

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

Electronically Filed  
Feb 03 2022 02:51 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**LUIGY RICHARD LOPEZ-DELGADO,**

**Plaintiff,**

**vs.**

**Sup. Ct. Case No. 83885**

**Case No. CR18-1654**

**Dept. 9**

**THE STATE OF NEVADA,**

**Defendant.**

**RECORD ON APPEAL**

**VOLUME 4 OF 6**

**DOCUMENTS**

**APPELLANT**

**Luigy Lopez-Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419**

**RESPONDENT**

**Washoe County District  
Attorney's Office  
Jennifer P. Noble, Esq. #9446  
P.O. Box 30083  
Reno, Nevada 89502-3083**

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**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2019-04-25 15:26:06.583.  
**MARC PICKER, ESQ.** - Notification received on 2019-04-25 15:26:06.536.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2019-04-25 15:26:06.599.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2019-04-25 15:26:06.63.

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A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE JEROME M. POLAHA

Official File Stamp:

04-25-2019:15:24:54

Clerk Accepted:

04-25-2019:15:25:33

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Transcript

Filed By:

Lynn Stubbs

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**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

## IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78472

CR18-1654  
03 FILED


JUL 29 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DIRECTING TRANSMISSION OF PRESENTENCE  
INVESTIGATION REPORT*

Cause appearing, the motion to direct the district court clerk to transmit copies of the presentence investigation report and the confidential psychological evaluation filed under seal in the district court in this matter (district court case number CR18-1654) is granted. NRAP 30(b)(6); NRS 176.156(5) (providing that except for specific disclosures authorized by NRS 176.156(1)-(4), a presentence investigation report is "confidential and must not be made a part of any public record"). The district court clerk shall have 14 days from the date of this order to transmit to the clerk of this court a copy of the presentence investigation report and the psychological evaluation in a sealed envelope. Upon receipt, the clerk of this court shall file the documents under seal.

It is so ORDERED.

 , C.J.

cc: Washoe County Alternate Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2019-07-30 11:37:27.015.  
**MARC PICKER, ESQ.** - Notification received on 2019-07-30 11:37:26.406.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2019-07-30 11:37:27.046.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2019-07-30 11:37:27.639.

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A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE JEROME M. POLAHA

Official File Stamp:

07-30-2019:11:35:08

Clerk Accepted:

07-30-2019:11:36:19

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Supreme Ct Order Directing

Filed By:

Deputy Clerk YViloria

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MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

Code 1350

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

THE STATE OF NEVADA,

Plaintiff,

vs.

LUIGY RICHARD LOPEZ-DELGADO,

Defendant.

Case No. CR18-1654

Dept. No. 3

**CERTIFICATE OF CLERK AND TRANSMITTAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe. On the 30th day of July, 2019, I deposited in the Washoe County mailing system for postage and mailing in the United States Postal Service in Reno, Nevada, a copy of the presentence investigation and the psychological evaluation reports addressed to the Nevada Supreme Court, 201 S. Carson Street, Suite 201, Carson City, Nevada 89701. The Order is transmitted pursuant to the Supreme Court's Order Directing Transmission of Presentence Investigation Report filed July 29<sup>th</sup>, 2019

I further certify that the transmitted record is a copy of the original pleadings on file with the Second Judicial District Court.

Dated this 30th day of July, 2019.

Jacqueline Bryant  
Clerk of the Court

By /s/Yvonne Vilorio  
Yvonne Vilorio  
Deputy Clerk



**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2019-07-30 12:01:49.796.  
**MARC PICKER, ESQ.** - Notification received on 2019-07-30 12:01:49.749.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2019-07-30 12:01:50.108.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2019-07-30 12:01:50.716.

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A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE JEROME M. POLAHA

Official File Stamp:

07-30-2019:12:00:22

Clerk Accepted:

07-30-2019:12:01:03

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Certificate of Clerk

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Deputy Clerk YViloria

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If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 78472**  
District Court Case No. CR181654

93

**NOTICE OF TRANSFER TO COURT OF APPEALS**

Pursuant to NRAP 17(b), the Supreme Court has decided to transfer this matter to the Court of Appeals. Accordingly, any filings in this matter from this date forward shall be entitled "In the Court of Appeals of the State of Nevada." NRAP 17(e).

DATE: January 06, 2020

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

**Notification List**

**Electronic**

Washoe County Alternate Public Defender \ Marc Picker

Washoe County District Attorney \ Jennifer P. Noble \ Kevin P. Naughton

**Paper**

Hon. Jerome M. Polaha, District Judge

Jacqueline Bryant, Washoe District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-01-07 14:06:45.263.  
**MARC PICKER, ESQ.** - Notification received on 2020-01-07 14:06:42.361.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-07 14:06:46.152.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-01-07 14:06:47.26.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE JEROME M. POLAHA

**Official File Stamp:**

01-07-2020:14:04:05

**Clerk Accepted:**

01-07-2020:14:05:10

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

**Document(s) Submitted:**

Supreme Court Notice

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

1 CODE 1850  
2  
3  
4  
5

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

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1654

12 LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

13 Defendant.  
14 \_\_\_\_\_/

15 THIRD CORRECTED JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no sufficient cause being  
17 shown by Defendant as to why judgment should not be pronounced against him, the  
18 Court rendered judgment as follows:

19 That Luigy Richard Lopez-Delgado is guilty of the crimes of Statutory Sexual  
20 Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony, as  
21 charged in Count II of Second Amended Information, Possess Visual Pornography of  
22 Person Under Age 16, First Offense, a violation of NRS 200.730.1, a category B felony, as  
23 charged in Count IV of the Second Amended Information and Lewdness With Child Older  
24 than 14, a violation of NRS 201.230.3, a category B felony, as charged in Count VI of the  
25 Second Amended Information and that he be punished by imprisonment in the Nevada  
26 Department of Corrections for a minimum term of 48 months to a maximum term of 120  
27 months, with credit for 456 days time served, as to Count II. As to Count IV, the  
28 Defendant is punished by imprisonment in the Nevada Department of Corrections for a

1 minimum term of 28 months to a maximum term of 72 months, to run consecutively to the  
2 sentence imposed in Count II. As to Count VI, the Defendant is punished by  
3 imprisonment in the Nevada Department of Corrections for a minimum term of 48 months  
4 to a maximum term of 120 months, to run concurrently with the sentence imposed in  
5 *Count II.*

6 It is further ordered that the aggregate sentence imposed is a minimum of 76  
7 months with a maximum of 192 months.

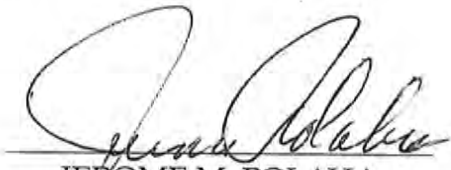
8 It is further ordered that the Defendant pay the statutory Twenty-Five Dollar  
9 (\$25.00) administrative assessment, that he pay the Three Dollar (\$3.00) administrative  
10 assessment fee for obtaining a biological specimen and conducting a genetic marker  
11 analysis test, that he pay a One Hundred Fifty Dollar (\$150.00) DNA testing fee and that  
12 he pay a psychosexual evaluation fee in the amount of Nine Hundred Twelve Dollars and  
13 Seventy-One Cents (\$912.71) to the Clerk of the Second Judicial District Court.

14 A special sentence of Lifetime Supervision shall commence after any period  
15 of probation, or after any term of imprisonment, or after any period of release on parole.

16 It is further ordered that the fees shall be subject for removal from the  
17 Defendant's books at the Washoe County Detention Facility and/or Nevada Department  
18 of Corrections.

19 Any fine, fee or administrative assessment imposed upon the Defendant  
20 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada  
21 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or  
22 assessments, collection efforts may be undertaken against him.

23 Dated this 11<sup>th</sup> day of February, 2020,  
24 nunc pro tunc March 14, 2019.

25  
26  
27  
28  
  
JEROME M. POLAHA  
DISTRICT JUDGE

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-02-11 16:01:57.203.  
**MARC PICKER, ESQ.** - Notification received on 2020-02-11 16:01:56.859.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-02-11 16:01:57.218.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-02-11 16:01:57.249.



\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE JEROME M. POLAHA

**Official File Stamp:**

02-11-2020:16:00:37

**Clerk Accepted:**

02-11-2020:16:01:19

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

**Document(s) Submitted:**

Judgment Conviction-Corrected

**Filed By:**

Court Clerk GBartlett

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

## IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78472-COA

CR18-1654

03

**FILED**

FEB 18 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

## ORDER OF AFFIRMANCE

Luigy Richard Lopez-Delgado appeals from a judgment of conviction entered pursuant to a guilty plea of statutory sexual seduction by a person 21 years of age or older, possession of visual pornography of a person under 16 years of age, and lewdness on a child older than 14 years of age. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Lopez-Delgado claims the district court abused its discretion at sentencing by failing to consider any of the mitigating evidence that he provided, his age, his lack of criminal history, and the parties' sentencing recommendation when deciding the sentence to impose.

We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And NRS 176.035(1) plainly gives the district


court discretion to run subsequent sentences consecutively. *Pitmon v. State*, 131 Nev. 123, 129, 352 P.3d 655, 659 (Ct. App. 2015).

The district court sentenced Lopez-Delgado to prison terms of 48 to 120 months for the statutory sexual seduction count, 28 to 72 months for the possession of pornography count, and 48 to 120 months for the lewdness count. These prison terms fall within the parameters of the relevant statutes. See NRS 200.368(1); NRS 200.730(1); NRS 201.230(3). Lopez-Delgado has not alleged that the district court relied upon impalpable or highly suspect evidence. And the record demonstrates that the district court received the letters of mitigation, considered the presentence investigation report and psychological evaluations, and heard the parties' sentencing arguments. Given this record, we conclude Lopez-Delgado has failed to demonstrate that the district court abused its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerome M. Polaha, District Judge  
Washoe County Alternate Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-02-19 14:16:59.258.  
**MARC PICKER, ESQ.** - Notification received on 2020-02-19 14:16:57.245.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-02-19 14:16:59.726.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-02-19 14:17:01.598.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE JEROME M. POLAHA

Official File Stamp:

02-19-2020:14:14:41

Clerk Accepted:

02-19-2020:14:15:52

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Supreme Court Order Affirming

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 78472**  
District Court Case No. CR181654

D3

**REMITTITUR**

TO: Jacqueline Bryant, Washoe District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: March 16, 2020

Elizabeth A. Brown, Clerk of Court

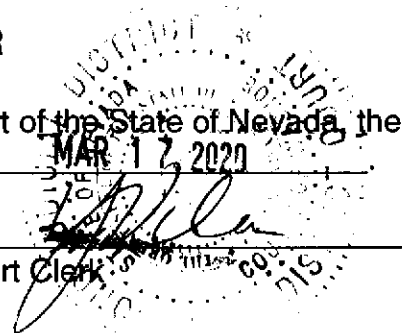
By: Rory Wunsch  
Deputy Clerk

cc (without enclosures):  
Hon. Jerome M. Polaha, District Judge  
Washoe County Alternate Public Defender  
Washoe County District Attorney

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on \_\_\_\_\_

\_\_\_\_\_  
District Court Clerk



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 78472**  
District Court Case No. CR181654

DB

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

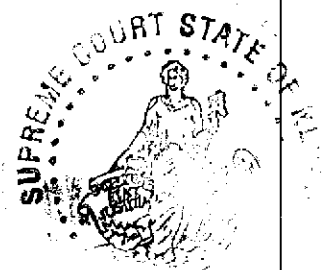
"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 18th day of February, 2020.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
March 16, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch  
Deputy Clerk





IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

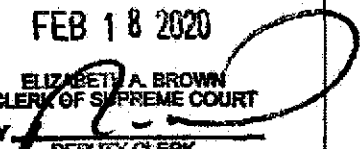
No. 78472-COA

CR18-1654

03

**FILED**

FEB 18 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Luigy Richard Lopez-Delgado appeals from a judgment of conviction entered pursuant to a guilty plea of statutory sexual seduction by a person 21 years of age or older, possession of visual pornography of a person under 16 years of age, and lewdness on a child older than 14 years of age. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Lopez-Delgado claims the district court abused its discretion at sentencing by failing to consider any of the mitigating evidence that he provided, his age, his lack of criminal history, and the parties' sentencing recommendation when deciding the sentence to impose.


We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And NRS 176.035(1) plainly gives the district


court discretion to run subsequent sentences consecutively. *Pitmon v. State*, 131 Nev. 123, 129, 352 P.3d 655, 659 (Ct. App. 2015).

The district court sentenced Lopez-Delgado to prison terms of 48 to 120 months for the statutory sexual seduction count, 28 to 72 months for the possession of pornography count, and 48 to 120 months for the lewdness count. These prison terms fall within the parameters of the relevant statutes. See NRS 200.368(1); NRS 200.730(1); NRS 201.230(3). Lopez-Delgado has not alleged that the district court relied upon impalpable or highly suspect evidence. And the record demonstrates that the district court received the letters of mitigation, considered the presentence investigation report and psychological evaluations, and heard the parties' sentencing arguments. Given this record, we conclude Lopez-Delgado has failed to demonstrate that the district court abused its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerome M. Polaha, District Judge  
Washoe County Alternate Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

CERTIFIED COPY

This document is a full, true and correct copy of  
the original on file and of record in my office.

DATE MARCH 18, 2020

Supreme Court Clerk, State of Nevada

By [Signature] Deputy

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-03-17 12:27:22.865.  
**MARC PICKER, ESQ.** - Notification received on 2020-03-17 12:27:22.818.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-03-17 12:27:22.881.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-03-17 12:27:23.255.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE JEROME M. POLAHA

**Official File Stamp:**

03-17-2020:12:25:18

**Clerk Accepted:**

03-17-2020:12:26:48

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

**Document(s) Submitted:**

Supreme Court Remittitur  
Supreme Ct Clk's Cert & Judg  
Supreme Court Order Affirming

**Filed By:**

Deputy Clerk YViloria

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If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CODE 2490  
Luigy Richard Lopez-Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Petitioner In Pro Se

Leave to File

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

\* \* \* \* \*

THE STATE OF NEVADA,	)	Case No. <u>CR18-1654</u>
	)	
Plaintiff,	)	Dept. No. <u>3</u>
	)	
-vs-	)	
	)	
<u>Luigy Richard Lopez-Delgado,</u>	)	
	)	
Defendant.	)	
	)	

MOTION FOR WITHDRAWAL OF ATTORNEY  
OF RECORD AND DELIVERY OF RECORDS

COMES NOW Defendant, Luigy Richard Lopez-Delgado ("Defendant"),  
in pro se, and submits his Motion for Withdrawal of Attorney of  
Records and Delivery of Records, moving the Court to order that  
Mark Picker  
ALT. P. D. O. ("Counsel") be withdrawn as counsel of  
record herein, and that Counsel deliver to Defendant at the  
address below all files, documents, papers, records and personal  
property which are in Counsel's possession and control.

This motion is based upon NRS 7.055; SCR 46; RPC 1.16; the  
following points and authorities; and the attached affidavit.

POINTS AND AUTHORITIES

A party may discharge their attorney with or without cause,  
Matter of Kaufman, 93 Nev. 452, 567 P.2d 957, 959 (1977), after  
which the attorney is obliged to conduct themselves in a manner



1 protective of their client's interests, PRC 1.16(d). Such duty  
2 includes "surrendering papers and property to which the client  
3 is entitled." Id. See also NRS 7.055(1) (attorney who has been  
4 discharged by client shall, upon demand, "immediately deliver to  
5 the client" all files, papers and property which were prepared  
6 for the client); SCR 46 (time of withdrawal).

7 Counsel's services are no longer required in this criminal  
8 matter. Defendant has, pursuant to NRS 7.055(3), directed  
9 Counsel to withdraw themselves and forward to him all case files  
10 and materials related to this case; however, Counsel has failed  
11 to comply. See attached Affidavit of Defendant. This failure  
12 of Counsel not only fails to protect Defendant's interests as  
13 required by RPC 1.16(d), but likewise disregards the mandates of  
14 NRS 7.055(1).

15 Counsel has no lawful basis for withholding Defendant's  
16 papers in this matter, as Defendant owes Counsel no fees upon  
17 which Counsel could assert a lien against same. Michel v.  
18 Eighth Jud. Dist. Court, 117 Nev. 145, 17 P.3d 1003, 1008 n. 2.  
19 (2001). See also attached Affidavit.

20 CONCLUSION

21 For the reasons set forth above, the Court should order  
22 Counsel to be withdrawn as counsel of record and should direct  
23 Counsel to deliver to Defendant his papers and files herein.

24 Dated this 1 day of May, 2020.

25  
26 Wray Richard Lopez-Delgado # 1213684  
27 Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

28 Defendant In Pro Se

## Motion to withdrawal Attorney

(If you need more room, you may attach additional sheets of paper. Be sure you write only on one side of each sheet, number the page or pages 3(a), 3(b), etc. and initial each page at the bottom.)

This document does not contain the Social Security number of any person.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED this 1 day of May, 20 20.



(Your Signature)

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing Motion to withdrawal Attorney, P.D. 0. to the below address(es) on this 1 day of May, 2020, by placing same into the hands of prison staff for posting in the U.S. Mail:

Attorney General  
5525 Washington Ave  
Las Vegas, Nevada 89101

Attorney For None

( ) check for additional address(es) below

Wray Richard Lopez-Deleada #1213684  
 Lovelock Correctional Center  
 1200 Prison Road  
 Lovelock, Nevada 89419

✓ In Pro Se

ADDRESS(ES) Continued from Above (If Applicable):

\_\_\_\_\_  
 \_\_\_\_\_, Nevada 89 \_\_\_\_\_

Attorney For \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_, Nevada 89 \_\_\_\_\_

Attorney For \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_, Nevada 89 \_\_\_\_\_

Attorney For \_\_\_\_\_

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-05-12 14:16:05.754.  
**MARC PICKER, ESQ.** - Notification received on 2020-05-12 14:16:05.705.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-12 14:16:05.789.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-05-12 14:16:05.845.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE JEROME M. POLAHA

**Official File Stamp:**

05-12-2020:14:12:39

**Clerk Accepted:**

05-12-2020:14:15:33

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

**Document(s) Submitted:**

Motion

**Filed By:**

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

1 Luigi Lopez-Delgado

2 U.C.C.

3 1200 Prison Rd

4 Lovelock Nev 89419

5  
6 In The Second J.D.C. of The State of Nevada  
7 In and For The County of Washoe

8 Luigi Lopez-Delgado Pro Se, Leave to File  
9 Petitioner

10 V Case No. CR18-1654  
11 The State of Nevada Dept No 3  
12 Respondents n.R.S. 34.170,

13 Motion To Vacate A J.O.C. (0203),  
14 And Withdraw A Guilt plea

15 Comes now the petitioner this motion is

in good faith and is based on the following

memorandum of points and authorities

1 exhibits, papers and pleadings on file

2 here in, and any other information

3 as may be required by the court from

4 the P.D.O. in this case.

5 Notice of The Motion

6 A hearing may be required, N.R.S. 174.003

7 N.R.S. 174.035 N.R.S. 34.770, (1)(2)(3).

8 Statement of The Case.

9 At the time of pleading guilty he

10 was represented by the Washoe Cty

11 P.D.O. he was not informed that he could

12 withdraw his plea before or after

13 sentencing for any fair and just reason

14 the delay is not the fault of the petitioner,

15 N.R.S. 726(1)(a)(b) he was prejudiced

1 , counsel failed to object to lifetime

2 supervision. At sentencing counsel

3 again failed to raise reasonable objections

4 to his sentence run consecutive, as

5 the stipulation. the reason for the plea

6 was that his crimes charged would run

7 concurrently, therefore he did not receive

8 any benefit. Cuyler v. Sullivan 446 U.S.

9 335 (1980) in entering into a plea.

#### 10 I.A.C. Conflict of Interest

11 What we have here is an over burdened

12 alternate P.D.O. that just did not have

13 the time to investigate this case, did not

14 file pretrial motions or prepare for trial,



1 a common issue in the Criminal Justice  
2 System, this is not a guilty plea but  
3 a death sentence, the plea was breached  
4 at sentencing, See *Ciak v. U.S.* 59 F.3d 290  
5 (2nd 1995) *U.S. v. Levy* 75 F.3d 140 (2nd  
6 1994), *U.S. v. Nguyen* 202 F.3d 998 (9th 2001),  
7 I.A.C. Appeal and,

8  
9 That he should not have been given  
10 the P.D.O. to appeal this case it was a  
11 fact that C-3, meritless, he was denied  
12 his first Direct Appeal as of right, See  
13 *Evitts v. Lucey* 409 U.S. 387 (1983)  
14 *Penson v. Ohio* 488 U.S. 75 (1988)  
15 *Douglas v. Cal* 372 U.S. 353 (1963)

The petitioner is able to demonstrate prejudice in this case, that worked to his actual substantial disadvantage that affected states proceedings with errors of a constitutional dimension, that he should not of pleaded guilty, but should have proceeded to trial, See Santobello v. NY 404 U.S. 257 (1971) U.S. v Hernandez 203 F.3d 614 (4th Cir 2000)

The conflict was a result of his inability to communicate with counsel, that resulted in a manifest injustice, See Baykin v. ALA 395 U.S. 238 (1969)

Counsel may be appointed to supplement his brief, miles 120 Tex 383 (2004).

1 Prayer for Relief n. R. Civ. P. 8. (a).

2 See, Smith v State 110 Nev 1009,

3 879 P.2d 60; 1994 Nev. Lexis 121 (9th Cir

4 1994)

5 This court issue an order setting

6 aside petitioners guilty plea and

7 remand this case for further proceed.

8 ing.

9 True and Correct under penalty  
10 of perjury NRS 300.105.

11 S-11-2020

Respectfully



**AFFIRMATION**  
**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding motion to

vacate a J.O.C. withdrawing a plea.  
 (Title of Document)

filed in District Court Case No. CR-18-1654 :

☒ Does NOT contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to-wit:

\_\_\_\_\_  
 (State specific law)

-or-

B. For the administration of a public program or for an application for a federal or state grant.

Dated this 11 day of MAY, 2020.

Luis Lopez-Delgado #1213684  
 Lovelock Correctional Center  
 1200 Prison Road  
 Lovelock, Nevada 89419

✓ In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing motion to vacate J.O.C. withdrawal PICA to the below address(es) on this 11 day of May, 2020, by placing same into the hands of prison staff for posting in the U.S. Mail:

Attorney General Ste 3900  
555 E. Washington St  
L.V., Nev., Nevada 89101

Attorney For Nev

( ) check for additional address(es) below

[Signature]  
#  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

✓ In Pro Se

ADDRESS(ES) Continued from Above (If Applicable):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Nevada 89\_\_\_\_\_

Attorney For \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Nevada 89\_\_\_\_\_

Attorney For \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Nevada 89\_\_\_\_\_

Attorney For \_\_\_\_\_

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-05-13 15:20:07.198.  
**MARC PICKER, ESQ.** - Notification received on 2020-05-13 15:20:06.995.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-13 15:20:07.223.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-05-13 15:20:07.247.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE JEROME M. POLAHA

Official File Stamp:

05-13-2020:15:18:16

Clerk Accepted:

05-13-2020:15:19:32

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Motion

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

CODE No. 2645  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR18-1654

LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

Defendant.

\_\_\_\_\_ /

**OPPOSITION TO MOTION TO VACATE A J.O.C.  
AND WITHDRAW A GUILT PLEA**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS,  
District Attorney, and Kevin Naughton, Appellate Deputy, and hereby opposes the  
Motion to Vacate a J.O.C. and Withdraw a Guilt [sic] Plea filed by Luigy Richard Lopez-  
Delgado (hereinafter, "Defendant") on May 13, 2020.

**Procedural History**

The Defendant pled guilty and was convicted of three felonies: Statutory Sexual  
Seduction by Person Age 21 or Older; Possess Visual Pornography of Person Under Age  
16, First Offense; and Lewdness with Child Older than 14. See Third Corrected Judgment



of Conviction filed February 11, 2020. On May 13, 2020, the Defendant filed his “Motion to Vacate a J.O.C. and Withdraw a Guilt [sic] Plea.” This Opposition follows.

### Argument

The Nevada Supreme Court has held that “[a] post-conviction petition for a writ of habeas corpus is the *exclusive remedy* for challenging the validity of a conviction or sentence aside from direct review of a judgment of conviction on appeal and ‘remedies which are incident to the proceedings in the trial court.’” Harris v. State, 130 Nev. 435, 437, 329 P.3d 619, 621 (2014) *citing* NRS 34.724(2)(a). The Harris court went on to overturn an earlier case by holding that “after sentence has been imposed, the statutory post-conviction habeas petition takes the place of a motion to withdraw a guilty plea.”

### Id.

The Defendant’s Motion references NRS 34.170 on the first page. NRS 34.170 pertains to the issuance of a Writ of Mandamus. The Motion also refers to NRS 174.063 (setting forth the general format for a guilty plea memorandum), NRS 174.035 (setting forth the types of pleas and the procedure for entering a plea), and NRS 34.770 (outlining the procedure for judicial determination of the need for an evidentiary hearing on a post-conviction petition). The Motion further refers to “NRS 726(1)(a)(b).” Motion, p. 3. This appears to be an incomplete citation to NRS 34.726, which establishes the one-year limitation (and its exceptions) for filing post-conviction petitions for habeas relief.

In addition to the references to the statutes governing post-conviction habeas petitions, the contents of the Motion make it clear that the Defendant believes he received ineffective assistance from his trial counsel. Claims of ineffective assistance of counsel must be raised in a post-conviction petition for habeas corpus. Pellegrini v. State, 117 Nev. 860, 883-884, 34 P.3d 519, 534-535 (2001). Despite the Defendant’s

references to some of the applicable statutes in NRS Chapter 34, the Motion cannot be construed as a Petition for a Writ of Habeas Corpus because it is not verified and does not otherwise comply with the requirements for such a petition. *See* NRS 34.370 *et seq.*

Conclusion

The Defendant's Motion seeks relief that can only be granted in a post-conviction petition for a writ of habeas corpus. As the Motion does not satisfy the requirements of a petition, it must be denied.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: May 22, 2020.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on May 22, 2020, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Luigi Lopez-Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

CODE No. 2526  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR18-1654

LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

Defendant.

\_\_\_\_\_ /

NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY

COMES NOW, Plaintiff, by and through Kevin Naughton, Appellate Deputy, and hereby provides notice to the Court, all parties, and their respective counsel that Kevin Naughton, Appellate Deputy, has replaced Jennifer P. Noble, Chief Appellate Deputy, as the responsible attorney for Plaintiff in all future matters related hereto.

Plaintiff herein requests that the Court and all parties herein update their service list with Kevin Naughton's name and address in order to facilitate timely service of all documents in the matter.

///

///

///

///

**AFFIRMATION PURSUANT TO NRS 239B.030**

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: May 22, 2020.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy  
Nevada Bar No. 12834

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on May 22, 2020, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Luigi Lopez-Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-05-22 14:08:55.039.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-05-22 14:08:55.08.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-22 14:08:55.104.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-05-22 14:08:55.128.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE JEROME M. POLAHA

**Official File Stamp:**

05-22-2020:14:04:15

**Clerk Accepted:**

05-22-2020:14:08:27

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

**Document(s) Submitted:**

Opposition to Mtn  
Notice of Change of Attorney

**Filed By:**

Kevin Naughton

You may review this filing by clicking on the following link to take you to your cases.

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-

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**The following people were served electronically:**

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CODE 1312

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

STATE OF NEVADA,

Plaintiff,

Case No: CR18-1654

Dept. No: 3

vs.

LUIGY RICHARD LOPEZ-DELGADO,

Defendant.

\_\_\_\_\_ /

**CASE ASSIGNMENT NOTIFICATION**

I hereby certify the above-entitled matter has been randomly reassigned to  
Department 9, from Department 3.

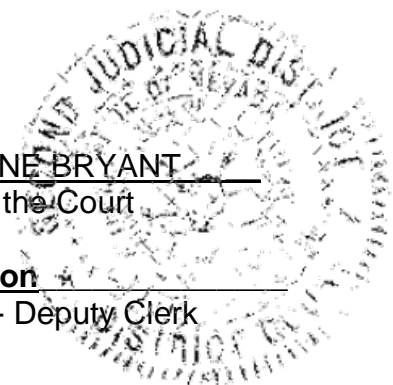
Additional information:

On June 3, 2019, ADMINISTRATIVE ORDER 2019-06 was filed.

Dated May 27, 2020.

\_\_\_\_\_  
JACQUELINE BRYANT  
Clerk of the Court

By \_\_\_\_\_  
/s/N. Mason  
N. Mason- Deputy Clerk



**CERTIFICATE OF SERVICE**

Case No. CR18-1654

I certify that I am an employee of the Second Judicial District Court; that on May 27, 2020, I electronically filed the Case Assignment Notification with the clerk of the Court System which will send a notice of electronic filing to the following:

HONORABLE SCOTT FREEMAN

KEVIN P. NAUGHTON, ESQ. for STATE OF NEVADA

MARC P. PICKER, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court, and that on May 27, 2020, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated May 27, 2020.

**/s/N. Mason**\_\_\_\_\_

N. Mason

Deputy Clerk



**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-05-27 08:07:52.047.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-05-27 08:07:52.101.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-27 08:07:52.184.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-05-27 08:07:52.073.

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A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE SCOTT N. FREEMAN

Official File Stamp:

05-27-2020:08:06:55

Clerk Accepted:

05-27-2020:08:07:21

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D3)

Document(s) Submitted:

Case Assignment Notification

Filed By:

Deputy Clerk NMason

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

Case No. CR18-1054

Dept. No. 1

IN THE 2nd JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Washoe

\* \* \* \* \*

Pro se,

Luis Lopez Delgado, )

Petitioner, )

-vs-

Leave to File

PETITION FOR WRIT  
OF HABEAS CORPUS  
(POST-CONVICTION)

State of Nevada, )

Warden: Garrett )  
Respondent. )

A.C. Aaron Ford )

INSTRUCTIONS: N.A.S. 1.230

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing

future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

#### PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Lovelock Correctional Center, Pershing County, Nevada.

2. Name and location of court which entered the judgment of conviction under attack: The Second J.D.C. Washoe County, Nevada, Judge Jerome M. Polaha.

3. Date of judgment of conviction: 14th March, 2019.

4. 90 to 120 months consecutive

5. (a) Length of sentence: 20 to 72 months  
NRS 200.200.1, NRS 200.730.1, NRS 201.230.3,

(b) If sentence is death, state any date upon which execution is scheduled: N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ☐ No ☒

If "yes," list crime, case number and sentence being served at this time: N/A

7. Nature of offense involved in conviction being challenged:

Offenses A S.O.

8. What was your plea? (check one)

Yes \_\_\_ No \_\_\_

If yes, state what court and the case number: \_\_\_\_\_

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

The P.D.O. of Wagon County

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes \_\_\_ No X

If yes, specify where and when it is to be served, if you know: \_\_\_\_\_

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: Prejudiced at Sentencing

The plea was bricked. The Court was bias.

Supporting FACTS (Tell your story briefly without citing cases or law.): The Attorney and the D.A.C.

stated all counts in criminal complaint would run concurrent at sentencing. The Court was obligated to adhere to the Guilty Plea Agreement per the contract clause, See Santabello v. NY, 404 U.S. 257-92 S.Ct. 495 (1971)

(b) Ground two: The Court may vacate correct or modify a sentence if the interest of justice so requires. N.B.S. 170.555.

Supporting FACTS (Tell your story briefly without citing cases or law.): A presumption of vindictiveness, the sentence was disproportionate excessive, See Pearce 395 U.S. 725. However, He was misadvised about life time supervision concerning parole eligibility. See Beavers v. Saffly 216 F.3d 925. Requires an evidentiary hearing See US v Herrera 412 577 (5th Cir. 2005)

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes \_\_\_ No ☒

If yes, state what court and the case number: \_\_\_\_\_

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

WASHOE P.D.C.

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?

Yes \_\_\_ No ☒

If yes, specify where and when it is to be served, if you know: \_\_\_\_\_

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: Reopen Sentencing

Supporting FACTS (Tell your story briefly without citing cases or law.): to re instate his original

plea offer over, 4- to - 10 years, N.D.C.

See, U.S.V. Pettiford 101 F.3d 199-200-202 (1st

Cir. 1996) (1999 U.S. App. Lexis 8), U.S.V. Cox 83

F.3d 330-339-340 (10th Cir. 1996)

(b) Ground two: Sentencing Hearing

Supporting FACTS (Tell your story briefly without citing cases or law.): the guilty plea is invalid

counsel made no tactical decision to inves-

tigate. See Baughillan v. Collins 907 F.2d 589

592 (1990) 1KEV. OK 105 Set 1087.

The delay is not the fault of the petitioner  
 N.B.S. 34.726, because he is pleading  
 without counsel, N.B.S. 34.750.

(c) Ground three: 1. A.C. and a conflict of  
interest of Counsel, the P.D.O.

Supporting FACTS (Tell your story briefly without  
 citing cases or law.): Counsel failed to inform delo  
he had a right to withdraw his plea for any  
fair and just reason before and after his  
sentencing, he should have proceeded to  
trial, there was no investigation counsel  
never prepared for trial, See U.S.V. Hilde  
117 S.Ct 1020 (9th Cir. 1997) he was misadvised  
Huebler 133 S.Ct 980, it was abuse of  
discretion for the court not to investigate  
into a conflict between Attorney and delo,  
See Cir 59 F.3d 290, U.S.V. Leavy 25 F.3d  
140,

(d) Ground four: 1. A.C. Direct Appeal.

Supporting FACTS (Tell your story briefly without  
 citing cases or law.): his appeal was a fast  
track-2 without merit, See Under 5  
2012 U.S. Lexis 2317, The claims grounds  
for requested relief were not raised in  
direct appeal, See Massaro v. US 123 S.Ct  
1040, The 1. A.C. Claims, the records must be  
developed by an Evid Hearing in H/C, P.C.B.  
proceedings, See Daniels v. State 100 Nev. 579  
(1984), Vazwig v. State 104 Nev. 40 (1988).  
See, because of the complexity of the issues  
He is entitled to a direct appeal, See U.S.V.  
Howell 37 F.3d 1207, 7th Cir. 1994,

WHEREFORE, petitioner prays that the court grant petitioner  
 relief to which he may be entitled in this proceeding.

EXECUTED at Lovelock Correctional Center on the 7 day of  
 the month of June of the year 2020.

Luis Delgado # 1213684  
 Lovelock Correctional Center  
 1200 Prison Road  
 Lovelock, Nevada 89419

Petitioner In Pro Se



State concisely every ground for which you claim that the state court conviction and/or sentence is unconstitutional. Summarize briefly the facts supporting each ground. You may attach up to two extra pages stating additional grounds and/or supporting facts. You must raise in this petition all grounds for relief that relate to this conviction. Any grounds not raised in this petition will likely be barred from being litigated in a subsequent action.

### GROUND 1

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my USCA 5th Amendment right to A Jury Trial, based on these facts:

The guilty plea was a manifest  
injustice, Schlup v. Delo 118 S.Ct. 677, In re  
Winship 90 F.2d 644, Bouley v. U.S.  
523 U.S. 614 (1998). he should have pro-  
ceeded to trial. A defd is intitled to a  
theory of innocents no matter how incredible  
Harris 799 P.2d 1104, At the time the defd  
had insisted on going to trial, See Molina  
v. State 120 Nev. 185 (2004).

Exhaustion of state court remedies regarding Ground 1:



unconstitutional. Summarize briefly the facts supporting each ground. You may attach up to two extra pages stating additional grounds and/or supporting facts. You must raise in this petition all grounds for relief that relate to this conviction. Any grounds not raised in this petition will likely be barred from being litigated in a subsequent action.

### GROUND 2

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my

9th, 14th Amendment right to Counsel,  
based on these facts:

The court counsel failed to make object-  
ions to his, P.D. See Shields v. State 97 Nev  
472 (1981). The petitioner had previously dis-  
missed the Washoe P.D., regardless they did  
appoint another P.D. from the same office, See  
U.S. v. Cronis 107 Sct 2039 (1984). he then  
filed his own petition to withdraw his  
guilty plea in prison, without counsel  
See Harris v. State 329 P.2d 619 (2014)

#### Exhaustion of state court remedies regarding Ground 2:

- ▶ Direct Appeal:



extra pages stating additional grounds and/or supporting facts. You must raise in this petition all grounds for relief that relate to this conviction. Any grounds not raised in this petition will likely be barred from being litigated in a subsequent action.

### GROUND 3

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my

14th.

Amendment right to Due Process.

based on these facts:

His guilty plea was not knowingly,  
voluntarily or an intelligent decision

on behalf of defd. See U.S.V. Von 122 Sct 10

43, regardless of the unseen collateral

consequences, we question the validity

of the plea and proceedings, Bryant v

State 102 Nev. 208, (1986) The decision

process included the disclosure of all the

facts "Brady" favorable. See Kyles v Whitly

115 Sct 1555. It denied access to relevant

information.

**Exhaustion of state court remedies regarding Ground 3:**

► **Direct Appeal:**

Did you raise this issue on direct appeal from the conviction to the Nevada Supreme Court?

John Doe  
(Name of person who wrote this  
complaint if not Plaintiff)

L  
(Signature of Plaintiff)  
6/7/2020  
(Date)

Pro Se  
(Signature of attorney, if any)

\_\_\_\_\_  
(Attorney's address & telephone number)

### DECLARATION UNDER PENALTY OF PERJURY

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.**  
See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Executed at LCC of NDOC on 6/7/2020.  
(Location) (Date)

L  
(Signature)

1213684  
(Inmate prison number)

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing Petition For A writ of Habeas Corpus to the below address(es) on this 7 day of June, 2020, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Attorney General

Ste 3900

555 E. Washington Ave

LV.. Nev. 89101.

[Signature] #  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

✓ In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding Petition for a writ of H/C. filed in District Court Case No. \_\_\_\_\_ does not contain the social security number of any person.

Dated this 7 day of June, 2020.

[Signature]  
✓ In Pro Se

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-06-10 15:40:25.439.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-06-10 15:40:25.49.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-06-10 15:40:25.577.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-06-10 15:40:25.465.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE SCOTT N. FREEMAN

Official File Stamp:

06-10-2020:15:39:25

Clerk Accepted:

06-10-2020:15:39:52

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

Document(s) Submitted:

Pet Writ Habeas Corpus

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

Inmate No. 1213684

Leave to File

IN THE 2nd JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF Washoe

Lerigi Delgado

Petitioner,

vs.

STATE OF NEVADA, et al

Respondent.

Case No. CR18-1654

EX PARTE MOTION FOR  
APPOINTMENT OF COUNSEL  
AND REQUEST FOR EVIDENTIARY  
HEARING NRS 34.390(1)

COMES NOW Petitioner Mr. Delgado, in Proper Person, and moves this Court  
for its order allowing the appointment of counsel for Petitioner and for evidentiary hearing. This  
motion is made and based in the interest of justice. Gebers v State 118 Nev. 500

Pursuant to NRS 34.750(1),

A petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. If the court is satisfied that the allegation of indigency is true and the petitioner is not dismissed summarily, the court may appoint counsel to represent the petitioner. In making its determination, the court may consider, among other things, the severity of the consequences facing the petitioner and whether:





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Attorney General Ste 3900  
555 E. Washington Ave  
L.V.. Nev.

89101

In Pro Se

21  
22  
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25  
26  
27  
28

Dated this 9 day of June, 2020.

V4. 542

Virgi Lopez Delgado

#1263684

LoveLock CC

1200 Prison Road

LoveLock NV 89419

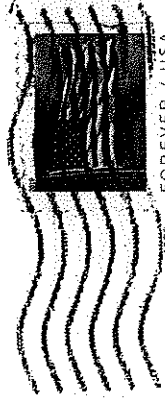
RECEIVED  
JUN 11 2020  
MAIL DESK

INMATE LEGAL  
MAIL CONFIDENTIAL

8950131982

RENO NV 895

09 JUN 2020 PM 2 T

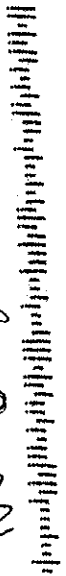


Clerk of The Court

2nd J.D.C

75 Court St

RENO NV 89501



**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-06-11 16:17:41.956.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-06-11 16:17:42.008.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-06-11 16:17:42.056.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-06-11 16:17:41.982.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE SCOTT N. FREEMAN

Official File Stamp:

06-11-2020:16:13:43

Clerk Accepted:

06-11-2020:16:17:09

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

In The 2nd J.D.C.

FILED

2

2020 JUN 22 AM 9:01

3

Luigy Delgado

Petitioner Pro Se

JACQUELINE BRYAN  
CLERK OF COURT  
CR-18-10551

V

Dept 3

4

The State of Nevada

N.B. Civ. P.O.(O).

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Respondents

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Supplemental Points and Authorities in Support

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Herein the petitioner has challenged the

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proceeding and the Court D.A. may Vacate J.O.C.

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and reinstate the original plea after Sec.

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US v. Howard 381 F.3d 873 (9th Cir. 2004)

11

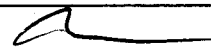
More v. Czerniak 534 F.3d 1128 (9th  
Cir 2008).

12

This true and correct N.B. 2008 105

13

June 15, 2020



14

15

Case No. CR18-1654

Dept. No. 2

IN THE 2nd JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Washoe

\* \* \* \* \*

Luigy Delgado, )

Petitioner, )

-vs- )

State of Nevada, )

Respondent. )

Leave to File

**MOTION FOR APPOINTMENT  
OF COUNSEL**

COMES NOW Petitioner, Luigy Delgado, in pro se,  
and moves the Court for an order appointing counsel in the  
instant petition for writ of habeas corpus (post-conviction).

This motion is made and based upon NRS 34.750; all papers,  
pleadings and documents on file herein; and the points and  
authorities below. Wright v. West 505 U.S. 272-285  
90 (1992).

**POINTS AND AUTHORITIES**

Petitioner is unable to afford counsel. See *Application to  
Proceed In Forma Pauperis* on file herein.

The substantive issues and procedural requirements of this  
case are difficult and incomprehensible to Petitioner.

Petitioner, due to his incarceration, cannot investigate,  
take depositions or otherwise proceed with discovery herein.

Petitioner's sentence is: T.B.D.

CONCLUSION

For the reasons set forth above, the Court should appoint counsel to represent Petitioner in and for all further proceedings in this habeas corpus action.

Dated this 26<sup>th</sup> day of June, 2020.

Luis Lopez Delgado # 1213680  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Petitioner In Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing Motion For Court Order and MOTION FOR APPOINTMENT OF COUNSEL to the below address on this 26<sup>th</sup> day of June, 2020, by placing same in the U.S. Mail via prison law library staff:

The Attorney General  
Ste 2900,  
555 E. Washington Ave  
L.V. Nev. 89101.  
Attorney For Respondent

Luis Lopez Delgado  
Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR APPOINTMENT OF COUNSEL DOES not contain the social security number of any person.

Dated this 26<sup>th</sup> day of June, 2020.

Luis Lopez Delgado  
Petitioner In Pro Se

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-07-01 16:03:42.718.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-01 16:03:42.768.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-01 16:03:42.813.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-07-01 16:03:42.743.



\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-01-2020:16:02:37

**Clerk Accepted:**

07-01-2020:16:03:10

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Application Appoint Counsel

**Filed By:**

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

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-

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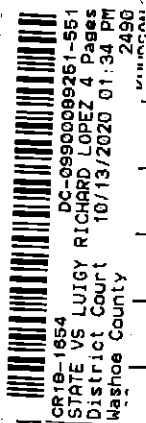
KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):



In The 2nd J.D.C. Nevada

**FILED**

OCT 13 2020

JACQUELINE BRYANT, CLERK  
By: *[Signature]*  
DEPUTY CLERKLuiy L Delgado Pro Se  
Petitioner

V

Case No. CR18-1054

State of Nevada

Respondent's

Deputy

Motion for A Status  
Check

Comes now the above requests

and update, that the Court reach, rule

on the merits of his claims, See NAVEICR

V. IYICLA, 718 F.3d 692 (7th Cir. 2013)

True and Correct NRS 208.105.

Luiy Lopez Delgado

October 9th 2020

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing Motion For A Status Check to the below address(es) on this 5th day of October, 2020, by placing same in the U.S. Mail via prison law library staff, pursuant to FRCP 5(b):

Attorney General  
Ste 39010  
455 E Washington  
St.  
L.V., Nevada 89101

Attorney For \_\_\_\_\_

( ) Check for Additional Addresses Below

Luis Lopez Delgado # 0213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

\_\_\_\_\_/ In Pro Se

ADDRESS(ES) Continued from Above (If Applicable):

\_\_\_\_\_, Nevada 89

Attorney For \_\_\_\_\_

\_\_\_\_\_, Nevada 89

Attorney For \_\_\_\_\_

\_\_\_\_\_, Nevada 89

Attorney For \_\_\_\_\_

In The 2nd J.D.C.  
For Reno Nevada

Luisy Delgado Pro Se CB181054  
Petitioner Dept. 9.

v.

State of Nevada "et al" N.A.S. 34.185


### Supplement Brief

Comes Now the petitioner pleading before the Honorable Chief Judge Scott Freeman, further examination, See mental instability, Beuchillon v. Collins 907 F.2d 589-592 (1990), Thomas v. Leckhart 738 F.2d 304 (1984). The plea is not valid (a manifest injustice See, Ake v. Ok, 105 Sct 1087 in support.

Respectfully,

True and Correct N.A.S. 208 105

10/6/2020

  
Luis Lopez Delgado

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing Supplement Brief to the below address(es) on this 6 day of October, 2020, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Attorney General  
Civil Criminal Dev Ste 3900  
555 E. Washington Ave  
L.V. Nev.

89101.

Luis Lopez Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

✓ In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding The Supplement Brief filed in District Court Case No. CR181054 does not contain the social security number of any person.

Dated this 6 day of October, 2020.

Luis Lopez Delgado

✓ In Pro Se

In The 2nd J.D.C.  
For, Reno Nevada

Luigy Delgado Pro Se CR1810654  
Petitioner Dept. 9.

v.  
State of Nevada "et al" N.R.S. 34.185

### Supplement Brief

Comes Now the petitioner pleading before the Honorable Chief Judge Scott Freeman, further examination, See mental instability, Bouchillon v. Collins 907 F2d 589-592 (1990); Thomas v. Lockhart 738 F2d 304 (1984). The plea is not valid (a manifest injustice See, Ake v. Ok, 105 Sct 1087 in support.

Respectfully,

True and Correct N.R.S. 208.105

10/6/2020

Luigi Lopez Delgado

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing Supplement Brief to the below address(es) on this 6 day of October, 2020, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Attorney General  
Civil Criminal Dev Ste 3900  
555 E. Washington Ave  
L.V. Nev.

89101.

Luis Lopez Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

✓ In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding The Supplement Brief filed in District Court Case No. CA181054 does not contain the social security number of any person.

Dated this 6 day of October, 2020.

Luis Lopez Delgado

✓ In Pro Se

1 Case No. CR181654  
2 Dept. No. 9

3  
4  
5  
6 IN THE 2nd JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF Washoe.

8 \* \* \* \* \*

9 Luigy Delgado, )  
10 Pro Se, )  
11 -vs- )  
12 State of Nevada, )  
13 "et al". )  
14

REQUEST FOR SUBMISSION  
OF MOTION

15 It is requested that the Supplement Brief  
16 N.R.A.P. 28, be reviewed on the merits  
17 which was filed on the 19th day of Oct, 2020, in  
18 the above-entitled matter, be submitted to the Court for  
19 decision.

20 Dated this 19 day of Oct, 2020.

21  
22 Luigi Lopez Delgado # 1213684  
23 Lovelock Correctional Center  
24 1200 Prison Road  
Lovelock, Nevada 89419

25 ✓ In Pro Se  
26  
27  
28



CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing REQUEST FOR SUBMISSION OF MOTION to the below address(es) on this 19 day of Oct, 2020, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Att. Gen. Ste. 3900  
Criml Civl Div.  
555 E. Washington Ave  
L.V. ... Nev.

89101

Luigi Lopez Delgado # 1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

✓ In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding REQUEST FOR SUBMISSION OF MOTION does not contain the social security number of any person.

Dated this 19 day of Oct, 2020.

Luigi Lopez Delgado

✓ In Pro Se

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2020-10-26 08:16:15.762.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-10-26 08:16:15.81.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-10-26 08:16:15.849.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2020-10-26 08:16:15.786.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

10-26-2020:08:15:06

**Clerk Accepted:**

10-26-2020:08:15:44

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Supplemental ...  
Request for Submission

**Filed By:**

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 CODE: 3060

2  
3  
4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
5 IN AND FOR THE COUNTY OF WASHOE

6  
7 LUIGY RICHARD LOPEZ-DELGADO,

Case No.: CR18-1654

Dept. No.: 9

8 Petitioner,

9 v.

10 THE STATE OF NEVADA,

11 Respondent.  
12

13 **ORDER (1) DIRECTING THE STATE TO RESPOND**

14 **(2) GRANTING MOTION FOR APPOINTMENT OF COUNSEL**

15 On June 10, 2020, Petitioner LUIGY RICHARD LOPEZ-DELGADO, filed a *Petition for*  
16 *Writ of Habeas Corpus Post-Conviction*. Petitioner thereafter filed an *Ex Parte Motion for*  
17 *Appointment of Counsel and Request for Evidentiary Hearing* June 11, 2020. On June 22, 2020,  
18 Petitioner filed a *Supplemental Brief*. Petitioner filed a subsequent *Motion for Appointment of*  
19 *Counsel* July 1, 2020. On October 13, 2020, Petitioner filed a *Motion for Status Check*. Finally,  
20 Petitioner filed a second *Supplemental Brief* which was filed and submitted October 26, 2020.

21 First, the Court addresses Petitioner's *Motion for Appointment of Counsel*. Pursuant to NRS  
22 34.750(1), a court has discretion to appoint post-conviction counsel if the "court is satisfied that the  
23 allegation of indigency is true" and upon consideration of the following factors: whether "(a) [t]he  
24 issues presented are difficult; (b) [t]he petitioner is unable to comprehend the proceedings; or (c)  
25 [c]ounsel is necessary to proceed with discovery." Upon consideration of the motions submitted,  
26 the Court finds that the issues presented in Petitioner's case satisfies the requirements of NRS  
27 34.750(1)(a). Accordingly, the *Motion for Appointment of Counsel* is GRANTED.

28 ///

1 Accordingly, and good cause appearing, the Court's order is as follows:

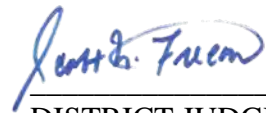
2 IT IS ORDERED, pursuant to NRS 34.750(1), Petitioner's *Motion for Appointment of*  
3 *Counsel* is GRANTED and the above-entitled matter is referred to Krista Meier, Esq.,  
4 Administrator of the Court Appointed Counsel, for the appointment of counsel to represent  
5 Petitioner in this matter.

6 IT IS FURTHER ORDERED that Petitioner's counsel shall have forty-five (45) days from  
7 the date the counsel is appointed to supplement said petition.

8 IT IS FURTHER ORDERED that Respondent shall have sixty (60) days after the date of  
9 receiving the Petitioner's supplement to answer or otherwise respond to said supplement.  
10 Respondent shall then submit the matter to the Court for consideration.

11 IT IS SO ORDERED.

12 DATED: this 4<sup>th</sup> day of January, 2021.

13   
14 \_\_\_\_\_

DISTRICT JUDGE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 4<sup>th</sup> day of January, 2021, I deposited for mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

[NONE]

Further, I certify that on the 4<sup>th</sup> day of January, 2021, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA  
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA  
KRISTA MEIER, ESQ.  
DIV. OF PAROLE & PROBATION  
MARC PICKER, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)



---

Judicial Assistant

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-01-04 10:42:32.971.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-01-04 10:42:33.071.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-01-04 10:42:33.11.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-01-04 10:42:33.133.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-01-04 10:42:33.048.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-04-2021:10:41:28

**Clerk Accepted:**

01-04-2021:10:42:03

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Ord Appointing Administrator

**Filed By:**

Judicial Asst. BWard

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):



CODE No. 3860  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR18-1654

LUIGY RICHARD LOPEZ-DELGADO,  
Defendant.

Dept. No. 9

\_\_\_\_\_ /

REQUEST FOR SUBMISSION

It is requested that the Motion to Vacate a J.O.C. and Withdraw a Guilt Plea, filed on  
May 13, 2020, be submitted to the Court for decision.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the  
social security number of any person.

DATED: February 1, 2021.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on February 1, 2021, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Luigi Lopez-Delgado #1213684  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-02-01 11:50:16.16.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-02-01 11:50:16.379.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-02-01 11:50:16.422.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-02-01 11:50:16.447.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-02-01 11:50:16.276.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

02-01-2021:11:46:27

**Clerk Accepted:**

02-01-2021:11:49:41

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Kevin Naughton

You may review this filing by clicking on the following link to take you to your cases.

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**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 CODE 2715  
2  
3  
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6  
7 IN AND FOR THE COUNTY OF WASHOE

8 LUIGY RICHARD LOPEZ-DELGADO,

9 Petitioner,

10 vs.

Case No.: CR18-1654

11 THE STATE OF NEVADA,

Dept. No. 9

12 Respondent.  
-----/

13 **RECOMMENDATION AND ORDER APPOINTING COUNSEL**  
14 **(Post-Conviction)**

15 The Petitioner, having been granted Forma Pauperis Status and pursuant to the Order of  
16 the Chief District Court Judge Scott N. Freeman, which was filed on January 4, 2021, this  
17 Administrator makes the following recommendations:

18 IT IS HEREBY RECOMMENDED that Orrin J.H. Johnson, Esq., be appointed to  
19 represent Petitioner in his Petition for Writ of Habeas Corpus (Post-Conviction), and that  
20 counsel be paid pursuant to NRS 7.115 through NRS 7.165 by the State Public Defender in an  
21 amount recommended by this Administrator and then approved by the Court.

22 IT IS FURTHER RECOMMENDED that Petitioner's counsel shall have ten (10) days  
23 from the date of the Court's Order to designate what portions of the Court file counsel requests  
24 be provided to him by the Clerk of the Court.  
25  
26

1 IT IS FURTHER RECOMMENDED that newly appointed counsel shall be placed as  
2 attorney of record in Case Number CR18-1654.

3 IT IS FURTHER RECOMMENDED that counsel have forty-five (45) days from the  
4 date of the receipt of record to either supplement the Petition for Writ of Habeas Corpus or to  
5 file a Notice indicating that the original Petition should stand as filed.

6 IT IS FURTHER RECOMMENDED that the State of Nevada should be ordered to  
7 respond to Petitioner within sixty (60) days from the date of filing and service of either the  
8 Petition to Supplement or Petitioner's Notice of Non-Supplementation.

9 **Affirmation pursuant to NRS 239B.030**

10 The undersigned hereby affirms that the preceding document does not contain the  
11 Social Security Number of any person.

12 Dated this 12th day of February, 2021.

13 \_\_\_\_\_/S/Krista Meier\_\_\_\_\_  
14 KRISTA MEIER, ESQ.  
15 APPOINTED COUNSEL ADMINISTRATOR

16 **ORDER APPOINTING COUNSEL FOR POST-CONVICTION**

17 Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial  
18 District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of  
19 justice, IT IS HEREBY ORDERED that the recommendations of the Administrator are  
20 confirmed, approved and adopted. As such, Orrin J.H. Johnson shall be appointed to represent  
21 Petitioner on his Petition for Writ of Habeas Corpus (Post-Conviction), and Counsel shall be  
22 paid by the State Public Defender's Office.

23 DATED this 24<sup>th</sup> day of February, 2021.

24   
25 \_\_\_\_\_  
26 CHIEF DISTRICT JUDGE

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-02-24 08:28:20.481.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-02-24 08:28:20.763.

**ORRIN JOHNSON,  
ESQ.** - Notification received on 2021-02-24 08:28:21.006.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-02-24 08:28:20.978.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-02-24 08:28:20.734.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-02-24 08:28:20.705.

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**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

02-24-2021:08:25:51

**Clerk Accepted:**

02-24-2021:08:27:52

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Ord Appointing Counsel

**Filed By:**

Judicial Asst. BWard

You may review this filing by clicking on the following link to take you to your cases.

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)



**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-03-02 11:11:29.296.

**KRISTA MEIER, ESQ.** - Notification received on 2021-03-02 11:11:29.381.

**ORRIN JOHNSON, ESQ.** - Notification received on 2021-03-02 11:11:29.439.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-03-02 11:11:29.41.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-03-02 11:11:29.355.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-03-02 11:11:29.325.

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-

A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE SCOTT N. FREEMAN

Official File Stamp:

03-02-2021:11:03:05

Clerk Accepted:

03-02-2021:11:10:53

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Orrin Jeffrey Harris Johnson

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-

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-03-11 07:45:03.129.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-03-11 07:45:03.223.

**ORRIN JOHNSON,  
ESQ.** - Notification received on 2021-03-11 07:45:03.276.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-03-11 07:45:03.249.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-03-11 07:45:03.195.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-03-11 07:45:03.156.

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PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

03-10-2021:19:39:21

**Clerk Accepted:**

03-11-2021:07:44:35

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Notice

**Filed By:**

Krista Meier, Esq.

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MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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

LUIGY RICHARD LOPEZ-DELGADO,

Petitioner,

vs.

Case No. CR18-1654

STATE OF NEVADA,

Dept. No. 9

Respondent.  
-----/

**ORDER APPROVING ATTORNEY'S FEES**  
**(Post-Conviction)**

Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of justice, IT IS HEREBY ORDERED that the recommendations of the Administrator are hereby confirmed, approved and adopted as to the amount of \$400.00. This amount may not be the same as the Administrator's recommendation. Counsel is notified that he may request a prove-up hearing for any non-approved amounts before the Chief Judge of the District.

Counsel, Orrin J.H. Johnson, shall be reimbursed by the State of Nevada Public Defender's Office attorney fees in the amount of \$400.00.

DATED this 24<sup>th</sup> day of March, 2021.

  
\_\_\_\_\_  
CHIEF DISTRICT JUDGE



**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-03-24 12:54:28.218.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-03-24 12:54:28.312.

**ORRIN JOHNSON,  
ESQ.** - Notification received on 2021-03-24 12:54:28.498.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-03-24 12:54:28.339.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-03-24 12:54:28.286.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-03-24 12:54:28.26.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

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**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

03-24-2021:12:51:25

**Clerk Accepted:**

03-24-2021:12:53:57

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Ord Approving

**Filed By:**

Judicial Asst. BWard

You may review this filing by clicking on the following link to take you to your cases.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 CODE: 3370

2

3

4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

5 IN AND FOR THE COUNTY OF WASHOE

6

7 THE STATE OF NEVADA,

Case No. CR18-1654

Dept. No. 9

8 Plaintiff,

9 vs.

10 LUIGY RICHARD LOPEZ-DELGADO

11 Defendant.

12 \_\_\_\_\_/

13 **ORDER**

14 The Court is in receipt of Defendant, LUIGY RICHARD LOPEZ-DELGADO's (hereafter

15 "Defendant") *Motion to Vacate a J.O.C. and Withdraw a Guilt [sic] Plea* filed on May 13, 2020.

16 Plaintiff, THE STATE OF NEVADA (hereafter "Plaintiff") filed an *Opposition to Motion to Vacate*

17 *a J.O.C. and Withdraw a Guilt [sic] Plea* on May 22, 2020. That motion was submitted to the Court

18 for its review on February 1, 2021.

19 A review of the record reveals that on January 4, 2021, this Court entered an *Order (1)*

20 *Directing the State to Respond and (2) Granting Motion for Appointment of Counsel*. Further

21 review reveals an *Order Appointing Counsel* was filed on February 24, 2021. Pursuant to this

22 Courts *January Order*, Defendant's counsel shall have forty-five (45) days from the date counsel

23 was appointed to supplement Defendant's pending petition for habeas corpus. This Court further

24 ordered that the State shall have sixty (60) days after the date of receiving Defendant's supplement

25 to answer or otherwise response to said supplement.

26 ///

27 ///

28 ///


1           Upon review of the pending motion, it appears Defendant is seeking relief that can only be  
2 granted in a post-conviction petition for a writ of habeas corpus. As such, the Court finds it  
3 appropriate to reserve its ruling on the pending motion until the petition for habeas corpus has been  
4 fully briefed and submitted to this Court for review.

5           As such, and good cause appearing, Defendant, LUIGY RICHARD LOPEZ-DELGADO's  
6 *Motion to Vacate a J.O.C. and Withdraw a Guilt [sic] Plea* is HEREBY HELD IN ABEYANCE  
7 until Defendant's petition for habeas corpus has been fully briefed and submitted to this Court for  
8 review.

9           IT IS FURTHER ORDERED that upon submission of Defendant's petition for habeas  
10 corpus, the State shall resubmit the instant motion to the Court for review pursuant to WDCR 12(4).

11           IT IS SO ORDERED.

12           DATED: this 30<sup>th</sup> day of March, 2021.

13 

14 \_\_\_\_\_  
DISTRICT JUDGE

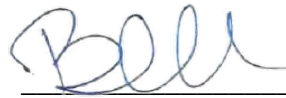
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 30<sup>th</sup> of March, 2021, I deposited for mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Luigi Richard Lopez-Delgado, #1213684  
LCC  
1200 Prison Road  
Lovelock, NV 89419

Further, I certify that on the 30<sup>th</sup> day of March, 2021, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

KRISTA MEIER, ESQ.  
MARC PICKER, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)  
DIV. OF PAROLE & PROBATION  
NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA  
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA  
ORRIN JOHNSON, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)



---

Judicial Assistant

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-03-30 16:01:48.438.

**KRISTA MEIER, ESQ.** - Notification received on 2021-03-30 16:01:48.516.

**ORRIN JOHNSON, ESQ.** - Notification received on 2021-03-30 16:01:48.614.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-03-30 16:01:48.542.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-03-30 16:01:48.49.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-03-30 16:01:48.464.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

03-30-2021:16:00:41

**Clerk Accepted:**

03-30-2021:16:01:17

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Order...

**Filed By:**

Judicial Asst. BWard

You may review this filing by clicking on the following link to take you to your cases.

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-

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

MARC P. PICKER, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)



**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-04-02 11:09:36.286.

**KRISTA MEIER,  
ESQ.** - Notification received on 2021-04-02 11:09:36.381.

**ORRIN JOHNSON,  
ESQ.** - Notification received on 2021-04-02 11:09:36.447.

**KEVIN NAUGHTON,  
ESQ.** - Notification received on 2021-04-02 11:09:36.413.

**DIV. OF PAROLE &  
PROBATION** - Notification received on 2021-04-02 11:09:36.347.

**NICKOLAS  
GRAHAM, ESQ.** - Notification received on 2021-04-02 11:09:36.317.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-1654

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

04-02-2021:10:56:53

**Clerk Accepted:**

04-02-2021:11:08:15

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Ex-Parte Mtn

**Filed By:**

Orrin Jeffrey Harris Johnson

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LOPEZ-DELGADO (TN)

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ORRIN JOHNSON, ESQ. for LUIGI RICHARD  
LOPEZ-DELGADO (TN)

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

ORRIN J. H. JOHNSON, ESQ.  
Nevada State Bar No. 10629  
ALEXANDRA M. DYER, ESQ.  
Nevada State Bar No. 15540  
Orrin Johnson Law  
A Division of Johnson Law Practice  
611 Sierra Rose Drive, Ste. A  
Reno, NV 89511  
(775) 525-2560  
Attorney for Petitioner

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

LUIGY RICHARD LOPEZ-DELGADO,

Petitioner,

v.

THE STATE OF NEVADA,

Respondent.

Case No. CR18-1654

Dept. No. IX

**SUPPLEMENTAL PETITION IN SUPPORT OF  
A WRIT OF HABEAS CORPUS (POST-CONVICTION)**

COMES NOW the Petitioner, LUIGY LOPEZ-DELGADO, by and through his attorney ORRIN J. H. JOHNSON, Esq., and files this SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) in the above-entitled case, where the Respondent is represented by the Washoe County District Attorney's Office.

**Summary of the Argument**

In this case Mr. Lopez-Delgado's attorney failed to adequately investigate by failing to insist that his phone be inspected. Without evidence that Mr. Lopez-Delgado was in possession of child pornography the charge of Possession of Pornography of a Person under 18 could not be sustained. There was insufficient evidence in this case to prove he was in actual possession of child pornography, as only the victim's phone was searched and produced the child pornography. Additionally, Mr. Lopez-Delgado's attorney, Marc Picker, failed to object when the District Attorney breached the guilty plea agreement by arguing in such a way as to obtain a more significant sentence than was bargained for.

1 Finally, on appeal Mr. Lopez-Delgado's attorney failed to argue that the District Attorney's improper  
2 arguments led to a higher sentence.

### 4 Facts and Procedural History

5 On November 27, 2017, a Washoe County Juvenile Probation Officer responded to the Washoe  
6 County Sheriff's Office due to a report that stated a juvenile victim, H.T., had been engaging in  
7 intercourse with a 23-year-old male who was later identified as Luigi Lopez-Delgado. Presentence  
8 Investigation Report (PSI)<sup>1</sup> at pg. 5. H.T. told the probation officer that the two engaged in a sexual  
9 relationship in a recreational vehicle at Mr. Lopez-Delgado's home. PSI at pg. 5. The Probation Officer  
10 was told that H.T.'s uncle found pornographic images on her cell phone. PSI at pg. 5.

11 On December 4, 2017, the Sparks Police Department responded to a report of a runaway from  
12 H.T.'s grandmother. *Id.* She told Sparks Police that her granddaughter ran away after her family  
13 confronted her about have a dating relationship with Mr. Lopez-Delgado. *Id.* While she was talking to  
14 the officers, H.T. returned home. H.T. informed the officers that the two met over a social media  
15 website and had intercourse in an RV but did not provide any other information. *Id.* Later that day, the  
16 grandmother called officers and provided them with Mr. Lopez-Delgado's name. *Id.*

17 On December 11, 2017, H.T. was interviewed by a forensic interviewer at the Washoe County  
18 Child Advocacy Center. *Id.* During the interview, H.T. continued to refuse to identify the person she  
19 had sex with but did explain that they were in a relationship. *Id.* at pg. 6. She said that the two met on  
20 Meet Me, later started talking on private messenger, and then agreed to meet. *Id.* H.T. claimed that  
21 during the first meeting she told Mr. Lopez-Delgado that she was fourteen and they both agreed that the  
22 age difference did not matter. *Id.* She further claimed they had intercourse six to seven times in Mr.  
23 Lopez-Delgado's RV. *Id.*

24 On December 11, 2017, a WCSO detective performed an information extraction on H.T.'s  
25 phone where they found the defendant's Meet Me contact information and the party's conversations. *Id.*

26 However, the detective never looked through Mr. Lopez-Delgado's phone to verify any  
27

28 <sup>1</sup> Due to its confidential nature, the PSI has not been included as an exhibit. It is already part of this court's file, and is hereby incorporated by reference.

1 information that was found, and the handles used on the social media sites were not anyone's true  
2 name. They reviewed conversations which were assumed to be between H.T. and Mr. Lopez-Delgado  
3 from November 8 and 9 where they discussed hanging out, and she sent him a picture of herself  
4 wearing a skirt and a bra. *Id.* The conversations were explicitly sexual in nature. *Id.*

5 On December 12, 2017, a WCSO detective contacted Mr. Lopez-Delgado, who agreed to meet  
6 with the detective at the Washoe County Sheriff's Office. PSI at Pg. 7. During his interview Mr. Lopez-  
7 Delgado said that he did not use any social media sites, dating sites, and had not been in a physical  
8 relationship in over a year. *Id.* He also, denied any knowledge of H.T. and told detectives they would  
9 have to secure a warrant to search his car or RV. *Id.* After the detectives presented photos of the  
10 messages between the parties the defendant invoked his right to counsel. *Id.* DNA from both H.T. and  
11 Mr. Lopez-Delgado was found inside his RV, but no direct evidence was found to suggest he actually  
12 possessed pictures of H.T. during that search. *Id.*

13 After Mr. Lopez-Delgado was arrested, the Washoe County Public Defender's office was  
14 appointed to represent him. At various times he was represented by Deputy Public Defenders Jennifer  
15 Mayhew, Emilie Meyer, Jay Slocum, and Lynn Branzell. Ex. B. On November 29, 2018, a *Young*  
16 hearing was held which determined that there was a conflict of interest between Mr. Lopez-Delgado,  
17 Mr. Slocum, and Ms. Branzell. Following this hearing, Washoe County Alternate Public Defender  
18 Marc Picker was appointed to represent Mr. Lopez-Delgado. Ex. D.

19 Ultimately, the parties entered into a guilty plea agreement prior to sentencing which stipulated  
20 to Mr. Lopez-Delgado pleading guilty to counts II, IV, and VI. The parties both stipulated in the Guilty  
21 Plea Memo to recommend a sentence of 48-120 months on Count II, 28-72 months on Count IV, and  
22 48-120 months on Count VI, with a stipulated recommendation that all sentences run concurrent to one  
23 another. Ex. F. at 1-2.

24 At sentencing, Deputy District Attorney Nickolas Graham began arguing so vehemently that  
25 Judge Polaha had to ask if he would be sticking with the guilty plea memorandum. Ex. G at 5:22-23.  
26 Judge Polaha made it clear that he was inclined to impose a higher sentence than what was agreed to by  
27 the parties. *Id.* at 6:9. Although Mr. Graham said that, he thought 4-10 years was the appropriate  
28 sentence and then repeatedly said he was not arguing for anything other than the stipulated sentence, his

1 actual arguments in light of Judge Polaha's comments told a different story. *Id* at 6:2-3; 6:9-11. Mr.  
2 Graham took umbrage with the findings in Mr. Lopez-Delgado's psychosexual evaluation that he was  
3 not a high risk to reoffend. *Id* at 5:16-18. No doubt in part due to those arguments, Mr. Lopez-Delgado  
4 was sentenced to a higher sentence than what was agreed upon, which consisted of 48-120 months  
5 Count II, with a consecutive sentence of 28-72 months Count IV, and an additional concurrent sentence  
6 of 48-120 months. *Id* at 19:23-20:8; see also Exhibits H, I, J, & M

7 On appeal, Mr. Picker raised only one issue, that the district court abused its discretion in  
8 sentencing Mr. Lopez-Delgado. Ex. K at pg. 1. Throughout the appeal Mr. Picker noted that while the  
9 judge has wide discretion with sentencing matters, when deciding an appropriate sentence, the court is  
10 required to consider mitigating factors. *Id* at pg.6. Mr. Picker argued that the court failed to address or  
11 show that it had considered any of the mitigating factors in this case such as Mr. Lopez-Delgado's lack  
12 of criminal history, his age, current employment and significant family support. *Id* at pg. 6. The appeal  
13 did not address any issues with Mr. Graham breaching the guilty plea agreement.

#### 14 Points and Authorities

##### 15 A. Post-Conviction Generally

16 A claim of ineffective assistance of counsel presents a mixed question of law and fact, subject to  
17 independent review. *Foster v. State*, 121 Nev. 165, 168 (2005) (internal citations omitted).

18 To prevail on a claim of ineffective assistance of counsel, a claimant must make two showings.  
19 *Id.*, citing *Strickland v. Washington*, 466 U.S. 668, 687, 140 S. Ct. 2052 (1984). First, a claimant must  
20 show that counsel's performance was deficient (i.e., that counsel's representation fell below an  
21 objective standard of reasonableness). *Id.* The inquiry on review must be whether, in light of all the  
22 circumstances, counsel's assistance was reasonable. *Id.* A habeas corpus petitioner must prove the  
23 disputed factual allegations underlying her ineffective assistance of counsel claims by a preponderance  
24 of the evidence. *Id.*

25 Second, a claimant must show that counsel's deficient performance prejudiced the defense. *Id.*  
26 Specifically, the claimant must show that there is a reasonable probability that, but for counsel's  
27 unprofessional errors, the result of the proceeding would have been different. *Id.* A reasonable  
28 probability is a probability sufficient to undermine confidence in the outcome. *Id.*



Judicial review of counsel's representation is highly deferential. *Id.* To fairly assess counsel's performance, the reviewing court must try to avoid the distorting effects of hindsight and evaluate the conduct under the circumstances and from counsel's perspective at the time. *Id.* at 1087. A district court's purely factual findings regarding a claim of ineffective assistance of counsel are entitled to deference on review by the appellate court. *Id.*

*Strickland* dictates that the evaluation begins with the strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance. *Means v. State*, 120 Nev. 1001, 1011 (2004) (internal quotations omitted). The defendant must overcome the presumption that, under the circumstances, the challenged action might be considered sound strategy. *Id.*

"A defendant who pleads guilty upon the advice of counsel may attack the validity of the guilty plea by showing that he received ineffective assistance of counsel under the Sixth Amendment to the United States Constitution." *Nollette v. State*, 118 Nev. 341, 348-49 (2002), see also *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (holding that *Strickland v. Washington's* two-part test applies to challenges of guilty pleas based on ineffective assistance of counsel). As noted above, claims of ineffective assistance of counsel are reviewed under the two-part test established in *Strickland v. Washington*, *supra*. Under *Strickland*, the defendant has the burden of showing that his counsel's performance a) fell below an objective standard of reasonableness, and b) that the deficient conduct prejudiced the defendant. *Molina v. State*, 120 Nev. 185, 190 (2004). To establish prejudice in the context of a challenge to a guilty plea based on ineffective assistance of counsel, a defendant must "demonstrate a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Kirksey v. State*, 112 Nev. 980, 988 (1996) (quoting *Hill*, 474 U.S. at 59).

*B. Trial counsel failed to adequately investigate by failing to insist on an inspection of Lopez-Delgado's phone, without which the child pornography charges could not be sustained.*

In 2008, the Nevada Supreme Court promulgated indigent defense standards as part of a wider effort to improve criminal defense services. Among those standards were guidelines with respect to a defense attorney's obligation to independently investigate his client's case:

Counsel at every stage has an obligation to conduct an appropriate and independent

investigation relating to the issues of both guilt and penalty.

1. The investigation regarding guilt should be conducted regardless of any admission or statement by the client concerning the facts of the alleged crime, or overwhelming evidence of guilt, or any statement by the client that evidence bearing upon guilt is not to be collected or presented.
2. The investigation regarding penalty should be conducted regardless of any statement by the client that evidence bearing upon penalty is not to be collected or presented.

ADKT 411 Exhibit A, Standard 2-9(a).

The Supreme Court has found counsel to be legally ineffective where the alleged victim of a crime was not investigated prior to trial, and where the attorney failed to present adequate witnesses during sentencing. *Warner v. State*, 102 Nev. 635, 637 (1986).

Obviously, the exact parameters of the obligation to conduct one's own investigation as a defense attorney depends very much on the individual case. Often, victims of crime may not be willing or able to be interviewed by the defense team, or the interviews/investigations were so thorough by investigating officers that an additional interview would be futile. This, however, is not such a case.

In this case counsel did not conduct an appropriate and independent investigation by failing to insist on an inspection of Mr. Lopez-Delgado's phone. Counsel made no effort to insist upon this or complete an independent investigation.

Throughout the PSI, conversations that allegedly occurred between H.T. and Mr. Lopez-Delgado were referenced. At the beginning of the PSI the detectives stated that they received this information from H.T.'s phone and social media websites. Additionally, they mentioned that H.T.'s uncle found pornographic images on her phone. PSI at pg. 5. Nowhere in the PSI did the detectives reference anything on Mr. Lopez-Delgado's phone. The two-way conversations and pictures were never found on Mr. Lopez-Delgado's phone, they were only found on H.T.'s phone and Facebook. *Id* at pg. 6.

To establish guilt under NRS. 200.730.1, the State must prove that a person knowingly, willfully, and unlawfully has in his possession for any purpose film, photograph, or other visual presentation depicting a person under 16 as the subject of sexual portrayal or engaging in or simulating or assisting others to engage in or simulate sexual conduct. The second amended information stated that the defendant possessed nude photographs of H.T. who was under the age of 18 at the time the photograph was taken. Ex E at pg. 3. However, there was no direct evidence that Mr. Lopez-Delgado

1 was in possession of any photos. Pursuant to the Rule of Lenity, criminal statutes are interpreted  
2 liberally, and any ambiguities or inconsistencies are construed in favor of a defendant, and that certainly  
3 applies to the law of possession. *Mendoza-Lobos v. State*, 125 Nev. 634 (2009).

4 Without actual or constructive possession of the child pornography photos the charges cannot be  
5 sustained. Based on this, Mr. Picker failed to adequately investigate and provide adequate  
6 representation for his client.

7  
8 C. Defense counsel failed to object to the prosecutor's breach of guilty plea agreement.

9 An evidentiary hearing is necessary to determine if a defendant has breached a plea agreement  
10 and if so whether the breach is sufficiently material to warrant releasing the prosecution from its  
11 promises. *Villalpando v. State*, 107 Nev. 465 (1991). Because the defendants' rights are violated when  
12 a plea agreement is violated, the cause of the prosecution's failure to keep its promises is irrelevant. *Id.*

13 When a plea rests in any significant degree on a promise of agreement of the prosecutor so that  
14 it can be said to be part of the inducement or consideration, such promise must be fulfilled.

15 The guilty plea agreement between the parties consisted of Luigi Lopez-Delgado pleading  
16 guilty to the offenses of Count II Statutory Sexual Deduction by a Person Age 21 or Older, Count IV  
17 Possess Visual Pornography of Person Under Age 16 first offense, and count VI Lewdness with a Child  
18 Older than 14. Ex. F.

19 At sentencing, Deputy District Attorney Graham discussed the psychosexual evaluation, Mr.  
20 Lopez-Delgado's likelihood to reoffend, and providing an overview of what happened in the case.  
21 Judge Polaha specifically asked Mr. Graham if he was going to stick with the plea agreement to which,  
22 he answered "yes". Exhibit G 5:13-24. Once it became clear that Judge Polaha was inclined to sentence  
23 more harshly than the State's recommendation, it became the State's obligation to explain why the  
24 lower recommendation was appropriate. Instead, the State aggressively continued to highlight  
25 aggravating factors, which in spite of the protestations of fealty to the original recommendation, clearly  
26 was being used to justify a higher sentence. Although Mr. Graham stated that he felt the 4-10 years was  
27 an appropriate sentence and repeated that he was not arguing for anything other than the stipulated  
28 sentence in this case, he proceeded to touch upon unnecessary facts of the case that went beyond the

scope of the guilty plea agreement. Some of these facts included arguing against the recommendation provided by Parole and Probation and scoffing at the psycho-sexual evaluation findings. *Id.* pg. 5:13-18. Mr. Picker did not object once. Mr. Picker's failure to object to Mr. Graham's breach of the guilty plea agreement amounted to ineffective assistance of counsel.

D. On Appeal, defense counsel failed to argue that the prosecutor's improper arguments led to the higher sentence.

"[A]n attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction." *Lozada v. State*, 110 Nev. 349, 354 (1994). If counsel fails to file an appeal after a convicted defendant makes a timely request, the defendant has traditionally been entitled to the *Lozada* remedy, which consisted of filing a post-conviction petition with assistance of counsel in which the actual appellate claims could be raised. *Id.* Such a claim did not require any showing of merit as to the issues sought to be raised. Rather, it is sufficient to receive the relief contemplated by *Lozada* if a petition shows that he was deprived of his right to a direct appeal without his consent. *Id.* at 357.

The remedy contemplated by *Lozada* has been largely subsumed by recent revisions to the Nevada Rules of Appellate Procedure, although the basis for obtaining relief remains generally the same. Now, under NRAP 4(c), an untimely notice of appeal may be filed if:

- (A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRS 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and
- (B) The district court in which the petition is considered enters a written order containing:
  - (i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;
  - (ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and
  - (iii) directions to the district court clerk to prepare and file – within 5 days of the entry of the district court's order – a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms.

1 NRAP 4(c).

2  
3 The constitutional right to effective assistance of counsel extends to a direct appeal.  
4 *Burke v. State*, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). A claim of  
5 ineffective assistance of appellate counsel is reviewed under the "reasonably effective  
6 assistance" test set forth in *Strickland v. Washington*, 466 U.S. 668, 80 L. Ed. 2d 674,  
7 104 S. Ct. 2052 (1984). Effective assistance of appellate counsel does not mean that  
8 appellate counsel must raise every non-frivolous issue. See *Jones v. Barnes*, 463 U.S.  
9 745, 751-54, 77 L. Ed. 2d 987, 103 S. Ct. 3308 (1983). An attorney's decision not to  
10 raise meritless issues on appeal is not ineffective assistance of counsel. *Daniel v.*  
11 *Overton*, 845 F. Supp. 1170, 1176 (E.D. Mich. 1994); *Leaks v. United States*, 841 F.  
12 Supp. 536, 541 (S.D.N.Y. 1994), *aff'd*, 47 F.3d 1157 (2d Cir.), *cert. denied*, U.S. ,  
13 133 L. Ed. 2d 228, 116 S. Ct. 327 (1995). To establish prejudice based on the  
14 deficient assistance of appellate counsel, the defendant must show that the omitted  
15 issue would have a reasonable probability of success on appeal. *Duhamel v. Collins*,  
16 955 F.2d 962, 967 (5th Cir. 1992); *Heath [v. Jones, 941 F.2d 1126, 1130 (11th Cir.*  
17 *1991), cert. denied, 502 U.S. 1077, 117 L. Ed. 2d 144, 112 S. Ct. 981 (1992)]*, 941  
18 F.2d at 1132. In making this determination, a court must review the merits of the  
19 omitted claim. *Heath*, 941 F.2d at 1132.

20 *Kirksey v. State*, 112 Nev. 980, 998 (1996).

21 While not every non-frivolous claim must be pursued in order to be effective, neither is an  
22 attorney permitted to file a "no-merit" appeal. See *Ramos*, *supra*. "If a defendant insists on continuing  
23 with the appeal, counsel should file a brief that includes all arguable issues and argues defendant's  
24 appeal as well as possible." *Ramos* at 1084.

25 On appeal defense counsel failed to discuss that the State's improper arguments led to a higher  
26 sentence. Judge Polaha stated that he was considering sentencing Mr. Lopez-Delgado to a higher  
27 sentence and following this Mr. Graham proceeded to discuss additional elements of the case that were  
28 unnecessary and went beyond the plea agreement.

29 In the Appellant's opening brief, the only issue that was raised on appeal was that the district  
30 court abused its discretion in sentencing Mr. Lopez-Delgado to 48 to 120 months for Statutory Sexual  
31 Seduction, with a consecutive sentence of 28 to 72 months for Possession of Visual Pornography of a  
32 person under 16, and an additional concurrent sentence of 48 to 120 months for Lewdness with a Child  
33 Older than 14 despite compelling mitigating evidence. Ex. K at pg. 1. The brief discussed mitigating  
34 circumstances such as his lack of criminal history and that the PSI indicated he was a moderate risk to  
35 reoffend. *Id* at pg. 2.

Throughout the entire brief there was no mention of Mr. Graham's statements going beyond the guilty plea memorandum or Mr. Picker's failure to object to the breach of the agreement. While Mr. Graham said he was going to stick with the agreement between the parties he continued to discuss and add in unnecessary facts that clearly were not in favor of providing Mr. Lopez-Delgado with the agreed upon sentence. In fact, the additional elements of the case that were brought up by Mr. Graham seemed to support Judge Polaha's inclination to provide him with a longer sentence. The appeal failed to raise the issue that Mr. Graham went beyond the guilty plea memorandum and that his arguments that were in breach led to a higher sentence.

The prejudice to Mr. Lopez-Delgado is obvious - due to the failure to raise the most meritorious issue on appeal, the Nevada Court of Appeals affirmed the sentence. Ex. M.

### Conclusion

Mr. Lopez-Delgado's counsel failed to object to Mr. Graham's breach of the plea agreement during sentencing and failed to raise on appeal that that breach led to a higher sentence, based on this Mr. Picker's representation amounted to ineffective assistance of counsel.

This court must therefore GRANT the Petition for a Writ of Habeas Corpus, reverse the conviction, and allow Defendant to proceed to trial per his desire throughout this case. Alternatively, Mr. Lopez-Delgado must be resentenced in accordance with the Guilty Plea Memorandum, with the State held to specifically perform on that agreement.

DATED this 8<sup>TH</sup> day of APRIL, 2021.

By: 

ORRIN J. H. JOHNSON, Esq.  
Attorney for the Petitioner  
Nevada Bar No. 10629



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**CERTIFICATE OF SERVICE**

I certify that I am an employee of Johnson Law Practice and that on this 8th day of April, 2021, I caused to be served a copy of the foregoing document, titled: **SUPPLEMENTAL PETITION IN SUPPORT OF A WRIT OF HABEAS CORPUS (POST-CONVICTION)** by electronically filing said document addressed to:

Washoe County District Attorney's Office  
1 South Sierra Street  
Reno, NV 89501

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid via USPS, addressed to:

Luigy Lopez-Delgado, #1213684  
c/o LCC  
1200 Prison Road  
Lovelock, NV 89419



## EXHIBIT INDEX

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- 3 A. Information (September 26, 2018)
- 4 B. Substitution of Counsel between Public Defender's (September 25, 2018)
- 5 C. Amended Information (November 1, 2018)
- 6 D. Order Granting Withdrawal of PD's Office (November 30, 2018)
- 7 E. Second Amended Information (December 11, 2018)
- 8 F. Guilty Plea Memorandum (December 13, 2018)
- 9 G. Sentencing Transcript (March 14, 2019)
- 10 H. Judgment of Conviction (March 15, 2019)
- 11 I. Corrected Judgment of Conviction (March 18, 2019)
- 12 J. Second Corrected Judgment of Conviction (April 8, 2019)
- 13 K. Appellant's Opening Brief (July 22, 2019)
- 14 L. Third Corrected Judgment of Conviction (February 11, 2020)
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**EXHIBIT A**

**EXHIBIT A**

DA #17-14504

WCSO WC17-006416

FILED  
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CR18-1654  
2018-09-26 09:47:26 AM  
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1 CODE 1800  
2 Christopher J. Hicks  
3 #7747  
4 P.O. Box 11130  
5 Reno, NV 89520  
6 (775) 328-3200

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

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No.: CR18-1654

12 v.

Dept. No.: D03

13 LUIGI RICHARD LOPEZ-DELGADO,  
14 also known as  
15 LUIGY RICHARD LOPEZ,  
16 also known as  
17 LUIGI LOPEZ,

18 Defendant.

19 INFORMATION

20 CHRISTOPHER J. HICKS, District Attorney within and for the  
21 County of Washoe, State of Nevada, in the name and by the authority  
22 of the State of Nevada, informs the above entitled Court that LUIGI  
23 RICHARD LOPEZ-DELGADO, also known as LUIGY RICHARD LOPEZ, also known  
24 as LUIGI LOPEZ, the defendant above-named, has committed the crimes  
25 of:

26 ///

///

///

1           COUNT I. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR  
2 OLDER, a violation of NRS 200.368.1, a category B felony, (60323) in  
3 the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
5 between October 1, 2017 and December 13, 2017, within the County of  
6 Washoe, State of Nevada, did willfully and unlawfully, being over 21  
7 years of age, commit an act of statutory sexual seduction with the  
8 person of H.T., who was then and there under the age of 16 years, in  
9 that the said defendant engaged in an act of oral sexual intercourse  
10 with the said H.T. at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe  
11 County, Nevada.

12           COUNT II. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR  
13 OLDER, a violation of NRS 200.368.1, a category B felony, (60323) in  
14 the manner following:

15           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
16 between October 1, 2017 and December 13, 2017, within the County of  
17 Washoe, State of Nevada, did willfully and unlawfully, being over 21  
18 years of age, commit an act of statutory sexual seduction with the  
19 person of H.T., who was then and there under the age of 16 years, in  
20 that the said defendant engaged in an act of vaginal sexual  
21 intercourse with the said H.T. at or near 228 East 8<sup>th</sup> Ave., Sun  
22 Valley, Washoe County, Nevada.

23 ///

24 ///

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1           COUNT III. USE OR PERMIT MINOR, UNDER AGE 18, TO PRODUCE  
2 PORNOGRAPHY, a violation of NRS 200.710.1, a category A felony,  
3 (50368) in the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
5 between October 1, 2017 and December 13, 2017, within the County of  
6 Washoe, State of Nevada, did willfully and unlawfully, use or permit  
7 a minor child of approximately 14 years of age to engage in sexual  
8 conduct to produce a performance and/or pornography, in that the  
9 defendant did have H.T. produce nude photographs of herself, at his  
10 suggestion and had her send them to him.

11           COUNT IV. POSSESS VISUAL PORNOGRAPHY OF PERSON UNDER AGE  
12 16, FIRST OFFENSE, a violation of NRS 200.730.1, a category B felony,  
13 (50374) in the manner following:

14           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
15 between October 1, 2017 and December 13, 2017, within the County of  
16 Washoe, State of Nevada, did knowingly, willfully and unlawfully have  
17 in his possession for any purpose film, photograph or other visual  
18 presentation depicting a person under 16 year as the subject of a  
19 sexual portrayal or engaging in or simulating, or assisting others to  
20 engage in or simulate, sexual conduct, in that the defendant  
21 possessed nude photographs of H.T., who was under the age of 18 at  
22 the time the photograph was taken, 228 East 8<sup>th</sup> Ave., Sun Valley,  
23 Washoe County, Nevada.

24 ///

25 ///

26 ///

1           COUNT V. LEWDNESS WITH CHILD OLDER THAN 14, a violation of  
2 NRS 201.230.3, a category B felony, (58747) in the manner following:

3           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
4 between October 1, 2017 and December 13, 2017, within the County of  
5 Washoe, State of Nevada, did willfully, unlawfully and lewdly commit  
6 any lewd or lascivious act upon or with the body or any body part of  
7 H.T., a female child between the ages of fourteen and sixteen years  
8 at the time the act was committed, in that the defendant penetrated  
9 H.T.'s mouth with his penis, with the intent of arousing, appealing  
10 to, or gratifying the lust, passions, or sexual desires of himself or  
11 the child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
12 Nevada.

13           COUNT VI. LEWDNESS WITH CHILD OLDER THAN 14, a violation of  
14 NRS 201.230.3, a category B felony, (58747) in the manner following:

15           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
16 between October 1, 2017 and December 13, 2017, within the County of  
17 Washoe, State of Nevada, did willfully, unlawfully and lewdly commit  
18 any lewd or lascivious act upon or with the body or any body part of  
19 H.T., a female child between the ages of fourteen and sixteen years  
20 at the time the act was committed, in that the defendant penetrated  
21 H.T.'s vagina with his penis, with the intent of arousing, appealing  
22 to, or gratifying the lust, passions, or sexual desires of himself or  
23 the child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
24 Nevada.

25 ///

26 ///

1           COUNT VII. LURE OR ATTEMPT TO LURE A CHILD WITH THE USE OF  
2           COMPUTER TECHNOLOGY TO ENGAGE IN SEXUAL CONDUCT, a violation of NRS  
3           201.560.4a, a category B felony, (51078) in the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
5           between October 1, 2017 and December 13, 2017, within the County of  
6           Washoe, State of Nevada, did willfully and unlawfully contact and/or  
7           communicate with a child, H.T., who was less than 16 years of age and  
8           who was at least 5 years younger than the defendant, with the intent  
9           to persuade, lure or transport the child away from the child's home  
10          or place where the child is located, without the express consent of  
11          the parent or guardian or other person legally responsible for the  
12          child; and with the intent to avoid the consent of the parent or  
13          guardian or other person legally responsible for the child; with the  
14          intent to solicit, persuade or lure the person to engage in sexual  
15          conduct, to wit: the defendant contacted H.T., who was 14 at the time  
16          he was 24, through Facebook and lured her away from her legal  
17          guardian(s) in order to engage in sexual conduct at or near 228 East  
18          8<sup>th</sup> Ave., Sun Valley, Sparks, Washoe County, Nevada.

19          COUNT VIII. ATTEMPTING TO PREVENT OR DISSUADE A WITNESS  
20          FROM TESTIFYING, a violation of NRS 199.230, a gross misdemeanor,  
21          (52983), in the manner following:

22          That the said defendant on or about the 26th day of  
23          December, 2017, within the County of Washoe, State of Nevada, did  
24          willfully and unlawfully, by persuasion, force, threat, intimidation,  
25          deception or otherwise, and with the intent to obstruct the course of  
26          justice, attempt to prevent or dissuade another person from appearing

1 before any court or evade the process which requires the person to  
2 appear as a witness to testify, to wit: the defendant wrote a  
3 postcard to H.T./Accuser that stated "I am asking for you guys to  
4 help me get these charges dismissed, my whole life and future is on  
5 the line. I have a daughter and was in the process of enrolling in  
6 the military but with these charges I wont be able to. This can ruin  
7 my life and future I am trying to set for my daughter and I. Can you  
8 please not show to court and not make up accusations anymore.  
9 Anything to help get this dismissed. Thank u" from 911 Parr  
10 Boulevard, Washoe County, Nevada.

11 All of which is contrary to the form of the Statute in such  
12 case made and provided, and against the peace and dignity of the  
13 State of Nevada.

14  
15 CHRISTOPHER J. HICKS  
16 District Attorney  
Washoe County, Nevada

17  
18  
19 By: /s/ Nickolas J. Graham  
20 NICKOLAS J. GRAHAM  
10885  
21 DEPUTY DISTRICT ATTORNEY  
22  
23  
24  
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1           The following are the names and addresses of such witnesses  
2 as are known to me at the time of the filing of the within  
3 Information:

4 WILLIAM BRIAN ATKINSON, WASHOE COUNTY SHERIFFS OFFICE, WCSO SPECIAL  
5 OPS 911 PARR BLVD RENO, NV 89512  
6 DENNIS CARRY, WASHOE COUNTY SHERIFFS OFFICE, WCSO DETECTIVES  
7 911 PARR BLVD Reno, NV 89512  
8 ARICK DICKSON, WASHOE COUNTY SHERIFFS OFFICE, WCSO SPECIAL OPS  
9 911 PARR BLVD RENO, NV 89512  
10 MICHAEL IVERS, WASHOE COUNTY SHERIFFS OFFICE, WCCL  
11 911 PARR BLVD Reno, NV 89512  
12 EMMETT FLOREZ,  
13 BRITTNEY ANN CHILTON, WCCL 911 PARR BLVD Reno, NV 89512  
14 JANENE TRUJILLO, 7562 Ulysses Drive Sparks, NV 89436

15                           AFFIRMATION PURSUANT TO NRS 239B.030

16           The party executing this document hereby affirms that this  
17 document submitted for recording does not contain the social security  
18 number of any person or persons pursuant to NRS 239B.030.

19                           CHRISTOPHER J. HICKS  
20                           District Attorney  
21                           Washoe County, Nevada

22                           By: /s/ Nickolas J. Graham  
23                           NICKOLAS J. GRAHAM  
24                           10885  
25                           DEPUTY DISTRICT ATTORNEY

26 PCN: WASO0070047C, WASO0074509C-LOPEZ-DELGADO



**EXHIBIT B**

**EXHIBIT B**

1 CODE 4075  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JAY SLOCUM, #9909  
4 P.O. BOX 11130  
5 RENO, NV 89520-0027  
6 (775) 337-4823  
7 ATTORNEY FOR: DEFENDANT

8  
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
10 IN AND FOR THE COUNTY OF WASHOE  
11

12 THE STATE OF NEVADA,  
13 Plaintiff,

14 vs.

Case No. CR18-1654

15 LUIGI RICHARD LOPEZ-DELGADO, Dept. No. 3  
16 Defendant.  
17 \_\_\_\_\_/

18 **SUBSTITUTION OF COUNSEL WITHIN PUBLIC DEFENDER'S OFFICE**

19 JAY SLOCUM and LYNN BRANZELL, Deputy Public Defenders, hereby  
20 substitutes in as the Deputy Public Defender handling the above-entitled matter on  
21 behalf of the Defendant in place of EMILIE MEYER and JENNIFER MAYHEW,  
22 Deputy Public Defenders. This Substitution of Counsel is being made to comply  
23 with the requirements of District Court Rule 23 and to assure that we will receive  
24 proper e-filing notifications in this case.

25 **AFFIRMATION PURSUANT TO NRS 239B.030**

26 The undersigned does hereby affirm that the preceding document does not  
27 contain the social security number of any person.

28 Dated this 25th day of September, 2018.

JOHN L. ARRASCADA  
Washoe County Public Defender

By /s/JAY SLOCUM  
JAY SLOCUM  
Deputy Public Defender

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I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 25th day of September, 2018, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DEPUTY DISTRICT ATTORNEY

/s/ Wendy Lucero  
WENDY LUCERO

**EXHIBIT C**

**EXHIBIT C**

DA #17-14504

WCSO WC17-006416

FILED  
Electronically  
CR18-1654  
2018-11-01 08:01:31 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6956846 : jalvarez

1 CODE 1800  
2 Christopher J. Hicks  
3 #7747  
4 P.O. Box 11130  
5 Reno, NV 89520  
6 (775) 328-3200

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

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No.: CR18-1654

12 v.

Dept. No.: D03

13 LUIGI RICHARD LOPEZ-DELGADO,  
14 also known as  
15 LUIGY RICHARD LOPEZ,  
16 also known as  
17 LUIGI LOPEZ,

18 Defendant.

19 AMENDED INFORMATION

20 CHRISTOPHER J. HICKS, District Attorney within and for the  
21 County of Washoe, State of Nevada, in the name and by the authority  
22 of the State of Nevada, informs the above entitled Court that LUIGI  
23 RICHARD LOPEZ-DELGADO, also known as LUIGY RICHARD LOPEZ, also known  
24 as LUIGI LOPEZ, the defendant above-named, has committed the crimes  
25 of:

26 ///

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///

1           COUNT I. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR  
2 OLDER, a violation of NRS 200.368.1, a category B felony, (60323) in  
3 the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
5 between October 1, 2017 and December 13, 2017, within the County of  
6 Washoe, State of Nevada, did willfully and unlawfully, being over 21  
7 years of age, commit an act of statutory sexual seduction with the  
8 person of H.T., who was then and there under the age of 16 years, in  
9 that the said defendant engaged in an act of oral sexual intercourse  
10 with the said H.T. at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe  
11 County, Nevada.

12           COUNT II. POSSESS VISUAL PORNOGRAPHY OF PERSON UNDER AGE  
13 16, FIRST OFFENSE, a violation of NRS 200.730.1, a category B felony,  
14 (50374) in the manner following:

15           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
16 between October 1, 2017 and December 13, 2017, within the County of  
17 Washoe, State of Nevada, did knowingly, willfully and unlawfully have  
18 in his possession for any purpose film, photograph or other visual  
19 presentation depicting a person under 16 year as the subject of a  
20 sexual portrayal or engaging in or simulating, or assisting others to  
21 engage in or simulate, sexual conduct, in that the defendant  
22 possessed nude photographs of H.T., who was under the age of 16 at  
23 the time the photograph was taken, 228 East 8<sup>th</sup> Ave., Sun Valley,  
24 Washoe County, Nevada.

25 ///

26 ///

1           COUNT III. LEWDNESS WITH CHILD OLDER THAN 14, a violation  
2   of NRS 201.230.3, a category B felony, (58747) in the manner  
3   following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
5   between October 1, 2017 and December 13, 2017, within the County of  
6   Washoe, State of Nevada, did willfully, unlawfully and lewdly commit  
7   any lewd or lascivious act upon or with the body or any body part of  
8   H.T., a female child between the ages of fourteen and sixteen years  
9   at the time the act was committed, in that the defendant penetrated  
10   H.T.'s mouth with his penis, with the intent of arousing, appealing  
11   to, or gratifying the lust, passions, or sexual desires of himself or  
12   the child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
13   Nevada.

14           All of which is contrary to the form of the Statute in such  
15   case made and provided, and against the peace and dignity of the  
16   State of Nevada.

17  
18                           CHRISTOPHER J. HICKS  
19                           District Attorney  
20                           Washoe County, Nevada

21  
22                           By: /s/ Nickolas J. Graham  
23                               NICKOLAS J. GRAHAM  
24                               10885  
25                               DEPUTY DISTRICT ATTORNEY  
26

1           The following are the names and addresses of such witnesses  
2 as are known to me at the time of the filing of the within  
3 Information:

4 WILLIAM BRIAN ATKINSON, WCSO SPECIAL OPS 911 PARR BLVD RENO, NV  
5 89512  
6 DENNIS CARRY, WCSO DETECTIVES 911 PARR BLVD Reno, NV 89512  
7 ARICK DICKSON, WCSO SPECIAL OPS 911 PARR BLVD RENO, NV 89512  
8 MICHAEL IVERS, \*RETIRED WCCL\* 911 PARR BLVD Reno, NV 89512  
9 EMMETT FLOREZ,  
10 BRITTNEY ANN CHILTON, WCCL  
11 911 PARR BLVD Reno, NV 89512  
12 JANENE TRUJILLO, 7562 Ulysses Drive Sparks, NV 89436

13                           AFFIRMATION PURSUANT TO NRS 239B.030

14           The party executing this document hereby affirms that this  
15 document submitted for recording does not contain the social security  
16 number of any person or persons pursuant to NRS 239B.030.

17 CHRISTOPHER J. HICKS  
18 District Attorney  
19 Washoe County, Nevada

20 By: /s/ Nickolas J. Graham  
21 NICKOLAS J. GRAHAM  
22 10885  
23 DEPUTY DISTRICT ATTORNEY  
24  
25  
26

PCN: WASO0070047C, WASO0074509C-LOPEZ-DELGADO



**EXHIBIT D**

**EXHIBIT D**

1  
2  
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4  
5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 THE STATE OF NEVADA,  
10 Plaintiff,

Case No. CR18-1654

11 vs.

Dept. No. 3

12 LUIGI RICHARD LOPEZ-DELGADO,  
13 Defendant  
14 \_\_\_\_\_ /

15 **ORDER GRANTING DISCHARGE OF ATTORNEY**

16 On November 29, 2018, this Court held a hearing pursuant to *Young v. State*, 120 Nev. 963  
17 (2004), to determine whether a true conflict existed between the Defendant, Luigi Lopez-Delgado,  
18 and his counsel of record, Deputy Public Defenders Jay Slocum, Esq. and Lynn Branzell, Esq.

19 IT IS HEREBY ORDERED that the Washoe County Public Defender office Deputy  
20 Public Defenders Jay Slocum, Esq. and Lynn Branzell, Esq. are hereby relieved of their  
21 representation of the Defendant, Luigi Lopez-Delgado.

22 IT IS FURTHER ORDERED that the above entitled matter is referred to the Alternate  
23 Public Defender's Office for the appointment of counsel for the Defendant.

24 Dated this 29<sup>th</sup> day of November, 2018.

25 By:   
26

DISTRICT JUDGE

**EXHIBIT E**

**EXHIBIT E**

DA #17-14504

WCSO WC17-006416

FILED  
Electronically  
CR18-1654  
2018-12-11 09:26:35 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7017287 : jalvarez

1 CODE 1800  
2 Christopher J. Hicks  
3 #7747  
4 One South Sierra Street  
5 Reno, NV 89501  
6 (775) 328-3200

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

8 IN AND FOR THE COUNTY OF WASHOE

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No.: CR18-1654

12 v.

Dept. No.: D03

13 LUIGI RICHARD LOPEZ-DELGADO,  
14 also known as  
15 LUIGY RICHARD LOPEZ,  
16 also known as  
17 LUIGI LOPEZ,

18 Defendant.

19 /

20 SECOND AMENDED INFORMATION

21 CHRISTOPHER J. HICKS, District Attorney within and for the  
22 County of Washoe, State of Nevada, in the name and by the authority  
23 of the State of Nevada, informs the above entitled Court that LUIGI  
24 RICHARD LOPEZ-DELGADO also known as LUIGY RICHARD LOPEZ also known as  
25 LUIGI LOPEZ, the defendant above-named, has committed the crimes of:

26 ///

///

///

///

1           COUNT I. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR  
2 OLDER, a violation of NRS 200.368.1, a category B felony, (60323) in  
3 the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
5 between October 1, 2017 and December 13, 2017, within the County of  
6 Washoe, State of Nevada, did willfully and unlawfully, being over 21  
7 years of age, commit an act of statutory sexual seduction with the  
8 person of H.T., who was then and there under the age of 16 years, in  
9 that the said defendant engaged in an act of oral sexual intercourse  
10 with the said H.T. at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe  
11 County, Nevada.

12           COUNT II. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR  
13 OLDER, a violation of NRS 200.368.1, a category B felony, (60323) in  
14 the manner following:

15           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
16 between October 1, 2017 and December 13, 2017, within the County of  
17 Washoe, State of Nevada, did willfully and unlawfully, being over 21  
18 years of age, commit an act of statutory sexual seduction with the  
19 person of H.T., who was then and there under the age of 16 years, in  
20 that the said defendant engaged in an act of vaginal sexual  
21 intercourse with the said H.T. at or near 228 East 8<sup>th</sup> Ave., Sun  
22 Valley, Washoe County, Nevada.

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1           COUNT III. USE OR PERMIT MINOR, UNDER AGE 18, TO PRODUCE  
2 PORNOGRAPHY, a violation of NRS 200.710.1, a category A felony,  
3 (50368) in the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO, on or  
5 between October 1, 2017 and December 13, 2017, within the County of  
6 Washoe, State of Nevada, did willfully and unlawfully, use or permit  
7 a minor child of approximately 14 years of age to engage in sexual  
8 conduct to produce a performance and/or pornography, in that the  
9 defendant did have H.T. produce nude photographs of herself, at his  
10 suggestion and had her send them to him.

11           COUNT IV. POSSESS VISUAL PORNOGRAPHY OF PERSON UNDER AGE  
12 16, FIRST OFFENSE, a violation of NRS 200.730.1, a category B felony,  
13 (50374) in the manner following:

14           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
15 between October 1, 2017 and December 13, 2017, within the County of  
16 Washoe, State of Nevada, did knowingly, willfully and unlawfully have  
17 in his possession for any purpose film, photograph or other visual  
18 presentation depicting a person under 16 year as the subject of a  
19 sexual portrayal or engaging in or simulating, or assisting others to  
20 engage in or simulate, sexual conduct, in that the defendant  
21 possessed nude photographs of H.T., who was under the age of 18 at  
22 the time the photograph was taken, 228 East 8<sup>th</sup> Ave., Sun Valley,  
23 Washoe County, Nevada.

24 ///

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1           COUNT V. LEWDNESS WITH CHILD OLDER THAN 14, a violation of  
2 NRS 201.230.3, a category B felony, (58747) in the manner following:

3           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
4 between October 1, 2017 and December 13, 2017, within the County of  
5 Washoe, State of Nevada, did willfully, unlawfully and lewdly commit  
6 any lewd or lascivious act upon or with the body or any body part of  
7 H.T., a female child between the ages of fourteen and sixteen years  
8 at the time the act was committed, in that the defendant penetrated  
9 H.T.'s mouth with his penis, with the intent of arousing, appealing  
10 to, or gratifying the lust, passions, or sexual desires of himself or  
11 the child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
12 Nevada.

13           COUNT VI. LEWDNESS WITH CHILD OLDER THAN 14, a violation of  
14 NRS 201.230.3, a category B felony, (58747) in the manner following:

15           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
16 between October 1, 2017 and December 13, 2017, within the County of  
17 Washoe, State of Nevada, did willfully, unlawfully and lewdly commit  
18 any lewd or lascivious act upon or with the body or any body part of  
19 H.T., a female child between the ages of fourteen and sixteen years  
20 at the time the act was committed, in that the defendant penetrated  
21 H.T.'s vagina with his penis, with the intent of arousing, appealing  
22 to, or gratifying the lust, passions, or sexual desires of himself or  
23 the child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
24 Nevada.

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1           COUNT VII. LURE OR ATTEMPT TO LURE A CHILD WITH THE USE OF  
2           COMPUTER TECHNOLOGY TO ENGAGE IN SEXUAL CONDUCT, a violation of NRS  
3           201.560.4a, a category B felony, (51078) in the manner following:

4           That the said defendant LUIGI RICHARD LOPEZ-DELGADO,  
5           between October 1, 2017 and December 13, 2017, within the County of  
6           Washoe, State of Nevada, did willfully and unlawfully contact and/or  
7           communicate with a child, H.T., who was less than 16 years of age and  
8           who was at least 5 years younger than the defendant, with the intent  
9           to persuade, lure or transport the child away from the child's home  
10          or place where the child is located, without the express consent of  
11          the parent or guardian or other person legally responsible for the  
12          child; and with the intent to avoid the consent of the parent or  
13          guardian or other person legally responsible for the child; with the  
14          intent to solicit, persuade or lure the person to engage in sexual  
15          conduct, to wit: the defendant contacted H.T., who was 14 at the time  
16          he was 24, through Facebook and lured her away from her legal  
17          guardian(s) in order to engage in sexual conduct at or near 228 East  
18          8<sup>th</sup> Ave., Sun Valley, Sparks, Washoe County, Nevada.

19          COUNT VIII. ATTEMPTING TO PREVENT OR DISSUADE A WITNESS  
20          FROM TESTIFYING, a violation of NRS 199.230, a gross misdemeanor,  
21          (52983), in the manner following:

22          That the said defendant on or about the 26th day of  
23          December, 2017, within the County of Washoe, State of Nevada, did  
24          willfully and unlawfully, by persuasion, force, threat, intimidation,  
25          deception or otherwise, and with the intent to obstruct the course of  
26          justice, attempt to prevent or dissuade another person from appearing



1 before any court or evade the process which requires the person to  
2 appear as a witness to testify, to wit: the defendant wrote a  
3 postcard to H.T./Accuser that stated "I am asking for you guys to  
4 help me get these charges dismissed, my whole life and future is on  
5 the line. I have a daughter and was in the process of enrolling in  
6 the military but with these charges I wont be able to. This can ruin  
7 my life and future I am trying to set for my daughter and I. Can you  
8 please not show to court and not make up accusations anymore.  
9 Anything to help get this dismissed. Thank u" from 911 Parr  
10 Boulevard, Washoe County, Nevada.

11 All of which is contrary to the form of the Statute in such  
12 case made and provided, and against the peace and dignity of the  
13 State of Nevada.

14  
15 CHRISTOPHER J. HICKS  
16 District Attorney  
Washoe County, Nevada

17  
18  
19 By: /s/ Nickolas J. Graham  
20 NICKOLAS J. GRAHAM  
21 10885  
22 DEPUTY DISTRICT ATTORNEY  
23  
24  
25  
26

1           The following are the names of such witnesses as are known  
2 to me at the time of the filing of the within Information:

3 WILLIAM BRIAN ATKINSON, WASHOE COUNTY SHERIFFS OFFICE,  
4 DENNIS CARRY, WASHOE COUNTY SHERIFFS OFFICE,  
5 ARICK DICKSON, WASHOE COUNTY SHERIFFS OFFICE,  
6 MICHAEL IVERS, WASHOE COUNTY SHERIFFS OFFICE,  
7 EMMETT FLOREZ,

8                           AFFIRMATION PURSUANT TO NRS 239B.030

9           The party executing this document hereby affirms that this  
10 document submitted for recording does not contain the social security  
11 number of any person or persons pursuant to NRS 239B.030.

12  
13 CHRISTOPHER J. HICKS  
14 District Attorney  
15 Washoe County, Nevada

16 By: /s/ Nickolas J. Graham  
17 NICKOLAS J. GRAHAM  
18 10885  
19 DEPUTY DISTRICT ATTORNEY  
20  
21  
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23  
24  
25

26 PCN: WASO0070047C, WASO0074509C-LOPEZ-DELGADO

**EXHIBIT F**

**EXHIBIT F**

5

ORIGINAL

FILED  
Electronically  
CR18-1654  
2018-12-13 03:56:57 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7023816

1 CODE 1785  
2 Christopher J. Hicks  
3 #7747  
4 P.O. Box 11130  
5 Reno, NV 89520  
6 (775) 328-3200

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

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No. CR18-1654

12 v.

Dept. No. D03

13 LUIGI RICHARD LOPEZ-DELGADO,  
14 also known as  
15 LUIGY RICHARD LOPEZ,  
16 also known as  
17 LUIGI LOPEZ,

18 Defendant.

19 GUILTY PLEA MEMORANDUM

20 1. I, LUIGI RICHARD LOPEZ-DELGADO, also known as LUIGY  
21 RICHARD LOPEZ, also known as LUIGI LOPEZ, understand that I am  
22 charged with the offenses of: COUNT II. STATUTORY SEXUAL SEDUCTION  
23 BY PERSON AGE 21 OR OLDER, a violation of NRS 200.368.1, a category B  
24 felony, COUNT IV. POSSESS VISUAL PORNOGRAPHY OF PERSON UNDER AGE 16,  
25 FIRST OFFENSE, a violation of NRS 200.730.1, a category B felony and  
26 COUNT VI. LEWDNESS WITH CHILD OLDER THAN 14, a violation of NRS  
201.230.3, a category B felony.

///

1           2. I desire to enter a plea of guilty to the offenses of,  
2     COUNT II. STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR OLDER, a  
3     violation of NRS 200.368.1, a category B felony, COUNT IV. POSSESS  
4     VISUAL PORNOGRAPHY OF PERSON UNDER AGE 16, FIRST OFFENSE, a violation  
5     of NRS 200.730.1, a category B felony and COUNT VI. LEWDNESS WITH  
6     CHILD OLDER THAN 14, a violation of NRS 201.230.3, a category B  
7     felony, as more fully alleged in the charge filed against me.

8           3. By entering my plea of guilty I know and understand  
9     that I am waiving the following constitutional rights:

10           A. I waive my privilege against self-incrimination.

11           B. I waive my right to trial by jury, at which trial the  
12     State would have to prove my guilt of all elements of the offenses  
13     beyond a reasonable doubt.

14           C. I waive my right to confront my accusers, that is, the  
15     right to confront and cross examine all witnesses who would testify  
16     at trial.

17           D. I waive my right to subpoena witnesses for trial on my  
18     behalf.

19           4. I understand the charges against me and that the  
20     elements of the offenses which the State would have to prove beyond a  
21     reasonable doubt at trial are that on or between October 1, 2017 and  
22     December 13, 2017, or thereabout, in the County of Washoe, State of  
23     Nevada, I did as to Count II, willfully and unlawfully, being over 21  
24     years of age, commit an act of statutory sexual seduction with the

25     ///

26     ///

1 person of H.T., who was then and there under the age of 16 years, in  
2 that I engaged in an act of vaginal sexual intercourse with the said  
3 H.T. at or near 228 East 8th Ave., Sun Valley, Washoe County, Nevada.

4 I further understand the charges against me and that the  
5 elements of the offenses which the State would have to prove beyond a  
6 reasonable doubt at trial are that on or between October 1, 2017 and  
7 December 13, 2017, or thereabout, in the County of Washoe, State of  
8 Nevada, I did as to Count IV, knowingly, willfully and unlawfully  
9 have in my possession for any purpose film, photograph or other  
10 visual presentation depicting a person under 16 year as the subject  
11 of a sexual portrayal or engaging in or simulating, or assisting  
12 others to engage in or simulate, sexual conduct, in that I possessed  
13 nude photographs of H.T., who was under the age of 18 at the time the  
14 photograph was taken, 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
15 Nevada.

16 I understand the charges against me and that the elements  
17 of the offenses which the State would have to prove beyond a  
18 reasonable doubt at trial are that on or between October 1, 2017 and  
19 December 13, 2017, or thereabout, in the County of Washoe, State of  
20 Nevada, I did as to Count VI, willfully, unlawfully and lewdly commit  
21 any lewd or lascivious act upon or with the body or any body part of  
22 H.T., a female child between the ages of fourteen and sixteen years  
23 at the time the act was committed, in that I penetrated H.T.'s vagina  
24 with my penis, with the intent of arousing, appealing to, or

25 ///

26 ///

1 gratifying the lust, passions, or sexual desires of myself or the  
2 child, at or near 228 East 8<sup>th</sup> Ave., Sun Valley, Washoe County,  
3 Nevada.

4           5. I understand that I admit the facts which support all  
5 the elements of the offenses by pleading guilty. I admit that the  
6 State possesses sufficient evidence which would result in my  
7 conviction. I have considered and discussed all possible defenses  
8 and defense strategies with my counsel. I understand that I have the  
9 right to appeal from adverse rulings on pretrial motions only if the  
10 State and the Court consent to my right to appeal in a separate  
11 written agreement. I understand that any substantive or procedural  
12 pretrial issue(s) which could have been raised at trial are waived by  
13 my plea.

14           6. I understand that the consequences of my plea of guilty  
15 as to Count II are that I may be imprisoned for a period of 1 to 10  
16 years in the Nevada State Department of Corrections. I am not  
17 eligible for probation unless a psychosexual evaluation is completed  
18 pursuant to NRS 176.139 which certifies that I do not represent a  
19 high risk to reoffend based upon a currently accepted standard of  
20 assessment. I may also be fined up to \$10,000. I will be required  
21 to register as a sex offender.

22           I understand that the consequences of my plea of guilty as  
23 to Count IV are that I may be imprisoned for a period of 1 to 6 years  
24 in the Nevada State Department of Corrections. I am not eligible for  
25 probation unless a psychosexual evaluation is completed pursuant to  
26 NRS 176.139 which certifies that I do not represent a high risk to

1 reoffend based upon a currently accepted standard of assessment. I  
2 may also be fined up to \$5,000. I will be required to register as a  
3 sex offender.

4 I understand that the consequences of my plea of guilty as  
5 to Count VI are that I may be imprisoned for a period of 1 to 10  
6 years in the Nevada State Department of Corrections. I am not  
7 eligible for probation unless a psychosexual evaluation is completed  
8 pursuant to NRS 176.139 which certifies that I do not represent a  
9 high risk to reoffend based upon a currently accepted standard of  
10 assessment. I may also be fined up to \$10,000. I further understand  
11 that I will be required to be on lifetime supervision pursuant to NRS  
12 176.0931. Additionally, I will be required to register as a sex  
13 offender. The sentence on each count may be concurrent or  
14 consecutive to each other.

15 7. In exchange for my plea of guilty, the State, my  
16 counsel and I have agreed to recommend the following: Both the  
17 State, my counsel and I stipulate to recommend at sentencing a term  
18 of incarceration in the Nevada State Prison of 48-120 months on Count  
19 II, 28-72 months on Count IV, and 48-120 months on Count VI and that  
20 all counts run concurrent to one another. The State will dismiss all  
21 remaining charges and the State will not file additional criminal  
22 charges resulting from the arrest in this case.

23 8. I understand that, even though the State and I have  
24 reached this plea agreement, the State is reserving the right to  
25 present arguments, facts, and/or witnesses at sentencing in support  
26 of the plea agreement.



1           9. I also agree that I will make full restitution in this  
2 matter, as determined by the Court. Where applicable, I additionally  
3 understand and agree that I will be responsible for the repayment of  
4 any costs incurred by the State or County in securing my return to  
5 this jurisdiction.

6           10. I understand that the State, at their discretion, is  
7 entitled to either withdraw from this agreement and proceed with the  
8 prosecution of the original charges or be free to argue for an  
9 appropriate sentence at the time of sentencing if I fail to appear at  
10 any scheduled proceeding in this matter OR if prior to the date of my  
11 sentencing I am arrested in any jurisdiction for a violation of law  
12 OR if I have misrepresented my prior criminal history. I understand  
13 and agree that the occurrence of any of these acts constitutes a  
14 material breach of my plea agreement with the State. I further  
15 understand and agree that by the execution of this agreement, I am  
16 waiving any right I may have to remand this matter to Justice Court  
17 should I later withdraw my plea.

18           11. I understand and agree that pursuant to the terms of  
19 the plea agreement stated herein, any counts which are to be  
20 dismissed and any other cases charged or uncharged which are either  
21 to be dismissed or not pursued by the State, may be considered by the  
22 court at the time of my sentencing.

23 ///

24 ///

25 ///

26 ///

1           12. I understand that the Court is not bound by the  
2 agreement of the parties and that the matter of sentencing is to be  
3 determined solely by the Court. I have discussed the charges, the  
4 facts and the possible defenses with my attorney. All of the  
5 foregoing rights, waiver of rights, elements, possible penalties, and  
6 consequences, have been carefully explained to me by my attorney. My  
7 attorney has not promised me anything not mentioned in this plea  
8 memorandum, and, in particular, my attorney has not promised that I  
9 will get any specific sentence. I am satisfied with my counsel's  
10 advice and representation leading to this resolution of my case. I  
11 am aware that if I am not satisfied with my counsel I should advise  
12 the Court at this time. I believe that entering my plea is in my  
13 best interest and that going to trial is not in my best interest. My  
14 attorney has advised me that if I wish to appeal, any appeal, if  
15 applicable to my case, must be filed within thirty days of my  
16 sentence and/or judgment.

17           13. I understand that this plea and resulting conviction  
18 will likely have adverse effects upon my residency in this country if  
19 I am not a U. S. Citizen. I have discussed the effects my plea will  
20 have upon my residency with my counsel.

21           14. I offer my plea freely, voluntarily, knowingly and  
22 with full understanding of all matters set forth in the Second  
23 Amended Information and in this Plea Memorandum. I have read this  
24 plea memorandum completely and I understand everything contained  
25 within it.

26     ///

1           15. My plea of guilty is voluntary and is not the result  
2 of any threats, coercion or promises of leniency.

3           16. I am signing this Plea Memorandum voluntarily with  
4 advice of counsel, under no duress, coercion, or promises of  
5 leniency.

6           17. I do hereby swear under penalty of perjury that all of  
7 the assertions in this written plea agreement document are true.

8                   AFFIRMATION PURSUANT TO NRS 239B.030

9           The undersigned does hereby affirm that the preceding  
10 document does not contain the social security number of any person.

11           DATED this 12<sup>th</sup> day of December, 2018.

12                   \_\_\_\_\_  
13 DEFENDANT

14                   \_\_\_\_\_  
15 TRANSLATOR/INTERPRETER

16                   \_\_\_\_\_  
17 Attorney Witnessing Defendant's Signature

18                   \_\_\_\_\_  
19 Prosecuting Attorney  
20  
21  
22  
23  
24  
25  
26

# **EXHIBIT G**

# **EXHIBIT G**

1 4185

2

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 THE HONORABLE JEROME M. POLAHA, DISTRICT JUDGE

8

--o0o--

9 THE STATE OF NEVADA,

10 Plaintiff, Case No. CR18-1654

11 vs. Dept. No. 3

12

13 LUIGY RICHARD LOPEZ-DELGADO,

14

Defendant.

15

16

TRANSCRIPT OF PROCEEDINGS

17

SENTENCING

18

THURSDAY, MARCH 14, 2019

19

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21

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23

24

Reported by:

EVELYN J. STUBBS, CCR #356

A P P E A R A N C E S

For the State:

NICKOLAS J. GRAHAM, ESQ.  
Deputy District Attorney  
One South Sierra Street  
Reno, Nevada

For the Defendant:

MARC PHILLIP PICKER, ESQ.  
Deputy Alt. Public Defender  
350 S. Center Street  
Reno, Nevada

For the Division:

MORGAN BARNREITER

The Defendant:

LUIGY RICHARD LOPEZ-DELGADO

1 RENO, NEVADA; THURSDAY, MARCH 14, 2019; 9:44 A.M.

2 --o0o--

3  
4 THE CLERK: The next case, Your Honor, is State versus  
5 Luigi Lopez-Delgado, CR18-1654.

6 Counsel, appearances, please.

7 MR. GRAHAM: Good morning, Your Honor. Nick Graham for  
8 the State.

9 MR. PICKER: Good morning, Your Honor. Marc Picker on  
10 behalf of Mr. Lopez-Delgado, who's present.

11 THE COURT: All right. Good morning. This is the time  
12 set for the entry of judgment and the imposition of sentence in  
13 this matter. I have a presentence report, I've have a  
14 psychological evaluation, and you may proceed.

15 MR. PICKER: Thank you, Your Honor. We are in receipt  
16 of the Presentence Investigation Report, it was file stamped on  
17 February 28th, 2018, with the attached psychosexual evaluation.  
18 In addition, I believe that Your Honor has the letters of support  
19 that we filed yesterday on behalf Mr. Lopez-Delgado. If you do  
20 not, I have a copy.

21 THE COURT: I don't have it.

22 MR. PICKER: You don't have them?

23 THE COURT: No.

24 (Letters lodged with the Court)

1 THE COURT: Thank you.

2 All right. You want to leave them here or file them?

3 MR. PICKER: I assumed they were in the record, because  
4 we filed them.

5 THE COURT: All right.

6 MR. PICKER: Your Honor, we have no additions or  
7 corrections to offer to the Presentence Investigation Report. As  
8 Your Honor can probably tell from the plea agreement and the  
9 recommendations in the PSI we're kind of, on this side, we're  
10 kind of in a strange situation. The PSI is very complete and  
11 thorough. Obviously its recommendation is in an aggregate both  
12 for less on the front end and more on the back end than is  
13 stipulated within the plea agreement.

14 Obviously, we stand by our stipulation in the plea  
15 agreement despite the, I guess, more favorable recommendation by  
16 Parole and Probation.

17 The one thing I would note is in the psychosexual  
18 evaluation, as Your Honor I'm sure is aware, Mr. Lopez-Delgado is  
19 not found to be a high risk to reoffend, and thus he would be  
20 probation eligible under the law, although we stand by the  
21 recommendation or the stipulation that we entered into with the  
22 State.

23 So my argument is kind of all over the place simply  
24 because of that.



1           Your Honor, Mr. Lopez-Delgado's criminal history is, as  
2 you can see, nonexistent up to this crime. This is certainly a  
3 very serious matter. It is certainly something that he admitted  
4 to, Your Honor. In the plea canvass he admitted to his acts and  
5 he has taken responsibility for them.

6           Your Honor, he's a young man. There are a lot of  
7 factors that we believe you should take into account in  
8 determining what the appropriate and just sentence is. Certainly  
9 there's, as one of those factors, the agreement by the parties.

10           So given all of that, Your Honor, we're simply  
11 asking -- we will simply submit it now.

12           THE COURT: Mr. Graham.

13           MR. GRAHAM: Thank you, Your Honor. The psychosexual  
14 evaluation in this case came back and stated something kind of  
15 interesting. And I'm not disputing that he is not a high risk to  
16 reoffend. But the psychosexual evaluation came back saying we  
17 see Lopez- Delgado as a moderate risk to reoffend, quote,  
18 assuming the substance abuse problems are controlled.

19           To give an overview of this case, what had happened in  
20 this case is the defendant and the victim had met each other  
21 online through a dating application called MeetMe.

22           THE COURT: Counsel, let me ask, you're going to stick  
23 with the agreement that you had.

24           MR. GRAHAM: I am, yes, Your Honor.

1 THE COURT: All right.

2 MR. GRAHAM: Absolutely, I think 4 to 10 years on this  
3 case is an absolutely appropriate sentence. The reason I was  
4 going to argue is because Parole and Probation recommended less  
5 than that. And I wanted to provide the Court with information to  
6 show why a 4- to 10-year sentence would be appropriate.

7 THE COURT: Okay. Because I'm inclined to go higher  
8 than that. So go ahead.

9 MR. GRAHAM: Okay. Thank you. So the record is  
10 crystal clear, I'm not arguing for anything other than the  
11 stipulated sentence in this case. But what I would like to let  
12 the Court know is that this is not two teenagers having sex.  
13 This is a case where the defendant was 23.

14 THE COURT: Excuse me. Nobody is here from the victim?

15 MR. GRAHAM: She informed us she was not going to be  
16 here because it would be too traumatic for the victim in this  
17 case. She's in the care of her grandmother, and they gave a  
18 statement to P&P. And they indicated that they did not desire to  
19 be present for today. Her statements were reflected in what she  
20 had told the PSI writer, but she has been at every other court  
21 proceeding, the grandmother has.

22 THE COURT: Okay.

23 MR. GRAHAM: It's my understanding that Mr. Luigi  
24 Delgado -- Lopez-Delgado was between the ages of 23 or 24 at the

1 time that he ended up meeting the victim in this case online. As  
2 I'm learning, as is often the case, what happens is they'll meet  
3 somebody on a dating application and then they transition to  
4 Facebook Messenger where they then chat between themselves.

5 During the course of their interaction, the defendant  
6 in this case ended up requesting several photos of the victims.

7 THE COURT: Let me ask you this, because I'm not  
8 familiar with that stuff, are these permanently etched in the  
9 Internet?

10 MR. GRAHAM: Correct. And we've got copies of those.  
11 And I was actually going to admit as an exhibit some of the  
12 messages.

13 MR. PICKER: They're not widespread on the Internet.  
14 And when there's a chat, like on Facebook Messenger chat, it is  
15 only between the recipient and the sender. That is the only  
16 place. And it is on a server at Facebook, but it's not accessed  
17 by anybody else. Nobody else can get those messages. Basically  
18 it's a private messaging.

19 THE COURT: But we read about what Facebook does with  
20 their information.

21 MR. PICKER: I guess the National Security  
22 Administration or National Security Agency has some access to  
23 that as we seem to be finding out more and more, but the Facebook  
24 Messenger application is secure and private between the two

1 parties that are communicating. It is not accessible by any  
2 outside party. It is only accessible by Facebook and the two  
3 participants.

4 MR. GRAHAM: So what you have to do to get a copy of  
5 those messages, is you have to do what's called a Preservation  
6 Request. And Facebook limits the amount of time you can go back.  
7 So what the deputies did in this case as soon as they kind of  
8 found out what was going on -- because what had happened, the  
9 victim in this case was sneaking out with Mr. Delgado. And in  
10 one of those instances she wrecked her grandmother's vehicle.  
11 And so her grandmother was getting her in trouble and was going  
12 to take her phone. Her grandmother did not know how to operate  
13 phones very well, and had her son-in-law come over and take a  
14 look at Haley's -- excuse me, the victim's phone to see what was  
15 on it.

16 THE COURT: She was 14 years old?

17 MR. GRAHAM: That's correct. And when the uncle came  
18 in to view the phone to see what she was up to, he discovered  
19 that she had been taking nude photographs of herself and sending  
20 them to the defendant. Based on that, a police report was  
21 generated and the victim in this case came down to the child  
22 advocacy center to provide an interview, a friendly interview,  
23 and disclosed a sexual relationship that she had engaged in with  
24 the defendant in his RV outside his house in Sun Valley. She

1 described several sex acts that they had engaged in and detailed  
2 it out.

3           There was no force. This is not sexual assault. It's  
4 statutory sexual seduction, but the laws in the State of Nevada  
5 recognize that while factually a teenager might consent to a  
6 sexual act, legally they do not have the maturity in their brain,  
7 they're not developed enough to understand what that entails.  
8 And that became extremely clear during this forensic interview.

9           When the forensic interviewer was asking to get some  
10 details about who Mr. Delgado was, she indicated "Well, you know,  
11 he bought me tacos. I love him." And the nexus between the sex  
12 acts and the maturity was very clear that she did not understand.  
13 They were not taking precautions regarding using condoms or  
14 anything like that, and she did not even realize the diseases she  
15 could have gotten or becoming pregnant. And it wasn't until the  
16 forensic nurse kind of explained that to her that she said, "Wow,  
17 I just didn't realize." And it was as if she was stating, "Yeah,  
18 now I realize when he said 'oops' one time," because he had  
19 ejaculated inside her. And she was a little concerned about  
20 that.

21           If I may approach, Your Honor. One of the -- I have  
22 one exhibit I'd like to mark. And it's a packet. This was the  
23 actual packet. To be clear, I have used the Adobe Photoshop to  
24 edit out the genitals of the victim in this case. But these are

1 the actual messages that were sent on the communications between  
2 the defendant and the victim in this case over Facebook  
3 Messenger.

4 If I may approach.

5 THE COURT: All right.

6 MR. GRAHAM: I've provided a copy to the defense.

7 THE CLERK: Will be Exhibit 1, Your Honor.

8 (Exhibit 1 was marked for identification.)

9 THE COURT: This is all included in the PSI, the  
10 offense --

11 MR. GRAHAM: So I am not sure that this was. I don't  
12 know if the PSI writer included -- I know that they read the  
13 reports regarding this.

14 THE COURT: I'm talking about the actions and the  
15 activities.

16 MR. GRAHAM: Oh, absolutely.

17 THE COURT: How she responded and that type of thing.  
18 So this is nothing new?

19 MR. GRAHAM: No, no, no. This was actually provided  
20 during the preliminary hearing.

21 THE COURT: Do you agree with that?

22 MR. PICKER: I agree it's something that's been in the  
23 record.

24 MR. GRAHAM: I'm not entirely certain that the

1 psychosexual evaluation looked at it, or the evaluator for the  
2 psychosexual evaluation did. In Ms. Sherrie J. Hickson  
3 Brendenthal's (phonetic) report it indicates she read the  
4 reports, but it doesn't indicate whether or not she looked at the  
5 actual photos. And the thing that I'd like to show is that the  
6 defendant's words, not so much the pictures, but the actual words  
7 indicate that he knew what was going on.

8 And if you flip, 1, 2, 3, 4, 5 -- so the 21st page,  
9 it's a conversation that's on November 16th, 2017.

10 THE COURT: Where is the date on these?

11 MR. GRAHAM: It would be under where it says "airplane  
12 mode on." And then right under that it's November 16th, 2017, at  
13 1:59 p.m.

14 THE COURT: Oh, okay.

15 MR. GRAHAM: And so the conversation -- and this is  
16 after the victim in this case had sent numerous pictures to the  
17 defendant of her genitals. They had discussed sex acts the  
18 defendant had requested that she send a picture of her vagina to  
19 another person and wanted to know what that other person said.  
20 And to actually send a screenshot as proof that she sent a  
21 picture of her vagina to somebody else.

22 After that you'll see up here it says -- well, her  
23 conversation is on the right. Mr. Delgado's conversation is on  
24 the left. And she says, "Okay, I will." And excuse my language

1 but, "Are we just fuck buddies or are we dating?"

2 Mr. Delgado responds, "Both, kind of. IDK," which  
3 means I don't know, "about dating, because you're really young.  
4 But we can wait until you're older to date, but I still want  
5 you."

6 Victim responds, "I still want you too. Okay? How  
7 long do we have to" -- and then go to the next page, "How long do  
8 we have to wait until we date?"

9 Mr. Delgado responds, "16." She responds, "Okay. Not  
10 that long. I'll be 15 in two months. Just a year."

11 And then they go into him asking whether or not she's  
12 had sex with anybody else.

13 What's interesting about that conversation is it shows  
14 what's commonly referred to as consciousness of guilt. He knows  
15 not only that what he is doing is wrong, not only that what he  
16 desires is wrong, but despite that, he still wants to do it and  
17 he's still engaged in those acts.

18 The law for statutory sexual seduction is set up to  
19 protect juveniles, who factually may consent, but legally cannot  
20 for the very reasons that I stated before. Their minds are not  
21 developed enough, they're maturity level is not developed enough  
22 to engage in these practices. And that's exactly what was  
23 happening here.

24 The defendant, having her send pictures to other



1 people, receiving these pictures --

2 MR. PICKER: I'm going to object. There's no evidence  
3 that the defendant had her send pictures to other people. She  
4 didn't send pictures to other people.

5 MR. GRAHAM: Okay. My understanding it was -- Court's  
6 indulgence. I'm not sure what page it is, but on the top it says  
7 3:11 p.m. And it starts with, "IDK, laugh out loud."

8 I should have numbered the pages, and I apologize for  
9 that.

10 THE COURT: I can't see the dates on these.

11 MR. PICKER: This one doesn't have a date, Your Honor.

12 MR. GRAHAM: That one doesn't have a date, because they  
13 were scrolling through.

14 THE COURT: Close to the front or close to the back?

15 MR. PICKER: It's about in the middle, Your Honor. And  
16 if you look at the very top, it's the only page, I believe, that  
17 says 3:11 p.m.

18 THE COURT: Okay. I got it.

19 MR. GRAHAM: 16th page. It says, victim states, "IDK,  
20 laugh out loud." Or no, excuse me. The defendant states that.  
21 "It's hot if you just send him a pic of your pussy spread. He  
22 probably wants you."

23 Victim responds, "No, I don't want to." Defendant  
24 states, "Don't ask. Just spread it and send him one. Laugh out

1 loud." Smiley face. Laugh out loud is LOL. Victim states,  
2 "Laugh out loud." Defendant states, "Do it."

3 Next page, "Show me screenshots of it. Did you? Laugh  
4 out loud." Victim states, "Yeah." "Let me see what he say."  
5 Victim responds, quote, "Oh, shit. Is that really yours?" The  
6 defendant states, "Show me the screenshot, baby," question mark.

7 Next page is a continuation of that message showing the  
8 screenshot. And then it has a screenshot of the victim sending  
9 some other person a picture. And I blocked it out, but it's of  
10 her vagina.

11 In a situation such as this, where the defendant is an  
12 adult, he's 23, 24 years old at the time, and the victim is 14,  
13 it's incumbent on the adult in the situation not to engage in  
14 this type of sexual relationship, not to request these type of  
15 photos and not to take advantage of a child in the way that  
16 Mr. Delgado did.

17 As can be seen from the PSI in this case, the effects  
18 of this relationship, the effects of what Mr. Delgado did are far  
19 ranging. The victim has reported that she started cutting. The  
20 grandma has had to actually move. They sold their house in Red  
21 Hawk and moved. She is going through it, as we say.

22 Based on the facts and circumstances in this case, I  
23 think the evidence is clear that the defendant's actions were  
24 predatory in nature and manipulative, to say the least. And

1 based on that, I think that the defendant's -- the proper and  
2 just sentence in this case would be the 4 to 10 years that the  
3 parties have stipulated to.

4 THE COURT: All right. Thank you.

5 Mr. Picker.

6 MR. PICKER: Just briefly, Your Honor, because I didn't  
7 mention anything to do with the alleged victim or the victim in  
8 this case and his actions.

9 Actually, by the way, Mr. Delgado pled in this case.  
10 Not to diminish the fact that she's 14 years old and  
11 Mr. Lopez-Delgado should have had nothing to do with her mentally  
12 or physically in that way.

13 We have two things. One is that the Victim Information  
14 Statement about the victim, again, was in the PSI and is taken  
15 into account by Parole and Probation when they made their  
16 recommendation. But the other part is that, as the State  
17 provided to you in their Exhibit 1, it is unfortunate that this  
18 is a 14-year-old who certainly expressed and exhibited a lot more  
19 sophistication, quite frankly, than I had at the age of 14. And  
20 that is the unfortunate circumstance in our society, is that  
21 people at that age do seem to have a lot more awareness of those  
22 kinds of things.

23 THE COURT: Aren't we talking about -- I was wondering  
24 about that. I didn't inquire, but doesn't, especially when you

1 have a child versus an adult, the license that the adult is  
2 giving to the child in a circumstance sort of opening the gates  
3 to say, hey, let's do and say and -- do anything. And don't we  
4 see that here?

5 MR. PICKER: We do, Your Honor. And that is why  
6 Mr. Lopez-Delgado pled to what he pled to in this case, and  
7 that's why he admitted his actions to Your Honor. I mean that's  
8 really the situation, is that he does recognize that no matter  
9 how much the sophistication, how much the activity, how much the  
10 involvement by the victim in this case, he is the one who's  
11 legally responsible here. And he has taken that responsibility  
12 to heart, because --

13 THE COURT: Does he have an understanding of the  
14 long-range effect of this type of activity on a child?

15 MR. PICKER: Certainly he does.

16 THE COURT: Does he?

17 MR. PICKER: I mean, we had these discussions. One of  
18 the reasons or one of the discussions about not -- about him  
19 pleading guilty, and if Your Honor will recall, he had  
20 difficulties with his prior attorney. Our office was appointed.  
21 But within a week after talking to me and discussing the case and  
22 everything else, he entered the plea of guilty.

23 THE COURT: Well, he wouldn't want to go to jury.

24 MR. PICKER: But the other part is, he didn't want to

1 the victim to be in front of a jury either. He didn't want her  
2 to have that stress or pressure or exposure as well. So, Your  
3 Honor, that was a factor, and that was something that we  
4 discussed.

5 So Mr. Lopez-Delgado does have a statement that he'd  
6 like to read to Your Honor. But we -- you know our position.

7 THE COURT: All right. Go ahead.

8 THE DEFENDANT: So first I --

9 THE COURT: Read it slowly and loudly so the reporter  
10 can hear.

11 THE DEFENDANT: First I wanted to apologize to the  
12 victim and her family for the effect of this.

13 THE COURT: Do you have a daughter?

14 THE DEFENDANT: Yes, sir. I have two daughters.

15 THE COURT: Okay. Go ahead.

16 THE DEFENDANT: I'm filled with shame and  
17 embarrassment, regret and remorse for this by chasing trouble  
18 that I've let myself fall into. I take full responsibility for  
19 this, and I'm willing and able to enter into any treatment,  
20 counseling classes to help me further -- for myself, for my  
21 family and for society.

22 During the last 15 months in the Washoe County Jail  
23 I've not had any access to programs, counseling or treatment  
24 other than psychiatric treatment, but I have read self-help books

1 and I am determined to apply knowledge into plans of action on  
2 the foundation of self-discipline, deference and consistency to  
3 build a better future and to always improve myself for family and  
4 society.

5 I believe I have transmuted my punishment in jail to  
6 stepping stones of growth and character development, and I will  
7 continue to enlist or be drafted to help get back into society,  
8 to dedicate myself and resources to constructive purposes toward  
9 society and this country.

10 That's it, sir.

11 THE COURT: All right. Does anyone have any just or  
12 legal cause why judgment should not be entered?

13 MR. PICKER: No, Your Honor.

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: There being none, the Court does adjudge  
16 Luigi Richard Lopez-Delgado guilty of a category B felony,  
17 statutory sexual seduction by a person of the age 21 or older, a  
18 violation of NRS 200.368(1). The Court enters judgment against  
19 Mr. Lopez-Delgado for a category B felony, possession of visual  
20 pornography of a person under the age of 16, first offense, a  
21 violation of NRS 200.730(1).

22 And finally the Court enters judgment against  
23 Mr. Lopez-Delgado on a category B felony, lewdness with a child  
24 older than 14, a violation of NRS 201.230(3) by virtue of his

1 plea of guilty taken December 13th, 2018.

2 This is a very upsetting and disgusting set of facts in  
3 this case. Mr. Lopez-Delgado, was there nothing that stopped you  
4 or suggested to you that you shouldn't be doing this as you're  
5 doing this? I mean you've got a young girl --

6 THE DEFENDANT: When I first met her, sir, she -- as  
7 far as I knew, she said she was 17 and then turned 18. So we  
8 started talking --

9 THE COURT: She says here that she said she was 14.  
10 And when you were talking on the phone, she said, we can't date  
11 -- or you said you can't date until you're 17.

12 THE DEFENDANT: Later on I found out she was under  
13 legal age.

14 THE COURT: But you kept going.

15 Almost every person that comes to court has been  
16 sexually molested in their lifetime. And look how that turned  
17 out. Here we are in criminal court. Like I said, I have four  
18 sons, I don't have any daughters.

19 Does she have a father, this girl?

20 MR. GRAHAM: Her father is not in the picture, Your  
21 Honor.

22 THE COURT: Oh, all right.

23 It is the judgment of the Court that you be sentenced  
24 on Count II, which is the statutory sexual seduction, to a

1 maximum term of 120 months, with a minimum parole eligibility of  
2 48 months. You are sentenced to a term of 72 months, with a  
3 minimum parole eligibility of 28 for Count IV, which is  
4 possession of visual pornography of a person under the age of 16.  
5 That will run consecutive to Count I. And in Count VI, which is  
6 lewdness with a child older than 14, I'm sentencing you to a term  
7 of 120 months with a minimum parole eligibility of 48 months.  
8 And that count can run concurrent to the other two counts.

9           So the aggregate is 76 minimum, 120 -- excuse me, 192  
10 maximum. Is that correct?

11           THE CLERK: That's correct. That's what I have, Your  
12 Honor.

13           THE COURT: All right. You'll be given credit for  
14 456 days. You've already got a year done. And you'll undergo  
15 genetic marker testing. There's a \$150 fee for that. The  
16 psychosexual fee is \$912.71, with a DNA administrative assessment  
17 fee of \$3 and a general administrative fee of \$25. And the  
18 attorney fee will be \$500.

19           MR. PICKER: Your Honor, I'm going to ask the attorney  
20 fees be waived, given the amount of time and given the other fees  
21 involved.

22           THE COURT: All right. I'll waive the attorney fees.  
23 Anything else?

24           MR. GRAHAM: Yes, Your Honor, as far as Count II, the



1 defendant will be required to register as a sex offender. Excuse  
2 me. Yeah.

3 THE COURT: Oh, right.

4 MR. GRAHAM: Sex offender. Additionally on count --

5 THE COURT: Six.

6 MR. GRAHAM: Count IV, register as a sex offender, and  
7 then Count VI, sex offender, as well as lifetime supervision.

8 THE COURT: Thank you. Thank you for that. All right.  
9 That will be part of the order. So you will register as a sex  
10 offender when you're released, and you will be on lifetime  
11 supervision once you are released on parole.

12 MR. GRAHAM: Thank you, Your Honor.

13 THE COURT: Thank you. Courts in recess.

14 (Proceedings Concluded)

15 --o0o--

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STATE OF NEVADA) ) ss.  
COUNTY OF WASHOE )

I, EVELYN J. STUBBS, official reporter of the  
Second Judicial District Court of the State of Nevada, in and for  
the County of Washoe, do hereby certify:

That as such reporter I was present in Department No. 3 of the above court on, THURSDAY, MARCH 14, 2019, at the hour of 9:44 a.m. of said day, and I then and there took stenotype notes of the proceedings had and testimony given therein upon the SENTENCING of the case of THE STATE OF NEVADA, Plaintiff, vs. LUIGY RICHARD LOPEZ-DELGADO, Defendant, Case No. CR18-1654.

That the foregoing transcript, consisting of pages numbered 1 to 21, inclusive, is a full, true and correct transcript of my said stenotype notes, so taken as aforesaid, and is a full, true and correct statement of the proceedings had and testimony given therein upon the above-entitled action to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada, this 25th day of April, 2019.

/s/ Evelyn Stubbs  
EVELYN J. STUBBS, CCR #356

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

By: JACQUELINE BRYANT, Clerk of the  
Second Judicial District Court, in and for the  
County of Washoe, 22

# **EXHIBIT H**

# **EXHIBIT H**

1 CODE 1850  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1654

12 LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

13 Defendant.  
14 \_\_\_\_\_/

15 JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no sufficient cause being  
17 shown by Defendant as to why judgment should not be pronounced against him, the  
18 Court rendered judgment as follows:

19 That Luigy Richard Lopez-Delgado is guilty of the crimes of Statutory Sexual  
20 Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony, as  
21 charged in Count II of Second Amended Information, Possess Visual Pornography of  
22 Person Under Age 16, First Offense, a violation of NRS 200.730.1, a category B felony, as  
23 charged in Count IV of the Second Amended Information and Lewdness With Child Older  
24 than 14, a violation of NRS 201.230.3, a category B felony and that he be punished by  
25 imprisonment in the Nevada Department of Corrections for a minimum term of 48 months  
26 to a maximum term of 120 months, with credit for 456 days time served, as to Count II. As  
27 to Count VI, the Defendant is punished by imprisonment in the Nevada Department of  
28 Corrections for a minimum term of 28 months to a maximum term of 72 months, to run

1 consecutively to the sentence imposed in Count II. As to Count VI, the Defendant is  
2 punished by imprisonment in the Nevada Department of Corrections for a minimum term  
3 of 48 months to a maximum term of 120 months, to run concurrently with the sentence  
4 imposed in Count IV.

5 It is further ordered that the aggregate sentence imposed is a minimum of 76  
6 months with a maximum of 192 months.

7 It is further ordered that the Defendant pay the statutory Twenty-Five Dollar  
8 (\$25.00) administrative assessment, that he pay the Three Dollar (\$3.00) administrative  
9 assessment fee for obtaining a biological specimen and conducting a genetic marker  
10 analysis test, that he pay a One Hundred Fifty Dollar (\$150.00) DNA testing fee and that  
11 he pay a psychosexual evaluation fee in the amount of Nine Hundred Twelve Dollars and  
12 Seventy-One Cents (\$912.71) to the Clerk of the Second Judicial District Court.

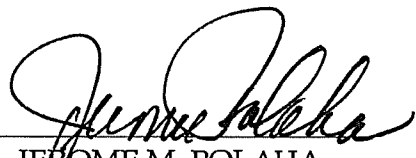
13 A special sentence of Lifetime Supervision shall commence after any period  
14 of probation, or after any term of imprisonment, or after any period of release on parole.

15 It is further ordered that the fees shall be subject for removal from the  
16 Defendant's books at the Washoe County Detention Facility and/or Nevada Department  
17 of Corrections.

18 Any fine, fee or administrative assessment imposed upon the Defendant  
19 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada  
20 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or  
21 assessments, collection efforts may be undertaken against him.

22 Dated this 14<sup>th</sup> day of March, 2019.

23  
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27  
28

  
JEROME M. POLAHA  
DISTRICT JUDGE

# **EXHIBIT I**

# **EXHIBIT I**

1 CODE 1850  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1654

12 LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

13 Defendant.  
14 \_\_\_\_\_/

15 CORRECTED JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no sufficient cause being  
17 shown by Defendant as to why judgment should not be pronounced against him, the  
18 Court rendered judgment as follows:

19 That Luigy Richard Lopez-Delgado is guilty of the crimes of Statutory Sexual  
20 Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony, as  
21 charged in Count II of Second Amended Information, Possess Visual Pornography of  
22 Person Under Age 16, First Offense, a violation of NRS 200.730.1, a category B felony, as  
23 charged in Count IV of the Second Amended Information and Lewdness With Child Older  
24 than 14, a violation of NRS 201.230.3, a category B felony and that he be punished by  
25 imprisonment in the Nevada Department of Corrections for a minimum term of 48 months  
26 to a maximum term of 120 months, with credit for 456 days time served, as to Count II. As  
27 to *Count IV*, the Defendant is punished by imprisonment in the Nevada Department of  
28 Corrections for a minimum term of 28 months to a maximum term of 72 months, to run

1 consecutively to the sentence imposed in Count II. As to Count VI, the Defendant is  
2 punished by imprisonment in the Nevada Department of Corrections for a minimum term  
3 of 48 months to a maximum term of 120 months, to run concurrently with the sentence  
4 imposed in Count IV.

5 It is further ordered that the aggregate sentence imposed is a minimum of 76  
6 months with a maximum of 192 months.

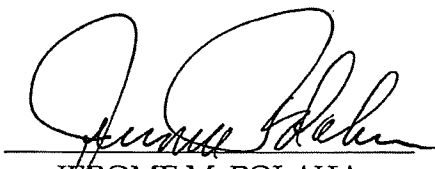
7 It is further ordered that the Defendant pay the statutory Twenty-Five Dollar  
8 (\$25.00) administrative assessment, that he pay the Three Dollar (\$3.00) administrative  
9 assessment fee for obtaining a biological specimen and conducting a genetic marker  
10 analysis test, that he pay a One Hundred Fifty Dollar (\$150.00) DNA testing fee and that  
11 he pay a psychosexual evaluation fee in the amount of Nine Hundred Twelve Dollars and  
12 Seventy-One Cents (\$912.71) to the Clerk of the Second Judicial District Court.

13 A special sentence of Lifetime Supervision shall commence after any period  
14 of probation, or after any term of imprisonment, or after any period of release on parole.

15 It is further ordered that the fees shall be subject for removal from the  
16 Defendant's books at the Washoe County Detention Facility and/or Nevada Department  
17 of Corrections.

18 Any fine, fee or administrative assessment imposed upon the Defendant  
19 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada  
20 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or  
21 assessments, collection efforts may be undertaken against him.

22 Dated this 18th day of March, 2019,  
23 nunc pro tunc March 14, 2019.

24  
25  
26   
27 JEROME M. POLAHA  
28 DISTRICT JUDGE



**EXHIBIT J**

**EXHIBIT J**

1 CODE 1850  
2  
3  
4  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1654

12 LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

13 Defendant.  
14 \_\_\_\_\_/

15 SECOND CORRECTED JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no sufficient cause being  
17 shown by Defendant as to why judgment should not be pronounced against him, the  
18 Court rendered judgment as follows:

19 That Luigy Richard Lopez-Delgado is guilty of the crimes of Statutory Sexual  
20 Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony, as  
21 charged in Count II of Second Amended Information, Possess Visual Pornography of  
22 Person Under Age 16, First Offense, a violation of NRS 200.730.1, a category B felony, as  
23 charged in Count IV of the Second Amended Information and Lewdness With Child Older  
24 than 14, a violation of NRS 201.230.3, a category B felony, *as charged in Count VI of the*  
25 *Second Amended Information* and that he be punished by imprisonment in the Nevada  
26 Department of Corrections for a minimum term of 48 months to a maximum term of 120  
27 months, with credit for 456 days time served, as to Count II. As to *Count IV*, the Defendant  
28 is punished by imprisonment in the Nevada Department of Corrections for a minimum

1 term of 28 months to a maximum term of 72 months, to run consecutively to the sentence  
2 imposed in Count II. As to Count VI, the Defendant is punished by imprisonment in the  
3 Nevada Department of Corrections for a minimum term of 48 months to a maximum term  
4 of 120 months, to run concurrently with the sentence imposed in Count IV.

5 It is further ordered that the aggregate sentence imposed is a minimum of 76  
6 months with a maximum of 192 months.

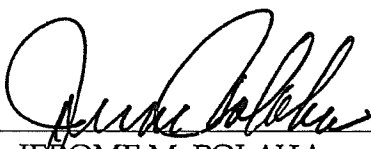
7 It is further ordered that the Defendant pay the statutory Twenty-Five Dollar  
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9 assessment fee for obtaining a biological specimen and conducting a genetic marker  
10 analysis test, that he pay a One Hundred Fifty Dollar (\$150.00) DNA testing fee and that  
11 he pay a psychosexual evaluation fee in the amount of Nine Hundred Twelve Dollars and  
12 Seventy-One Cents (\$912.71) to the Clerk of the Second Judicial District Court.

13 A special sentence of Lifetime Supervision shall commence after any period  
14 of probation, or after any term of imprisonment, or after any period of release on parole.

15 It is further ordered that the fees shall be subject for removal from the  
16 Defendant's books at the Washoe County Detention Facility and/or Nevada Department  
17 of Corrections.

18 Any fine, fee or administrative assessment imposed upon the Defendant  
19 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada  
20 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or  
21 assessments, collection efforts may be undertaken against him.

22 Dated this 8th day of April, 2019,  
23 nunc pro tunc March 14, 2019.

24  
25  
26   
27 JEROME M. POLAHA  
28 DISTRICT JUDGE

# **EXHIBIT K**

# **EXHIBIT K**

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIGY RICHARD LOPEZ-DELGADO )  
 )  
Appellant, )  
 )  
vs. )  
 )  
THE STATE OF NEVADA, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Electronically Filed  
Jul 22 2019 01:32 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No. 78472

Appeal from Judgment of Conviction  
Second Judicial District Court of the State of Nevada  
The Honorable Jerome Polaha

**APPELLANT'S OPENING BRIEF**

MARC PICKER  
Washoe County Alternate Public Defender

350 S. Center St., 6<sup>th</sup> Floor  
RENO, NEVADA 89501

ATTORNEYS FOR APPELLANT

CHRISTOPHER HICKS  
Washoe County District Attorney

1 South Sierra St., 4<sup>th</sup> Floor  
RENO, NEVADA 89501

ATTORNEYS FOR RESPONDENT

**APPELLANT'S OPENING BRIEF****I. JURISDICTIONAL STATEMENT**

This is an appeal from a sentencing hearing held March 14, 2019, (Joint Appendix pages 71-92) and the Judgment of Conviction filed on March 15, 2019, (JA pages 48-49) Corrected Judgment of Conviction filed March 18, 2019 (JA pages 50-51) and Second Corrected Judgment of Conviction (JA pages 69-70). Appellant filed a timely notice of appeal. NRAP 4(b); (JA pages 56-57).

**II. ROUTING STATEMENT**

This appeal is appropriately assigned to the Court of Appeals pursuant to NRAP 17(b)(1) because it is a direct appeal from a judgment of conviction based upon a plea of guilty, and challenges only the sentence imposed.

**III. STATEMENT OF THE ISSUE ON APPEAL**

**The district court abused its discretion in sentencing Luigi Richard Lopez-Delgado to sentences of 48 to 120 months for Statutory Sexual Seduction by Person Age 21 or Older, with a consecutive sentence of 28 to 72 months for Possess Visual Pornography of Person Under Age 16, and an additional concurrent sentence of 48 to 120 months for Lewdness with a Child Older than 14 despite compelling mitigation evidence. A new sentencing is warranted.**

**IV. STATEMENT OF THE CASE**

Defendant Luigi Richard Lopez-Delgado (hereinafter "Mr. Lopez-Delgado")

On December 13, 2018, Mr. Lopez-Delgado pleaded guilty to Statutory Sexual Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony; Possess Visual Pornography of Person Under Age 16, a violation of NRS 200.730.1, a category B felony; and Lewdness with a Child Older than 14, a violation of NRS 201.230.3, a category B felony. (JA pages 19-26, Guilty Plea Memorandum). Thereafter, he was sentenced to a term of incarceration of 48 to 120 months for Statutory Sexual Seduction by Person Age 21 or Older, with 456 days credit for time served, with a consecutive sentence of 28 to 72 months for Possess Visual Pornography of Person Under Age 16, and an additional concurrent sentence of 48 to 120 months for Lewdness with a Child Older than 14. (JA pages 69-70, Second Corrected Judgment of Conviction).

Mr. LOPEZ-DELGADO is 25 years of age with no significant criminal history, other than some traffic violations. He has not had any failures to appear on any such citations. (See, Pre-Sentence Investigation Report, filed under seal) He has admitted in culpability in this matter, recognizing that his actions were legally unacceptable. He stipulated in the Guilty Plea Memorandum to join with the State to recommend that he receive a sentence of 48-120 months on Count II, 28-72 months on Count IV and 48-120 months on Count VI, and that all sentences run concurrent to one another. Mr. LOPEZ-DELGADO had been in custody for almost one (1) year at the time of the sentencing. At sentencing, Mr. LOPEZ-DELGADO

presented documentation of significant family support. (JA pages 44-47) He also presented his extremely limited criminal history, as well as his remorse regarding the victim in the present case. He provided information that he had been employed full-time prior to his arrest and that he was capable of obtaining new employment.

As the evidence at sentencing further showed, Mr. Lopez-Delgado has no history of violence or aggressive behavior, nor a general disregard for the rights of others including the rights of females. (See, Psycho-Sexual Risk Assessment, Page 7, filed under seal) He has struggled with substance abuse and some depression issues throughout his adult life. (See, Psychological Evaluation, filed under seal) Despite this, he was determined not to be a high risk to reoffend by Sheri J. Hixon-Brenenstall, Ph.D., who performed a psycho-sexual evaluation for the Nevada Division of Parole and Probation. (See, PSI and Psycho-Sexual Evaluation, filed under seal).

Dr. Hixon-Brenenstall described Mr. Lopez-Delgado as a moderate risk to reoffend, and that he had expressed willingness to participate in both sex-offense specific treatment and substance abuse treatment. (See, PSI and Psycho-Sexual Evaluation, filed under seal).

In addition to Dr. Hixon-Brenenstall's report, Mr. Lopez-Delgado relied upon letters provided to the court from his family. Those letters, without exception,



noted that he was a good father to his children as well as supportive of friends and family. (JA pages 45-46).

Mr. Lopez-Delgado expressed genuine remorse at the sentencing hearing, expressing concern for the future well-being of the victim in this case. He also expressed concern for the negative impact his crimes would have on his family. (JA pages 87-88)

Mr. Lopez-Delgado did not request that he be granted probation, rather acknowledged that his crimes required incarceration and that is the reason for the stipulated sentence. (JA pages 74-75) The parties both argued in favor of sentences of 48-120 months on Count II, 28-72 months on Count IV and 48-120 months on Count VI, and that all sentences run concurrent to one another. (JA pages 74-75 and 84-85.)

Mitigating factors offered in favor of Mr. Lopez-Delgado included his age, his lack of criminal history including his lack of violence and his genuine remorse for the victim. In addition, the psycho-sexual evaluation provided further information that supported the sentence agreed upon and recommended by the parties, as outlined above.

Despite all of the mitigation evidence provided, the court sentenced Mr. Lopez-Delgado to 48 to 120 months for Statutory Sexual Seduction by Person Age 21 or Older, with a consecutive sentence of 28 to 72 months for Possess Visual

Pornography of Person Under Age 16, and an additional concurrent sentence of 48 to 120 months for Lewdness with a Child Older than 14. See, Second Corrected Judgment of Conviction (JA pages 69-70)

#### V. SUMMARY OF ARGUMENT

At Mr. Lopez-Delgado's sentencing, the court abused its discretion by failing to properly weigh the mitigation evidence provided and sentenced him to maximum consecutive terms of imprisonment on both charges.

#### VI. ARGUMENT

**The district court abused its discretion in sentencing Luigi Richard Lopez-Delgado to sentences of 48 to 120 months for Statutory Sexual Seduction by Person Age 21 or Older, with a consecutive sentence of 28 to 72 months for Possess Visual Pornography of Person Under Age 16, and an additional concurrent sentence of 48 to 120 months for Lewdness with a Child Older than 14 despite compelling mitigation evidence. A new sentencing is warranted.**

It is true that a Judge is allowed wide discretion in sentencing matters. See *Houk v. State*, 103 Nev. 659, 747 P.2d 1376 (1987); see also, *Deveroux v. State*, 96 Nev. 388, 610 P.2d 711 (1980).

NRS 176.015(3)(b) provides that, before a district court imposes sentence, a victim may "[r]easonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution." This is commonly referred to as the "victim impact statement." A victim's interests

must be balanced with those due process rights afforded to a criminal defendant. *State v. Bauscher*, 106 Nev. 890, 804 P.2d 1046 (1990).

A sentencing decision is reviewed for an abuse of discretion. *Silks v. State*, 92 Nev. 91, 545 P.2d 1149 (1976); *Arajakis v. State*, 108 Nev. 976, 843 P.2d 800 (1992); *Parrish v. State*, 116 Nev. 982, 12 P.3d 953 (2000) (a court's discretion is not limitless). An abuse of discretion occurs when prejudice to the defendant results from the fact that the sentencing court relied upon "information or accusations founded on facts supported only by impalpable or highly suspect evidence." *See Silks*, 92 Nev. at 94, 545 P.2d at 1161; *see also, Castillo v. State*, 110 Nev. 535, 874 P.2d 1252 (1994) (overruled on other grounds) (a new sentencing is required when a court relies upon prejudicial information at the time of sentencing).

Futhermore, while it is the function of the Legislature to set penalties and ranges, it is the judge's job to decide what penalty to impose. *Mendoza-Lobos v. State*, 125 Nev. 634, 644, 218 P.3d 501, 507 (2009). In deciding the appropriate sentence, a district court is required to consider mitigating factors. *See NRS 197.163*.

In pronouncing the sentence in the instant case, the court failed to address or show it had considered any of the mitigating information provided by Mr. Lopez-

Delgado, instead stating “This is a very upsetting and disgusting set of facts ...”  
(JA page 89, Transcript of Proceedings - Sentencing)

The court failed to note that Mr. Lopez-Delgado had been found not to be a high risk to reoffend, nor did it appear to consider his age and lack of criminal history. The court appears to have failed to weigh any of that information or the recommendation of the parties in pronouncing the sentences in this case.

The court failed to properly consider and weigh this significant mitigation evidence in pronouncing the sentence in this case. Given all of this, Luigi Richard Lopez-Delgado should receive a new sentencing, before a different district court judge.

#### VII. CONCLUSION

For the reasons put forth above, Luigi Richard Lopez-Delgado respectfully requests that this case be remanded for a new sentencing, before a different district court judge.

DATED this 22<sup>nd</sup> day of July, 2019.

MARC PICKER  
Washoe County Alternate Public Defender

By: /s/ Marc Picker  
MARC PICKER, ESQ.  
Nevada Bar No. 3566

Attorney for Appellant

**CERTIFICATE OF COMPLIANCE**  
**(NRAP 28.2)**

1. I hereby certify that Appellant's Opening Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6), because the Opening Brief was prepared in a proportionally spaced typeface using Microsoft Word 2003 version in 14 point Times New Roman.

2. I further certify that Appellant's Opening Brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it does not exceed 30 pages.

3. Finally, I hereby certify that I have read the Opening Brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that the Opening Brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I

///

///

may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 22<sup>nd</sup> day of July, 2019.

MARC PICKER  
Washoe County Alternate Public Defender

By: /s/ Marc Picker  
MARC PICKER  
Nevada Bar No. 3566

Attorney for Appellant

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Washoe County Alternate Public Defender's Office and that on this date I served a copy of APPELLANT'S OPENING BRIEF to the following:

LUIGY RICHARD LOPEZ-DELGADO #1213864  
LOVELOCK CORRECTIONAL CENTER  
1200 Prison Road  
LOVELOCK, NEVADA 89419  
Via U.S. Mail

AARON FORD  
ATTORNEY GENERAL STATE OF NEVADA  
100 N. CARSON STREET  
CARSON CITY, NEVADA 89701  
Via electronic filing

CHRIS HICKS  
WASHOE COUNTY DISTRICT ATTORNEY  
Attn: Appellate Department  
Via electronic filing

DATED this 22<sup>nd</sup> day of July, 2019.

/s/ Randi M. Jensen  
RANDI M. JENSEN

**EXHIBIT L**

**EXHIBIT L**



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

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1654

12 LUIGY RICHARD LOPEZ-DELGADO,

Dept. No. 3

13 Defendant.  
14 \_\_\_\_\_/

15 THIRD CORRECTED JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no sufficient cause being  
17 shown by Defendant as to why judgment should not be pronounced against him, the  
18 Court rendered judgment as follows:

19 That Luigy Richard Lopez-Delgado is guilty of the crimes of Statutory Sexual  
20 Seduction by Person Age 21 or Older, a violation of NRS 200.368.1, a category B felony, as  
21 charged in Count II of Second Amended Information, Possess Visual Pornography of  
22 Person Under Age 16, First Offense, a violation of NRS 200.730.1, a category B felony, as  
23 charged in Count IV of the Second Amended Information and Lewdness With Child Older  
24 than 14, a violation of NRS 201.230.3, a category B felony, as charged in Count VI of the  
25 Second Amended Information and that he be punished by imprisonment in the Nevada  
26 Department of Corrections for a minimum term of 48 months to a maximum term of 120  
27 months, with credit for 456 days time served, as to Count II. As to Count IV, the  
28 Defendant is punished by imprisonment in the Nevada Department of Corrections for a

1 minimum term of 28 months to a maximum term of 72 months, to run consecutively to the  
2 sentence imposed in Count II. As to Count VI, the Defendant is punished by  
3 imprisonment in the Nevada Department of Corrections for a minimum term of 48 months  
4 to a maximum term of 120 months, to run concurrently with the sentence imposed in  
5 *Count II.*

6 It is further ordered that the aggregate sentence imposed is a minimum of 76  
7 months with a maximum of 192 months.


8 It is further ordered that the Defendant pay the statutory Twenty-Five Dollar  
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12 he pay a psychosexual evaluation fee in the amount of Nine Hundred Twelve Dollars and  
13 Seventy-One Cents (\$912.71) to the Clerk of the Second Judicial District Court.

14 A special sentence of Lifetime Supervision shall commence after any period  
15 of probation, or after any term of imprisonment, or after any period of release on parole.

16 It is further ordered that the fees shall be subject for removal from the  
17 Defendant's books at the Washoe County Detention Facility and/or Nevada Department  
18 of Corrections.

19 Any fine, fee or administrative assessment imposed upon the Defendant  
20 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada  
21 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or  
22 assessments, collection efforts may be undertaken against him.

23 Dated this 11<sup>th</sup> day of February, 2020,  
24 nunc pro tunc March 14, 2019.

25  
26  
27  
28  
  
JEROME M. POLAHA  
DISTRICT JUDGE

# **EXHIBIT M**

# **EXHIBIT M**

## IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIGY RICHARD LOPEZ-DELGADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78472-COA

**FILED**

FEB 18 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**ORDER OF AFFIRMANCE**

Luigy Richard Lopez-Delgado appeals from a judgment of conviction entered pursuant to a guilty plea of statutory sexual seduction by a person 21 years of age or older, possession of visual pornography of a person under 16 years of age, and lewdness on a child older than 14 years of age. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.


Lopez-Delgado claims the district court abused its discretion at sentencing by failing to consider any of the mitigating evidence that he provided, his age, his lack of criminal history, and the parties' sentencing recommendation when deciding the sentence to impose.

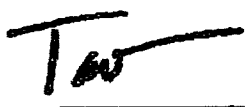
We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And NRS 176.035(1) plainly gives the district

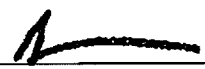
court discretion to run subsequent sentences consecutively. *Pitmon v. State*, 131 Nev. 123, 129, 352 P.3d 655, 659 (Ct. App. 2015).

The district court sentenced Lopez-Delgado to prison terms of 48 to 120 months for the statutory sexual seduction count, 28 to 72 months for the possession of pornography count, and 48 to 120 months for the lewdness count. These prison terms fall within the parameters of the relevant statutes. See NRS 200.368(1); NRS 200.730(1); NRS 201.230(3). Lopez-Delgado has not alleged that the district court relied upon palpable or highly suspect evidence. And the record demonstrates that the district court received the letters of mitigation, considered the presentence investigation report and psychological evaluations, and heard the parties' sentencing arguments. Given this record, we conclude Lopez-Delgado has failed to demonstrate that the district court abused its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerome M. Polaha, District Judge  
Washoe County Alternate Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**Return Of NEF****Recipients**

**MARC PICKER, ESQ.** - Notification received on 2021-04-08 16:17:34.582.

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A filing has been submitted to the court RE: CR18-1654

Judge:

HONORABLE SCOTT N. FREEMAN

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04-08-2021:16:13:13

Clerk Accepted:

04-08-2021:16:17:01

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

Document(s) Submitted:

Supplemental Petition

- \*\*Continuation
- \*\*Continuation
- \*\*Continuation
- \*\*Continuation
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LOPEZ-DELGADO (TN)

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NEVADA

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Judge:

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04-13-2021:20:09:53

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04-14-2021:08:23:58

Court:

Second Judicial District Court - State of Nevada  
Criminal

Case Title:

STATE VS LUGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

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Krista Meier, Esq.

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

LUIGY RICHARD LOPEZ-DELGADO,

Petitioner,

vs.

Case No. CR18-1654

STATE OF NEVADA,

Dept. No. 9


Respondent.  
-----/

**ORDER APPROVING ATTORNEY'S FEES**  
**(Post-Conviction)**

Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of justice, IT IS HEREBY ORDERED that the recommendations of the Administrator are hereby confirmed, approved and adopted as to the amount of \$2,030.00. This amount may not be the same as the Administrator's recommendation. Counsel is notified that he may request a prove-up hearing for any non-approved amounts before the Chief Judge of the District.

Counsel, Orrin J.H. Johnson, shall be reimbursed by the State of Nevada Public Defender's Office attorney fees in the amount of \$2,030.00.

DATED this 28<sup>th</sup> day of April, 2021.



\_\_\_\_\_  
CHIEF DISTRICT JUDGE

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04-28-2021:11:58:21

**Clerk Accepted:**

04-28-2021:12:00:53

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS LUIGY RICHARD LOPEZ-DELGADO  
(TN)(D9)

**Document(s) Submitted:**

Ord Approving

**Filed By:**

Judicial Asst. BWard

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