

Electronically Filed  
Jan 05 2022 11:22 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

1 ANOASC  
2 JoNell Thomas #4771  
3 Clark County Special Public Defender  
4 Melinda E. Simpkins, #7911  
5 Chief Deputy Special Public Defender  
6 Quintin M. Dollente, Jr., #9379  
7 Chief Deputy Special Public Defender  
8 330 S. 3<sup>rd</sup> St., Suite 800  
9 Las Vegas, Nevada 89155  
10 (702) 455-6265  
11 (702) 455-6273 (fax)  
12 [Melinda.simpkins@clarkcountynv.gov](mailto:Melinda.simpkins@clarkcountynv.gov)  
13 [Quintin.dollente@clarkcountynv.gov](mailto:Quintin.dollente@clarkcountynv.gov)  
14 Attorneys for Thornburg

DISTRICT COURT  
CLARK COUNTY

13 State of Nevada,

14 Plaintiff,

15 v.

16 Jermiah Dewight Thornburg,

17 Defendant.  
18  
19

Case No. C-20-348507-1

Dept. No. XXX

20 **AMENDED NOTICE OF APPEAL**  
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1 TO: THE STATE OF NEVADA, Plaintiff;

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff;

3  
4 and

5 TO: DEPARTMENT XXX OF THE EIGHTH JUDICIAL DISTRICT  
6 COURT OF THE STATE OF NEVADA, IN AND FOR THE  
7 COUNTY OF CLARK:

8 NOTICE is hereby given that Jermiah Dewight Thornburg hereby  
9 appeals to the Nevada Supreme Court from the Amended Judgment of  
10 Conviction (Plea of Guilty) filed December 27, 2021.<sup>1</sup>

11  
12 Dated December 27, 2021.

13  
14 Respectfully submitted,

15 JoNell Thomas  
16 Clark County Special Public Defender

17  
18 /s/ MELINDA SIMPKINS

19 \_\_\_\_\_  
20 Melinda E. Simpkins  
21 Special Public Defender  
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26 \_\_\_\_\_  
27 <sup>1</sup> This appeal has been docketed in the Nevada Supreme Court  
under case number 83864.

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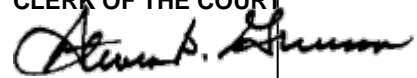
District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas NV 89155

Jermiah Dewight Thornburg, ID #20694-2332  
USP Atlanta  
U.S. Penitentiary  
P.O. Box 150160  
Atlanta GA 30315

Dated December 27, 2021.

/s/ KATHLEEN FITZGERALD

Kathleen Fitzgerald  
An employee of the  
Special Public Defender's office



ACAS  
JoNell Thomas #4771  
Clark County Special Public Defender  
Melinda E. Simpkins, #7911  
Chief Deputy Special Public Defender  
Quintin M. Dollente, Jr., #9379  
Chief Deputy Special Public Defender  
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(702) 455-6265  
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[Melinda.simpkins@clarkcountynv.gov](mailto:Melinda.simpkins@clarkcountynv.gov)  
[Quintin.dollente@clarkcountynv.gov](mailto:Quintin.dollente@clarkcountynv.gov)  
Attorneys for Thornburg

DISTRICT COURT  
CLARK COUNTY

State of Nevada,

Plaintiff,

v.

Jermiah Dewight Thornburg,

Defendant.

Case No. C-20-348507-1

Dept. No. XXX

**AMENDED CASE APPEAL STATEMENT**

**1. Name of appellant filing this case appeal statement:**

Jermiah Dewight Thornburg

**2. Identify the judge issuing the decision, judgment, or  
order appealed from:** The Honorable Judge Jerry Wiese

1           **3. Identify each appellant and the name and address of**  
2 **counsel for each appellant:**

3  
4           Appellant: Jermiah Thornburg

5           Attorney for Appellant: Melinda E. Simpkins, Chief Deputy  
6  
7 Special Public Defender, Quintin Dollente, Chief Deputy Special Public  
8 Defender, and JoNell Thomas, Special Public Defender, 330 South  
9 Third Street, 8<sup>th</sup> Floor, Las Vegas NV 89101  
10

11           **4. Identify each respondent and the name and address of**  
12 **appellate counsel, if known, for each respondent (if the name of**  
13 **a respondent's appellate counsel is unknown, indicate as much**  
14 **and provide the name and address of that respondent's trial**  
15 **counsel):**

16  
17           Respondent: The State of Nevada

18  
19           Attorney for Respondent: Steven Wolfson, Clark County District  
20  
21 Attorney, 200 Lewis Ave., 3<sup>rd</sup> Floor, Las Vegas NV 89101; and Aaron  
22 Ford, Nevada Attorney General, 100 North Carson Street, Carson City  
23 NV 89701  
24

25           **5. Indicate whether any attorney identified above in**  
26 **response to question 3 or 4 is not licensed to practice laws in**  
27

1 Nevada and, if so, whether the district court granted that  
2 attorney permission to appear under SCR 42 (attach a copy of  
3 any district court order granting such permission): Attorney is  
4 licensed to practice in Nevada  
5

6 6. Indicate whether appellant was represented by  
7 appointed or retained counsel in the district court: Appointed  
8

9 7. Indicate whether appellant is represented by  
10 appointed or retained counsel on appeal: Appointed.  
11

12 8. Indicate whether appellant was granted leave to  
13 proceed in forma pauperis, and the date of entry of the district  
14 court order granting such leave: Appellant was not granted leave to  
15 proceed in forma pauperis.  
16

17 9. Indicate the date the proceedings commenced in the  
18 district court (e.g., date complaint, indictment, information, or  
19 petition was filed): Information filed May 26, 2020.  
20  
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22 10. Provide a brief description of the nature of the action  
23 and result in the district court, including the type of judgment  
24 or order being appealed and the relief granted by the district  
25 court: Defendant Jermiah Thornburg was charged in an Information  
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1 filed May 26, 2020, with one count of Attempt Sexual Assault with a  
2 Minor Under Fourteen Years of Age. The Fifth Amended Information  
3 was filed August 3, 2021, and the Guilty Plea Agreement was filed  
4 August 5, 2021. Mr. Thornburg pled guilty to one count Attempt Sexual  
5 Assault with a Minor Under Fourteen Years of Age. The parties agreed  
6 to a stipulated sentence of 8-20 years; and the State agreed it would not  
7 oppose concurrent time with Mr. Thornburg's Federal case. The  
8 Judgment of Conviction (Plea of Guilty) was filed November 1, 2021.  
9 Defendant filed a Motion to Clarify and/or Amend Judgment of  
10 Conviction (no order to run his time concurrent to his federal case) and  
11 submitted with an Order Shortening Time. The Court granted the  
12 unopposed motion on November 23, 2021. The Notice of Appeal was  
13 filed on November 24, 2021. The appeal was docketed in the Nevada  
14 Supreme Court under Case Number 83864. The Amended Judgment of  
15 Conviction was filed December 27, 2021. This appeal follows.

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22 **11. Indicate whether the case has previously been the**  
23 **subject of an appeal to or original writ proceeding in the**  
24 **Supreme Court and, if so, the caption and Supreme Court**  
25 **docket number of the prior proceeding: No**  
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1           12. Indicate whether this appeal involves child custody or  
2 **vitiation: No**

3  
4           13. If this is a civil case, indicate whether this appeal  
5 **involves the possibility of settlement: No**

6           Dated December 27, 2021.

7  
8                               Respectfully submitted,

9  
10                              JoNell Thomas  
11                              Clark County Special Public Defender

12                             /s/ Melinda E. Simpkins  
13                             \_\_\_\_\_

14                              Melinda E. Simpkins  
15                              Special Public Defender  
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District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas NV 89155

Jermiah Dewight Thornburg, ID #20694-2332  
USP Atlanta  
U.S. Penitentiary  
P.O. Box 150160  
Atlanta GA 30315

Dated December 27, 2021.

/s/ Kathleen Fitzgerald

Kathleen Fitzgerald  
An employee of the  
Special Public Defender's office

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. C-20-348507-1**

State of Nevada  
vs  
Jeremiah Thornburg

§ Location: **Department 30**  
 § Judicial Officer: **Wiese, Jerry A.**  
 § Filed on: **05/26/2020**  
 § Cross-Reference Case **C348507**  
 § Number:  
 § Defendant's Scope ID #: **1999678**  
 § ITAG Booking Number: **0**  
 § ITAG Case ID: **2217046**  
 § Lower Court Case # Root: **19F04131**  
 § Lower Court Case Number: **19F04131X**  
 § Metro Event Number: **99999999999**  
 § Supreme Court No.: **83864**

**CASE INFORMATION**

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: <b>District Court</b>					
1. ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE PCN: 0030602575 ACN: 99999999999 Arrest: 04/15/2020 MET - Metro	200.366.3c	F	10/02/2012	Case Status:	<b>12/27/2021 Closed</b>
2. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	201.230.2	F	10/02/2012		
3. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	201.230.2	F	10/02/2012		
4. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	200.366.3c	F	10/02/2013		
5. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	200.366.3c	F	10/02/2013		
6. OPEN OR GROSS LEWDNESS IN THE PRESENCE OF A CHILD OR VULNERABLE PERSON	201.210	F	10/02/2014		
7. LEWDNESS WITH A CHILD UNDER THE AGE OF 16	201.230	F	10/02/2014		

**Statistical Closures**

12/27/2021 Guilty Plea with Sentence (before trial) (CR)  
 11/01/2021 Guilty Plea with Sentence (before trial) (CR)

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number C-20-348507-1  
 Court Department 30  
 Date Assigned 05/26/2020  
 Judicial Officer Wiese, Jerry A.

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Defendant</b>	<b>Thornburg, Jeremiah Dewight</b>	<b>Special Public Defender</b> <i>Retained</i>
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX**

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

**EVENTS**

05/26/2020	 Criminal Bindover Packet Justice Court <i>[1]</i>	In #1
05/26/2020	 Criminal Bindover - Confidential <i>[2]</i>	In #2
05/26/2020	 Information <i>[3] Information</i>	In #3
05/27/2020	 Consent Filed By: Defendant Thornburg, Jeremiah Dewight <i>[4] Consent to Efile Service</i>	In #4
06/22/2020	 Amended Information <i>[5] Amended Information</i>	In #5
07/05/2020	 Transcript of Proceedings <i>[6] Reporter's Transcript of Unconditional Waiver of Preliminary Hearing, May 26, 2020</i>	In #6
08/17/2020	 Notice of Motion <i>[7] State's Notice of Motion and Motion To Admit Evidence Of Uncharged Acts</i>	In #7
08/17/2020	 Motion to Admit Evidence Filed By: Plaintiff State of Nevada <i>[8] State's Amended Notice of Motion and Motion to Admit Evidence of Uncharged Acts</i>	In #8
08/18/2020	 Clerk's Notice of Hearing <i>[9] Notice of Hearing</i>	In #9
08/24/2020	 Amended Information <i>[10] Second Amended Information</i>	In #1
08/28/2020	 Order <i>[11] Order Granting State's Motion to Admit Evidence of Uncharged Acts</i>	In #1
09/04/2020	 Receipt of Copy Filed by: Plaintiff State of Nevada <i>[12] Receipt of Copy for Discovery Provided</i>	In #1
09/30/2020	 Notice of Witnesses and/or Expert Witnesses <i>[13] STATE S NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	In #1
10/05/2020	 Receipt of Copy <i>[14] Receipt of Copy</i>	In #1
10/19/2020		In

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**


	 Supplemental Witness List <i>[15] STATE S SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	#1
11/13/2020	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>[16] State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>	In #1
11/23/2020	 Amended Information <i>[17] Third Amended Information</i>	In #1
06/02/2021	 Motion to Reconsider Filed By: Defendant Thornburg, Jeremiah Dewight <i>[18] Motion to Reconsider State's Motion to Admit Evidence of Uncharged Acts</i>	In #1
06/02/2021	 Clerk's Notice of Hearing <i>[19] Notice of Hearing</i>	In #1
06/25/2021	 Opposition <i>[20] Defendant's Opposition to State's Motion to Admit Evidence of Uncharged Acts</i>	In #2
07/29/2021	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>[21] Order Denying Defendant's Motion to Reconsider The Court's Prior Order Granting The State's Motion to Admit Evidence of Uncharged Acts</i>	In #2
08/03/2021	 Amended Information Filed By: Plaintiff State of Nevada <i>[22] Fourth Amended Information</i>	In #2
08/03/2021	 Amended Information Filed By: Plaintiff State of Nevada <i>[23] Fifth Amended Information</i>	In #2
08/05/2021	 Guilty Plea Agreement <i>[24] Guilty Plea Agreement</i>	In #2
08/05/2021	 Notice <i>[25] Setting Slip</i>	In #2
09/22/2021	 PSI <i>[26]</i>	In #2
11/01/2021	 Judgment of Conviction <i>[27] JUDGMENT OF CONVICTION</i>	In #2
11/15/2021	 Motion Filed By: Defendant Thornburg, Jeremiah Dewight <i>[28] Defendant Motion to Clarify and/or Amend Judgment of Conviction</i>	In #2

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

11/17/2021	 Clerk's Notice of Hearing Party: Defendant Thornburg, Jeremiah Dewight <i>[29] Notice of Hearing</i>	In #2
11/19/2021	 Order Shortening Time <i>[30] ORDER SHORTENING TIME TO CLARIFY AND/OR AMEND JUDGMENT OF CONVICTION</i>	In #2
11/24/2021	 Notice of Appeal (Criminal) <i>[31] Notice of Appeal</i>	In #2
11/24/2021	 Case Appeal Statement <i>[32] Case Appeal Statement</i>	In #2
11/24/2021	 Request Filed by: Defendant Thornburg, Jeremiah Dewight <i>[33] Request for Transcript of Proceedings</i>	In #2
11/24/2021	 Request <i>[34] Request for Transcript of Proceedings</i>	In #2
11/24/2021	 Request <i>[35] Request for Transcript of Proceedings</i>	In #2
11/24/2021	 Request <i>[36] Request for Transcript of Proceedings</i>	In #2
12/23/2021	 Recorders Transcript of Hearing <i>[37] Recorders Transcript of Central Trial Readiness 10/7/20</i>	In #2
12/23/2021	 Certificate of Service <i>[38] Certificate of Service to Supreme Court</i>	In #2
12/23/2021	 Recorders Transcript of Hearing <i>[39] Recorders Transcript of Central Calendar Call 11/25/20</i>	In #2
12/23/2021	 Recorders Transcript of Hearing <i>[40] Recorders Transcript of Arraignment Continued 6/23/20</i>	In #4
12/23/2021	 Certificate of Service <i>[41] Certificate of Service to Supreme Court</i>	In #4
12/27/2021	 Amended Judgment of Conviction <i>[42] Amended Judgment of Conviction</i>	In #4
12/27/2021	 Amended Notice of Appeal (Criminal) <i>[43] Amended Notice of Appeal</i>	In #4

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

In  
#4

12/27/2021  Amended Case Appeal Statement  
[44] Amended Case Appeal Statement

**DISPOSITIONS**

11/23/2020 **Disposition** (Judicial Officer: Wiese, Jerry A.)  
2. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:  
3. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:  
4. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:  
5. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:  
6. OPEN OR GROSS LEWDNESS IN THE PRESENCE OF A CHILD OR VULNERABLE PERSON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:  
7. LEWDNESS WITH A CHILD UNDER THE AGE OF 16  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:

08/05/2021 **Plea** (Judicial Officer: Wiese, Jerry A.)  
1. ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Guilty  
PCN: 0030602575 Sequence:

10/21/2021 **Disposition** (Judicial Officer: Wiese, Jerry A.)  
1. ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Guilty  
PCN: 0030602575 Sequence:

10/21/2021 **Adult Adjudication** (Judicial Officer: Wiese, Jerry A.)  
1. ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
10/02/2012 (F) 200.366.3c (DC50123)  
PCN: 0030602575 Sequence:

---

Sentenced to Nevada Dept. of Corrections  
Term: Minimum:8 Years, Maximum:20 Years  
Credit for Time Served: 560 Days  
Other Fees  
1. , \$5,184.00  
Fee Totals:  
Administrative  
Assessment Fee 25.00  
\$25  
Genetic Marker  
Analysis AA Fee 3.00  
\$3

**CASE SUMMARY****CASE NO. C-20-348507-1**

Indigent Defense	
Civil Assessment	250.00
Fee - ASK	
Fee Totals \$	278.00
\$150 Waived	

11/23/2021 **Amended Adult Adjudication** (Judicial Officer: Wiese, Jerry A.) Reason: Amended  
 1. ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 10/02/2012 (F) 200.366.3c (DC50123)  
 PCN: 0030602575 Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Minimum:8 Years, Maximum:20 Years  
 Concurrent: Case Number Federal Case  
 Credit for Time Served: 560 Days


**Other Fees**

1. , \$5,184.00

**Fee Totals:**

Administrative	
Assessment Fee	25.00
\$25	
Genetic Marker	
Analysis AA Fee	3.00
\$3	
Indigent Defense	
Civil Assessment	250.00
Fee - ASK	
Fee Totals \$	278.00
\$150 Waived	


**HEARINGS**

05/28/2020  **Initial Arraignment** (8:00 AM) (Judicial Officer: Jones, Tierra)

Matter Continued;

Journal Entry Details:

*Mr. Dollente requested the matter be continued one week to review the guilty plea agreement with Defendant. COURT SO ORDERED. CUSTODY CONTINUED TO: 6/04/2020 8:00 AM;*

06/04/2020  **Arraignment Continued** (8:00 AM) (Judicial Officer: Bell, Linda Marie)

**06/04/2020, 06/18/2020, 06/23/2020****MINUTES**

Continued;

Matter Continued;

Trial Date Set;

Journal Entry Details:

*Deputized Law Clerk, Brittini Griffith, present on behalf of the State. Mr. Dollente advised Mr. Judd will be substituting in for the Special Public Defenders office and discovery will be forwarded. DEFT. THORNBURG ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial. CUSTODY 11/17/20 8:30 AM CALENDAR CALL (DEPT 30) 11/23/20 10:00 AM JURY TRIAL (DEPT 30);*

Continued;

Matter Continued;

Trial Date Set;

Journal Entry Details:

*Deputized Law Clerk, Skyler Sullivan appearing for the State. Mr. Dollente stated the Deft. is not accepting the negotiations. COURT ORDERED, matter CONTINUED for an Amended Information to be filed. CUSTODY 6/23/20 8:00 AM ARRAIGNMENT CONTINUED (LLA);*

Continued;

Matter Continued;

Trial Date Set;

Journal Entry Details:

*Deputy District Attorney, Ron Evans, present on behalf of the State. Mr. Dollente requested the matter be continued to allow the Defendant additional time to review the Guilty Plea Agreement. COURT ORDERED, matter*

# CASE SUMMARY

## CASE NO. C-20-348507-1

CONTINUED. CUSTODY CONTINUED TO: 6/18/2020 8:00 AM (LLA);

### SCHEDULED HEARINGS



**Calendar Call** (11/24/2020 at 8:30 AM) (Judicial Officer: Wiese, Jerry A.)

**CANCELED Jury Trial** (11/23/2020 at 10:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated*

08/26/2020



**Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:


The above-referenced matter is scheduled for a hearing on 8/27/20 with regard to the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to A.O. 20-01 and subsequent administrative orders, this matter is deemed "non-essential," and consequently, may be decided after a hearing, decided on the papers, or continued. This Court has determined that it would be appropriate to decide this matter on the papers, and consequently, this minute order issues. Defendant Jeremiah Thornburg is charged with 3 counts of Lewdness with a Child Under the Age of 14 (F), 2 counts of Sexual Assault with a Minor Under 14 Years of Age (F), 1 count of Open or Gross Lewdness in the Presence of a Child or Vulnerable Person (F), and 1 count of Lewdness with a Child Under the Age of 16 (F). These charges stem from a Child Protective Services (CPS) report received on July 12, 2017 regarding victim J.J., who disclosed that she had been sexually abused by her brother, Defendant, on multiple occasions from 2012 through 2015, when J.J. was 12 through 14 years of age. Now, the State seeks to admit evidence of prior incidents involving two other victims, M.C. and M.K. Prior Incident Involving M.C.: On April 11, 2005, M.C., who was 15 years old at the time, reported to school officials that she had been sexually assaulted the previous day by an approximately 18-year-old male. She stated that she was walking home from work when 3 males grabbed and forced her into a home. Two of the males held her down, while a third sexually assaulted her. A sexual assault kit was performed, and subsequent DNA analysis determined that Defendant's DNA was found on the vaginal and cervical swabs taken from M.C. Prior Incident Involving M.K.: On April 2, 2006, M.K. reported that she was assaulted by Defendant (whom she had known for approximately one year) in a park at gunpoint. Defendant was arrested and charged with Sexual Assault. He later pleaded guilty pursuant to a Guilty Plea Agreement. On April 3, 2008, Defendant was adjudicated guilty and sentenced to 4-10 years in the Nevada Department of Corrections. The State seeks to admit the above-described incidents involving other victims pursuant to NRS 48.045(3) because they are relevant, proven by a preponderance of the evidence, and are not unfairly prejudicial. The State argues that the evidence they seek to admit is admissible pursuant to NRS 48.045(3). NRS 48.045(3) states: "Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097." In *Franks v. State*, 135 Nev. 1, 432 P.3d 752 (2019), the Nevada Supreme Court held that the plain language of NRS 48.045(3) permits the Court to admit evidence of separate sexual offenses for purposes of proving propensity. Prior to admission, the Court must determine that the evidence is (1) relevant to the crime charged; (2) the Court must make a preliminary finding that a jury could reasonably find that the occurrence of the prior bad act constituting a sexual offense is proven by a preponderance of the evidence; and (3) weighed to determine that its probative value is not substantially outweighed by unfair prejudice. *Id.* The Court in *Franks* recognized the "significant probative value" and "inherent strength of prior sexual act evidence." *Id.* at 6. Due to the prejudicial nature of this type of evidence, the Court adopted the following non-exhaustive factors to consider: (1) the similarity of the prior acts to the acts charged; (2) the closeness in time of the prior acts to the acts charged; (3) the frequency of the prior acts; (4) the presence or lack of intervening circumstances; and (5) the necessity of the evidence beyond the testimonies already offered at trial. *Id.* In *U.S. v. LeMay*, 260 F.3d 1018 (9th Cir., 2001) the 9th Circuit Court of Appeals stated, "the admission of prejudicial evidence, without more, cannot be unconstitutional. All evidence introduced against a criminal defendant might be said to be prejudicial if it tends to prove the prosecution's case. Moreover, evidence that a defendant has committed similar crimes in the past is routinely admitted in criminal prosecutions under Rule 404(b) to prove preparation, identity, intent, motive, absence of mistake or accident, and for a variety of other purposes. FED. R. EVID. 404(b).... The introduction of such evidence can amount to a constitutional violation only if its prejudicial effect far outweighs its probative value." *Id.*, at 1026. The *LeMay* Court set forth the following factors that the Court must consider in determining whether to admit evidence of a defendant's prior acts of sexual misconduct: (1) "the similarity of the prior acts to the acts charged," (2) the "closeness in time of the prior acts to the acts charged," (3) "the frequency of the prior acts," (4) the "presence or lack of intervening circumstances, and (5) the necessity of the evidence beyond the testimonies already offered at trial. *Id.* At 1027-1028. The State argues that the evidence here is relevant. The prior acts are relevant to prove Defendant's character and that he acted in conformity with that character during the instant charged offenses. Both of the prior offenses pertain to Defendant forcibly sexually assaulting young women. Like in this case, these women were known to Defendant. The occurrence of these prior offenses clearly makes it more likely that Defendant committed the instant crime charged. The State argues that the evidence is proven by a preponderance of the evidence. The Court does not have to hold an evidentiary hearing prior to the admission of the evidence the State seeks to admit in this case. The Court simply needs to find that a jury could reasonably find by a preponderance of the evidence that the prior sexual offenses occurred. The fact that Defendant's DNA was found on the vaginal and cervical swabs taken from M.C., along with her identification of Defendant, clearly constitutes a preponderance of the evidence regarding that sexual offense. Regarding the offense against M.K., Defendant has pled guilty to and been convicted of Attempt Sexual Assault. The State argues that the evidence is not unfairly prejudicial because the prior acts are similar

# CASE SUMMARY

CASE NO. C-20-348507-1

to those in the instant offense. All three instances involve forcible sexual assaults of young women known to Defendant. Although M.K. is approximately 10 years older than M.C. and the victim in this case, M.C. was 15 and the last instance regarding J.J. occurred when she was 14. The prior acts occurred approximately one year apart (in 2005 and 2006), and the instant charges occurred only six years later, starting in 2012, making all three instances very close in time. The prior acts are also not infrequent in that there are two separate victims separated by one year. While there is a six-year gap between the acts committed against M.K. and J.J., it should be noted that Defendant was arrested in April 2006. He was later incarcerated in the Nevada Department of Corrections with parole eligibility occurring in 2012. Thus, there was an intervening circumstance. Around the time of Defendant's parole eligibility is approximately when J.J. recalls the first instance of sexual acts committed against her. Finally, the State argues that as with many sexual offenses, the State's sole evidence in this case is the victim's testimony and disclosures to other people. J.J. did not disclose the abuse until 3 years after the last incident, so no physical evidence is available. Therefore, the evidence the State seeks to admit is extremely necessary. The Defendant failed to file an Opposition to this Motion, and consequently, pursuant to EDCR 2.20, the Court could simply grant it as unopposed. Because such a ruling would clearly affect how this matter proceeds in the future, the Court will address the Motion on the merits. In considering the factors set forth in Franks, the Court makes the following findings: (1) Relevance to the crime charged: The prior acts here appear relevant simply because they are sexual assaults against women Defendant knew. (2) Proven by a preponderance of the evidence: The State has provided a JOC filed on 4/22/08, with regard to the 4/2/06 incident involving MK, establishing by a preponderance of the evidence that the event occurred. With regard to the 4/10/05 incident involving M.C., the State has provided voluntary statements, as well as a DNA report, and such evidence establishes by a preponderance of the evidence that the event occurred. (3) Probative value not substantially outweighed by unfair prejudice: In considering whether the probative value of the evidence outweighs the unfair prejudice, the Court considers the following factors: (a) The similarity of the prior acts to the acts charged: There appears to be significant differences between the instant charges and the prior acts. J.J. is Defendant's sibling, whereas it does not appear that the other victims were related to Defendant. The instant charged acts occurred at least four times in a home environment between just Defendant and J.J., whereas the prior acts occurred (or at least started) outside one happens in a park, and the other involves two other individuals who drag the victim into a house and hold her down as Defendant assaults her. Because of how different the prior acts are in comparison to each other and the instant charges, this factor weighs heavily against admitting the evidence. (b) The closeness in time of the prior acts to the acts charged: The two prior acts occurred within a year of each other, but the acts against J.J. occurred 6 years later. However, Defendant was incarcerated during those 6 years, so this factor can be seen as neutral. (c) The frequency of the prior acts: Although being incarcerated in the NDOC for 6 years quite likely accounts for the 6 year-period of no alleged offenses, the Court notes that the two prior incidents the State seeks to admit occurred only once per victim, whereas the incidents involving J.J. occurred about four times. Again this is a difference which weighs against admission. (d) The presence or lack of intervening circumstances: Being incarcerated in the NDOC for the exact time period between the last act against M.K. and the first act against J.J. constitutes an intervening circumstance. This factor weighs in favor of admission. (e) The necessity of the evidence beyond the testimonies already offered at trial: Because this case boils down to a he said, she said, evidence of prior bad acts is crucial for the State's case. This weighs in favor of admission. The analysis of the similarity of the prior acts to the acts charged, causes this Court great concern. The allegations in the present case are very different from the prior incidents, with the exception of the fact that all of the events were sexual assaults against women with whom the Defendant had some relationship. The analysis of the other relevant factors all weigh in favor of allowing the prior evidence to establish propensity pursuant to NRS 48.045(3). After considering all of the relevant factors, this Court concludes that the probative value of the prior incidents is not substantially outweighed by the prejudicial effect, and consequently, the prior incidents may be admitted at the time of Trial. Consequently, and good cause appearing, IT IS HEREBY ORDERED that the State's Motion to Admit Evidence of Uncharged Acts is hereby GRANTED. The Court requests that the State prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court for signature within 10 days. Because this matter has been determined on the papers, there is no need for the attorneys or parties to appear on this case on 8/27/20. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 08-26-20//lk;





08/27/2020 CANCELED Motion to Admit Evidence (8:30 AM) (Judicial Officer: Wiese, Jerry A.)  
Vacated  
State's Motion to Admit Evidence of Uncharged Acts

10/07/2020  Central Trial Readiness Conference (11:30 AM) (Judicial Officer: Togliatti, Jennifer)  
10/07/2020, 10/14/2020

Continued;  
Settlement Conference Ordered;  
Journal Entry Details:

Mr. Judd advised an offer has been extended and a settlement conference would be beneficial. Representations by State regarding current offer, case being an IAD case, as well as trial being set on a short week due to the holiday. COURT ORDERED, matter SET for settlement conference and calendar call and trial date RESCHEDULED due to the holiday. CUSTODY 11/19/20 11:00 AM SETTLEMENT CONFERENCE (LLA) 11/24/20 8:30 AM CALENDAR CALL (DEPT 30) 11/25/20 2:00 PM CENTRAL CALENDAR CALL (LLA) 11/30/20 8:00 AM CENTRAL JURY TRIAL (LLA);

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

	Continued; Settlement Conference Ordered; Journal Entry Details: <i>Court noted Mr. Judd was not notified of this court date and ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 10/14/20 11:30 AM (LLA);</i>
11/19/2020	 <b>Settlement Conference</b> (11:00 AM) (Judicial Officer: Bixler, James) Not Settled; Journal Entry Details: <i>Parties participated in a settlement conference with Judge Bixler where a settlement was not reached.;</i>
11/23/2020	<b>CANCELED Jury Trial</b> (10:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
11/24/2020	 <b>Calendar Call</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) Set Status Check; Journal Entry Details: <i>State and Defendant present via BlueJeans video conferencing. Mr. Judd not present. State suggested it was possible that Mr. Judd did not remember this hearing because there was a trial readiness conference set for tomorrow. Court advised the Court would leave the trial dates on calendar so they could be reset by Judge Bell. Further, Court set a status check for after the central trial readiness. COURT ORDERED, matter SET for a Status Check. IN CUSTODY 12/17/20 8:30 AM STATUS CHECK;</i>
11/25/2020	 <b>Central Calendar Call</b> (2:00 PM) (Judicial Officer: Bell, Linda Marie) <b>MINUTES</b> Trial Date Set; Journal Entry Details: <i>Defendant not present. Court noted due to current Covid-19 protocols trials are unable to proceed. COURT ORDERED, trial date VACATED and RESET. CUSTODY 02/10/21 2:00 PM CENTRAL CALENDAR CALL (LLA) 02/16/21 9:00 AM JURY TRIAL (DEPT 30);</i> <b>SCHEDULED HEARINGS</b> <b>CANCELED Central Calendar Call</b> (02/10/2021 at 2:00 PM) (Judicial Officer: Jones, Tierra) <i>Vacated - per Judge</i> <b>CANCELED Jury Trial</b> (02/16/2021 at 10:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - per Judge</i>
11/30/2020	<b>CANCELED Central Jury Trial</b> (8:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated</i>
11/30/2020	<b>CANCELED Jury Trial</b> (10:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
12/17/2020	<b>CANCELED Status Check</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> <i>Return from Central Trial Readiness</i>
12/17/2020	 <b>Status Check</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <b>12/17/2020, 12/22/2020</b> <i>Status Check: Negotiations/ Trial Setting</i> Continued; Matter Heard; Journal Entry Details: <i>All parties present via BlueJeans video conferencing. Defendant not present. Mr. Judd advised he spoke with the Defendant and the matter was not negotiated. Upon Court's inquiry, Mr. Judd confirmed this was an IAD case the matter went to central trial readiness and the original trial date was vacated. Mr. Judd advised he was prepared to request a trial date that was not in the immediate future. State noted there was a trial date already set for February. Court advised the current February trial date would STAND. IN CUSTODY;</i> Continued; Matter Heard;

# CASE SUMMARY

CASE NO. C-20-348507-1

Journal Entry Details:

*Defense counsel not present. Statement by Deft. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 12/22/20 8:30 AM CLERK'S NOTE: An E-mail was sent to Mr. Judd informing him on the continuation date. 12/17/20km;*

02/09/2021



**Calendar Call (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

Matter Heard;

Journal Entry Details:

*Court noted Deft. is in custody and previously waived his rights to speedy trial. Upon Court's inquiry, Mr. Judd indicated Deft. has not waived the IAD 180 days, noted there are a few things he needs to do before trial, but doesn't want to waive the IAD on Deft's behalf. Court Advised Deft. is he is not waiving the IAD there are 180 days that they have to set the trial date, therefore, COURT ORDERED matter REFERRED to Department 10 for setting of the Central Trial Readiness Conference and trial dates. Court Advised Deft. if he needs additional time he'll have to waive the 180 days. Colloquy regarding Central Trial Readiness. COURT FURTHER ORDERED, matter SET for status check on resetting trial date. MATTER RECALLED. Mr. Smith now present. Mr. Smith indicated he wanted to make sure the record was clear that the State was prepared to go forward. Mr. Smith noted he understands Deft. hasn't waived IAD, but wants to make sure it's not held against State in the future. Court Advise Mr. Smith matter was referred to Department 10 to be set for trial as soon as possible and noted Deft. was Advised if additional time was needed he would need to waive IAD. Mr. Smith stated Deft. wouldn't need to completely waive IAD, but anytime a continuance is requested it tolls the time. CUSTODY 03/16/2021 08:30 AM STATUS CHECK: RESET TRIAL DATE ;*

02/10/2021

**CANCELED Central Calendar Call (2:00 PM)** (Judicial Officer: Jones, Tierra)

*Vacated - per Judge*

02/16/2021

**CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Wiese, Jerry A.)

*Vacated - per Judge*

02/17/2021



**Central Trial Readiness Conference (11:30 AM)** (Judicial Officer: Jones, Tierra)

**02/17/2021, 03/17/2021**

Matter Heard;

Continued;

Journal Entry Details:

*APPEARANCES CONTINUED: Mr. Smith present via video, on behalf of the State. Mr. Judd present via video, on behalf of deft., through bluejeans technology. Upon Court's inquiry, Mr. Judd advised he's not ready for trial, as he just spoke with the family. Mr. Smith stated he can be ready. colloquy regarding tolling of the IAD. Following statements by counsel, COURT FINDS, Good Cause to grant a continuance. Further, the IAD is still in effect. COURT ORDERED, Central Trial readiness SET on the date given. CUSTODY 05/05/21 11:30 A.M. CENTRAL TRIAL READINESS CONFERENCE ;*

Matter Heard;

Continued;

Journal Entry Details:

*APPEARANCES CONTINUED: Mr. Smith present via video, on behalf of the State. Mr. Judd present via video, on behalf of deft., through bluejeans technology. Deft. not present, refused transport. Upon Court's inquiry, the State can be ready for trial, however, Mr. Judd advised he's not ready for trial, as they have to get an investigator involved. Colloquy on the IAD timeline. Following statements by counsel, Court FINDS, good cause to continue the trial and that tolls the time on the IAD. FURTHER COURT ORDERED, matter SET for central trial readiness on the date given. Court noted it will get the trial date on the next date. CUSTODY 03/17/21 11:30 A.M. CENTRAL TRIAL READINESS;*

05/05/2021



**Central Trial Readiness Conference (11:30 AM)** (Judicial Officer: Jones, Tierra)

Matter Heard;

Journal Entry Details:

*APPEARANCES CONTINUED: Parties present via video, through bluejeans technology. Upon Court's inquiry, Representative from Mr. Judd's office advised Mr. Judd can't represent deft., as he's incapacitated. Statements by deft., that he retained Mr. Judd. Mr. Smith advised the special public defender previously represented deft. COURT ORDERED, Status Check date STANDS. Court advised the parties to let Judge Weise know that Mr. Judd can no longer represent deft. CUSTODY;*

05/13/2021



**Status Check: Reset Trial Date (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

**05/13/2021, 05/20/2021, 05/25/2021, 06/01/2021**

*Because CTR set for 03/17/21.*

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

Matter Continued;  
Matter Continued;  
Matter Continued;  
Trial Date Set;  
Because CTR set for 03/17/21.  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Trial Date Set;

**MINUTES**

Because CTR set for 03/17/21.  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Trial Date Set;  
Journal Entry Details:  
*State and Defendant present via BlueJeans video conferencing. State advised it was their understanding Mr. Judd withdrew as attorney of record for the Defendant. Defendant confirmed the same and indicated he was told by Mr. Judd's son that the law firm had money to return to the Defendant from the retainer fee. Defendant advised he intended to use those funds to hire new counsel. State suggested the Court re-appoint the Special Public Defender's office to represent the Defendant. Court advised this Court's Law Clerk would reach out to Drew Christensen's office regarding the same. Statements by the Defendant that he was currently unable to get in contact with anyone at Mr. Judd's office. COURT ORDERED, matter CONTINUED and SET for Confirmation of Counsel. IN CUSTODY CONTINUED TO: 06/01/21 8:30 AM 06/01/21 8:30 AM CONFIRMATION OF COUNSEL;*  
Because CTR set for 03/17/21.


Matter Continued;  
Matter Continued;  
Matter Continued;  
Trial Date Set;  
Journal Entry Details:  
*Spencer Judd, Jr. present on behalf of Mr. Judd for the Defendant. All parties present via BlueJeans video conferencing. Counsel advised Mr. Judd was incapacitated and could no longer be able to represent the Defendant. Upon Court's inquiry, counsel advised Mr. Judd was privately retained. Defendant indicated he intended to hire different counsel although he did not currently have the money to do so. State and Court indicated the time clock on IAD was tolled while Defendant is without an attorney. Colloquy regarding Defendant's circumstances. Defendant represented that his mother spoke with his attorney and he was told the attorney would be returning money to the Defendant from the retainer fee. Counsel advised he needed to speak with the accounting department and get that figured out. Court DIRECTED counsel to have the matter resolved today after Court. COURT ORDERED, matter CONTINUED. IN CUSTODY CONTINUED TO: 05/20/21 8:30 AM;*

**SCHEDULED HEARINGS**

**Confirmation of Counsel (05/25/2021 at 8:30 AM) (Judicial Officer: Wiese, Jerry A.)**  
**05/25/2021, 06/01/2021**

05/25/2021 **Confirmation of Counsel (8:30 AM) (Judicial Officer: Wiese, Jerry A.)**  
**05/25/2021, 06/01/2021**

Matter Continued;  
Counsel Confirmed;  
Matter Continued;  
Counsel Confirmed;

05/25/2021  **All Pending Motions (8:30 AM) (Judicial Officer: Wiese, Jerry A.)**

Matter Heard;  
Journal Entry Details:  
*Defendant present via BlueJeans video conferencing. STATUS CHECK: RESET TRIAL DATE...CONFIRMATION OF COUNSEL Court advised the Court reached out to Drew Christensen's office to have special counsel appointed for the Defendant. This Court's Law Clerk advised Mr. Christensen requested the matter be continued to the next available session for appointed counsel to appear. State expressed concern noting this was an IAD case. Statement by the Defendant regarding his issues with prior counsel. Court advised of correspondence from Mr. Judd's office to the Court advising they had been in contact with Defendant's brother, Larry Thornburg. Court indicated Mr. Judd's office represented that they spoke with Larry Thornburg and advised him there was no unrendered portion of Defendant's retainer fee. Statement from the Defendant that he may seek private representation again, however, he kept having issues with his private counsel accepting his retainer and withdrawing from his case. Court advised the Defendant*

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

could seek private counsel, however, Court would appoint special public counsel at the next hearing so Defendant was represented in the event that he was unable to hire private counsel. Defendant requested the matter be continued for at least a week because he was experiencing medical issues that he wanted to have reviewed. There being no objection by the State, COURT ORDERED, matter CONTINUED for 1 week. IN CUSTODY CONTINUED TO 06/01/21 8:30 AM;

06/01/2021



**All Pending Motions (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

Matter Heard;

Journal Entry Details:

State and Defendant present via BlueJeans video conferencing. CONFIRMATION OF COUNSEL...STATUS CHECK: RESET TRIAL DATE Mr. Savage advised the Special Public Defender's (SPD's) office would CONFIRM AS COUNSEL for the Defendant. Mr. Savage noted the SPD's office had the matter previously and Mr. Judd took over for a year, therefore, they would need time to get updated on the case. Mr. Judd requested a trial setting in 120 days. Colloquy regarding the matter having an interstate detainer. State advised this was Tyler Smith, Esq.'s case. Court trailed the matter for the State to contact Mr. Smith regarding information on when the IAD would run. MATTER TRAILED. MATTER RECALLED. All parties present as before. State was unable to contact Mr. Smith and advised he was out of town. State requested a trial date in 60 days. Court advised Mr. Savage trial would be set in 60 days due to the IAD and the matter could be reset if necessary. COURT ORDERED, trial date SET. IN CUSTODY 07/06/21 8:30 AM CALENDAR CALL 07/12/21 10:00 AM JURY TRIAL;

06/14/2021



**Minute Order (3:00 AM)** (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:

The above-referenced matter is scheduled for a hearing on 6/15/21 with regard to the Defendant's Motion for Reconsideration of the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to the Court's Administrative Orders, as well as N.R.Cr.P. 8(2), this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this minute order issues. On 8/17/20, the State filed a Motion to Admit Evidence of Uncharged Acts, which Defendant did not oppose. At the time, the Second Amended Information was operable and Defendant was charged with 3 counts of Lewdness with a Child Under the Age of 14 (F), 2 counts of Sexual Assault with a Minor Under 14 Years of Age (F), 1 count of Open or Gross Lewdness in the Presence of a Child or Vulnerable Person (F), and 1 count of Lewdness with a Child Under the Age of 16 (F). The Court decided the motion without hearing on 8/28/20, and the State's motion was granted. The State filed a Third Amended Information on 11/23/20, reducing the charges to just one count of Lewdness with a Child under the Age of 15 (F). On 6/1/21, the Special PD's Office was appointed to represent Defendant after his previous counsel became incapacitated. Defendant argues, pursuant to EDCR 2.24, that the Court should reconsider its 8/28/20 Order granting the State's Motion. Defendant argues that under both the Constitution of the United States and the Constitution of the State of Nevada, Mr. Thornburg has the right to effective assistance of trial counsel. Defendant argues that failure to file a written opposition to the State's motion is not necessarily grounds for ineffective assistance of counsel, especially when defense counsel makes that same opposition orally. See Sullivan v. State, 2015 Nev. Unpub. LEXIS 31, 131 Nev. 1352, 2015 WL 223963 and Garner v. State, 2015 Nev. App. Unpub. LEXIS 109, 131 Nev. 1282, 2015 WL 826792. In this case, however, prior counsel did not oppose the motion in writing, or verbally. Defendant suggests that the lack of opposition was not a strategic decision but perhaps due to extraordinary outside circumstances and the incapacity of previous counsel. Defendant argues that because the uncharged acts in the State's motion will significantly impact any potential verdict at trial, the failure of previous counsel to oppose was unreasonable and constituted deficient performance of counsel. Consequently, the Defendant requests that the Court set a briefing schedule and an oral argument date for the State's Motion. To date, the State has not filed an Opposition. The Court notes that in its minute order dated 8/26/20, the Court noted that although the Defendant had failed to file an Opposition, the Court analyzed the Motion, and considered the merits before the Motion was granted. The Court considered and made findings in accordance with the factors set forth and discussed in Franks v. State, 135 Nev. 1, 432 P.3d 752 (2019), and U.S. v. LeMay, 260 F.3d 1018 (9th Cir. 2001). The Court notes that it is not sure what date the prior defense counsel, Spencer Judd, became incapacitated, and consequently, it is possible that the Defendant's lack of opposition was due to such incapacitation and not a strategic decision. Since current defense counsel has raised the issue of "ineffective assistance," as it relates to the lack of opposition to the State's Motion, and in an effort to avoid an appellate issue in that regard, the Court will agree to allow current defense counsel to file an Opposition to the previously decided Motion to Admit Evidence of Uncharged Acts, and the Court will schedule a new hearing date, and the matter may be reconsidered. Based upon the foregoing, and good cause appearing, IT IS HEREBY ORDERED that Defendant's Motion to Reconsider will be GRANTED to the extent that the Court agrees to allow further briefing and will consider the briefing of counsel, and determining whether the Court's prior decision should be modified. The Court hereby sets the following briefing schedule: The State's Motion was filed on 8/17/20. Defendant's Opposition to the Motion must be filed on or before June 25, 2021. Any Reply from the State must be filed by July 9, 2021. And a hearing on this matter will be scheduled for July 22, 2021. Because the instant Motion has been decided on the pleadings, the hearing scheduled for 6/15/21 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear on that date. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 06-14-21./lk;

06/15/2021

**CANCELED Motion to Reconsider (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

*Vacated - Previously Decided*

*Defendant's Motion to Reconsider State's Motion to Admit Evidence of Uncharged Acts*

07/06/2021



**Calendar Call (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

Matter Heard;

Journal Entry Details:

*All parties present via BlueJeans video conferencing. Upon Court's inquiry, Mr. Dollente advised parties were not ready to proceed with trial. Mr. Dollente reminded the Court that the Special Public Defender's office was recently re-assigned the case and he had not yet received the case file from prior counsel. Ms. Kollins further advised the case belonged to Deputy District Attorney Smith and Mr. Smith was out of the office for a prolonged period of time due to a family emergency. Upon Court's inquiry, counsel confirmed this was an Interstate Agreement on Detainer (IAD) case. State noted the 180 day timeframe may have been waived due to the change in counsel. Mr. Dollente indicated he was not sure about the 180 days IAD timeframe, however, the Defendant would WAIVE his right to a speedy trial until the next court setting. Colloquy regarding dates and availability. Counsel estimated the trial would take longer than 1 week. COURT ORDERED, trial VACATED and RESET. Court clarified for purpose of the IAD that the continuance was requested by Defense counsel; therefore, IAD was TOLLED. IN CUSTODY 09/07/21 8:30 AM CALENDAR CALL 09/13/21 10:00 AM JURY TRIAL;*

07/12/2021

**CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Wiese, Jerry A.)

*Vacated*

07/26/2021



**Minute Order (3:00 AM)** (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:

*The above-referenced matter is scheduled for a hearing on 7/27/21, with regard to the Defendant's Motion to Reconsider the Court's prior Order Granting the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to the Court's Administrative Orders, as well as N.R.Cr.P. 8(2), this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this minute order issues. The Court previously granted the State's Motion to Admit Evidence of Uncharged Acts, by Order filed 8/28/20. Although the State's Motion had not previously been opposed, the Court evaluated the merits of the Motion, and considered the cases of Franks v. State, 135 Nev. 1, 432 P.3d 752 (2019), and U.S. v. LeMay, 260 F.3d 1018 (9th Cir., 2001), as well as NRS 48.045(3), and 48.035. Based on the Defendant's Motion to Reconsider, the Court allowed further briefing to determine whether the Court's prior decision should be modified. Subsequently, the Defendant filed an Opposition on 6/25/21. The Defendant raised the issues in his opposition, which were already addressed and considered by the Court in its prior decision and Order. N.R.Cr.P. 8(B)(7) indicates that a party may seek reconsideration of a ruling of the Court upon a showing of "changed circumstances." The Court finds no changed circumstances here. The Court previously analyzed all of the facts and circumstances, and previously considered all of the issues raised in the Defendant's recently filed Opposition. After conducting an analysis, based on the Franks and LeMay cases, the Court previously concluded that the evidence regarding the prior incidents could be admitted at Trial. Nothing presented in the Defendant's Opposition has caused the Court to feel the need to correct or modify anything in the prior Order. Consequently, and based upon the foregoing, IT IS HEREBY ORDERED that the Defendant's Motion for Reconsideration of the Court's prior Order Granting the State's Motion to Admit Evidence of Uncharged Acts, is hereby DENIED. The Court's prior Order filed 8/28/20 stands. The Court requests that the State prepare an Order consistent with the foregoing, have it approved as to form and content by defense counsel, and submit it to the Court for signature within 10 days. Because this matter has been decided on the pleadings, the hearing scheduled for 7/27/21 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 7-26-21./lk;*

07/27/2021

**CANCELED Motion to Admit Evidence (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

*Vacated - Previously Decided*

*State's Motion to Admit Evidence of Uncharged Acts*

08/10/2021



**Entry of Plea (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

Plea Entered;

Journal Entry Details:



*Deft. Thornburg PRESENT in custody via BlueJeans. Court STATED the negotiations on the record. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED ON AUGUST 5, 2021. DEFT. THORNBURG ARRAIGNED AND PLED GUILTY TO ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Court ACCEPTED plea, and, ORDERED, matter REFERRED to the Division of Parole and Probation (P & P) and SET for sentencing. CUSTODY 10/07/21 8:30 AM SENTENCING CLERK'S NOTE: Minutes completed after review of JAVS by Michele Tucker, Courtroom Clerk. /mlt 10.09.21;*

09/07/2021

**CANCELED Calendar Call (8:30 AM)** (Judicial Officer: Wiese, Jerry A.)

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**  
**CASE NO. C-20-348507-1**

	<i>Vacated</i>
09/07/2021	<b>CANCELED Status Check</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> <i>Status Check: Order</i>
09/13/2021	<b>CANCELED Jury Trial</b> (10:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
10/07/2021	 <b>Sentencing</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <b>10/07/2021, 10/21/2021</b> Matter Continued; Defendant Sentenced; Journal Entry Details: <i>Defendant present via BlueJeans video conferencing. Colloquy regarding the victim speaker preparing a letter for the Court. Upon Court's inquiry, Mr. Dollente confirmed Defendant reviewed the Pre-Sentence Investigation (PSI) report, there were no Stockmeier issues and the matter could proceed with sentencing. Court put the terms of the negotiations on the record. Parties confirmed they stipulated to an 8-20 year sentence and Defendant had 555 days credit for time served. DEFENDANT THORNBURG ADJUDGED GUILTY of ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Arguments by counsel regarding the extradition fee and statement by the Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, WAIVED as it was previously taken, \$3.00 DNA Collection fee, \$250.00 Indigent Defense Civil Assessment fee, and \$5,184.00 Extradition Cost, Defendant SENTENCED to a MINIMUM of EIGHT (8) YEARS in the Nevada Department of Corrections (NDC) and MONTHS and a MAXIMUM of TWENTY (20) YEARS in NDC, with FIVE HUNDRED SIXTY (560) DAYS credit for time served. NDC;</i> Matter Continued; Defendant Sentenced; Journal Entry Details: <i>Defendant and Mr. Dollente present via BlueJeans video conferencing. Mr. Dollente advised the Defendant had not received his Pre-Sentence Investigation (PSI) report. Mr. Dollente requested a continuance to obtain the PSI and review it with the Defendant. There being no objection from the State, COURT ORDERED, matter CONTINUED. IN CUSTODY CONTINUED TO: 10/21/21 8:30 AM;</i>
11/23/2021	 <b>Motion to Clarify</b> (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>[28] Defendant Motion to Clarify and/or Amend Judgment of Conviction</i> Motion Granted; Journal Entry Details: <i>Court noted the matter was on calendar because the Judgement of Conviction (JOC) did not say that this case was to run concurrent with Defendant's federal case. Court advised the agreement stated the State had no opposition to running this case concurrent with Defendant's federal case. Therefore, COURT ORDERED, Motion GRANTED; JOC is to be amended to add language that this case will run CONCURRENT to Defendant's federal case.;</i>

DATE

FINANCIAL INFORMATION

<b>Defendant</b> Thornburg, Jeremiah Dewight	
Total Charges	278.00
Total Payments and Credits	0.00
<b>Balance Due as of 12/29/2021</b>	<b>278.00</b>

1 AJOC

2  
3 DISTRICT COURT  
4  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7  
8 Plaintiff,

9 -vs-

10 JERMAIAH DEWIGHT THORNBURG  
11 #1999678

12 Defendant.

CASE NO. C-20-348507-1

DEPT. NO. XXX

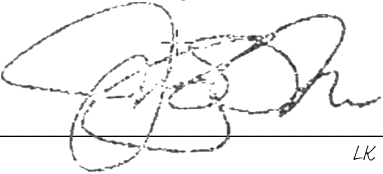
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14 AMENDED JUDGMENT OF CONVICTION  
15 (PLEA OF GUILTY)  
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17  
18 The Defendant previously appeared before the Court with counsel and entered a plea of  
19 guilty to the crime of ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER  
20 FOURTEEN YEARS OF AGE (Category B Felony) in violation of NRS 200.364, 200.366,  
21 193.330; thereafter, on the 21<sup>st</sup> day of October, 2021, the Defendant was present in court for  
22 sentencing with counsel QUININ M. DOLLENTE JR., Chief Deputy Special Public Defender,  
23 and good cause appearing,  
24

25 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to  
26 the \$25.00 Administrative Assessment Fee, \$5,184.00 Extradition Cost, \$250.00 Indigent  
27 Defense Civil Assessment Fee and \$3.00 DNA Collection Fee, the Defendant is sentenced as  
28

1 follows: a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole eligibility of  
2 EIGHT (8) YEARS in the Nevada Department of Corrections (NDC); **CONCURRENT with**  
3 **Defendant's federal case**, with FIVE HUNDRED FIFTY-FIVE (555) DAYS credit for time  
4 served. As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed,  
5 the Fee and Testing in the current case are WAIVED.  
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7 Dated this 27th day of December, 2021

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11 **5EB CA1 28D1 E428**  
12 **Jerry A. Wiese**  
13 **District Court Judge**  
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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA  
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5  
6 State of Nevada

CASE NO: C-20-348507-1

7 vs

DEPT. NO. Department 30

8  
9 Jeremiah Thornburg

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Amended Judgment of Conviction was served via the court's electronic  
13 eFile system to all recipients registered for e-Service on the above entitled case as listed  
below:

14 Service Date: 12/27/2021

15 DA Motions	motions@clarkcountynv.gov
16 CCDA SVU	howard.conrad@clarkcountynv.gov
17 CCDA SVU	linda.mason@clarkcountynv.gov
18 Department Law Clerk	dept30lc@clarkcountycourts.us
19 Spencer Judd	spencer@sjlaw.vegas
20 Daniel Martinez	daniel.martinez@clarkcountynv.gov
21 Shadonna Scurry	shadonna.scurry@clarkcountynv.gov
22 Office of the Special Public Defender	SpecialPDdocs@clarkcountynv.gov
23 Eileen Davis	eileen.davis@clarkcountynv.gov
24 Jennifer Garcia	jennifer.garcia@clarkcountynv.gov
25 K Fitzger	kfitzger@clarkcountynv.gov

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Quintin Dollente, Jr.

[quintin.dollente@clarkcountynv.gov](mailto:quintin.dollente@clarkcountynv.gov)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**May 28, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**May 28, 2020      8:00 AM      Initial Arraignment**

**HEARD BY:** Jones, Tierra      **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Tia Everett

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Dollente, Jr., Quintin M.	Attorney
	Jones, Jr., John T.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- Mr. Dollente requested the matter be continued one week to review the guilty plea agreement with Defendant. COURT SO ORDERED.

**CUSTODY**

**CONTINUED TO:** 6/04/2020 8:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 04, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**June 04, 2020      8:00 AM      Arraignment Continued**

**HEARD BY:** Jones, Tierra      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Rem Lord

**RECORDER:** Deloris Scott

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 THORNBURG, JERMIAH      Defendant  
                                 DEWIGHT

**JOURNAL ENTRIES**

- Deputy District Attorney, Ron Evans, present on behalf of the State.

Mr. Dollenete requested the matter be continued to allow the Defendant additional time to review the Guilty Plea Agreement. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 6/18/2020 8:00 AM (LLA)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 18, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**June 18, 2020      8:00 AM      Arraignment Continued**

**HEARD BY:** Jones, Tierra      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kristen Brown

**RECORDER:** Deloris Scott

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 Special Public Defender      Attorney  
                                 THORNBURG, JERMIAH      Defendant  
                                 DEWIGHT

**JOURNAL ENTRIES**

- Deputized Law Clerk, Skyler Sullivan appearing for the State.

Mr. Dollente stated the Deft. is not accepting the negotiations. COURT ORDERED, matter CONTINUED for an Amended Information to be filed.

CUSTODY

6/23/20 8:00 AM ARRAIGNMENT CONTINUED (LLA)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 23, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**June 23, 2020      8:00 AM      Arraignment Continued**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kimberly Estala

**RECORDER:** Gail Reiger

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 Judd, Spencer M.      Attorney  
                                 THORNBURG, JERMIAH      Defendant  
                                 DEWIGHT

**JOURNAL ENTRIES**

- Deputized Law Clerk, Brittini Griffith, present on behalf of the State.

Mr. Dollente advised Mr. Judd will be substituting in for the Special Public Defenders office and discovery will be forwarded. DEFT. THORNBURG ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial.

**CUSTODY**

11/17/20 8:30 AM CALENDAR CALL (DEPT 30)

11/23/20 10:00 AM JURY TRIAL (DEPT 30)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 26, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**August 26, 2020      3:00 AM      Minute Order**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter is scheduled for a hearing on 8/27/20 with regard to the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to A.O. 20-01 and subsequent administrative orders, this matter is deemed "non-essential," and consequently, may be decided after a hearing, decided on the papers, or continued. This Court has determined that it would be appropriate to decide this matter on the papers, and consequently, this minute order issues.

Defendant Jeremiah Thornburg is charged with 3 counts of Lewdness with a Child Under the Age of 14 (F), 2 counts of Sexual Assault with a Minor Under 14 Years of Age (F), 1 count of Open or Gross Lewdness in the Presence of a Child or Vulnerable Person (F), and 1 count of Lewdness with a Child Under the Age of 16 (F). These charges stem from a Child Protective Services (CPS) report received on July 12, 2017 regarding victim J.J., who disclosed that she had been sexually abused by her brother, Defendant, on multiple occasions from 2012 through 2015, when J.J. was 12 through 14 years of age.

Now, the State seeks to admit evidence of prior incidents involving two other victims, M.C. and M.K.

Prior Incident Involving M.C.: On April 11, 2005, M.C., who was 15 years old at the time, reported to school officials that she had been sexually assaulted the previous day by an approximately 18-year-old male. She stated that she was walking home from work when 3 males grabbed and forced her into a home. Two of the males held her down, while a third sexually assaulted her. A sexual assault kit was performed, and subsequent DNA analysis determined that Defendant's DNA was found on the vaginal and cervical swabs taken from M.C.

Prior Incident Involving M.K.: On April 2, 2006, M.K. reported that she was assaulted by Defendant (whom she had known for approximately one year) in a park at gunpoint. Defendant was arrested and charged with Sexual Assault. He later pleaded guilty pursuant to a Guilty Plea Agreement. On April 3, 2008, Defendant was adjudicated guilty and sentenced to 4-10 years in the Nevada Department of Corrections.

The State seeks to admit the above-described incidents involving other victims pursuant to NRS 48.045(3) because they are relevant, proven by a preponderance of the evidence, and are not unfairly prejudicial.

The State argues that the evidence they seek to admit is admissible pursuant to NRS 48.045(3). NRS 48.045(3) states: "Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097."

In *Franks v. State*, 135 Nev. 1, 432 P.3d 752 (2019), the Nevada Supreme Court held that the plain language of NRS 48.045(3) permits the Court to admit evidence of separate sexual offenses for purposes of proving propensity. Prior to admission, the Court must determine that the evidence is (1) relevant to the crime charged; (2) the Court must make a preliminary finding that a jury could reasonably find that the occurrence of the prior bad act constituting a sexual offense is proven by a preponderance of the evidence; and (3) weighed to determine that its probative value is not substantially outweighed by unfair prejudice. *Id.*

The Court in *Franks* recognized the "significant probative value" and "inherent strength of prior sexual act evidence." *Id.* at 6. Due to the prejudicial nature of this type of evidence, the Court adopted the following non-exhaustive factors to consider: (1) the similarity of the prior acts to the acts charged; (2) the closeness in time of the prior acts to the acts charged; (3) the frequency of the prior acts; (4) the presence or lack of intervening circumstances; and (5) the necessity of the evidence beyond the testimonies already offered at trial. *Id.*

In *U.S. v. LeMay*, 260 F.3d 1018 (9th Cir., 2001) the 9th Circuit Court of Appeals stated, "the admission of prejudicial evidence, without more, cannot be unconstitutional. All evidence introduced against a criminal defendant might be said to be prejudicial if it tends to prove the prosecution's case. Moreover, evidence that a defendant has committed similar crimes in the past is routinely admitted

in criminal prosecutions under Rule 404(b) to prove preparation, identity, intent, motive, absence of mistake or accident, and for a variety of other purposes. FED. R. EVID. 404(b).. . . The introduction of such evidence can amount to a constitutional violation only if its prejudicial effect far outweighs its probative value." *Id.*, at 1026.

The LeMay Court set forth the following factors that the Court must consider in determining whether to admit evidence of a defendant's prior acts of sexual misconduct: (1) "the similarity of the prior acts to the acts charged," (2) the "closeness in time of the prior acts to the acts charged," (3) "the frequency of the prior acts," (4) the "presence or lack of intervening circumstances, and (5) the necessity of the evidence beyond the testimonies already offered at trial. *Id.* At 1027-1028.

The State argues that the evidence here is relevant. The prior acts are relevant to prove Defendant's character and that he acted in conformity with that character during the instant charged offenses. Both of the prior offenses pertain to Defendant forcibly sexually assaulting young women. Like in this case, these women were known to Defendant. The occurrence of these prior offenses clearly makes it more likely that Defendant committed the instant crime charged.

The State argues that the evidence is proven by a preponderance of the evidence. The Court does not have to hold an evidentiary hearing prior to the admission of the evidence the State seeks to admit in this case. The Court simply needs to find that a jury could reasonably find by a preponderance of the evidence that the prior sexual offenses occurred. The fact that Defendant's DNA was found on the vaginal and cervical swabs taken from M.C., along with her identification of Defendant, clearly constitutes a preponderance of the evidence regarding that sexual offense. Regarding the offense against M.K., Defendant has pled guilty to and been convicted of Attempt Sexual Assault.

The State argues that the evidence is not unfairly prejudicial because the prior acts are similar to those in the instant offense. All three instances involve forcible sexual assaults of young women known to Defendant. Although M.K. is approximately 10 years older than M.C. and the victim in this case, M.C. was 15 and the last instance regarding J.J. occurred when she was 14. The prior acts occurred approximately one year apart (in 2005 and 2006), and the instant charges occurred only six years later, starting in 2012, making all three instances very close in time. The prior acts are also not infrequent in that there are two separate victims separated by one year.

While there is a six-year gap between the acts committed against M.K. and J.J., it should be noted that Defendant was arrested in April 2006. He was later incarcerated in the Nevada Department of Corrections with parole eligibility occurring in 2012. Thus, there was an intervening circumstance. Around the time of Defendant's parole eligibility is approximately when J.J. recalls the first instance of sexual acts committed against her.

Finally, the State argues that as with many sexual offenses, the State's sole evidence in this case is the victim's testimony and disclosures to other people. J.J. did not disclose the abuse until 3 years after the last incident, so no physical evidence is available. Therefore, the evidence the State seeks to admit is extremely necessary.

The Defendant failed to file an Opposition to this Motion, and consequently, pursuant to EDCR 2.20, the Court could simply grant it as unopposed. Because such a ruling would clearly affect how this matter proceeds in the future, the Court will address the Motion on the merits.

In considering the factors set forth in Franks, the Court makes the following findings:

- (1) Relevance to the crime charged: The prior acts here appear relevant simply because they are sexual assaults against women Defendant knew.
- (2) Proven by a preponderance of the evidence: The State has provided a JOC filed on 4/22/08, with regard to the 4/2/06 incident involving MK, establishing by a preponderance of the evidence that the event occurred. With regard to the 4/10/05 incident involving M.C., the State has provided voluntary statements, as well as a DNA report, and such evidence establishes by a preponderance of the evidence that the event occurred.
- (3) Probative value not substantially outweighed by unfair prejudice: In considering whether the probative value of the evidence outweighs the unfair prejudice, the Court considers the following factors:
  - (a) The similarity of the prior acts to the acts charged: There appears to be significant differences between the instant charges and the prior acts. J.J. is Defendant's sibling, whereas it does not appear that the other victims were related to Defendant. The instant charged acts occurred at least four times in a home environment between just Defendant and J.J., whereas the prior acts occurred (or at least started) outside – one happens in a park, and the other involves two other individuals who drag the victim into a house and hold her down as Defendant assaults her. Because of how different the prior acts are in comparison to each other and the instant charges, this factor weighs heavily against admitting the evidence.
  - (b) The closeness in time of the prior acts to the acts charged: The two prior acts occurred within a year of each other, but the acts against J.J. occurred 6 years later. However, Defendant was incarcerated during those 6 years, so this factor can be seen as neutral.
  - (c) The frequency of the prior acts: Although being incarcerated in the NDOC for 6 years quite likely accounts for the 6 year-period of no alleged offenses, the Court notes that the two prior incidents the State seeks to admit occurred only once per victim, whereas the incidents involving J.J. occurred about four times. Again this is a difference which weighs against admission.
  - (d) The presence or lack of intervening circumstances: Being incarcerated in the NDOC for the exact time period between the last act against M.K. and the first act against J.J. constitutes an intervening circumstance. This factor weighs in favor of admission.
  - (e) The necessity of the evidence beyond the testimonies already offered at trial: Because this case boils down to a he said, she said, evidence of prior bad acts is crucial for the State's case. This weighs in favor of admission.

The analysis of the similarity of the prior acts to the acts charged, causes this Court great concern. The allegations in the present case are very different from the prior incidents, with the exception of the fact that all of the events were sexual assaults against women with whom the Defendant had some relationship. The analysis of the other relevant factors all weigh in favor of allowing the prior evidence to establish propensity pursuant to NRS 48.045(3). After considering all of the relevant

factors, this Court concludes that the probative value of the prior incidents is not substantially outweighed by the prejudicial effect, and consequently, the prior incidents may be admitted at the time of Trial.

Consequently, and good cause appearing, IT IS HEREBY ORDERED that the State's Motion to Admit Evidence of Uncharged Acts is hereby GRANTED.

The Court requests that the State prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court for signature within 10 days.

Because this matter has been determined on the papers, there is no need for the attorneys or parties to appear on this case on 8/27/20.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 08-26-20./ /lk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 07, 2020**

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C-20-348507-1	State of Nevada
	vs
	Jeremiah Thornburg

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October 07, 2020	11:30 AM	Central Trial Readiness Conference
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**HEARD BY:** Togliatti, Jennifer

**COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kimberly Estala

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- Court noted Mr. Judd was not notified of this court date and ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 10/14/20 11:30 AM (LLA)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 14, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**October 14, 2020      11:30 AM      Central Trial Readiness  
Conference**

**HEARD BY:** Togliatti, Jennifer      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kimberly Estala

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:**      Judd, Spencer M.      Attorney  
                         Smith, Tyler D.      Attorney  
                         State of Nevada      Plaintiff  
                         THORNBURG, JERMIAH      Defendant  
                         DEWIGHT

**JOURNAL ENTRIES**

- Mr. Judd advised an offer has been extended and a settlement conference would be beneficial. Representations by State regarding current offer, case being an IAD case, as well as trial being set on a short week due to the holiday. COURT ORDERED, matter SET for settlement conference and calendar call and trial date RESCHEDULED due to the holiday.

**CUSTODY**

11/19/20 11:00 AM SETTLEMENT CONFERENCE (LLA)  
11/24/20 8:30 AM CALENDAR CALL (DEPT 30)  
11/25/20 2:00 PM CENTRAL CALENDAR CALL (LLA)  
11/30/20 8:00 AM CENTRAL JURY TRIAL (LLA)

**PRINT DATE:** 12/29/2021

**Page** 11 of 44

**Minutes Date:** May 28, 2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 19, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**November 19, 2020      11:00 AM      Settlement Conference**

**HEARD BY:** Bixler, James      **COURTROOM:** No Location

**COURT CLERK:** Kimberly Estala

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Parties participated in a settlement conference with Judge Bixler where a settlement was not reached.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 24, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**November 24, 2020      8:30 AM      Calendar Call**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Smith, Tyler D.      Attorney  
                                 State of Nevada      Plaintiff  
                                 THORNBURG, JERMIAH      Defendant  
                                 DEWIGHT

**JOURNAL ENTRIES**

- State and Defendant present via BlueJeans video conferencing. Mr. Judd not present.

State suggested it was possible that Mr. Judd did not remember this hearing because there was a trial readiness conference set for tomorrow. Court advised the Court would leave the trial dates on calendar so they could be reset by Judge Bell. Further, Court set a status check for after the central trial readiness. COURT ORDERED, matter SET for a Status Check.

IN CUSTODY

12/17/20 8:30 AM STATUS CHECK

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 25, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**November 25, 2020      2:00 PM      Central Calendar Call**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Kimberly Estala

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Mercer, Elizabeth A.      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Court noted due to current Covid-19 protocols trials are unable to proceed. COURT ORDERED, trial date VACATED and RESET.

**CUSTODY**

02/10/21 2:00 PM CENTRAL CALENDAR CALL (LLA)  
02/16/21 9:00 AM JURY TRIAL (DEPT 30)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 17, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**December 17, 2020      8:30 AM      Status Check**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Kathryn Hansen-McDowell

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Cole, Madilyn M.      Attorney  
                                 State of Nevada      Plaintiff  
                                 THORNBURG, JERMIAH      Defendant  
                                 DEWIGHT

**JOURNAL ENTRIES**

- Defense counsel not present. Statement by Deft. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 12/22/20 8:30 AM

CLERK'S NOTE: An E-mail was sent to Mr. Judd informing him on the continuation date.  
12/17/20km

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 22, 2020**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**December 22, 2020      8:30 AM      Status Check**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Judd, Spencer M.      Attorney  
                                 State of Nevada      Plaintiff  
                                 Turner, Robert B.      Attorney

**JOURNAL ENTRIES**

- All parties present via BlueJeans video conferencing. Defendant not present.

Mr. Judd advised he spoke with the Defendant and the matter was not negotiated. Upon Court's inquiry, Mr. Judd confirmed this was an IAD case the matter went to central trial readiness and the original trial date was vacated. Mr. Judd advised he was prepared to request a trial date that was not in the immediate future. State noted there was a trial date already set for February. Court advised the current February trial date would STAND.

IN CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 09, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**February 09, 2021      8:30 AM      Calendar Call**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Carina Bracamontez-Munguia

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Judd, Spencer M.	Attorney
	Smith, Tyler D.	Attorney
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- Court noted Deft. is in custody and previously waived his rights to speedy trial. Upon Court's inquiry, Mr. Judd indicated Deft. has not waived the IAD 180 days, noted there are a few things he needs to do before trial, but doesn't want to waive the IAD on Deft's behalf. Court Advised Deft. is he is not waiving the IAD there are 180 days that they have to set the trial date, therefore, COURT ORDERED matter REFERRED to Department 10 for setting of the Central Trial Readiness Conference and trial dates. Court Advised Deft. if he needs additional time he'll have to waive the 180 days. Colloquy regarding Central Trial Readiness. COURT FURTHER ORDERED, matter SET for status check on resetting trial date.

MATTER RECALLED. Mr. Smith now present. Mr. Smith indicated he wanted to make sure the record was clear that the State was prepared to go forward. Mr. Smith noted he understands Deft.

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Minutes Date: May 28, 2020

hasn't waived IAD, but wants to make sure it's not held against State in the future. Court Advise Mr. Smith matter was referred to Department 10 to be set for trial as soon as possible and noted Deft. was Advised if additional time was needed he would need to waive IAD. Mr. Smith stated Deft. wouldn't need to completely waive IAD, but anytime a continuance is requested it tolls the time.

CUSTODY

03/16/2021 08:30 AM STATUS CHECK: RESET TRIAL DATE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 17, 2021**

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C-20-348507-1	State of Nevada
	vs
	Jeremiah Thornburg

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<b>February 17, 2021</b>	<b>11:30 AM</b>	<b>Central Trial Readiness Conference</b>
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**HEARD BY:** Jones, Tierra

**COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Teri Berkshire

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Judd, Spencer M.	Attorney
	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Mr. Smith present via video, on behalf of the State. Mr. Judd present via video, on behalf of deft., through bluejeans technology.

Deft. not present, refused transport. Upon Court's inquiry, the State can be ready for trial, however, Mr. Judd advised he's not ready for trial, as they have to get an investigator involved. Colloquy on the IAD timeline. Following statements by counsel, Court FINDS, good cause to continue the trial and that tolls the time on the IAD. FURTHER COURT ORDERED, matter SET for central trial readiness on the date given. Court noted it will get the trial date on the next date.

**CUSTODY**

03/17/21 11:30 A.M. CENTRAL TRIAL READINESS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 17, 2021**

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C-20-348507-1	State of Nevada
	vs
	Jeremiah Thornburg

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<b>March 17, 2021</b>	<b>11:30 AM</b>	<b>Central Trial Readiness Conference</b>
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**HEARD BY:** Jones, Tierra

**COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Teri Berkshire

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Mr. Smith present via video, on behalf of the State. Mr. Judd present via video, on behalf of deft., through bluejeans technology.

Upon Court's inquiry, Mr. Judd advised he's not ready for trial, as he just spoke with the family. Mr. Smith stated he can be ready. colloquy regarding tolling of the IAD. Following statements by counsel, COURT FINDS, Good Cause to grant a continuance. Further, the IAD is still in effect. COURT ORDERED, Central Trial readiness SET on the date given.

**CUSTODY**

05/05/21 11:30 A.M. CENTRAL TRIAL READINESS CONFERENCE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**May 05, 2021**

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C-20-348507-1	State of Nevada
	vs
	Jeremiah Thornburg

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<b>May 05, 2021</b>	<b>11:30 AM</b>	<b>Central Trial Readiness Conference</b>
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**HEARD BY:** Jones, Tierra **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Teri Berkshire

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Parties present via video, through bluejeans technology.

Upon Court's inquiry, Representative from Mr. Judd's office advised Mr. Judd can't represent deft., as he's incapacitated. Statements by deft., that he retained Mr. Judd. Mr. Smith advised the special public defender previously represented deft. COURT ORDERED, Status Check date STANDS. Court advised the parties to let Judge Weise know that Mr. Judd can no longer represent deft.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 13, 2021**

C-20-348507-1      State of Nevada  
vs  
Jeremiah Thornburg

**May 13, 2021****8:30 AM****Status Check: Reset Trial  
Date****HEARD BY:** Wiese, Jerry A.**COURTROOM:** RJC Courtroom 14A**COURT CLERK:** Lauren Kidd**RECORDER:** Vanessa Medina**REPORTER:****PARTIES**

<b>PRESENT:</b>	Stanton, David L.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- Spencer Judd, Jr. present on behalf of Mr. Judd for the Defendant. All parties present via BlueJeans video conferencing.

Counsel advised Mr. Judd was incapacitated and could no longer be able to represent the Defendant. Upon Court's inquiry, counsel advised Mr. Judd was privately retained. Defendant indicated he intended to hire different counsel although he did not currently have the money to do so. State and Court indicated the time clock on IAD was tolled while Defendant is without an attorney. Colloquy regarding Defendant's circumstances. Defendant represented that his mother spoke with his attorney and he was told the attorney would be returning money to the Defendant from the retainer fee. Counsel advised he needed to speak with the accounting department and get that figured out. Court DIRECTED counsel to have the matter resolved today after Court. COURT ORDERED, matter CONTINUED.

**C-20-348507-1**

IN CUSTODY

CONTINUED TO: 05/20/21 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 20, 2021**

C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

**May 20, 2021****8:30 AM****Status Check: Reset Trial  
Date****HEARD BY:** Wiese, Jerry A.**COURTROOM:** RJC Courtroom 14A**COURT CLERK:** Lauren Kidd**RECORDER:** Vanessa Medina**REPORTER:****PARTIES**

<b>PRESENT:</b>	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- State and Defendant present via BlueJeans video conferencing.

State advised it was their understanding Mr. Judd withdrew as attorney of record for the Defendant. Defendant confirmed the same and indicated he was told by Mr. Judd's son that the law firm had money to return to the Defendant from the retainer fee. Defendant advised he intended to use those funds to hire new counsel. State suggested the Court re-appoint the Special Public Defender's office to represent the Defendant. Court advised this Court's Law Clerk would reach out to Drew Christensen's office regarding the same. Statements by the Defendant that he was currently unable to get in contact with anyone at Mr. Judd's office. COURT ORDERED, matter CONTINUED and SET for Confirmation of Counsel.

IN CUSTODY

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Minutes Date: May 28, 2020

CONTINUED TO: 06/01/21 8:30 AM

06/01/21 8:30 AM CONFIRMATION OF COUNSEL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 25, 2021**

C-20-348507-1      State of Nevada  
vs  
Jeremiah Thornburg

**May 25, 2021      8:30 AM      All Pending Motions**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- Defendant present via BlueJeans video conferencing.

STATUS CHECK: RESET TRIAL DATE...CONFIRMATION OF COUNSEL

Court advised the Court reached out to Drew Christensen's office to have special counsel appointed for the Defendant. This Court's Law Clerk advised Mr. Christensen requested the matter be continued to the next available session for appointed counsel to appear. State expressed concern noting this was an IAD case. Statement by the Defendant regarding his issues with prior counsel. Court advised of correspondence from Mr. Judd's office to the Court advising they had been in contact with Defendant's brother, Larry Thornburg. Court indicated Mr. Judd's office represented that they spoke with Larry Thornburg and advised him there was no unrendered portion of Defendant's retainer fee. Statement from the Defendant that he may seek private representation again, however, he kept having issues with his private counsel accepting his retainer and

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Minutes Date: May 28, 2020

withdrawing from his case. Court advised the Defendant could seek private counsel, however, Court would appoint special public counsel at the next hearing so Defendant was represented in the event that he was unable to hire private counsel. Defendant requested the matter be continued for at least a week because he was experiencing medical issues that he wanted to have reviewed. There being no objection by the State, COURT ORDERED, matter CONTINUED for 1 week.

IN CUSTODY

CONTINUED TO 06/01/21 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 01, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**June 01, 2021      8:30 AM      All Pending Motions**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Luong, Vivian	Attorney
	Savage, Jordan S	Attorney
	State of Nevada	Plaintiff
	THORNBURG, JERMIAH	Defendant
	DEWIGHT	

**JOURNAL ENTRIES**

- State and Defendant present via BlueJeans video conferencing.

CONFIRMATION OF COUNSEL...STATUS CHECK: RESET TRIAL DATE

Mr. Savage advised the Special Public Defender's (SPD's) office would CONFIRM AS COUNSEL for the Defendant. Mr. Savage noted the SPD's office had the matter previously and Mr. Judd took over for a year, therefore, they would need time to get updated on the case. Mr. Judd requested a trial setting in 120 days. Colloquy regarding the matter having an interstate detainer. State advised this was Tyler Smith, Esq.'s case. Court trailed the matter for the State to contact Mr. Smith regarding information on when the IAD would run. MATTER TRAILED.

MATTER RECALLED. All parties present as before.

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Minutes Date: May 28, 2020

State was unable to contact Mr. Smith and advised he was out of town. State requested a trial date in 60 days. Court advised Mr. Savage trial would be set in 60 days due to the IAD and the matter could be reset if necessary. COURT ORDERED, trial date SET.

IN CUSTODY

07/06/21 8:30 AM CALENDAR CALL

07/12/21 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 14, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**June 14, 2021      3:00 AM      Minute Order**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter is scheduled for a hearing on 6/15/21 with regard to the Defendant's Motion for Reconsideration of the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to the Court's Administrative Orders, as well as N.R.Cr.P. 8(2), this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this minute order issues.

On 8/17/20, the State filed a Motion to Admit Evidence of Uncharged Acts, which Defendant did not oppose. At the time, the Second Amended Information was operable and Defendant was charged with 3 counts of Lewdness with a Child Under the Age of 14 (F), 2 counts of Sexual Assault with a Minor Under 14 Years of Age (F), 1 count of Open or Gross Lewdness in the Presence of a Child or Vulnerable Person (F), and 1 count of Lewdness with a Child Under the Age of 16 (F). The Court decided the motion without hearing on 8/28/20, and the State's motion was granted. The State filed a Third Amended Information on 11/23/20, reducing the charges to just one count of Lewdness with a Child under the Age of 15 (F). On 6/1/21, the Special PD's Office was appointed to represent Defendant after his previous counsel became incapacitated.

Defendant argues, pursuant to EDCR 2.24, that the Court should reconsider its 8/28/20 Order granting the State's Motion. Defendant argues that under both the Constitution of the United States and the Constitution of the State of Nevada, Mr. Thornburg has the right to effective assistance of trial counsel. Defendant argues that failure to file a written opposition to the State's motion is not necessarily grounds for ineffective assistance of counsel, especially when defense counsel makes that same opposition orally. See *Sullivan v. State*, 2015 Nev. Unpub. LEXIS 31, 131 Nev. 1352, 2015 WL 223963 and *Garner v. State*, 2015 Nev. App. Unpub. LEXIS 109, 131 Nev. 1282, 2015 WL 826792. In this case, however, prior counsel did not oppose the motion in writing, or verbally. Defendant suggests that the lack of opposition was not a strategic decision but perhaps due to extraordinary outside circumstances and the incapacity of previous counsel.

Defendant argues that because the uncharged acts in the State's motion will significantly impact any potential verdict at trial, the failure of previous counsel to oppose was unreasonable and constituted deficient performance of counsel. Consequently, the Defendant requests that the Court set a briefing schedule and an oral argument date for the State's Motion.

To date, the State has not filed an Opposition.

The Court notes that in its minute order dated 8/26/20, the Court noted that although the Defendant had failed to file an Opposition, the Court analyzed the Motion, and considered the merits before the Motion was granted. The Court considered and made findings in accordance with the factors set forth and discussed in *Franks v. State*, 135 Nev. 1, 432 P.3d 752 (2019), and *U.S. v. LeMay*, 260 F.3d 1018 (9th Cir. 2001). The Court notes that it is not sure what date the prior defense counsel, Spencer Judd, became incapacitated, and consequently, it is possible that the Defendant's lack of opposition was due to such incapacitation and not a strategic decision. Since current defense counsel has raised the issue of "ineffective assistance," as it relates to the lack of opposition to the State's Motion, and in an effort to avoid an appellate issue in that regard, the Court will agree to allow current defense counsel to file an Opposition to the previously decided Motion to Admit Evidence of Uncharged Acts, and the Court will schedule a new hearing date, and the matter may be reconsidered.

Based upon the foregoing, and good cause appearing, IT IS HEREBY ORDERED that Defendant's Motion to Reconsider will be GRANTED to the extent that the Court agrees to allow further briefing and will consider the briefing of counsel, and determining whether the Court's prior decision should be modified. The Court hereby sets the following briefing schedule: The State's Motion was filed on 8/17/20. Defendant's Opposition to the Motion must be filed on or before June 25, 2021. Any Reply from the State must be filed by July 9, 2021. And a hearing on this matter will be scheduled for July 22, 2021.

Because the instant Motion has been decided on the pleadings, the hearing scheduled for 6/15/21 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear on that date.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 06-14-21./ /lk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 06, 2021**

C-20-348507-1      State of Nevada  
vs  
Jeremiah Thornburg

**July 06, 2021      8:30 AM      Calendar Call**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:**

**RECORDER:** Vanessa Medina

**REPORTER:** Kristy Clark

**PARTIES**

<b>PRESENT:</b>	Dollente, Jr., Quintin M.	Attorney
	Kollins, Stacy L.	Attorney
	State of Nevada	Plaintiff
	Thornburg, Jeremiah Dewight	Defendant

**JOURNAL ENTRIES**

- All parties present via BlueJeans video conferencing.

Upon Court's inquiry, Mr. Dollente advised parties were not ready to proceed with trial. Mr. Dollente reminded the Court that the Special Public Defender's office was recently re-assigned the case and he had not yet received the case file from prior counsel. Ms. Kollins further advised the case belonged to Deputy District Attorney Smith and Mr. Smith was out of the office for a prolonged period of time due to a family emergency. Upon Court's inquiry, counsel confirmed this was an Interstate Agreement on Detainer (IAD) case. State noted the 180 day timeframe may have been waived due to the change in counsel. Mr. Dollente indicated he was not sure about the 180 days IAD timeframe, however, the Defendant would WAIVE his right to a speedy trial until the next court setting. Colloquy regarding dates and availability. Counsel estimated the trial would take longer than 1 week. COURT ORDERED, trial VACATED and RESET. Court clarified for purpose of the IAD that

the continuance was requested by Defense counsel; therefore, IAD was TOLLED.

IN CUSTODY

09/07/21 8:30 AM CALENDAR CALL

09/13/21 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 26, 2021**

C-20-348507-1      State of Nevada  
vs  
Jeremiah Thornburg

**July 26, 2021      3:00 AM      Minute Order**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter is scheduled for a hearing on 7/27/21, with regard to the Defendant's Motion to Reconsider the Court's prior Order Granting the State's Motion to Admit Evidence of Uncharged Acts. Pursuant to the Court's Administrative Orders, as well as N.R.Cr.P. 8(2), this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this minute order issues.

The Court previously granted the State's Motion to Admit Evidence of Uncharged Acts, by Order filed 8/28/20. Although the State's Motion had not previously been opposed, the Court evaluated the merits of the Motion, and considered the cases of *Franks v. State*, 135 Nev. 1, 432 P.3d 752 (2019), and *U.S. v. LeMay*, 260 F.3d 1018 (9th Cir., 2001), as well as NRS 48.045(3), and 48.035. Based on the Defendant's Motion to Reconsider, the Court allowed further briefing to determine whether the Court's prior decision should be modified. Subsequently, the Defendant filed an Opposition on 6/25/21. The Defendant raised the issues in his opposition, which were already addressed and considered by the Court in its prior decision and Order.

N.R.Cr.P. 8(B)(7) indicates that a party may seek reconsideration of a ruling of the Court upon a

showing of "changed circumstances." The Court finds no changed circumstances here. The Court previously analyzed all of the facts and circumstances, and previously considered all of the issues raised in the Defendant's recently filed Opposition. After conducting an analysis, based on the Franks and LeMay cases, the Court previously concluded that the evidence regarding the prior incidents could be admitted at Trial. Nothing presented in the Defendant's Opposition has caused the Court to feel the need to correct or modify anything in the prior Order.

Consequently, and based upon the foregoing, IT IS HEREBY ORDERED that the Defendant's Motion for Reconsideration of the Court's prior Order Granting the State's Motion to Admit Evidence of Uncharged Acts, is hereby DENIED. The Court's prior Order filed 8/28/20 stands.

The Court requests that the State prepare an Order consistent with the foregoing, have it approved as to form and content by defense counsel, and submit it to the Court for signature within 10 days.

Because this matter has been decided on the pleadings, the hearing scheduled for 7/27/21 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 7-26-21./lk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 10, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**August 10, 2021      8:30 AM      Entry of Plea**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 Kollins, Stacy L.      Attorney  
                                 Special Public Defender      Attorney  
                                 State of Nevada      Plaintiff  
                                 Thornburg, Jeremiah Dewight      Defendant

**JOURNAL ENTRIES**

- Deft. Thornburg PRESENT in custody via BlueJeans.

Court STATED the negotiations on the record.

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED ON AUGUST 5, 2021. DEFT. THORNBURG ARRAIGNED AND PLED GUILTY TO ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Court ACCEPTED plea, and, ORDERED, matter REFERRED to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY

10/07/21 8:30 AM SENTENCING

PRINT DATE: 12/29/2021

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Minutes Date: May 28, 2020

CLERK'S NOTE: Minutes completed after review of JAVS by Michele Tucker, Courtroom Clerk. /mlt  
10.09.21

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 07, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**October 07, 2021      8:30 AM      Sentencing**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd  
                                 Jennifer Lott

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 State of Nevada      Plaintiff  
                                 Thornburg, Jeremiah Dewight      Defendant  
                                 Thunell, Peter I.      Attorney

**JOURNAL ENTRIES**

- Defendant and Mr. Dollente present via BlueJeans video conferencing.

Mr. Dollente advised the Defendant had not received his Pre-Sentence Investigation (PSI) report. Mr. Dollente requested a continuance to obtain the PSI and review it with the Defendant. There being no objection from the State, COURT ORDERED, matter CONTINUED.

IN CUSTODY

CONTINUED TO: 10/21/21 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 21, 2021**

C-20-348507-1      State of Nevada  
vs  
Jeremiah Thornburg

**October 21, 2021      8:30 AM      Sentencing**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Dollente, Jr., Quintin M.	Attorney
	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	Thornburg, Jeremiah Dewight	Defendant

**JOURNAL ENTRIES**

- Defendant present via BlueJeans video conferencing.

Colloquy regarding the victim speaker preparing a letter for the Court. Upon Court's inquiry, Mr. Dollente confirmed Defendant reviewed the Pre-Sentence Investigation (PSI) report, there were no Stockmeier issues and the matter could proceed with sentencing. Court put the terms of the negotiations on the record. Parties confirmed they stipulated to an 8-20 year sentence and Defendant had 555 days credit for time served. DEFENDANT THORNBURG ADJUDGED GUILTY of ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). Arguments by counsel regarding the extradition fee and statement by the Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, WAIVED as it was previously taken, \$3.00 DNA Collection fee, \$250.00 Indigent Defense Civil Assessment fee, and \$5,184.00 Extradition Cost, Defendant SENTENCED to a MINIMUM of EIGHT (8) YEARS in the Nevada Department of Corrections (NDC) and MONTHS and a MAXIMUM of

TWENTY (20) YEARS in NDC, with FIVE HUNDRED SIXTY (560) DAYS credit for time served.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 23, 2021**

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C-20-348507-1      State of Nevada  
                                 vs  
                                 Jeremiah Thornburg

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**November 23, 2021      8:30 AM      Motion to Clarify**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Vanessa Medina

**REPORTER:**

**PARTIES**

**PRESENT:**      Dollente, Jr., Quintin M.      Attorney  
                                 Overly, Sarah      Attorney  
                                 State of Nevada      Plaintiff  
                                 Thornburg, Jeremiah Dewight      Defendant

**JOURNAL ENTRIES**

- Court noted the matter was on calendar because the Judgement of Conviction (JOC) did not say that this case was to run concurrent with Defendant's federal case. Court advised the agreement stated the State had no opposition to running this case concurrent with Defendant's federal case. Therefore, COURT ORDERED, Motion GRANTED; JOC is to be amended to add language that this case will run CONCURRENT to Defendant's federal case.

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

AMENDED NOTICE OF APPEAL; AMENDED CASE APPEAL  
STATEMENT; DISTRICT COURT DOCKET ENTRIES; AMENDED JUDGMENT OF CONVICTION  
(PLEA OF GUILTY); DISTRICT COURT MINUTES

STATE OF NEVADA,

Plaintiff(s),

vs.

JEREMIAH DEWIGHT THORNBURG,

Defendant(s).

Case No: C-20-348507-1

Dept No: XXX

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 29 day of December 2021.

Steven D. Grierson, Clerk of the Court



— Amanda Hampton, Deputy Clerk —

