bed and penetrated her anus with his penis.
18 Afterwards, Mr. Sena told her to get dressed. PHT Vol. III, pp 12-17.

19 A.S testified that similar conduct happened frequently until 2009 when she was 19 years
20 old. She said it allegedly happened twice a week, almost every week. She turned 19 in 2009
21 when the conduct became less frequent. Between the ages of 11 and 13, A.S. testified that
22 similar conduct occurred in the living room, her room, the master bathroom, master bedroom and
23 the boys' room. PHT Vol. III, pp 17-19.

24 At the age of 14, the alleged conduct by Mr. Sena changed, per A.S.'s testimony. She
25 alleged that one day after she turned 14, she was taking a shower and Mr. Sena got into the
26 shower with her. He allegedly touched her breasts and had her 'go up against the wall.' Per her
27 testimony, Mr. Sean allegedly inserted his penis into her vagina that day, taking her virginity.

1 After the first time, the same conduct would happen once every two to three weeks. A.S.
2 testified that vaginal intercourse would occur in the living room, the boys' bedroom, the master
3 bedroom, the bathroom and A.S.'s room. PHT Vol. III, pp 22-25.

4 A.S. also testified about the alleged first incident of her performing oral sex on Mr. Sena.
5 She testified she was 12 years old. No other details were given regarding the first incident of
6 oral sex. PHT Vol. III, pp 26.

7 A.S. recalled the last time 'he did anything' to her was in January 2013. She could not
8 recall any details about the last incident. She recalled it was January 2013 because she knew it
9 was the January before she moved out of the house at 6012 Yellowstone with B.S. and Deborah.
10 PHT Vol. III, pp 27. On cross examination, A.S. realized that she moved out of the house in
11 2014, so she amended her testimony regarding the date of the last alleged incident to January of
12 2014. PHT Vol. III, pp 43.

13 A.S. then testified regarding an incident of anal intercourse when Terrie Sena was
14 present. A.S. was 14 years old, but could not recall the month or the day of the week. A.S.
15 recalled that the incident occurred in the office. and the subject turned to sex with Mr. Sena,
16 Terrie and A.S. Mr. Sena got undressed and A.S. got undressed, but Terrie 'became undressed'
17 during the incident per A.S.'s testimony. Terrie Sena gave Mr. Sena oral sex and A.S. watched
18 while that was happening. After the oral sex, Mr. Sena inserted his penis into A.S.'s anus and
19 Terrie watched. After that incident, A.S.'s attitude towards her mother became more hateful.
20 PHT Vol. III, pp 28-32.

21 Finally, A.S. testified regarding an alleged incident between herself and Deborah Sena.
22 A.S. was 17 or 18. It was right before the end of the school year and A.S. was graduating high
23 school. When A.S. arrived home, Mr. Sena was already naked in the living room and then
24 Deborah came into the living room. She was also naked. Per A.S., there was sexual contact
25 between herself and Deborah. At some point, Mr. Sena inserted his penis into A.S.'s vagina.
26 Then, he allegedly inserted his penis into Deborah's vagina or anus. PHT Vol. III, pp 33-38, 50.
27 The boys got home from school approximately one hour after the incident ended. Additionally,
28

1 Terrie was not home during the alleged incident. PHT Vol. III, pp 48-49.

2 A.S testified that Mr. Sena threatened her over the years that if she told about the abuse
3 she would be sent away or sent to juvie. PHT Vol. III, pp 40.

4 A.S. testified that when she was 9 years old, she was physically abused by Mr. Sena
5 when he hit her with a pipe. She went to the school nurse because her head was hurting. She
6 said the nurse saw the bruising and called Child Protective Services, who in turn interviewed her
7 at the school about the alleged physical abuse. Per A.S. there was no further contact with any
8 authorities regarding that alleged incident, but she was physically abused for telling. PHT Vol.
9 III, pp. 111-113.

10 A.S. also testified that Mr. Sena had friends who were LMVPD officers and those friends
11 would come over to the house regularly. She testified that Mr. Sena threatened her if she ever
12 told his LVMPD friends about the abuse. She specifically recalled such a conversation when she
13 was 14 years old. PHT Vol III, pp. 115-116. One of the officers A.S. remembered coming to the
14 house was Officer Brinkley and his wife. PHT Vol III pp. 117.

15 A.S. testified that she worked at the Albertson's located at Sloan and Charleston for
16 almost 2 years. She stated that Mr. Sena had friends that worked at the store who spied on her
17 for him. One of the individuals was Ms. Christine who worked security. According to A.S.,
18 Ms. Christine would report to Mr. Sena. There was also another 'friend' of Mr. Sena's named
19 Shawn. It is unclear from her testimony if Shawn worked at the Albertson's or just shopped
20 there, but A.S. believed he was spying on her for Mr. Sena. A.S. did not know Shawn's name.
21 She testified that whenever she saw Shawn in the store he was speaking with Mr. Sena on the
22 phone and made sure she knew it. PHT Vol III pp. 118-120.

23 A.S. testified that she had many boyfriends that Mr. Sena scared away over the years by
24 'terrorizing' them. However, A.S. stated that her boyfriend Kristoff/Christoff figured out that
25 she had been raped. A.S. did not provide Kristoff's last name when asked for it on cross because
26 it was a long name and hard to pronounce. She testified that he asked her if she was a rape
27 victim at some point and she declined to answer. She testified that he did not accuse Mr. Sena,
28

1 Deborah, or Terrie of sexually abusing her. PHT Vol III pp. 122-123.

2 The first person A.S. told about the alleged abuse who was outside the family was Aunt
3 Barbara, who is Deborah's stepsister. A.S. testified on cross that she did not know Aunt
4 Barbara's last name and that she lived somewhere in Maryland. It is unclear from the testimony
5 of A.S. if she ever spoke to Aunt Barbara about the alleged abuse or if Deborah spoke to Aunt
6 Barbara. It was a phone conversation. PHT Vol III pp. 124-125.

7 Per her testimony, the first person A.S. told of the allegations was Richard Tuchman. No
8 further information was provided during the preliminary hearing about Mr. Tuchman. PHT Vol
9 III pp. 124-125.

10 A.S. related that she was audio and video interviewed by LVMPD detectives/officers on
11 two separate occasions. There was one interview conducted by Detective Samples on September
12 15, 2014. A.S. clearly remembered a separate interview that was audio and video recorded on
13 the she, Deborah and B.S. all went to the LVMPD substation to report the alleged abuse. PHT
14 Vol. 111, pp126-127. A.S. stated there was approximately a two week span between the 2
15 interviews. She also related that she was called by Detective Samples on a third occasion to
16 come to his office to review photos and videos. PHT Vol. III 134-135.

17 A.S. also reviewed the video footage in the case with employees of the District attorney's
18 office prior to Deborah Sena's preliminary hearing. She specifically testified that Mr. Sweetin
19 and Ms. Holthus were present for this interview. PHT Vol. III, pp. 136.

20 A.S. recalled receiving one on one therapy when she, B.S. and Deborah when to
21 Safehouse (as she called it during testimony). Her therapist's name was Felicia and she had
22 weekly sessions. After leaving SafeNest, A.S. testified she continued her therapy regarding the
23 alleged abuse. This therapist was affiliated with SafeNest and her name is Lorene. At the time
24 of the preliminary hearing, A.S. had been attending weekly therapy sessions regarding the
25 alleged abuse for approximately 15 months. PHT Vol. III 128-130.

26 A.S. stated that at one point in time there were sexual photos on her phone of herself and
27 Mr. Sena. She testified that she no longer had the phone and that she had thrown the phone out
28

1 after deleting the photos. She testified that every time she and Mr. Sena had sexual intercourse,
2 the phone would be used to take photos. A.S. routinely deleted those photos from the phone
3 because her brothers would use her phone at times. Even though the photos were deleted, the
4 date from the old LG phone transferred to her subsequent phone and to the phone she had with
5 her in court on the day of the preliminary hearing. PHT Vol. III 142- 143.

6 A.S. revealed that she had prepared some documents for Detective Samples to aid in the
7 investigation. Specifically, she drew a map of the house either just prior or during her interview
8 with Detective Samples, which he kept. She apparently drew a second map prior to Deborah's
9 preliminary hearing. It is unclear if anyone kept that document. PHT Vol III, pp. 145.

10 There were friends of A.S. that would come over to her house when Mr. Sena was home.
11 Per her testimony these friends all got a bad vibe from Mr. Sena when they spent time at 6012
12 Yellowstone Avenue. One of the girls named Jennifer flashed Mr. Sena on one occasion. The
13 name provided of that individual was Jennifer Schunke. The other girls were Desiree Lemons,
14 Blanca (LNU) and Amanda (LNU). PHT Vol. III, pp 145- 146.

15 A.S. testified that Deborah first revealed the allegations of sexual abuse in the home
16 when she was consulting with an attorney for a possible divorce. They had left the residence on
17 June 12, 2014, but had not reported the allegations of physical and sexual abuse until September
18 2014. At some time after the meeting with the divorce attorney, Deborah reported the
19 allegations to LVMPD. A.S. also testified that she decided to report the allegations to the police
20 because there were some incidents involving Deborah's Facebook account. A.S. believed that
21 Mr. Sena hacked into Deborah's Facebook account apparently to post fake updates. Per A.S, the
22 hacking of Deborah's Facebook account was reported to Facebook. There was also an
23 allegation that Mr. Sena sent sexual videos to Deborah's workplace via email in an effort to get
24 her fired. PHT Vol. III, pp. 82-86.

25 A.S. also alleged during the preliminary hearing that Mr. Sena stole Deborah's truck at
26 some point prior to the sexual abuse report to LVMPD. She stated they filed a police report
27 regarding the stolen truck but were told nothing could be done because Deborah and Mr. Sena
28

1 were still married. PHT Vol. III, pp. 83-84.

2 A.S. received emails and voicemails from Mr. Sena in the days after she, Deborh and
3 Brandon left the house on June 12, 2014. A.S. testified one email revealed that Terrie and R.S.
4 had also left the house. She also received at least one voicemail and possible more from Mr.
5 Sena. In one voicemail, Mr. Sena apparently threatened to commit suicide. PHT Vol. III, pp.
6 75-77.

7 **Preliminary Hearing Testimony of R.S.**

8 R.S. is the biological son of Terrie Sena. R.S. stated that the alleged abuse by Mr. Sena
9 started when he was 12 or 13 years old; when he was in 7th or 8th grade in junior high. PHT Vol.
10 IV, pp 20. He also testified that the alleged abuse stopped for a period of time when he was 15
11 years old. PHT Vol. IV, pp. 36. R.S. testified that he recalled Mr. Sena touching the area of his
12 behind where the poop comes out. R.S. testified that he was touched by Mr. Sena's dick. This
13 happened when he was 12 or 13. He also testified that it allegedly happened in his bedroom
14 when Mr. Sena walked into R.S.'s bedroom and made him take off his clothes. The alleged
15 incident occurred on the floor of the bedroom. PHT Vol. IV, pp. 25-27. R.S. also testified
16 regarding an alleged incident in the living room. He testified regarding the alleged details of Mr.
17 Sena making R.S sit on Mr. Sena's dick while he was sitting on the couch. PHT Vol. IV, pp. 33-
18 35.

19 R.S. recalled 2 separate incidents with his mother Terrie Sena. One incident happened in
20 the office and the other in 'his' room. The first incident R.S testified about was the incident in
21 Mr. Sena's room, apparently 'his' room. R.S. did not remember his age or what grade he was
22 attending in school. He did remember he was under the age of 16, though. R.S. went into the
23 room because his mother was in there. Once in there, she began taking off his clothes. Mr. Sena
24 was not in the room when R.S.'s clothes were removed. R.S. got on the bed and then, Terrie
25 Sena removed her clothes. After removing her clothes, she started performing oral sex on R.S.
26 R.S alleges that then Mr. Sena 'made' Terrie Sena get on her back on the bed, and then makes
27 R.S. get on top of her. Terrie Sena had sexual intercourse with R.S. According to R.S., Mr.
28

1 Sena made him get off Terrie Sena. He then laid on the bed and she performed oral sex again on
2 R.S. PHT Vol. IV, pp 41-46.

3 The second alleged incident between Terrie Sena and R.S. occurred in the office. R.S.
4 testified that he came into the room for help with an ingrown toenail. Mr. Sena was the person
5 R.S. was seeking the help from in the office. After arriving in the office and talking with Mr.
6 Sena for a while, Terrie Sena also came into the office. Once in the office, Terrie Sena took off
7 R.S.'s clothes. She also took off her own shirt. She then performed fellatio on R.S. After a
8 while, Terrie Sena started performing oral sex on Mr. Sena at the same time, alternating between
9 R.S. and Mr. Sena. PHT Vol. IV, pp 49-50.

10 R.S. identified 2 exhibits shown to him during the preliminary hearing. He identified
11 one as a photo of himself and his mother, Terrie in the office and the other of himself and his
12 mother, Terrie in the bedroom. PHT Vol. IV, pp 47-48.

13 This Motion to Sever the allegations for each alleged victim into separate trials follows.

14 **ARGUMENT**

15 NRS 173.115 provides that:

16 Two or more offenses may be charged in the same indictment or information in a
17 separate count for each offense if the offenses charged, whether felonies or
misdemeanors or both, are:

- 18 1. Based on the same act or transaction; or
- 19 2. Based on two or more acts or transactions connected together or constituting
20 parts of a common scheme or plan.

21 NRS 174.165(1) provides that:

22 If it appears that a defendant or the State of Nevada is prejudiced by a joinder of
23 offenses or of defendants in an indictment or information, or by such joinder
24 for trial together, the court may order an election or separate trials of counts,
25 grant a severance of defendants or provide whatever other relief justice requires.

26 / / / /

27 / / / /

1 **None of the alleged victims were part of the same act or transaction, so they should**
2 **be severed from each other and into 7 independent trials.**

3 First of all, the alleged incidents involving A.S., B.S., R.S., T.S., E.C., M.C. & T.G.
4 clearly are NOT based on the same act or transaction. The alleged incidents involve different
5 victims and occurred at different locations and at completely different points in time. None of
6 the alleged victims have claimed any of the other alleged victims were present during other
7 alleged incidents. Clearly, the incidents are not “based on the same act or transaction”. The
8 Court should sever the 124 counts into 7 independent trials, one for each alleged victim.

9
10 **I. The remaining counts which charge Mr. Sena with distinct crimes against**
11 **A.S., B.S., T.S., R.S., M.C., E.C. & T.G. individually are not part of a**
12 **common scheme or plan and should be severed into 7 separate trials.**

13 Joinder is also proper, pursuant to NRS 173.115(2) when two or more acts are “connected
14 together” or “are part of a common scheme or plan.” In Richmond v. State, 118 Nev. 924 (2002)
15 the court addressed what is meant by a common plan or scheme:

16 Next, the common plan exception is inapplicable here, as this exception requires
17 that “each crime should be an integral part of an overarching plan explicitly
18 conceived and executed by the defendant.” Indeed, this court has stated, “**The test**
19 **is not whether the other offense has certain elements in common with the**
20 **crime charged, but whether it tends to establish a preconceived plan which**
21 **resulted in the commission of that crime.”** We have held that a sexual assault at
22 the same location and perpetrated in the same manner a month before the sexual
23 assault at issue was inadmissible because it did not establish a common plan.
24 [citing Mitchell v. State, 105 Nev. 735, 738 (1989)]. Here, Richmond appeared
25 simply to drift from one location to another, taking advantage of whichever
26 potential victims came his way. His crimes were not part of a single overarching
27 plan, but independent crimes, which Richmond did not plan until each victim was
28 within reach. *Id.* at 933-934. (emphasis added).

29 In Mitchell, *supra* at 738, the court held that it was error for the defendant to go to trial
30 on four criminal counts--grand larceny and sexual assault of one victim, and sexual assault and
31 murder of a different victim. “Being 45 days apart, these separate incidents cannot be considered
32 part of the same transaction. Nor can taking two different women dancing and later attempting
33

1 intercourse be considered part of a common plan just because the women are taken in part to the
2 same bar.” *Id.*

3 Specifically, the Nevada Supreme Court has addressed the issue of whether counts
4 involving different victims constituted a common scheme or plan and whether those counts
5 should be joined into one trial. In Weber v. State, 121 Nev. 554, 119 P. 3d 107 (2005), Weber
6 was accused of committing crimes against five victims, including sexual abuse of one victim,
7 murder of two other victims, and 10 days after the murder, an attack on two more victims.

8
9 Determining whether a common scheme or plan existed in this, or any, case
10 requires fact-specific analysis. And such analysis depends on the meaning of
11 the pertinent statutory language "scheme or plan." According to Black's Law
12 Dictionary, a scheme is a "design or plan formed to accomplish some purpose;
13 a system." A plan is "a method of design or action, procedure, or arrangement
14 for accomplishment of a particular act or object. Method of putting into effect
15 an intention or proposal." We conclude that these definitions pertain to
16 "scheme or plan" as used in NRS 173.115(2). Thus, purposeful design is
17 central to a scheme or plan, though this does not mean that every scheme or
18 plan must exhibit rigid consistency or coherency. *Id.*, at 572.
19 (Emphasis added).

20 The Court ultimately held the three groups of crimes did NOT constitute a common
21 scheme or plan.

22 In Tabish v. State, 119 Nev. 293, 72 P.3d 584 (2003) the Court also addressed this issue
23 and once again found there was no common scheme or plan between counts involving different
24 victims. The State contended that the charges were properly joined pursuant to [NRS 173.115](#)
25 because they were part of a common scheme or plan. The State claimed in particular that the
26 common thread of all these criminal acts was greed, money and the Jean Sand Pit. “The focus of
27 all these crimes revolved around the Jean Sand Pit. Leo Casey had to be eliminated so that
28 Tabish could obtain the sand pit. Ted Binion had to be murdered in order to obtain his silver and
fund the Jean Sand Pit.” The Nevada Supreme Court agreed with the defense that money and
greed could be alleged as connections between a great many crimes and thus did not alone
sufficiently connect the incidents. . . . In the end, the Nevada Supreme Court was “not persuaded

1 that the State sufficiently established the alleged connection between the counts to demonstrate a
2 common scheme or plan.”

3 Here, it is clear that there was no common scheme or plan of the assailant to sexually
4 touch these victims. Some of the alleged victims were never touched at all. Others were
5 allegedly touched while Deborah was in the room and Deborah was the one committed the
6 sexual acts while Mr. Sena was merely inside the room. Others were allegedly touched by
7 Deborah, but you can hear a voice purportedly of Mr. Sena. On still other alleged victims,
8 Deborah is not involved, but Terrie Sena is the one allegedly committing the sexual acts. M.C.
9 and T.G. were never touched sexually, but were either photographed or videotaped either with
10 (M.C.) or allegedly without (T.G) her knowledge. A.S. alleges multiple incidents involving just
11 her and Mr. Sena, one with Mr. Sena and her mother, Terrie and one Deborah, while Mr. Sena
12 was present. None of those allegations were videotaped. In contrast, T.S.’s alleged incidents
13 with Deborah were both videotaped. R.S., on the other hand, was videotaped allegedly with his
14 mother Terrie on 2 separate occasions when Mr. Sena was present. R.S. also alleges that there
15 were additional incidents of alleged sexual assault committed by Mr. Sena, which were not
16 videotaped and no one else was present. Finally, B.S. recalled 2 alleged incidents, one with
17 Deborah and one with Terrie, both of which were allegedly videotaped. In other words, while
18 there is similarity in the allegations in the sexual nature of the charges and that there were
19 alleged incidents between members of the family, the details of the incidents are distinct from
20 each other.

21 As in Richmond, Mitchell, Weber and Tabish, there is nothing similar between the
22 incidents other than the fact the allegations are sexual in nature. The individual details of the
23 alleged acts are distinct. First of all and most obviously, there is a huge difference between the
24 alleged victim being the biological daughter or son of the defendant and any other alleged victim,
25 even a biological niece. There is a stigma to any type of child sexual assault case, but there is no
26 doubt that the most unimaginable accusation and allegation in the mind of the jury is one
27 involving a biological child of the accused. That fact alone is enough to demonstrate that the
28

1 charges listing A.S., T.S. or B.S. as the alleged victim should be severed from the remaining
2 counts. Second of all, there is purported video of alleged incidents of sexual acts with T.S, B.S.
3 and R.S., but the charges listing T.G. and M.C. are not sexual ‘acts’ but rather related to
4 possession of photos or videos of them. Third, A.S. states that the first alleged incident occurred
5 when she was 11 years old and continued until she was into her 20s. She alleges that the conduct
6 began with touching and eventually moved to anal intercourse and then to vaginal intercourse
7 over a period of years. In contrast, B.S. and T.S. both allege that either Deborah or Terrie was
8 the one who performed the sexual acts on them, not Mr. Sena. While the State’s theory is that
9 he was the ‘mastermind’, in the opinion of the defense, there is a marked difference in telling
10 another adult to allegedly commit an act of sexual assault against a minor and doing it yourself.
11 While the defense is well aware the law does not make the distinction, it is certainly possible that
12 a jury will see a difference.

13 Finally, there is absolutely nothing that shows Mr. Sena had an ‘overarching plan’ to
14 sexually assault and/or photograph and/or videotape and/or tell others to commit sexual crimes
15 against these 7 alleged victims. There needs to be a “purposeful design central to a scheme” in
16 order to for the crimes to be joined. Weber, at 572. While there is no doubt the State will be
17 able to point to commonalities between the allegations, ‘the existence of a common scheme or
18 plan does not turn on commonalties among offenses, but on whether those offense tend to
19 establish a preconceived plan.’. Richmond, at 933. When the details of the incidents are
20 thoroughly examined, it becomes obvious that there was no purposeful design.

21 This case is also analogous to Mitchell and Richmond, where the crimes against the
22 victims were similar, yet were not part of a common plan or scheme. Here, there is little
23 connection between the crimes other than the familial relationship and no evidence that shows
24 that the defendant did one set of crimes against a particular victim as part of a plan to do another
25 set of crimes against another victim. The fact that the type of crime is the same is not sufficient
26 under Nevada law, to constitute a common plan or scheme.

1 In light of the fact that these incidents are clearly not part of a common scheme or plan,
2 severance of counts naming A.S., T.S., B.S., R.S., E.C., T.G., & M.C. into 7 independent and
3 distinct trials should be granted.

4
5 **II. The allegations are not “connected together” and should be severed into 7**
6 **separate trials.**

7 In Weber, the Nevada Supreme Court also specifically addressed the “connected
8 together” language of NRS 173.115. In that case, the Court held that in order for two charged
9 crimes to be “connected together”; a court must determine that evidence of either crime would be
10 admissible in a separate trial regarding the other crime. In other words, the crimes would have to
11 be cross admissible in order for the crimes to be “connected together” pursuant to NRS
12 173.115(2). Of all of the purposes for bad act evidence outlined in NRS 48.045(2), none are
13 applicable to this case. The defense has already addressed “common scheme or plan” earlier in
14 this motion. Additionally, identity is not an issue in this case as all alleged victims have clearly
15 identified Mr. Sena as the assailant. The defense’s request for severance of the incidents should
16 be granted.

17 *It is also worth noting that a recent unpublished decision by the Nevada Supreme Court*
18 *reversed convictions involving 2 separate victims of lewdness with child/sexual assault of a*
19 *minor based on a court’s failure to sever the victims’ allegations into separate trials. The*
20 *Nevada Supreme Court ruled the failure to grant the defense’s motion to sever was reversible*
21 *error. The case was remanded for 2 separate trials for the 2 independent alleged victims.*
22 *(Fortino Sanchez v. State, Adv. Opinion 60582). While there was a time gap of 10 years*
23 *between the allegations in that case, the accusations came at the same time and the alleged*
24 *victims were biologically related much like the facts of this case.*

25 / / / /

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1 **III. Judicial economy does not outweigh the prejudicial effect of consolidation of the**
2 **two cases**

3 "The test is whether joinder is so manifestly prejudicial that it outweighs the dominant
4 concern with judicial economy and compels the exercise of the court's discretion to sever."
5 Tabish, quoting Honeycutt v. State, 118 Nev. 660, 56 P.3d 362 (2002). First, the court must look
6 at the benefit of judicial economy. Here any benefit is negligible. The victims are different in
7 each case. There may be overlap, but any burden of calling law enforcement witnesses is
8 minimal, since testifying is part of their job duties. It would not put an undue burden on the State
9 to try these counts in different trials. Sexual assault trials are held every day in this jurisdiction
10 and these would be no more of a burden than any other sexual assault trial. There is always the
11 likelihood that both trials would never come to fruition, either because of possible plea bargains,
12 or from the State securing enough convictions in one to be satisfied that justice was served.

13 (Each count of Sexual Assault with Minor carries a life sentence with parole eligibility
14 after a minimum of 35 (thirty five) years in prison has been served.)

15 While the benefits of judicial economy are negligible, the prejudice to the defendant is
16 monumental. As to the type of prejudice that can result from joinder of charges, the "first kind
17 of prejudice results when the jury considers a person facing multiple charges to be a bad man and
18 tends to accumulate evidence against him until it finds him guilty of something. The second type
19 of prejudice manifests itself when proof of guilt on the first count in an Information is used to
20 convict the defendant of a second count even though proof would be inadmissible at a separate
21 trial on the second count. The third kind of prejudice occurs when the defendant wishes to
22 testify on his own behalf on one charge but not on another." Floyd v. State, 118 Nev. 156, 42
23 P.3d 249, citing State v. Campbell, 189 Mont. 107 (Mont. 1980).

24 To allow these charges to be tried together would in fact tip the balance in favor of
25 conviction. This is a violation of the defendant's right to Due Process. Allowing these charges
26 to be tried together would insure that he could not in any way have a fair trial. The prejudice is
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1 too great, greater than in the Tabish case, where the Supreme Court reversed two murder
2 convictions on this very issue.

3 Here there is no doubt, hearing more than one victim testify, with their very emotional
4 testimony, is highly prejudicial to the defendant. Additionally, one of the alleged victims, Mr.
5 Sena's biological daughter, was approximately 11 years old at the time of the alleged offense.
6 As the Court is well aware, child sex crimes are prejudicial by their very nature. The public is
7 far from open-minded regarding such accusations. In essence, to be accused of a child sex crime
8 is to be considered the lowest of the low. In the mind of the public, the only person lower than
9 someone accused of a child sex crime is someone accused of molesting their own child who is a
10 very young child. Once the jury hears one of the alleged victims is so young, there is an
11 inescapable shock factor that can't easily be dealt with. Even if a jury might have doubts about
12 the counts alleging any other victims, the potential distaste they would feel after hearing that Mr.
13 Sena is merely accused of molesting his own daughter will cause them to convict him of all
14 counts regardless of the evidence presented. (Once again, the defense requests the Court review
15 the recent unpublished decision of Fortino Sanchez v. State on the point of prejudice to the
16 defense).

17 Furthermore, there are allegations in this case which the State will be seeking admission
18 of videotaped evidence to help prove their case. But, not all the counts and not all the alleged
19 victims will be aided by the potential admission of video footage. Specifically, the State's case
20 in support of the charges involving A.S. (who is the named victim in 52 counts) will consist
21 solely of her testimony for the most part. So, the jury will be asked to evaluate her credibility as
22 they see it during her testimony. Conversely, the State will offer video footage to support the
23 testimony of B.S., T.S. and some of R.S.'s allegations. Should the jury have issues with the
24 credibility of B.S., T.S. and/or R.S., such concerns may be overridden by the additional
25 evidence. It is not unreasonable to opine that any issues with the credibility of A.S. could be
26 aided by evidence unrelated to her allegations if the Court declines to grant this Motion to Sever.
27 Should the jury question details and/or credibility in the testimony presented by A.S., the mere
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fact that there is video footage regarding allegations made by B.S. or T.S. or R.S. could substantially affect the jury's deliberation on the 52 counts regarding A.S.. The Court should grant the Motion to Sever and allow each alleged victim's credibility to be judged independently of other allegations and to avoid a miscarriage of justice.

The State may argue that they could remedy any prejudice with a limiting instruction. However, such an instruction is meaningless where the prejudicial nature of the charges just simply overwhelms any benefit of the instruction. The court addressed this very issue in Tabish:

In this case, the district court instructed the jury that it was not allowed to consider evidence from the Casey counts in determining Murphy's guilt as to the counts alleged against her. Murphy argues that this limiting instruction was inadequate, partly because the evidence in the Casey counts was so "graphic." Moreover, Murphy contends, the State "guaranteed that the jury would consider the Casey matter in determining whether the Binion crimes were committed" by emphasizing in its closing arguments its view of the similarities between the Casey incident and the separate allegations in the other counts against both appellants.

In light of the graphic nature of the Casey evidence, coupled with the State's closing argument, we are unable to conclude beyond a reasonable doubt that the limiting instruction was sufficient to mitigate the prejudicial impact of the joinder on the jury's consideration of appellants' guilt on the remaining counts. The erroneous joinder was especially prejudicial in Murphy's case, although it was manifestly prejudicial to Tabish's trial on the other counts as well.

Additionally, the limiting instruction was inadequate to prevent the improper "**spillover**" effect of inappropriate joinder. In Bean v. Calderon, [163 F.3d 1073, 1083 (9th Cir. 1998)] the prosecution joined counts alleging two separate murders. The Ninth Circuit Court of Appeals reversed one of the murder convictions because the consolidation of cases led the jury to infer criminal propensity. **In other words, there was an unacceptable risk that the jury found the defendant guilty of the second murder simply because it thought he was a bad person for having committed the first murder.** In Bean, this impermissible inference allowed the jury to convict on the prosecution's weak case for one of the murders by relying on the stronger evidence of the other murder. Similarly, here the State's weaker case on the Binion counts was bolstered by combining it with the stronger case against Tabish on the Casey counts. Thus, the prejudice in this case constitutes the same type of due process violation that was found in Bean.

1 Here, as in Tabish, a limiting instruction would not overcome the prejudice to the
2 defendant and would allow the jury to convict him based on criminal propensity. Moreover, the
3 added element of some charges potentially supported by video evidence while others are simply
4 delayed accusations without any further evidentiary support such as medical testimony, DNA
5 evidence or even prior consistent statements of the accuser creates a higher likelihood of the
6 “spillover” effect taking hold, because the jury will dislike him for the accusations involving any
7 purported videotaped evidence. This is exactly the type of situation the Nevada Supreme Court
8 warned about when they spoke about the ‘spillover’ effect in Tabish. The potential for undue
9 prejudice is extremely high in this case and the defense respectfully requests the motion for
10 severance be granted.

11 CONCLUSION

12 It would be a violation of the defendant’s United States Constitutional right of due
13 process for 3 separate victims to be tried in one trial. The prejudice Christopher Sena would
14 endure because the facts are not sufficiently connected together, are not cross-admissible and are
15 not part of a common scheme or plan require this Court grant the defense Motion to Sever.

16 Specifically, the defense is moving and requesting Court sever counts involving A.S. as
17 alleged victim (Counts 2-53), counts involving T.S. as alleged victim (Counts 54-69), counts
18 involving B.S. as alleged victim (Counts 70 - 86), counts involving R.S. as the alleged victim
19 (Counts 87- 106), counts involving E.C. as the alleged victim (Counts 107-116), counts
20 involving T.G. as the alleged victim (Counts 117-119) and counts involving M.C. as the alleged
21 victim (Counts 120 -124) into separate trials. The defense requests 7 distinct and separate jury
22 trials, one for each alleged victim.

23 DATED this 21st day of November, 2017.

24 PHILIP J. KOHN
25 CLARK COUNTY PUBLIC DEFENDER

26 By: /s/ Violet R. Radosta
27 VIOLET R. RADOSTA, #5747
Deputy Public Defender

By: /s/ David Lopez-Negrete
DAVID LOPEZ-NEGRETE, #12027
Deputy Public Defender

1 **NOTICE OF MOTION**

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

3 YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
4 foregoing Motion on for hearing before the Court on the 4th day of December, 2017 at 8:30 a.m.
5 in Department 19 of the District Court.

6 DATED this 21st day of November, 2017.

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9 By: /s/ Violet R. Radosta
10 VIOLET R. RADOSTA, #5747
Deputy Public Defender

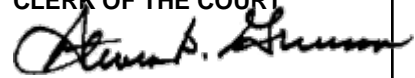
By: /s/ David Lopez-Negrete
DAVID LOPEZ-NEGRETÉ, #12027
Deputy Public Defender

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12
13
14
15 **CERTIFICATE OF ELECTRONIC SERVICE**

16 I hereby certify that service of the above and forgoing Motion to Sever was served via
17 electronic e-filing to the Clark County District Attorney's Office on this 21st day of November,
18 2017.
19

20 District Attorney's Office
21 E-Mail Address:
22 Jennifer.Georges@clarkcountydac.com

23
24 By: /s/ Annie McMahan
25 An employee of the
26 Clark County Public Defender's Office
27
28



OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
MARY KAY HOLTHUS
Chief Deputy District Attorney
Nevada Bar #003814
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-

**CHRISTOPHER SENA,
#0779849**

Defendant.

CASE NO: **C-15-311453-1**

DEPT NO: **XIX**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SEVER

DATE OF HEARING: **DECEMBER 4, 2017**
TIME OF HEARING: **8:30 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Sever.

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 **STATEMENT OF FACTS RELEVANT TO THIS OPPOSITION**

3 Defendant, CHRISTOPHER SENA, is charged by way of Amended Criminal
4 Information with the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT
5 (Category B Felony - NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A
6 MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364,
7 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony -
8 NRS 201.230), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE
9 (Category A Felony - NRS 200.364, 200.), INCEST (Category A Felony - NRS 201.180),
10 OPEN OR GROSS LEWDNESS (Category D Felony - NRS 201.210), SEXUAL ASSAULT
11 (Category A Felony - NRS 200.364, 200.366), PREVENTING OR DISSUADING WITNESS
12 OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category
13 D Felony - NRS 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR
14 EXPLOITATION (Category A Felony - NRS 200.508(1)), POSSESSION OF VISUAL
15 PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony -
16 NRS 200.700, 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A
17 Felony - NRS 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14
18 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1,
19 200.750).

20 The Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The
21 crimes occurred on or between May 22, 2001 and June 30, 2014. The victims are A.S., T.S.,
22 B.S., R.S., E.C., T.G., and M.C.

23 A preliminary hearing commenced in this matter on August 27, 2015 and was
24 concluded after four separate days of testimony on September 18, 2015. For the purpose of
25 providing this Court with the most complete Statement of Facts the State will refer to the
26 testimony provided at the preliminary hearing.

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28 //

The Preliminary Hearing Testimony of Terrie Sena

On August 27, 2015, Terri Sena testified that she was familiar with Defendant because he is her ex-husband and they were married from September 1990 to August 1997. Terrie Sena testified that she was familiar with the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County, Nevada, in that she lived there for fifteen (15) years, from 1998 through 2013; and, from January 2014 until June 2014. PHT, Vol. I, pp. 13-14. Terrie Sena testified that over the period of time that she lived at the residence, she lived there with Defendant and his wife, Deborah Sena, Terrie's biological daughter with Defendant, A.S., Terrie's biological son with Defendant, T.S., Terrie's step-son, B.S., who is the biological son of Defendant and Deborah Sena; and, R.S., Terrie Sena's biological son with another man. PHT, Vol. I, pp. 14-16. While living at the residence, Terrie's younger sister, M.C., and her niece, M.C.'s daughter, E.C., occasionally visited her at the Yellowstone address. Terrie Sena testified that her other sister, K.G., also had occasion to visit the residence. PHT, Vol I., pp. 17-18.

Terrie Sena testified that she had been charged with things that happened at the Yellowstone address. Terrie Sena testified that those charges were resolved when she agreed to plead guilty to one count of sexual assault; and, agreed to a sentence of ten years to life in prison, as well as to testify truthfully in the court proceeding. PHT, Vol. I, pp. 18-20. Terrie Sena testified that she was, in fact, sentenced to 10 years to life in prison. PHT, Vol. I, p. 21.

Terrie Sena testified that while she was living at the Yellowstone residence, she became aware that sexual acts were being committed. Terrie Sena testified that when her sister, M.C., would visit from time to time, when M.C. was 15 and 16 years of age. During that time, naked pictures of M.C. were taken by Defendant. PHT, Vol. I, p. 22. Terrie observed State's proposed Exhibits 13-22 and recognized them as photos of her and M.C., naked together, with most of them being photos of M.C. PHT, Vol I, pp. 23-24. Terrie testified that some of the photos were taken in the office of her house, while others were taken in M.C.'s bedroom, at her parent's house, located at 2012 Tonopah, North Las Vegas, Clark County, Nevada. PHT, Vol. I, p. 24. Terrie Sena testified that Defendant took the photographs of her and M.C. PHT,

1 Vol. I, p. 27.

2 Terrie testified that her niece, T.G., also came to the residence to visit, when T.G. was
3 sixteen years of age. Terrie testified that T.G. had come over to have her hair dyed. Terrie
4 Sena further testified that she dyed T.G.'s hair. After washing T.G.'s hair, T.G. went to take
5 a shower and Defendant filmed T.G. taking a shower. Defendant would get on a step stool and
6 hold the camcorder into the bathroom where the shower was. Terrie Sena testified that while
7 Defendant was recording T.G. in the shower, T.G. would have not been able to see him.
8 **(COUNTS 118 AND 119)** PHT, Vol. I, pp. 28-29. Terrie Sena testified that she was giving
9 Defendant oral sex while Defendant was filming T.G. in the shower. Terrie Sena viewed
10 State's proposed Exhibits "5", "8", and "9", and indicated that they were still photos of the
11 video that Defendant made of T.G. in the shower. PHT, Vol. I, p. 30.

12 Terrie Sena testified that her niece, E.C., also came to the residence to visit. Terrie
13 testified that when E.C. visited she had gotten lice at school. All of the kids' hair had to be
14 washed as a result and Terrie Sena took E.C. to the bathroom in the office area to wash her
15 hair. E.C. took a shower and while that occurred, Defendant got the camcorder and recorded
16 E.C. taking a shower, while standing on stool with the camera focused down. **(COUNTS 115**
17 **AND 116)**. Terrie Sena viewed State's proposed Exhibit "6" and identified it as a picture from
18 the video that Defendant took of E.C. taking a shower. PHT, Vol. I, pp. 30-32

19 Terrie Sena testified that she also observed filming of R.S. Defendant told Terrie Sena
20 to go and get R.S. from the front of the house and bring him to the office. When Terrie Sena
21 got back to the office with R.S., she noticed the red light blinking on the computer. Defendant
22 had her unbuckle R.S.'s pants and take them off, before Terrie Sena gave R.S. oral sex. While
23 Terrie Sena was performing oral sex on R.S., Defendant was sitting at his computer
24 masturbating. Defendant then approached Terrie Sena and had her perform oral sex on him.
25 After Terrie Sena performed oral sex on Defendant, he instructed her to remove the rest of
26 R.S.'s clothes and had R.S. remove Terrie Sena's top off, at which time he instructed R.S. to
27 put his penis in Terrie Sena's vaginal opening. PHT, Vol. I, pp. 33-35.

28 //

1 Terrie Sena testified that she had sexual contact two other times in the presence of
2 Defendant. One in the master bedroom and a second incident in the office. During the incident
3 in the master bedroom of the residence Defendant had Terrie Sena lay on the bed with R.S.,
4 undress R.S. and then undress herself. Terrie Sena got on top of R.S. so that his penis
5 penetrated her vaginal opening. Defendant got behind Terrie Sena and engaged in having anal
6 sex with her. PHT, Vol. I, pp. 35-36. Terrie Sena viewed State's proposed Exhibit "7" and
7 indicated that it was a picture of the master bedroom with R.S. laying on the bed while Terrie
8 Sena is getting undressed beside him. At the time the three incidents occurred, R.S. was 14
9 years of age. PHT, Vol. I, p. 38. Terrie Sena testified that the first incident that occurred in the
10 office happened sometime during the fall of 2012. The incident in the bedroom occurred when
11 R.S. was a freshman in high school and 14 years of age. PHT, Vol. I, p. 41-42. Terrie Sena
12 testified that R.S. was born on June 14, 1988 and that he was 14 years of age in 2012. Terrie
13 Sena stated that the incident in the office and the one in the bedroom occurred over a three
14 week period of time, from what she recollected. PHT. Vol. I, pp. 42-43.

15 The third incident occurred in the office. Defendant had Terrie Sena bring R.S. into the
16 office, un-belt R.S.'s pants, and place his penis in her mouth. R.S. then placed his penis in
17 Terrie Sena's vagina, while she was lying flat on her back. The red light was on the computer
18 when the incident occurred which indicated that Defendant was filming it. The last incident
19 occurred in 2014, just before Terrie Sena left the residence. PHT, Vol. I, pp. 44-45.

20 Besides the sexual contact she had with R.S., Terrie Sena also had sexual contact with
21 B.S. Terrie Sena described an incident where she brought B.S. into the office, from the house,
22 and performed oral sex on him. Terrie Sena removed B.S.'s clothes, as well as her own, at
23 which time Defendant told B.S. to touch Terrie Sena's breast and to insert his penis into her
24 vagina as she lay flat on her back. That incident occurred in December 2012. A second
25 incident occurred a month later, in January 2013. During that incident, Defendant had B.S.
26 touch Terrie's breasts with his hands. Terrie put B.S.'s penis in her mouth, and B.S. inserted
27 his penis into Terrie's vagina, while she lay flat on her back, which was recorded by the
28 Defendant. **(COUNTS 79 – 85)** PHT, Vol. I, pp. 45-48.

1 Terrie Sena described an incident that occurred with A.S., in the living room of the
2 house. Terrie Sena was in the living room with Defendant and A.S. Defendant had A.S. lean
3 over the ottoman and Defendant penetrated A.S.'s anus with his penis (**COUNT 52**), while
4 A.S. was touching Terrie Sena's breasts. PHT, Vol. I, pp. 48-49. A.S. was 17 years of age and
5 a senior in High School when the incident occurred. PHT, Vol. I, p. 52.

6 Terrie Sena testified that the first time something sexual happened in the household
7 with R.S. he was five years of age. During that incident, Defendant had Terrie Sena and
8 Deborah Sena bring R.S. and B.S. into the master bedroom. Defendant had Terrie Sena
9 undress B.S. and had Deborah Sena undress R.S., at which time Terrie Sena performed fellatio
10 on B.S. and Deborah Sena performed fellatio on R.S. Defendant was standing on the side of
11 the bed when the incident occurred. Terrie Sena was not aware of whether that incident was
12 recorded or not. PHT, Vol. I, pp. 52-53.

13 **The Preliminary Hearing Testimony of M.C.**

14 On August 27, 2015, M.C. testified that she has four sisters and one brother. M.C.
15 testified that her brother's name is Jerry Clark and that he is older than her. M.C. testified that
16 she was 34 years of age and her birthday is May 16, 1981. M.C. testified that she has three
17 sisters, but she is the baby of the family. M.C. testified that the next oldest sister is Terrie
18 Sena whose date of birth is October 26, 1970; then, Kimberly Gresham, whose date of birth is
19 April 29, 1964; then Mary Jo, age 51; and, Cheryl. PHT, Vol. I, pp. 136-137.

20 M.C. testified that she has one child, E.C., age 14, date of birth December 21, 2000.
21 M.C. testified that Terrie Sena has three children, A.S., T.S., and R.S. M.C. testified that
22 Kimberly Gresham has two children, Roy and T.G., age 18. PHT, Vol. I, pp. 138-139. M.C.
23 testified that Defendant was married to her sister, Terrie Sena. M.C. testified that she was
24 eight years of age when she first met Defendant and that her sister, Terrie, as eighteen. M.C.
25 testified that she spent time with Defendant and Terrie. PHT, Vol. I, p. 140.

26 M.C. was shown pictures of State's proposed Exhibits 13 through 22 and she identified
27 herself in those pictures. Each of the exhibits were photos of M.C. in the nude and/or in
28 sexually oriented positions. In State's proposed Exhibit "13", M.C. testified that she was 16.

1 M.C. testified that she believed Defendant took that picture as he was the only person in the
2 room with her. PHT, Vol. I, p. 142. M.C. testified that State's proposed Exhibit "14" was
3 taken when she was younger than 16. M.C. testified that she could not remember who took
4 the picture. M.C. testified that she was naked in the picture and that Defendant was the only
5 person who ever took pictures of her naked. **(Count 120)** PHT, Vol. I, pp. 141-144. State's
6 proposed Exhibit "15" was taken the same day as State's proposed Exhibit "14". M.C. was
7 15 years of age and the picture was also taken by Defendant. **(Count 121)** State's proposed
8 Exhibit "16" was also taken that same day and showed a dildo being put into M.C.'s mouth,
9 which was given to her by Defendant. **(Count 122)** PHT, Vol. I, pp. 144-145.

10 State's proposed Exhibit "17" was taken when M.C. was 16 years of age. Defendant is
11 in the picture which shows M.C. putting his penis in her mouth, while Terrie Sena took the
12 picture. PHT, Vol. I, p. 145. M.C. testified that State's Exhibit "17" was taken when she was
13 16 years of age. Terrie Sena is in the picture and appears to be pregnant. M.C. testified that
14 Terrie Sena was pregnant with R.S., who was born on June 14, 1999. M.C. testified the picture
15 was taken before June 1999, by Defendant. PHT, Vol. I, p. 146.

16 M.C. testified that State's proposed Exhibit "19" showed her at the trailer on
17 Yellowstone, when she was approximately 16 years of age. State's proposed Exhibit "20"
18 showed M.C. with her sister, Terrie Sena, when M.C. was 16 years of age. M.C. testified that
19 Defendant took the picture and directed what they were doing in the picture. PHT, Vol. I, p.
20 147. In State's proposed Exhibit "21" M.C. was 15 year old and a sophomore. The picture was
21 taken at her old residence by Defendant. **(Count 123)** In State's proposed Exhibit "22" M.C.
22 was 15 years of age, holding a dildo up to her anal area, which she was directed to do by
23 Defendant. **(Count 124)** PHT, Vol. I, pp. 148-149. M.C. testified that it was Defendant's idea
24 to take the pictures and it was not something she wanted to do. PHT, Vol. I, p. 150.

25 On re-direct, M.C. clarified that in State's proposed Exhibit's 14, 15, 16, 21, and 22,
26 were taken when she was 15 years of age. PHT, Vol. I, p. 188.

27 When interviewed by the police on approximately December 1, 2014, M.C. disclosed
28 specific incidents in which she was sexual abused by Defendant when she was young.

1 She first recalled when she was ten (10) or eleven (11) years of age, she visited
2 Defendant and TERRIE SENA at their apartment in Las Vegas. At that same time, while
3 visiting such apartment, TERRIE SENA told M.C. to go into the master bedroom and speak
4 with Defendant who was waiting for her. Upon entering the bedroom, Defendant was sitting
5 inside the closet in a pair of shorts. Defendant told M.C. he wanted to have a special bond
6 with her that should only be between them. Defendant then exposed his penis to M.C. and
7 told her to touch it which she did. Defendant then told her that since he showed her his penis
8 that she had to show him something. M.C. subsequently removed her shirt and exposed her
9 breasts. Defendant fondled her breasts after which he allowed M.C. to leave the room.

10 On another occasion when M.C. was approximately fifteen (15) or sixteen (16) years
11 of age, in the same apartment, Defendant and M.C. were alone in the living room while
12 watching a movie. Defendant told M.C. that if she loved him she would have anal sex with
13 him. Defendant removed his pants, put M.C. on her stomach, and had anal intercourse with
14 M.C. until he ejaculated on her back. M.C. remembered the penetration hurting and that she
15 asked Defendant to stop but he didn't until he ejaculated.

16 Also while M.C. was approximately fifteen (15) or sixteen (16) years of age, in the
17 same apartment, Defendant indicated to M.C. that he would stop having sexual intercourse
18 with M.C. and move onto another hobby. Defendant indicated he would need to have sexual
19 intercourse with her on one last time. Defendant pushed her against the wall with the front of
20 her body facing the wall and her standing up. Defendant proceeded to have anal intercourse
21 with M.C. M.C. remembers that Defendant ejaculated in a towel and her anus bled after the
22 incident.

23 **The Preliminary Hearing Testimony of Det. William Karau and Recorded Statement**
24 **Taken from DEBORAH SENA by Detective Karau**

25 Detective Karau testified that he was employed with the Las Vegas Metropolitan Police
26 Department and had been for 15 years in January. Detective Karau testified that he was
27 assigned to the Juvenile Sexual Abuse section for five years and a few months. On September
28 18, 2014, Detective Karau had occasion to assist in a search warrant at the residence of 6012

1 Yellowstone, Las Vegas, Clark County, Nevada. Detective Karau's role was to assist in
2 keeping an eye on the residence to see if anyone was coming or going from it. At the time
3 SWAT served the search warrant T.S. and Defendant were present at the residence. PHT, Vol.
4 I, pp. 191-192. During the execution of the search warrant they were looking for electronic
5 storage devices and computers, among other things. PHT, Vol. I, p. 193. Those items were
6 located in an office in the back of the property that had a bathroom and a kitchenette in it. The
7 items retrieved were sealed and booked into evidence and taken to the evidence vault. Among
8 the items seized and booked into evidence was No. 25, a Data Travel G3 Thumb drive. PHT,
9 Vol. I, pp. 193-194.

10 Approximately the day before the service of the referenced search warrant, Detective
11 Karau conducted a recorded interview with DEBORAH SENA. The interview was conducted
12 at the Southern Nevada Children's Assessment Center. Detective Kurau and Detective
13 Madsen interviewed DEBORAH SENA and informed her that it was a casual information
14 gathering session. Detective Kurau informed DEBORAH SENA that she would be walking
15 out the same door she came in, and she was leaving there when they were done. The interview
16 lasted approximately an hour.

17 During the course of the interview DEBORAH SENA showed no emotion and simply
18 answered questions being asked. Detective Karau testified at a previous hearing in
19 DEBORAH SENA's criminal case about his conversation with DEBORAH SENA. He
20 indicated that a few specific things stood out during the interview. First, the report stated that
21 DEBORAH SENA was forced to have sexual contact with B.S. and A.S., yet when she
22 described to the detectives what happened to B.S., DEBORAH SENA initially stated that she
23 and CHRISTOPHER SENA brought him in, but then corrected it by saying that
24 CHRISTOPHER SENA brought him in. Second, when she was asked if she was forced to do
25 anything with A.S., she initially said no, but a few minutes later told the detectives about a
26 sexual encounter with her, CHRISTOPHER SENA, and A.S. Third, when asked if she was in
27 fear during that incident, DEBORAH SENA stated that she felt "weird."

28 //

1 DEBORAH SENA told detectives that she was married to CHRISTOPHER SENA for
2 16 years and that B.S. was their biological child. DEBORAH SENA also referred to A.S. as
3 her daughter, and to T.S. as her step-son. She described that in the years preceding the
4 interview she had worked for Cox Communications for 16 years; and, that she supported the
5 family for the last 14 years, because CHRISTOPHER SENA was not working that much.

6 DEBORAH SENA told detectives that when B.S. was three years old CHRISTOPHER
7 SENA told her that she was going to teach B.S. how to have sex with a woman, so she was
8 lying on her back and put B.S. on top of her. DEBORAH SENA stated that CHRISTOPHER
9 SENA was giving instructions on what to do and was trying to manipulate B.S.'s penis into
10 DEBORAH SENA'S vagina. DEBORAH SENA stated that the incident had been recorded
11 somehow. When asked what led up to the incident, she told detectives that she had been in
12 an argument with CHRISTOPHER SENA and he told her that he wanted her to prove his love
13 to her; and, made a comment that TERRIE SENA loves her (sic) more, and if he loved her
14 (sic) he would do those things. (sic). Detective Kurau clarified that CHRISTOPHER SENA
15 told her that if she loved him, she would do those things.

16 DEBORAH SENA described that when B.S. was fourteen or fifteen years old B.S.
17 came into the bedroom and CHRISTOPHER SENA wanted her to have sex with him. B.S. got
18 on top of DEBORAH SENA and had sex with her. B.S. stated that during that incident he
19 mouthed the words "I'm sorry mom" or "I'm sorry". DEBORAH SENA indicated that there
20 was a hidden camera in the room and she viewed the video a few days later.

21 DEBORAH SENA told detectives that she participated in the second incident with B.S.
22 because CHRISTOPHER SENA would threaten her with the previous videos that were made
23 of sexual contact she had. DEBORAH SENA did not indicate that force or violence caused
24 her to do those particular acts.

25 DEBORAH SENA described engaging in sexual conduct with T.S., the first incident
26 occurring in the shower. They had been painting and CHRISTOPHER SENA instructed
27 DEBORAH SENA to get into the shower and help T.S. get paint off of his face, which she
28 did. DEBORAH SENA further stated that she performed oral sex on T.S. and bent over so

1 that T.S.'s penis went between her legs. DEBORAH SENA stated that the incident was
2 recorded by a Sony Handycam. DEBORAH SENA indicated that T.S. was fifteen or sixteen
3 years of age during that incident.

4 A few months later, CHRISTOPHER SENA and DEBORAH SENA got into an
5 argument at which time DEBORAH SENA told CHRISTOPHER SENA that she did not have
6 sex with T.S. in the shower. She further stated that CHRISTOPHER SENA told her that he
7 wanted her to have sex with T.S., at which time DEBORAH SENA had sex with T.S. in the
8 bedroom.

9 DEBORAH SENA also described having sex with A.S., when A.S. was 17 or 18.
10 DEBORAH SENA described that she was in the living room when CHRISTOPHER SENA
11 and A.S. came in naked. DEBORAH SENA and A.S. kissed each other, fondled each other,
12 and used sex toys, and then CHRISTOPHER SENA engaged in sex with both of them.
13 DEBORAH SENA did not indicate that force was used during that incident

14 DEBORAH SENA told detectives that she left the residence where the acts occurred in
15 June because CHRISTOPHER SENA was verbally abusive calling them lazy or fat asses.
16 According to Detective Karau, DEBORAH SENA stated she called the police after
17 CHRISTOPHER SENA sent an email to her employer that was of DEBORAH SENA naked
18 with the family dog, looking like they were having sex.

19 At approximately this same time, DEBORAH SEAN wrote a statement detailing the
20 events leading up to her leaving the residence. On or about September 15, 2014, DEBORAH
21 SENA wrote a statement in which she detailed a number of violent acts committed upon her
22 and other members of her family which caused members of the family to be fearful of not
23 listening to Defendant. Specifically, DEBORAH SENA indicated that Defendant made it
24 known that if anyone ever called the police on him that he could do quite a bit of damage
25 before the police arrived and that if he ever was put in jail he would eventually get out and
26 either kill or break the legs of the person who put him in jail. Defendant committed regular
27 acts of violence against DEBORAH SENA and family members when things were not done
28 as he wanted.

1 In approximately May 2014, DEBORAH SENA observed B.S. making a sandwich for
2 his sister, A.S. Defendant did not agree with a male making a sandwich for a female and
3 pushed B.S. up against the wall and balled his fist up and told B.S. not to try him. As a result,
4 B.S. walked away. As a result of this contact, B.S. talked to A.S. and indicated he was
5 contemplating suicide. It was after this conversation the B.S. and A.S. left the residence with
6 DEBORAH SENA.

7 **The Preliminary Hearing Testimony of Det. Vince Ramirez**

8 Vince Ramirez testified that he was employed by the Las Vegas Metropolitan Police
9 Department and had been so employed for 20 years. Detective Ramirez testified that he was
10 currently assigned to Internet Crimes against Children Division and had been since 2000. PHT,
11 Vol. I, pp. 211-212. Detective Ramirez testified that he had occasion to perform a forensic
12 review of certain items seized under LVMPD Event #1409151583. The item was previously
13 seized pursuant to a search warrant executed on Defendant's residence on or about September
14 18, 2014. PHT, Vol.1, pp. 191-195. Specifically, Detective Ramirez received a Data Traveler
15 G3 thumb drive booked as package 6, item No. 25. Detective Ramirez requested an
16 authorization to have that equipment released to take to the lab for a forensic examination.
17 Detective Ramirez testified that he obtained a warrant in order to perform the forensic
18 examination. PHT, Vol. I, p. 212.

19 Detective Ramirez testified that when an item is received for forensic examination a
20 digital copy is made and that copy is used for testing, so as not to touch any of the original
21 evidence. PHT, Vol. I, p. 214. In the course of the analysis, Detective Ramirez obtained 8
22 videos from the electronic storage disk. Those videos were deemed relevant in this case based
23 upon the individuals in the videos. Detective Ramirez testified that the main subject matters
24 in the videos was Defendant, Terrie Sena, Deborah Sena, T.S., B.S. and R.S., all of which
25 were of a sexual nature, involving fellatio and sexual intercourse. PHT, Vol. I, pp. 215-216.
26 The disk of the videos was marked as State's proposed Exhibit "16" and was admitted into
27 evidence. PHT, Vol. I, p. 217.

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1 Exhibit 1, video No. 1 (**COUNT 77, 78**) was played in court and showed B.S. and
2 Deborah Sena engaged in sex acts. Defendant is in the video, partially, although not all of his
3 face and only part of his body can be seen. As the video begins, B.S. can be seen laying on
4 his back while Deborah Sena is performing oral sex (fellatio) on him. (**COUNT 71**) Deborah
5 Sena is then shown positioning herself on top of B.S. and she is inserting his penis into her
6 vagina. (**COUNT 72, 73**) Later, after a repositioning shown on the video, Defendant can be
7 seen and then Deborah Sena is shown positioned on her back and B.S. is inserting his penis
8 into her vagina, in a missionary position. PHT, Vol. I, pp. 218-220. (**COUNT 74, 75**) The
9 video then shows B.S. repositioned to the right side of Deborah Sena, while a male individual
10 is having sexual intercourse with her. The video shows Deborah Sena performing oral sex on
11 B.S., (**COUNT 76**) while Christopher Sena is engaging in sexual intercourse with Deborah
12 Sena. PHT, Vol. I, p. 220. A male voice can be heard on the video directing all of the actions
13 that are occurring, which Detective Ramirez believed to be Defendant based upon his body
14 type and the fact that the same voice can be heard instructing on all of the videos. PHT, Vol.
15 I, p. 221. State's proposed Exhibit "2" was a still photograph of B.S. and Deborah Sena from
16 the video that was viewed, and was admitted by the Court. PHT, Vol. I, p. 222.

17 Exhibit 1, video No. 2, (**COUNT 69**) depicts an individual without any clothes on
18 setting up the video camera. As he sits down he is identified as Defendant. Deborah Sena is
19 also in the video along with T.S. Deborah Sena is seen without clothing fondling her breasts
20 while performing oral sex on Defendant. Defendant gets up off the bed and bring back T.S.,
21 telling him to lie down on the bed. Deborah Sena performed oral sex on T.S. (**COUNT 61 in**
22 **alternative to 62**) while Defendant watched and masturbated. Deborah Sena can then be seen
23 laying on her back with T.S. inserting his penis into her vagina. (**COUNT 63 in alternative**
24 **to 64**) Defendant is pictured on the right side of the screen masturbating himself. The video
25 then shows T.S. laying down with Deborah Sena on top of him, helping him insert his penis
26 into her vagina. (**COUNT 65 in alternative to 66**) PHT, Vol. I, pp. 222-224. The video next
27 shows T.S. on his back with Deborah Sena performing oral sex on him (**COUNT 67 in**
28 **alternative to 68**) while Defendant is behind Deborah Sena engaging in sex with her. PHT,

Vol. I, p. 225. State's proposed Exhibit "3" was as still photo of T.S. right before he engaged in the missionary position with Deborah Sena, which was admitted by the Court. PHT, Vol. I, p. 226.

State's Exhibit "1", Video No. 3, depicted someone setting up a camera and a shower curtain of a standup shower comes into view. Defendant is seen in the video and then T.S. and Deborah Sena are observed entering the shower, neither are wearing clothes. Deborah Sena is observed wiping something off of T.S.'s face. Defendant can be seen walking to the camera and repositioning it. PHT, Vol. I, pp. 226-227. **(COUNTS 55 AND 56)** Detective Ramirez testified that State's proposed Exhibit "4" was a still picture of T.S. and Deborah Sena in the shower, taken from Video No. 3, which was admitted by the Court. PHT, Vol. I, p. 228. **(COUNT 59 AND 60)**

Detective Ramirez described Exhibit 1, Video No. 4 as being shot through a door, with the person in the video being T.G., who is in the shower with no clothes on. **(COUNTS 118 AND 119)** The video then pans down and shows Defendant receiving oral sex. Detective Ramirez believed the Defendant to be the recipient of the oral sex based upon hearing his voice on the video which is similar in nature to all of the others. PHT, Vol. I, pp. 228-229

On August 28, 2015, Detective Ramirez continued his preliminary hearing testimony. With regard to Exhibit 1, Video No. 5, Detective Ramirez testified that it depicts video being shot through an opening and is an image of E.C., in the stand-up shower. **(COUNTS 115-116)** State's proposed Exhibit "6" was identified as a picture of E.C. in the shower, from the video he had just observed. The video was admitted in to evidence by the Court. PHT, Vol. II, pp. 8-10.

Exhibit 1, Video No. 6 **(COUNTS 99 AND 100)** depicted a bedroom seen in previous videos as well as parts of the Defendant in the mirror while he is adjusting the video camera. The video proceeds to show Terrie Sena removing R.S.'s clothes. In the video, Terrie directs R.S. to lie on his back and she places his penis in her mouth. **(COUNT 95)** R.S. is observed using his left hand to fondle Terrie Sena's breast. The video also depicts Terrie positioning R.S.'s hand on her breasts, showing him to massage her breasts, while she masturbates him

1 with her left hand. PHT, Vol. II, pp. 10-11. The video goes on to show R.S. kissing Terrie
2 Sena on her right breast and Terrie Sena continues to orally copulate R.S. The video shows
3 Terrie Sena positioned on her back with R.S. positioned between her legs penetrating her
4 vagina with his penis. **(COUNTS 96 AND 97)** PHT, Vol. II, pp. 11-12. The video shows
5 both Terrie Sena and R.S. stop and appear to look back, after which point they reposition
6 themselves in the missionary position and it appear that R.S. is penetrating Terrie Sena with
7 his penis in her vagina while she massages R.S.'s buttocks. PHT, Vol. II, pp. 12-13. The video
8 continues and Defendant appears and can be seen masturbating. Defendant points to R.S. to
9 get on the right side of Terrie Sena and he positions himself behind Terrie Sena, where he
10 appears to penetrate her vagina or anus while she performs oral sex on R.S. **(COUNT 98)**
11 PHT, Vol. II, p. 13. A conversation is being had during the incident, involving Defendant;
12 however, Detective Ramirez was not able to make out what was being said. PHT, Vol. II, p.
13 14. Detective Ramirez identified a still photograph, taken from the video, of R.S. and Terrie
14 Sena as State's Exhibit "7" PHT, Vol. II, p. 14.

15 Detective Ramirez testified that Exhibit 1, Video No. 7 depicts T.G. in the shower,
16 similar to the previous shower scenes **(COUNT 118 AND 119)**; and, identified State's Exhibit
17 No. "8" as a still photograph of T.G. from the video just viewed. PHT, Vol. II, p. 15. Detective
18 Ramirez testified that Exhibit 1, Video No. 8, depicts T.G. in the stand-up shower from the
19 previous video with the same angle filming; and, State's Exhibit "9" as a still photograph of
20 T.G., taken from the video. PHT, Vol. II, p. 16.

21 Detective Ramirez testified that other entries of evidentiary value came off the same
22 electronic storage device to include State's Exhibits 13 through 22 which he identified as being
23 images of M.C. and Terrie Sena. PHT, Vol. II, p. 17. State's proposed Exhibit "10" was
24 identified as a DVD containing images of the printed copies, to include stills of R.S. Terrie
25 Sena and Defendant. Those images were found to be relative to the investigation in that they
26 were a video that had been broken up into unallocated space, and contain images of Terrie
27 Sena, R.S. and Defendant engaging in sexual contact. PHT, Vol. II, pp. 18-19. Exhibit "10"
28 was admitted by the Court. **(COUNTS 103 AND 104)** PHT, Vol. II, p. 19.

1 Detective Ramirez identified frame number 0458 of Exhibit 10 as a room in the
2 residence labeled office. PHT, Vol. II, p. 20. Frame number 750 depicted R.S. sitting on a
3 stool, clothed, and other images of Terrie Sena. PHT, Vol. II, p. 21. Image number 1,000
4 depicts R.S. playing with his foot and Terrie Sena. PHT, Vol. II, p. 21. Image number 1328
5 depicts R.S. standing up and Terrie Sena knelt down and appearing to unbuckle R.S.'s shorts.
6 PHT, Vol. II, p. 21. Image number 1500 depicts R.S. removing his polo shirt, his shorts are
7 off and his penis is exposed. Terrie Sena is kneeling down holding a blue object of clothing
8 and is wearing her brassiere. PHT, Vol. II, p. 22. Image number 1640 depicts R.S. with his
9 shirt partially on and Terrie Sena has her mouth on R.S.'s penis, **(COUNT 101)** with her
10 brassiere off and her breasts exposed. PHT, Vol. II, p. 22. Frame number 4111 depicts R.S.
11 with his shirt partially on top. Terrie Sena has her mouth on R.S.'s penis and Defendant has
12 his pants partially down and is masturbating. PHT, Vol. II, p. 23. In the course of
13 viewing the frames Detective Ramirez was able to see Defendant's face and make a positive
14 I.D. Detective Ramirez explained that the video proceeds with still images of Terrie Sena's
15 mouth on Defendant's penis while she is holding R.S.'s penis and it goes back and forth with
16 the same sexual action, by Terrie Sena placing her mouth on R.S.'s penis. PHT, Vol. II, pp.
17 23-24. **(Count 102)** Detective Ramirez identified State's Exhibits 11 and 12 as follows:
18 Exhibit "11" depicts R.S. sitting in front of Defendant and Terrie Sena is standing to the left
19 of Defendant. Exhibit "12" depicts R.S. standing in front of Defendant, both still clothed, with
20 Terrie Sena is unbuckling the pants of R.S. PHT, Vol. II, p. 25.

21 **The Preliminary Hearing Testimony of E.C.**

22 E.C. testified that she was 14 years of age and in the ninth grade. E.C. further testified
23 that she lived with her mom, grandparents, cousin, two sisters, brother, and aunt. PHT, Vol.
24 II, p. 50. E.C. identified Defendant and indicated that he was her aunt's ex-husband. E.C.
25 testified that Defendant had been her uncle her entire life as far as she could remember and
26 she visited his residence at 6012 Yellowstone in North Las Vegas, Clark County, Nevada.
27 E.C. testified that she visited the residence more than one time and she began visiting when
28 she was 10 or 11 years of age, and in the fifth grade. PHT, Vol. II, p. 51. E.C. testified that

1 she went to Defendant's house almost every weekend to visit her aunt Terrie and her cousins,
2 R.S., A.S. and T.S. PHT, Vol. II, p. 52.

3 E.C. testified that when she was 11 years old Defendant would touch her breasts and
4 vagina, underneath her clothes, by having her lift up her shirt and put her pants to her ankles,
5 while they were in the office. PHT, Vol. II, p. 53. E.C. testified that it happened more than
6 one time and Defendant would fondle her breasts with his hands and rub his hands over her
7 vagina. PHT, Vol. II, p. 55. E.C. testified that she went to Defendant's house nearly every
8 weekend from the ages of 11 to 12 or 13, from the third grade through the seventh grade. PHT,
9 Vol. II, p. 56. E.C. testified that Defendant would fondle her breasts and vagina a couple of
10 times during each weekend that she was there during the fifth grade when she was 11 years of
11 age. E.C. remembered Defendant touched her more than three times, as it became a routine.
12 PHT, Vol. II, p. 58-59. E.C. testified that her birthday is December 21, 2000. E.C. testified
13 that the last time something happened was before Deborah Sena left in 2014. PHT, Vol. II, p.
14 60. E.C. testified that she would expect Defendant to touch her when she went over there and
15 she got used to it happening. PHT, Vol. II, p. 62. E.C. testified that she remembered those
16 things happening in the fifth grade, sixth grade, seventh grade, and eighth grade. PHT, Vol II,
17 p. 64. **(COUNTS 107-114).**

18 E.C. testified that she took a shower at the residence a couple of times. Specifically,
19 E.C. recalled an incident when she had lice in her hair. E.C. was shown a picture of herself
20 that was taken of her in the shower, in the office. E.C. testified the picture was taken sometime
21 between the fifth and seventh grade. E.C. did not know that the picture was being taken. PHT,
22 Vol. II, pp. 65-66. **(COUNTS 115 AND 116).**

23 **The Preliminary Hearing Testimony of T.G.**

24 T.G. testified that she was 18 years of age and her date of birth is January 9, 1997. T.G.
25 testified that Terrie Sena is her aunt and her mother's sister. T.G. testified that her mom is
26 Kimberly Grisham and that M.C. is her aunt, and E.C. is her cousin. T.G. testified that she
27 grew up in Las Vegas. PHT, Vol. II, p. 86. While growing up, T.G. spent time with her aunt,
28 Terrie Sena, and visited her residence located at 6012 Yellowstone, Las Vegas, Clark County,

1 Nevada. T.G. was seven or eight years of age when she began visiting Terrie Sena at that
2 address. T.G. visited every weekend until she was 15 years age. T.G. stopped visiting because
3 she no long wanted to go over to the residence. T.G. testified that Defendant, Terrie Sena, and
4 Deborah Sena lived at the residence when she visited, as did her cousins, T.S., A.S., B.S. and
5 R.S. PHT, Vol. II, pp. 87-88.

6 T.G. testified that Defendant once showed her a picture of her aunt, M.C., giving him
7 oral sex. **(COUNT 117)** T.G. was in the office when he showed her the picture, which was a
8 separate building behind the residence, with computers, a T.V., a couch, a little kitchen, and a
9 bathroom. PHT, Vol. II, p. 89. T.G. testified that Defendant showed her the pictures on the
10 computer and that she was 11 or 12 when that occurred. T.G. testified that they were just
11 looking at pictures and Defendant showed her that one. T.G. testified that she did not really
12 say much to Defendant when he showed her the picture. PHT, Vol. II, pp. 90-91.

13 T.G. testified that she utilized the shower in the office from the time she was 7 until she
14 was 15. T.G. viewed State's Exhibits "5", "8", and "9" and identified herself in those photos.
15 T.G. testified that the photos depicted her in the shower, in the office. T.G. testified that she
16 had no idea that she was being photographed while showering. T.G. testified that she was 13
17 or 14 years of age in the photographs that were taken. **(COUNTS 118 AND 119)**. PHT, Vol.
18 II, pp. 91-92. T.G. testified that she did not visit the residence or shower at the residence after
19 she turned 16. PHT, Vol. II, p. 93.

20 **The Preliminary Hearing Testimony of T.S.**

21 T.S. testified that he was 20 years of age and his birthday is December 2, 1994. T.S.
22 testified Defendant is his father and Terrie Sena is his biological mother. T.S. testified that
23 Deborah Sena is his stepmom; and, that he has a sister and two brothers. T.S. testified that
24 A.S. is the biological child of Defendant and Terrie Sena; R.S. is the biological child of Terrie
25 Sena; and, B.S. is the biological child of Defendant and Deborah Sena. PHT, Vol. II, pp. 107-
26 108.

27 //

28 //

1 T.S. testified that he had testified in a previous proceeding regarding sexual conduct
2 that was going on at the trailer located at 6012 Yellowstone. PHT, Vol. II, p. 108. During that
3 time, T.S., Defendant, Terrie Sena, Deborah Sena and the entire family lived there. T.S.
4 resided there from the time he was 5 until he moved out a month after he turned 18. PHT, Vol.
5 II, p. 109.

6 When T.S. was 14 or 15 years of age, he engaged in having sexual intercourse with
7 both of his parents, in the bedroom and in the shower. During the shower incident, he and
8 Deborah Sena had been painting and were dirty. Defendant told T.S. to get in the shower.
9 Deborah Sena was already in the shower, naked. T.S. thought the request was really weird
10 and did not want to do it. When T.S. got in the shower he and Deborah Sena began cleaning
11 each other at Defendant's instruction. **(COUNTS 55 AND 56)** Additionally, Deborah Sena
12 placed her mouth on T.S.'s penis and gave him a "blowjob". **(COUNT 54)**. Deborah Sena
13 also bent over in the shower and T.S. placed his penis around her vaginal area, at Defendant's
14 instruction. T.S. stated that his penis did not go into the hole but did go between the lips of
15 Deborah's vaginal area. **(COUNT 57 AND 58)**. PHT, Vol. II, pp. 110-114.

16 T.S. testified that the incident occurring in the bedroom also happened when he was
17 between the ages of 14 and 15, during the day. T.S. was called into the bedroom by Defendant.
18 When T.S. went into the bedroom Defendant was naked. Defendant told T.S. to remove his
19 clothes. Deborah Sena came into the bedroom and also got naked. T.S. inserted his penis
20 between the lips of Deborah Sena's vaginal area, while Defendant inserted his penis into
21 Deborah Sena's anal opening. T.S. testified that prior to such act but during the same incident
22 Deborah Sena placed his penis in her mouth. PHT, Vol. II, pp. 117-118. T.S. watched the
23 video of himself, Deborah Sena, and Defendant engaging in various sexual acts, in the
24 bedroom. T.S. testified that while he may not remember all of the details, the video speaks
25 for itself. T.S. was shown State's Exhibits "3" and "4" and identified Exhibit "3" as a
26 photograph of him in the shower with Deborah Sena and Exhibit "4" as a photograph of him
27 and Deborah Sena in the bedroom. PHT, Vol. II, pp. 121-122. **(COUNT 61 in the alternative**
28

1 to 62; COUNT 63 in the alternative to 64; COUNT 65 in the alternative to 66; COUNT
2 67 in the alternative to 68; and COUNT 69) .

3 **The Preliminary Hearing Testimony of B.S.**

4 B.S. testified that he was 17 years of age and his date of birth is August 13, 1998. B.S.
5 further testified that he is a senior at Bonanza High School. B.S. testified that he lives with
6 his sister, A.S., but he used to reside at the residence located at 6012 Yellowstone Avenue,
7 North Las Vegas, Clark County, Nevada. B.S. lived at the Yellowstone address from 1998
8 until June of 2014. PHT, Vol. II, pp. 147-149. B.S. testified that he lived at the residence with
9 his half-sister, A.S. and his half-brother, T.S., and R.S. B.S. testified that Defendant and
10 Deborah Sena are his parents and they lived in residence, as did Terrie Sena. PHT, Vol. II, pp.
11 149-151. B.S. testified that when he was 14 years old he engaged in sex acts with Terrie Sena
12 in the back office area. B.S. described the office area as having a computer, animae dolls, a
13 kitchen, and a bathroom. B.S. testified that Defendant was present when he engaged in the
14 sex acts with Terrie Sena. PHT, Vol. II, pp. 152.

15 B.S. testified that Defendant told him to pull down his pants and Terrie Sena gave him
16 oral sex. **(COUNT 79)**. B.S. testified that he put his penis in Terrie Sena's vagina. **(COUNT**
17 **80)** B.S. testified that Defendant stood and watched the entire thing and was trying to direct
18 them. During the incident, Defendant also told B.S. to touch Terrie Sena's boobs with his
19 hands. PHT, Vol. II, pp. 153-156. **(COUNTS 81 AND 82)**.

20 B.S. testified that Defendant had him come to the back office to have sex with Terrie
21 Sena and touch her breasts, twice. PHT, Vol. II, p. 156.

22 B.S. clarified that the first time he went to the back office his penis went into Terrie
23 Sena's mouth; his penis went into Terrie Sena's vagina; and, he touched Terrie Sena's boobs,
24 when he was 14 years of age. **(COUNTS 79 – 82)** PHT, Vol. II, p. 157.

25 B.S. testified that the second time something happened in the office he was still 14
26 years old and he had gone into the back office for something early in the morning. B.S.
27 testified that he and Defendant and Terrie Sena were the only people in the office. B.S.
28 testified that Defendant told him and Terrie Sena to have sex and directed them. On that

1 occasion, B.S. put his penis in Terrie Sena's vagina. **COUNT 83**) B.S. provided specific
2 testimony that he did, in fact, touch Terrie Sena's breasts each time he went to the office and
3 engaged in sexual acts with her, B.S. also testified that he may have touched Terrie Sena's
4 breasts on that occasion but he could not remember. **(COUNTS 84-85)** PHT, Vol. II, pp. 161-
5 162.

6 B.S. testified that he had sexual contact with Deborah Sena in the bedroom when he
7 was 14 years of age. B.S. was watching T.V. Defendant called B.S. outside to the pool where
8 Defendant was with Deborah Sena. Defendant and Deborah took off their clothes and began
9 having sex in the pool. B.S. tried to look away but Defendant told him to remove his clothing
10 and told B.S. to watch him and Deborah having sex. **(COUNT 70)** PHT, Vol. II, pp. 163-
11 164. After they left the pool and went back inside the house, Defendant brought B.S. into the
12 bedroom where he and Deborah Sena were. Defendant had B.S. strip and get onto the bed.
13 Defendant instructed Deborah to sit on B.S.'s "dick" which went inside Deborah Sena's
14 vagina. PHT, Vol. II, pp. 165-166. **(COUNTS 72-73)**. B.S. then got on top of Deborah Sena
15 and put his dick back inside her vagina **(COUNT 74-75)**. B.S. testified that before the sexual
16 intercourse occurred, Defendant told Deborah Sena to give B.S. a blow job and she placed his
17 penis in her mouth. **(COUNT 71)**. PHT, Vol. II, pp. 166-168.

18 B.S. testified that he never told anyone about what had been happening in the house
19 due to death threats from the Defendant. Defendant told B.S. and other members of the
20 household that he would kill them if they told what was going on with anything. On cross
21 examination B.S. testified that he mentioned to the police something about [Defendant]
22 threatening to break his legs. PHT, Vol. II, pp. 168-170. **(COUNT 86)**.

The Preliminary Hearing of A.S.

24 A.S. testified that she was 25 years of age and her birthday is May 22, 1990. A.S.
25 graduated from high school in early June 2008. A.S. testified that Defendant is her father;
26 Deborah Sena is her stepmother; and, Terrie Sena is her mother. A.S. testified that she had
27 three brothers, B.S., age 17; R.S., a half-brother, age 17; and, T.S., age 20. PHT, Vol. III, pp.
28 6-7. A.S. testified that when she was 11 years old she living at 6012 Yellowstone Avenue,

1 North Las Vegas, Clark County, Nevada, with Defendant, Deborah Sena, Terrie Sena, T.S.,
2 B.S., and R.S. PHT, Vol. III, p. 8. During that time, A.S. would come home from school and
3 Defendant would be there. Defendant would ask A.S. if she loved him and when she said yes,
4 he wanted her to show him that she loved him. Defendant asked A.S. to take her clothes off
5 and touched her breasts area. **(COUNT 2)** A.S. testified that Defendant rubbed her clit with
6 his fingers, between the lips of her vagina area. **(COUNTS 3 AND 4)** PHT, Vol. III, pp. 13-
7 14. Defendant told A.S. to get on the bed and removed his dick/penis from his jeans and began
8 rubbing it on the outside of A.S.'s pussy/vagina. **(COUNT 5)** Defendant instructed A.S. to
9 spread out a little and she was laying on her back on the bed with her legs hanging off the bed.
10 Defendant lifted her legs and spit on his hands, rubbing saliva on his dick/penis. Defendant
11 penetrated A.S.'s anus with his penis which hurt her. **(COUNT 6 AND 7)** A.S. told
12 Defendant that it hurt her and he told her "It's going to hurt but this is life." Defendant came
13 inside of A.S.'s anus and told her to get dressed because the moms would be home. PHT, Vol.
14 III, pp. 15-16.

15 Defendant had anal intercourse with A.S. frequently, from time she was 11 years in
16 May 2001 until 2009. A.S. testified that it normally happened when the moms were gone
17 during the weekdays, two or three times a week. A.S. testified that on a rare occasion
18 Defendant would go more than a week without doing it, but he never went more than one
19 month without doing` it. In 2009, when A.S. was 19 years of age, it became less frequent.
20 PHT, Vol. III, pp. 17-18. A.S. testified that Defendant would do that to her in his room; in her
21 room; in the master bathroom; in the living room; and, in the boys' room. PHT, Vol. III, p.
22 19-20. **(COUNTS 8, 9, 11, 12, 16, 17, 23, 28, 33, 38, 43).**

23 A.S. testified that Defendant would rub his hands on her boobs, at least once a month,
24 when he was putting his penis in her. PHT, Vol. III, p. 21. **(COUNT 10, 13, 18, 24, 29, 34,**
25 **39, 44)** When A.S. was 14 years of age (May 22, 2004) Defendant began doing other things
26 to her. A.S. testified that she was taking a shower and Defendant came into the bathroom and
27 jumped into the shower with her. Defendant rubbed A.S.'s boobs and then told her to get up
28 against the wall. Defendant tried to put his penis in her anal opening but he inserted into her

1 vagina, taking her virginity. (PHT, Vol. III, p. 22. A.S. testified that Defendant put his penis
2 into her vagina on more than one occasion; and, that it happened every two weeks; never less
3 than once a month. Defendant would put his penis in A.S.'s vaginal opening in the living room;
4 in the boys' room; in the master bedroom; and, in A.S.'s room. PHT, Vol. III, pp. 23-24.
5 **(COUNTS 21, 22, 26, 27, 31, 32, 36, 37, 41, 42).**

6 A.S. testified that there were times that Defendant would put himself inside her vagina
7 and then he would put himself inside her anal opening. There was also times that he would
8 have anal sex one day and vaginal sex the other. PHT, Vol. III, p. 25. A.S. testified that
9 during that time there were days that Defendant would put his penis up against her boobs and
10 he would have her give him a blow job. A.S. was 12 years old the first time she gave Defendant
11 a blow job. A.S. gave Defendant blow jobs from the time she was 12 years old up to 2013.
12 A.S. would do this one or twice a month and some months not at all. A.S. would do this
13 mainly in the living room and the master bedroom. **(COUNTS 14, 15, 19, 20, 25, 30, 35, 40,**
14 **45)** A.S. was 23 years old in 2013. A.S. left the house in June 2013. The last time something
15 happened with Defendant was in January 2013. PHT, Vol. III, pp. 25-27.

16 When A.S. was 14 years of age, Defendant, Terrie Sena, and A.S. were in the
17 Defendant's back office. Terrie Sena gave Defendant a blow job, which A.S. described
18 Defendant's penis in Terrie Sena's mouth, while A.S. watched. Defendant inserted his penis
19 into A.S.'s anal opening, while Terrie Sena watched. **(COUNT 52)** PHT, Vol. III, pp. 29-31.

20 A.S. testified that when she was 17 to 18 years of age, during the last few months of
21 high school, before graduation, A.S. got home from school and Defendant brought Deborah
22 Sena out to where A.S. was. Defendant told A.S. to get naked and wanted her and Deborah
23 Sena play with each other's boobs and rub each other's clits. A.S. played with Deborah Sena's
24 clit and Deborah Sena rubbed the outside area of A.S.'s vagina. **(COUNTS 48, 49)** Defendant
25 had Deborah Sena get on top of A.S. Defendant inserted his penis into A.S.'s vagina while
26 Deborah was still on top of A.S. **(COUNTS 46 AND 47)** Defendant removed his penis and
27 put it in Deborah Sena's vagina or anus, while Deborah Sena was on top of A.S., with her
28 nipples touching A.S.'s chest. PHT, Vol. III, pp. 32-36. Defendant had Deborah Sena get on

1 her back and he placed a pillow under Deborah Sena's back before penetrating her again.
2 Defendant had A.S. play with herself so he could watch. A.S. touched the outside of her vagina
3 with her hand. (COUNT 51) PHT, Vol. III, p. 37. A.S. clarified that she touched Deborah
4 Sena's boobs (COUNT 50) and Deborah Sena touched her boobs; that Deborah Sena touched
5 the outside of A.S.'s pussy and A.S. touched Deborah Sena's clit. PHT, Vol. III, p. 38.

6 A.S. testified that she never told anybody in fear of what Defendant would do. A.S.
7 testified that Defendant would use threats and tell her that she was going to be taken away and
8 sent to Juvi. Defendant also told A.S. that she would do those things if she loved him. PHT,
9 Vol. III, pp. 40. (COUNT 53)

10 A.S. testified that between the ages of 11 and 14, Defendant engaged primarily in anal
11 intercourse with her. Additionally, without a doubt, Defendant engaged in vaginal and/or anal
12 intercourse with her at least once a year from the time she was 11 years of age until she was
13 23 years of age. Defendant also put his finger in A.S.'s pussy at least once a year throughout
14 that same time period. PHT, Vol. III, pp. 40-41.

15 **The Preliminary Hearing Testimony of R.S.**

16 R.S. testified that he was 17 years of age and his date of birth is June 14, 1998. R.S.
17 testified that he was a senior in high school and attends Sunset High School. R.S. testified
18 that he lives with his biological dad and had been living there since December 2014. R.S.
19 testified that his biological mother is Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified that
20 he lived at the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County
21 Nevada his entire life, until he moved out when he was 16 years old, back in June 2014. PHT,
22 Vol. III, pp. 15-16. When R.S. lived at the residence, he lived there with A.S., T.S., B.S.,
23 Deborah Sena, Defendant, and Terrie Sena. PHT, Vol. IV, pp. 17-29.

24 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
25 Defendant sexually abused him. The abuse happened more than once and it happened in R.S.'s
26 room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22. R.S.
27 testified that Defendant made him remove his clothes and he would touch R.S.'s behind where
28 poop comes out, with his dick. R.S. described an incident that occurred when he was 12 or 13,

1 in his bedroom, and Defendant came in and made R.S. remove his clothes, by yelling at him
2 and grabbing him. R.S. was afraid Defendant would come after him and hurt him if he did not
3 do what Defendant said. R.S. got onto the bedroom floor and laid flat on his stomach while
4 Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88)**. PHT, Vol. IV,
5 pp. 27-29. Another incident occurred in the Defendant's office, a separate building at the back
6 of the house, when R.S. was 14 or 15 years old. Defendant showed R.S. videos on his
7 computer. R.S. testified that the video was of Defendant and Terrie Sena having sex in the
8 back office. PHT, Vol. IV, pp. 29-31. **(COUNT 105)**

9 R.S. testified that when he was in junior high school, between 12 or 13 years of age, he
10 and Defendant were in the living room. R.S. had no pants or underwear on, nor did Defendant.
11 Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into R.S.'s butt.
12 R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90)**. R.S. testified
13 that Defendant put his penis inside R.S.'s butt on three occasions when R.S. was in junior high
14 school and 12 or 13 years old; once in R.S.'s bedroom; once in the living room; and, once in
15 Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-36.

16 R.S. testified that Defendant stopped his conduct for a little while when R.S. was 15
17 years of age. R.S. had no idea why it stopped at that time. PHT, Vol. IV, p. 36. R.S. testified
18 that when it started again he was still 15 years old and it went on until R.S. moved out of the
19 residence in June 2014. R.S. testified that it happened on two separate occasions, once in
20 Defendant's office and once in Defendant's room. The incident in the office occurred while
21 Defendant was sitting naked, on his computer chair, and R.S. sat on him and he inserted his
22 penis into R.S.'s butt. **(COUNT 93)**. The incident in Defendant's bedroom occurred with R.S.
23 laying on his stomach, on the bed, and Defendant inserting his penis into R.S.'s butt. **(COUNT**
24 **94)** PHT, Vol. IV, pp. 38-40.

25 R.S. testified that his mom, Terrie Sena, also engaged in sexually abusing him, on two
26 separate occasions. The incidents occurred in the office and in Defendant's room. The first
27 incident occurred in the bedroom prior to R.S. turning 16. R.S. went into the bedroom because
28 his mom was in there. Terrie Sena was talking to R.S. and began taking off his clothes.

1 Defendant was in the hallway and watching what was happening. Terrie Sena took all of
2 R.S.'s clothes off and Defendant told R.S. to lay on the bed, on his back. Terrie Sena removed
3 her clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44. **(COUNT 95).**
4 Defendant instructed Terrie Sena to lay on her back and had R.S. get on top of her and insert
5 his dick into her private spot. **(COUNTS 96 AND 97).** PHT, Vol, IV, p. 45. Defendant had
6 R.S. get off of Terrie Sena and lay down on his back. Terrie Sena sucked R.S.'s dick while
7 Defendant got behind Terrie Sena. **(COUNT 98).** R.S. testified that he did not want to do any
8 of those things but he was forced to do it by Defendant. PHT, Vol. IV, p. 46.

9 When R.S. was 12 or 13, he went to Defendant's office so that Defendant could help
10 him with an ingrown toenail. Afterward, Defendant told R.S. to stand up and Terrie Sena
11 removed R.S.'s clothes from the waist down. Terrie Sena sucked on R.S.'s dick. Terrie Sena
12 alternated and began sucking on Defendant's dick and then sucked on R.S.'s dick PHT, Vol.
13 IV, pp. 48-50. **(COUNTS 101 AND 102).** R.S. testified that Defendant told him that if he
14 ever told somebody he and Terrie Sena would hate him and Defendant would make his life a
15 living hell. PHT, Vol. IV, p. 50. **(COUNT 106).**

16 **Recorded Statement Taken from Defendant by Detective Samples**

17 On or about the day a search warrant was served on Defendant's residence, September
18 18, 2014, Detective Samples made contact with Defendant. Defendant agreed to give a
19 recorded statement to Detective Samples.

20 In such statement, Defendant described sexual conduct between himself and A.S.
21 Defendant indicated that when A.S. was about twenty-two (22) years of age, he, DEBORAH
22 SENA, and A.S. got intoxicated and went into a bedroom. Defendant indicated that it was that
23 time that DEBORAH SENA placed Defendant's penis into the anus of A.S. and he proceeded
24 to have anal sex with her until he ejaculated in her anus. Defendant indicated he had sex with
25 A.S. on a second occasion in which he and A.S. had vaginal intercourse approximately nine
26 months previous to the interview. Defendant also described a time when he, A.S. and TERRIE
27 SENA has sexual intercourse inside his office. Defendant indicated he had vaginal intercourse
28

1 with both A.S. and TERRIE SENA on that occasion and ejaculated in the vagina of TERRIE
2 SENA.

3 Defendant also described sexual conduct he observed involving B.S. Specifically,
4 Defendant indicated that, when B.S. was approximately three (3) years of age, he walked in
5 on Deborah “stroking” the penis of B.S. Defendant also indicated that when B.S. was
6 approximately fourteen (14) or fifteen (15) years of age, he watched B.S. and DEBORAH
7 SENA have sexual intercourse inside his bedroom.

8 **II. STATEMENT OF FACTS RELATED TO UNCHARGED CONDUCT OF THE**
9 **DEFENDANT THAT WILL BE ADMISSIBLE AT TRIAL OF THIS MATTER**

10 On August 15, 2017, the State filed a Notice of Motion and Motion in Limine to Present
11 the Complete Story of the Crime and Motion to Admit Evidence of Other Sexual Offense
12 and/or Evidence of Other Wrongs of Acts; and, on September 1, 2017, Defendant filed his
13 Opposition.

14 On September 25, 2017, the Court conducted a Petrocelli Hearing and granted the
15 State’s Motion with the exception of the email that related to the sexual contact with an animal.

16 On October 19, 2017, an Order Granting State’s Motion in Limine to Present Complete
17 Story of the Crime and Motion to Admit Evidence of Other Sexual Offenses was filed with
18 the Court.

19 **A. Uncharged Sexual Contact Committed Upon B.S. And R.S.**

20 DEBORAH SENA told detectives that when B.S. was three (3) years old
21 CHRISTOPHER SENA told her that she was going to teach B.S. how to have sex with a
22 woman, so she was lying on her back and put B.S. on top of her. DEBORAH SENA stated
23 that CHRISTOPHER SENA was giving instructions on what to do and was trying to
24 manipulate B.S.’s penis into DEBORAH SENA’S vagina. DEBORAH SENA stated that the
25 incident had been recorded somehow. When asked what led up to the incident, she told
26 detectives that she had been in an argument with CHRISTOPHER SENA and he told her that
27 he wanted her to prove her love to him; and, made a comment that TERRIE SENA loves him
28 more, and if he loved him she would do those things.

1 DEBORAH SENA told police that she reported the above referenced conduct as well
2 as other sexual conduct to the police, through her attorney, because she was being emotionally
3 blackmailed by Defendant. Specifically, she referenced blackmail information held by
4 Defendant to include her sexual conduct with B.S. when he was three (3) years of age, a photo
5 of her sexual contact with an animal as well as other pictures and videos the Defendant had
6 depicting DEBORAH SENA and B.S. in the nude and engaged in sexual conduct.

7 Defendant made reference the event involving sexual contact between a three (3) year
8 old B.S. and DEBORAH SENA during his conversation with police. Specifically, Defendant
9 indicated that, when B.S. was approximately three (3) years of age, he walked in on Deborah
10 “stroking” the erect penis of B.S. while she was nude.

11 TERRIE SENA has testified in a prior proceedings that the first time something sexual
12 happened in the household with R.S. he was five (5) years of age. During that incident,
13 Defendant had Terrie Sena and Deborah Sena bring R.S. and B.S. into the master bedroom.
14 Defendant had Terrie Sena undress B.S. and had Deborah Sena undress R.S., at which time
15 Terrie Sena performed fellatio on B.S. and Deborah Sena performed fellatio on R.S.
16 Defendant was standing on the side of the bed when the incident occurred. Terrie Sena did
17 was not aware of whether that incident was recorded or not.

18 **B. Uncharged Sexual Contact Committed Upon M.C. And Photos Taken Of**
19 **M.C. By Defendant Constituting Child Pornography**

20 When interviewed by the police on approximately December 1, 2014, M.C. disclosed
21 specific incidents in which she was sexual abused by Defendant when she was young. This
22 occurred in the course of Defendant taking most of the photos of M.C., which constitute child
23 pornography, for which he is currently charged.

24 She first recalled when she was ten (10) or eleven (11) years of age, she visited
25 Defendant and TERRIE SENA at their apartment in Las Vegas. At that same time, while
26 visiting such apartment, TERRIE SENA told M.C. to go into the master bedroom and speak
27 with Defendant who was waiting for her. Upon entering the bedroom, Defendant was sitting
28 inside the closet in a pair of shorts. Defendant told M.C. he wanted to have a special bond

1 with her that should only be between them. Defendant then exposed his penis to M.C. and
2 told her to touch it which she did. Defendant then told her that since he showed her his penis
3 that she had to show him something. M.C. subsequently removed her shirt and exposed her
4 breasts. Defendant fondled her breasts after which he allowed M.C. to leave the room.

5 On another occasion when M.C. was approximately fifteen (15) or sixteen (16) years
6 of age, in the same apartment, Defendant and M.C. were alone in the living room while
7 watching a movie. Defendant told M.C. that if she loved him she would have anal sex with
8 him. Defendant removed his pants, put M.C. on her stomach, and had anal intercourse with
9 M.C. until he ejaculated on her back. M.C. remembered the penetration hurting and that she
10 asked Defendant to stop but he didn't until he ejaculated.

11 Also while M.C. was approximately fifteen (15) or sixteen (16) years of age, in the
12 same apartment, Defendant indicated to M.C. that he would stop having sexual intercourse
13 with M.C. and move onto another hobby. Defendant indicated he would need to have sexual
14 intercourse with her on one last time. Defendant pushed her against the wall with the front of
15 her body facing the wall and her standing up. Defendant proceeded to have anal intercourse
16 with M.C. M.C. remembers that Defendant ejaculated in a towel and her anus bled after the
17 incident.

18 **C. Uncharged Acts Of Violence Committed Upon Debra Sena And/Or A.S.**
19 **And/Or B.S. And/Or T.S. And/Or R.S.**

20 On or about September 15, 2014, DEBORAH SENA wrote a statement in which she
21 described a number of violent acts committed upon her and other members of her family living
22 in the family residence which caused members of the family to be fearful of not listening to
23 Defendant. Specifically, DEBORAH SENA indicated that Defendant made it known that if
24 anyone ever called the police on him that he could do quite a bit of damage before the police
25 arrived and that if he ever was put in jail he would eventually get out and either kill or break
26 the legs of the person who put him in jail. Defendant committed regular acts of violence
27 against DEBORAH SENA and family members when things were not done as he wanted.

28 //

1 In approximately May 2014, DEBORAH SENA observed B.S. making a sandwich for
2 his sister, A.S. Defendant did not agree with a male making a sandwich for a female and
3 pushed B.S. up against the wall and balled his fist up and told B.S. not to try him. As a result,
4 B.S. walked away. As a result of this contact, B.S. talked to A.S. and indicated he was
5 contemplating suicide. It was after this conversation that B.S. and A.S. left the residence with
6 DEBORAH SENA.

7 **D. Emails Sent To Debra Sena And/Or Others By Defendant In September**
8 **2014**

9 In September 2014, after DEBORAH SENA, B.S. and A.S. had left the family
10 residence, Defendant sent a series of e-mail messages to some of his children, DEBORAH
11 SENA, and various individuals employed at Cox Cable.

12 In an e-mail message sent on September 11, 2014, Defendant sent the e-mail to
13 DEBORAH SENA and some of his children. The e-mail indicated Defendant wanted to
14 communicate with them. It was that same day that an e-mail message was received by various
15 individuals at Cox Communications, where DEBORAH SENA worked, from Defendant to
16 which a photo was attached depicting DEBORA SENA in the nude and having apparent sexual
17 contact with a dog. (*Evidence of this email, only, will not be admitted at trial based on the*
18 *Court's decision at the Petrocelli Hearing*).

19 On September 15, 2014, Defendant sent another email to DEBORAH SENA in which
20 he references the possibility of him releasing a video depicting DEBORAH SENA and B.S.
21 Defendant indicates that “instead of spending all that money for a divorce all he had to do was
22 send a small video clip of you and [B.S]”. Defendant further indicates that this would result
23 in DEBORAH SENA having “free room and board and medical”.

24 On September 17, 2014, Defendant sent another email to DEBORAH SENA in which
25 Defendant indicates he may disclose that DEBORAH SENA was having sex with B.S. when
26 he was three (3) years of age as well as disclosing a video of DEBORAH SENA having sex
27 with B.S.

28 //

ARGUMENT

I. SEVERANCE IS NOT WARRANTED IN THE INSTANT

Severance is not required in the instant case because the charges against Defendant are based on two or more acts connected together as part of a common scheme or plan. NRS 173.115 provides that:

Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are:

1. Based on the same act or transaction; or

2. Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(Emphasis Added)

Likewise, the Nevada legislature enacted NRS 174.155 in order to join such similar charges by providing that:

The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants, if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

The Nevada Supreme Court has interpreted the language of NRS 173.115(2) which reads “**Based upon two or more acts or transactions connected together**” to mean when evidence of either crime would be admissible in a separate trial regarding the other crime. Weber v. State, 121 Nev. 554, 571 (2005). Until recently, the Nevada Supreme Court had not completely defined what “connected together” specifically meant. However, in Weber, the court defined “connected together:”

We have not addressed the “connected together” language in the statute, and it is a term that calls for more precise definition. We hold that for two charged crimes to be “connected together” under NRS 173.115(2), **a court must determine that evidence of either crime would be admissible in a separate trial regarding the other crime. We have recognized this cross-admissibility as a basis for joinder of charges in some of our prior decisions.** We now expressly employ

1 it to define “connected together” under NRS 173.115(2). *We conclude*
2 *that the groups of crimes charged and proven in this case are*
3 *connected together because evidence of each group would have been*
4 *relevant and admissible at separate trials of the other crimes.*

5 Weber, 121 Nev. at 573. (Emphasis added).

6 In Weber, defendant repeatedly raped the daughter of his girlfriend over a period of
7 time. On the last occasion, April 4, 2002, the defendant killed his girlfriend and another one
8 of her children. Subsequently, on April 14, 2002, the defendant attacked the surviving son of
9 the victim. In holding that the three different set of charges were properly joined, the Nevada
10 Supreme Court found that each was relevant to the other because it provided not only the
11 motive for the homicides, but the identity of the perpetrator. Weber v. State, 121 Nev. 554
12 (2005).

13 Specifically, the Weber Court found that the sexual molestation evidence was relevant to
14 the *motive* for the April 4 and April 14 violent acts. The violent acts of April 4 and 14 were
15 relevant as evidence of consciousness of guilt for the sexual molestation charges. The April
16 14 evidence was relevant as to the *identity* of the perpetrator of the April 4 murders. And, the
17 April 4 evidence was relevant to Weber’s *intent* during the April 14 attempted murders. The
18 Court rejected the notion that evidence of the other crimes was cross-admissible under the
19 complete story doctrine. Nonetheless, the Court found that the evidence was relevant to
20 *motive, intent, consciousness of guilt, and identity*.

21 Since the Defendant is requesting this Court to consider the separation of various
22 charges in one pleading document, the Defendant must show that prejudice would result from
23 a single trial of more than one count. Ex Parte Groesbeck, 77 Nev. 412, 365 P.2d 491 (1961).
24 Mere anticipatory conclusions are insufficient. White v. State, 83 Nev. 292, 492 P.2d 55
25 (1967); Anderson v. State, 81 Nev. 477, 406 P.2d 532 (1965); also see NRS 174.165.

26 The decision to sever is left to the discretion of the trial court. The decision to join
27 cases will not be reversed absent an abuse of discretion. Amen v. State, 106 Nev. 749, 756,
28 801 P.2d 1354, 1359 (1990). While making this decision, a court must consider not only the
possible prejudice to the defendant but also the possible prejudice to the Government resulting

1 from two time-consuming, expensive and duplicitous trials. Lisle v. State, 941 P.2d 459, 466
2 (1997).

3 Joinder is to be broadly construed in the interest of more efficient administration of
4 justice and in favor of initial joinder. United States v. Ford, 632 F.2d 1354, 1373 (9th Circ.
5 1980). Joinder of offenses is a means of avoiding expensive duplicative trials and such joinder
6 is favored where there are common elements of proof in the joined offenses, and where the
7 interests of judicial economy outweigh any prejudice to the defendant. United States v.
8 Wilson, 715 F.2d 1165, 1171 (7th Cir. 1983). (Emphasis added).

9 Additionally, there must be more prejudice shown than is inherent in any joinder of
10 counts. United States v. Bright, 630 F.2d 804 (5th Cir. 1980). It is insufficient to show that
11 severance gives the defendant a better defense. He must show prejudice of such a magnitude
12 that he is denied a fair trial. United States v. Martinez, 486 F.2d 15 (5th Cir. 1973).

13 In Robins v. State, 106 Nev. 611, 798 P.2d 558 (1990), our Nevada Supreme Court was
14 faced with the joinder of a child abuse charge and a murder charge. The Court held that, “if .
15 . . evidence of one charge would be cross- admissible in evidence at a separate trial on another
16 charge, then both charges may be tried together and need not be severed.” Id. at 619, 798 P.2d
17 at 563 (*citing* Mitchell v. State, 105 Nev. 735, 738, 782 P.2d 1340, 1342 (1989)).

18 It is important to note that both NRS 174.155 and NRS 173.115 use the words “may
19 order.” By use of the word “may,” it is obvious that the legislature had intended to give the
20 Court broad discretion in applying the statute. Citing NRS 174.155, the Court in Lovell v.
21 State, 92 Nev. 128, 546 P.2d 1301 (1976), held that “joinder is within the discretion of the trial
22 court and its actions will not be reversed absent an abuse of discretion.” Where no prejudice
23 will result from joinder of two Informations, no abuse of discretion is committed by a court
24 who orders such a joinder. Moeller v. United States, 378 F.2d 14 (5th Cir. 1967).

25 The Nevada Statutes cited are identical to the Federal Rules of Criminal Procedure.
26 NRS 174.155 is the same as Federal Rule 13, and NRS 173.115 is the same as Federal Rule
27 8(b). In considering whether to allow consolidation, the courts have looked at the conflicting
28 policies of judicial economy and efficiency of judicial administration, looking to control court

1 calendars in avoidance of multiple trials, and any resulting prejudice to a defendant which
2 might arise from being prosecuted at trial by presentation of evidence of other crimes flowing
3 from a common scheme or plan. Cantano v. United States, 176 F.2d 820, (4th Cir., 1948);
4 United States v. Fencher, 195 F. Supp. 634 (D. Conn.); *affirmed*; 319 F.2d 604 (4th Cir., 1963).

5 When looking at the facts of the instant case, at least two (2) things are abundantly
6 clear:

7 (1) Defendant's charges arise from a continuing course of conduct that began with
8 A.S. in May 2001 and continued until the end June 2014. Within the time period involving
9 A.S., Defendant is charged with sexual misconduct involving T.G. from 2004 -2013; T.S.
10 from 2008-2013; R.S. and E.C from 2010-2014; and B.S. 2011-2014.

11 (2) Defendant's conduct involves a very identifiable common scheme or plan of
12 engaging in acts of Sexual Assault with a Minor; Lewdness with a Minor; Incest; Open or
13 Gross Lewdness; Child Abuse, Neglect, or Exploitation; Possession of Visual Presentation
14 Depicting Sexual Conduct of a Child; and, Use of a Minor Under the Age of 14 in Production
15 of Pornography, along with his Co-Defendant's, involving all of the victims in a very
16 distinctive manner. Defendant used his familial relationship as the victims' biological father
17 and/or step-father, and/or uncle, in order to gain access to each and every one of them so as to
18 facilitate his continued abuse of them for an extended period of years, for over a decade.
19 Fourteen years to be precise. As such, the joinder of all offenses is appropriate under NRS
20 173.115.

21 **II. EVIDENCE OF THE CRIMES COMMITTED AGAINST A.S., T.S., B.S., R.S.,**
22 **E.C. AND M.C. IS CROSS-ADMISSIBLE AT SEPARATE TRIALS UNDER**
23 **NRS 48.045(3) AS EVIDENCE OF DEFENDANT'S PROPENSITY FOR**
SEXUAL ABUSE

24 NRS 48.045, as amended and effective as of October 1, 2015, provides:

25 "1. Evidence of a person's character or a trait of his or her
26 character is not admissible for the purpose of proving that the
27 person acted in conformity therewith on a particular occasion
28 . . .

//

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1 **3. Nothing in this section shall be construed to prohibit the**
2 **admission of evidence in a criminal prosecution for a sexual**
3 **offense that a person committed another crime, wrong or act**
4 **that constitutes a separate sexual offense. As used in this**
5 **subsection, “sexual offense” has the meaning ascribed to it in**
6 **NRS 179D.097.”**

7 NRS 48.045 (emphasis added).

8 Further, NRS 179D.097(1)(a)-(t) defines “sexual offense” as follows:

9 1. “Sexual offense” means any of the following offenses:

10 (a) Murder of the first degree committed in the perpetration or
11 attempted perpetration of sexual assault or of sexual abuse or
12 sexual molestation of a child less than 14 years of age pursuant to
13 paragraph (b) of subsection 1 of NRS 200.030.

14 **(b) Sexual assault pursuant to NRS 200.366.**

15 (c) Statutory sexual seduction pursuant to NRS 200.368.

16 (d) Battery with intent to commit sexual assault pursuant to
17 subsection 4 of NRS 200.400.

18 (e) An offense involving the administration of a drug to another
19 person with the intent to enable or assist the commission of a
20 felony pursuant to NRS 200.405, if the felony is an offense listed
21 in this subsection.

22 (f) An offense involving the administration of a controlled
23 substance to another person with the intent to enable or assist the
24 commission of a crime of violence pursuant to NRS 200.408, if
25 the crime of violence is an offense listed in this section.

26 **(g) Abuse of a child pursuant to NRS 200.508, if the abuse**
27 **involved sexual abuse or sexual exploitation.**

28 **(h) An offense involving pornography and a minor pursuant**
 to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Open or gross lewdness pursuant to NRS 201.210.

 (k) Indecent or obscene exposure pursuant to NRS 201.220.

(l) Lewdness with a child pursuant to NRS 201.230.

 (m) Sexual penetration of a dead human body pursuant to NRS
 201.450.

 (n) Sexual conduct between certain employees of a school or
 volunteers at a school and a pupil pursuant to NRS 201.540.

1 (o) Sexual conduct between certain employees of a college or
2 university and a student pursuant to NRS 201.550.

3 (p) Luring a child or a person with mental illness pursuant to NRS
201.560, if punished as a felony.

4 (q) Sex trafficking pursuant to NRS 201.300.

5 **(r) Any other offense that has an element involving a sexual**
6 **act or sexual conduct with another.**

7 **(s) An attempt or conspiracy to commit an offense listed in**
8 **paragraphs (a) to (r), inclusive.**

9 (t) An offense that is determined to be sexually motivated
10 pursuant to NRS 175.547 or 207.193.

(Emphasis added)

11 The recent amendments to NRS 48.045 are similar to statutes drafted in a number of
12 other states including: Cal. Evid. Code Sec. 1108; Ariz. R. Evid. 404; Alaska R. Evid. 404;
13 Fla. Stat. Sec. 90.404; Official Code of Georgia Sec. 24-4-413; Illinois Compiled Statutes Sec.
14 5/115-7.3; Louisiana Statutes, Art. 412.2; and Utah Rule of Evidence 404; Kansas Statutes,
15 Sec. 21.5502. As currently amended, NRS 48.045 is almost identical to amendments made to
16 the California Evidence Code in the mid 1990's and subsequently upheld by the California
17 Courts. Additionally, the reasoning of the Nevada Legislature in enacting such amendments
18 was similar to the reasoning of the California legislature.

19 California Evidence Code, section 1108 was added effective January 1, 1996. The
20 statute has since been determined to be valid and constitutional. See People v. Fitch 55 Cal.
21 App. 4th 172, 177-86 (1997). Specifically, the California Supreme Court, in upholding section
22 1108, emphasized the legislative history behind section 1108: "the Legislature's principal
23 justification for adopting section 1108 was a practical one: By their very nature, sex crimes
24 are usually committed in seclusion without third party witnesses or substantial corroborating
25 evidence. The ensuing trial often presents conflicting versions of the event and requires the
26 trier of fact to make difficult credibility determinations. Section 1108 provides the trier of fact
27 in a sex offense case the opportunity to learn of the defendant's possible disposition to commit
28 sex crimes." People v. Falsetta 21 Cal. 4th 903, 915 (1999). Indeed, the Court explained that

1 the “Legislature has determined the need for this evidence is ‘critical’ given the serious and
2 secretive nature of sex crimes and the often resulting credibility contest at trial.” Id. at 911
3 (citation omitted).

4 It is noted that, similar to the effect of the subject amendment on NRS 48.045,
5 California’s Section 1108 explicitly supersedes Evidence Code, section 1101’s prohibition of
6 evidence of character or disposition. See People v. Soto 64 Cal. App. 4th 966, 984 (1998).
7 The purpose of Section 1108 is to permit trial courts to admit prior sexual assault evidence on
8 a common sense basis, without a precondition of finding a “non-character” purpose for which
9 it is relevant, so that juries are able to rationally assess such evidence. Id. at 983-84. This
10 rational assessment “includes consideration of other sexual offenses as evidence of the
11 defendant’s disposition to commit such crimes, and for its bearing on the probability or
12 improbability that the defendant has been falsely or mistakenly accused.” Id. at 984 (citation
13 omitted). Evidence of prior sexual conduct is highly probative and is admissible as propensity
14 evidence. As has been indicated in the analogous federal rules, the “presumption is in favor
15 of admission.” Id. at 989 (quoting United States v. Sumner 119 F. 3d 658, 662 (8th Cir. 1997)).
16 The California Supreme Court further held that Section 1108 “implicitly abrogates prior
17 decision of this court indicating that ‘propensity’ evidence is per se unduly prejudicial to the
18 defense.” People v. Villatoro, 281 P.3d 390 (Cal. 2012); See also; Falsetta, 21 Cal.4th at 911.

19 The admission of such evidence is, of course, subject to other provisions of the rules of
20 evidence including NRS 48.025 which provides:

21 “1. All relevant evidence is admissible “

22 And NRS 48.035 which provides in relevant part:

23 “1. Although relevant, evidence is not admissible if its
24 probative value is substantially outweighed by the danger of
25 unfair prejudice, of confusion of the issues or of misleading
the jury.

26 Pursuant to NRS 48.045 and NRS 48.035, similar to Cal. Evid. Code Section 1108, as
27 long as the current offenses and the prior offenses are ones defined as qualifying “sexual
28 offenses”, the prior offenses are admissible unless the trial court finds them to be inadmissible

1 pursuant to NRS 48.035. See People v. Branch 91 Cal. App. 4th 274, 281 (2001).

2 In this case, all of the crimes committed by this Defendant involving A.S., T.S., B.S.,
3 R.S., E.C., and M.C. are “Sexual Offenses” as defined by NRS 179D.097. Specifically,
4 subsections, (b), (g), (h), (i), (j), (l), (r) and (s). As such, pursuant to NRS 48.045, evidence of
5 sexual offenses committed by Defendant upon A.S., T.S., B.S., R.S., E.C., and M.C., would
6 all be cross-admissible at separate trials as evidence of Defendant’s character, or sexual
7 propensity, for the purpose of proving that Defendant acted in conformity with such propensity
8 in committing the sexual acts involving all three victims in both cases.

9 **III. THE CRIMES COMMITTED AGAINST A.S., T.S., B.S., R.S., E.C. AND M.C.**
10 **IS CROSS-ADMISSIBLE AT SEPARATE TRIALS UNDER NRS 48.045(2)**

11 NRS 48.045(2), provides as follows:

12 Evidence of other crimes, wrongs, or acts is not admissible to
13 prove the character of a person in order to show that he acted in
14 conformity therewith. It may, however, be admissible for other
purposes, such as proof of motive, opportunity, intent, preparation,
plan, knowledge, identity, or absence of mistake or accident.

15 NRS 48.045(2) (emphasis added).

16 In order to admit such evidence, the State must establish that: 1) the act is relevant to
17 the crime charged; 2) the act is proven by clear and convincing evidence; and 3) the evidence
18 is more probative than prejudicial. Cipriano v. State, 111 Nev. 534, 541 (1995), citing Berner
19 v. State, 104 Nev. 695, 697 (1988).

20 Before evidence of a prior bad act can be admitted, the state must show, by plain, clear
21 and convincing evidence that Defendant committed the offense. The state’s offer of proof
22 fulfills this requirement. Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985). Under
23 Petrocelli, clear and convincing proof of collateral acts can be established by an offer of proof
24 outside the presence of the jury combined with the quality of the evidence actually presented
25 to the jury. Salgado v. State, 968 P.2d 324 (1998).

26 The Nevada Supreme Court has recognized the value of evidence of other crimes and
27 has upheld it's admissibility in sex cases. In McMichael v. State, 94 Nev. 184, 577 P.2d 398
28 (1978), *overruled on other grounds by* Meador v. State, 101 Nev. 765, 711 P.2d 852 (1985),

1 Defendant appealed his conviction of the crime of Infamous Crime Against Nature. The trial
2 court had allowed the State, in its case in chief, to present evidence that the Defendant and his
3 13 year old victim, had engaged in oral copulation, both prior and subsequent to the incident
4 relating to the defendant's arrest. The Supreme Court upheld the trial court's admission of the
5 testimony to prove **intent or the absence of mistake or accident**. The court held that there
6 was no abuse of the admission of the testimony because the "acts were similar, were committed
7 within a period immediately preceding and following the instant offense." *Id.*, 94 Nev. at 190.

8 In Findley v. State, 94 Nev. 212, 577 P.2d 867 (1978), overruled on other grounds by
9 Braunstein v. State, 40 P.3d 413 (2000), the Supreme Court of Nevada affirmed the
10 introduction of evidence that the defendant had committed similar acts of lewdness with a
11 child nine years earlier in order to prove the defendant's lewd **intent** in touching a five year
12 old girl's "private parts" in the case for which he was on trial. The high court stated: "Intent,
13 by reason of the words of the [lewdness with a minor] statute, is an element of the crime and
14 directly placed in issue by the not guilty plea of the accused." *Id.* at Nev. 214, P.2d 868, *citing*
15 Overton v. State, 78 Nev. 198 (1962).

16 In Tillema v. State, 112 Nev. 266, 268, 914 P.2d 605, 606 (1996), the court upheld the
17 joinder of two (2) automobile burglaries occurring sixteen days apart, at different locations
18 and with different victims. The court further permitted the joinder, in the same case, of the
19 store burglary which occurred on the same date as the second automobile burglary. The court
20 reasoned:

21 The district court certainly could determine that the two vehicle
22 burglaries evidenced a common scheme or a plan. Both of the
23 offenses involved vehicles in casino parking garages and occurred
24 only seventeen days apart. Moreover, we conclude that evidence
25 of the May 29 offense would certainly be cross admissible in
evidence at a separate trial on the June 16th offense to prove
Tillema's felonious **intent** in entering the vehicle. (Citations
omitted)

26 Likewise, the store burglary could clearly be viewed by the district
court as "connected together" with a second vehicle burglary
because it was part of a continuing course of conduct."

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28 //

1 The Nevada Supreme Court addressed the issue of severance in the case of Weber v.
2 State, 119 P.3d 107 (2005). In Weber, the defendant was charged by way of indictment with
3 seventeen felony charges. The charges alleged in the indictment had occurred over a five year
4 period of time. Some of the crimes pertained to Weber's repeated molestation of a young girl
5 over the course of several years. Another set of charges pertained to the events of April 4,
6 2002, when Weber murdered the mother and brother of his molestation victim. And, the last
7 group of charges pertained to the events of April 14, 2002, when the Defendant attempted to
8 murder another sibling of his molestation victim and the sibling's guardian. Prior to trial
9 Weber moved to sever the charges into three separate cases, one for the sexual molestation
10 allegations and separate cases for the events of April 4 and April 14. The district court denied
11 the motion and that decision was affirmed on appeal.

12 The Court stated that to constitute a 'common scheme or plan' there must be some
13 evidence of a purposeful design. The Court concluded that the facts of the Weber case failed
14 to show that Weber had a single scheme or plan that encompassed his ongoing sexual
15 misconduct, his violence of April 4, and his violence of April 14. Weber, 119 P.3d at 120.
16 The Court then noted that the analysis needed to consider the language of NRS 173.115(2)
17 which reads "Based upon two or more acts or transactions connected together..." The Court
18 noted that said language previously had not been interpreted and then, as a matter of first
19 impression, went on to define 'transactions connected together' to mean when evidence of
20 either crime would be admissible in a separate trial regarding the other crime.

21 To determine whether evidence is cross-admissible the Court conducted an analysis for
22 the admissibility of other acts evidence under NRS 48.045(2). To admit such evidence the
23 proponent must offer the other act for a reason such as those listed in NRS 48.045(2) (i.e.
24 motive, intent...), prove the other act by clear and convincing evidence and must establish that
25 the probative value of the evidence is not substantially outweighed by the risk of unfair
26 prejudice. Weber, 119 P.3d at 120-121, *citing*, Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d
27 1061 (1997).

28 //

1 The Court found that the evidence of other crimes was properly admitted during
2 Weber's trial. The sexual molestation evidence was relevant to the motive for the April 4 and
3 April 14 violent acts. The violent acts of April 4 and 14 were relevant as evidence of
4 consciousness of guilt for the sexual molestation charges. The April 14 evidence was relevant
5 as to the identity of the perpetrator of the April 4 murders. And, the April 4 evidence was
6 relevant to Weber's intent during the April 14 attempted murders. The Court rejected the
7 notion that evidence of the other crimes was cross-admissible under the complete story
8 doctrine. Nonetheless, the Court found that the **evidence was relevant to motive, intent,**
9 **consciousness of guilt, and identity.**

10 In this case, the circumstances of each of the crimes, as well as the fact that the incidents
11 occurred one day apart, go a long way to show what Defendant's true intent was when he
12 approached each of the victims, as well as showing the absence of mistake or accident.

13 On March 16, 2006, the Nevada Supreme Court decided Ledbetter v. State, 129 P.3d
14 671 (2006), affirming Ledbetter's convictions of fourteen (14) counts of Sexual Assault on a
15 Minor Under 14 Years Old and twelve (12) counts of Sexual Assault on a Minor Under 16
16 Years Old. The Nevada Supreme Court further affirmed the trial court's admission of prior
17 bad acts under the motive exception of NRS 48.045(2):

18 "A presumption of inadmissibility attaches to all prior bad act
19 evidence." The principal concern with admitting this type of
20 evidence is that the jury will be unduly influenced by it and convict
21 a defendant simply because he is a bad person. The presumption
22 of inadmissibility may be rebutted when prior to the admission of
23 this evidence the district court conducts a hearing outside the
24 presence of the jury and finds that the following three factors set
25 forth in Tinch v. State are satisfied: the evidence is relevant, it is
26 clear and convincing, and its probative value is not substantially
27 outweighed by the danger of unfair prejudice.

28 Id. at 677 (citations omitted).

It therefore remains the law in Nevada that "whatever might
'motivate' one to commit a criminal act is legally admissible to
prove 'motive' under NRS 48.045(2)," so long as the three-factor
test for admissibility is satisfied.

Id. at 678, *citing* Richmond v. State, 118 Nev. 924, 59 P.3d 1249 (2002).

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1 The Nevada Supreme Court reasoned as follows:

2 The probative value of explaining to the jury what motivated
3 Ledbetter, an adult man who was in a position to care for and
4 protect his young stepdaughter L.R. from harm, to instead
5 repeatedly sexually abuse her over so many years was very high.
6 The evidence of Ledbetter's prior acts of sexual abuse of T.B. and
J.M. showed Ledbetter's sexual attraction to and obsession with
the young female members of his family, which explained to the
jury his motive to sexually assault L.R.

6 Id. at 679.

7 Finally, the Ledbetter Court found that given the overall strength of the State's case
8 against Ledbetter, we conclude that the danger that the admission of this evidence was unfairly
9 prejudicial was minimal. Id. at 679.

10 As noted in Ledbetter:

11 The probative value of explaining to the jury what motivated
12 Ledbetter, an adult man who was in a position to care for and
13 protect his young stepdaughter L.R. from harm, to instead
14 repeatedly sexually abuse her over so many years was very high.
15 The evidence of Ledbetter's prior acts of sexual abuse of T.B. and
J.M. showed Ledbetter's sexual attraction to and obsession with
the young female members of his family, which explained to the
jury his motive to sexually assault L.R.

16 Ledbetter, 129 P.3d at 679. The probative value of Defendant's conduct in each of the
17 specified incidents is "very high" in describing his motivation as to each of the incidents.

18 In Reed v. State, 95 Nev. 190, 591 P.2d 274 (1979), the Defendant was charged with
19 burglary. The victim testified that she was in her motel room at the Orbit Inn Motel when she
20 heard the window open. She saw a hand reach in and turn the doorknob, and then two men
21 entered the room and took her purse and a cup of change. The victim testified at trial that she
22 thought the Defendant was the man who stood at the door. A palm print and a fingerprint from
23 the point of entry matched the defendant. The State was permitted to introduce evidence of
24 two other motel burglaries where the defendant's fingerprints were recovered to show the
25 Defendant's identity. One victim also identified the defendant as committing one of the
26 burglaries.

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1 In the subject case, the probative value of the cross-admissible evidence outweighs any
2 prejudice. Such evidence is very probative of intent, absence of mistake or accident, motive
3 and identity. As in Weber, *supra*, the subject case is not a weak case in which additional
4 charges are sought to bolster a weak case. Rather, the evidence is very probative of the
5 previously specified and relevant matters of proof. This Court should not sever the counts of
6 the subject Indictment.

7 Defendant cites to Tabish v. State, 72 P.3d 584 (2003), in support of his argument to
8 sever. However, in Tabish, *supra*, Richard Tabish and his co-defendant, Sandra Murphy, were
9 convicted of first degree murder, conspiracy to commit murder and/or robbery, robbery,
10 conspiracy to commit burglary and/or grand larceny, burglary, and grand larceny, involving
11 he murder of Ted Binion and the theft of his silver. In addition, Richard Tabish was also
12 convicted of extortion with use of a deadly weapon, conspiracy to commit extortion, false
13 imprisonment with use of a deadly weapon and assault with a deadly weapon, from incidents
14 involving a separate victim, Leo Casey, and occurred fifty days before the murder of Binion
15 and theft of his silver. Id.

16 On appeal, the defendant's asserted, in pertinent part, that the district court erred in not
17 severing the Leo Casey counts from the Binion murder and silver theft. The district court
18 denied severance; however, did instruct the jury that the evidence relating to the Casey counts
19 was not to be considered as evidence against Murphy. Id.

20 In reversing Tabish and Murphy's convictions on the murder of Binion and other crimes
21 relating to the silver theft, the Nevada Supreme Court concluded that the district court's
22 misjoinder of the Casey counts with the other charges had a substantial and injurious effect
23 warranting reversal of each defendant's conviction for murder and robbery of Binion as well
24 as the related charges regarding the theft of the underground silver vault. Specifically, the
25 Court stated:

26 //

27 //

28 //

1 We reject the State's contentions that all of the counts charged
2 were part of a common scheme or plan, that combining the counts
3 was not unfairly prejudicial to the defendants and promoted
4 judicial economy, that the counts had to be combined to give the
jury the complete story of the crimes, or that the counts would
have been cross-admissible as prior bad acts in separate trials.

5 Tabish, 72 P.3d 584 at 590.

6 In determining that the Binion and Casey incidents could not be joined under the
7 common scheme or plan theory the Court stated:

8 We agree with appellant, however, that money and greed could be
9 alleged as connections between a great many crimes and thus do
10 not alone sufficiently connect the incidents. Additionally, we note
11 Casey transferred his interest in the sand pit well before Binion's
12 death. This lapse of time between the events undermines the
13 State's theory that Tabish and Murphy killed Binion because
14 Tabish was desperate for money to run the sand pit, and Tabish
attacked Casey to obtain his interest so that he could then kill
Binion to finance the project. Further, although both victims were
older men with substantial assets, the alleged crimes themselves
were quite distinct: Casey was allegedly victimized with a phone
book, a gun, a knife, and thumb cuffs, while Binion was allegedly
murdered by a forced overdose of drugs or by suffocation.

15 Tabish, 72 P.3d at 590

16 The Court further stated:

17 In this case, the joined incidents were dissimilar, and fifty days
18 separated the Casey incident from the alleged murder and theft of
the silver.

19 Tabish, 72 P.3d at 591

20 Clearly, unlike the facts of Tabish, in this case, the State has ample evidence that the
21 instant crimes were properly charged in the same Information pursuant to NRS 173.115(2),
22 based upon the fact such crimes are cross-admissible between one another as described above.

23 Also, unlike Tabish, the cross-admissibility of the crimes committed by this Defendant
24 against A.S., T.S., R.S., B.S., E.C. and M.C., with a span of fourteen years, are all extremely
25 relevant to Defendant's intent and absence of mistake or accident. Additionally, the evidence
26 is cross admissible to show Defendant's motive and opportunity. Thus, unlike the facts of
27 Tabish, Defendant's criminal acts in this case are not so different as to preclude cross-
28 admissibility at the separate trials.

1 **III. EVIDENCE OF CRIMES COMMITTED ON AUGUST 13, 2017 AND AUGUST**
2 **14, 2017 IS CROSS-ADMISSIBLE UNDER THE COMPLETE STORY**
3 **DOCTRINE / RES GESTAE**

4 Even when the State is charging just one criminal act when a series of interrelated
5 crimes have occurred, the other criminal acts will be admissible when they complete the story
6 of the crime charged. Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976). The Nevada Supreme
7 Court reached this holding in Allan, *supra*, because the other criminal acts proved the
8 immediate context of happenings near in time and place to the crime charged and therefore
9 complete the story of the crime charged.

10 Likewise, in his treatise on evidence, Professor John Strong notes that among the
11 “permissible purposes” for allowing evidence of other crimes is “complet[ing] the story of
12 the crime on trial by placing it in the context of nearby and nearly contemporaneous
13 happenings.” John W. Strong, ed., McCormick on Evidence, § 190 (4th ed. 1992)
14 (“McCormick on Evidence”). The evidence of other crimes is part of the res gestae of the
15 crime, and is admissible when it is necessary to a “coherent and intelligible description of the
16 offense at bar.” McCormick on Evidence, § 190 (*citing* Connecticut v. Brown, 505 A.2d 1225,
17 1229-1230 (Conn. 1986).

18 The Nevada Supreme Court has consistently held, “[i]f evidence of one charge would
19 be cross-admissible at a separate trial on another charge, then both charges may be tried
20 together and need not be severed. Mitchell, *supra*; *see also* Robinson v. United States, 459
21 F.2d 847 (D.C. Cir. 1972); NRS 48.045(2), 117.115.

22 The State is entitled to present full and accurate account of circumstances of
23 commission of a crime. “All facts necessary to prove crime charged in indictment, when
24 linked to chain of events which support the crime, are admissible. State is entitled to present
25 full and accurate account of circumstances of commission of crime, and if such account also
26 implicates defendant in commission of other crime for which has not been charged, evidence
27 is nonetheless admissible. (See NRS 48.035.) Dutton v. State, 94 Nev. 461, 581 P.2d 856
28 (1978), cited Schults v. State, 96 Nev. 742, at 748, 616 P.2d 388 (1980), Brackeen v. State,
104 Nev. 547 at 553, 763 P.2d 59 (1988). *see also* Bletcher v. State, 111 Nev. 1477, 907 P.2d

1 978 (1995).

2 The facts in Dutton reveal that he and a co-offender entered a police sponsored store
3 which was fronting as a “fencing” operation. Negotiations were entered into with regard to
4 several items of property, including some bronze wear and a camera. As a result of that
5 conduct, he was indicted for possession of the stolen camera. In finding no error with regard
6 to the evidence dealing with his possession of the bronze wear, which was likewise stolen
7 from the victim at the same time as the camera, the court stated, “Courts have long adhered to
8 the rule that all the facts necessary to prove the crime charged in the indictment, when linked
9 to the chain of events which support that crime, are admissible.”

10 The Nevada Supreme Court reaffirmed the doctrine in State v. Shade, 111 Nev. 887,
11 900 P.2d 327 (Nev. 1995). Shade was charged with possession of controlled substances:
12 Methamphetamine and Cocaine. The drugs were found by officers pursuant to a vehicle stop,
13 following an investigation involving the purchase/sale of a quantity of heroin by defendant
14 Shade and his son-in-law. The trial court prohibited the prosecution from revealing to the trial
15 jury evidence pertaining to the uncharged heroin transaction. The Nevada Supreme Court in
16 overruling the trial court stated:

17 “If the agents are not allowed to testify regarding their
18 surveillance, the State cannot inform the jury how Shade obtained
19 the drugs or that officers suspected Shade was participating as a
20 lookout during the purchase of the drugs that were ultimately
found in the car he was driving. Without such testimony, the State
cannot effectively prosecute the transportation of illegal narcotics
charges pending against Shade.

21The charges at issue were contemporaneous to the heroin
22 purchase, arose out of the same transaction, and involved the same
23 participants. The excluded evidence was inextricably intertwined
24 with the charged crimes and completed a story leading up to
25 Shade’s ultimate arrest. We conclude that the State’s witnesses
26 could not adequately testify about the methamphetamine and
cocaine charges without some reference to the heroin sale and the
accompanying surveillance activity. The district court, thus
abused its discretion by granting the motion in limine. The district
court should have admitted the evidence and issued a cautionary
instruction to the jury (emphasis provided).

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28 //

1 It is important to note that the Shade court relied upon Allan v. State, 92 Nev. 318
2 (1976), a case where the defendant complained that the trial court erred by admitting evidence
3 of uncharged lewd behavior in a Sexual Assault on Minor case. The Allan court explained the
4 complete story doctrine.

5 When several crimes are intermixed or blended with one another, or connected such
6 that they form an indivisible criminal transaction and when full proof by testimony, whether
7 direct or circumstantial, of any one of them cannot be given without showing the others,
8 evidence of any or all of them is admissible against a defendant on trial for any offense which
9 is itself a detail of the whole criminal scheme. Id. at 7 (citing Allan, *supra* at 321).

10 Ultimately, the Allan court found the evidence admissible stating:

11 The testimony regarding the additional acts of fellatio, as well as
12 the act of masturbation, was admissible as part of the *res gestae* of
13 the crime charged. Testimony regarding such acts is admissible
14 because the acts complete the story of the crime charged by
proving the immediate context of happenings near in time and
place. Such evidence has been characterized as the same
transaction or the *res gestae*. Id. at 8 (citing Allan, *supra* at 320).

15 Returning to the facts of Shade, *supra*, the Nevada Supreme Court found that the district
16 court improperly denied the undercover officer from testifying about the uncharged acts.
17 Specifically, the district court erroneously relied on NRS 48.035(1), which provides for the
18 weighing of the relative, probative and prejudicial value of the evidence. The Shade court
19 recognized that when the complete story doctrine applies:

20 The determinative analysis is not a weighing of the prejudicial
21 effect of evidence of other bad acts against the probative value of
22 that evidence. If the doctrine of *res gestae* is invoked, the
controlling question is whether witnesses can describe the crime
charged without referring to related uncharged acts. If the court
determines that the testimony relevant to the uncharged acts, it
23 must not exclude the evidence of the uncharged acts. Id. at 9.

24 The Shade court found that the uncharged acts should be admitted because, “the charges
25 at issue were contemporaneous to the heroin purchase, arose out of the same transaction, and
26 involved the same participants.” Id. at 10. Therefore, it was necessary for the officer to be
27 able to explain the events leading up to the arrest of the defendant for sale of controlled
28 substance.

1 Other Nevada Supreme Court decisions with similar holdings are as follows: Brackeen
2 v. State, 104 Nev. 547, 763 P.2d 59 (1988). In that case, the defendant was convicted of
3 Burglary and Possession of Credit Card Without Consent of the Owner. Defendant Brackeen
4 entered a Round Table Pizza Parlor, sat down at a table occupied by the Millers, and began
5 eating their pizza and drinking their beer without their permission. The defendant, thereafter,
6 left the pizza parlor and was observed by the Millers to burglarize several automobiles. The
7 trial court allowed into evidence testimony that the defendant had helped himself to the
8 Millers' pizza and beer even though the defendant had not been charged with that conduct.
9 The Nevada Supreme Court ruled that this evidence was admissible in that it bore on the
10 identification of Brackeen by the Millers, and:

11 Additionally, the description of Brackeen's pilfering was
12 admissible as an integral part of the Millers' narration of the events
13 leading up to Brackeen's removal of the personal property from
14 the vehicles in the parking lot. We have adopted the rule that the
15 State is entitled to present a full and accurate account of the
16 circumstances surrounding the commission of a crime, and such
17 evidence is admissible even if it implicates the accused in the
18 commission of other crimes for which he has not been charged.

16 Apparent from the Nevada Supreme Court's holdings is the preference for permitting
17 the State to present a full and accurate picture of the offense charged.

18 Likewise, in Howard v. State, 102 Nev. 572, 729 P.2d 1341 (1986) Howard was
19 charged with robbery with use of a deadly weapon which involved taking a security guard's
20 badge and radio at gunpoint. Later that day, Defendant contacted the owner of a van and
21 indicated that he was interested in purchasing the vehicle. Arrangements were made for the
22 owners to meet with Howard at a hotel to negotiate the purchase of the vehicle. When the
23 victim and his wife arrived at the hotel, Howard identified himself as a security officer
24 employed by the hotel. He openly displayed the stolen radio and officer's badge. The sale
25 was negotiated and arrangements were made for the defendant to meet with the victim on the
26 following day to test drive the vehicle. Later, the victim's body was found in the abandoned
27 van. Id. 102 Nev. 573-574.

28 //

1 The defendant was arrested and charged in a single information with robbery with use
2 of a deadly weapon involving the security guard and robbery with use of a deadly weapon and
3 murder with use of a deadly weapon stemming from the victim's killing. The trial court denied
4 defendant's motion to sever the two separate and distinct incidents. On appeal, the court held
5 that although the two crimes were not "parts of a common scheme or plan" they were
6 sufficiently connected together to justify the joinder of the two incidents in the same
7 indictment. Id. 102 Nev. at 574.

8 Apparent from the Nevada Supreme Court's holdings, is the preference for permitting
9 the State to present a full and accurate picture of the offense(s) charged. In this case, all of the
10 crimes Defendant committed against all seven of the victims are sufficiently connected
11 together and therefore admissible under the Res Gestae/Complete Story Doctrine.

12 CONCLUSION

13 Based upon the foregoing, the State requests Defendant's Motion to Sever be DENIED.

14 DATED this 1st day of December, 2017.

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

17
18
19 BY /s/ JAMES R. SWEETIN
JAMES R. SWEETIN
20 Chief Deputy District Attorney
Nevada Bar #005144

21
22
23 BY /s/ MARY KAY HOLTHUS
MARY KAY HOLTHUS
24 Chief Deputy District Attorney
Nevada Bar #003814

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 1st day of
DECEMBER, 2017, to:

VIOLET RADOSTA, DPD
mcmahaae@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

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CHRISTOPHER SENA,) No. 79036
)
 Appellant,)
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 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

DARIN IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 ADAM LAXALT Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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I hereby certify that this document was filed electronically with the Nevada Supreme Court 20 day of May, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
ALEXANDER CHEN

WILLIAM M. WATERS
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

CHRISTOPHER SENA, #1217884
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ Carrie Connolly
Employee, Clark County Public Defender's Office