

DA

NO. 14 CR00635 4E

FILED
2021 OCT 15 3:00

IN THE ELKO JUSTICE COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

Electronically Filed
Nov 15 2021 06:58 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

STATE OF NEVADA,

Plaintiff,

vs.

DEVON RAY HOCKEMIER,

Defendant(s).

CRIMINAL

COMPLAINT

COMES NOW, THE STATE OF NEVADA, the Plaintiff in the above-entitled cause, by and through its Counsel of Record, the Elko County District Attorney's Office, and based upon the unsworn declaration attached hereto, complains and alleges that the Defendant(s)¹ above-

¹ 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult

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named, from on or about the 1st day of September, 2009, to on or about the 28th day of February, 2010², at or near the location of City of Elko, within the County of Elko, and the State of Nevada, committed the following described criminal offense(s):

COUNT 1

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 1,

COUNT 2

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

- (1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or
- (2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

² NRS 171.095 Limitations for offenses committed in secret manner, offenses constituting sexual abuse or sex trafficking of child and offenses regarding personal identifying information.

1. Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084.

(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090 and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or (c) or the provisions of NRS 202.885.

(b) An indictment must be found, or an information or complaint filed, for any offense constituting sexual abuse of a child as defined in NRS 432B.100 or sex trafficking of a child as defined in NRS 201.300, before the victim is

(1) Thirty-six years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches that age, or

(2) Forty-three years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches 36 years of age

or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

In the Alternative to Counts 1 and 2,

COUNT 3

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 4

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 4,

COUNT 5

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

In the Alternative to Counts 4 and 5.

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COUNT 6

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 7

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 7,

COUNT 8

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

In the Alternative to Counts 7 and 8,

COUNT 9

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 10

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 10,

COUNT 11

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a Child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

In the Alternative to Counts 10 and 11,

COUNT 12

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 13

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting O.M.'s penis into the Defendant's mouth, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct

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In the Alternative to Count 13,

COUNT 14

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a Child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting O.M.'s penis into the Defendant's mouth

In the Alternative to Counts 13 and 14,

COUNT 15

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting O.M.'s penis into the Defendant's mouth, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 16

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: S.B., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into S.B.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 16,

COUNT 17

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14

years, to-wit: S.B., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into S.B.'s anus.

In the Alternative to Counts 16 and 17,

COUNT 18

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into S.B.'s anus, all of which occurred in a place open to the public, in the Defendant's bedroom and/or a room in the Defendant's home.

COUNT 19

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c)

That the Defendant willfully and unlawfully subjected another person, to-wit: S.B., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into S.B.'s mouth, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

In the Alternative to Count 19,

COUNT 20

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: S.B., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into S.B.'s mouth

In the Alternative to Counts 19 and 20,

COUNT 21

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210

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The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into S.B.'s mouth, all of which occurred in a place open to the public, in the Defendant's bedroom and/or a room in the Defendant's home.

All of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Nevada. Said Complainant, therefore, prays that the Defendant(s) be dealt with according to law.

The Complainant further prays:

☒ For the issuance of a Warrant of Arrest.

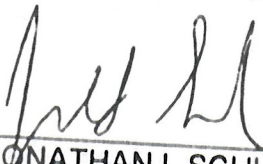
☐ For the issuance of a Summons.

☐ A copy of NRS 201.051 must be attached if charge(s) is/are a violation of NRS 201.020.

The undersigned hereby declares under penalty of perjury the foregoing Complaint is true to the best of his/her knowledge, information and belief.

Dated: April 28, 2014.

MARK TORVINEN
ELKO COUNTY DISTRICT ATTORNEY


JONATHAN L. SCHULMAN
Deputy District Attorney
State Bar No.: 9180

- { } Check if the victim in misdemeanor cases appears to have incurred uncompensated expenses because of the defendant's acts.
- { } Check if prosecutor wishes to be present at misdemeanor sentencing.

Pursuant to NRS 174.234 and NRS 171.1965 or NRS 174.235, discovery herein contains the name and last known address or place of employment of the witnesses the State intends to call during the case-in-chief in a misdemeanor trial.

DA #F-14-94099 / REPORT #: P14-0676 / OFFICER JARED LOWRY / AGENCY •

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Unsworn Declaration In Support Of Complaint
Pursuant to NRS 53.045

Comes now DETECTIVE ZACHARY HESSING, who declares the following to the above-entitled Court:

1. That the Declarant is presently serving as a Detective for the Elko City Police Department.
2. That in the above capacity I was involved in the investigation concerning the sexual abuse of O.M., a ten year old boy, and S.B., a fourteen year old boy which took place in Elko County and of which the police department became aware of on November 21, 2013.
3. That I learned through my investigation that Devon Hockemier, a twenty-one year old adult male as of November 24, 1992, was the perpetrator of the sexual abuse.
4. That on November 21, 2013, I interviewed O.M. During the interview O.M. told me that when he was between five or six years old, a male, later identified as Devon Hockemier, had inserted his penis into O.M.'s anus on two different occasions. That O.M. provided me with a physical description of the male who assaulted him. That O.M. indicated that each incident took place in the male's home in the room belonging to the male's mother, and that the home was located in or near the city of Elko within Elko County.
5. That during the interview, O.M. also told me that during the sexual encounters the male would place his hand over O.M.'s mouth so that O.M. could not yell. That O.M. also stated that the male told O.M. that if O.M. ever told anyone, he would kill O.M.
6. That on November 25, 2013, O.M.'s mother identified the male, as described to me by O.M. as Devon Hockemier and that O.M. had accurately described the home and bedroom belonging to Devon's mother. That O.M.'s mother also

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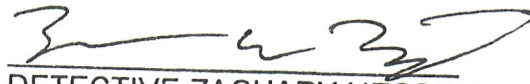
informed me that she, O.M., and S.B., had lived with Devon Hockemier in the home belonging to Devon's mother. That on November 26, 2013, O.M.'s mother informed me that they had lived with Devon from September 2009 to February 2010.

7. That during my investigation, I discovered that Devon Hockemier would have been between the ages of seventeen and eighteen during the time when the sexual assaults were committed.
8. That on November 25, 2013, I was informed that during O.M.'s CARES exam O.M. stated that Devon Hockemier had inserted his penis into O.M.'s anus a total of four times and that O.M. had anal scars which supported his disclosure of anal penetration.
9. That on November 25, 2013, I interviewed S.B. That S.B. stated that when he was around ten years old, Devon Hockemier had inserted his penis into S.B.'s anus. That this occurred around Christmas time and that the act occurred in Devon's bedroom.
10. That on January 8, 2013, I interviewed Devon Hockemier. Devon confirmed that the victims lived with himself and his mother from September 2009 to February 2010, and that he was between the ages of seventeen and eighteen during that time. That Devon admitted to inserting his penis into O.M.'s anus two times while living with the victims. That Devon admitted to inserting O.M.'s penis into Devon's mouth one time while living with the victims. That Devon admitted to inserting his penis into S.B.'s anus one time while living with the victims. That Devon admitted to inserting his penis into S.B.'s mouth on several occasions while living with the victims.
11. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28 day of APRIL, 2014

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DETECTIVE ZACHARY HESSING
Detective

Elko City Police Department

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RESPONDENT EXHIBIT NO: B
CASE NO.: CV-HC-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

**Respondent's
Exhibit 3**

**Hockmier v Director of Nevada
Department of Corrections**

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CASE NO. 14-CR-00635

FILED
CLERK OF DISTRICT COURT
2014 JUL -8 PM 3:11

CLERK _____

IN THE ELKO JUSTICE COURT

IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

DEVON RAY HOCKEMIER,

Defendant(s).

AMENDED

CRIMINAL

COMPLAINT

COMES NOW, THE STATE OF NEVADA, the Plaintiff in the above-entitled cause, by and through its Counsel of Record, the Elko County District Attorney's Office, and based upon the unsworn declaration heretofore filed, complains and alleges that the Defendant(s)¹ above-named, from on or about the 1st day of September, 2009, to

¹ 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

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on or about the 28th day of February, 2010², at or near the location of City of Elko, within the County of Elko, and the State of Nevada, committed the following described criminal offense(s):

COUNT 1

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 1,

COUNT 2

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

² **NRS 171.095 Limitations for offenses committed in secret manner, offenses constituting sexual abuse or sex trafficking of child and offenses regarding personal identifying information.**

1 Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084:

(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090 and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or (c) or the provisions of NRS 202.885.

(b) An indictment must be found, or an information or complaint filed, for any offense constituting sexual abuse of a child as defined in NRS 432B.100 or sex trafficking of a child as defined in NRS 201.300, before the victim is:

(1) Thirty-six years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches that age; or

(2) Forty-three years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches 36 years of age.

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assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

IN THE ALTERNATIVE TO COUNTS 1 AND 2,

COUNT 3

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210.

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 4

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 4,

COUNT 5

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

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IN THE ALTERNATIVE TO COUNTS 4 AND 5,

COUNT 6

**OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS
DEFINED BY NRS 201.210.**

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 7

**SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A
CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).**

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 7,

COUNT 8

**LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A
CATEGORY A FELONY AS DEFINED BY NRS 201.230.**

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

IN THE ALTERNATIVE TO COUNTS 7 AND 8,

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COUNT 9

**OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS
DEFINED BY NRS 201.210.**

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 10

**SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A
CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).**

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into O.M.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 10,

COUNT 11

**LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A
CATEGORY A FELONY AS DEFINED BY NRS 201.230.**

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a Child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into O.M.'s anus.

IN THE ALTERNATIVE TO COUNTS 10 AND 11,

COUNT 12

**OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS
DEFINED BY NRS 201.210.**

The Defendant engaged in an act or acts of open and gross lewdness in

the following manner: by inserting his penis into O.M.'s anus, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

COUNT 13

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).

That the Defendant willfully and unlawfully subjected another person, to-wit: O.M., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting O.M.'s penis into the Defendant's mouth, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 13,

COUNT 14

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a Child under the age of 14 years, to-wit: O.M., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting O.M.'s penis into the Defendant's mouth.

IN THE ALTERNATIVE TO COUNTS 13 AND 14,

COUNT 15

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210.

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting O.M.'s penis into the Defendant's mouth, all of which occurred in a place open to the public, in the bedroom belonging to the Defendant's mother and/or a room in the Defendant's home.

///

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COUNT 16

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).

That the Defendant willfully and unlawfully subjected another person, to-wit: S.B., who is a Child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into S.B.'s anus, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 16,

COUNT 17

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: S.B., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into S.B.'s anus.

IN THE ALTERNATIVE TO COUNTS 16 AND 17,

COUNT 18

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210.

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into S.B.'s anus, all of which occurred in a place open to the public, in the Defendant's bedroom and/or a room in the Defendant's home.

COUNT 19

SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.366(3)(c).

That the Defendant willfully and unlawfully subjected another person, to-

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wit: S.B., who is a child under the age of 14 years, to sexual penetration, to-wit: by inserting his penis into S.B.'s mouth, against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct.

IN THE ALTERNATIVE TO COUNT 19,

COUNT 20

LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

That the Defendant did willfully, unlawfully, feloniously, and lewdly commit a lewd or lascivious act other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, to-wit: S.B., and that said Defendant committed said act with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either the Defendant or of said minor child in the following manner: by inserting his penis into S.B.'s mouth.

IN THE ALTERNATIVE TO COUNTS 19 AND 20,

COUNT 21

OPEN OR GROSS LEWDNESS, A GROSS MISDEMEANOR AS DEFINED BY NRS 201.210.

The Defendant engaged in an act or acts of open and gross lewdness in the following manner: by inserting his penis into S.B.'s mouth, all of which occurred in a place open to the public, in the Defendant's bedroom and/or a room in the Defendant's home.

COUNT 22

KIDNAPPING IN THE FIRST DEGREE, A CATEGORY A FELONY AS DEFINED BY NRS 200.310(1).

That the Defendant did willfully and unlawfully seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap or carry away another person, to-wit: O.M., with the intent to hold or detain, or held or detained, the victim for ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the victim, or for the purpose of killing the victim or inflicting substantial bodily harm upon the victim, or to exact money or valuables from others for the return or disposition of the victim,

by the following manner: pulled OM into a room and then sexually assaulted him by inserting his penis into O.M.'s anus.

IN THE ALTERNATIVE TO COUNT 22

COUNT 23

**KIDNAPPING IN THE SECOND DEGREE, A CATEGORY B FELONY
AS DEFINED BY NRS 200.310(2).**

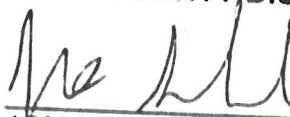
That the Defendant did willfully and without authority of law seized inveigled, took, carried away or kidnapped another person, to-wit: O.M., with the purpose of conveying him/her out of the State of Nevada without authority of law, or in any manner held to service or detained against his/her will.

All of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Nevada. Said Complainant, therefore, prays that the Defendant(s) be dealt with according to law.

The undersigned hereby declares under penalty of perjury the foregoing Complaint is true to the best of his/her knowledge, information and belief.

Dated: July 7th, 2014.

**MARK TORVINEN
ELKO COUNTY DISTRICT ATTORNEY**



JONATHAN L. SCHULMAN
Deputy District Attorney
State Bar No.: 9180

- { } Check if the victim in misdemeanor cases appears to have incurred uncompensated expenses because of the defendant's acts.
- { } Check if prosecutor wishes to be present at misdemeanor sentencing.

Pursuant to NRS 174.234 and NRS 171.1965 or NRS 174.235, discovery herein contains the name and last known address or place of employment of the witnesses the State intends to call during the case-in-chief in a misdemeanor trial.

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to the provisions of NRCP 5(b), that I am an employee of the Elko County District Attorney's Office, and that on the 24 day of July, 2014, I hereby served a copy of the AMENDED CRIMINAL COMPLAINT, by delivering, mailing, faxing, or by causing to be delivered, faxed, or mailed, a copy of said document to the following:

By delivering to:

THE HONORABLE MASON E. SIMONS
ELKO JUSTICE COURT
ELKO COUNTY COURTHOUSE
ELKO, NV 89801

By mailing to:

LORIEN B. COLE
ATTORNEY AT LAW
401 RAILROAD ST., SUITE 307
ELKO, NV 89801


KURRI SULLIVAN
FELONY CASEWORKER

DA #F-14-94099 / REPORT #: P14-0676 / OFFICER: JARED LOWRY / AGENCY:
EPD

756

RESPONDENT EXHIBIT NO: C
CASE NO.: CV-HC-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20

**Respondent's
Exhibit 4**

**Hockmier v Director of Nevada
Department of Corrections**

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ELKO JUSTICE COURT
FULL CASE HISTORY

14-014099-KUR

D.2

Defendant: HOCKEMIER, DEVON RAY

Case #: 14 CR 00635 4E

Tkl Cit #

File Date: 05/01/2014

Language Spoken: unknown

Status: CLOSED

Prosecuting Attorney

ELKO COUNTY DISTRICT ATTORNEY

Defense Attorney

LORIEN BARRETT

SHERBURNE MACFARLAN

COURT HEARING HISTORY

72 HOUR HEARING (ELKO JUSTICE)	Friday, June 20, 2014	10 42 am	72-HOUR HEARING HELD
FIRST APPEARANCE (ELKO JUSTICE)	Monday, June 23, 2014	3 00 pm	ARRAIGNMENT HEARING HELD
PRELIMINARY HEARING (ELKO JUSTICE)	Friday, July 11, 2014	8 00 am	PRELIMINARY HEARING CONTINUED - DE
MOTION HEARING (ELKO JUSTICE)	Thursday, August 14, 2014	9 00 am	HEARING HELD
PRELIMINARY HEARING (ELKO JUSTICE)	Monday, August 18, 2014	10 00 am	PRELIMINARY HEARING HELD

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CHARGE AND SENTENCE INFORMATION

1	SEXUAL ASSAULT W CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
2	LEWDNESS WITH A CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
3	OPEN OR GROSS LEWDNESS	No Plea	Jail	GROSS MISDEMEANOR	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
4	SEXUAL ASSAULT W CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
5	LEWDNESS WITH A CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
6	OPEN OR GROSS LEWDNESS	No Plea	Jail	GROSS MISDEMEANOR	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
7	SEXUAL ASSAULT W CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
8	LEWDNESS WITH A CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
9	OPEN OR GROSS LEWDNESS	No Plea	Jail	GROSS MISDEMEANOR	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
10	SEXUAL ASSAULT W CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
11	LEWDNESS WITH A CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
12	OPEN OR GROSS LEWDNESS	No Plea	Jail	GROSS MISDEMEANOR	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident
13	SEXUAL ASSAULT W CHILD UNDER 14	No Plea	Jail	FELONY	Offense Date 09/01/2009
	Plea				
	Disposition	08/18/2014	BINDOVER TO DISTRICT COURT		Accident

Date: 08/14/2014

Page: 1 of 1

Page: 1 of 1

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Disposition	08/18/2014	DISMISSED DURING PRELIM			Accident
14	LEWDNESS WITH A CHILD UNDER 14				
Plea	No Plea		FELONY		
Disposition	08/18/2014	DISMISSED DURING PRELIM	Jail		Offense Date 09/01/2009
15	OPEN OR GROSS LEWDNESS				Accident
Plea	No Plea		GROSS MISDEMEANOR		
Disposition	08/18/2014	DISMISSED DURING PRELIM	Jail		Offense Date 09/01/2009
16	SEXUAL ASSAULT W CHILD UNDER 14				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
17	LEWDNESS WITH A CHILD UNDER 14				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
18	OPEN OR GROSS LEWDNESS				Accident
Plea	No Plea		GROSS MISDEMEANOR		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
19	SEXUAL ASSAULT W CHILD UNDER 14				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
20	LEWDNESS WITH A CHILD UNDER 14				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
21	OPEN OR GROSS LEWDNESS				Accident
Plea	No Plea		GROSS MISDEMEANOR		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
22	KIDNAPPING - FIRST DEGREE				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009
23	KIDNAPPING - SECOND DEGREE				Accident
Plea	No Plea		FELONY		
Disposition	08/18/2014	BINDOVER TO DISTRICT COURT	Jail		Offense Date 09/01/2009

FINANCIAL SUMMARY

NOTES OR FEES ARE DUE ON THIS CASE

FINANCIAL DETAIL

NOTES OR FEES ARE DUE ON THIS CASE

CONDITIONS

NO CONDITIONS ARE CURRENTLY ORDERED ON THIS CASE

TICKLER INFORMATION

Tickler

4E AWAITING WARRANT RETURN (ELKO JUSTICE)

Due Date

07/21/2014

Completion Date

06/23/2014

ARREST/BAIL/BOND INFORMATION

NO ARREST, BAIL OR BOND INFORMATION EXISTS ON THIS CASE

DOCKET LISTING

[illegible]

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APPENDIX
TABLE

REVIEWS

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Date	Action	Operator	Fine/Cost	Due
6/20/14	72-HOUR HEARING HELD			
	72-HOUR HEARING HELD			
	The following event 72 HOUR HEARING (ELKO JUSTICE) scheduled for 06/20/2014 at 10:42 am has been resulted as follows	4EPHILLIPS		
	Result 72-HOUR HEARING HELD			
	Judge SIMONS, MASON Location			
6/23/14	PETITION FOR COURT APPOINTED ATTORNEY			
	PETITION FOR COURT APPOINTED ATTORNEY			
	PETITION GRANTED	4EJWEBB		
	PETITION GRANTED			
	ASSIGNED PUBLIC DEFENDER	4EJWEBB		
	ASSIGNED PUBLIC DEFENDER			
	WARRANT RETURNED FILED	4EJWEBB		
	WARRANT RETURNED FILED			
	ARRAIGNMENT HEARING HELD	4EJSMITH		
	ARRAIGNMENT HEARING HELD			
	The following event FIRST APPEARANCE (ELKO JUSTICE) scheduled for 06/23/2014 at 3:00 pm has been resulted as follows	4EJWEBB		
	Result ARRAIGNMENT HEARING HELD			
	Judge SIMONS, MASON Location			
	FIRST APPEARANCE HEARING SCHEDULED			
	FIRST APPEARANCE HEARING SCHEDULED			
	Event FIRST APPEARANCE (ELKO JUSTICE)	4EJWEBB		
	Date 06/23/2014 Time 3:00 pm			
	Judge SIMONS, MASON Location			
	ARRAIGNMENT HEARING HELD			
	IN CUSTODY TRANSPORT			
	IN CUSTODY TRANSPORT			
	COURT HOUSE			
	IN COURT MINUTES			
	IN COURT MINUTES - COURT WAS CALLED TO ORDER AT 10:00 AM. JUDGE MASONE SIMONS JUSTICE OF THE PEACE FOR ELKO COUNTY PRESIDING. DEFENDANT WAS PRESENT IN COURT IN CUSTODY WITHOUT COUNSEL ATTORNEY. PROSECUTOR B. LEE OR WAS PRESENT FROM DISTRICT OF ELKO COUNTY. DEFENDER - DISTRICT ATTORNEY TANNER S. LEE WAS PRESENT FOR THE STATE. THE STATE REQUESTED FIRST APPEARANCE.			
	DEFENDANT WAS GIVEN A COPY OF THE COMPLAINT AND ADVISED OF THE FORMAL READING.			
	DEFENDANT WAS ADVISED OF THE CONSTITUTIONAL RIGHTS AND ADVISED OF THE RIGHTS AND OBLIGATIONS OF CUSTODY.			
	DEFENDANT STATED HE UNDERSTOOD AND AGREES TO THE COMPLAINT AND REQUESTED AN APPLICATION FOR APPOINTMENT.			

762

Date	Action	Operator	Fine/Cost	Due
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6/23/14	OF ATTORNEY AND SUBMITTED IT TO THE COURT			
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AFTER REVIEWING THE APPLICATION AND CANVASSING THE DEFENDANT, THE COURT ORDERED THAT THE OFFICE OF THE PUBLIC DEFENDER BE APPOINTED TO REPRESENT THIS DEFENDANT

COURT HEARD A STATEMENT FROM THE STATE REGARDING THE NUMBER OF WITNESSES ANTICIPATED AND THE ESTIMATED LENGTH OF A PRELIMINARY HEARING

DEFENDANT STATED HE WOULD WAIVE THE 15-DAY STATUTORY PERIOD FOR A PRELIMINARY HEARING THE COURT SET THE PRELIMINARY HEARING FOR JULY 11, 2014, AT 9:00 A.M.

DEFENDANT WAS ORDERED REMANDED TO THE CUSTODY OF THE ELKO COUNTY SHERIFF IN LIEU OF POSTING BAIL IN THE AMOUNT OF \$1,500.00 CASH OR BONDABLE

COURT ADJOURNED

6/27/14	FILED: MOTION			
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MOTION TO BE RELIEVED OF THE DEFENSE AND FOR THE APPOINTMENT OF NEW COUNSEL AND SUBMISSION FILED

45EPANIREZ

PRELIMINARY HEARING SCHEDULED

PRELIMINARY HEARING SCHEDULED

FOR PRELIMINARY HEARING FOR ELKO COUNTY

DATE: 07/11/2014 Time: 9:00 AM

FILED SIMONS MASON, LORRAINE

45SPENCER

FOR PRELIMINARY HEARING SCHEDULED FOR ELKO COUNTY REQUEST

7/1/14	ORDER			
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ORDER GRANTING MOTION FOR REMOVAL AS ATTORNEY FOR RECORD AND APPOINTING NEW ATTORNEY TO REPRESENT DEFENDANT FILED: THE COURT ORDERED BY ORDER THAT ALBORN, YVONNE, SHERIFF, APPOINTED TO REPRESENT THE DEFENDANT IN THIS MATTER

45EPANIREZ

7/8/14	FILED: MOTION			
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MOTION FOR RELEASE FILED BY ATTORNEY LORRAINE

FILED: MOTION

45SMITH

EX PARTE MOTION FOR CONTINUANCE OF HEARING FILED BY ATTORNEY LORRAINE

45SMITH

AMENDED COMPLAINT FILED

AMENDED COMPLAINT FILED

7/10/14	FORM GENERATION			
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FORM GENERATION

45SMITH

Date	Action	Operator	Fine/Cost	Due
7/10/14	4E ORDER FOR NEW ATTORNEY Sent on 07/10/2014 14:10:58.57			
	FILED: MOTION MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT FILED BY ATTORNEY LORIE COLE	4E/SMITH		
	ORDER APPOINTING NEW ATTORNEY ORDER GRANTING MOTION TO WITHDRAW AS ATTORNEY OF RECORD AND APPOINTING NEW ATTORNEY TO REPRESENT DEFENDANT ISSUED AND FILED THE COURT ORDERED THE LAW OFFICE OF LOCKIE & MACFARLAN BE APPOINTED TO REPRESENT THE DEFENDANT IN THIS MATTER	4E/SMITH		
7/11/14	PRELIMINARY HEARING CONTINUED - DEFENSE ESQ REQUEST PRELIMINARY HEARING CONTINUED - DEFENSE ESQ REQUEST The following event PRELIMINARY HEARING (ELKO JUSTICE) scheduled for 07/11/2014 at 8:00 am has been rescheduled as follows	4E/WEBB		
	Re: PRELIMINARY HEARING CONTINUED - DEFENSE ESQ REQUEST Re: SIMONS MASON Location			
	IN-CUSTODY TRANSPORT IN-CUSTODY TRANSPORT BY COURTHOUSE	4E/WEBB		
	IN-COURT MINUTES IN-COURT MINUTES COURT WAS CALLED TO ORDER AT 8:12 AM. JUDGE MASON & SIMONS JUSTICE OF THE PEACE FOR ELKO TOWNSHIP PRESIDING. DEFENDANT WAS PRESENT IN COURT IN-CUSTODY WITH ATTORNEY SHERBERNE M MACFARLAN III. DEPUTY DISTRICT CLERK RAYMOND JONATHAN SHERMAN AND TANNER SHAWZ, ASPI PRESENT FOR THE STATE. THE OFFICIAL COURT REPORTER CALYD HINER WAS PRESENT TO RECORD THE PROCEEDINGS. THIS IS THE TIME ORDINALLY SET FOR PRELIMINARY HEARING.	4E/WEBB		
	THE COURT REVIEWED THE RECORD OF ALL PROCEEDINGS WITH THE PARTIES. THE COURT NOTED THAT ELKO TOWNSHIP OF LOCKIE & MACFARLAN HAD BEEN APPOINTED TO COUNSEL FOR THE DAY.			
	DEFENSE AND STATE COURT REPORTER HAS A QUESTION WAS THE COURT REPORTER DONALD J. PHILLIPS. THAT THE ELKO TOWNSHIP HAD NO COUNSEL. JUDGE MASON & SIMONS PRESENTED TO THE COURT.			
	THE STATE AND STATE COURT REPORTER DONALD J. PHILLIPS STATED THAT THE COURT REPORTER DONALD J. PHILLIPS RECEIVED THE STATE COURT REPORTER DONALD J. PHILLIPS.			
	COURT NOTED THAT THE PARTIES HAD A PRELIMINARY HEARING.			

Date	Action	Operator	Fine/Cost	Due
7/11/14	THE PRELIMINARY HEARING ON MONDAY, AUGUST 18, 2014 COURT FURTHER NOTED THAT IT CURRENTLY HAS AN ARRAIGNMENT SESSION SET FROM 8 30 A.M. UNTIL 10 00 OR 10 30 A.M. COURT ADVISED THAT THE PRELIMINARY HEARING COULD BE SET TO BEGIN FOLLOWING THE ARRAIGNMENT SESSION PARTIES AGREED COURT SET THE PRELIMINARY HEARING FOR MONDAY, AUGUST 18, 2014, AT 10 00 A.M., TO LAST FOR THE REMAINDER OF THAT DAY STATE REQUESTED THAT THE WITNESSES WHO ARE PRESENT BE SUBPOENAED FROM THE BENCH COURT ADVISED THE WITNESSES WHO WERE PRESENT THAT THEIR SUBPOENAS WERE BEING CONTINUED TO THE NEW DATE THE FOLLOWING WITNESSES O.M. S.B., HEIDI OVERHOLSER, CHARLES BRIDGE, PAMELA EPSTEIN, ALICIA TURNER DETECTIVE HESSING, AND CARRIE POWERS WERE ORDERED BY THE COURT TO APPEAR FOR PRELIMINARY HEARING ON MONDAY, AUGUST 18, 2014, AT 10 00 A.M. DEFENDANT ORDERED REMANDED TO THE CUSTODY OF THE ELKO COUNTY SHERIFF IN LIEU OF POSTING BAIL IN THE AMOUNT OF \$350,000.00 BONDABLE COURT ADJOURNED PRELIMINARY HEARING SCHEDULED PRELIMINARY HEARING SCHEDULED EX-PT PRELIMINARY HEARING AT KO JUSTICE DATE 08/18/2014 Time 10:00 AM W/MT SIMONS MASON Location PRELIMINARY HEARING HELD 15 DAY WAIVER FILED 15 DAY WAIVER FILED WAIVER FOR COURT TO SCHEDULE PRELIMINARY HEARING FILED BY COURT & MCFARLANE 7/14/14 REQUEST REQUEST THAT PRISON BE FILED MONDAY 08/04/14 BE HELD IN A JAIL CELL MISC NOTES IN PARTIAL DETENTION OF PRISON PRIVATE INVESTIGATION FILED 7/15/14 ORDER COURT GRANTING IN PART APPEAL IN DISMISSAL OF CHARGE IN DISMISSAL FILED 7/24/14 MISC NOTES IN PARTIAL DETENTION OF PRISON PRIVATE INVESTIGATION FILED	487WJBS <		

Date	Action	Operator	Fine/Cost	Due
7/24/14	FILED			
7/28/14	MISC NOTES: CONTINGENT MOTION TO TRANSFER CASE TO JUVENILE COURT FILED	4EERAMIREZ		
8/4/14	MISC NOTES: EX-PARTE APPLICATION FOR PAYMENT OF PRIVATE INVESTIGATOR FEES FILED	4EERAMIREZ		
8/5/14	ORDER: ORDER AUTHORIZING PAYMENT OF INVESTIGATIVE FEES FILED	4EERAMIREZ		
	ORDER: ORDER GRANTING MOTION TO INSPECT AND COPY JUVENILE RECORDS FILED	4EERAMIREZ		
8/6/14	OPPOSITION OPPOSITION TO CONTINGENT MOTION TO TRANSFER CASE TO JUVENILE COURT FILED	4EERAMIREZ		
8/7/14	MOTION HEARING SCHEDULED MOTION HEARING SCHEDULED FOR MOTION HEARING (FLKRO JUSTICE) DATE: 8/14/2014 Time: 9:00 am ROOM: SIMONS MASON Location HEARING HELD MISC NOTES THE COURT SCHEDULED A HEARING ON THE MOTION TO TRANSFER CASE TO JUVENILE COURT FOR AUGUST 14, 2014 AT 9:00 AM. ALL PARTIES NOTIFIED.	4EERAMIREZ		
8/14/14	HEARING HELD HEARING HELD The following event: MOTION HEARING (FLKRO JUSTICE) on 8/14/2014 at 9:00 am has been rescheduled to HEARING HELD ROOM: SIMONS MASON Location IN COURT MINUTES IN COURT MINUTES THE COURT WAS CALLED TO ORDER AT 9:00 AM. THE MAXINE SIMONS, JUDGE OF THE DISTRICT COURT, JOHNSON COUNTY. THE DEFENDANT WAS PRESENT AS ORAL EXAMINED BY ATTORNEY SHERWIN MAXEALIAN, DEPT. OF DISTRICT ATTORNEYS, JOHNSON COUNTY, AND TASSON TARP COUNSELOR FOR THE STATE. THIS IS THE FIRST TIME FOR A CONTINGENT MOTION TO TRANSFER CASE TO JUVENILE COURT FILED BY THE DEFENSE. THE DEFENSE REQUESTED WITH THE MOTION TO TRANSFER JOHNSON COUNTY AND EXAMINED AND EXAMINED.	4EERAMIREZ		

Date	Action	Operator	Fine/Cost	Due
8/14/14	THE DEFENSE GAVE ARGUMENT IN SUPPORT OF THE MOTION THE STATE GAVE ARGUMENT OPPOSING THE MOTION			
	THE COURT FINDS PURSUANT TO NRS 62B 330, THE JUSTICE COURT HAS JURISDICTION OVER THIS MATTER, AND FURTHER ORDERED THE COURT RECONVENE FOR THE PRELIMINARY HEARING ON AUGUST 18, 2014, AT 9 00 A M			
	DEFENDANT REMANDED TO THE CUSTODY OF THE ELKO COUNTY SHERIFF IN LIEU OF POSTING BAIL IN THE AMOUNT OF \$3,500.000.00 COURT ADJOURNED			
8/18/14	ORDER BINDING DEFENDANT OVER FILED ORDER BINDING DEFENDANT OVER FILED	HEKMOORE		
	PRELIMINARY HEARING HELD			
	PRELIMINARY HEARING HELD	HEKMOORE		
	The following grant PRELIMINARY HEARING (ELKO JUSTICE) scheduled for 08/18/2014 at 10:00 am has been resulted as follows:			
	Res: PRELIMINARY HEARING HELD			
	Judge: SIMONS, MASON Location:			
	IN COURT MINUTES:			
	IN COURT MINUTES: COURT WAS CALLED TO ORDER AT 10:01 A.M. JUDGE MASON E. SIMONS, JUSTICE OF THE PEACE, ELKO TOWNSHIP PRESIDING. THE DEFENDANT IN CUSTODY, TRANSPORTED, APPEARED IN COURT WITH ATTORNEY SHEPHERNE MALFARLAN, DEPUTY DISTRICT ATTORNEY JONATHAN SCHULMAN PRESENT FOR THE STATE. COURT REPORTER TESSA GILL FLEMING PRESENT. THIS IS THE TIME SET FOR PRELIMINARY HEARING.	HEKMOORE		
	THE STATE CALLED WITNESSES: COM. SH. HEDDER, WOODS, R. CHAYLES, BROWN, PAMELA, CRONSTON, AUSTIN, HUNTER, ZACH, MISSING, CARRIE, POWELL.			
	THE STATE SUBMITTED 2 CHARGES.			
	THE STATE REQUESTED JURY TRIAL.			
	THE DEFENSE CALLED WITNESSES: ANDREW, SMITH, JONATHAN, GILLES, JONATHAN, GILLES, ANDREW, SMITH.			
	THE STATE AND DEFENSE SUBMITTED JURY AGREEMENTS.			
	THE COURT MADE AN ORDER FOR DEFENSE TO PAY \$14,000.00 FOR THE COURT REPORTER. THE COURT GRANTED THE STATE A SUMMARY JURY TRIAL.			
	THE COURT SET A HEARING FOR 09/01/2014 AT 10:00 A.M.			

Date	Action	Operator	Fine/Cost	Due
8/18/14	BELIEVE THAT THE DEFENDANT COMMITTED COUNTS 1-12, AND 16-23 IN THE CRIMINAL COMPLAINT. THE COURT HEREBY ORDERS THE DEFENDANT TO BE BOUND OVER TO THE FOURTH JUDICIAL DISTRICT COURT ON COUNTS 1-12, 16-23.			
	DEFENDANT REMANDED TO THE ELKO COUNTY JAIL. BAIL IS SET AT \$3,500,000.00 BONDABLE. COURT ADJOURNED.			
8/28/14	CASE CLOSED			
	CASE CLOSED			
		HEKMOORE		

769

RESPONDENT EXHIBIT NO: D
CASE NO.: CV-HC-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

Respondent's
Exhibit 5

**Hockmier v Director of Nevada
Department of Corrections**

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IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

RECORD OF COURT PROCEEDINGS

Present - Honorable NANCY PORTER, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 3/16/15

Case No.: CR-FP-14-0000635

Dept: 1 - Elko County Jail

DEVON RAY HOCKEMIER,

Defendant.

State of Nevada represented by Jonathan Schulman, Esq.
Defendant present, in custody, and represented by
Sherburne MacFarlan III, Esq.
Division of Parole and Probation represented by Annis Seopaul.
Court Clerk, Michele Merkley, present.

ARRAIGNMENT - GUILTY - PLEA AGREEMENT

The Court noted the presence of the parties.

The matter was before the Court for a change of plea arraignment on a Criminal Information filed on August 28, 2015. All parties indicated they were ready to proceed.

The Court advised this was a second arraignment and the reason was that the parties came to the understanding that the Defendant was not eligible for probation as previously thought at the time of the first arraignment.

The Defendant was sworn.

The Court read the portion of the Criminal Information that the Defendant was pleading guilty to.

The State cited the elements of the crimes and the potential penalties involved.

The Defendant understood the charges, was satisfied with the legal services rendered to date, understood that sentencing was wholly within the discretion of the Court and was ready to proceed.

771

The Court noted that a 7 page Amended Memorandum of Plea Agreement with an attached Certificate of Counsel was filed on February 28, 2015. The Court canvassed the Defendant concerning execution of the document.

Defense counsel placed the terms of the Plea Agreement on the record. Both parties agreed to waive attachment of the Criminal Information. All parties concurred.

The Court reviewed the Defendant's Constitutional Rights and the Defendant waived the same.

The Court asked the Defendant to enter pleas to COUNT 2: LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230. COUNT 14: LEWDNESS WITH A CHILD UNDER 14 YEARS OF AGE, A CATEGORY A FELONY AS DEFINED BY NRS 201.230.

The Defendant entered pleas of guilty following the terms of the Plea Agreement.

The Defendant gave an explanation of how the crime occurred.

The Court found there was a factual basis for the Defendant's plea and canvassed the Defendant regarding the plea.

The Court stated its findings and accepted the Defendant's guilty plea based upon the Memorandum of Plea Agreement, Certificate of Counsel and statements made in open Court.

The Court advised it had previously ordered a Presentence Investigation Report due on or before April 27, 2015. Sentencing will still be May 21, 2015 at 1:30 p.m.

Court adjourned.

773

RESPONDENT EXHIBIT NO: e
CASE NO.: CV-140-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

Docket 83147 Document 2021-32815

**Respondent's
Exhibit 6**

**Hockmier v Director of Nevada
Department of Corrections**

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IN THE SUPREME COURT OF THE STATE OF NEVADA

DEVON RAY HOCKEMIER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 68333
District Court Case No. CR-FP-14-0853

FILED

MAY 26 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

REMITTITUR

TO: Carol Fosmo, Elko County Clerk /

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

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

DATE: May 16, 2016

Tracie Lindeman, Clerk of Court

By: Joan Hendricks
Deputy Clerk

cc (without enclosures):
Hon. Nancy L. Porter, District Judge
Lockie & Macfarlan, Ltd.
Elko County District Attorney
Attorney General/Carson City

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on 5/19/2016

Kelly Antonucci
District Court Clerk

RECEIVED

MAY 23 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEVON RAY HOCKEMIER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 68333
District Court Case No. CR-FP-14-635

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Tracie Lindeman, 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 20th day of April, 2016.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
May 16, 2016.

Tracie Lindeman, Supreme Court Clerk

By: Joan Hendricks
Deputy Clerk

776

777

RESPONDENT EXHIBIT NO: F
CASE NO.: CV-14C-17-262
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

Respondent's

Exhibit 7

**Hockmier v Director of Nevada
Department of Corrections**

778

(Exh. # 26E)
1063

FILED
ELKO TOWNSHIP
JUSTICE/MUNICIPAL COURT

2014 JUL 14 PM 2:54

CLERK _____

Case No. 14-CR-00635 4E

IN THE JUSTICE COURT OF THE ELKO TOWNSHIP
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEVON HOCKEMIER,


Defendant.

EX-PARTE APPLICATION
TO EMPLOY PRIVATE
INVESTIGATOR

COMES NOW, defendant DEVON HOCKEMIER, by and through his attorneys, LOCKIE & MACFARLAN, LTD., who make application to employ a private investigator to assist with the defense. This application is made and based upon the papers and pleadings on file, and the points and authorities submitted herewith.

DATED this 11 day of July, 2014.

LOCKIE & MACFARLAN, LTD.


SHERBURNE M. MACFARLAN, III
Nevada Bar No. 3999
Attorneys for Defendant
919 Idaho Street
Elko, Nevada 89801
(775) 738-8084

LOCKIE & MACFARLAN LTD
Attorneys at Law
919 Idaho Street
Elko Nevada 89801
(775) 738-8084
FAX (775) 738-1978

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POINTS AND AUTHORITIES

NRS 7.135 provides that an appointed attorney, with prior approval of the District Court, may retain a private investigator if necessary to provide an adequate defense. In the instant case, defendant is charged with multiple counts SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 14 YEARS, or, in the alternative, LEWDNESS WITH A CHILD UNDER THE AGE OF 14 YEARS.

There are potentially witnesses who may be in a position to testify to the facts of this case. It has been counsel's experience that witnesses are often willing to discuss pertinent information of which they have knowledge. However, if called to testify in court, those same witnesses commonly refuse to testify, or deny having any knowledge whatsoever.

In order to impeach a recalcitrant witness, it is necessary to have had a third party present during the interview between counsel and the potential witness. That third party can then be called to testify as to what the witness actually said during the interview.

CONCLUSION

Based on the foregoing, it is respectfully requested that counsel be authorized to employ a private investigator in a sum up to \$5,000 to assist in preparing a defense.

DATED this 11 day of July, 2014.

LOCKIE & MACFARLAN, LTD.

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SHERBURNE M. MACFARLAN, III
Nevada Bar No. 3999
Attorneys for Defendant
919 Idaho Street
Elko, Nevada 89801
(775) 738-8084

LOCKIE & MACFARLAN LTD
Attorneys at Law
919 Idaho Street
Elko, Nevada 89801
(775) 738-8084
FAX (775) 738-1928

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AFFIDAVIT

County of Elko)
: ss
State of Nevada

Sherburne M. Macfarlan, III, being first duly sworn, deposes
and says:

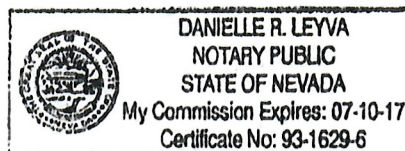
1. I am the court appointed attorney for the above-named
petitioner;
2. To the best of my knowledge, the factual allegations
contained within the forgoing Motion are accurate.

DATED this 24 day of July, 2014.

SHERBURNE M. MACFARLAN, III

Subscribed and sworn to before me
this 24 day of July, 2014.

Danielle R. Leyva
NOTARY PUBLIC



LOCKIE & MACFARLAN, LTD.
Attorneys at Law
919 Idaho Street
Elko, Nevada 89801

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RESPONDENT EXHIBIT NO: G
CASE NO.: CV-HC-17-262
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

**Respondent's
Exhibit 8**

**Hockmier v Director of Nevada
Department of Corrections**

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1 Case No. 14-CR-00635 4E

FILED
ELKO TOWNSHIP
JUSTICE/MUNICIPAL COURT

2014 AUG 25 PM 3:14

CLERK _____

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6 IN THE JUSTICE COURT OF THE ELKO TOWNSHIP
7 IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA
8

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 DEVON HOCKEMIER,

13 Defendant.
14 _____ /

EX-PARTE
APPLICATION FOR PAYMENT OF
PRIVATE INVESTIGATOR FEES

15
16 COMES NOW, LOCKIE & MACFARLAN, LTD., court-appointed attorneys
17 for Defendant, and applies for interim payment of Private
18 Investigator Fees. This Court authorized payment of Investigative
19 Fees by way of an Order filed July 15, 2014.

20 It is requested that payment in the amount of \$240.00 be paid
21 to LOCKIE & MACFARLAN, LTD., 919 Idaho Street, Elko, Nevada 89801,
22 for Private Investigator costs for August, 2014.

23 DATED this 25 day of August, 2014.

24 LOCKIE & MACFARLAN, LTD.

25
26 SHERBORNE M. MACFARLAN, III
Nevada Bar No. 3909
Attorneys for Defendant
27 919 Idaho Street
Elko, Nevada 89801
28 (775) 738-8084

LOCKIE & MACFARLAN, LTD.
Attorneys at Law
919 Idaho Street
Elko, Nevada 89801

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#0252

(Exh #31)
2 of 4

James M. Grady Private Investigator NV Lic. # 538
226 Holyoke Dr., Spring Creek, Nv, 89815

Billing and Expense Statement

Billing Period: August, 2014

Case: NV v Hockemier, Sexual Assault Child <14, Lockie & Macfarlan

<u>Date</u>	<u>Activity</u>	<u>Investigation</u>
07	Investigation	2.0
08	Investigation	1.0
Total Hour's for Period		3.0

Investigation Fee's Due for the Period of: August, 2014

Investigation Time	3.0 Hours x \$80/Hr. = \$	240.00
Mileage and Expenses	\$	N/C
	\$	240.00 Amount Due for Period

I Certify by my Signature below that this Billing for the Month of August, 2014, accurately reflects Investigation Services completed on this Case as requested.

Sincerely,

James M. Grady
Private Investigator
E.I.N./SSN 557-56-3131

Phone 775-753-7776, Fax 775-753-6447, E-mail jmgpi@springcreekwa.com

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#0253

(Exh. #31)
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8/9/2014

James M. Grady, Private Investigator NV Lic. # 538
226 Holyoke Dr., Spring Creek, NV, 89815

Daily Activity Log

08/08/2014

Case: NV v Hockemier

Time	Activity	Hours
1000-1100	Complete Summary Report for File, Client Court Order review and copy Juvenile Court Record for Mr. Macfarlan, e-mail for File.	1.0
	Mileage	n/c
	Investigation Time	1.0
	Expenses	n/c

Phone 775-753-7776, Fax 775-753-6447, E-mail jmgpi@springcreekwireless.com

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11.0254

8/8/2014

James M. Grady, Private Investigator NV Lic. # 538
226 Holyoke Dr., Spring Creek, NV, 89815

Daily Activity Log

08/07/2014

Case: NV v Hockemier

Time	Activity	Hours
1000-1200	Court Clerk's Office with Court Order to copy Client's Juvenile Criminal History, 3 Convictions found, no Felony if Adult. Copy of Juvenile History to Mr. Macfarlan and discussion.	2.0
Mileage		n/c
Investigation Time		2.0
Expenses		n/c

Phone 775-753-7776, Fax 775-753-6447, E-mail jmgpi@springcreekwireless.com

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RESPONDENT EXHIBIT NO: 14
CASE NO.: CV-HC-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

**Respondent's
Exhibit 9**

**Hockmier v Director of Nevada
Department of Corrections**

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1 POINTS AND AUTHORITIES

2 Factual Background:

3 The defendant has been charged with multiple counts of Sexual
4 Assault and related offenses. The Criminal Complaint alleges these
5 offenses occurred between September 1, 2009 and February 28, 2010.
6 The Complaint does not specify specific dates for the offenses.
7 The discovery provided by the District Attorney's Office suggests
8 that the defendant's birth date is November 24, 1992. Thus, the
9 alleged offenses occurred prior to the defendant turning eighteen
10 years of age.

11 Argument:

12 NRS 62B.370(1) provides:

13 Except as otherwise provided in this title, a court
14 shall transfer a case and record to the juvenile
15 court if, during the pendency of a proceeding
16 involving a criminal offense, it is ascertained
that the person who is charged with the offense
was less than 18 years of age when the person
allegedly committed the offense.

17 An exception to this rule is if the case had been transferred to
18 adult court pursuant to NRS 62B.330.

19 NRS 62B.330 provides in pertinent part:

20 1. Except as otherwise provided in the title,
21 the juvenile court has exclusive original
22 jurisdiction over a child living or found within
the county who is alleged or adjudicated to have
committed a delinquent act.

23 ***

24 3. For the purposes of this section, each of the
25 following acts shall be deemed not to be a
26 delinquent act, and the juvenile court does not
have jurisdiction over a person who is charged
with committing such an act:

27 ***
28

1 (b) Sexual assault or attempted sexual assault
2 involving the use or threatened use of force
3 or violence against the victim and any related
4 offense arising out of the same facts as the
sexual assault or attempted sexual assault,
regardless of the nature of the related offense,
if:

5 ***

6 (1) The person was 16 years of age or older when
7 the sexual assault or attempted sexual assault
was committed; and


8 (2) Before the sexual assault or attempted sexual
9 assault was committed, the person previously had
10 been adjudicated delinquent for an act that
would have been a felony if committed by an
adult.

11 Counsel believes that at a hearing on this Motion, two facts
12 will become apparent: (1) the defendant was seventeen years of age
13 at the time of the alleged offenses, and (2) at the time of the
14 alleged offenses, the defendant had not previously been adjudicated
15 delinquent for an act that would have been a felony if committed by
16 an adult.

17 CONCLUSION

18 Based on the foregoing, it is respectfully requested that
19 after a hearing on this Motion, the case be transferred to Juvenile
20 Court for further proceedings.

21 DATED this 28 day of July, 2014.

22
23 
24 SHERBURNE M. MACFARLAN, III
25 Lockie & Macfarlan, Ltd.
26 919 Idaho Street
27 Elko, Nevada 89901
28 Bar # 3999

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Sherburne M. Macfarlan, III, being first duly sworn, deposes and says:

2. To the best of my knowledge, the factual allegations contained within the forgoing Motion are accurate.

DATED this 7th day of July, 2014.

Subscribed and sworn to before me
this 28 day of July, 2014.



Pursuant to NRCp 5(b), I hereby certify that I am an employee of Lockie & Macfarlan, Ltd., Attorneys at Law, and that on the 28 day of July, 2014, I hand-delivered a true and correct copy of the above and foregoing CONTINGENT MOTION TO TRANSFER CASE TO JUVENILE COURT to the following:


Danielle Leyva

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RESPONDENT EXHIBIT NO: I
CASE NO.: CV-HC-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

Respondent's

Exhibit 10

**Hockmier v Director of Nevada
Department of Corrections**

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DA Copy

CASE NO. 14-CR-00635

2014 AUG -6 PM 3:00

CLERK

IN THE ELKO JUSTICE COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEVON RAY HOCKEMIER,

Defendant.

OPPOSITION TO
CONTINGENT MOTION TO
TRANSFER CASE TO JUVENILE
COURT

COMES NOW, Plaintiff, State of Nevada, by and through its attorneys, MARK TORVINEN, District Attorney for the County of Elko, and JONATHAN L. SCHULMAN, Deputy District Attorney, and submits the following Points and Authorities in support of its Opposition, together with all pleadings and papers on file herein.

Dated this 6 day of August, 2014.

MARK TORVINEN
Elko County District Attorney

By:

JONATHAN L. SCHULMAN
Deputy District Attorney
State Bar Number: 9180

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POINTS AND AUTHORITIES

I. **Factual Background**

Devon Hockemier ("Defendant") was charged with multiple counts of Sexual Assault on individuals under the age of 14 as well as related offenses. These offenses are alleged to have occurred between September 1, 2009, and February 28, 2010. The Defendant's date of birth is November 24, 1992, which could mean that some of the offenses occurred prior to the Defendant turning 18 years of age.

II **Argument**

The relevant sections of NRS 62B.370 that is relevant here states:

1. Except as otherwise provided in this title, a court shall transfer a case and record to the juvenile court if, during the pendency of a proceeding involving a criminal offense, it is ascertained that the person who is charged with the offense was less than 18 years of age when the person allegedly committed the offense.

2. A court shall not transfer a case and record to the juvenile court if the proceeding involves a criminal offense:

(a) Excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330; or

(b) Transferred to the court pursuant to NRS 62B.335.

NRS 62B.330 is an exception that would prevent this case being sent to juvenile court. The relevant portions of NRS 62B.330 state:

1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

...
3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged

1 with committing such an act:

2 ...
3 (e) A category A or B felony and any other related offense
4 arising out of the same facts as the category A or B felony,
5 regardless of the nature of the related offense, if the person was
6 at least 16 years of age but less than 18 years of age when the
7 offense was committed, and:

8 (1) The person is not identified by law enforcement as
9 having committed the offense and charged before the person is
10 at least 20 years, 3 months of age, but less than 21 years of age;
11 or

12 (2) The person is not identified by law enforcement as
13 having committed the offense until the person reaches 21 years
14 of age.

15 NRS 200.266(3) clearly states that Sexual Assault on a Child Under the Age of
16 Fourteen Years of Age is a Category A felony so that part of NRS 62B.330(3)(e) is satisfied.
17 The Defendant turned 18 years old on November 24, 2010, so the alleged acts occurred
18 when the Defendant was at least 17 years old and perhaps 18 years old so that part of NRS
19 62B.330(3)(e) is satisfied as well.

20 The police did not identify the Defendant as the person having committed the offense
21 until he was 21 years old. The police were investigating other offenses when one of the
22 alleged victims in this case on November 20, 2013, and he told the Detective that an
23 individual who he used to live with during the time period charged did inappropriate things
24 with him. The alleged victim was able to give a description of the person who allegedly did
25 inappropriate things with him, but could not identify him. The Detective then ended the
26 interview, and tried unsuccessfully to contact the alleged victim's mother. When the
27 Detective interviewed the child's mother several days later, she informed him that the
28 individual is the Defendant. The Defendant turned 21 years old on November 24, 2013, and

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1 the Detective did not learn his identify until November 25, 2013. That satisfied NRS 62B.330
2 (3)(e)(2) which does not make this a delinquent act so the Juvenile Court does not have
3 jurisdiction in this case, and thus this case is appropriately charged in the Elko Justice Court.
4

5 There is some case law on this topic. State v. Barren deals with a Defendant who was
6 charged with Category A or B felonies when he was seventeen years old, but he was not
7 identified until after he reached 21 years old. State v. Barren, 279 P.3d 182, 183 (2012). The
8 State filed charges in the Justice Court, but that court determined that it did not have
9 jurisdiction because the State did not first file a petition in juvenile court. The juvenile court
10 determined it did not have jurisdiction due to NRS 62B.330(3)(e)(2), and sent the case back
11 to the justice court. The Justice Court then determined it had jurisdiction under NRS
12 62B.330(3)(e)(2). The Defendant filed a writ of mandamus in District Court asking for the
13 case to be dismissed because of timing issues as NRS 62B.330(3)(e)(2) was enacted after
14 the Defendant allegedly committed these crimes. The District Court granted the writ, and the
15 case went to the Nevada Supreme Court. Id. 279 P.3d at 183-184.
16
17

18 The Barren Court started with determining which court has jurisdiction, and started off
19 with the juvenile court's jurisdiction. The "Juvenile Court has exclusive jurisdiction over a
20 *child* living or found within the county who is alleged or adjudicated to have committed a
21 *delinquent act*. Id. 279 P.3d at 185 citing NRS 62B.330(1) (emphasis added by the Barren
22 Court). NRS 62A.030(1)(b) defines a "child," as "[a] person who is less than 21 years of age
23 and subject to the jurisdiction of the juvenile court for an unlawful act that was committed
24 before the person reached 18 years of age." Id. NRS 62A.030(2) limits the definition of
25 "child" as the term does not include a person who is excluded from the jurisdiction of the
26 juvenile court pursuant to NRS 62B.330. NRS 62B.330(3) limits the broad definition of
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1 "delinquent act" by listing acts that are not considered to be "delinquent acts" and are
2 therefore not within the juvenile court's exclusive original jurisdiction. Barren, 279 P.3d at
3 185. NRS 62B.330(3) excludes from the juvenile court's jurisdiction specific cases like
4 Barren's. Id.
5

6 The dispute in Barren was whether 62B.330(3)(e)(2) applied as it did not go into effect
7 until after the date that the Defendant allegedly committed the offenses. The Supreme Court
8 eventually concluded that jurisdiction in Barren is determined on the date when the State
9 initiated proceedings against him rather than the date when he alleged committed the
10 offenses. Barren, 279 P.3d at 187. The Court ruled that at the time the State initiated
11 proceedings, NRS 62B.330(3)(e)(2) was in effect and the juvenile court did not have
12 jurisdiction. Id.
13

14 The Defendant in this case has been alleged to commit the crimes in the complaint
15 after NRS 62B.330 was amended, and therefore the juvenile court does not have jurisdiction
16 due to the Defendant not being identified until after he turned 21 years old, and he is charged
17 with Category A felonies and related offenses which occurred after he turned 16 years old.
18

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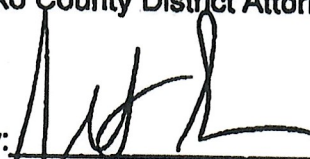


1 **III. Conclusion**

2 The Court should deny the Defendant's motion as the juvenile court does not have
3 jurisdiction over the Defendant pursuant to NRS 62B.330 which leaves this court as the only
4 court that does have jurisdiction.
5

6 Dated this 15 day of August, 2014 .

7 **MARK TORVINEN**
8 Elko County District Attorney

9
10 By: 
11 **JONATHAN L. SCHULMAN**
12 Deputy District Attorney
13 State Bar Number: 9180
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1 CERTIFICATE OF SERVICE

2 I hereby certify, pursuant to the provisions of NRCP 5(b), that I am an employee of the
3 Elko County District Attorney's Office, and that on the 6th day of August, 2014, I served
4 the foregoing Opposition, by delivering, mailing or by facsimile transmission or causing to be
5 delivered, mailed or transmitted by facsimile transmission, a copy of said document to the
6 following:

7 By mailing to:

8 SHERBURNE M. MACFARLAN III
9 ATTORNEY AT LAW
10 919 IDAHO ST
11 ELKO, NV 89801

12 
13 KURRI SULLIVAN
14 FELONY CASEWORKER

15 DA# 94099
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RESPONDENT EXHIBIT NO: 5
CASE NO.: CV-14C-17-267
DISTRICT COURT: JUDGE NANCY PORTER
DATE MARKED: 7/1/20
DATE ADMITTED: 7/1/20
CLERK: LB

**Respondent's
Exhibit 11**

**Hockmier v Director of Nevada
Department of Corrections**

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