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Respondent.

Electronically Filed
May 20 2020 01:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Docket 79036 Document 2020-19262

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CHRISTOPHER SENA
Case No. 79036

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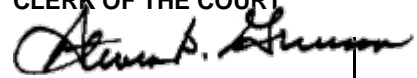
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 20, 2019

**RECORDER'S TRANSCRIPT OF HEARING
JURY TRIAL - DAY 16**

APPEARANCES:

FOR THE STATE:	JAMES R. SWEETIN, ESQ. Chief Deputy District Attorney
	MICHELLE L. SUDANO, ESQ. Deputy District Attorney
FOR THE DEFENDANT:	VIOLET R. RADOSTA, ESQ. DAVID E. LOPEZ-NEGRETE, ESQ. Deputy Public Defenders

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 20, 2019

2 (Case called at 12:56 P.M.)

3 (Inside the presence of the jury)

4 THE COURT: Okay. Everybody go ahead and have a
5 seat. For the record, this is Case No. C311453, State of
6 Nevada versus Christopher Sena. I'd like the record to
7 reflect the presence of the defendant and his counsel, as well
8 as the State and their counsel, all members of the jury.

9 Will the parties stipulate to the presence of the
10 jury?

11 MR. SWEETIN: Yes, Judge.

12 MS. RADOSTA: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, I received a note
14 from the jury and it's entitled Question No. 4. It says this
15 DVD is cracked (Exhibit 73), do you have another we can
16 review? And then it's signed by, I believe it's Mr. Molina.

17 Mr. Molina, are you the jury foreman?

18 JUROR NO. 1: Yes, I am.

19 THE COURT: Okay. What -- what has taken place is I
20 contacted the parties. The parties then got together -- and
21 correct me, counsel, if I'm incorrect with this. For the
22 record, the parties got together and prepared another video
23 which has been marked as 74A.

24 And Ms. Radosta and Mr. Negrete -- Mr. Negrete, did
25 you have an opportunity to review --

1 MR. LOPEZ-NEGRETE: Yes.

2 THE COURT: Okay.

3 MR. LOPEZ-NEGRETE: I met with Mr. Sweetin in his
4 office and we created a new disc. I think it's 73, Your
5 Honor.

6 THE COURT: Okay. Do you agree that 73A, the new
7 one, is an exact copy of the original one that's cracked?

8 MR. LOPEZ-NEGRETE: I mean, to be perfectly honest,
9 we couldn't watch the -- the cracked one.

10 THE COURT: Uh-huh.

11 MR. LOPEZ-NEGRETE: But it's the same exhibit
12 number.

13 THE COURT: Okay. Do you have any objection to 73A
14 being admitted at this time?

15 MR. LOPEZ-NEGRETE: No, Your Honor.

16 THE COURT: All right. Are you moving to admit it?

17 MR. SWEETIN: We are, Judge. And just for the
18 record, the disc was reviewed in the presence of Mr. Negrete
19 in my office, and I believe we both agreed it was an exact
20 copy of the prior disc.

21 MR. LOPEZ-NEGRETE: I mean, from what --

22 THE COURT: Okay.

23 MR. LOPEZ-NEGRETE: -- we've seen --

24 THE COURT: All right.

25 MR. LOPEZ-NEGRETE: -- of it, yeah, for sure.

1 THE COURT: Okay. So 73A, then, will be admitted at
2 this time.

3 (State's Exhibit 73A admitted)

4 THE COURT: And so then -- all right. Is there
5 anything that the parties need to make on the record at this
6 time about this?

7 MS. RADOSTA: No, Your Honor.

8 MR. SWEETIN: No, Judge.

9 THE COURT: Okay. All right. So, ladies and
10 gentlemen, you'll return back to continue your deliberation
11 and we'll include 73A at this time, okay. All right.

12 (Jury excused to continue deliberations at 12:58 P.M.)

13 (Outside the presence of the jury)

14 THE COURT: All right. Okay. We'll let you know if
15 we have any further contact with them, okay. All right.

16 MR. SWEETIN: Thanks.

17 MS. RADOSTA: Thanks, Judge.

18 THE COURT: Okay. We're off the record.

19 (Court recessed at 12:59 P.M., until Thursday,
20 February 21, 2019, at 8:39 A.M.)

21 * * * * *

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INDEX

WITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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(No witnesses called)

* * * * *

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

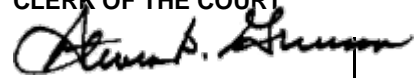
Exhibit 73-A.	4
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* * * * *

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Julie Lord

VERBATIM DIGITAL REPORTING, LLC



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

THURSDAY, FEBRUARY 21, 2019

**RECORDER'S TRANSCRIPT OF HEARING
JURY TRIAL - DAY 17**

APPEARANCES:

FOR THE STATE:	JAMES R. SWEETIN, ESQ. Chief Deputy District Attorney
	MICHELLE L. SUDANO, ESQ. Deputy District Attorney
FOR THE DEFENDANT:	VIOLET R. RADOSTA, ESQ. DAVID E. LOPEZ-NEGRETE, ESQ. Deputy Public Defenders

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 21, 2019

2 (Case called at 8:39 A.M.)

3 (Outside the presence of the jury.)

4 THE COURT: All right. We're on the record in the
5 case of State of Nevada versus Christopher Sena in C311453.
6 I'd like the record to reflect the presence of the defendant
7 and his counsel, Mr. Negrete and Ms. Radosta.

8 MS. RADOSTA: Sorry, Judge.

9 THE COURT: And the State represented by Mr.
10 Sweetin. Before we bring the jury back, I want to just put on
11 the record the other questions that we had received and how we
12 responded.

13 The first question from the jury read, Count 66, is
14 the charge supposed to state under 16 years of age? After
15 discussion with the parties, everyone agreed that my answer
16 would be this is an alternative charge to Count 65, okay.

17 The next question was were the detective's
18 interviews of all the victims admitted? We only have Anita's.
19 After discussion with parties, everyone agreed that the answer
20 would be none of the written or transcribed statements given
21 by the alleged victims to the detectives or interviewers
22 during the investigation of this case were admitted.

23 MS. RADOSTA: And, Judge, just so that the record is
24 clear, none of -- all those statements were marked for
25 identification. None were provided to the jury.

1 THE COURT: Right.

2 MS. RADOSTA: So they were just misunderstood what
3 some of the evidence was, just so that it's clear.

4 THE COURT: Okay. Then they responded to that
5 question, it would be -- it would be Question No. 3, was they
6 wrote it on my response, and they wrote Count 66 states in the
7 detail a child under 16 and so does Count 65. After
8 discussion with the parties the Court responded strike the
9 language, quote, a child under 16 years of age, end quote,
10 from Count 66. Okay.

11 Then Question 4 came in, and that was the one we
12 discussed yesterday. It says the DVD is cracked, Exhibit 73,
13 do you have another we can review. We brought them in,
14 provided a copy of that, everyone agreed that it was a correct
15 copy.

16 Then we received Question No. 5, and it reads Count
17 1, do all acts provided in Count No. 1, 46 through 52, 54
18 through 59, 61 through 77, 79 through 85, 95 through 99, 101
19 through 103, and 105 have to occur to find guilt for Count 1,
20 excluding alternative counts? The response to that, after
21 discussion with the parties, is the Court is unable to
22 supplement the evidence and refers you back to the jury
23 instructions. Okay.

24 Then the ones that brought us here today, Question 6
25 is can we listen to all anal sex incidents between Chris and

1 Anita from 11 years old to 13 years old? After discussing
2 with the parties, we had come to the conclusion that what we
3 would do is I would see whether or not the Clerk could arrange
4 her notes for -- for that -- for those limited areas. And
5 while my Clerk was doing that, we received Question No. 7.

6 And the Question No. 7 says can we listen to Anita's
7 entire testimony? So we're here now. I think it's important
8 that we go ahead and do that and let them listen, so that's
9 what we're going to do. So Christine, my court recorder, last
10 night and this morning has been preparing that. So I
11 anticipate we're going to bring them in.

12 And we brought them in this morning. They've been
13 here since -- well, it's snowing, so we had some issues with
14 some of them getting here, but they're all here now. And they
15 will come back in with their notebooks and listen to the
16 testimony again. There won't be, obviously, any additional
17 questioning or anything like that.

18 It's been my experience, though, in readback,
19 oftentimes the juries will stop the Court. I let them do that
20 short of it being complete because it seems like they have
21 certain questions and they'll look at each other, I've seen it
22 happen numerous times, and say is that enough. And they do.
23 So let's see if that happens. If it doesn't, then I'm
24 prepared to let them listen to the whole -- the whole thing,
25 okay. All right. Do you guys need --

1 MR. LOPEZ-NEGRETE: Judge, I have an appearance at
2 10:00 a.m. in lower level. I can step out or I can leave
3 right now.

4 THE COURT: Whatever you want to do, Mr. Negrete.

5 MR. LOPEZ-NEGRETE: Okay.

6 THE COURT: I mean, whatever you want to do.

7 MR. LOPEZ-NEGRETE: Okay.

8 THE COURT: I think it's -- I want to say it's about
9 six hours long.

10 THE CLERK: Uh-huh.

11 THE COURT: Yeah. So, all right. So if you guys
12 need to make other arrangements with people or whatever and
13 use your cell phone, you're fine. If you need to leave,
14 you're fine.

15 MR. LOPEZ-NEGRETE: All right. Thank you.

16 THE COURT: Except for -- Mr. Sena, you won't be
17 able to leave, okay.

18 MS. RADOSTA: I'm good.

19 THE COURT: Okay. All right. So let's -- let's get
20 them back in and we'll get started on that, okay. Before they
21 -- before you go get them, though, Ed. Is everyone in
22 agreement with what I just put on the record?

23 MR. LOPEZ-NEGRETE: Yes, Your Honor.

24 MS. RADOSTA: That's fine.

25 MR. SWEETIN: Yes, Judge.

1 THE COURT: All right. Okay. And the alternates
2 will not be here because they're not deliberating.

3 MR. SWEETIN: Okay.

4 THE COURT: Okay.

5 (Pause in the proceedings)

6 (Inside the presence of the jury)

7 THE COURT: Okay. Good morning. Go ahead and have
8 a seat. We're back on the record in the presence of the jury
9 in Case No. C311453, State of Nevada versus Christopher Sena.
10 I'd like the record to reflect the presence of the defendant
11 and his counsel, as well as the State and their counsel.

12 Will the parties stipulate to the presence of the
13 jury?

14 MR. SWEETIN: Yes, Judge.

15 THE COURT: Okay. Ladies and gentlemen, so the
16 record is clear, they are in deliberations at this time.
17 They've asked the Court a number of questions, and the last
18 questions involved a question about wanting to listen to
19 certain portions of Anita's testimony. And then another
20 question came as a result after that that they want to listen
21 to all of Anita's testimony.

22 Quite frankly, ladies and gentlemen, it's easier, I
23 think, for my court recorder to give you all the testimony
24 than it would be to go through that. So what we're going to
25 do here today is we're going to play the direct examination

1 from the State, the cross-examination from the defense, any
2 redirect, any recross, any re-redirect, any re-recross. So
3 all of Anita's testimony will be -- will be heard here today,
4 okay. All right.

5 Go ahead.

6 (Testimony of Anita Sena played)

7 THE COURT: Can you stop it Christine. Christine,
8 can you put it up on the --

9 THE COURT RECORDER: Yeah, that's what I'm --

10 THE COURT: Do you -- are you seeing it?

11 MS. RADOSTA: Yes.

12 THE COURT: Okay. It should be up there, as well,
13 on the -- on the screens.

14 MS. RADOSTA: We were seeing it with --

15 THE COURT RECORDER: It might have just been --
16 everything is on. Maybe just because it's been on for some
17 time.

18 THE COURT: Okay.

19 THE COURT RECORDER: Let me just try to do this
20 again.

21 THE COURT: All right.

22 MR. SWEETIN: Judge, can we approach just real quick
23 before we --

24 THE COURT: Sure. Sure. Sure.

25 (Off-record bench conference)

1 THE COURT: All right. Ladies and gentlemen, the
2 attorneys reminded me I want to give you the option. It's
3 been my experience oftentimes when we have readbacks or
4 playbacks in this magnitude is that there's certain things
5 that you hear or collectively you may hear during the --
6 during the presentation that may be -- satisfy your concerns.
7 I, obviously, do not want you discussing it with each other in
8 the sense of saying, hey, you know, talking or whatever, but
9 if you hear what you think is what -- is what you're looking
10 for, maybe motion to the -- your jury foreman and then decide
11 whether or not you want to continue on.

12 I don't know. I mean, it may be the whole thing,
13 and that's fine. I'm just saying that if you do see that,
14 that you -- that you've heard and you're satisfied with what
15 you've heard and if everyone is in agreement with your -- and
16 the jury foreman, just let me know and I'll stop it, okay.

17 Go ahead.

18 JUROR NO. 1: Your Honor.

19 THE COURT: Mr. Molina.

20 JUROR NO. 1: Are we able to -- I know the testimony
21 is long, are we able to break at all and go to the back room
22 so that we can conference about --

23 THE COURT: If you see a point that you want to do
24 that, certainly, okay. The way -- they way these are set up
25 is, as I indicated earlier in my instructions, that you won't

1 have copies of transcripts and so that's why we tell you to
2 take notes and all that. So if you need to take a break
3 during this presentation and you're all in agreement with
4 that, that's fine. I'll give you an opportunity, you can go
5 back and conference. And then just let me know.

6 Here's the whole issue is that if you go back to --
7 to continue your deliberation, you need to let us know because
8 these parties are -- you know, they have other things that
9 they're doing, as well. That's why I say it's time consuming.
10 It's not so much for you all, and we know how important this
11 is to you all, it's just the parties, getting the parties here
12 and that. And that's no big deal. They're here and they're
13 here to the duration of this. But if you want to do that,
14 I'll give you that option, okay.

15 JUROR NO. 1: Thank you.

16 THE COURT: All right. Now, we just need to see
17 whether or not -- we want it to come up to where you can
18 actually see the -- and the way it works is that -- the mics
19 out in front of us. Whenever the attorneys are asking
20 questions, the camera will pan to them. Whenever the witness
21 is answering, it will pan to the witness. It goes back and
22 forth. That's what you'll be seeing.

23 And who usually -- whoever is loudest is where it's
24 going. So if I even make a noise like that or something,
25 sometimes it will kick to me, all right. Okay. So the main

1 thing is you're wanting to listen. All right.

2 So go ahead. If we can get started, Christine.

3 (Testimony of Anita Sena played)

4 THE COURT: All right. Can you stop this,
5 Christine. Go back on the record now for me.

6 THE COURT RECORDER: Okay.

7 THE COURT: Are we back on? All right. So Mr.
8 Molina had raised his hand to stop us at that point.

9 JUROR NO. 1: Your Honor, may we break for a few
10 minutes?

11 THE COURT: Sure. Do you want to go to the
12 deliberation room?

13 JUROR NO. 1: Please. Yes.

14 THE COURT: All right. Okay. So we'll go ahead and
15 be at ease while the jury exits the courtroom. How long are
16 you talking?

17 JUROR NO. 1: 10 minutes.

18 THE COURT: Okay. That will be fine. It's now 15
19 after. So if you're ready to get started by 11:30. Okay.
20 All right.

21 (Jury recessed at 11:12 A.M.)

22 THE COURT: Okay. We're outside the presence of the
23 jury. So why don't we just wait for another 15 minutes and
24 see where they're out, okay.

25 MR. SWEETIN: Thanks, Judge.

1 THE COURT: We're off. Keep it queued up at that
2 point. Can you do that?

3 (Court recessed at 11:12 A.M., until 11:35 A.M.)

4 (Outside the presence of the jury)

5 THE COURT: They apparently -- are we on?

6 THE COURT RECORDER: Yes.

7 THE COURT: Okay. They apparently wanted to -- they
8 want to listen to some more, and then the jury foreman said
9 he'll stop us if they -- if they are satisfied.

10 MS. RADOSTA: All right.

11 THE COURT: Okay. So go ahead and get the jury back
12 in, Ed.

13 (Inside the presence of the jury)

14 THE COURT: Okay. Everybody go ahead and have a
15 seat. We're back on the record in C311453, State of Nevada
16 versus Christopher Sena, in the presence of the jury.

17 Mr. Molina, my Marshal indicated that you -- you
18 want to continue listening to the examination of Ms. Sena and
19 that you would notify us if you wanted to stop.

20 JUROR NO. 1: Yes, Your Honor.

21 THE COURT: Is that correct? Okay. Go ahead.

22 (Testimony of Anita Sena played)

23 THE COURT: Okay. Stop. Mr. Molina.

24 JUROR NO. 1: Yeah, I believe we have what we need.

25 THE COURT: Okay. Everyone agree? All right. So

1 we'll go ahead and have you retire back to deliberations. And
2 can I go ahead and release the parties, then?

3 JUROR NO. 1: Yes, sir.

4 THE COURT: Okay. All right.

5 (Jury excused for deliberations at 11:58 A.M.)

6 THE COURT: All right. We're outside the presence
7 of the jury. Go ahead and leave your information with us.

8 Officers, I'd ask that you probably not dress him
9 out. Keep him --

10 THE CORRECTIONAL OFFICER: We're just going to leave
11 him downstairs.

12 THE COURT: Okay. That's fine.

13 All right. So we'll let you know as soon as we hear
14 anything. I'm probably going to go ahead and get lunch for
15 them. We don't take them out for lunch. We bring lunch in.
16 And then I'll let you know if we -- if we hear anything, okay.

17 MS. RADOSTA: Thank you.

18 THE COURT: All right.

19 MR. SWEETIN: That's fine, Judge. If there's a
20 verdict, we had talked to some of the victims in the case and
21 they wanted to be here. We told them we could give them no
22 more than 30 minutes --

23 THE COURT: Okay.

24 MR. SWEETIN: -- notice.

25 THE COURT: That's fine.

1 MR. SWEETIN: So we'd just ask for that.
2 THE COURT: That's fine.
3 MR. SWEETIN: Okay.
4 THE COURT: Okay. All right. Okay.
5 MS. SUDANO: Thank you, Your Honor.
6 (Court recessed at 12:00 P.M., until 3:13 P.M.)
7 (Inside the presence of the jury)
8 THE COURT: All right. Everybody go ahead and have
9 a seat. We're back on the record in the case of State of
10 Nevada versus Christopher Sena in C311453. I'd like the
11 record to reflect the presence of the defendant and his
12 counsel, as well as the State and their counsel.
13 Will the parties stipulate to the presence of the
14 jury?
15 MR. SWEETIN: Yes, Judge.
16 MS. RADOSTA: Yes, Your Honor.
17 THE COURT: You had indicated previously, Mr.
18 Molina, that you are the jury foreman.
19 JUROR NO. 1: Yes, Your Honor.
20 THE COURT: Have you reached a verdict?
21 JUROR NO. 1: Yes, Your Honor.
22 THE COURT: Can you hand the verdict to my Marshal,
23 then. Thank you, Mr. Molina.
24 Mr. Sena, can you please rise. I'm going to ask the
25 Clerk to read the verdict out loud.

1 THE CLERK: District Court, Clark County, Nevada.
2 The State of Nevada, plaintiff, versus Christopher Sena,
3 defendant. Case No. C-15-311453-1. Department 19. Verdict.
4 We, the jury in the above-entitled case, find the
5 defendant Christopher Sena as follows.
6 Count 1, conspiracy to commit sexual assault.
7 Guilty of conspiracy to commit sexual assault.
8 Count 2, lewdness with a child under the age of 14.
9 Guilty of lewdness with a child under the age of 14.
10 Count 3, sexual assault with a minor under 14 years
11 of age. Guilty of sexual assault with a minor under 14 years
12 of age.
13 Count 4, lewdness with a child under the age of 14.
14 Guilty of lewdness under the age of 14.
15 Count 5, lewdness with a child under the age of 14.
16 Not guilty.
17 Count 6, sexual assault with a minor under 14 years
18 of age. Guilty of sexual assault with a minor under 14 years
19 of age.
20 Count 7, lewdness with a child under the age of 14.
21 Guilty of lewdness with a child under the age of 14.
22 Count 8, sexual assault with a minor under 14 years
23 of age. Guilty of sexual assault with a minor under 14 years
24 of age.
25 Count 9, lewdness with a child under the age of 14.

1 Guilty of lewdness with a child under the age of 14.
2 Count 10, lewdness with a child under the age of 14.
3 Guilty of lewdness with a child under the age of 14.
4 Count 11, sexual assault with a minor under 14 years
5 of age. Guilty of sexual assault with a minor under 14 years
6 of age.
7 Count 12, lewdness with a child under the age of 14.
8 Guilty of lewdness with a child under the age of 14.
9 Count 13, lewdness with a child under the age of 14.
10 Guilty of lewdness with a child under the age of 14.
11 Count 14, sexual assault with a minor under 14 years
12 of age. Guilty of sexual assault with a minor under 14 years
13 of age.
14 Count 15, lewdness with a child under the age of 14.
15 Guilty of lewdness with a child under the age of 14.
16 Count 16, sexual assault with a minor under 14 years
17 of age. Not guilty.
18 Count 17, lewdness with a child under the age of 14.
19 Not guilty.
20 Count 18, lewdness with a child under the age of 14.
21 Not guilty.
22 Count 19, sexual assault with a minor under 14 years
23 of age. Guilty of sexual assault with a minor under 14 years
24 of age.
25 Count 20, lewdness with a child under the age of 14.

1 Guilty of lewdness with a child under the age of 14.

2 Count 21, sexual assault with a minor under 16 years
3 of age. Guilty of sexual assault with a minor under 16 years
4 of age.

5 Count 22, incest. Guilty of incest.

6 Count 23, sexual assault with a minor under 16 years
7 of age. Guilty of sexual assault with a minor under 16 years
8 of age.

9 Count 24, open or gross lewdness. Guilty of open or
10 gross lewdness.

11 Count 25, sexual assault with a minor under 16 years
12 of age. Guilty of sexual assault with a minor under 16 years
13 of age.

14 Count 26, sexual assault with a minor under 16 years
15 of age. Guilty of sexual assault with a minor under 16 years
16 of age.

17 Count 27, incest. Guilty of incest.

18 Count 28, sexual assault with a minor under 16 years
19 of age. Guilty of sexual assault with a minor under 16 years
20 of age.

21 Count 29, open or gross lewdness. Guilty of open or
22 gross lewdness.

23 Count 30, sexual assault with a minor under 16 years
24 of age. Not guilty.

25 Count 31, sexual assault. Guilty of sexual assault.

1 Count 32, incest. Guilty of incest.
2 Count 33, sexual assault. Guilty of sexual assault.
3 Count 34, open or gross lewdness. Not guilty.
4 Count 35, sexual assault. Guilty of sexual assault.
5 Count 36, sexual assault. Guilty of sexual assault.
6 Count 37, incest. Guilty of incest.
7 Count 38, sexual assault. Not guilty.
8 Count 39, open or gross lewdness. Not guilty.
9 Count 40, sexual assault. Not guilty.
10 Count 41, sexual assault. Guilty of sexual assault.
11 Count 42, incest. Guilty of incest.
12 Count 43, sexual assault. Not guilty.
13 Count 44, open or gross lewdness. Not guilty.
14 Count 45, sexual assault. Not guilty.
15 Count 46, sexual assault. Guilty of sexual assault.
16 Count 47, incest. Guilty of incest.
17 Count 48, sexual assault. Guilty of sexual assault.
18 Count 49, open or gross lewdness. Guilty of open or
19 gross lewdness.
20 Count 50, open or gross lewdness. Guilty of open or
21 gross lewdness.
22 Count 51, open or gross lewdness. Guilty of open or
23 gross lewdness.
24 Count 52, sexual assault with a minor under 16 years
25 of age. Guilty of sexual assault with a minor under 16 years

1 of age.

2 Count 53, preventing or dissuading witness or victim
3 from reporting a crime or commencing prosecution. Guilty of
4 preventing or dissuading witness or victim from reporting a
5 crime or commencing prosecution.

6 Count 54, sexual assault with a minor under 16 years
7 of age. Guilty of sexual assault with a minor under 16 years
8 of age.

9 Count 55, child abuse, neglect, or endangerment,
10 sexual assault. Guilty of child abuse, neglect, or
11 endangerment, sexual abuse.

12 Count 56, open or gross lewdness. Guilty of open or
13 gross lewdness.

14 Count 57, child abuse, neglect, or endangerment,
15 sexual assault. Guilty of child abuse, neglect, or
16 endangerment, sexual abuse.

17 Count 58, open or gross lewdness. Guilty of open or
18 gross lewdness.

19 Count 59, use of a minor in producing pornography.
20 Guilty of use of a minor in producing pornography.

21 Count 60, possession of visual presentation
22 depicting sexual conduct of a child. Guilty of possession of
23 visual presentation depicting sexual conduct of a child.

24 Count 61, sexual assault with a minor under 16 years
25 of age. Not guilty.

1 Count 62, sexual assault. Guilty of sexual assault.
2 Count 63, sexual assault of a minor under 16 years
3 of age. Not guilty.
4 Count 64, sexual assault. Guilty of sexual assault.
5 Count 65, sexual assault with a minor under 16 years
6 of age. Not guilty.
7 Count 66, sexual assault. Guilty of sexual assault.
8 Count 67, sexual assault with a minor under 16 years
9 of age. Not guilty.
10 Count 68, sexual assault. Guilty of sexual assault.
11 Count 69, use of a minor in producing pornography.
12 Guilty of use of a minor in producing pornography.
13 Count 70, child abuse, neglect, or endangerment,
14 sexual abuse. Not guilty.
15 Count 71, sexual assault with a minor under 16 years
16 of age. Guilty of sexual assault with a minor under 16 years
17 of age.
18 Count 72, sexual assault with a minor under 16 years
19 of age. Guilty of sexual assault with a minor under 16 years
20 of age.
21 Count 73, incest. Guilty of incest.
22 Count 74, sexual assault with a minor under 16 years
23 of age. Guilty of sexual assault with a minor under 16 years
24 of age.
25 Count 75, incest. Guilty of incest.

1 Count 76, sexual assault with a minor under 16 years
2 of age. Guilty of sexual assault with a minor under 16 years
3 of age.

4 Count 77, use of a minor in producing pornography.
5 Guilty of use of a minor in producing pornography.

6 Count 78, possession of visual presentation
7 depicting sexual conduct of a child. Guilty of possession of
8 visual presentation depicting sexual conduct of a child.

9 Count 79, sexual assault with a minor under 16 years
10 of age. Guilty of sexual assault with a minor under 16 years
11 of age.

12 Count 80, sexual assault with a minor under 16 years
13 of age. Guilty of sexual assault with a minor under 16 years
14 of age.

15 Count 81, child abuse, neglect, or endangerment,
16 sexual abuse. Guilty of child abuse, neglect, or
17 endangerment, sexual abuse.

18 Count 82, open or gross lewdness. Guilty of open or
19 gross lewdness.

20 Count 83, sexual assault with a minor under 16 years
21 of age. Guilty of sexual assault with a minor under 16 years
22 of age.

23 Count 84, child abuse, neglect, or endangerment,
24 sexual abuse. Not guilty.

25 Count 85, open or gross lewdness. Not guilty.

1 Count 86, preventing or dissuading witness or victim
2 from reporting a crime or commencing prosecution. Guilty of
3 preventing or dissuading a witness or victim from reporting a
4 crime or commencing prosecution.

5 Count 87, sexual assault with a minor under 14 years
6 of age. Guilty of sexual assault with a minor under 14 years
7 of age.

8 Count 88, lewdness with a minor under the age of 14.
9 Guilty of lewdness with a minor under the age of 14.

10 Count 89, sexual assault with a minor under 14 years
11 of age. Guilty of sexual assault with a minor under 14 years
12 of age.

13 Count 90, lewdness with a minor under the age of 14.
14 Guilty of lewdness with a minor under the age of 14.

15 Count 91, sexual assault with a minor under 14 years
16 of age. Guilty of sexual assault with a minor under 14 years
17 of age.

18 Count 92, lewdness with a minor under the age of 14.
19 Guilty of lewdness with a minor under the age of 14.

20 Count 93, sexual assault with a minor under 16 years
21 of age. Not guilty.

22 Count 94, sexual assault with a minor under 16 years
23 of age. Not guilty.

24 Count 95, sexual assault with a minor under 16 years
25 of age. Guilty of sexual assault with a minor under 16 years

1 of age.

2 Count 96, sexual assault with a minor under 16 years
3 of age. Guilty of sexual assault with a minor under 16 years
4 of age.

5 Count 97, incest. Guilty of incest.

6 Count 98, sexual assault with a minor under 16 years
7 of age. Guilty of sexual assault with a minor under 16 years
8 of age.

9 Count 99, use of a minor in producing pornography.
10 Guilty of use of a minor in producing pornography.

11 Count 100, possession of visual presentation
12 depicting sexual conduct of a child. Guilty of possession of
13 visual presentation depicting sexual conduct of a child.

14 Count 101, sexual assault with a minor under 16
15 years of age. Guilty of sexual assault with a minor under 16
16 years of age.

17 Count 102, sexual assault with a minor under 16
18 years of age. Guilty of sexual assault with a minor under 16
19 years of age.

20 Count 103, use of minor in producing pornography.
21 Guilty of use of a minor in producing pornography.

22 Count 104, possession of visual presentation
23 depicting sexual conduct of a child. Guilty of possession of
24 visual presentation depicting sexual conduct of a child.

25 Count 105, child abuse, neglect, or endangerment,

1 sexual abuse. Guilty of child abuse, neglect, or
2 endangerment, sexual abuse.

3 Count 106, preventing or dissuading witness or
4 victim from reporting a crime or commencing prosecution.
5 Guilty of preventing or dissuading witness or victim from
6 reporting a crime or commencing prosecution.

7 Count 107, lewdness with a minor under the age of
8 14. Guilty of lewdness with a minor under the age of 14.

9 Count 108, lewdness with a minor under the age of
10 14. Guilty of lewdness with a minor under the age of 14.

11 Count 109, lewdness with a minor under the age of
12 14. Guilty of lewdness with a minor under the age of 14.

13 Count 110, lewdness with a minor under the age of
14 14. Guilty of lewdness with a minor under the age of 14.

15 Count 111, lewdness with a minor under the age of
16 14. Not guilty.

17 Count 112, lewdness with a minor under the age of
18 14. Not guilty.

19 Count 113, lewdness with a minor under the age of
20 14. Not guilty.

21 Count 114, lewdness with a minor under the age of
22 14. Not guilty.

23 Count 115, use of minor under the age of 14 in
24 producing pornography. Guilty of use of a minor under the age
25 of 14 in producing pornography.

1 Count 116, possession of visual presentation
2 depicting sexual conduct of a child. Guilty of possession of
3 visual presentation depicting sexual conduct of a child.

4 Count 117, child abuse, neglect, or endangerment,
5 sexual exploitation. Guilty of child abuse, neglect, or
6 endangerment, sexual exploitation.

7 Count 118, use of a minor under the age of 18 in
8 producing pornography. Guilty of use of a minor under the age
9 of 18 in producing pornography.

10 Count 119, possession of visual presentation
11 depicting sexual conduct of a child. Guilty of possession of
12 visual presentation depicting sexual conduct of a child.

13 Count 120, possession of visual presentation
14 depicting sexual conduct of a child. Guilty of possession of
15 visual presentation depicting sexual conduct of a child.

16 Dated the 21st day of February, 2019. Signed,
17 Mauricio Molina, Foreperson.

18 Ladies and gentlemen of the jury, are these your
19 verdicts as read, so say you one, so say you all?

20 JURY PANEL: Yes.

21 THE COURT: Does either party wish to have them
22 polled?

23 MR. SWEETIN: Not the State.

24 MS. RADOSTA: No, Your Honor.

25 THE COURT: Okay. All right. Go ahead and have a

1 seat.

2 Ladies and gentlemen, as you saw throughout the
3 proceedings here and through especially the selection of jury
4 process, and what I've said a number of times, I think this is
5 the most basic fundamental constitutional guarantees that is
6 the most important aspect of a criminal justice system is to
7 have an individual exercise his right to a trial before a
8 number of his peers, and that's what's happened here.

9 I watched you all very attentively. I think you
10 were very conscientious about what you were doing. Your
11 verdict expresses that. It's very clear that you took it
12 seriously. You had us go through some additional information
13 that you needed, and for that I thank you. I think that a
14 number of individuals before you had this opportunity do
15 certain things like shirk their responsibility and try to
16 avoid what's happening here.

17 I do believe that this is a very -- and Ms. Radosta
18 said it, it's a very important aspect of what you do. It's
19 extremely difficult at times. But I do believe for our system
20 to operate the way it does, is that we need individuals like
21 you all to take part in it. It gives me a good feeling when I
22 see people from this community, because I'm from this
23 community, take part in this and come in and not try to shirk
24 their responsibility.

25 I listened to all of you during your questioning to

1 get you selected, and I thought that you all took this very
2 serious and wanted to be part of this, knew that it was your
3 civil duty, and I thank you for that.

4 I want to tell you that you will have the
5 opportunity now to talk to anybody that wants to talk to you
6 about this case. You do not have to if you do not wish to.
7 And I will tell you that if people continue to try to ask you
8 questions and you don't want to talk to them, come back to me,
9 get a hold of my Marshal, he'll leave you information on how
10 to do so, and we'll put a stop to that. You can discuss it
11 with your family now if you choose. You can discuss it with
12 anyone you like.

13 I will tell you also the parties oftentimes want to
14 talk to members of the jury to ask for information on what
15 they think maybe they could have done, what things they did
16 that you liked, what things that you didn't like to help them
17 in their careers. I've known these attorneys the whole time
18 that they've been lawyers in the State of Nevada. I do
19 believe they're all very professional, and I appreciated their
20 -- their presentation in this case.

21 I want to tell you from the Eighth Judicial District
22 Court and all the parties involved that what you've done here
23 is very important to this community. I want to thank you for
24 that. And what I'm going to do is I'm going to have you
25 return back to the deliberation room and I'm going to come in.

1 I have some things that I give to jurors from me and I come
2 back and talk for a little while before I let you loose to go
3 talk to the parties, all right.

4 So we'll be at ease while the jury exits the
5 courtroom, okay. He'll take you back to the jury deliberation
6 room.

7 (Jury excused at 3:33 P.M.)

8 THE COURT: Okay. We're outside the presence of the
9 jury. At this time I'm going to remand the defendant to
10 custody at the Clark County Detention Center without bail and
11 set a sentencing date. I'm going to set a sentencing date on
12 a Thursday or Friday. You guys decide. I'll give you a basic
13 range for it, but I'm going to do it off of the regular
14 calendar, not on the regular calendar, okay. So Thursday or
15 Friday? Tell me what you want.

16 MR. SWEETIN: Friday would always be better for the
17 State.

18 THE COURT: Okay. Is that -- will that work okay
19 for you, Ms. Radosta?

20 MS. RADOSTA: It depends.

21 THE COURT: How about you, Mr. Negrete?

22 MS. RADOSTA: Yeah.

23 MR. LOPEZ-NEGRETE: It depends on the month that the
24 Court is going to give us.

25 MS. RADOSTA: Depends on the month.

1 THE CLERK: It will be April, and it will be
2 mid-April. The 19th?

3 MS. RADOSTA: I mean, we'll try to make it work,
4 Judge. I currently have three jury trials --

5 THE COURT: So do I.

6 MS. RADOSTA: -- that week, so --

7 THE COURT: So do we.

8 MS. RADOSTA: So, yeah.

9 THE COURT: Yeah.

10 MS. RADOSTA: We'll just have to --

11 THE COURT: Okay. So 8:30?

12 THE CLERK: April 19th at 8:30.

13 THE COURT: Okay. I'm going to refer this to the
14 Department of Parole and Probation for preparation of a
15 Presentence Investigational Report, as well. Okay.

16 MR. SWEETIN: Thank you.

17 THE COURT: All right.

18 MS. RADOSTA: Thank you.

19 MS. SUDANO: Thank you, Your Honor.

20 THE COURT: All right.

21 (Court adjourned at 3:35 P.M.)

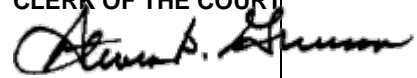
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Julie Lord

VERBATIM DIGITAL REPORTING, LLC



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,
7 Plaintiff,

8 vs.

9 CHRISTOPHER SENA,
10 Defendant.

CASE#: C-15-311453-1

DEPT. XIX

11
12 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT JUDGE
13 MONDAY, APRIL 29, 2019

14 **RECORDER'S TRANSCRIPT OF HEARING:**
15 **SENTENCING**

16
17 APPEARANCES:

18 For the State:

JAMES SWEETIN
Chief Deputy District Attorney
MICHELLE SUDANO
Deputy District Attorney

21 For the Defendant:

VIOLET R. RADOSTA
DAVID LOPEZ-NEGRETE
Deputy Public Defender

24
25 RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, APRIL 29, 2019

2 [Hearing began at 09:43 a.m.]

3 THE COURT: State of Nevada versus Christopher Sena; this is
4 C311453. This is time set for sentencing; he's in custody represented by
5 the Public Defender's office. State's represented by the District
6 Attorney's office. Is there any legal reason why we can't go forward with
7 this today?

8 MS. RADOSTA: Yes, Your Honor. First and foremost we would be
9 requesting that this be trailed to the end of the calendar and the matter
10 be -- the courtroom be cleared.

11 THE COURT: I'd be willing to do that but I'm not willing to continue
12 the sentencing again.

13 MS. RADOSTA: I understand, Your Honor, but what -- the problem
14 that we're -- that I've noticed this morning with the PSI is that at least 29
15 of the Counts have the wrong penalty on them.

16 The -- for whatever reason the State and the Defense were
17 always aware of several -- multiple of the charges being older in time.
18 And we were aware that the penalties were instead of 35's to life, 25's or
19 20's or 25's to life. That information wasn't appropriately communicated
20 to the Department of Parole and Probation.

21 And Counts 2 through 30, at a minimum, are incorrect.
22 They're all listed with the current penalties for those charges.

23 THE COURT: Do you agree with that?

24 MR. SWEETIN: No. They -- the penalties were communicated to
25 the Department of Parole and Probation. The Department of Parole and

1 Probation used the wrong matrix in putting this together. I would note I
2 don't think that's a reason to continue this because ultimately the Parole
3 Board's going to look at the sentence then --

4 THE COURT: I know but if the penalties are wrong on the PSI and
5 that's --

6 MR. SWEETIN: And I have here what I've provided to Defense
7 counsel, and what I provided to the Department of Parole and Probation,
8 was a detail of the penalties in this case. And I think that if the Court
9 were to make that an exhibit and append it to the PSI as it exists, it
10 certainly would correct any issues.

11 MS. RADOSTA: I completely disagree with that, Your Honor.

12 THE COURT: Why?

13 MS. RADOSTA: The PSI is the controlling document. A -- an -- how
14 do they -- how does whoever sees this document down the line know that
15 it came from the State and knows that it's valid? The document itself is
16 the PSI.

17 We have multiple times in other cases, Your Honor. We'd
18 make records and we are told by the Parole Board, no, the PSI is
19 controlling. I don't care what was said in Court. I don't care that
20 corrections were made on the record. Corrections need to be made to
21 the document itself.

22 MR. SWEETIN: The issues that are going to be looked at by the
23 Parole Board is the sentence that's given by this Court. It's not going to
24 be what the penalties were that might have been recommended by the
25 Department of Parole and Probation. It's going to be what was given by

1 this Court.

2 And for that reason the State submits that even without the
3 detail that we have here, so long as the Court renders a sentence, it's
4 really not relevant in regards to continuing this to have the Department of
5 Parole and Probation put in penalties that the Court says they should put
6 in. That's not relevant. But going over the top of that in this particular
7 case we have a detail which I previously provided to Defense counsel the
8 details, the actual penalties, for each of the Counts as they're alleged in
9 the information. State submits that clearly that cures any issues.

10 MS. RADOSTA: If the inaccuracy of a PSI is irrelevant then what's
11 the point of the PSI in the first place, Judge? This one isn't -- this isn't
12 one Count that's inaccurate, Judge. This is at least 29 to 30 that I've
13 looked at quickly.

14 There are other Counts deeper into the indictment that are
15 also 2008, 2010 violation dates, and charges that I'm not as -- I mean the
16 sex assault counts, the lewdness counts, those are ones that we deal
17 with all the time, and we know when the law changed on those. The law
18 changed on those in 2007. So we know that the Counts 2 through 30 are
19 incorrect. But it's possible there are additional charges deeper in the
20 indictment that are also incorrect on the PSI. I mean the penalty listed on
21 the PSI.

22 MR. SWEETIN: Again, what's the authority that would cause an
23 issue in regards to continuing this?

24 MS. RADOSTA: That the --

25 MR. SWEETIN: We're talking about -- no, we're not talking about

1 issues whether he's a gang member, or whether he had a prior
2 conviction, or anything like that that might be considered by the Parole
3 Board as he comes up for Parole, if he ever comes up for Parole, but
4 what we're looking at is the penalties which this Court essentially is going
5 -- that's the whole purpose of this proceeding to adjudge the Defendant
6 guilty and sentence him.

7 MS. RADOSTA: But the transcript of this proceeding doesn't follow
8 my client, Your Honor, the document does.

9 MR. SWEETIN: The judgment of conviction does, which is going --

10 MS. RADOSTA: Which doesn't --

11 MR. SWEETIN: -- to have the sentence that this Court gives for
12 each of those Counts.

13 MS. RADOSTA: But the PSI also follows my client throughout his
14 tenure up at the Department of Parole and Probation.

15 It's a document that is as controlling for details as the
16 judgment of conviction. By looking at this document right now it misleads
17 the Parole Board as to when these crimes were committed because of
18 the penalty that's listed in it. It makes it seem that all of the crimes are
19 committed after the year 2007; which isn't an accurate representation of
20 this case.

21 THE COURT: Yeah. Here's the issue that I have though is that -- I
22 mean even reading this though, Mr. Sweetin, even reading yours I was
23 trying to go through that to see -- it's not very --

24 MR. SWEETIN: But what it details out --

25 THE COURT: There's a few that's missed.

1 MR. SWEETIN: But what it details out is the charge -- well it details
2 out the charge in the period of time over which that charge had a certain
3 penalty.

4 THE COURT: Okay.

5 MR. SWEETIN: So if you know it'll have the charge; so a sexual
6 assault victim under 14, I'll have before a certain date, this was the
7 penalty. After a certain date this was the penalty.

8 THE COURT: I know.

9 MR. SWEETIN: Clearly the charging document details out when it
10 happened.

11 THE COURT: All right. I'm continuing it. Here's why; and I read
12 through this. There's so many -- I remember the trial, there's so much
13 involved in this case. And I thought I had it figured out exactly, I mean, I
14 know what kind of sentence I'm looking at right now and what I want --
15 and what I'm thinking about, but now that -- I did that based on what I did.
16 I did it based on the PSI because I know what kind of sentence that I'm
17 contemplating.

18 And now I'm looking at -- because I can't remember how many
19 Counts prior to October 1, 2007 Anita was involved with. I can't
20 remember how many after she was involved with. I mean unless I go
21 back through and look at the actual charging document again, and I,
22 quite frankly, I didn't do that individually because I was comfortable with
23 what I was reading here in the PSI. So I'm not comfortable with the
24 sentence that I'm contemplating so --

25 MR. SWEETIN: Well I provided this to the Department of Parole and

1 Probation so obviously they didn't feel comfortable with my analysis of
2 the law.

3 THE COURT: Yeah.

4 MR. SWEETIN: They found other --

5 THE COURT: Well I'll instruct them --

6 MR. SWEETIN: -- you know, the penalties are a little different.

7 THE COURT: -- to provide us with the correct sentence available at
8 the time prior to the dates and after the dates as the statute points out
9 because, I mean, in reading -- in just remembering, I mean, just going off
10 the first Count, Count 3, sexual assault with a minor under the age of 14
11 with Anita, there was multiple times that that was occurring and was
12 found guilty of and that was prior to 2007. I know that.

13 MR. SWEETIN: That's correct. That would be 20 to life.

14 THE COURT: And I remember there was something that happened
15 after that she testified to that was -- that he was found guilty of as well.
16 But I can't -- but, so just number 3 is incorrect just -- I mean on the PSI,
17 'cause they're talking about 35 to life versus the 20 to life.

18 MR. SWEETIN: Yes.

19 THE COURT: And so what I'd find myself doing if we did this
20 sentence now is I'd be asking for a correction on every one of those now.
21 And I don't know whether or not it's a question of fairness to the
22 Defendant, or not, or a fairness to the State. I just think that, just so that I
23 understand what they're saying and, I mean, the law changed drastically
24 during the time frame all this was happening. We had a lot of case -- I
25 mean a lot of litigation on that.

1 So just to be safe to make sure, because I'm telling you right
2 now, and I mean, and there's no secret to this, Mr. Sena's going to spend
3 an extremely large sentence in prison. And I want to make sure that
4 when I'm the one that's issuing that sentence that I'm issuing the
5 sentences correct. And so, you know, I know that all the victims are here
6 and I want them to understand that I'm trying to be thorough on this
7 because I don't want to make -- I don't want to do something that's going
8 to effect this case.

9 So I want them to understand that I want to hear from them. I
10 appreciate they're here now. There's a lot of things that I want to say to
11 them. And I want them to come back. I want them to let -- just let them
12 know that it's just how this works and it's not anything you did. It's
13 nothing that Defense did.

14 MR. SWEETIN: This is what I'd ask if we're continuing it. I'd ask for
15 a short continuance, maybe two weeks, because I think that would be
16 enough.

17 THE COURT: Well, Jim, I don't disagree with you but I don't know
18 what the departments going to do. And so my thought was 30 days and
19 that's just because I think the department and the enormity of this case
20 that they're going to have to go back through, they're going to have to
21 look at the charging document and check -- and look at the dates and
22 everything rather than just doing it in this matter of just saying okay --
23 because I mean when you read just the first page of it they lump them all
24 together, you know, all the sexual assaults together, all the gross
25 lewdness's together, all the incest's together, they lump it all together.

1 And they don't separate it by date. And each -- and all of them are
2 subject to the date change. Well the majority of them are so -- let me ask
3 Anita, Anita's here, Anita, can you come back in 30 days?

4 ANITA SENA: Yes, sir.

5 THE COURT: How about you Ryan?

6 RYAN SENA: Yes.

7 THE COURT: Is Brandon here? Brandon didn't show up?

8 ANITA SENA: No. [indiscernible]

9 THE COURT: What about Tails, did he show up?

10 MS. RADOSTA: No.

11 THE COURT: Okay. What about Aaron? Aaron's not here?

12 Melissa's not -- is Arron here?

13 ANITA SENA: No. He's in school.

14 THE COURT: Okay. Melissa?

15 MELISSA SENA: Yeah.

16 THE COURT: Okay. Can you come back?

17 MELISSA SENA: Yes.

18 THE COURT: And they had Tamara. Is Tamara here? All right.

19 So thirty days, I mean I'd like to hear from everyone. I mean
20 this is something that's pretty important to me as to what they've been
21 dealing with.

22 I heard, you know, from -- I saw what happened to them. I just
23 want to see how they're doing now. So, you guys can come back?

24 ANITA SENA: Yes.

25 MELISSA SENA: Yes.

1 RYAN SENA: Yes.

2 THE COURT: All right. They've said they would. All right.

3 [COLLOQUY BETWEEN THE COURT AND THE COURT CLERK
4 AND COUNSEL]

5 THE COURT: We'll set it 8:30 on the 28th. Can you guys do that?
6 That's a Tuesday.

7 MS. RADOSTA: And so we --

8 THE COURT: Jim, can you be here?

9 MR. SWEETIN: Yeah. I probably have a trial going. It's in
10 department 18 so I'll just let the Judge know that I'm --

11 THE COURT: We'll start at 8:30, I'll be here early.

12 MR. SWEETIN: Okay.

13 THE COURT: And I think it'd probably be the only thing --

14 THE COURT CLERK: We set one other thing over. We continued
15 one other thing from this morning.

16 THE COURT: All right. Okay. But they'll have this show?

17 THE COURT CLERK: So May 28th, which is a Tuesday at 8:30.

18 THE COURT: All right. Remand it to the --

19 THE COURT CLERK: P&P.

20 THE COURT: -- Department of Parole and Probation for a
21 supplemental with regards to the corrected sentencing structure based
22 on the dates of the offense. Okay?

23 MS. RADOSTA: Thank you, Your Honor.

24 MR. SWEETIN: And just for the record, Defense counsel had the
25 opportunity to look through the PSI. At this point there's no other issues

1 other than the penalty. Is that correct?

2 MS. RADOSTA: That is -- at this point and time, Judge. Yeah.

3 MR. SWEETIN: And she's looked through the whole PSI and there's
4 no other issues?

5 MS. RADOSTA: And in all honesty, Judge. This one caught my eye
6 this morning. So, you know, some -- at this point that's the only one that I
7 see.

8 THE COURT: All right. Well --

9 MS. RADOSTA: If I see any others, I will certainly bring them to the
10 Court's attention.

11 THE COURT: Well you have it. You have the PSI.

12 MS. RADOSTA: Yes.

13 THE COURT: I don't think anything else is going to change other
14 than the dates.

15 MS. RADOSTA: I don't. No. But --

16 THE COURT: Please let me know ahead of time --

17 MS. RADOSTA: But I'm going to --

18 THE COURT: -- so we don't have to do this again on the last
19 minute.

20 MS. RADOSTA: And just so Your Honor knows I'm going to go
21 through all of the charges --

22 THE COURT: Okay.

23 MS. RADOSTA: -- and look at all of the penalties and I'll -- because
24 apparently the -- for whatever reason Department of Parole and
25 Probation, as Mr. Sweetin said, didn't want to listen to his advice so

1 perhaps if both attorneys --

2 THE COURT: Okay. That's fine.

3 MS. RADOSTA: -- are telling them.

4 THE COURT: I'm more concerned now since I've issued that order.

5 I'm more concerned though that we come back and you say you found

6 something in the other portion of it that --

7 MS. RADOSTA: No.

8 THE COURT: Okay.

9 MS. RADOSTA: We've reviewed that the document was just the
10 penalties, Judge.

11 THE COURT: Okay.

12 MS. RADOSTA: And it was one of those situations, Judge, where
13 Mr. Sweetin and I and the -- we all knew that the law changed. We knew
14 what the penalties were.

15 THE COURT: Okay. All right. Thanks guys.

16 MS. RADOSTA: Thank you.

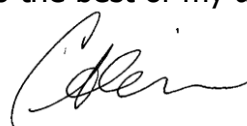
17 THE COURT: All right. Thank you.

18

19 [Hearing concluded at 09:56 a.m.]

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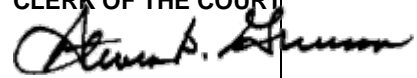
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

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Christine Erickson,
Court Recorder



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CHRISTOPHER SENA,

12 Defendant.

CASE#: C-15-311453-1

DEPT. XIX

13
14 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
15 TUESDAY, MAY 28, 2019

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **SENTENCING**

18 APPEARANCES:

19 For the State:

MICHELLE SUDANO, ESQ.
Deputy District Attorney
JAMES SWEETIN, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

21
22 DAVID LOPEZ-NEGRETE, ESQ.
VIOLET R. RADOSTA, ESQ.
Deputy Public Defenders

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25 RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER

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Las Vegas, Nevada, Tuesday, May 28, 2019

[Proceedings commenced at 9:11 a.m.]

THE COURT MARSHAL: All rise. Department 19 is now in session, Honorable Judge William Kephart presiding. Please be seated.

THE COURT: All right. Good morning, everyone.

MS. RADOSTA: Good morning, Your Honor.

MS. SUDANO: Good morning, Your Honor.

THE COURT: This is the time set for sentencing in the case of State of Nevada versus Christopher Sena. I'd like the record to reflect the presence of the Defendant, his counsel, as well as the State and their counsel. Is there any legal reason why we can't go forward with the sentencing today?

MS. RADOSTA: Hang on one second, Judge.

[Colloquy between counsel]

MS. RADOSTA: Sorry, Your Honor, just a last minute housekeeping matter.

THE COURT: All right. So, is there any legal reason why we can't go forward with sentencing here today?

MS. RADOSTA: No, Your Honor. There are a couple of typographical issues with the PSI.

THE COURT: Okay.

MS. RADOSTA: But nothing that prevents us from moving forward today. Additionally --

THE COURT: All right.

1 MS. RADOSTA: -- the State has just noticed me of an
2 additional potential victim speaker that was not originally noticed --

3 THE COURT: Okay.

4 MS. RADOSTA: -- on their list to me.

5 THE COURT: Is it Victoria [phonetic]?

6 MR. SWEETIN: It's not. Victoria --

7 THE COURT: Okay.

8 MR. SWEETIN: -- was noticed.

9 THE COURT: Okay.

10 MR. SWEETIN: Karen Turner [phonetic] --

11 THE COURT: Yeah.

12 MR. SWEETIN: -- is the Defendant's stepmother. He
13 would --

14 THE COURT: Okay.

15 MR. SWEETIN: She would like the opportunity to speak
16 today. We did not know about that ahead of time and so they haven't
17 been noticed. I asked defense counsel if they would have a problem
18 with her speaking.

19 THE COURT: So, who do we anticipate would be speaking
20 today?

21 MR. SWEETIN: Only Anita.

22 THE COURT: Okay. Anita.

23 MR. SWEETIN: The other --

24 THE COURT: So, the other -- did the other children come
25 back?

1 MR. SWEETIN: What's that? I'm sorry.

2 THE COURT: Did the -- any of the other victims come back?

3 Are they here now?

4 MR. SWEETIN: We have some of the other victims here --

5 THE COURT: Oh, okay. They just don't want to speak?

6 MR. SWEETIN: -- but only Anita wants to speak today.

7 THE COURT: Okay. All right. And then you have Victoria?

8 MR. SWEETIN: And I believe Victoria's not available today.

9 She had --

10 THE COURT: Okay.

11 MR. SWEETIN: -- something that came up and she wasn't

12 able to be here.

13 THE COURT: So, are we going to go forward though?

14 MR. SWEETIN: We are.

15 THE COURT: Okay. And then who was the last one?

16 MR. SWEETIN: The last one is Karen Turner, and although --

17 MS. RADOSTA: I'm sorry. Is she --

18 MR. SWEETIN: -- under the statute, you know --

19 MS. RADOSTA: I'm sorry.

20 MR. SWEETIN: -- as the -- as a --

21 MS. RADOSTA: Mr. Sweetin, I'm sorry. Is she present?

22 MR. SWEETIN: Yes.

23 MS. RADOSTA: Okay. I just --

24 THE COURT: Okay.

25 MS. RADOSTA: My client is a little --

1 MR. SWEETIN: Yeah.

2 MS. RADOSTA: -- just a little confused with this new piece of
3 information, that's all.

4 MR. SWEETIN: Yeah, Karen Turner is present as I
5 understand it. It's the Defendant's stepmother. She would like to speak
6 today. As the Court knows, the statute doesn't particularly require the
7 State to provide notice to the Defense of speakers; however, the State
8 normally does that as a courtesy. We would ask that she be able to
9 speak today.

10 THE COURT: Well, how would she qualify as a victim
11 speaker here?

12 MR. SWEETIN: I think she's part of the extended family
13 involved here, and that's -- it would be -- I think cause her to be
14 recognized under the statute.

15 THE COURT: Okay. All right. So --

16 MS. RADOSTA: Your Honor, for the record, this new --
17 newest addition to the State's witness list, my client is minorly confused
18 because the only Karen that he remembers in his father's life was
19 someone that was married to his father when he was approximately ten
20 or 11 years old. If that is the case, I'm not really sure -- and after that his
21 father married another woman.

22 THE COURT: Okay.

23 MS. RADOSTA: He divorced Karen and married another
24 woman, I believe, named Linda [phonetic]. So, I'm not really sure how
25 this person really would qualify under the statute to -- as a potential

1 victim speaker. Reading -- just briefly reading the handwritten note that
2 Mr. Sweetin handed me, it seems that she wants to speak directly to my
3 client, not necessarily speak about her own --

4 THE COURT: Okay. Yeah.

5 MS. RADOSTA: -- experience, but I'll leave it to the Court to
6 make the ruling on that one.

7 THE COURT: Well, let me think about it when we go through
8 this, and maybe after I get to the point -- I'm going to let Anita speak if
9 she wants to go forward or speak with -- and when we're done with that
10 I'll see whether or not I still consider Karen. I might have to ask you to
11 probably give me a proffer based on what's just been -- okay?

12 MR. SWEETIN: And that's fine, Judge. I would note that she
13 has written down what she intends to say, so it's an alternative to her
14 actually speaking. I know the Court can receive whatever it --

15 THE COURT: Okay.

16 MR. SWEETIN: -- decides it wants to receive to --

17 THE COURT: Okay.

18 MR. SWEETIN: -- review for sentencings.

19 THE COURT: Mr. Sena, I do have a copy of a Presentence
20 Investigation Report here. It's a supplemental that's -- was prepared
21 and is dated May 24th, 2019. It's, according to this, about -- it's 46
22 pages long. Do you have a copy of that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Did you have a chance to read it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Now, your attorney said that there are
2 some typographical errors in there. I'd like to address those now before
3 we go any further so we can get this corrected and put it on the record;
4 okay? So, are these typographical errors that you pointed out to your
5 attorney or is this something your attorney pointed out to you?

6 THE DEFENDANT: Yes, I -- we both pointed it out to each
7 other.

8 THE COURT: Okay. Do you want to tell me those now that
9 gives you concern or do you want your attorney to?

10 THE DEFENDANT: I will let her do it. She is better at it.

11 THE COURT: Okay. All right. Perfect. Now, you know, this
12 was a verdict, you know, I mean, through that trial.

13 THE DEFENDANT: Yeah.

14 THE COURT: We sat for a number of days through the trial.
15 And so what I'm going to do is I'm going to give the State an opportunity
16 to address the Court, and then I'll give you and your attorney an
17 opportunity to address the Court, and then I'm going to listen -- I'm going
18 to definitely hear from Anita, and if there's any other victims that want to
19 address me as well that were here last time or even that were part of
20 this trial, I'm going to hear from them, and then I'll make a determination
21 whether or not I'm going to hear from Ms. Turner; okay? All right. Do
22 you want to say anything before we go any further? I mean, not actually
23 sentencing or anything; anything with regards to the PSI.

24 THE DEFENDANT: Not at this moment.

25 THE COURT: All right. So, I'll hear from Mr. Sweetin and

1 then I'll hear from you and your attorney.

2 Or however you want to do it, Mr. Sweetin.

3 MR. SWEETIN: That's fine, Judge.

4 THE COURT: Okay. All right.

5 MR. SWEETIN: And I do have a brief argument to present to
6 the Court. I'd first note that --

7 THE COURT: Okay.

8 MR. SWEETIN: -- that many of the counts the Defendant was
9 found guilty of actually merge into other counts. Specifically, there are a
10 number of lewdness with a child under the age of 14 that merge into
11 sexual assault victim under 14 for which the jury found the Defendant
12 guilty of both. Particularly, Count 4 would merge into Count 3, Count 7
13 would merge into Count 6, Count 9 would merge into Count 8, Count 12
14 would merge into Count 11, Count 15 would merge into Count 14, Count
15 20 would merge into Count 19, Count 88 would merge into Count 87,
16 Count 90 would merge into Count 89, and Count 92 would merge into
17 Count 91.

18 The State would ask in this case, since those particular counts
19 merge into other counts, that the Court not adjudicate the Defendant on
20 those counts, but just leave them out there depending on what might
21 happen in post-conviction and only adjudicate him on the counts that
22 those -- that are merged into.

23 Yeah, I want to first start off by noting that, you know, sadly,
24 there is a lot of sexual violence that occurs here in Clark County, and I
25 know the Court's well aware of that. The Court regularly adjudicates

1 cases dealing with sexual acts similar to the acts committed in this case
2 and actually has great experience in dealing in these cases throughout
3 your legal career and, I know, on the bench.

4 Now, I've been involved prosecuting these sort of cases for a
5 number of years and with similar charges. I would submit to the Court
6 that this is a case sort of without comparison in regards to the many
7 cases that I've prosecuted over decades now of prosecuting cases here
8 in Clark County.

9 How is it unique? Well, first, in this case we have seven
10 victims, and the PSI refers to these victims by number, and I'm going to
11 correlate the first names to the numbers that are detailed in the PSI.
12 Victim 1 is Anita, Victim 2 is Tails, Victim 3 is Brandon, Victim 4 is Ryan,
13 Victim 5 is Erin, Victim 6, Tamara, Victim 7, Melissa.

14 Now, the crimes occurred on multiple occasions over an
15 extended period of time, and this extended period of time we're talking
16 about is actually in excess of two decades.

17 The Defendant begins his conduct, at least as far as we know
18 about his conduct in this particular case, with Melissa. And that's his
19 sister-in-law's -- that's essentially his sister-in-law, Terrie's sister. And
20 that happened in the early '90s. She's about 11 years old, he's in his
21 20s. The Defendant got her alone. He talked about the special bond
22 that they had. He showed her his penis, and then he asked her to show
23 her -- him something of herself since he had shown something to her.
24 She then exposed her breasts to him at the age of 11, and at that point
25 he fondled these breasts. This began a course of abuse with Melissa,

1 this child at that time, that spanned years and ultimately resulted in
2 vaginal penetration, anal penetration, many photos that are taken.

3 And we know that subsequent to these incidences [sic] with
4 Melissa, the Defendant has abused at least six other children. The
5 State submits that the evidence shows in this case that the Defendant
6 plotted over an extended period of time to put himself in a position to put
7 the children in a position that he might sexually penetrate and touch
8 them over this extended period of time by using others, by touching
9 them himself. And he did this, the State submits the evidence in this
10 case shows, really with every child that we know that he came in contact
11 with on an extended basis.

12 The nature, extent, the consistency, the volume, the duration
13 in this case, the State submits that the Defendant's conduct is unlike any
14 other case that I have seen over the course of my prosecuting cases
15 here in Clark County.

16 Now, I want to talk to -- and I know the Court heard the
17 evidence in this case, but I want to talk about the egregious nature of
18 some of the Defendant's conduct in this case, but before I get to that I
19 want to make reference to Deborah and Terrie Sena because, as the
20 Court knows, they are past and present wives of the Defendant and they
21 participated in some of the sexual abuse.

22 Now, it was always the State's position that the crimes that
23 were committed against these children by both Terrie and Deborah were
24 horrendous and they should be substantially punished for that, and the
25 State would submit that they have taken responsibility for those acts.

1 They've both been convicted. They're both doing life sentence with the
2 minimum parole eligibility after ten years. They testified at the
3 Defendant's trial.

4 The State would submit that what they did, as I indicated, was
5 horrendous, but that the evidence in this case that we've seen that
6 shows that the course that the Defendant took in this case was right
7 there and it was by nature of its design, its direction -- the State would
8 submit that the Defendant was sort of the captain or the navigator of the
9 conduct that we see from Deborah and Terrie.

10 The State would submit that you can see how essentially the
11 Defendant is different from Deborah and Terrie both about the -- in
12 regards to the conduct while this was happening and after it was
13 happening. First, you can see that all the criminal conduct in this case
14 has a common thread, and that is the Defendant. We have Terrie and
15 we have Deborah acting out individually with different victims in the
16 case; however, whenever they're acting out, there's one commonality,
17 and that's the Defendant. Again, he is always there, and the State
18 would submit the evidence is clear he's directing things and he's sort of
19 instigating things.

20 Now, in this case both Deborah and Terrie have shown
21 remorse for what they have done. You know, they -- as I indicated,
22 they've taken responsibility. They agreed to do whatever they could to
23 make this right or as right as it can be, and that included pleading guilty.
24 That included recognizing that they were going to go to prison potentially
25 for the rest of life. That included them coming in here into court and

1 testifying here.

2 However, despite what the State submits is irrefutable
3 evidence of the abuse committed by the Defendant, this includes video
4 evidence, testimony of multiple witnesses and victims, circumstantial
5 evidence, the Defendant's own statements to the police, and multiple
6 guilty verdicts in this case, the Defendant has still, the State would
7 submit, not taken responsibility for this.

8 As he stands before you for sentencing today, the State
9 submits that the evidence is clear that he instigated this conduct;
10 however, he says to the Department of Parole and Probation,
11 essentially, without really taking responsibility for anything, that, in fact,
12 he started to drink heavily because Deborah, one of his wives, had
13 gotten a job at Cox cable, which was essentially a line job, and she
14 found success in that job, and that caused him to start to use alcohol,
15 and bad things might have happened at that point. He says all this,
16 although we know that, essentially, as I discussed what happened with
17 Melissa, that what happens with Melissa happens before he even knew
18 Deborah, certainly before she had a job at Cox cable.

19 The State would submit that this is essentially who the
20 Defendant is. His conduct, the State would submit, speaks for itself, and
21 empty explanations that he might give certainly does not admit against
22 that.

23 Now, as I indicated, I know the Court's heard the evidence in
24 this case, but I want to highlight very briefly just a few pieces of evidence
25 in this case. I want to first reference Anita. Anita is now 28 years old.

1 She endured the Defendant's abuse for 14 years, 14 years. That's
2 about half of her young life at this point. And the State would submit the
3 abuse was relentless. It happened more times than she can count. It
4 started when she was about 11 years old. The Defendant penetrated
5 her anally at that time. She experienced pain like she had never felt
6 before. This is the childhood, the State would submit, that Anita knew.
7 He fondled her. He penetrated her anus, her vaginal area with his
8 fingers, his penis. He caused her to perform fellatio on him. He caused
9 her to engage in sexual conduct with her own mother and with another
10 woman that he brought into the house, keeping so much control over
11 her.

12 And I know the Court recognizes, but I want to highlight that at
13 the age of 24 that she knew that she had to do whatever that the
14 Defendant said because he completely controlled her. He knew where
15 she was. If she did something he didn't like there would be
16 repercussions. She was taught to do what the Defendant wanted her to
17 do at any cost.

18 Now, she told the Court that she stayed in that house because
19 she wanted to protect her siblings from violence, from sexual violence,
20 from violent acts, but she now knows that she was not saving her
21 siblings, that all of -- all that she was doing did not stop them from
22 suffering both physical and sexual abuse.

23 Brandon and Ryan -- we now know that when Brandon and
24 Ryan were about three or five -- three to five years of age, that the
25 Defendant had Terrie and Deborah perform sexual acts on the children.

1 Those were described in court. He essentially told his wives that if they
2 loved him that they would do it. And they did. He directed them to
3 perform fellatio on the children, even on one occasion to manipulate one
4 of the young child's penises into the vagina of one of his wives.

5 In regards to Brandon, Ryan and Tails, we saw videos of the
6 Defendant directing sexual touching and penetration between these
7 boys and Terrie and/or Deborah. We heard testimony detailing this.
8 The State submits it's clear from these videos, from the testimony that
9 the Defendant is running the show. He is directing. We hear him
10 breathing hard. We have testimony of him masturbating. He's saying
11 sexual things to these children as this is going on, quote, do it to your
12 mom, end quote, while these kids look for approval, sometimes in terror
13 the State would submit.

14 You know, remember Ryan. We saw the video involving
15 Ryan. He was scared to death. He tried to look away from the
16 Defendant and his mother, Terrie, as his mother performed fellatio on
17 him, and the Defendant began to penetrate Terrie from behind at the
18 same time. Ryan, at that point, he looks -- he's trying to look away. And
19 what does the Defendant do? Look at your mama, quote end quote.
20 Ryan complies.

21 In regards to Ryan, the State submits the Defendant saw him
22 as -- I would characterize the Defendant seeing him as an easy mark.
23 For whatever reason when the Defendant did not have access with the
24 other children, he anally penetrated Ryan with his penis multiple
25 occasions. He threatened Ryan not to say anything; Ryan complied.

1 The Defendant was so brazen and enabled that he also acted
2 out sexually against other extended family members who didn't live at
3 the house. Erin and Tamara the Court heard testimony about, and the
4 State submits the evidence showed that he began acting out sexually on
5 them when they were about eight to 11 years of age. You know, he
6 brought -- brings them back to his office and, sort of, the way he grooms
7 them is almost as offensive as the act because he begins to show them
8 sexual pictures, and those pictures included video of their aunt, Terrie,
9 essentially performing fellatio on him, or in the case of Erin, even her
10 mother, Melissa.

11 He had Erin take her clothes off as he sexually fondled her
12 breasts and vaginal area. He covertly videotaped them while they took
13 showers in his office; both Erin and Tamara. And we've viewed those
14 videos Terrie described, and we saw on the videos or heard on the
15 videos that Terrie was actually performing fellatio on the Defendant
16 while he was filming these young children taking showers, clearly
17 showing his sexual intent.

18 Now, what was the Defendant's sexual attraction to these
19 young children, Anita, Tails, Brandon, Ryan, Erin, Tamara, Melissa?
20 Well, the State would submit that we know what his sexual attraction is
21 and the extent of his sexual attraction because we have testimony from
22 two of his wives, essentially Deborah and Terrie, detailing that, in fact,
23 when he had sexual relations with them one of the things that he wanted
24 them to do was talk about these young children. That's what made him
25 sexually excited. That's what he wanted.

1 The State submits that this is Defendant. This is who he is.
2 We know who he is because he's demonstrated to us who he is over
3 decades. It's not often that the Court, as we have an individual come in
4 to be sentenced for a criminal act that's occurred, knows what he's done
5 for the last 20 years consistently. And I would note that this was all
6 done without concern for the children or anyone else. This is what he
7 wanted and this is what he got. And what was the cost?

8 And I indicated earlier that you're going to hear from Anita.
9 We have many victims in this case. How have their lives changed? I
10 would note that this -- I would ask the Court certainly not to question why
11 these other child victims do not want to come in here and testify to this
12 Court about what happened to them. These other children have been
13 affected by this, and I think their absence maybe speaks louder than
14 their words.

15 Now, I hope the victims are going to be able to put this behind
16 them, or at the very least the abuse that they've suffered has robbed
17 them of their childhood the State would submit. At the -- and I think
18 that's at the very best. And at the very worst this is something that will
19 haunt them in their lives in every romantic relationship that they have
20 and the families that they might have in the future. Trust, love, a feeling
21 of comfort and safety, the State would submit that these are things that
22 they do not know. And the reason they do not know these things is
23 because they were not taught them as a child. As children, the one
24 person who in their lives was there to protect them, to take care of them,
25 to provide for them was their perpetrator over and over and over again.

1 And, again, he did this without concern.

2 What is the appropriate punishment in this case? And I've
3 looked at P and P's recommendation and the State would submit that
4 there's a number of things that that recommendation does not take into
5 account. The State submits that certainly the volume of the Defendant's
6 conduct should be recognized in sentence. The duration of that conduct
7 should be recognized, the violence, the effect of his conduct on
8 generations, potentially, of family members.

9 We normally only have one victim in a case similar to this.
10 Here we have seven, and the State's going to ask for consecutive time
11 in this case that reflects each -- what each of these victims have
12 suffered. And I would note that some of these victims have suffered
13 more than others, and that sentence, the State would submit, should
14 reflect that.

15 The State would submit that -- and the State went through and
16 started to do a calculation, and as it went through and did this
17 calculation it came up with numbers in the hundreds of years at the low
18 end. I'm not going to submit to the Court a specific number; however,
19 the State would submit that this is the case that warrants a sentence in
20 the area of a hundred years, hundreds of years at the low end. That
21 reflects the volume. That reflects the number of victims. That reflects
22 the duration. As I indicated, this is one of the most substantial cases
23 that I've seen in prosecuting cases here.

24 Based upon all of this conduct, the distinct circumstances, the
25 State submits a very significant sentence is justified, and, most

1 importantly, the State would submit that that is fair not only to the
2 Defendant, but it's also fair to the community, to the victims who have
3 suffered. There's two sides of the equation here. In a case such as this,
4 as unique as this, the State would submit that the Court needs to send a
5 message to the community this conduct will not be tolerated. This is an
6 individual who has committed acts that he can never right, acts that are
7 going to probably affect generations of victims and their children. The
8 State would submit the most significant of sentences should be the
9 Defendant's. And we would submit it on that.

10 THE COURT: All right. Thank you, Mr. Sweetin.

11 Mr. Sena, did you want to address the Court at all?

12 THE DEFENDANT: No, not at this moment.

13 THE COURT: Okay. This is the time for you to address the
14 Court if you'd like to address the Court.

15 THE DEFENDANT: No.

16 THE COURT: All right.

17 THE DEFENDANT: Thank you.

18 THE COURT: Okay. Ms. Radosta?

19 MS. RADOSTA: Thank you, Your Honor. Just to start quickly
20 with the couple typographical errors so that I don't forget to point them
21 out to Your Honor.

22 THE COURT: Okay.

23 MS. RADOSTA: On page five the children -- the paragraph
24 just labeled children, they flip-flopped who the mothers are. Victims 1
25 and 2 they list as Deborah Sena as the mother, and that -- those are

1 Terrie's children.

2 THE COURT: Okay.

3 MS. RADOSTA: And then Victim 3 is listed as Terrie's child,
4 and that's Deborah's child.

5 THE COURT: Okay.

6 MS. RADOSTA: And they don't, for whatever reason, go
7 into -- oh, yeah, Victim 4 is correct on there. And they don't list -- they
8 don't specify the fact that Erin and Melissa and Tamara were all relatives
9 of Terrie.

10 THE COURT: Right.

11 MS. RADOSTA: They don't specify that in the report. There's
12 also some issues just with when he was employed and things of that
13 nature, Your Honor, that I honestly don't think are relevant to the
14 discussion today.

15 THE COURT: Okay.

16 MS. RADOSTA: But just some -- they first say he was
17 unemployed since 1997, but then they point out that he was actually
18 working during that time frame. It's just they say one thing and then say
19 another in the same paragraph.

20 So, with that being said, Your Honor, to move on to our actual
21 sentencing argument, the State had previously given us a document,
22 just a typed out document of what they had actually intended to ask for.
23 They were, I believe, at our last sentencing hearing, going to ask for a
24 specific time frame and it was in the hundreds of years. I believe the
25 number that was on the page was 229 years, and I appreciate that the

1 State did not ask for that today, but it listed several counts for Anita
2 should be run consecutive to each other, several counts for Ryan and
3 Terrie -- or -- I'm sorry -- Tails and several counts for Brandon all
4 individually should be run consecutive to one another.

5 THE COURT: Okay.

6 MS. RADOSTA: Additionally, two different counts for Erin
7 should be run consecutive. It just kept growing and growing and
8 growing. And the arguments that the State made today that this is -- the
9 conduct in this particular case I believe the word he used was
10 horrendous, if that applies to Mr. Sena that equally applies to Terrie and
11 Deborah Sena. They were equally involved in, at the very least, the
12 majority of this conduct.

13 We saw the videos, Judge, during the trial. We did not see
14 women that were being forced. We did not see women that were not
15 active participants. We saw women that were taking off their own
16 clothes. We saw women that were at times going to get the kids and
17 bringing them into the bedroom, that knew what was going to happen
18 before it started happening and didn't say no, I don't want to do this, no,
19 stop. We never heard that once on any of the videos that we saw. And
20 we saw videos that involved Ryan. We saw videos that involved
21 Brandon. We saw videos that involved Tails where there was active
22 sexual contact. The other videos in the shower were not in the same
23 category.

24 But the State has put a value on this so-called horrendous
25 conduct. When they offered plea negotiations to Deborah and Terrie of

1 ten years to life, they evaluated and made that decision and said that is
2 the value for this horrendous conduct. And while the State feels that
3 they can make a distinction between my client and Deborah and Terrie,
4 it is a faint one at that. They say that he has not taken the opportunity
5 that they took to take responsibility for his crimes. Well, he was never
6 given the same opportunity.

7 Your Honor has been a judge for several years now, and prior
8 to that you were at the District Attorney's Office. Generally speaking in
9 cases, if one Defendant in a co-defendant situation is offered a plea
10 negotiation, all co-defendants are offered a plea negotiation and they're
11 usually pretty similar. They may not be identical, but a many times they
12 are identical or very close to identical.

13 But in this particular situation the State made an active choice
14 to choose to champion the cause of Deborah and Terrie and offer them
15 an opportunity to get out of prison in less than five years at this point,
16 because they've been in custody for almost five already, and to maintain
17 and establish continued relationships with their children, and they did not
18 offer Mr. Sena anything close to that. There was a plea offer -- plea
19 negotiation offered, which, had the State -- had the Court accepted it,
20 could have contemplated hundreds of years; same thing the State's
21 asking for now. So, there was no equivalency in the offers made in this
22 particular case, Your Honor, and I submit that the conduct is not so very
23 different between all of the parties involved.

24 The State called my client the captain or the navigator of all of
25 this conduct, but, once again, I point Your Honor to the videos that we

1 saw. We didn't see -- he may have been directing the children with what
2 to do, but he certainly was not directing Deborah and Terrie on what to
3 do. He -- they were active participants. They were there willingly.

4 Terrie, as we know and noted multiple times during the trial,
5 left the residence with Ryan, moved out, was allowed to leave, no
6 problem, and came back willingly. Does that really sound like someone
7 who's being controlled and is being navigated or directed on what to do?
8 She was moving about of her own free will and making those decisions.
9 There were also certain incidents that I don't want to get into the
10 specifics of, particularly with Terrie though, where it was completely her
11 actions between my client and Ryan to be specific.

12 So, additionally, the State points to the length of time of these
13 alleged incidents, and I point to the incident that the State referenced of
14 when the boys were three or five years old and that the threats as the
15 State characterized it of if you loved me you would do this. That's a
16 threat? Where's the threat to that? That's merely a statement. And
17 both women said they did it. This does not sound like any type of a
18 situation where there is a big, bad wolf so to speak.

19 This sounds like, unfortunately, three damaged individuals
20 that found each other, and unfortunately we have seven -- well,
21 technically four -- the four children for sure and then Erin and Tamara to
22 a lesser degree. As far as Melissa is concerned, the State referenced
23 some conduct with Melissa, but those -- the majority of the issues with
24 Melissa were never charged. Only -- the only conduct with Melissa was
25 photographs, Your Honor.

1 THE COURT: Yeah.

2 MS. RADOSTA: But in this particular situation I think the
3 defining point is the treatment of Deborah and Terrie. The State waited
4 almost three months after seeing those videos before deciding whether
5 or not to even charge Deborah and Terrie as defendants. Remember
6 those videos, Judge. They couldn't decide if Deborah and Terrie were
7 victims or were defendants. It took them three months to make that
8 decision, and then when they did they immediately offered them a plea
9 negotiation.

10 Now, while Terrie immediately took it, Deborah did not. So,
11 you can't even say that Deborah had the best interest of her children in
12 mind because she, as the State so very often argues, made them testify,
13 made them get on the stand and tell their story, which we're often said is
14 a reason why plea negotiations sometimes go south. If you make them
15 testify, sometimes deals go away because you've made them go
16 through the difficulty of a preliminary hearing. Well, Deborah did that
17 and still got the same exact negotiation that Terrie did.

18 While the State says that this is the most horrendous case
19 and that we need to send a message to the public, most -- one of the
20 most horrendous cases in Las Vegas history that he's aware of, I would
21 point out that there are a couple of nationally known cases that garnered
22 a lot of attention where the sentences were considerably less than what
23 the State is asking for right now.

24 The one -- the two that come to mind, Your Honor, are the
25 Jerry Sandusky case, which gained quite a lot of -- or national -- I don't

1 know if it was international, but definitely national news attention. There
2 were 45 counts in that particular case, multiple victims, a extended
3 period of time of abuse of multiple children, and the sentence that he got
4 was 30 to 60 years.

5 And the other case that I would point out to Your Honor is the
6 case of Larry Nassar, who was the gymnastics coach for the -- or -- I'm
7 sorry -- the doctor for the U.S. gymnastics team. They estimate that
8 there were 265 alleged victims in that case, and he has been sentenced
9 to 40 to 125 years in the one case, and when you total up his sentences
10 for all cases, they say 175 years on the top end. So, 265 victims, and
11 the State feels that Mr. Sena is worse than someone like Larry Nassar,
12 that he deserves a higher sentence than someone like that.

13 THE COURT: Well, didn't he plead though?

14 MS. RADOSTA: I actually am not sure, Your Honor.

15 THE COURT: Okay.

16 MS. RADOSTA: But my --

17 THE COURT: Pretty sure.

18 MS. RADOSTA: -- client was not given the opportunity to
19 plead to anything that would have resulted in something that, as I stated,
20 not -- the opportunity to plead for Mr. Sena would have still resulted in
21 Your Honor's ability to give him hundreds --

22 THE COURT: Mm-hmm.

23 MS. RADOSTA: -- of years.

24 THE COURT: Yeah.

25 MS. RADOSTA: So, where is the benefit?

1 THE COURT: I think the same -- since we're talking about it, I
2 think the same opportunity was there in the case involving Nassar, and
3 the judge chose not to probably because I would say that the individual
4 took some responsibility. So, that's how I look at that, so --

5 MS. RADOSTA: It's possible, but --

6 THE COURT: Well, I don't know. I --

7 MS. RADOSTA: -- the State also, though, points out to the
8 fact that my client in his statement does not take responsibility because
9 he says he was drinking. That's exactly the same thing Terrie says was
10 going on during the time frame that she was doing these things, that she
11 was drinking, and, yet, she got the benefit of a bargain of a ten to life.

12 So, while the State makes all these arguments about how my
13 client is so much more responsible and so much more again, the only
14 word that comes to mind is responsible than his wives really doesn't play
15 out in the -- when you look at the entirety of the situation, Your Honor.

16 THE COURT: Well, Ms. Radosta, just so it's clear here, and I
17 want to make it very clear --

18 MS. RADOSTA: Mm-hmm.

19 THE COURT: -- I was not the sentencing judge in either one
20 of those individuals.

21 MS. RADOSTA: I understand that, Your Honor.

22 THE COURT: And --

23 MS. RADOSTA: And the penalties in --

24 THE COURT: And I was not asked to accept any kind of
25 negotiation in regards to either one of those individuals.

1 MS. RADOSTA: And I meant to point that out, Your Honor,
2 because it was an -- once again, an unusual situation that they were
3 not -- this wasn't an A, B and C case.

4 THE COURT: Mm-hmm.

5 MS. RADOSTA: Deborah and Terrie were charged separately
6 and so they went to a separate judge and that judge did decide to
7 accept those plea negotiations.

8 And so thank you, Your Honor, for pointing that out because
9 that was a point that I wanted to make because I'm not honestly sure, to
10 be honest with you, if you would have accepted that plea negotiation,
11 but it is what it is at this point. They were offered it, it was implemented,
12 and they now have less than five years to serve on their sentence.

13 What we would ask Your Honor to do is, given my client's age,
14 sentence him to 135 to life, Judge, and everything else to run
15 concurrently with that.

16 I would also point out, oddly, that between the first
17 presentence investigation and the second, the supplemental that we
18 received just Friday afternoon, although I was correct and there was
19 approximately even more than I had thought, I think there were
20 somewhere in the neighborhood of 45 charges that were incorrectly
21 assessed on the original PSI, the penalty that the Department of Parole
22 and Probation is offering on the supplemental, that's gone up. I don't
23 understand how that can happen. They actually added a fourth count,
24 Your Honor, to run consecutively --

25 THE COURT: Ms. Radosta --

1 MS. RADOSTA: -- that wasn't there --

2 THE COURT: -- let me tell you, I appreciate the department's
3 assistance and I appreciate your --

4 MS. RADOSTA: Mm-hmm.

5 THE COURT: -- assistance in catching that because this is
6 such a complicated --

7 MS. RADOSTA: Right.

8 THE COURT: -- sentence --

9 MS. RADOSTA: Right.

10 THE COURT: -- that I needed to make sure I -- I mean, I was
11 going through looking these statutes up on my own to make sure I had
12 the right sentences because the last time we had it there was some
13 conflicts that I saw that I --

14 MS. RADOSTA: Right.

15 THE COURT: -- just knew --

16 MS. RADOSTA: Right.

17 THE COURT: -- were wrong.

18 MS. RADOSTA: Mm-hmm.

19 THE COURT: So, I appreciate -- that's why I -- we continued
20 this because --

21 MS. RADOSTA: Absolutely.

22 THE COURT: -- I wanted to make sure this was clear. And I'll
23 tell you, their recommendation to me, I appreciate it as much as I
24 appreciate the State's and I appreciate yours, but I have to make the
25 decision based on what I feel is correct, and this is -- these are just

1 recommendations.

2 MS. RADOSTA: Absolutely.

3 THE COURT: And so, that it went up, that's not -- I'll tell you
4 right now that has not done anything to affect my thoughts on how I'm
5 going to sentence this case.

6 MS. RADOSTA: I just --

7 THE COURT: I've been thinking about this case since the day
8 I got the return for sentencing. The day I got the return from -- and I still
9 have it. I still have the -- a copy of the return and I went through it
10 because I wanted to make sure I understood which count applied to
11 who.

12 MS. RADOSTA: Mm-hmm.

13 THE COURT: I still have the original jury instructions marked
14 out as to which individual was involved on what count.

15 MS. RADOSTA: Right.

16 THE COURT: Okay? So, I -- so, I'm telling you that, you
17 know, although that they may have went up with their sentencing, it's not
18 going to play into my decision at all.

19 MS. RADOSTA: Okay.

20 THE COURT: Okay?

21 MS. RADOSTA: I --

22 THE COURT: I'm just -- just through the benefit of your
23 argument, I appreciate your argument.

24 MS. RADOSTA: Right.

25 THE COURT: I'm -- I don't mean to cut you off or anything.

1 I'm not doing that; okay? Sorry. So --

2 MS. RADOSTA: I didn't feel that you were, Your Honor.

3 THE COURT: Okay.

4 MS. RADOSTA: I just felt it was worth noting though that I
5 don't understand how when the Defense points out that Parole and
6 Probation made a mistake -- and it certainly wasn't an --

7 THE COURT: Okay.

8 MS. RADOSTA: -- intentional mistake, but it was a mistake,
9 and it's just one of those things where they just took the penalties that
10 are currently on these charges and they weren't made aware or they
11 didn't realize that this case goes back a ways, and when they realize
12 that, then the appropriate sentences were listed on the PSI, but when
13 the Defense makes that argument, somehow then the recommendation
14 goes up and they add a fourth count to run consecutively, a fourth life
15 sentence is their recommendation.

16 The original rec was 85 to life from the Department of Parole
17 and Probation, and I believe now it's -- I think it's like 130 to life if I did
18 the math correctly, and I don't know if I did the math correctly, but that
19 seems a substantial adjustment, and I question how they reach that
20 decision when the only thing that changed were the penalties, and the
21 penalties went down, not up.

22 So, with that, Your Honor, I've already told Your Honor what I
23 think is an appropriate sentence in this particular case given how the
24 State has evaluated this conduct already by offering plea negotiations to
25 Deborah and Terrie. Thirty-five years to life, Your Honor, is considerably

1 more than what Deborah and Terrie got.

2 THE COURT: Okay. Here's something that -- before I get
3 to -- are you finished, Ms. Radosta? And I'll let you --

4 MS. RADOSTA: Unless you --

5 THE COURT: I'll let you address this if you'd like.

6 MS. RADOSTA: Okay.

7 THE COURT: I -- you know, like you said -- I appreciate the
8 arguments that the parties made, and I'll tell you, all the parties, the
9 attorneys in this matter, have worked tirelessly on this case. I mean, I
10 watched it. I saw it.

11 You know, there was a -- I had this -- where'd it go? Oh.
12 Before we even started the trial there was six different motions filed on
13 behalf of the Defendant. There was three motions filed on behalf of the
14 State. The trial got continued five separate times. The sentencing was
15 continued once. And, you know -- and I'll say I believe that there was --
16 although there was a difference of opinion from the parties, I believe that
17 there -- that everything was legitimate. And it took forever to do this.
18 And oftentimes the courts are criticized because we take so long. And
19 I'm of the opinion that what -- if the trial's not ready to go for whatever
20 reason, then let's not do it. And so we got to that point and we -- there --
21 everything was ready and it went.

22 I had an opportunity to watch this completely, and many of the
23 things was the first time I actually saw or even heard the evidence. I
24 knew about it because of your motions. And so, like I said, when we
25 were done with the trial and I got the verdicts back, I've been thinking

1 about this ever since then.

2 I -- you know as well as I do that the State could have very
3 well -- even in this case could have very well not even charged Deborah
4 or Terrie. They could have chose not to even charge your client. They
5 could -- that's their decision.

6 MS. RADOSTA: Yeah.

7 THE COURT: And it's -- there's no abuse of discretion claim
8 on that. There's nothing -- I mean, there's no way of even -- because
9 that's their sole discretion. Now, the offer to negotiate, even under the
10 circumstances that they came in and said you know what, Judge, we're
11 going to dismiss everything but the conspiracy, and I even knew about it,
12 we have situations where judges say no, we're not going to accept that.
13 Well, I don't even know if I have the authority to say that --

14 MS. RADOSTA: Mm-hmm.

15 THE COURT: -- because it's their sole discretion whether or
16 not to prosecute it or not.

17 MS. RADOSTA: Sure.

18 THE COURT: So, even if the case would have come to me
19 under those circumstances, said, Judge, this is the only charge that we
20 have against these two ladies, this is all we're charging, I would have
21 bought the -- and I would have made my point very clear in front of that
22 camera right there --

23 MS. RADOSTA: Mm-hmm.

24 THE COURT: -- as to my position about that, but that's not --
25 it's not my decision. I could complain about it and not agree with it, but

1 it's not my decision as to how they charge and what they go forward on.
2 Sentencing's different, and whether or not they can establish the proof of
3 the case, that's in my -- that's up to me.

4 MS. RADOSTA: Mm-hmm.

5 THE COURT: And so that's what we have here now. So, did
6 you want to address it anymore?

7 MS. RADOSTA: I would just say, Your Honor, that, I think, in
8 the end my point was, as I well know, and I -- I've tried our cases against
9 Mr. Sweetin, and I think I even tried cases against you before you
10 became a judge. I know your philosophy, Judge, but, I think, in this
11 particular case it's a bit disingenuous for the State to stand up here and
12 ask for hundreds of years for Mr. Sena when they made this plea offer to
13 the other two people involved in the case that were so heavily involved
14 in the case.

15 THE COURT: Mm-hmm.

16 MS. RADOSTA: This is not one-time incidents with either
17 Deborah or Terrie where they were forced, where they were threatened,
18 where they were unwilling participants. The State evaluated and valued
19 that conduct, and now to stand in front of Your Honor I think they are
20 giving Your Honor two completely unrelated arguments --

21 THE COURT: Okay.

22 MS. RADOSTA: -- to why Mr. Sena should be given so much
23 more time.

24 THE COURT: Well, what I'll tell you and like I said -- and I
25 prefaced this at the beginning that I appreciate everyone's arguments

1 here.

2 MS. RADOSTA: Mm-hmm.

3 THE COURT: What I'll tell you is that in this particular case I
4 had the opportunity to witness what the evidence was to support --

5 MS. RADOSTA: Sure.

6 THE COURT: -- this. Independent of whatever happened
7 with Deborah or whatever happened with Terrie I had the chance and
8 the opportunity to witness this case --

9 MS. RADOSTA: Right.

10 THE COURT: -- and see what happened in this case. And
11 so, you know, the offering in that whatever the State -- whatever reason
12 that they come up with, the reasons why -- I don't know, they felt that
13 they had proof issues, felt that they had to deal with societal issues or
14 whatever reasons -- I don't get into that. That's not my purview any
15 longer.

16 MS. RADOSTA: Mm-hmm.

17 THE COURT: And so what I look at now -- and I think you
18 understand this highly when you're talking about negotiating, is that
19 oftentimes I think that the parties want to some degree prevent the Court
20 from knowing the extent of the evidence in light of the -- I'm not saying in
21 a diabolical way or anything like that. Certainly I'm not saying that.

22 MS. RADOSTA: Thank you for that, Judge.

23 THE COURT: But you want to prevent the Court because the
24 Court doesn't get a firsthand opportunity to see the extent of what you all
25 know.

1 MS. RADOSTA: Sure.

2 THE COURT: And so I think that's why -- and I'm sure you
3 talk to your clients about that and explain to them that, hey, you know,
4 this is a good opportunity, we're -- there's an offer here. But regardless
5 of what the offer is sometimes I think that you -- that -- well, I'll go away
6 from there, but I -- but I do appreciate what you're representing and what
7 you're arguing.

8 I think in the sense of this case, before I even get to listen to
9 Anita any further or if I decide to listen to Karen, is that I know that you
10 and Mr. Negrete [sic] defended this case really hard, and I don't think it's
11 done. You know, I -- and that's fine. I mean, he -- it's -- that's Mr.
12 Sena's rights. He has that -- those rights. And if somebody believes
13 that he didn't get a fair trial or if I wasn't fair to him or something, then
14 albeit let them tell me that.

15 MS. RADOSTA: Mm-hmm.

16 THE COURT: But under the circumstances of what I saw
17 here and the overwhelming nature of the evidence here, I think that
18 you've done a -- both of you've done a phenomenal job in the sense of
19 how tough -- I -- when Mr. Sweetin tells me that this is probably the most
20 unusual case, maybe, that he's seen in the District Attorney's Office, I
21 would agree. And so then for you guys to be handling this as well, I
22 mean, in the extent of the evidence that was against you and your --
23 against your client is where I think you had the toughest part.

24 But in all reality you have to make sure that under our system
25 that he's given a fair trial --

1 MS. RADOSTA: Mm-hmm.

2 THE COURT: -- and he is treated fairly, and, like I said, if
3 somebody feels that I didn't do that, then albeit, you know, let's do it
4 again or whatever, you know, you need to do. I'm not asking for that,
5 but I'm saying that, you know, if this is the case that needs to show that
6 Judge Kephart was improper or abused his discretion or whatever, then
7 so be it.

8 You know, all I can tell you is that I -- what I heard and what I
9 saw in this case was extremely disturbing to me, and if it's not disturbing
10 to other people that've seen this, then there's something disturbed about
11 them.

12 And I'm going to hear from Anita now if she wants to address
13 the Court at all and --

14 MS. RADOSTA: Just for the record, Your Honor --

15 THE COURT: Okay.

16 MS. RADOSTA: -- then I -- I'd submit it. That's --

17 THE COURT: Okay. All right.

18 MS. RADOSTA: -- just so the record's clear.

19 THE COURT: Mr. Negrete, did you want to say anything?

20 MR. LOPEZ-NEGRETE: No. Thank you, Your Honor.

21 THE COURT: All right. I usually don't give you both the
22 opportunity, but I know you guys prepare for this and --

23 MR. LOPEZ-NEGRETE: Thank you.

24 THE COURT: All right. Okay. Thank you.

25 MS. RADOSTA: Can we have a seat, Your Honor?

1 THE COURT: Yeah, you can sit down. Go ahead and have a
2 seat.

3 Anita, can you come up and have a seat right there at the --
4 right there where the mic's at? I'm going to have you stand up first
5 though and I'm going to swear you in; okay? And what did you do to
6 your hand?

7 THE SPEAKER: Right hand; right?

8 THE COURT: Okay.

9 THE SPEAKER: Mm-hmm.

10 **ANITA SENA**

11 [having been called as a speaker and being first duly sworn,
12 testified as follows:]

13 THE COURT CLERK: Thank you. Please be seated.

14 THE SPEAKER: Thank you.

15 THE COURT: Okay.

16 THE COURT CLERK: For the record, please state your full
17 name, spelling your first and last name.

18 THE SPEAKER: Anita Christine [phonetic] Sena, A-N-I-T-A,
19 Sena, S-E-N-A.

20 THE COURT: Ms. Sena, at this point in time, I mean, I think
21 you know this because you've been in communication with the District
22 Attorney's Office, this is the time set for sentencing for Christopher
23 Sena. I've seen you. You've testified here before. We met before
24 because --

25 THE SPEAKER: Yes.

1 THE COURT: -- you came into court. And you have a right in
2 the State of Nevada to address the Court as to -- at sentencing, and you
3 can explain to the Court how this has affected you, what your plans are
4 in the future, what you think that will happen with you, letting me know
5 how you feel about things, and you -- if you want to do that, that's what
6 we're here for. I don't ever really tell people not to do this, but they do it
7 anyhow, is -- I mean, even if I tell them, is to tell me how many years
8 somebody deserves or anything like that because I have to make that
9 decision. I really want to hear about you, see how you're doing now
10 since you've been -- since this went on, what your plans in the future,
11 how this really affected you, and if you need any assistance from the
12 Court. That's what I want to hear about; okay? Can you do that?

13 THE SPEAKER: Okay. Like --

14 THE COURT: Do you want to?

15 THE SPEAKER: I hope this -- and I'll --

16 THE COURT: Okay.

17 THE SPEAKER: -- probably add more to it.

18 THE COURT: Okay. All right, Anita.

19 THE SPEAKER: Okay.

20 THE COURT: Jim, can you step behind her so she doesn't
21 feel like she's -- okay. Thanks.

22 All right. Go ahead. You're good.

23 THE SPEAKER: Well, pretty much --

24 THE COURT: Okay.

25 THE SPEAKER: -- this all started with if you love me you

1 would do this.

2 THE COURT: Mm-hmm.

3 THE SPEAKER: But those words do not apply to a child
4 because a child's love for a parent is unconditional love because there is
5 already loyalty, love and trust between a child and parent to look up to
6 the parent for guidance.

7 But the main question that should be asked is why didn't he
8 love me enough not to do this, for the evils that he did to me were
9 wrong, using words of if you love me as means to put doubt in me to
10 make me feel that I didn't love him enough. By doing this he broke the
11 trust between us, then to continue over and over, my loyalties as a child
12 to a parent was ripped apart.

13 As the years passed the love was lost because I knew this
14 was nothing to do about love. I was -- it was all for his selfish desires
15 and fantasies in his head. I was never truly his daughter in the first
16 place. I was just an object for him to do awful things to because there
17 was no one there to tell him otherwise, but I'm here to say that he is no
18 father of mine, for a true father would not do this to me, not only for me,
19 but my brothers as well. He is just a sperm donor to me. I can't live with
20 the fact that people consider him as my father, but he's not my father,
21 not anymore.

22 When this all was going I -- it stresses me out and makes me
23 feel awful, but I know what he did was wrong, but since I was away I've
24 done many accomplishments without him. I've learned how to drive. I'm
25 on my own. I have -- I worked and I was able to finally go to college and

1 pass. I literally graduated not that long ago. So, it was better without
2 him in my life. Thank you.

3 THE COURT: Do you have any questions?

4 MS. RADOSTA: No, Your Honor.

5 THE COURT: Mr. Sweetin, do you have any questions?

6 MR. SWEETIN: No, Your Honor.

7 THE COURT: Anita, thank you so much. Anita, before you
8 leave, before you leave where you're at I wanted to -- if this gives you
9 any solace at all I think you did a great job in being able to come forward
10 and say what you felt that you needed to say. It's really hard and a lot of
11 people don't. You -- I mean, you weren't in here when we were
12 selecting individuals for the trial, and we had in that -- in this particular
13 trial there was five people for the first time in their life, grown adults, had
14 revealed to us that things like this had happened to them as a child, and
15 you could see the anguish and the torment that they were going through
16 just with us. So, I understand and I -- my heart goes out to you. My
17 heart goes out to everyone that has to deal with any type of situation like
18 this, especially as a child or even as an adult.

19 So, be positive. Keep going forward in your life. You're doing
20 great. I'm so proud of you that you got through college. You know,
21 keep pushing that though. Keep going as far as you can in your
22 education and things will -- this -- you'll never forget this, but things will --
23 it -- you'll be fine; okay?

24 THE SPEAKER: Yes, sir.

25 THE COURT: All right. Okay. Thank you, Anita.

1 THE SPEAKER: Thank you.

2 THE COURT: I don't think I need to hear from Karen. I
3 don't -- I -- Mr. Sweetin, I don't need to.

4 MR. SWEETIN: Okay.

5 THE COURT: I'm ready to go forward with this.

6 MR. SWEETIN: Thank you, Judge.

7 THE COURT: As --

8 MS. RADOSTA: Your Honor, I would only point out -- I'm
9 sorry. There was just one thing I forgot to say. The restitution in this
10 case if the Court -- and I presume the Court will order restitution as is
11 normal. I -- it's our opinion that it should be ordered jointly and severally
12 with Deborah and Terrie.

13 THE COURT: Okay. But the only count that I recall -- correct
14 me if I'm wrong. Restitution's in Count 1; is that right or am I wrong?

15 MS. RADOSTA: Yes, I believe so, and --

16 THE COURT: One thousand one hundred and seventy-three
17 dollars?

18 MS. RADOSTA: Yes.

19 THE COURT: Okay.

20 MS. RADOSTA: And since -- obviously, since it's a
21 conspiracy count it even -- it's even more applicable --

22 THE COURT: Right.

23 MS. RADOSTA: -- that it should --

24 THE COURT: Right.

25 MS. RADOSTA: -- be jointly and several.

1 THE COURT: Okay. All right. So, I think I probably have
2 said enough. I think that this case was a -- had overwhelming evidence
3 against Mr. Sena, as well as against Deborah and Terrie. The decision
4 to negotiate with Deborah and Terrie was not the Court's. That's the
5 State's decision. Like I said, the Court was not involved in the
6 sentencing in that matter. I can't tell you that I would have given that
7 type of sentence if I was given that opportunity in that case, but I don't
8 know the whole degree of it.

9 You know, I -- there was a lot of argument here today in the
10 sentencing about -- with regards to the Defendant taking responsibility or
11 not. You know, in a lot of regards the evidence is so strong in what I
12 saw that I don't know whether or not he'd stand here with taking
13 responsibility -- whether that would do me any good anyhow.

14 You know, there's -- I can't understand and I've -- I still can't.
15 I've never understood why we as humanity thinks that we can do things
16 like this to children. I've never understood that. I got -- when I was
17 watching this case and seeing what was happening I got the impression
18 that the individuals felt that these children were their property and could
19 use them for their sexual gratification at any time that they wanted. And
20 when I say they, I say that -- I don't say that loosely. I mean it in regards
21 to all three of them.

22 Now, I did see on the -- there's some portions of the videos
23 that I saw, and I could hear directions by your client, moving things
24 around, setting things up on the video and that, that, you know, one
25 could argue, and the State did, about how your client was controlling of

1 these two ladies. And the children when they testified gave us that
2 same -- and I wasn't at that house. I wasn't in there. So, you leave it to
3 the testimony of the children that were involved here and the way things
4 happen in it.

5 I mean, in a logical -- I guess in a -- in my mind I question how
6 the mothers could let this happen, you know, and under the
7 circumstances of this case, what -- how Terrie was educated, how
8 Deborah was educated, and how, you know, Mr. Sena was -- if you want
9 to talk education, was probably the least of the group. So, you know, do
10 I look at that and say, you know, well, let's give him some credits for that
11 or whatever?

12 I just -- I always go back though and look at what happened to
13 these young children. And I -- I'll tell you the one video -- and I'm not
14 saying it because he's here. I know Ryan's here. But there was one
15 video that was so telltale. You could see how scared he was, and I don't
16 know whether scared of his parents or scared of the situation.

17 And when you think back yourself when you started -- you
18 know, in your life started thinking about sexual acts and how scary that
19 was. I mean, well, it was to me, and I don't know if it was to everybody,
20 but that's what came to my mind when I saw that happen, is that he was
21 put in that situation. His hands clenched. He grabbed the bed, you
22 know, and -- but then you go, he's where, with his parents, and his
23 parents are directing him, and one of them was, well, stepfather, Mr.
24 Sena.

25 I will tell you though, from what I viewed here in all these

1 counts, and so that the record's clear right now, is a hundred and --
2 there -- it was numbered up to 120 counts. Anita was between two and
3 53. Tails was between 54 to 69. Brandon was between 71 to 86. Ryan
4 was between 87 to 106. Erin was between 107 and 116. Tamara
5 between 117 and 119. And Melissa was 120. So, I mean, that's just the
6 numbers that -- of the convictions here.

7 Now, I have one question though of the Defense. The
8 Defendant was found guilty of counts that are clearly alternative
9 charges. The State is asking me to adjudicate on the greater of the two
10 and not adjudicate at all on the other one, so that would just leave it in
11 limbo. I've done it both ways. I've done it where I've adjudicated, but
12 not sentenced or I've held it over in light to see whether or not there's a
13 direction on anything that comes back on appeal. So, what do you want
14 me to do with that?

15 MS. RADOSTA: I'm sorry, Judge, I'm a little confused. Are
16 you saying that you occasionally not sentence on either of the two
17 counts that are in --

18 THE COURT: No.

19 MS. RADOSTA: -- the alternative?

20 THE COURT: No. I've adjudicated -- like in this case would
21 be Counts 4 and 3.

22 MS. RADOSTA: Okay. Yeah.

23 THE COURT: And in the past I've adjudicated guilt on both
24 counts --

25 MS. RADOSTA: Right.

1 THE COURT: -- but only sentenced on one.

2 MS. RADOSTA: Okay.

3 THE COURT: Oftentimes you see them with regards to
4 possession of stolen vehicle and grand larceny auto.

5 MS. RADOSTA: Sure, mm-hmm.

6 THE COURT: You can only do one of the two, but I've
7 adjudicated on both, but only sentenced on one.

8 MS. RADOSTA: Right.

9 THE COURT: So, the State's asking me not to adjudicate on
10 those -- on the counts that are the lesser. Are you okay with that?

11 MS. RADOSTA: Well, we'd prefer it in reverse of course. We
12 would prefer --

13 THE COURT: Yeah.

14 MS. RADOSTA: -- that you not adjudicate on the more
15 serious one and sentence --

16 THE COURT: Right. I understand.

17 MS. RADOSTA: -- on the less serious one, Judge.

18 THE COURT: Right.

19 MS. RADOSTA: But I will leave it -- that --

20 THE COURT: Okay.

21 MS. RADOSTA: Between those two options, Judge, our
22 preference would be what the State suggested then.

23 THE COURT: Okay. All right. That's fine.

24 All right. So, you know, if I could say anything, Mr. Sena, you
25 know, just my view of you in this case is an individual I believe is highly

1 selfish in your life and how you led your life. It appeared to me that you
2 had some kind of ability to -- the words I would use, you know, it would
3 be to at least attract women.

4 In this sense you were in a situation where you had a wife,
5 then a divorce, then a second wife, and the second wife you introduced
6 to the first wife, and things were being -- it just -- that right there to me
7 was strange; however, that's -- happens. I recognize it and it's between
8 consenting adults. I understand that, but then when you included --
9 started including your children and including them with your wife, it
10 appeared to me that you have a very perverted mind. And I'm not
11 saying just you. I think both Terrie and Deborah equally have a
12 perverted mind.

13 The control you had over them I can't say for sure what it is,
14 but I saw some aspects of that that leads me to believe that you did
15 have some control over them. And, I mean, it seems to me that you had
16 a pretty decent life in a sense where both these women were taking care
17 of you, and you took the opportunity to take advantage of that, as well as
18 take advantage of your children, and that -- in the most perverted ways.

19 I -- what I saw on these videos and what I heard in this
20 testimony appeared to be any perverted sexual act that you could think
21 of and you involved in it. You have a problem with that; it's clear. And if
22 you were doing it as an adult, whatever it is, but when you get the
23 children involved I can't -- I couldn't believe it. And in the time frame of
24 when you started and that you were involved with this with a three year
25 old it's just -- it's disturbing and I'm ashamed that it had to come out of

1 the city that I love. I hate the fact that the rest of this world may know
2 about this that happened in the city that I grew up in and that I have to
3 see and hear about it in the manner in which you were involved in it.

4 So, for that reason you are adjudicated guilty of Count 1,
5 conspiracy to commit sexual assault. In addition to a \$25 administrative
6 assessment, I am going to order that you undergo genetic testing, pay
7 \$150 fee for that, as well as a \$3 DNA administrative assessment fee.
8 I'm sentencing you to Count 1 to 28 months minimum, 72 months max in
9 the Nevada Department of Corrections. I am going to order that you pay
10 restitution in the amount of \$1,173.00. That will be jointly and severally
11 with both Deborah and Terrie Sena.

12 As to Count 2, you're adjudicated guilty of lewdness with a
13 child under the age of 14. I'm sentencing you here today to life with the
14 possibility of parole after ten years.

15 As to Count 3, you're sentenced to -- and that will be
16 consecutive to Count 1. As to Count 3, you're adjudicated guilty of
17 sexual assault with a minor under the age of 14. Life with the minimum
18 parole eligibility after 20. That would be consecutive to Count 2.

19 As to Count 6, you're adjudicated guilty of sexual assault with
20 a minor under the age of 14. You have life, minimum 20.

21 As to Count 8, sexual assault with a minor under the age of 14
22 is life, minimum 20, and that would be consecutive to Count 3.

23 As to Count 10, you have -- you're adjudicated guilty of
24 lewdness with a child under the age of 14. You're sentenced to life with
25 a minimum eligibility after ten years.

1 Count 11, sexual assault with a minor under the age of 14,
2 you're sentenced to life with a minimum eligibility after 20 years.

3 As to Count 13, lewdness with a child under the age of 14,
4 you're adjudicated guilty and sentenced to life with a minimum eligibility
5 after ten years.

6 As to Count 14, you're adjudicated guilty of sexual assault
7 with a minor under the age of 14. You're sentenced to life with a
8 minimum of 20 years.

9 As to Count 19, you're adjudicated guilty of sexual assault
10 with a minor under 14 years of age. You'll receive life with a minimum of
11 20 years.

12 As to Count 21, you're adjudicated guilty of sexual assault
13 with a minor under the age of 16. You'll receive -- receive life with a
14 minimum of 25 years. That will run consecutive to Count 3.

15 As to Count 22, you're adjudicated guilty of incest. You're
16 sentenced here today to 28 months minimum, 72 months maximum in
17 Nevada Department of Corrections and you'll -- that will run consecutive
18 to Count 1.

19 As to Count 23, sexual assault with a minor under the age of
20 16, you're sentenced to life with a minimum of 25 years.

21 As to Count 24, you're adjudicated guilty of open and gross
22 lewdness, which is a gross misdemeanor. You're sentenced to one year
23 in the Clark County Detention Center.

24 As to Count 25, you're adjudicated guilty of sexual assault
25 with a minor under the age of 16. You're sentenced to life with a

1 minimum of 25 years, and that will run consecutive to Count 22.

2 As to Count 27 -- 26 -- I'm sorry -- you're adjudicated guilty of
3 sexual assault with a minor under the age of 16. You're sentenced to
4 life with a minimum of 25 years.

5 As to Count 27, you're adjudicated guilty of incest. You're
6 sentenced to 28 months minimum, 72 months max in Nevada
7 Department of Corrections.

8 As to Count 28, you're adjudicated guilty of sexual assault
9 with a minor under the age of 16. You're sentenced to life with a
10 minimum parole eligibility after 25 years.

11 As to Count 29, you're adjudicated guilty of open and gross
12 lewdness, which is a gross misdemeanor. You're sentenced to one year
13 in the Clark County Detention Center.

14 As to Count 31, sexual assault, you're adjudicated guilty and
15 you're sentenced to life with a minimum of ten years.

16 As to Count 32, you're adjudicated guilty of incest. You're
17 sentenced to life with the minimal eligibility of parole after two years, and
18 that will run consecutive to Count 25.

19 As to Count 23 [sic], you're adjudicated guilty of sexual
20 assault. You're sentenced to life with a minimum of 20 -- of ten years.

21 As to Count 35, you're adjudicated guilty of sexual assault.
22 You're sentenced to life with a minimum of ten years.

23 As to 36, you're adjudicated guilty of sexual assault. You're
24 sentenced to life with a minimum of ten years.

25 As to 37, you're adjudicated guilty of incest. You're sentenced

1 to life with the possibility of parole after two years.

2 As to Count 41, you're adjudicated guilty of sexual assault.
3 You're sentenced to life with a minimum parole eligibility after ten years.

4 As to 42, you're sentenced to -- you're adjudicated guilty of
5 incest. You're sentenced to life with a minimum eligibility after two
6 years.

7 As to Count 46, you're adjudicated guilty of sexual assault.
8 You're sentenced to life with a minimum eligibility after ten.

9 47, you're adjudicated guilty of incest. You're sentenced to
10 life with a minimum parole eligibility after two years.

11 Count 48, you're adjudicated guilty of sexual assault. You're
12 sentenced to life with a minimum of ten years.

13 Count 49, gross -- you're adjudicated guilty of open and gross
14 lewdness, which is a gross misdemeanor. You're sentenced to one year
15 in the Clark County Detention Center.

16 Count 50, you're adjudicated guilty of open and gross
17 lewdness, and you're adjudicated guilty and sentenced to one year in
18 the Clark County Detention Center as a gross misdemeanor.

19 Count 51, you're adjudicated guilty of open and gross
20 lewdness, which is a gross misdemeanor. You're sentenced to one year
21 in the Clark County Detention Center.

22 As to Count 52, sexual assault with a minor 16 years of age or
23 under, you're adjudicated guilty, sentenced to life with a minimum of 20
24 years after parole eligibility.

25 As to Count 53, you're adjudicated guilty of preventing or

1 dissuading a witness or victim from reporting a crime or commencing
2 prosecution. You're sentenced to 19 months minimum, 48 months max
3 in Nevada Department of Corrections, and that will run consecutive to
4 Count 32.

5 As to Count 54, you're adjudicated guilty of sexual assault
6 with a minor under the age of 16. You're sentenced to life with the
7 minimum parole eligibility after 25 years. That will run consecutive to
8 Count 53.

9 As to Count 55, you're adjudicated guilty of child abuse,
10 neglect or endangerment, sexual assault. Under the terms of sexual
11 assault you're adjudicated guilty, sentenced to 24 months minimum, 60
12 months max in Nevada Department of Corrections.

13 As to Count 56, you're adjudicated guilty of open and gross
14 lewdness, which is a gross misdemeanor, and you're sentenced to 364
15 days in the Clark County Detention Center.

16 As to Count 57, you're adjudicated guilty of child abuse,
17 neglect or endangerment, which is a means of -- from sexual assault.
18 You're sentenced to 24 months minimum, 60 months max in Nevada
19 Department of Corrections.

20 As to Count 58, you're adjudicated guilty of open and gross
21 lewdness, which is a gross misdemeanor. You're sentenced to 364
22 days in the Clark County Detention Center.

23 As to Count 59, you're adjudicated guilty of use of a minor in
24 producing pornography, which you'll be sentenced to life in prison with
25 parole eligibility after five years. That will be consecutive to Count 54.

1 As to Count 60, you're adjudicated guilty of possession of
2 visual presentation depicting sexual conduct of a child. You're
3 sentenced to 24 months minimum, 60 months max in Nevada
4 Department of Corrections. That would be consecutive to Count 59.

5 As to Count 62, you're adjudicated guilty of sexual assault.
6 You'll receive life in prison with parole eligibility after ten years.

7 Count 64, sexual assault, you're adjudicated guilty. You'll
8 receive life in prison with a parole eligibility after ten years.

9 Count 66 is sexual assault. You'll receive life in prison with a
10 parole eligibility after ten years.

11 Count 68 was sexual assault. You're adjudicated guilty and
12 you'll receive life in prison with parole eligibility after ten years.

13 As to Count 69, use of a minor in production of pornography,
14 you'll receive life in prison, parole eligibility after five years.

15 As to Count 71, you're adjudicated guilty of sexual assault
16 with a minor under the age of 16. You'll receive life in prison with parole
17 eligibility after 25 years. That will run consecutive to Count 60.

18 Count 72, you're adjudicated guilty of sexual assault with a
19 minor under the age of 16. You'll receive life in prison with a parole
20 eligibility after 25 years, and that will run consecutive to Count 71.

21 As to Count 73, you're adjudicated guilty of incest. You'll
22 receive life in prison with the parole eligibility after two years. That will
23 run consecutive to Count 72.

24 Count 74, sexual assault with a minor under the age of 16,
25 you're adjudicated guilty of that. You'll receive life in prison with a parole

1 eligibility after 25 years.

2 Count 75, incest, you'll receive -- you're adjudicated guilty of
3 that. You'll receive life in prison with a parole eligibility after two years.

4 Count 76, you're adjudicated guilty of sexual assault with a
5 minor under 16 years of age. You'll receive a life in prison sentence with
6 the parole eligibility after 25 years.

7 Count 77, use of a minor in production of pornography, you're
8 adjudicated guilty of that. You'll receive life in prison with the parole
9 eligibility after five years.

10 Count 78, possession of visual presentation depicting sexual
11 conduct of a child, you'll receive 24 months minimum, 60 months max in
12 Nevada Department of Corrections. That will run consecutive to Count
13 73.

14 Count 79, you're adjudicated guilty of sexual assault with a
15 minor under 16 years of age. You'll receive life in prison with parole
16 eligibility after 25 years, and that will run consecutive to Count 78.

17 Count 80, sexual assault with a minor under 16 years of age,
18 you'll receive life in prison, parole eligibility after 25 years.

19 Count 81, child abuse, neglect or endangerment as a result of
20 sexual abuse, you'll receive 24 months minimum, 60 months max in
21 Nevada Department of Corrections, and that will run consecutive to
22 Count 79.

23 Count 82, open and gross lewdness, you're adjudicated guilty
24 of that as a gross misdemeanor and you'll receive 364 days in the Clark
25 County Detention Center.

1 As to Count 83, you're adjudicated guilty of sexual assault
2 with a minor under the age of 16. You'll receive life in prison with the
3 parole eligibility after 25 years.

4 As to Count 86, preventing or dissuading a witness or victim
5 from reporting a crime or commencing prosecution, you'll receive 19
6 months minimum and 48 months max in Nevada Department of
7 Corrections. That will run consecutive to Count 81.

8 Count 87, you're adjudicated guilty of sexual assault with a
9 minor under the age of 14 years of age. You'll receive a life sentence
10 with parole eligibility after 35 years. That will run consecutive to Count
11 86.

12 Count 89, you're adjudicated guilty of sexual assault with a
13 minor under the age of 14. You'll receive a life sentence with parole
14 eligibility after 35.

15 Count 91, you're adjudicated guilty of sexual assault with a
16 minor under the age of 14. You'll receive a life sentence with parole
17 eligibility after 35 years.

18 Count 95, sexual assault of a minor under the age of 16 years
19 as life with the possibility of 25 years. You're adjudicated guilty of that,
20 and that will run consecutive to Count 87.

21 Count 96, sexual assault with a minor under the age of 16,
22 you'll receive a life sentence with parole eligibility after 25 years. You've
23 been adjudicated guilty of that as well.

24 You're adjudicated guilty of incest in Count 97. That will be 24
25 months minimum -- I'm sorry -- life sentence with parole eligibility after

1 24 months, and that will run consecutive to Count 95.

2 Count 98, sexual assault with a minor under the age of 16,
3 you'll receive a life sentence, parole eligibility after 25 years. That will
4 run -- I mean that is -- you're adjudicated guilty of that.

5 Count 99, you're adjudicated guilty of use of a minor in
6 production of pornography. You'll receive a life sentence with parole
7 eligibility after five years. That will run consecutive to Count 96 -- I'm
8 sorry -- Count 97, yeah.

9 Count 100, you're adjudicated guilty of possession of visual
10 presentation depicting sexual conduct of a child. You'll receive 24
11 months minimum, 60 months max in Nevada Department of Corrections,
12 and that will run consecutive to Count 99.

13 Count 101, you're adjudicated guilty of sexual assault with a
14 minor under the age of 16. You'll receive a life sentence with a
15 minimum eligibility of 25 years.

16 Okay. Count 102, you're adjudicated guilty of sexual assault
17 with a minor under the age of 16. You'll receive a life sentence with a
18 parole eligibility after 25 years.

19 Count 103, you'll receive -- you are adjudicated guilty of use of
20 a minor in production of pornography. You'll receive a life sentence with
21 parole eligibility after five years.

22 Count 104, you're adjudicated guilty of possession of visual
23 presentation depicting sexual conduct of a child. You're -- you -- receive
24 a 24-month minimum, 60 months maximum sentence in Nevada
25 Department of Corrections.

1 Count 105, you're adjudicated guilty of child abuse, neglect or
2 endangerment as a result of sexual abuse. You'll receive 24 months
3 minimum, 60 months maximum, Nevada Department of Corrections.

4 As to Count 106, preventing or dissuading a witness or victim
5 from reporting a crime or commencing prosecution, you are adjudicated
6 guilty of that and you'll receive a 19-month minimum, 48 month
7 maximum sentence in that, and that's consecutive to Count 100.

8 As to count 107, you're adjudicated guilty of lewdness with a
9 child under the age of 14. You'll receive a life sentence with a minimum
10 eligibility after ten years, and that will run consecutive to 106.

11 Count 108, you're adjudicated guilty of lewdness with a child
12 under the age of 14. You'll receive a life, minimum ten years.

13 Count 109, you're adjudicated guilty of lewdness with a child
14 under the age of 14. You'll receive life, minimum ten years.

15 Count 110, you're adjudicated guilty of lewdness with a child
16 under the age 14. You'll receive life, minimum ten years.

17 Count 115, use of a minor in the -- under the age of 14 in
18 producing pornography, you'll receive a life -- you are adjudicated guilty
19 of that and will receive a life sentence, minimum of 10 years, Nevada
20 Department of Corrections. That will run consecutive to 107.

21 Count 116, possession of visual presentation depicting sexual
22 conduct of a child, you're adjudicated guilty of that. You'll receive 24
23 months minimum, 60 months max in Nevada Department of Corrections.
24 That will run consecutive to Count 115.

25 Count 117, you're adjudicated guilty of child abuse, neglect or

1 endangerment through sexual exploitation. You're sentenced to 24
2 months minimum, 60 months max in Nevada Department of Corrections,
3 and that will run consecutive to Count 116.

4 118, you're adjudicated guilty of use of a minor in production
5 of pornography and you will be sentenced to life -- you are -- you'll be
6 sentenced to life in prison with parole eligibility to start after five years.
7 That will run consecutive to 117.

8 Count 119, possession of visual presentation depicting sexual
9 conduct of a child, you'll receive a 24 months minimum sentence, 60
10 months maximum sentence. You are adjudicated guilty for that and
11 you'll -- and that will run consecutive to 118.

12 Count 120, possession of a visual presentation depicting
13 sexual conduct of a child, you are adjudicated guilty of that count and
14 you'll be sentenced to 28 months minimum, 72 months max in Nevada
15 Department of Corrections. That will run consecutive to 119.

16 So, the two point -- years-wise it's 341.7 years minimum.
17 That's the aggregate total. And he receives in this case --

18 MR. LOPEZ-NEGRETE: One thousand seven hundred and
19 fourteen.

20 THE COURT: That would be the order. Okay.

21 THE COURT CLERK: I'm sorry, what was that number
22 again?

23 MR. LOPEZ-NEGRETE: One thousand seven hundred and
24 fourteen.

25 THE COURT CLERK: Thank you.

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THE COURT: Anything further from the parties?

MR. SWEETIN: No, Your Honor.

MS. RADOSTA: No, Your Honor.

THE COURT: All right. That's it.

[Proceedings concluded at 10:32 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



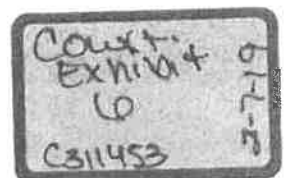
Trisha Garcia
Court Transcriber

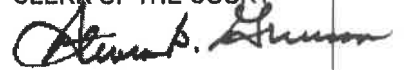
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COOPERATION**

6781





1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6 THE STATE OF NEVADA,)
7) CASE NO. C-311453-1
8 Plaintiff,)
9 vs.) DEPT. NO. XIX
10)
11 CHRISTOPHER SENA,)
12)
13 Defendant.)
14)
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BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

WEDNESDAY, AUGUST 30, 2017 AT 9:53 A.M.

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

APPEARANCES:

FOR THE STATE:

JAMES SWEETIN
Chief Deputy District Attorney

FOR THE DEFENDANT:

VIOLET RADOSTA
Deputy Public Defender

Recorded by: CHRISTINE ERICKSON, COURT RECORDER

6782

1 LAS VEGAS, NEVADA, WEDNESDAY, AUGUST 30, 2017 at 9:53 A.M.

2
3 THE COURT: This is State of Nevada versus Christopher Sena in
4 C311453. This is Mr. Sena's motion to dismiss counts for violation of
5 statute of limitations.

6 Last time we were here I had called the parties to the bench
7 because I had discussions about -- I had some concerns about the State
8 being able to provide information in order to support those counts that the
9 Defense had because I had read the Defense motion initially, Mr. Sweetin at
10 the bench had said, Judge give me an opportunity to respond to it so you
11 understand it better and why we believe that the statute in somewhat tolls,
12 and I said okay I will.

13 They have filed their opposition and the Defense has filed a reply
14 to that. The whole issue here is one, whether or not it would be considered
15 a secret crime. And then how is that affected or affect the statute? Ms.
16 Radosta has indicated in her reply that if it -- under these circumstances the
17 State basically then could -- a secret crime could go indefinitely.

18 I do believe, Ms. Radosta, there are circumstances in which a
19 secret crime could go indefinitely. And the reason why is because if in fact
20 the evidence is is that the individual who is -- the reason for the
21 secretiveness of it is fear of the victim. And if the victim is still under the
22 tutelage or the control of the offender indefinitely, then I do believe that the
23 statute would toll. And that's the State's argument.

24 And under -- and your argument is somewhat -- you're asking the
25 Court not to consider that evidence because you're saying that it's not

1 something that was presented in the bindup. That's -- those are two
2 different issues.

3 MS. RADOSTA: Okay.

4 THE COURT: One is the sufficiency of evidence for purposes of
5 supporting of the offenses versus yours is a motion to dismiss on a legal
6 ground.

7 MS. RADOSTA: Absolutely.

8 THE COURT: And factually the Court can accept any additional
9 information that's provided on the record.

10 MS. RADOSTA: But it wasn't provided in our case, Judge.

11 THE COURT: But it is. It's evidence that they have. They could tell
12 me about that it comes from the police report. They can tell me additional
13 information that they have in their investigation.

14 MS. RADOSTA: But I was not --

15 THE COURT: All that.

16 MS. RADOSTA: But for the sake of argument, Your Honor, I wasn't
17 allowed to cross-examine on that particular factual part of the case because
18 it wasn't presented during our preliminary hearing. And I appreciate your
19 point.

20 My argument is a legal argument. And then the State turned
21 around in their opposition and cited to the preliminary hearing transcript of
22 Deborah Sena and cited to facts that were not presented in our case.

23 THE COURT: Well the information --

24 MS. RADOSTA: The case is --

25 THE COURT: I know. But the information simply -- my reading of the

1 State's position -- or opposition here is to inform the Court basically of
2 information that supports the fact that your client was controlling of these
3 other individuals. Independent of AS. AS though did testify and supported
4 the fact that she revealed up to the point where she was fearful of your
5 client and that's what kept her from revealing. It doesn't matter whether or
6 not she knew of your client's controlling of the brothers --

7 MS. RADOSTA: Right.

8 THE COURT: -- or of the -- it doesn't matter.

9 I think the State presented that to me just to show me the nature
10 of your client's ability to control the other individuals that would corroborate
11 and support her statement that she was controlled by him up until the point
12 where she was able to -- I'm not even sure based on what I've heard
13 whether or not she was able to get away or get out or whatever at what
14 point in time that she --

15 MS. RADOSTA: But she did.

16 THE COURT: But it was -- wasn't she there until about two weeks
17 prior to the revealing of this?

18 MS. RADOSTA: No.

19 MR. SWEETIN: Yes.

20 THE COURT: She was.

21 MS. RADOSTA: No.

22 THE COURT: She was 24.

23 MS. RADOSTA: She's was 24 years old. They left it up --

24 THE COURT: She was still living at the house.

25 MS. RADOSTA: They left the -- they left --

1 THE COURT: He knew where he -- she worked. He knew -- he had --

2 MS. RADOSTA: Right.

3 THE COURT: -- some contact with people at work --

4 MS. RADOSTA: Right.

5 THE COURT: -- to the point where --

6 MS. RADOSTA: But it --

7 THE COURT: I don't know if this was a preliminary hearing but she
8 actually -- there was a note that he wrote on the -- on her job -- I mean her
9 check stub?

10 MS. RADOSTA: Yeah. That wasn't part of our testimony --

11 THE COURT: Okay.

12 MS. RADOSTA: -- at our -- that was potentially testimony presented in
13 a completely unrelated --

14 THE COURT: But she did say that --

15 MS. RADOSTA: -- or separate preliminary hearing.

16 THE COURT: But did she not represent though -- I mean independent
17 of what you're saying because I don't necessarily believe that it's a -- you
18 filed a different motion than a sufficiency of evidence type of motion here.
19 You filed a motion to dismiss on the grounds of a violation of the statute of
20 limitations.

21 MS. RADOSTA: And I cited to the record presented in our case at the
22 preliminary hearing which at this point in time is the evidence in the case.
23 The State --

24 THE COURT: Well I know but your --

25 MS. RADOSTA: -- responded.

1 THE COURT: -- motion to dismiss -- your motion to dismiss for
2 violation of a statute of limitations issue isn't the same as a motion to
3 dismiss for violation of insufficient evidence.

4 MS. RADOSTA: But if I were to just say, well for the sake of
5 argument in my motion, my client told me that he never threatened these
6 people. That wouldn't be considered evidence in the case. That would just
7 be a conversation that my client and I had that's not evidence.

8 THE COURT: No. It would in their motion to dismiss, but not in a
9 motion to -- for purposes of insufficient evidence argument for a bindover.

10 MS. RADOSTA: I think --

11 THE COURT: And that's -- those are different standards.

12 MS. RADOSTA: And I think --

13 MR. SWEETIN: And, Judge, if I can interrupt very quickly because --

14 THE COURT: No. No, I'll let you, Mr. Sweetin.

15 MR. SWEETIN: She's misrepresenting that the State referenced the
16 Deborah Sena case. There was one portion of the State's opposition in this
17 where we did reference that particular transcript to about three paragraphs
18 long. And we make reference to that transcript.

19 All other references to the preliminary hearing transcript actually
20 references the preliminary hearing transcript in this case. Not that it matters
21 because the State agrees with the Court that in the particular case there's no
22 onerous upon the State to actually reference that they got this information
23 out of that particular transcript. It's merely to relay to the Court the
24 information in the case that they're aware of carrying with them their
25 requirement as an attorney to be completely truthful in that regard. That's

1 all the only requirement. But the statements made by Defense counsel that
2 when -- the State's referencing preliminary hearing transcript and it says
3 anything, just the preliminary hearing transcript, those are all references to
4 the preliminary hearing transcript in this case. And I have the preliminary
5 hearing transcript right here and the Judge can check, if you want to, and so
6 can Ms. Radosta.

7 MS. RADOSTA: Any --

8 THE COURT: Well -- go ahead, go ahead, Ms. Radosta.

9 MS. RADOSTA: Regarding the part at least that I understood that the
10 State referred to from Deborah Sena's preliminary hearing transcript was
11 about the conversation had at the attorney's office hence the -- when the
12 discovery "of this incident" occurred.

13 THE COURT: Right. No, I understand that.

14 MS. RADOSTA: So that's kind of the crux of their opposition to my
15 motion to dismiss is when the discovery occurred, that's when the statute of
16 limitations starts to run.

17 THE COURT: Okay.

18 MS. RADOSTA: And they got that, at least at my understanding of
19 reading their motion, they got that from the testimony and Deborah Sena's
20 preliminary hearing and it wasn't presented --

21 THE COURT: I know, but --

22 MS. RADOSTA: -- at my preliminary hearing.

23 THE COURT: Ms. Radosta, bear with me a minute. If in fact that you
24 use that date, or you use the date of when AS actually reports it, aren't they
25 pretty much in a similar time frame? They're within a year, right?

1 MS. RADOSTA: As a matter of fact my -- I disagree with Court's
2 interpretation of the statute.

3 THE COURT: No, no, no, I'm just saying, aren't they -- that has
4 nothing to do with the statute right now. I'm just asking about the time that
5 there's a revelation of this. Either by AS reporting it independently of
6 anyone else, or of the discussion about something happening in this
7 attorney's office or -- aren't they within the year? Within a year? Just those
8 two events?

9 MS. RADOSTA: I'm sorry, Judge, I'm not --

10 THE COURT: I think they're actually within months.

11 MS. RADOSTA: I'm sorry.

12 MR. SWEETIN: Yes.

13 THE COURT: They're real close.

14 MS. RADOSTA: But --

15 THE COURT: So the position that I'm taking here is that if in fact your
16 client has control over that individual to the degree in which I believe is
17 borne out by the preliminary hearing transcript, is that until she is out of that
18 control, and the case that you cite is the one that I was particularly
19 concerned about.

20 There was -- there's no doubt that that young man was out of
21 that control of that teacher at the time. And he waited and waited and
22 waited. So I completely understand the Supreme Court's decision in that
23 one.

24 And under these circumstances though, is it fair to the victim to
25 say, well as soon as you turn 18, or if we're under the new statute, as soon

1 as you turn 26, regardless of the circumstances you're under. Regardless of
2 the control that you're under, you have to reveal, and if you don't, then you
3 lose it and this -- the individual that's committing these offenses on you be it
4 true or not true can never be held accountable for it.

5 MS. RADOSTA: But --

6 THE COURT: And that's what I'm looking at.

7 MS. RADOSTA: But that's the statute of limitations. It specifically
8 says --

9 THE COURT: No, no, no, no, no, no, no --

10 MS. RADOSTA: -- up to the age of 21.

11 THE COURT: A secret -- but the purpose of a secret crime though.
12 You -- a purpose of a secret crime. I believe that the whole purpose of the --
13 the reason why the statute recognizes the secret -- the secretivity of it, or
14 whatever word you would use of that, is that it's based on the control, or
15 the fear of the individual that is possibly causing the individual not to say
16 anything, because otherwise there would be no reason. As soon as you turn
17 age 11, and if something like that happens to you, the statute would say,
18 you know, you need to reveal it.

19 MS. RADOSTA: But --

20 THE COURT: You know. And I understand that they go, well we'll
21 recognize you until you turn 18. And once you turn 18 the question is is
22 whether or not you turn 18 and you become an adult you should have your
23 own type of mindset.

24 But if you're not, and you're still under the control of the
25 individual, and that's what the claim is here, under the control of Mr. Sena,

1 where he would prevent them from revealing, it remains a secret crime. And
2 in my opinion it would remain indefinitely until the person becomes released
3 from that control.

4 MS. RADOSTA: So --

5 THE COURT: The concern I have here though is what, if anything, you
6 said that you were prevented from cross-examining AS --

7 MS. RADOSTA: No.

8 THE COURT: -- about -- okay.

9 MS. RADOSTA: Well, no, no, no.

10 THE COURT: Okay. All right.

11 MS. RADOSTA: Regarding the -- any testimony about the couple
12 different things.

13 THE COURT: About the other incident that happened at the law
14 office?

15 MS. RADOSTA: It wasn't brought up during --

16 THE COURT: Okay. No. I understand that --

17 MS. RADOSTA: -- my preliminary hearing.

18 THE COURT: I'm not even --

19 MS. RADOSTA: Additionally --

20 THE COURT: -- concerned about that.

21 MS. RADOSTA: And additionally, just for the record, we don't even
22 know what was -- based on the record that the State provided, we don't
23 even know what was said at that meeting.

24 THE COURT: I'm not concerned about that. I'm not.

25 MS. RADOSTA: Okay.

1 THE COURT: Because I mean -- I don't know whether or not you
2 would be or not but my concern is is when the young lady, she was 24 at
3 the time that she reveals. What circumstances was she under that
4 prevented her from saying anything about it? And I know the law, I mean, I
5 don't think the law works to the point where the law requires you,
6 irrespective of what position you're under, to reveal it. And if you fail and
7 you don't reveal it because the evidence shows that -- because your client
8 had control and that, you know, I'll tell you, I wrote that down specifically,
9 maintain control over AS. I -- that's the whole thing.

10 Until that control is released, I think that's the whole purpose of
11 what a secret crime is is it's kept in secret to avoid any further conflict that
12 you may have with the person that's committing the crime against you. And
13 that -- and it's controlled by the person committing the crime against you.

14 So under those circumstances I believe that the evidence is
15 sufficient to overcome any legal requirement that the Court dismiss those
16 counts.

17 MS. RADOSTA: Okay. So --

18 THE COURT: So for that reason I'm denying your motion.

19 MS. RADOSTA: Just for the -- just for the sake of argument, Your
20 Honor, in my opinion I don't think that the record bears out that she was
21 under a state of fear.

22 The testimony presented at the preliminary hearing was succinct
23 regarding threats made to her by my client. And she specifically testified
24 that the first threat was after the first incident when she was considerably
25 younger than 24 years old. And there was no further testimony about

1 threats made to her or against her by my client. She's 24 years old, Judge.

2 At some point in time the -- I think that the reason why the
3 statute -- this particular statute that we're dealing with -- the one that was in
4 effect at the time of the alleged crimes, specifically provided for an
5 extending of the statute of limitations beyond a normal "a normal crime". It
6 took into account -- this is specifically for these types of crimes. This
7 statute. And it looked to extend it beyond the normal three or four years
8 depending on the crime that we're talking about. It extended it to the age of
9 21 by statute. And now has gone even further. It's the statute as the Court
10 is I'm sure well aware is now I think 36 years old, or 43 years old.
11 Potentially to deal with the situation that the Court is concerned with in our
12 situation, Judge.

13 But at the time of the crime, allegedly committed in this case,
14 this -- the statute said up until the age of 21. And I believe that the case
15 law is very clear that the -- that Subsection A can only be tolled until her
16 18th birthday. And I think Houtz -- I think it's pronounced H-O-U-T-Z --

17 THE COURT: Yeah. Yeah.

18 MS. RADOSTA: -- is clear. That it's tolled until her 18th birthday. The
19 State Legislature was very specific in not putting child sex abuse cases in a
20 category where it has no statute of limitations. How the statute -- had the
21 Legislature -- Legislature wanted to do that, they could. They have not done
22 that. There's a statute of limitations here. And additionally, as I pointed out
23 in my reply, the Supreme Court has revisited the issue in Bailey.

24 THE COURT: Well, let me --

25 MS. RADOSTA: I didn't roll back that the holding of its tolled --

1 Subsection A is tolled until her 18th birthday.

2 THE COURT: Let me ask you this question. If the crime is committed
3 and continues to be committed, and never stops, at what point in time does
4 the statute of limitations run on that kind of offense?

5 MS. RADOSTA: Well that --

6 THE COURT: Is it upon the time that the crime ends?

7 MS. RADOSTA: Well that's the problem though, Judge, because then
8 we're not talking about the -- for the sake of argument --

9 THE COURT: Well just because the law recognizes the difference in
10 the time, here it just changed. It went from sexual assault of a minor to
11 incest.

12 MS. RADOSTA: No. It also went to sex assault.

13 THE COURT: It continued.

14 MS. RADOSTA: To sex assault, though.

15 THE COURT: Okay.

16 MS. RADOSTA: As well.

17 THE COURT: Okay.

18 MS. RADOSTA: Which becomes a -- it doesn't -- that's not covered
19 under this statute.

20 THE COURT: Yeah. But it was continuing. That's what I'm saying is
21 the crime just continued from the -- from a very young age all the way until
22 she -- my reading of this, she was able to get out of the house. And once
23 she got out, very soon after that, is when it was revealed.

24 And so I think because the way this -- the way it reads about
25 deliberately surreptitious manner done in that, and for the whole period of

1 time, and if she's threatened the first time, and he continues to act, what
2 would -- what do you think would cause her to believe that it -- that the
3 threats went away --

4 MS. RADOSTA: Well because --

5 THE COURT: -- and the like.

6 MS. RADOSTA: -- the threat was that he -- she would go to juvie.

7 THE COURT: Okay.

8 MS. RADOSTA: And she's an adult. That's not a threat any longer. I
9 mean --

10 THE COURT: So when she turns --

11 MS. RADOSTA: -- it's a specific --

12 THE COURT: I know but there's still a threat to her. If you do
13 anything to reveal this you're going to have a consequence against you.
14 That's the threat. And so she still had that threat coming from her father.

15 MS. RADOSTA: Okay. So in your opinion then Judge -- in your ruling,
16 the threat that was potentially made to her at the alleged beginning of this
17 carries through until the end?

18 THE COURT: Well I -- I believe that there was continuing threats but
19 the threat would continue throughout because there was a whole -- the
20 whole purpose was to keep it away from anybody else.

21 MS. RADOSTA: Okay.

22 THE COURT: Other than the people that were involved.

23 MS. RADOSTA: I appreciate that the Court feels that there were
24 threats, but that wasn't the testimony presented --

25 THE COURT: Well, I understand that --

1 MS. RADOSTA: -- at the preliminary hearing.

2 THE COURT: -- but one threat in the beginning, and nothing changes --
3 I mean, you know, I don't understand that.

4 MS. RADOSTA: Well my position is this, Your Honor, if there were
5 additional threats, I'm sure the State would have listened to that testimony
6 at the preliminary hearing.

7 MR. SWEETIN: And, Judge, we did.

8 THE COURT: Well --

9 MR. SWEETIN: And we detailed that in the -- in our brief.

10 THE COURT: Yeah.

11 MR. SWEETIN: And Judge, I would -- the Court has in this case
12 specifically recognizes the Supreme Court's holding that if a victim fails to
13 report out of fear induced by threats made by the wrong doer, the case isn't
14 -- or the intent is not discovered.

15 Now is this particular case, I -- just for the record I want to lay
16 out as is detailed in my brief, in the preliminary hearing transcript that we
17 have in this case, volume 3, page 40, AS stated that she never told anybody
18 in fear of what the Defendant would do. She testified that the Defendant
19 would use threats and tell her that she was going to be taken away and sent
20 to juvie if she told. The Defendant also told AS that she would do those
21 things if she loved him.

22 In volume 3, page 116, the Defendant AS says the Defendant
23 told her that the police couldn't help her. That she was told if you call the
24 police and stuff, I do recall that he told me go ahead and call the police, I
25 have 15 to 17 minutes before they can get here to do whatever I want to to

1 you.

2 On volume 3, page 114, AS discussed with the other children in
3 the house about the physical abuse in the house including Defendant
4 throwing remotes at them, throwing objects at them, and sometimes getting
5 hit or slapped with something, or getting strangled.

6 In volume 3, page 113, when AS talked to CPS at her school
7 after being hit in the back of the head with a lead pipe and they noticing the
8 injuries upon her, at that point she came home. And when they -- when she
9 found out that the Defendant and his wife and girlfriend, or whatever, had
10 found out about this, she got a major butt whipping she indicated.

11 On volume 3, page 109, on one occasion AS witnessed BS, who
12 was a sibling and also a victim in this case, violently abused by the
13 Defendant. He was asked by the Defendant if he felt loved in the house. BS
14 answered saying no, after which the Defendant hit him and knocked him to
15 the floor. When BS got up the Defendant asked him the question again and
16 BS said he didn't feel loved in the house after which he was again hit and
17 knocked to the floor.

18 In volume 3, page 118, when AS went to work at Albertson's,
19 which he worked at until June of 2014, which was about just before the
20 disclosure in this case, AS knew that people at the Albertson's reported back
21 to the Defendant exactly what she was doing.

22 The Defendant had contacted -- had contact with security at the
23 store and people who visited the store and AS observed these people calling
24 the Defendant on a regular basis and telling him that she was at work and
25 what she was doing.

1 In the police reports in this case, upon serving the search warrant
2 on the Defendant's house, the police found numerous cameras throughout
3 the residence and surveillance equipment all going to the Defendant's office.
4 Also in the police report, just prior to the victim fleeing the Defendant's
5 residence, BS was making AS, BS the other sibling and other victim in this
6 case, was making AS a sandwich in the household, the Defendant began
7 hitting him for making his sister a sandwich. After this BS told AS that he
8 was contemplating suicide as after this that they decided to try to leave the
9 residence.

10 Also in those police reports when they exactly did leave the
11 residence, they left in the early morning hours when the Defendant was
12 asleep and they literally crawled through the residence to avoid detection by
13 the cameras within the residence.

14 Also in volume 3, page 109 through 110, after AS got out of the
15 house, she was afraid the Defendant would come after her, she indicated.
16 AS indicated that she knew the Defendant had friends at Metro and she felt
17 these friends would prevent her from making any type of report. The
18 Defendant commonly indicated that he had friends at Metro and he could
19 make anything to happen that he wanted to.

20 And in -- actually I would note that in Count 53 of this very
21 indictment in this case there was PC found to support the charge that the
22 Defendant prevented or dissuaded AS from reporting the crime over the
23 entire period year of May 22nd, 2001 through June 30th, of 2014. The State
24 submits that there's replete evidence to show in this case that the crime
25 remained a secret.

1 THE COURT: Okay.

2 MS. RADOSTA: And actually I -- none of that recitation right there
3 was in their opposition, Your Honor.

4 MR. SWEETIN: It's all there.

5 THE COURT: No. It is. I -- it is. I just was looking at it. I remember
6 them crawl -- the statement talking about crawling. I remember the
7 statement about him trying to leave. I remember the statement about
8 beating me. It's --

9 MS. RADOSTA: Well, specially, Your Honor, if I may? The incident
10 where she said that she was hit in the back of the head with a pipe, that
11 occurred when she was 9 years old allegedly before any of the supposed
12 other abuse occurred. The threat that he has 15 to 17 minutes --

13 THE COURT: Well, Ms. Radosta --

14 MS. RADOSTA: No. Judge, I'm sorry.

15 THE COURT: Ms. Radosta, if you have experienced actual --

16 MS. RADOSTA: She's --

17 THE COURT: I guess abuse, or punishment, or discipline, or whatever,
18 from an individual who threatens to use that type of thing again. And
19 you've actually experienced it. Doesn't it give some kind of credence to the
20 fact, okay, he did it once before I know he can do it again?

21 MS. RADOSTA: But --

22 THE COURT: So that's the --

23 MS. RADOSTA: So, so --

24 THE COURT: -- purpose of saying that.

25 MS. RADOSTA: So something that happens when she's nine years old

1 allows the statute of limitations to be --

2 THE COURT: Yeah. I got beat by him before, and I'm worried that it
3 will happen again. And when he threatens to beat me again --

4 MS. RADOSTA: So --

5 THE COURT: -- I'm thinking it would happen. Why is it that you think
6 it -- that would happen? Because it happened to me before.

7 MS. RADOSTA: Okay. So in -- so the -- any type of alleged abuse
8 tolls the statute indefinitely?

9 THE COURT: No. No. I'm not saying that.

10 MS. RADOSTA: Until she steps forward.

11 THE COURT: I think --

12 MS. RADOSTA: Until she --

13 THE COURT: -- during the time that the crime occurred. And it's been
14 current ongoing. And she -- it's just to show I believe that the State
15 presented all of that just to show the control that he has over her. That she
16 has reason to believe that he's got control over her. She's felt controlled by
17 him before. She's fearful of things that she would do that he could retaliate.
18 And so that -- reason why she didn't do anything until she was able to
19 actually get out of the house.

20 And so all that time he's controlled her. All that time that he's
21 been committing these offenses on her. I believe does toll the statute.

22 MS. RADOSTA: Okay.

23 THE COURT: I do believe that.

24 MS. RADOSTA: All right. So in your -- in the Court's opinion then
25 Subsection 1A is the controlling part of the statute?

1 THE COURT: The portion is is that if there's --

2 MS. RADOSTA: The secret manner portion --

3 THE COURT: Right.

4 MS. RADOSTA: -- of the statute. Subsection 1A is tolled. And
5 basically until she steps forward and makes an accusation?

6 THE COURT: No.

7 MS. RADOSTA: Outside of --

8 THE COURT: No.

9 MS. RADOSTA: Okay.

10 THE COURT: That's not what I'm saying.

11 MS. RADOSTA: And I --

12 THE COURT: I'm saying if he's -- if the secret manner that causes it to
13 be secret is continuing to the point where the person that's controlling the
14 other individual to prevent them from revealing, that it tolls the statute.

15 MS. RADOSTA: Okay.

16 THE COURT: Because the whole purpose of the -- to not say anything
17 is continuing on. It's not like the Houtz case which it ended when he was in
18 high school until he turned 20. I mean, if there was evidence to show that
19 he was still under the same control of the teacher that told him not to say
20 anything until he turned 25. I think that decision would be completely
21 different. Otherwise the crime would --

22 MS. RADOSTA: Unfortunately, Your Honor, I think --

23 THE COURT: You put it on the victim. Here where you put it on the
24 victim, Ms. Radosta. You are. You're saying you know what victim, we
25 don't care if you're threatened. We don't care if you're concerned about

1 what's going to happen to you. You better say something because if you
2 don't --

3 MS. RADOSTA: Well --

4 THE COURT: -- we can't do anything against him.

5 MS. RADOSTA: No offense.

6 THE COURT: That's exactly what you're saying.

7 MR. SWEETIN: And Judge, in the Quinton case the --

8 MS. RADOSTA: I am and you -- hey --

9 MR. SWEETIN: -- in the Quinton case --

10 MARSHAL: One at a time.

11 MS. RADOSTA: Excuse me, Mr. Sweetin, but I feel the need to
12 respond to this. I'm not putting it on the victim. This is the statute of
13 limitations that is in effect.

14 THE COURT: Yeah. But your argument is that.

15 MS. RADOSTA: No. Your Honor --

16 THE COURT: And that's why I don't read that way. I just don't.

17 MS. RADOSTA: That's fine, but --

18 THE COURT: I'm sorry, Ms. Radosta; I just don't read it that way.

19 MS. RADOSTA: That's fine, but --

20 THE COURT: Okay. All right. That's my decision.

21 MR. SWEETIN: Thank you, Judge.

22 THE COURT: All right. So we have it scheduled. Right now it's
23 scheduled for trial on the 11th.

24 MS. RADOSTA: For the Court's information I just received
25 approximately 400 additional pages of discovery late last week. Most of

1 which I didn't have. So I just --

2 MR. SWEETIN: Judge, I need to make a complete record here.

3 THE COURT: Hold on. I'll let you. I'll let you.

4 MR. SWEETIN: Okay.

5 THE COURT: Go ahead, Ms. Radosta.

6 MS. RADOSTA: I'm just letting the Court know I just got -- Mr.
7 Sweetin provided me a copy of the detectives file.

8 MR. SWEETIN: Yes.

9 MS. RADOSTA: And that was approximately 400 pages. As I'm
10 looking through it the majority of it I haven't previously seen. So that's
11 where we're at.

12 I believe we still also have a bad acts motion that's pending that I
13 haven't filed a response to. I -- and I just missed -- I realized that this
14 morning as I was looking through my paperwork on this the bad acts motion
15 was in my file as well. I'm not sure if we have a calendar date for that. So
16 --

17 THE COURT: I think it's scheduled for the 11th.

18 MS. RADOSTA: For -- okay.

19 THE COURT: The day of the trial. I mean that's -- that's just by based
20 on --

21 MR. SWEETIN: No.

22 THE COURT CLERK: September 5th.

23 THE COURT: September 5th?

24 MS. RADOSTA: September 5th?

25 THE COURT: Okay. So -- that's what next week?

1 MS. RADOSTA: September 5th?

2 THE COURT CLERK: Yeah. Or I'm sorry, September 6th.

3 MS. RADOSTA: Okay.

4 THE COURT: September 6th? Is that how you read that? Because I
5 see it --

6 THE COURT CLERK: And calendar call.

7 THE COURT: That's the calendar call date.

8 MS. RADOSTA: Calendar call. Yeah.

9 THE COURT CLERK: And you also have your motions. It's a motion --

10 THE COURT: That's it.

11 THE COURT CLERK: Motion to admit --

12 THE COURT: That's what he's talking about. That's what we're
13 talking about. That's on -- it's scheduled for the 6th?

14 THE COURT CLERK: Yes.

15 THE COURT: It's scheduled for the calendar call date? Okay. All
16 right, Ms. Radosta, for this case, file a motion to continue.

17 MS. RADOSTA: Okay.

18 THE COURT: Basically representing what you're saying. I'm going to
19 have the State respond in writing. I know you want to put -- make a record.
20 I'm going to have it done in writing, Mr. Sweetin. Just -- this case is pretty
21 contentious. So I'd like to do it that way. All right?

22 And then get that filed and we'll address the motion in limine I
23 guess on the 6th of September.

24 MS. RADOSTA: Okay. Your Honor, for the sake of argument, I'm at
25 this point scheduled to be doing motions in front of Judge Smith that day on

1 another matter. Just given the nature, once again, of the charges in this
2 case, I'm going to ask --

3 THE COURT: Are you by yourself on this case?

4 MS. RADOSTA: No. Mr. Lopez-Negrete.

5 THE COURT: Well get him -- he's busy -- he can do stuff.

6 MS. RADOSTA: Yeah. Absolutely, Your Honor. Absolutely. I'm just
7 letting the Court know that it's my case. It is -- I'm the assigned attorney.

8 THE COURT: I know. I know.

9 MS. RADOSTA: Just timing wise.

10 THE COURT: Okay.

11 MS. RADOSTA: I don't know what time on Wednesday Judge Smith
12 is going to want us there. So -- that's his morning calendar as well. So it
13 might not -- we might not start until 10 or 11.

14 THE COURT: Okay. We'll just -- you know we'll deal with it when we
15 get there.

16 MS. RADOSTA: Okay.

17 THE COURT: Okay.

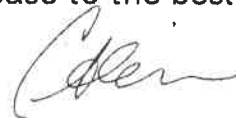
18 MS. RADOSTA: All right.

19 THE COURT: All right.

20 [PROCEEDINGS CONCLUDED at 10:22 A.M.]

21 * * * * *

22 ATTEST: I hereby certify that I have truly and correctly transcribed the
23 audio/visual proceedings in the above-entitled case to the best of my ability.

24 

25 Christine Erickson, Recorder

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CHRISTOPHER SENA,) No. 79036
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 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 AARON FORD 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 On the 20 day of May, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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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