

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ADAM TRUSCA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83853

FILED

JAN 28 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER REGARDING MOTIONS

This is a direct appeal from a judgment of conviction. Appellant was convicted pursuant to a plea of guilty of one count of possession of visual presentation depicting sexual conduct of a child, a Category B felony. He was sentenced to 19 to 48 months in the Nevada Department of Corrections. Appellant remained out of custody throughout the proceedings in part based on his infant daughter's heart condition. On November 23, 2021, the district court held a hearing on appellant's motion for resentencing and for bail pending appeal. The district court denied the motions, and appellant has been remanded into custody. Appellant now moves this court for bail pending disposition of this appeal. *See* NRS 178.488 (bail may be granted "unless it appears that the appeal is frivolous or taken for delay."). Respondent opposes the motion and notes there is "no constitutional right to bail following conviction and pending appeal." *Bergna v. State*, 120 Nev. 869, 872, 102 P.3d 549, 551 (2004).

Appellant argues that he has made all of his court appearances, has strong support from his family, and is not a flight risk. Respondent counters with the seriousness of the offense and notes that it is highly unlikely he will prevail on appeal. Having considered the arguments of the

parties, this court concludes that appellant fails to demonstrate that bail pending appeal is warranted. *Bergna*, 120 Nev. at 877, 102 P.3d at 554 (stating that a movant convicted of a serious offense, and who has been sentenced to a substantial prison term, shoulders "a heavy burden to demonstrate, not only that the appeal is not frivolous, nor taken for delay, but also that his or her release will not pose a risk of flight or danger to the community.").

Respondent's unopposed motion to direct the district court clerk to transmit a copy of appellant's psychosexual evaluation in this matter (district court case number C-21-356689-1) is granted. NRAP 30(b)(6). The district court clerk shall have 14 days from the date of this order to transmit to the clerk of this court a copy of the psychosexual evaluation in a sealed envelope. *See id.*

It is so ORDERED.

1 Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Herndon, J.
Herndon

cc: Hon. Joseph Hardy, Jr., District Judge
Resch Law, PLLC d/b/a Conviction Solutions
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk