

IN THE SUPREME COURT OF THE STATE OF NEVADA

OSBALDO CHAPARRO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Oct 20 2020 01:23 p.m.
No. 81352 Elizabeth A. Brown
Clerk of Supreme Court

**Appeal from a Judgment of Conviction in Case CR17-0636
The Second Judicial District Court of the State of Nevada
Honorable Egan Walker, District Judge**

JOINT APPENDIX VOLUME 6

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ORIGINAL

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR17-0636

11 v.

Dept. No. D07

12 OSBALDO CHAPARRO,

13 Defendant.

14
15 LADIES AND GENTLEMEN OF THE JURY:

16 It is my duty as judge to instruct you in the law that
17 applies to this case, and it is your duty as jurors to follow the law
18 as I shall state it to you, regardless of what you may think the law
19 is or ought to be. On the other hand, it is your exclusive province
20 to determine the facts in the case, and to consider and weigh the
21 evidence for that purpose. The authority thus vested in you is not
22 an arbitrary power, but must be exercised with sincere judgment,
23 sound discretion, and in accordance with the rules of law stated to
24 you.

25
26 Instruction No. 1

1 If in these instructions, any rule, direction or idea is
2 stated in varying ways, no emphasis thereon is intended by me and
3 none must be inferred by you. For that reason, you are not to single
4 out any certain sentence, or any individual point or instruction, and
5 ignore the others, but you are to consider all the instructions as a
6 whole and to regard each in the light of all the others.

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26 Instruction No. 2

1 If, during this trial, I have said or done anything which
2 has suggested to you that I am inclined to favor the position of
3 either party, you will not be influenced by any such suggestion.

4 I have not expressed, nor intended to express, nor have I
5 intended to intimate, any opinion as to which witnesses are or are
6 not worthy of belief, what facts are or are not established, or what
7 inference should be drawn from the evidence. If any expression of
8 mine has seemed to indicate an opinion relating to any of these
9 matters, I instruct you to disregard it.

1 The defendant in this matter, OSBALDO CHAPARRO, is being
2 tried upon an Amended Information charging the said defendant with:

3 COUNT I. SEXUAL ASSAULT, a violation of NRS 200.366.2b, a
4 category A felony, in the manner following:

5 That the said defendant, OSBALDO CHAPARRO, on or about the
6 17th day of December, 2016, or thereabout and before the filing of
7 this Information, at and within the County of Washoe, State of
8 Nevada, did willfully and unlawfully subject Lindsey to sexual
9 penetration against her will or under conditions in which the said
10 defendant knew or should have known that the victim was mentally or
11 physically incapable of resisting, in that the defendant did
12 digitally penetrate the victim's vagina, at or near Harrah's, on or
13 about N. Virginia Street, Washoe County, Nevada.

14 COUNT II. BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT UPON
15 VICTIM AGE 16 OR OLDER, a violation of NRS 200.400.4b, a category A
16 felony, in the manner following:

17 That the said defendant, OSBALDO CHAPARRO, on or about the
18 17th day of December, 2016, or thereabout and before the filing of
19 this Information, at and within the County of Washoe, State of
20 Nevada, did willfully and unlawfully use force or violence upon the
21 person of Lindsey at or near Harrah's, on or about N. Virginia
22 Street, Washoe County, Nevada, by grabbing, pulling and/or shoving
23 his hand at the victim's crotch, with the intent then and there to
24 commit sexual assault upon Lindsey.

25 ///

26 ///

1 COUNT III. OPEN OR GROSS LEWDNESS, a violation of NRS
2 201.210.1a, a gross misdemeanor, in the manner following:

3 That the said defendant, OSBALDO CHAPARRO, on or about the
4 17th day of December, 2016, or thereabout and before the filing of
5 this Information, at and within the County of Washoe, State of
6 Nevada, did willfully and unlawfully commit an act of open or gross
7 lewdness with the person of Lindsey, at or near Harrah's, on or about
8 N. Virginia Street, Washoe County, Nevada, in that the said defendant
9 did, in a public place, grab and grope the victim.

10
11 To the charge stated in the Amended Information, the
12 defendant, OSBALDO CHAPARRO, pled "NOT GUILTY".

1 An Amended Information is a formal method of accusing a
2 defendant of a crime. It is not evidence of any kind against the
3 accused, and does not create any presumption or permit any inference
4 of guilt.
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1 To the jury alone belongs the duty of weighing the evidence
2 and determining the credibility of the witnesses. The degree of
3 credit due a witness should be determined by his or her character,
4 conduct, manner upon the stand, fears, bias, impartiality,
5 reasonableness or unreasonableness of the statements he or she makes,
6 and the strength or weakness of his or her recollections, viewed in
7 the light of all the other facts in evidence.

8 If the jury believes that any witness has willfully sworn
9 falsely, they may disregard the whole of the evidence of any such
10 witness.

1 Although you are to consider only the evidence in the case
2 in reaching a verdict, you must bring to the consideration of the
3 evidence your everyday common sense and judgment as reasonable men
4 and women. Thus, you are not limited solely to what you see and hear
5 as the witnesses testify. You may draw reasonable inferences which
6 you feel are justified by the evidence, keeping in mind that such
7 inferences should not be based on speculation or guess.

8 A verdict may never be influenced by sympathy, passion,
9 prejudice, or public opinion. Your decision should be the product of
10 sincere judgment and sound discretion in accordance with these rules
11 of law.

1 There are two kinds of evidence: direct and
2 circumstantial. Direct evidence is direct proof of a fact, such as
3 testimony of an eyewitness. Circumstantial evidence is indirect
4 evidence, proof of a chain of facts from which you could find that
5 another fact exists, even though it has not been proved directly.
6 Such evidence may consist of any acts, declarations or circumstances
7 of the crime. You are entitled to consider both kinds of evidence.
8 The law permits you to give equal weight to both, but it is for you
9 to decide how much weight to give to any evidence.

10 If you are satisfied of the defendant's guilt beyond a
11 reasonable doubt, it matters not whether your judgment of guilt is
12 based upon direct or positive evidence or upon indirect and
13 circumstantial evidence or upon both.

14 It is for you to decide whether a fact has been proved by
15 circumstantial evidence. In making that decision, you must consider
16 all the evidence in the light of reason, common sense and experience.

17 You should not be concerned with the type of evidence but
18 rather the relative convincing force of the evidence.

1 Intent may be proved by circumstantial evidence. It rarely
2 can be established by any other means. The prosecution is not
3 required to present direct evidence of a defendant's state of mind as
4 it existed during the commission of a crime.

5 While witnesses may see and hear and thus be able to give
6 direct evidence of what a defendant does or fails to do, there can be
7 no eyewitness account of a state of mind with which the acts were
8 done or omitted, but what a defendant does or fails to do may
9 indicate intent or lack of intent to commit the offense charged. You
10 may infer the existence of a particular state of mind from the
11 circumstances disclosed by the evidence.

12 In determining the issue as to intent, you are entitled to
13 consider any statements made and acts done or omitted by the accused,
14 and all facts and circumstances in evidence which may aid in the
15 determination of state of mind.

1 Neither side is required to call as witnesses all persons
2 who may have been present at any of the events disclosed by the
3 evidence or who may appear to have some knowledge of these events, or
4 to produce all objects or documents mentioned or suggested by the
5 evidence.
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Instruction No. 10

1 It is the duty of the attorneys on each side of a case to
2 object when the other side offers testimony or other evidence which
3 counsel believes is not admissible.

4 When the court has sustained an objection to a question,
5 the jury is to disregard the question and may draw no inference from
6 the wording of it or speculate as to what the witness would have said
7 if permitted to answer.

1 The evidence consists of the testimony of the witnesses,
2 the exhibits admitted in evidence, and stipulations.

3 Arguments and statements by lawyers are not evidence. The
4 lawyers are not witnesses. What they say in their opening
5 statements, closing arguments, and at other times is intended to help
6 you interpret the evidence, but it is not evidence. If the facts as
7 you remember them from the evidence differ from the way the lawyers
8 have stated them, your memory of them controls.

1 You should not decide any issue merely by counting the
2 number of witnesses who have testified on the opposing sides.

3 The final test in weighing conflicting testimony is the
4 relative convincing force of the evidence and not the relative number
5 of witnesses who have testified on different sides of an issue.
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1 Inconsistencies or discrepancies in the testimony of a
2 witness, or between the testimony of different witnesses, may or may
3 not cause the jury to discredit such testimony. Two or more persons
4 witnessing an incident or transaction may see or hear it differently;
5 an innocent misrecollection, like failure to recollect, is not an
6 uncommon experience. In weighing the effect of a discrepancy,
7 consider whether it pertains to a matter of importance, or an
8 unimportant detail, and whether the discrepancy results from innocent
9 error or willful falsehood.

1 A defendant in a criminal action is presumed to be innocent
2 unless the contrary is proved; and in case of a reasonable doubt
3 whether the defendant's guilt is satisfactorily shown, the defendant
4 is entitled to be acquitted.

1 In every crime there must exist a union or joint operation
2 of act and intent, and the burden is upon the prosecution to prove
3 both act and intent beyond a reasonable doubt.
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1 A reasonable doubt is one based on reason. It is not mere
2 possible doubt, but is such a doubt as would govern or control a
3 person in the more weighty affairs of life. If the minds of the
4 jurors, after the entire comparison and consideration of all the
5 evidence, are in such a condition that they can say they feel an
6 abiding conviction of the truth of the charge, there is not a
7 reasonable doubt. Doubt to be reasonable, must be actual, not mere
8 possibility or speculation.

1 In arriving at a verdict in this case, you shall not
2 discuss or consider the subject of penalty or punishment, and it must
3 not in any way affect your decision as to the guilt or innocence of
4 the defendant.

1 The crime of SEXUAL ASSAULT, as charged in Count I of the
2 Amended Information, consists of the following elements:

- 3 1. The defendant willfully and unlawfully;
4 2. Subjects another person to sexual penetration;
5 3. a. Against the will of the victim, or
6 b. Under conditions in which the perpetrator knows
7 or should know that the victim is mentally or
8 physically incapable of resisting or
9 understanding the nature of his or her conduct.

1 "Sexual penetration" means any intrusion, however slight,
2 of any part of a person's body or any object manipulated or inserted
3 by a person into the genital or anal openings of the body of another,
4 including sexual intercourse in its ordinary meaning.

5 Sexual gratification or motivation is not an element of the
6 crime of Sexual Assault. This means that Sexual Assault and "sexual
7 penetration" do not require sexual gratification or motivation as
8 their object for the crime of sexual assault to occur.

9 The use of physical force is not a necessary element of the
10 crime of Sexual Assault. Sexual Assault requires only the commission
11 of the act of sexual penetration against the will of the victim.
12 Therefore, the crucial question is not whether the sexual penetration
13 was physically forced, but whether the act was committed without the
14 victim's consent or under conditions in which the perpetrator knows
15 or should know that the victim is mentally or physically incapable of
16 resisting or understanding the nature of her conduct. There is no
17 consent where a person is induced to submit to sexual penetration by
18 threats, force, duress, intimidation, or fear of immediate and
19 unlawful bodily injury to herself or another.

1 The offense of Sexual Assault necessarily includes the
2 lesser included offenses of Attempted Sexual Assault. The defendant
3 may only be convicted of one of these offenses.

4 You should first fully and carefully examine the evidence
5 as it applies to the charge of Sexual Assault. If you unanimously
6 agree that the defendant is guilty of Sexual Assault, you should sign
7 the appropriate Verdict form and request the bailiff to return you to
8 court.

9 If you cannot agree that the defendant is guilty of Sexual
10 Assault, you should then fully and carefully examine the evidence as
11 it applies to Attempted Sexual Assault. If you unanimously agree that
12 the defendant is guilty of Attempted Sexual Assault, you should sign
13 the appropriate Verdict form and ask the bailiff to return you to
14 court.

15 The defendant, of course, can be found Not Guilty of both
16 of the offenses enumerated.

1 An "attempt" is an act done with the intent to commit a
2 crime, and tending, but failing to accomplish it. The elements of
3 Attempted Sexual Assault are the following:

- 4 1) The defendant intended to commit sexual assault;
- 5 2) The Defendant performed some act toward the
6 commission of sexual assault; and
- 7 3) The defendant failed to consummate commission of
8 sexual assault.

9 Mere preparation to commit a crime, such as by devising or
10 arranging the means necessary for the commission of the offense, is
11 insufficient to constitute an attempt. The act done must be a direct
12 step or movement toward the present commission of the crime, although
13 it need not amount to the commission of an actual element of the
14 crime. When the intent to commit the crime is clearly shown, there
15 need only be slight acts in furtherance of the crime to constitute an
16 attempt.

1 A person who attempts to commit a crime is liable even if,
2 after taking a direct step towards committing the intended crime, he
3 or she abandoned further efforts to complete the crime, and even if
4 the failure to complete the crime was due to an intervention or
5 interruption by someone or something beyond his or her control. On
6 the other hand, if a person freely and voluntarily abandons his or
7 her plans before taking a direct step toward committing the offense,
8 then that person is not guilty of attempting the crime.

1 The crime of BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT
2 UPON A VICTIM AGE 16 OR OLDER, as charged in Count II of the Amended
3 Information, consists of the following elements:

- 4 1. The defendant willfully and unlawfully;
- 5 2. Uses force or violence upon the person of another;
- 6 3. With the intent to commit sexual assault upon the
7 person.

8
9 The words "force or violence" include any intentional,
10 unlawful, and unwanted application of physical force against the
11 person of another, however slight, even though it causes no pain or
12 bodily harm or leaves no mark, and even though only the feelings of
13 such person are injured by the act.

1 The crime of OPEN OR GROSS LEWDNESS, as charged in Count
2 III of the Amended Information, consists of the following elements:

- 3 1. The defendant intentionally;
4 2. Commits any act of open or gross lewdness.

5
6 The term "open" in the context of lewdness refers to
7 intentional sexual acts committed in an open manner as opposed to a
8 secret manner.

9 The term "gross" in the context of lewdness refers to
10 sexual acts that are glaringly noticeable or obviously objectionable
11 as being indecent, obscene or vulgar.

12 The term "lewdness" refers to sexual conduct that is
13 obscene or indecent, tending to moral impurity or wantonness,
14 sexually unchaste or licentious, lustful, or preoccupied with sex and
15 sexual desire.

1 A person commits an act "intentionally" when he acts
2 deliberately as distinguished from an act done accidentally,
3 inadvertently, or innocently.
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1 A person commits an act "willfully" when it is done with a
2 purpose or willingness to commit the act. The word "willfully" does
3 not require any intent to violate the law, or injure another.
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1 It is a constitutional right of a defendant in a criminal
2 trial that he may not be compelled to testify. Thus, the decision as
3 to whether he should testify is left to the defendant on the advice
4 and counsel of his attorney. You must not draw any inference of guilt
5 from the fact that he does not testify, nor should this fact be
6 discussed by you or enter into your deliberations in any way.

1 The burden rests upon the prosecution to establish every
2 element of each crime with which the defendant is charged, and every
3 element of the crime must be established beyond a reasonable doubt.
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1 Each count charges a separate offense, and must be decided
2 separately, based upon its own evidence. Your verdict on any count
3 does not compel a particular result regarding any other count.
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1 A person is qualified to testify as an expert if he or she
2 has special knowledge, skill, experience, training, or education
3 sufficient to qualify him as an expert on the subject to which his or
4 her testimony relates.


5 Duly qualified experts may give their opinions on questions
6 in controversy at a trial. To assist you in deciding such questions,
7 you may consider the opinion with the reasons given for it, if any,
8 by the expert who gives the opinion. You may also consider the
9 qualifications and credibility of the expert.

10 You are not bound to accept an expert opinion as
11 conclusive, but should give to it the weight to which you find it to
12 be entitled. You may disregard any such opinion if you find it to be
13 unreasonable.

1 It is your duty as jurors to consult with one another and
2 to deliberate, with a view of reaching an agreement, if you can do so
3 without violence to your individual judgment. You each must decide
4 the case for yourself, but should do so only after a consideration of
5 the case with your fellow jurors; and you should not hesitate to
6 change an opinion when convinced that it is erroneous. However, you
7 should not be influenced to vote in any way on any question submitted
8 to you by fact that a majority of the jurors, or any of them, favor
9 such a decision. In other words, you should not surrender your
10 honest convictions concerning the effect or weight of evidence for
11 the mere purpose of returning a verdict or solely because of the
12 opinion of the other jurors.

1 Upon retiring to the jury room you will select one of your
2 number to act as foreperson, who will preside over your deliberations
3 and who will sign a verdict to which you agree.

4 When all twelve (12) of you have agreed upon a verdict, the
5 foreperson should sign and date the same and request the Bailiff to
6 return you to court. 2/14/2020

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8 _____
9 DISTRICT JUDGE
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1 **CODE: 4245**

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5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF WASHOE**
7

8 **STATE OF NEVADA,**

9 **Plaintiff,**

Case No. CR17-0636

10 **vs.**

Dept. No. 7

11 **OSBALDO CHAPARRO,**

12 **Defendant.**

13 _____
14 **VERDICTS**

15 **SEE ATTACHED DOCUMENT**

16 **///**

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ORIGINAL

CODE 4245

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR17-0636

v.

Dept. No.: D07

OSBALDO CHAPARRO,

Defendant.

VERDICT

We, the jury in the above-entitled matter, find the
defendant, OSBALDO CHAPARRO, GUILTY of COUNT I. SEXUAL ASSAULT.

DATED this 14 day of February, 2020.


FOREPERSON

ORIGINAL

CODE 4245

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR17-0636

v.

Dept. No.: D07

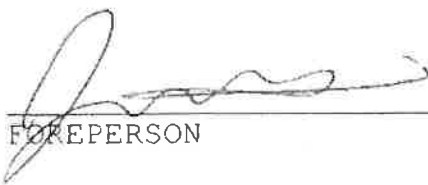
OSBALDO CHAPARRO,

Defendant.

VERDICT

We, the jury in the above-entitled matter, find the
defendant, OSBALDO CHAPARRO, GUILTY of COUNT II. BATTERY WITH INTENT
TO COMMIT SEXUAL ASSAULT UPON VICTIM AGE 16 OR OLDER.

DATED this 14 day of February, 2020.


FOREPERSON

ORIGINAL

CODE 4245

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR17-0636

v.

Dept. No.: D07

OSBALDO CHAPARRO,

Defendant.

VERDICT

We, the jury in the above-entitled matter, find the
defendant, OSBALDO CHAPARRO, GUILTY of COUNT III. OPEN OR GROSS
LEWDNESS.

DATED this 14 day of February, 2020.


FOREPERSON

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR17-0636
)	
14 OSBALDO CHAPARRO,)	Department 7
)	
15 Defendant.)	
)	

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18 TRANSCRIPT OF PROCEEDINGS

19 SENTENCING

20 May 20, 2020

21 2:00 p.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: MATT LEE, ESQ.
5 By: MARIAH NORTHINGTON, ESQ.
6 P.O. Box 30083
7 Reno, Nevada

8 For the Defendant:

9 OFFICE OF THE PUBLIC DEFENDER
10 By: TOBIN FUSS, ESQ.
11 By: KENDRA BERTSCHY, ESQ.
12 350 S. Center
13 Reno, Nevada
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1 RENO, NEVADA, May 20, 2020, 2:00 p.m.

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4 THE COURT: This is case number CR17-0636, the
5 State of Nevada versus Osbaldo Chaparro. Appearances for the
6 record, please.

7 MR. LEE: Good afternoon, your Honor. Matt Lee
8 for the State appearing with Mariah Northington.

9 MS. BERRYMAN: Jill Berryman for the Division.

10 MS. BERTSCHY: Good afternoon, your Honor. Kendra
11 Bertschy appearing on behalf of Mr. Chaparro who is at the
12 Washoe County Jail along with Mr. Fuss.

13 THE COURT: Good afternoon. And, of course, Mr.
14 Chaparro appears in custody from the Washoe County Jail.
15 This is the time and date set for sentencing. Let's talk
16 process first. Ms. Bertschy, do you and/or Mr. Fuss intend
17 to call any witnesses this afternoon?

18 MS. BERTSCHY: No, your Honor.

19 THE COURT: Mr. Lee, do you intend to call any
20 witnesses this afternoon?

21 MR. LEE: Your Honor, we anticipate an impact
22 statement. No other witnesses.

23 THE COURT: If the impact statement is in fact
24 that, I will ask that it follow Mr. Chaparro's allocution if

1 he intends to offer any allocution. Any quarrel with that?

2 MR. LEE: No.

3 THE COURT: Let me turn to the defense colleagues
4 and ask, are you in receipt of the presentence investigation
5 report filed April 21st and are there any factual corrections
6 or additions thereto?

7 MS. BERTSCHY: Your Honor, if I may, actually, we
8 have several concerns regarding Mr. Chaparro appearing by
9 video that we're trying to work out to ensure that we have
10 constant communication.

11 If I may, right now, I believe we have it set up
12 where they just put a headset on him so he's able to have
13 communication with Mr. Fuss. And I just want to ensure that
14 that has been done.

15 MR. FUSS: Your Honor, we are being hooked up via
16 headphone. I'm going to mute myself through the hearing
17 unless the Court has anything specific for me and I'll have
18 Mr. Chaparro muted until you ask him anything.

19 THE COURT: All right. Does that address your
20 concern, Ms. Bertschy?

21 MS. BERTSCHY: That is one of the concerns. The
22 other concern that Mr. Chaparro had with this proceeding
23 today, I would like to confirm with Mr. Fuss whether or not
24 that's been resolved or he needs to me raise that?

1 MR. FUSS: Your Honor, the concern that
2 Mr. Chaparro has is that he can't see any of his support and
3 wanted to know if they were going to be admitted as
4 participants so he could see them on the Zoom?

5 THE COURT: So my response to that is this: What
6 legal authority is there for the proposition that
7 Mr. Chaparro is entitled to see anyone in front of him?

8 Let me be more particular. If we were in person
9 in court right now, Mr. Chaparro would be sitting opposite
10 from me next to both of you at counsel table. His back would
11 be to the gallery or the audience where anybody would be in
12 support of him or otherwise and he literally could not see
13 them and the bailiff would not allow him to turn around to
14 interact with, speak with, wave to or otherwise participate
15 with them.

16 So what authority is there for the proposition
17 that he should be able to see anybody on the Zoom interface?

18 MR. FUSS: My experience has been that before a
19 hearing has started, that often times as people come into the
20 gallery before the Court enters the bench, defendants get an
21 opportunity to see who is there in support. They can come up
22 and read, they can hear the recitation of the letters and
23 things like that.

24 Obviously, we're not calling any witnesses, I

1 don't believe, at this point. But he would have the
2 assurance that they would be present and that they were there
3 to hear and listen to everything that was going on at the
4 hearing.

5 And I don't know, because of the strangeness of
6 the pandemic situation that we find ourselves in a more
7 sterile environment by doing Zoom, because we only have what
8 we have in front of us. We can't really look behind us and
9 the like. So I don't really have anything, because I don't
10 know if anybody has litigated this issue at this point.

11 But he wants the opportunity to have and to know
12 that his support is here. I know that we have numerous
13 letters and I know that we have sent out the Zoom invite to
14 numerous people to be, quote, unquote, participants so that
15 they can observe it.

16 So he would like -- with that, if that's not
17 possible, I think he would like to continuance so that he
18 could have his people present during his sentencing.

19 THE COURT: Well, it is a public proceeding. The
20 link for this proceeding, this hearing in particular is
21 published on the Court's website. I should add, I hear no
22 objection to conducting this proceeding by simultaneous
23 audio/visual means by either the State or the defense in this
24 case.

1 Instead, the objection being raised is that
2 Mr. Chaparro apparently wants to be able to see his
3 supporters on the audio/visual link. There is no legal
4 authority for such a proposition. In other words, it is in
5 fact a crime for Mr. Chaparro to interact with persons in the
6 gallery of the courtroom while he's there. That defendants
7 like Mr. Chaparro or others do is a fact that we're all aware
8 of. But there is in fact a statute which criminalizes any
9 contact between them.

10 Mr. Chaparro must know that his family and others
11 are in support of him, that they are here literally in
12 support of him and otherwise. I will not continue this
13 proceeding nor will I modify the proceedings so that
14 Mr. Chaparro can see his supporters, as it were, in the Zoom
15 windows in front of him.

16 MS. BERTSCHY: If I may, your Honor, I would just
17 note that Mr. Fuss and I have discussed the issues regarding
18 appearing and the orders by Zoom several times with
19 Mr. Chaparro. He's been very hesitant with allowing us to
20 proceed by Zoom. It was his preference to have an in-person
21 hearing.

22 He understands that due to the pandemic, courts
23 are being conducted this way. We've discussed some of the
24 concerns that he had raised in order to grant him some

1 assurance that he is receiving a fair sentence by us
2 appearing by Zoom, for example, with being able to have at
3 least one of his attorneys speak with him during the pendency
4 of the proceeding.

5 From my understanding when I spoke with
6 Mr. Chaparro, he was not willing to tell me that he is
7 consenting to appear at sentencing by Zoom if he is unable --
8 given what we had just discussed.

9 THE COURT: Well, let me make it explicit, then.
10 I perhaps should have begun this way. I apologize that I
11 didn't. I didn't realize this was going to be an issue. '

12 Let the record reflect that for the matter I'm
13 hearing in this session of Court, this session is taking
14 place on May 20th, 2020 at 2:00 p.m. as previously scheduled
15 with all of the attorneys.

16 It is being held remotely because of the closure
17 of the Courthouse at 75 Court Street, in Reno, Washoe County,
18 Nevada, due to the national and local emergency caused by
19 COVID-19.

20 The Court and all of the participants are
21 appearing through simultaneous audio/visual transmission. I
22 am physically located in Washoe County, Nevada, which is the
23 site of today's court session. The other court personnel who
24 are present will identify themselves for the record and note

1 what county and state they're appearing from. First,
2 Ms. Clerk.

3 THE CLERK: Yes, your Honor. Kim Oates, Washoe
4 County, Nevada.

5 THE COURT: Ms. Court Reporter.

6 THE COURT REPORTER: Stephanie Koetting, Washoe
7 County, Nevada.

8 THE COURT: Thank you. From Parole and Probation.

9 MS. BERRYMAN: Jill Berryman in Washoe County,
10 Nevada.

11 THE COURT: Thank you. I also note that the
12 deputy is present with Mr. Chaparro at 911 Parr Boulevard.
13 Mr. Chaparro appears from 911 Parr Boulevard with Deputy
14 Gibson.

15 And the record should reflect that this session
16 and all hearings that have occurred today, as a matter of
17 fact, are open to the public for viewing and listening to the
18 proceedings through an audio/visual link found on the
19 washoecourts.us website.

20 I'm going to ask each of the counsel to identify
21 themselves for the record in turn, state their physical
22 location, indicate whether they've had notice in advance of
23 the hearing today of the simultaneous audio/visual
24 transmission and whether or not they have any objection.

1 First, Mr. Lee, good afternoon.

2 MR. LEE: Good afternoon, your Honor. Again, Matt
3 Lee for the State. I'm located in Washoe County, Nevada. We
4 have had notice. We have no objection.

5 THE COURT: Thank you. Ms. Northington.

6 MS. NORTHINGTON: Thank you, your Honor. Mariah
7 Northington on behalf of the State. I am also located in
8 Washoe County, Nevada. I acknowledge receipt of all the
9 notices and have no objection.

10 THE COURT: Thank you. Ms. Bertschy, good
11 afternoon again.

12 MS. BERTSCHY: Good afternoon, again, your Honor.
13 Kendra Bertschy on behalf of the Washoe County Public
14 Defender's Office appearing for Mr. Chaparro. I am in
15 receipt of the notices. At this point, it is my
16 understanding Mr. Chaparro does object to proceeding. I
17 would note that I did reach out to the court clerk to
18 indicate that we did have some concerns.

19 THE COURT: Mr. Fuss, good afternoon to you, sir.

20 MR. FUSS: Good afternoon, your Honor. Tobin Fuss
21 on behalf of Mr. Chaparro. I'm present in Washoe County,
22 State of Nevada.

23 THE COURT: Thank you. And you likewise would
24 acknowledge you've received notice. It appears that on

1 behalf of your client, you would enter an objection to this
2 matter occurring by simultaneous audio/visual means, is that
3 correct?

4 MR. FUSS: That is correct.

5 THE COURT: All right. Mr. Chaparro, let me
6 address you directly in this way, sir. Can you hear me? I
7 need you to answer out loud, if you would, please, Mr.
8 Chaparro.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you able with the deputy's
11 permission to step closer to the monitor? Perfect. Can you
12 hear me, Mr. Chaparro?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Chaparro, do you object to these
15 proceedings occurring by simultaneous audio/visual means this
16 afternoon?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Why?

19 THE DEFENDANT: Because I don't think it's fair
20 and that I have to do something by video and audio/visual
21 because of a pandemic. That's not my fault. And as well, I
22 don't think it's okay that it's convenient for everybody else
23 to go ahead and proceed with this proceeding.

24 * Again, I know I have my support system and I know

1 that they'll be there, but this isn't -- this isn't what, you
2 know, it should be like. I have constitutional rights, sir.

3 THE COURT: Well, Mr. Chaparro, when do you
4 suppose that your sentencing will occur if it doesn't occur
5 by this means?

6 THE DEFENDANT: Well, I've noticed and I've been
7 watching what I've needed to watch and the State has been
8 opening slowly but surely. All 50 states, as you know, have
9 eased their restrictions. So I believe that it would be
10 soon.

11 THE COURT: Your belief is in error, let me
12 reassure you. So you would not know this, it's not something
13 that you could watch on the television, but the judges in
14 this district meet every week to discuss matters. And among
15 the matters we discuss, for example, is when in-person
16 proceedings can occur, when, for example, we would have
17 arraignments, sentencings, other criminal matters in the
18 Courthouse.

19 The chief judge of the district as recently as
20 this week said he doubted that we would have in court
21 proceedings in the Courthouse any time this year, meaning it
22 would not happen in 2020. It might not happen until 2021 or
23 even later.

24 Because having people in the same room in the same

1 place at the same time, for example, for criminal proceedings
2 is a much different thing than having people go to the
3 grocery store or go to their doctor's office or other things.

4 And so I think you may be assuming things that
5 aren't true when you assume that in the near future there
6 could be an in-person criminal proceeding. There in fact
7 cannot be an in-person criminal proceeding any time in the
8 foreseeable future just so you know.

9 THE DEFENDANT: Well, sir, I'm not assuming, no
10 disrespect to you, sir, but we also have a governor that
11 makes those decisions. And, again, I have been watching what
12 I can watch and I'm able to watch that. So when there's
13 lifts in 50 different states, including ours, it's really up
14 to the CDC to decide if it's okay in that matter, sir.
15 Again, no disrespect to you.

16 THE COURT: Well, it's okay. You're not being
17 disrespectful. You're unfortunately just wrong about who
18 makes the decision about when and if the Court opens.

19 I believe I understand the nature of your
20 objection. I overrule your objection. I intend to proceed
21 to sentencing today. I intend to proceed to sentencing
22 today, because I cannot predict with any reasonable certainty
23 when in the future we can conduct an in-person sentencing.

24 And, in fact, it is more valuable to have

1 resolution in your case for purposes of vesting jurisdiction
2 for purposes of an appeal that I know you want to take, for
3 example, for finality for the victims in this case and for a
4 variety of reasons. It makes no sense to continue this to a
5 date uncertain in the future, which we cannot predict.

6 We have, in fact, in this district and throughout
7 the state and, in fact, throughout the country, conducted
8 thousands of sentencings by audio/visual means such as this,
9 and under the circumstances, it is the best option available.

10 So I hear your concern. I appreciate your
11 objection and I overrule it. I intend to proceed to
12 sentencing today.

13 Let me return to the conversation we were having
14 about process. I think we left off at the point at which,
15 Ms. Bertschy, you had just confirmed with Mr. Fuss that he
16 could have simultaneous communication with Mr. Chaparro. And
17 I think I was at the juncture I was going to ask you if there
18 were any factual corrections or additions to the PSI.

19 MS. BERTSCHY: Thank you, your Honor. And I
20 believe that is correct and I appreciate that. The main
21 issue is since one of the dealings with sentencing is we need
22 to be able to have communication with Mr. Chaparro to ensure
23 that we are appropriately advocating on his behalf.

24 So with that, regarding the presentence

1 investigation report that was filed on April 21st, we do have
2 a few corrections. The first is regarding credit for time
3 served. Obviously, with the change in his sentencing, which
4 was originally supposed to be set on May 7th and it was reset
5 to today's date, I believe that adds 13 days. I believe the
6 credit for time served should be changed to 1,247 days.

7 Additionally, regarding the sentence structures
8 for the different charges, specifically, for battery with the
9 intent to commit sexual assault, I believe that the
10 information in there is incorrect. As the Court is aware,
11 this is a 2 to 10. I apologize. This is the -- he is
12 probation eligible if it weren't for the sex assault charge.
13 So it says not probation eligible, that is incorrect.
14 Additionally, for the open and gross lewdness, it is a
15 probation eligible offense.

16 And then with respect to the information contained
17 within the PSI, I would just note that the charge of battery
18 with the intent to commit sexual assault includes that it's
19 upon a person age 16 or older. My concern is if this goes to
20 prison the way it is written, that there may be some
21 indication or concern that this is involving a minor.

22 So we would request that this Court would be
23 willing to just insert somewhere within the offense
24 description that the complaining witness is an adult. My

1 suggestion is on page seven, paragraph two, in the sentence,
2 upon arrival, they learned that the victim, an adult.

3 THE COURT: Mr. Lee, do you want to respond to
4 that?

5 MR. LEE: I don't have a problem with that, judge.

6 THE COURT: All right. Go ahead, Ms. Bertschy.

7 MS. BERTSCHY: Thank you, your Honor. Those are
8 the only corrections that we have.

9 THE COURT: All right. So let me turn to you, Ms.
10 Berryman. I, too, noted that in the body of the sentencing
11 recommendations by the Division at page nine, it appears
12 there are some inconsistent and/or incorrect fragments of
13 information for lack of a better way of describing it.

14 Inasmuch as there's been a request and no
15 objection from the State that there be a factual inclusion as
16 to the victim's age at page seven, I'm going to order an
17 amended PSI that will likewise include both the parole
18 eligibility of the offenses as Ms. Bertschy noted and then
19 take out the 72 months in Count Two that looks like it's just
20 a typographical error if nothing else. Does that make sense?

21 MS. BERRYMAN: Yes. Was there a minimum term that
22 should be there in two?

23 THE COURT: Well, it is a ten to life.

24 MS. BERRYMAN: Okay.

1 MS. BERTSCHY: Your Honor, for Count Two, it's a
2 two to life.

3 THE COURT: I'm sorry. Count Two is the two to
4 life. That's correct. I apologize.

5 MS. BERRYMAN: So it should be 24 months, your
6 Honor?

7 THE COURT: That's correct.

8 MS. BERRYMAN: And I also note, my supervisor
9 called me and Count Two and Count Three where it says
10 mandatory prison should say, no, it is a mandatory prison.

11 THE COURT: That's correct. So I'm going to order
12 an amended PSI with those corrections. Thank you for that,
13 Ms. Berryman.

14 MS. BERRYMAN: Be happy to do it.

15 THE COURT: I return to you, Ms. Bertschy.

16 MS. BERTSCHY: Thank you, your Honor. I
17 appreciate that. For the Court's information, I had spoken
18 with the Division of Parole and Probation so they were aware
19 with those requested changes.

20 THE COURT: Thank you for letting them know in
21 advance. I appreciate it.

22 MS. BERTSCHY: Yes, your Honor. May I return now
23 to mitigation or would the Court like anything else first?

24 THE COURT: No. Please go ahead.

1 MS. BERTSCHY: Thank you, your Honor. As this
2 Court is aware, this is a very difficult case for everyone
3 involved. This Court has sat through numerous hearings and
4 sat through the trial at which everyone involved was able to
5 speak about what had happened and how this, you know,
6 starting to impact people.

7 I would just note from the letters that we
8 provided and that the Court has read, Mr. Chaparro has a very
9 significant support system. The letters include information
10 from Cynthia Chaparro, his sister, who described the -- what
11 she's going to do differently this time.

12 The Court is aware that Mr. Chaparro does have a
13 prior offense and he was successful in terms of he did
14 complete probation. He didn't finish paying his fines and
15 fees as noted. Unfortunately, he didn't also complete all
16 the counseling that hopefully if he had completed we may not
17 have been in this situation.

18 In her letter, I think it's really important all
19 the information that she provides this Court on what she's
20 going to do differently this point to help focus Mr. Chaparro
21 to ensure that he'll be successful, specifically, the
22 counseling component.

23 The family indicates now that they have more
24 information that they didn't have after his first conviction

1 on just how traumatic Mr. Chaparro's upbringing was and the
2 impact it had on him psychologically. He didn't receive
3 counseling. They know that he had been depressed. They know
4 that he had some issues where he had been attempting, at
5 least discussing attempting suicide. And those were things
6 that they unfortunately just didn't address with Mr. Chaparro
7 and he didn't address.

8 So that's one of the issues that Cynthia is
9 discussing in her letter is that she has a plan and she's
10 been working with Mr. Chaparro on a plan where when he is
11 released from prison that he will be successful.

12 In particular, I would just note that she
13 discusses things about creating an agenda with Mr. Chaparro
14 to ensure that every day he is tasked with something so he
15 doesn't have idle time, that he isn't drinking, that he's
16 focusing on his future, and, basically, that she would be
17 another parole officer for Mr. Chaparro to ensure his
18 success.

19 The Court has also received a letter from
20 Christine Cambuka, who is the mother of his child and former
21 girlfriend. I think what's noteworthy in that letter is all
22 of the discussions that she provides on how Mr. Chaparro and
23 her have been discussing the different things that he will be
24 doing when he's in prison. Again, he knows he's going to

1 prison. That's what this Court has to impose.

2 But just that he'll be attending church services,
3 he'll be attending different programs, work programs, if
4 possible, and counseling to ensure that he uses that time
5 wisely.

6 I would note for the Court that he, Mr. Chaparro,
7 has been attempting to do as much as he can while in custody.
8 Unfortunately, because of the pandemic, because of where he's
9 being housed, he's unable to attend classes, counseling,
10 things of that nature. So for the amount of time he's been
11 in custody, he's been able to sit there and reflect on what
12 he's been doing.

13 Additionally, as this Court is aware from the
14 presentence investigation report that included that he's been
15 seeing Dr. Lawrence. He's been working on yoga, meditation,
16 which are that things they were able to provide him. He's
17 already been starting that self-care process to ensure that
18 he's getting connected to what he needs to do in order to
19 change his behavior.

20 In the letter from Araceli Jimenez, his current
21 girlfriend, I don't believe she's here right now. I would
22 just note that she had hoped to be able to participate today
23 in terms of at least being able to attend the hearing. But
24 since she was a registered nurse, she was unable to get today

1 off. I believe that the other individuals I mentioned are
2 here present today or at least have attempted to be here.

3 What's noteworthy in her letter is that she
4 acknowledges and through her discussion with Mr. Chaparro
5 that regardless of what this Court imposes, it doesn't
6 guarantee that's going to be the sentence that Mr. Chaparro
7 gets in terms of how long he's going to be actually in
8 prison, because he has to be able to be paroled.

9 So they've had discussions and she notes that he
10 will only be able to return to the community after he earns
11 his parole. So that's something that all of his support
12 system will be working on is when he's in prison to ensure
13 that he's doing everything he can to earn his parole in order
14 to be able to then be a beneficial part of our community
15 again.

16 The letters from Jocelyn, his sister, as well as
17 Karena, his sister, and his brother, Christian, as well as
18 his mother, Maria, I think all provide information to this
19 Court regarding the upbringing that Mr. Chaparro had,
20 regarding the impact it had on him. But more importantly,
21 the lack of awareness that his family had on how severe
22 Mr. Chaparro was just facing challenges as a result of all of
23 those -- the issues, the things that he had went through.

24 But more importantly, they've noticed the change

1 in Mr. Chaparro this time while he's been in custody. As
2 this Court notes, he's been in custody for a very significant
3 amount of time. They noted that he wants to change for the
4 better and that they are hoping to help him change for the
5 better.

6 So one of the things that I can let the Court know
7 that we've discussed with Mr. Chaparro, and I've only been on
8 this case with Mr. Chaparro since August, and what I can say
9 is even from my first discussions with Mr. Chaparro, he
10 wishes that he could take that night back. He wishes that he
11 had never had anything to drink. He wishes that he had never
12 gone out. And that's some of the things he absolutely wishes
13 he could change. Because he wasn't planning on going out and
14 having anything like this happen.

15 So one of the things we had discussed is not only
16 all the classes that he can attend while in prison and then
17 if he's eligible for the reentry program or anything like
18 that in order to continue to with some form of treatment so
19 he is successful.

20 He's very astute and as this Court, I believe, has
21 noted. He's a very smart young man. And one of the things
22 that we discussed was the different medication that he can
23 even take to ensure that when he's released that he's unable
24 to drink alcohol and consume alcohol. He knows that is a

1 very significant part of this crime, that he was intoxicated.
2 That's one of the things that he knows where if he's not
3 drinking, this won't happen again. And so that is one of the
4 things that he will ensure and do is he plans on getting that
5 medical prescription to ensure that he's unable to consume
6 alcohol.

7 I know that this Court has read the information
8 from Dr. Mahaffey. This is because for Count Two if he came
9 back as a low or not a high risk, that would be probation
10 eligible. It is noteworthy that he does not come back as a
11 high risk.

12 What I think is appropriate in her psychological
13 assessment is that she provides the Court with some
14 information about what he can do while he's in prison to make
15 sure that he's successful. For example, she indicates that
16 he is amenable to treatment. The NDOC does have a specific
17 sex offender treatment program. It is a lengthy two-year
18 program, which has been proven, according to Dr. Mahaffey,
19 that these programs can reduce recidivism by up to
20 22 percent.

21 I know that this Court can't order Mr. Chaparro to
22 participate in that treatment program, but the reason why I'm
23 suggesting this again is that hopefully when he gets to
24 classifications, they will work with him to ensure that he is

1 enrolled in that program, again, to make sure that he is
2 compliant and will not be -- will not have any further issues
3 with the law.

4 Again, it is noteworthy in her report that she
5 says he is amenable to treatment. He's cooperative. He's
6 respectful. And with that, I think it's Mr. Chaparro's
7 statements to her that are noteworthy as well. It's
8 important that he's expressed remorse. She said that
9 Mr. Chaparro mentioned to her that the victim didn't deserve
10 this.

11 He said, I caused a lot of pain towards her that
12 she didn't deserve and now she has to live with this. I'm a
13 monster. It was disgusting. I had no excuse for doing it
14 and there's no excuse whatsoever for this to have happened.

15 So he acknowledges, and I know that we disputed
16 some of the charges, he did admit to Count Three, he
17 acknowledges that this caused an extreme amount of hurt to
18 the victim and hopefully that she's able to recover from this
19 as well. That is something he's hoping happens.

20 And I think that's just noteworthy when this Court
21 is considering what sentence to impose. He is someone who
22 has accepted responsibility for what he believes had
23 occurred. Again, the jury reached a different verdict.
24 We're not trying to indicate that the jury reached the wrong

1 verdict or anything like that at this point. I just do think
2 that is important for the Court to note.

3 Regarding the sentence, we are requesting for this
4 Court to impose the minimum sentence with concurrent time.
5 And the reason for that is because this was one event, one
6 incident, that lasted, the incident itself, approximately
7 under 30 seconds.

8 So what it is, it's the same facts that supported
9 the different charges. We understand that this means that
10 the charges don't merge. We understand that there isn't
11 anything regarding redundancy. So I know that in Crowley
12 versus State, which is 120 Nevada 20 from 2004, in that case
13 the charges were found to be redundant, because it's a sex
14 assault and a lewdness on a minor wherein the lewdness on the
15 minor was then -- was reversed, because of the fact that it
16 was the same actions, not separate and distinct, they were
17 part of the same episode and an uninterrupted action.

18 And although the issue of redundancy doesn't apply
19 here, I just think it's important for the Court to consider
20 when fashioning a sentence, because that's in essence what
21 had occurred in this case.

22 And with that, your Honor, I would submit that as
23 this Court could see from all of the reports -- from all of
24 the letters, from all of the support throughout the entirety

1 of this trial where he had support members who are here
2 today, he had members who were at trial, they've all noted
3 that Mr. Chaparro is a very hard working young man who has
4 now spent on this case a significant amount of time in
5 custody.

6 Regardless of what this Court does, he'll serve
7 very close to almost a third of his life in prison if this
8 Court even were to -- the amount that he's already -- the
9 length he's already had. So it's not even -- if in Court
10 does run all the cases concurrent, it's not that he gets an
11 easy sentence. He will still be sentenced to prison and
12 he'll still be sentenced to prison for a significant amount
13 of time.

14 So with that, we would request for this Court to
15 grant him the minimum sentence so that he can begin the
16 treatment while he's in prison. He'll serve a significant
17 amount of time. And hopefully when he's released, he'll make
18 those changes to ensure that he's not back in front of this
19 Court. With that, I'd submit, your Honor.

20 THE COURT: Thank you, Ms. Bertschy. On behalf of
21 the State?

22 MR. LEE: Your Honor, thank you very much for
23 having us today. You know, I wish we weren't here. No
24 offense to anybody, but I really wish we weren't -- for

1 Lindsay's sake, I really wish we weren't here.

2 But we are. Things did happen in December of 2016
3 that should have never happened and we're here because of
4 that and it's unfortunate. However, what our argument is
5 essentially, today, your Honor, as I understand it, is
6 concurrent or consecutive.

7 I mean, these sentences are laid out, and by
8 statute, it's ten to life, it's a two to life and it's up to
9 364 days. The State is going to be asking for the opposite
10 of what the defense just requested. We're asking your Honor
11 to run these all consecutive and I'll lay out my reasoning
12 here.

13 First of all, it's not often that we see before a
14 Court for sentencing or for another trial a repeat sexual
15 offender. I understand statistics and studies about
16 rehabilitation from sexual offenses, but I have not seen it.

17 Normally, either the sentence imposed is long
18 enough that it perhaps outlives a career of a prosecutor, but
19 in this case, I recall Mr. Chaparro's first prosecution. I
20 was a member of that team. I did not participate in the
21 trial. And he got a great benefit.

22 The good Judge Flanagan decided to give him
23 probation with a year in jail. And it was off the heels of a
24 lot of promises from Mr. Chaparro, including being amenable

1 to treatment and counseling. And so -- but it didn't work,
2 obviously. We're back here in 2016 doing the exact same
3 thing. However, this time with the added sexual assault
4 charge.

5 What's interesting in comparing these two crimes
6 is that he said in 2011 that he blacked out. He actually
7 gave conflicting stories, but in particular the one he stuck
8 with was he blacked out. He remembers things up to a certain
9 part, but when it came time to actually committing the crime,
10 he blacked out, and the next thing he remembers he's running
11 away.

12 That's interesting, because that's exactly what he
13 says here. And it seems convenient to me in his psychosexual
14 exams and to what he says to police that blacking out is his
15 way of blocking out what he has done, blocking out his taking
16 responsibility for what he's done. He just can say, I
17 blacked out. So whenever he does something bad, that's his
18 go-to, apparently.

19 I cannot ignore the fact that he did not complete
20 counseling. I'm not going to say anything about why or how,
21 but he was ordered to do it under special condition number
22 five of his judgment and probationary terms and he did not
23 complete it. He did, as I believe, from his admissions in
24 the psychosexual, two months of it and that's it. Perhaps we

1 wouldn't be here if he had done that.

2 He drank alcohol. Despite him saying that's a lot
3 of what causes this, he drank during his probationary term.
4 He certainly, by his admissions, drank afterwards. However,
5 one of his statement to your Honor was that, if I can just
6 control my drinking, again, through counsel, if I can control
7 my drinking, this won't happen again.

8 However, he assured the psychosexual analyst that
9 he was not drinking in 2011. Other than him being at Brew
10 Brothers, we don't have evidence that he was drinking this
11 time around. He said he was, but we don't have any other
12 evidence of that. We do video of him. He seems to be acting
13 deliberate and I'll just leave it at that.

14 His prior psychosexual in 2011 also said that his
15 blacking out, quote, does not present as feasible. In fact,
16 Dr. Mahaffey found his statements, quote, lacking
17 truthfulness, unquote. And she found him to be a moderate to
18 high risk of sexual reoffense and given the Static 99 R, the
19 recidivism rate with 6.1 percent she determined.

20 Here what is troubling to the State is this: He
21 again is found to be not a high risk, but to a moderate to
22 moderate high risk, however, the recidivism rate now has
23 increased. In a five-year rate, it's up to 15.2 percent
24 according to Dr. Mahaffey.

1 What is troubling to the State is the fact that he
2 is not a high risk to reoffend. I don't understand that. If
3 Mr. Chaparro is not a high risk to reoffend, someone who has
4 reoffended under very similar circumstances with a stranger,
5 with an adult female at a casino, when making sure that
6 they're all alone before he attacks, if he is not a high risk
7 to reoffend, I don't know who is.

8 Another troubling thing, a couple of more from the
9 psychosexual evaluation that gives some insight into
10 Mr. Chaparro's mind is he said he felt unjustly convicted of
11 Counts One and Two. I'm not saying that he needs to express
12 remorse, things like that. I get it. I get he has appellate
13 rights and things like that.

14 However, since they brought it up that he
15 expresses remorse, he still is not getting it. He still
16 feels he's unjustly convicted here. He felt the same way in
17 2011. And then what bothers me the most is that in giving
18 excuses for what he did after seeing the video, he said
19 something about it was alcohol, and then this, perhaps I was
20 being led on.

21 I don't know anything that's more offensive,
22 certainly, to Lindsey, but to the State. There was no
23 leading on. We saw the whole video. If that's the way
24 Mr. Chaparro perceives things, he'd dead wrong and he's way

1 off and I don't know where his reality is. But perhaps being
2 led on, that's ridiculous.

3 So one of the main reasons why he deserves a
4 maximum penalty and consecutive is that he's done it twice
5 now.

6 The other part of it is that these are very
7 violent in nature, the way he does these. What he did in
8 2011 was violent. We already heard about that. What he did
9 here was certainly violent. We heard about that. I'm not
10 going to play any more video, I'm not going to show any more
11 pictures. The memory is there and everyone saw it.

12 And then the main reason, your Honor, is just the
13 fact of what he has done to Lindsey. I don't think anyone
14 who hasn't gone through what Lindsey has gone through can
15 ever fully understand or appreciate exactly how she feels.
16 I've seen enough of these, I get a sense, a strong sense, but
17 even with that, I don't think we can ever understand fully.

18 However, I can tell you one thing that stuck with
19 me was from the preliminary hearing testimony when Lindsey
20 courageously sat on that stand and offered testimony. And
21 talking about Mr. Chaparro's appearance and identifying him,
22 she mentioned in her testimony that she has nightmares. That
23 she sees him every day in these nightmares. That she sees
24 him vividly every day in these nightmares and it took a sense

1 of security away from her.

2 That is hard to get back if it can come back. I
3 know Lindsey is as strong of a person as I've ever seen, but
4 what he has done to her has lasting effects, long -- much
5 longer than a ten-year sentence or a ten-year parole
6 eligibility will bring.

7 And then, again, going off of the thought that as
8 Mr. Chaparro had said that he just blacks out when these
9 things happen. Well, that's completely belied by the
10 elevator. He's in the elevator, he's with his buddies right
11 after the incident happens, and there he is making those hand
12 gestures. The street term, I believe, is a shocker. But
13 he's bragging about and he's joking with his buddies about
14 what he had just done.

15 He wasn't drunk, he didn't blackout, he knew
16 exactly what he was doing and he's making light of it. Maybe
17 he feels bad now after sitting in jail, but I'm interested in
18 how he felt then and what he did then.

19 These are three separate offenses, make no doubt.
20 It did happen in a quick amount of time. But as we know and
21 as counsel already stated, these don't legally have to merge
22 with one another. Under Blockburger, these are all separate
23 offenses requiring elements that the others do not.

24 But because of that and because of the violent

1 nature and because of what he did exactly and how it was
2 alleged and how it was charged, these are all separate
3 offenses, despite the fact that it occurred in a relatively
4 short amount of time.

5 I think also what's important is that this was
6 premeditated. He followed her for some time. The video
7 started out with him watching Lindsey and then follows her
8 through the casino, out the doors, across the street, and
9 only when they're all alone, he attacks.

10 When he attacked her, as your Honor remembers, the
11 testimony, he whispers in her ear, who are they going to
12 believe? Go ahead and call 911, who are they going to
13 believe? I'm proud of a jury in Washoe County answering that
14 question for Mr. Chaparro. They believed Lindsey
15 wholeheartedly.

16 Mr. Chaparro really through his actions hasn't
17 given us much reason to not give him a maximum sentence, to
18 not give these concurrent. We're arguing over three years
19 here, but it's three years longer that the community is safer
20 from this repeat rapist. It's three years longer that an
21 unsuspecting female doesn't have to look over her shoulder at
22 a casino. It's three more years that Lindsey will have a
23 sense of security.

24 So with that, your Honor, we're asking that the

1 Court impose a ten to life as Count One, by statute; two to
2 life on Count Two by statute; and the full 364 days as to
3 Count Three, and ask the Court to run them all consecutive.
4 Thank you very much.

5 MS. BERTSCHY: If I may, your Honor, I do need to
6 place something on the record.

7 THE COURT: Ms. Bertschy, go ahead.

8 MS. BERTSCHY: I believe that the State may have
9 confused some of the dates. I just want to make sure it's
10 clear that for this allegation, it was involving the 2016,
11 not the 2011. The 2011 was for the first conviction.

12 And that's just regarding Mr. Chaparro as
13 indicated in the reports has been drinking since 14. He had
14 alleged that he had been drinking the night of the incident.

15 And I would just note for the record that
16 Mr. Chaparro -- that I believe it's inappropriate for this
17 Court to consider the fact that there's no evidence that
18 Mr. Chaparro had been drinking as anything against him for a
19 sentencing.

20 There's no video of the Brew Brothers. That was
21 never provided in discovery. We had requested it. And so I
22 just want to make sure that's not being considered and used
23 against Mr. Chaparro, because that's something that was
24 evidence that was not kept.

1 Additionally, I would just note, as this Court is
2 aware, we do dispute some of the indications regarding the
3 elevator and that incident. So I would just note that for
4 the record.

5 THE COURT: From the Division's perspective,
6 anything you wanted to add, Ms. Berryman.

7 MS. BERRYMAN: No, your Honor. I want to confirm,
8 Ms. Bertschy is correct, credit for time served is
9 1,247 cases.

10 THE COURT: 1,247 days.

11 MS. BERRYMAN: That's correct, your Honor.

12 THE COURT: Thank you very much. Mr. Chaparro,
13 the law affords you an opportunity to make a statement before
14 I impose sentence. Is there anything you'd like to say, sir?

15 THE DEFENDANT: I don't want to make a statement,
16 sir.

17 THE COURT: I'm sorry. Can you say that again?

18 THE DEFENDANT: I do not want to make a statement.

19 THE COURT: Understood. Thank you, Mr. Chaparro.
20 Mr. Lee, do you intend to call Ms. Lindsey La Pier.

21 MR. LEE: We do, your Honor. She's in the waiting
22 room, I believe.

23 THE COURT: I will invite her into the panel.

24 MR. LEE: Would your Honor mind inviting as

1 well Alicia Hunter, the advocate?

2 THE COURT: I believe the advocate is entitled to
3 accompany is the word of the statute. I'll ask you to do
4 that as well, Ms. Oates.

5 THE CLERK: She's in, your Honor.

6 THE COURT: Thank you. Ms. La Pier, I'm going to
7 unmute you. This is Judge Walker talking. Can you hear me?

8 THE WITNESS: I can. Hello.

9 THE COURT: Good afternoon. Ms. Lee will guide
10 you through a victim impact statement. Ms. La Pier, would
11 you raise your right hand and take the oath of a witness.

12 (One witness sworn at this time.)

13 MS. BERTSCHY: Your Honor, I did not see her raise
14 her hand. I don't want --

15 THE CLERK: I'm asking her to start her video
16 right now.

17 THE COURT: Good afternoon, Ms. La Pier. You
18 weren't clear on video. Did you raise your right hand?

19 THE WITNESS: I did.

20 THE COURT: All right. Thank you. Mr. Lee,
21 please go ahead.

22 MR. LEE: Thank you.

23 BY MR. LEE:

24 Q. Lindsey, could you please state your first name

1 and spell it for us?

2 A. Lindsey, L-i-n-d-s-e-y.

3 Q. And, Lindsey, we've heard from you, you testified
4 in this matter. Have you put thought into what you might say
5 today?

6 A. Yes, sir.

7 Q. Do you have something prepared that you want to
8 read or do you have something to speak from the heart?

9 A. Just speaking.

10 Q. I know that we've spoken with you before, as well
11 as you've consulted or discussed what an impact statement
12 means with Alicia from our office as well, right?

13 A. Yes.

14 Q. With those guidelines, what would you like the
15 Court to know?

16 A. I'm just going to try to talk -- sorry for being
17 emotional. I can't put into words how I've changed as a
18 person because of this. And it's hard because we're on video
19 and I don't have, you know, anyone, my mom. And -- sorry.

20 That day changed my life forever and there's
21 nothing I can do, anything to fix it. I can't fix it.
22 What's done to me has been done.

23 And after it happened, I laid on the couch for a
24 week. I couldn't process. I couldn't move. I couldn't -- I

1 just precluded myself. I was in law school at the time and
2 that was a good distraction and I thought I was going to be
3 okay. Let's move on. I knew he was locked away, so I felt a
4 little bit.

5 But I saw him everywhere. Walking to school, I
6 saw him. I would constantly watch behind me. I still don't
7 sleep well. I can't even go home to Reno without feeling
8 terror. You know, I -- everything that was normal in my life
9 is gone.

10 And then as everyone knows, I wanted to be a
11 prosecutor. So I tried to intern for a year and a half and
12 it was the hardest thing. I felt myself not being able to
13 fully take on cases. I looked into counseling and it just --
14 it affected so much, everything is -- everything is
15 different. I'm sorry.

16 This trial has just sucked the life out of my law
17 school experience, my work experience. Every time I went to
18 take the bar, this trial was moved. It was right before, the
19 day after the bar. Every single time I tried to move on with
20 my life and become a successful person and start my career,
21 this was just thrown in my face. I have never been able to
22 close this chapter. It's been drug on.

23 My relationships have changed. I feel like my
24 body wasn't my body. I shove people away. You know, I've

1 lost a lot. I saw his face that night and I saw his face in
2 court, but I can describe him to the T. I see him every day.
3 And it's just -- I can't imagine -- it's just -- it's hard.
4 I feel like this is an out of body experience for me.

5 And as Matt mentioned, I am just thankful that I
6 can keep other girls safe for these three years. That's
7 the -- it has pained me, this being drug on so long, but
8 that's the one thing I have comfort in is that he isn't
9 blacking out every other night and supposedly blacking out
10 and hurting somebody else.

11 And I think that to even start my healing, this
12 needs to end. And I can only hope that he's given the
13 maximum allowed by law, because I need to move on. I need to
14 be able to have the closure and know he's not going to hurt
15 anyone else. Because it's dangerous and I don't think
16 anybody else should have to go through what I go through
17 every day.

18 And it will continue to affect me in my career.
19 You know, hopefully I can grow from and become a stronger
20 person and the best prosecutor I can be. But I need to heal
21 and I need to know that he will never hurt anybody else.

22 Q. Lindsey, I don't mean to cut you off by any means,
23 do you have anything else you want to say?

24 A. I don't think so.

1 MR. LEE: I appreciate that. Thank you very much
2 for being here.

3 THE COURT: Thank you, Mr. Lee. Ms. Bertschy, do
4 you have any questions of this witness?

5 MS. BERTSCHY: No, your Honor.

6 THE COURT: Thank you. Thank you, Ms. La Pier.
7 Mr. Lee, do you have any other evidence that you intend to
8 adduce?

9 MR. LEE: No, your Honor. We'll submit. Thank
10 you.

11 THE COURT: First, I find no legal reason why
12 judgment should not enter in this case. I give legal effect
13 to the verdict of the jury in the following manner:

14 First, as to Count One, sexual assault, I find the
15 defendant Osbaldo Chaparro guilty of sexual assault. As to
16 Count Two, battery with intent to commit sexual assault upon
17 a victim 16 years or age or older, I find Mr. Osbaldo
18 Chaparro guilty of battery with intent to commit sexual
19 assault upon a victim age 16 or older. As to Count Three,
20 open or gross lewdness, I find Osbaldo Chaparro guilty of
21 open or gross lewdness.

22 Before I choose the sentence I would like to
23 impose, I'd like to address a few matters. First, counsel,
24 can you confirm that you have confirmed with your client

1 and/or asked him to execute his acknowledgment of the
2 requirements of lifetime registration as a sex offender?

3 MS. BERTSCHY: Thank you, your Honor. I was
4 provided with that information. I did email it to the Washoe
5 County Sheriff's Office. It's my understanding that they did
6 provide it to him. And I believe that Mr. Fuss did go over
7 it. And I see Deputy Gibson handing something, I don't know
8 if that's it right now, so I don't know if he has it in front
9 of him.

10 THE COURT: Deputy Gibson, do you have the
11 offender notification acknowledgment? You're muted just so
12 you know.

13 DEPUTY GIBSON: That's what it appears to be, your
14 Honor. Sorry about that.

15 THE COURT: I'll just ask that that, of course, be
16 lodged with the Court, counsel. Mr. Fuss.

17 MR. FUSS: Your Honor, I was not able to go over
18 it. I had trouble getting into the meeting room. I wasn't
19 able to get until the last minute. I had tried to log on at
20 about 1:30.

21 If there's any way for me to go over it with him
22 now or after the sentence is imposed, I can do that, or we
23 can do it -- I can do it on my own time via iWeb.

24 MS. BERTSCHY: I would just note for the Court

1 that we did set up another iWeb after we had received the
2 documentation. Unfortunately, the jail did not have any
3 availability for the two days that we attempted.

4 THE COURT: I'll just indicate that the executed
5 form must be lodged with the Court no later than 48 hours
6 after close of business today. I know the two of you, I know
7 you will have discussed the contents of that with him
8 previously and we simply need the acknowledgment executed by
9 Mr. Chaparro.

10 I'd emphasize so that Mr. Chaparro knows, it's not
11 an acknowledgment of guilt of any kind. It's simply an
12 acknowledgment of his rights, duties and responsibilities as
13 a consequence of the judgments I am now just now announcing.

14 First, before I offer any other comments, I give
15 Mr. Chaparro 1,247 days credit for time served.

16 It is criminal, every pun intended, that it took
17 this long to get to this point in Mr. Chaparro's case. That
18 is not Mr. Chaparro's doing or fault. It is important to
19 acknowledge at this juncture in this case that Mr. Chaparro's
20 speedy resolution in this case, and for that matter, Ms. La
21 Pier's speedy resolution in this case were in large part
22 stolen by the misconduct of an attorney, specifically Doug
23 Nicholson, who was hired by Mr. Chaparro and his family at
24 one point in this case.

1 And Mr. Nicholson's defalcations in this case
2 unnecessarily delayed trial and resolution of this matter and
3 it is of no small concern to me that there would be such a
4 huge number of days credited to time served. And I apologize
5 again to Mr. Chaparro that that occurred in his case.

6 Sexual assault cases are among the most difficult
7 cases I hear as a judge. Mr. Lee would have no way of
8 knowing this, you all would have no way of knowing this, but
9 ironically enough, Mr. Lee, this morning I had a sentencing
10 in a repeat sexual assault case.

11 I can say that, unfortunately, I have had
12 experience as a prosecutor, as a defense attorney and now as
13 a judge with a number of cases where convicted sex offenders
14 have repeated their crimes. And they are tragic, painful and
15 among the most violent in every sense of that word an offense
16 that can be committed in a community.

17 In this case, Mr. Chaparro is 29 years of age. He
18 has a prior felony conviction that occurred in this district
19 in this county for a sex related offense. He was in fact
20 probated for that sex related offense. He did not
21 successfully complete his probation.

22 The nominal explanation for that now would be that
23 he could not afford the counseling and that I should not hold
24 against him his failure to complete counseling. I would

1 simply note that given the dates, if I accept them as true as
2 represented through his attorneys of his drinking, he was, of
3 course, finding ways to pay for drinking, but not finding
4 ways to pay for counseling. Because he was dishonorably
5 discharged on the prior conviction of battery with intent to
6 commit sexual assault in May of 2015 after he indicated he
7 began drinking.

8 It is 100 percent recidivism case. I mean that
9 intentionally as a statement in this case. I have had the
10 privilege of reading Dr. Mahaffey's evaluations for more than
11 two decades. I know and respect Dr. Mahaffey greatly. I
12 worked in the District Attorney's Office with her husband. I
13 worked in the District Attorney's Office when her husband
14 worked in the Public Defender's Office or in his own office.
15 I have great respect for her.

16 What I don't understand still to this day is how
17 in cases such as this we try to actualize, I mean that as a
18 term of art, an actuarial term of art, we try to put a number
19 on the risk that somebody will recidivate. I know the risk
20 that Osbaldo Chaparro will recidivate in terms of the history
21 of his conduct is 100 percent.

22 He committed an eerily similar act this time that
23 he committed in the prior offense, a stranger, an adult
24 female stranger, an adult female stranger in the context of

1 his, meaning Mr. Chaparro's, activities in or around a
2 casino, one near the Nugget in Sparks, one near The Row as
3 it's called here in downtown Reno.

4 Candidly, Mr. Chaparro's claim now that he was too
5 intoxicated to recall what he was doing is completely belied
6 by the evidence in this case.

7 It is apparent when the jury watched the video, as
8 did all of us, that as soon as Mr. Chaparro saw Ms. La Pier,
9 he saw a target. He acted on the predatory instincts that
10 fueled his conduct when he was first convicted in -- for an
11 act that occurred in 2011 and he acted on those same
12 predatory instincts when he acted and assaulted Ms. La Pier
13 in this case.

14 What is particularly difficult about sex offense
15 cases, as many cases may also be apparent, Mr. Chaparro may
16 be many good things. His family and friends have written
17 many letters, some of them filed as late as today. We'll
18 talk another day, counsel, about the burden that puts on
19 staff and others to process those documents at such a late
20 juncture.

21 But, nonetheless, he has family and friends who
22 see many good qualities in him and I do not seek to take
23 those good qualities away from him. But what is so difficult
24 in sex offense cases is that both qualities are true. In

1 other words, Mr. Chaparro may be a loving brother, friend,
2 cousin, family member, et cetera. He is also serial rapist.
3 And it is as difficult for his family and friends to see that
4 truth in his behavior as I'm sure it would be difficult for
5 Ms. La Pier or anyone else to see anything good in his
6 behavior.

7 Let me be clear, I don't put on the scales this
8 many letters from family and this many letters from people
9 who don't support him and say, well, the one balances the
10 other. That is not my job.

11 My job in Mr. Chaparro's case is specific
12 deterrence. Mr. Chaparro is a predator. He is a dangerous
13 sexual predator. He represents a specific danger to the
14 adult women around him. He has little insight and, in fact,
15 those who evaluate him can find little insight into what
16 motivates his predatory behavior.

17 But his predatory behavior in this case was
18 recorded on video. Fortunately, in this case, as in many
19 other cases, we have a victim, and that victim -- not that
20 it's fortunate that she's a victim -- but that victim is a
21 strong, strong, graceful, intelligent, capable human being,
22 who is a survivor, who could stand up and describe what
23 occurred to her across time to different professionals, to
24 different judges and ultimately to a jury in this case.

1 It is incumbent on me to do what I can to ensure
2 that no other such victim will exist in the life of
3 Mr. Chaparro. For those reasons, I choose the following
4 sentence structure:

5 I impose a \$25 administrative assessment fee, a
6 DNA administrative assessment of \$3. I will not impose
7 attorney's fees of \$1,000 as Mr. Chaparro is indigent. I
8 impose a psychosexual fee of \$963.42.

9 As to Count One, sexual assault, I impose a term
10 of ten years to life in the Nevada Department of Corrections
11 and restitution in the amount of \$500.

12 As to Count Two, I impose a term of 24 months to
13 life in the Nevada Department of Corrections. And will be
14 structured consecutively to Count One.

15 As to Count Three, I impose a term of 364 days in
16 the Washoe County Jail.

17 Ms. Clerk, I intend to arrange the structure in
18 this way: Time that Mr. Chaparro has will be credited first
19 to Count Three. Count One will then be credited
20 consecutively to Count Three, and Count Two will be credited
21 consecutively to Count One.

22 My chief rationale for that is this: If I were to
23 structure Count Three consecutively to the prison counts, it
24 would very badly complicate Mr. Chaparro's sentencing or

1 imposition of sentencing and his housing at the department of
2 corrections. So my purpose is to credit all of the time, and
3 he has more than enough time, to Count Three. And then have
4 Count One be consecutive to Count Three, Count Two be
5 consecutive to Count One. That is the sentence I announce in
6 this case. Are there any other issues that you think we
7 should address, Ms. Oates or Ms. Encallado?

8 THE CLERK: No, your Honor.

9 THE COURT: Thank you. Anyone else want to place
10 anything else into the record at this juncture?

11 MR. LEE: No, your Honor. Thank you very much for
12 your time.

13 THE CLERK: Your Honor, I do have one question.
14 Do you want the credit for time served that's remaining to be
15 credited towards the prison sentence?

16 THE COURT: Yes.

17 THE CLERK: Okay.

18 THE COURT: Thank you all very much for your time,
19 for your professionalism in this case. It's been my
20 privilege to work with all of you. I wish you all good day.
21 Ms. La Pier, please take good care, ma'am.

22 MS. BERTSCHY: Your Honor, I apologize. I do need
23 to object. I wasn't able when you were saying your sentence
24 regarding the term of calling Mr. Chaparro a serial rapist.

1 I do object to that term.

2 Then I would just put on the record that his
3 family support is present of Jocelyn, of Kevin, as well as
4 Christine.

5 THE COURT: What is the legal basis for your
6 objection, please?

7 MS. BERTSCHY: I think that is an inappropriate
8 term to be characterizing a criminal defendant, your Honor.

9 THE COURT: I apologize. So that it's in the
10 record, Mr. Chaparro has now twice been convicted in this
11 community of raping two different women serially in time,
12 meaning one after another. That is the purpose for the term
13 and I believe consistent with the definition of the term. I
14 note your objection. Thank you all for your time.

15 MS. BERTSCHY: Thank you, your Honor.

16 --oOo--

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on May 20, 2020, at the hour of 2:00
8 p.m., and took verbatim stenotype notes of the proceedings
9 had upon the sentencing in the matter of THE STATE OF NEVADA,
10 Plaintiff, vs. OSBALDO CHAPARRO, Defendant, Case
11 No. CR17-0636, and thereafter, by means of computer-aided
12 transcription, transcribed them into typewriting as herein
13 appears;

14 That the foregoing transcript, consisting of pages 1
15 through 50, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 17th day of September 2020.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 **CODE 1850**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

Case No. CR17-0636

12 **OSBALDO CHAPARRO,**

Dept. No. 7

13 **Defendant.**
14 _____/

15 **JUDGMENT OF CONVICTION**

16 The Defendant, having been found guilty by a Jury on February 14, 2020,
17 and no sufficient cause being shown by Defendant as to why judgment should not be
18 pronounced against him, the Court rendered judgment as follows:

19 Osbaldo Chaparro is guilty of the crime of Sexual Assault, a violation of
20 NRS 200.366.2b, a Category A Felony, as charged in Count I of the Amended
21 Information, and that he be punished by imprisonment in the Nevada Department of
22 Corrections for the term of Life With the Possibility of Parole after a minimum of Ten (10)
23 years has been served, with Eight Hundred Eighty-Three (883) days credit for time
24 served, to be served consecutively to the sentence imposed in Count III.

25 Osbaldo Chaparro is guilty of the crime of Battery with Intent to Commit
26 Sexual Assault Upon Victim Age 16 or Older, a violation of NRS 200.400.4b, a Category
27 A Felony, as charged in Count II of the Amended Information, and that he be punished by
28 imprisonment in the Nevada Department of Corrections for the term of Life With the

1 Possibility of Parole after a minimum of Twenty-Four (24) months have been served, to
2 be served consecutively to the sentence imposed in Count I.

3 Osbaldo Chaparro is guilty of the crime of Open or Gross Lewdness, a
4 violation of NRS 201.210.1a, a gross misdemeanor, as charged in Count III of the
5 Amended Information, and that he be punished by imprisonment in the Washoe County
6 Jail for a term of Three Hundred Sixty-Four (364) days, with Three Hundred Sixty-Four
7 (364) days credit for time served.

8 It is further ordered that an aggregate sentence is hereby imposed of a
9 minimum of One Hundred Forty-Four (144) months with a maximum term of life with
10 parole eligibility beginning after a minimum of Twelve (12) years having been served.

11 It is further ordered, pursuant to NRS 176.0931, the Court orders a special
12 sentence of lifetime supervision to commence after any period of probation, or any term
13 of imprisonment, or after any period of release on parole. It is further ordered that the
14 Defendant shall register as a Sex Offender with the law enforcement agency in whose
15 jurisdiction the Defendant resides and is employed within 48 hours in accordance with
16 NRS 179D.460.

17 It is further ordered that the Defendant is ordered to pay restitution in the
18 amount of Five Hundred Dollars (\$500.00). All monetary payments, money and property
19 collected from the Defendant shall be first applied to pay the amount ordered as
20 restitution to the Victim(s).

21 The Defendant is further ordered to pay a Three Dollar (\$3.00)
22 administrative assessment for obtaining a biological specimen and conducting a genetic
23 marker analysis, a Twenty-Five Dollar (\$25.00) administrative assessment fee, a Nine
24 Hundred Sixty-Three Dollar and Forty-Two Cent (\$963.42) psychosexual fee, and
25 attorney fees are hereby waived by this Court.

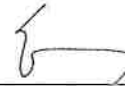
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1 Any fine, fee administrative assessment or restitution imposed today (as
2 reflected in this Judgment) constitutes a lien, as defined in Nevada Revised Statute NRS
3 176.275. Should the Defendant not pay these fines, fees, or assessments, collection
4 efforts may be undertaken against Osbaldo Chaparro.

5 Dated this 20th day of May, 2020.



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7 DISTRICT JUDGE
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1 CODE NO. 2515
2 WASHOE COUNTY PUBLIC DEFENDER
3 KATHRYN REYNOLDS, State Bar Number 10955
4 350 South Center Street, 5th Floor
5 Reno, Nevada 89501
6 (775) 337-4882
7 kreynolds@washoecounty.us
8 Attorney for Defendant

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE
13

14 THE STATE OF NEVADA,

15 Plaintiff,

16 vs.

Case No. CR17-0636

17 OSBALDO CHAPARRO,

Dept. 7

18 Defendant.
19 _____

20 NOTICE OF APPEAL

21 Defendant, Osbaldo Chaparro, appeals to the Supreme Court of Nevada from
22 the judgment of conviction entered in this action on May 21, 2020.

23 The undersigned hereby affirms, pursuant to NRS 239B.030, that this
24 document does not contain the social security number of any person.

25 DATED: June 15, 2020

26 JOHN L. ARRASCADA
WASHOE COUNTY PUBLIC DEFENDER

By: /s/ Kathryn Reynolds
KATHRYN REYNOLDS, Deputy

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OSBALDO CHAPARRO
#1234050
Northern Nevada Correctional Center
PO Box 7000
Carson City, Nevada 89701

JENNIFER P. NOBLE
Chief Appellate Deputy
Washoe County District Attorney's Office
(E-flex)

AARON D. FORD
Attorney General State of Nevada
100 N. Carson Street
Carson City, Nevada 89701

DATED this 15th day of June, 2020.

/s/ Kathryn Reynolds
KATHRYN REYNOLDS