

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

GUILLERMO RENTERIA-NOVOA,

Appellant,

vs.

RENEE BAKER, WARDEN,  
Lovelock Correctional Center

Supreme Court Case No. 84656

District Court Case No. C268285-1

Electronically Filed  
Oct 04 2022 01:57 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX  
Volume VI**

JEAN J. SCHWARTZER, ESQ  
Nevada Bar No. 11223  
Law Office of Jean J. Schwartzer  
411 E. Bonneville Avenue  
Suite 360  
Las Vegas, Nevada 89101  
(702) 979-9941  
Attorney for Appellant

STEVEN B. WOLFSON, ESQ.  
Nevada Bar No. 1565  
Clark County District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
(702) 671-2500  
Attorney for Respondent

**Renteria-Novoa v. Warden Case No. 84656**

**INDEX TO APPELLANT'S APPENDIX**

<b><u>Document</u></b>	<b><u>Page</u></b>
Amended Information	18-32
Findings of Fact, Conclusions of Law and Order 5-27-2015	1104-1108
Findings of Fact, Conclusions of Law and Order 4-27-2022	1419-1435
Information	1-17
Judgment of Conviction	1046-1053
Notice of Appeal 10-5-2012	1054-1057
Notice of Appeal 4-29-2022	1436-1438
Notice of Entry	1418
Order of Affirmance	1069-1076
Order of Reversal and Remand	1109-1116
Pro Per Petition for Writ of Habeas Corpus	1078-1092
Remittitur 10-21-2014	1077
Remittitu 4-24-2017	1117
Reply to State's Response to Supplemental Memorandum	1376-1391
Second Amended Information	33-42
State's Answering Brief (Direct Appeal)	1439-1520
State's Response to Pro Per Petition for Writ of Habeas Corpus	1093-1103
State's Response to Supplemental Memorandum	1356-1375
Supplemental Memorandum	1118-1355

<b><u>Transcript/Minutes</u></b>	<b><u>Page</u></b>
Transcript of Evidentiary Hearing	1392-1417
Transcript of Jury Trial Day 1	44-378
Transcript of Jury Trial Day 2	379-559
Transcript of Jury Trial Day 3	560-832
Transcript of Jury Trial Day.4	833-1045
Transcript of Sentencing	1058-1068

1 somebody says fine, you can do it, that does not equal  
2 consent. Consent is something entirely different. Consent is  
3 when I want to do something and I'm going to do it. But we're  
4 made to do things a lot -- we're made to do things that we  
5 don't want to do all the time, right? You're made to be here.  
6 You submitted to the Court's order to be a juror. That  
7 doesn't mean that you consented to it, but you sure -- you  
8 sure enough submitted to it. 'Cause you knew what was going  
9 to happen if you weren't here, right? They issue a warrant  
10 for your arrest and all that kind of stuff. So submission is  
11 not the equivalent of consent.

12 All right. Now, the next one, series of charges,  
13 lewdness with a child. Lewdness -- excuse me -- any person  
14 who willfully and lewdly commits any lewd or lascivious act  
15 other than the acts constituting the crime of sexual assault  
16 upon or with any part of the body or any part of a member  
17 thereof of a child under the age of 14 with the intent of  
18 arousing, appealing or gratifying the lust or passions or  
19 sexual desires of that person or the child is guilty of  
20 lewdness with a minor.

21 Now, so what's the difference, right? Sex assault is  
22 generally the penetration, right? You have the cunnilingus.  
23 You have the -- where he's inserting -- digital penetration,  
24 where he's penetrating her anus with his fingers and/or  
25 tongue, that would be the sex assault. Well, what's the

1    lewdness? Well, the lewdness is when he's directing her to  
2    masturbate him, when he is fondling her, when he is kissing  
3    and licking her breasts, so it's two different crimes, all  
4    right? And so that's why this instruction is important, so  
5    you can recognize the difference between a sex assault, i.e.  
6    Penetration, and this type of crime.

7           One of the interesting things that the law states,  
8    which is very important for you to understand as jurors in  
9    this type of case, is that consent is not a defense. It just  
10   isn't. You can't consent.

11           So let's go over the -- now, let's apply -- now that  
12   we know the law, let's apply that to the facts in this case.  
13   Oh, excuse me. There are a lot -- we've got to talk about  
14   this, first. There are a lot of dates in this case. And  
15   fortunately, we are able to tie dates with places that Roxana  
16   lived. She moved, basically, on a yearly basis, and so that  
17   helps us in determining her age at certain times.

18           However, the law states that where a minor has been  
19   the victim of a sexual assault and/or lewdness and does not  
20   remember the exact date of the act, the State is not required  
21   to prove a specific date, but may prove a time frame within  
22   which the act took place. So that means that we are able to  
23   -- we don't have to say on August 16th, 2006, this act took  
24   place. We can use a time frame based on her knowledge, and  
25   that makes sense because she's young at the time. She's a

1 minor and she -- you know, she -- she's not writing it down in  
2 her journal, she -- it's, you know, remembering it and then  
3 disclosing it later.

4 All right. So let's go over the time frame then. So  
5 we know from her testimony she was born August 30th, 1993.  
6 That means -- so what I've done is just correlated that to the  
7 different times when she turned which age. Now, you can say  
8 to yourself, so it's 2009 is when she finally disclosed, but  
9 it's 2012 now. She testified that she's 18, and by her  
10 birthday, we know that on August 30th of this year she's going  
11 to be 19, so she's much older. This case -- this happened two  
12 years ago. So August 30th, 2004, 11; August 30th, 2005, 12,  
13 boom, boom, boom, got it right there. So that gives us time  
14 frame and kind of a reference point for how old she was when  
15 she was living in each apartment.

16 So we started off with her testimony from 2003 to  
17 2004 she was in the Livertivo Apartments. She turned 11 years  
18 old that year and she met Guillermo for the first time, and  
19 that's when her mother starts to date him. Eventually, the  
20 next year they move into the University Park Apartments, the  
21 two-bedroom unit, and when they move into that apartment  
22 complex, that's when he starts to -- that's when Roxana  
23 testified that Yahir moved in, her cousin also moved in there  
24 too. And that is when the defendant finds Roxana with her  
25 Cousin Yahir under a blanket.

1           But it's important to know what he does when he finds  
2 her under a blanket. He doesn't alert his girlfriend,  
3 Roxana's mom, as to what he says that she saw -- or he saw her  
4 doing. He doesn't say that as a father figure might. He  
5 doesn't tell Yahir's father, who is also living in the same  
6 apartment, of what he just saw his 17- to 18-year-old son  
7 doing to a girl he says is like his daughter. And he doesn't  
8 even tell Roxana anything. He doesn't even counsel her. He  
9 doesn't say anything. What's he do? He puts that in his  
10 pocket and saves it for later. He says, all right, now I got  
11 something. He sees something that makes him realize I might  
12 be able to do something to Roxana.

13           Eventually, the move to the three-bedroom apartment  
14 but in the same University Park Apartments, and they get the  
15 three-bedroom. This is important because she describes with  
16 particularity what she -- the first sexual acts and the living  
17 arrangements at the house. She told us that the defendant  
18 slept in his own room with the makeshift bed, just had  
19 blankets on the floor. And Roxana as well as her mother Rosa  
20 and Perla all slept in another room, and her uncle and her --  
21 and Yahir slept in the living room. And that's when the  
22 threats start.

23           She's about 12 years old at this point and he starts  
24 to tell her I'm going to tell your mom I found you with Yahir.  
25 I'm going to tell your family you're having sex with your

1 cousin and I'm going to ruin your life to a 12-year-old little  
2 girl.

3 That's also when the sex abuse begins. She testified  
4 for us that he made her pull her shorts down, and when she  
5 didn't get them as far down as he wanted, she pulled them --  
6 he pulled them further down. He rubbed her breasts, he put  
7 his fingers inside her vagina and anus and also put his tongue  
8 inside her vagina and anus. She told us that it was in the  
9 room, in the University Apartments with the makeshift bed with  
10 the blankets on the ground. That when he was finished with  
11 her being on her front, he would flip her over onto her all  
12 fours and begin to sexually assault her with his tongue by  
13 penetrating her anus.

14 So how does that correlate to the verdict form?  
15 Count 1, sexual assault under 14, sexual penetration, tongue  
16 in anal opening.

17 Count 2, sexual assault under 14, cunnilingus or when  
18 he penetrated her vagina with his tongue.

19 Count 3, lewdness with a child under 14. We know she  
20 is under 14 because at that time that they were living in the  
21 three apartment -- three-bedroom apartment, she hadn't even  
22 had her 14th birthday yet. So there it is, lewdness with a  
23 child under 14.

24 Count 4, digital penetration, fingers in genital  
25 opening.



1 Count 5, tongue in anal opening. Count 6,  
2 cunnilingus. Count 7 -- and this is -- now, one of the things  
3 I want to clear up about our -- the way the verdict form  
4 looks. She testified that this would happen on a -- basically  
5 two times a week or on a biweekly basis. She testified that  
6 it happened throughout the year and that the only time that it  
7 basically stopped was at the Tamarus Apartments. So in  
8 looking at this, the State had the opportunity to charge him  
9 two times a week for several years. Well, that would be, you  
10 know, 600 counts.

11 So this -- the way that we've -- the verdict form  
12 looks is a representative of the counts in this case based on  
13 her testimony and to the particularity of her saying what  
14 happened when it happened if that makes sense. So she  
15 testified that it at least happened two times even though she  
16 said it was a biweekly basis, so we know it happened at least  
17 two times so that goes into the rest of the counts.

18 Sexual penetration, tongue in anal opening. Count 6,  
19 cunnilingus. Count 7, rubbing the breasts. Count 8, kissing  
20 and/or licking the breasts. Count 9, another digital  
21 penetration in her genital opening. Count 10, fingers in the  
22 anal opening. And Count 11, masturbating his penis in view of  
23 Roxana, and that's when she testified that he would masturbate  
24 in front of her and actually ejaculate in front of her. That  
25 is different than lewdness because he didn't actually have her

1 masturbate him. It's a little bit different in that regard.

2           Next, we move to Andover Place. Andover Place, if  
3 you'll remember from the testimony, is the one-bedroom  
4 apartment, and in that one-bedroom apartment Roxana testified  
5 to something that -- to the same -- she's now turning 13 to 14  
6 years old, and she testified to the exact same conduct that  
7 would happen. He would do the exact same things that he  
8 always liked to do.

9           One of the things that is interesting about Andover  
10 Place is that they all slept in the same bed. Perla -- or  
11 excuse me, Rosa, Roxana and the defendant all slept in the  
12 same bed. Defendant even admitted as much in his voluntary  
13 statement with the detective, that they all slept in the same  
14 bed. But what's interesting about Roxana's testimony is that  
15 the defendant would sleep in the middle. I don't know -- I  
16 don't know how you guys like to sleep, but when somebody says  
17 that a 46-year-old man who is sleeping with his girlfriend and  
18 his girlfriend's daughter is sleeping in the same bed and he's  
19 sleeping in the middle, red light -- red -- you know, the  
20 bells start going off. Why is he sleeping in the middle? And  
21 you know exactly why he's sleeping in the middle.

22           In addition to Count 12, sexual penetration, tongue  
23 in anal opening.

24           Count 13, cunnilingus. Count 14, digital  
25 penetration. Count 15, digital penetration, fingers in

1 genital opening. We also have lewdness with a child under 14,  
2 fondling the genital area or buttocks of Roxana. She  
3 testified explicitly that she would be laying there, and while  
4 he's in the middle, he is reaching around, rubbing her butt,  
5 fondling her butt and rubbing her vagina. That is Count 16,  
6 lewdness with a child under 14.

7 She testified further that these acts would occur in  
8 that same bedroom. There was only one bedroom, and so he was  
9 actually sleeping in that bed at this time as opposed to his  
10 own room with a makeshift bed. So that brings us to the  
11 second series of events, Count 17, cunnilingus again.

12 Count 18, sexual penetration, tongue in anal opening.

13 Count 19, rubbing the breasts, with lewdness, child  
14 under 14.

15 Count 20, the digital penetration, the fingers in the  
16 anal opening.

17 Count 21, digital penetration, fingers in the genital  
18 opening.

19 And then Count 22, the lewdness with a child under  
20 14, directing her to actually masturbate him. And like I said  
21 before, ejaculation was not necessary, and in this case, she  
22 testified that after he would make her do it, when he was  
23 about to ejaculate, he would finish himself off. She was very  
24 explicit in her testimony about that.

25 Continuing on with Count 23 in the Andover Place, the

1 sexual assaults continue, but now we know that she turned 14  
2 on August 30th, 2007. So now, it's no longer sexual abuse via  
3 penetration on a person under 14. Now, it's under 16, so it's  
4 a different type of crime. It's a victim under 16. And she  
5 was explicit about the sexual penetration, the cunnilingus,  
6 the digital penetration and the digital penetration of her  
7 anus.

8 At the -- from 2007 to 2008, that's when she gets  
9 some reprieve, right? She finally doesn't have to deal with  
10 this and she testified to you that when she went to Tamarus,  
11 she had her 15th birthday, but the defendant didn't come  
12 around as much. And why didn't he come around as much?  
13 Because her mom had a different work schedule. Now, all of a  
14 sudden she's not a latchkey kid.

15 Now, all of a sudden she's coming home and her mom is  
16 home 'cause her mom already got done with work in the morning.  
17 So the defendant doesn't have the opportunity to continue with  
18 the sexual abuse. And mind you, this is a man who broke up  
19 with the victim's mother. She -- Rosa testified she had no  
20 idea why he keeps coming around. According to Rosa, he  
21 already had another girlfriend, but yet he keeps coming around  
22 and she can't figure it out. She can't -- she doesn't know  
23 why, but he keeps coming around except for when she's there at  
24 Tamarus.

25 2008 to 2009 moves to Southern Cove Apartments, and

1 we know then that she's 15 to 16 years old, and that's  
2 approximately the time that she gets a cell phone. He starts  
3 calling and texting her. The threats start coming back up and  
4 she testified that at Yahir's daughter's first birthday the  
5 whole family is there. The whole family is there celebrating  
6 the first birthday of Yahir's child, including the defendant,  
7 and the defendant is able to get in her ear and manipulate her  
8 and to start those threats back up. And soon after that,  
9 that's when the abuse starts again. Additionally, that's when  
10 she indicates that he would wait for her at the bus stop when  
11 she's coming home from school and it just starts all over  
12 again, and that's where we get Counts 27 through 31, the  
13 sexual penetration, tongue in anal opening.

14 Fingers in genital opening, Count 28. Count 29,  
15 fingers in anal opening. Count 30, cunnilingus. And Count  
16 31, directing her to masturbate his penis. In 2009, we know  
17 that they move to Riverbend Village Apartments. Now, August  
18 2009 to December 2009 is only four months. She's now 16 years  
19 old. She based on her testimony was starting to resist the  
20 defendant. She wasn't answering his phone calls. She wasn't  
21 returning his texts. She started to put up a fight because  
22 now she's figuring it out. She's growing older, she's  
23 maturing, but he would still wait for her, and that's Count  
24 32, sexual penetration. This is the last that happened. This  
25 is the last time it happened when we're charging here. Count

1 32, sexual penetration tongue in anal opening.

2 33, cunnilingus. 34, digital penetration, fingers in  
3 genital opening. Count 35, digital penetration, fingers anal  
4 opening. And then directing her to masturbate his penis. So  
5 how do we know that this is corroborated, right?

6 We don't even have to have corroborative evidence.  
7 We don't have to have anything to back it up, but how do we  
8 know that this is happening? Well, we're able to get some --  
9 and you'll have all this back there and I suggest you look at  
10 it. We actually have a translation too of what's going on in  
11 this case. So how do we know? Well, we got his text  
12 messages. Call me. Call me now. I'm going to tell everybody  
13 about Yahir. Here's a picture of your panties. Whose are  
14 these? Oh, you know, the panties, that was just a joke, you  
15 know. This is a 16-year-old girl that a 48-year-old man is  
16 texting who is not his daughter, not his daughter.

17 Now, let's go into the phone messages. We -- and I  
18 encourage you to look through this. We were able to get her  
19 phone number as 426-9146. Go through these and look how many  
20 times he called her on her cell phone from his cell phone. I  
21 put together a little calendar. It's not into evidence, but  
22 when you look through here, what you're going to find,  
23 November -- the first week in November, 15 times; second week  
24 of November, 14 times; third week of November, 18 times;  
25 fourth week of November, 26 times. Then he gets into

1 December, and true to his own word in his -- in his statement  
2 to the detective he kind of quit calling. Well, he already  
3 knew the heat was on and he realized what's going on.

4 I want to go to one day in particular just to give  
5 you an idea of the type of persistence that he's calling this  
6 Roxana. December 23rd, 6:30 a.m., 6:32 a.m., 6:42 a.m., 6:43  
7 a.m., 6:44 a.m., 6:44 a.m., 6:45 a.m., 6:46 a.m., 6:51, a.m.,  
8 6:52 a.m., 6:53 a.m., 6:54 a.m., 6:55 a.m. When Roxana told  
9 you she was tired of being bothered, she was tired of being  
10 bothered. He was incessantly contacting her because why? He  
11 wasn't keeping her secret. He knew what was going to happen.  
12 He knew that his secret was up. He knew that she has started  
13 to resist. She told you she would say, hey, come on, you  
14 know, be done already. And what would she [sic] say, oh, come  
15 on, five more minutes. She started to resist him, she started  
16 to grow up. She realized that she didn't have to take this  
17 anymore.

18 At the end of the day -- I want to direct your  
19 attention, it's Instruction No. 28, and I hope you'll turn  
20 with me to it. Although you are to consider only the evidence  
21 in this -- in the case in reaching a verdict, you must bring  
22 to the consideration of the evidence your every day common  
23 sense and judgment as reasonable men and women; thus, you are  
24 not limited solely to what you see and hear as the witnesses  
25 testify.

1           You may draw reasonable inferences from the evidence  
2   which you feel are justified in the light of common experience  
3   keeping in mind that such inferences should not be based on  
4   speculation or guess. You guys are the jury that we picked to  
5   return a verdict in this case. We selected you for a reason.  
6   We selected you because you gave us your life stories, your  
7   comments, your concerns. You are qualified by this Judge to  
8   return a verdict in this case, bringing your common sense  
9   together to figure out what's going on in this case. I submit  
10   to you that the State has proved beyond a reasonable doubt  
11   that that man is guilty of all 36 of those counts. Thank you.

12           THE COURT: Is the defendant ready to argue?

13           MR. FELICIANO: Yes. Thank you, Judge.

14           THE COURT: You may continue -- you may -- hang on a  
15   second here.

16           MR. FELICIANO: Are we switched over? Yes.

17           THE COURT: All right. You may proceed.

18           MR. FELICIANO: Try it again. Something just  
19   happened.

20                        (Off-record colloquy.)

21           MR. FELICIANO: There it is. Thank you.

22                        DEFENDANT'S CLOSING ARGUMENT

23           MR. FELICIANO: Better him than me. That's what this  
24   case is about. Ms. Feliciano told you at the beginning of  
25   this case that that's what this case is about, and that's what



1 it is about. It's about Roxana not getting in trouble and  
2 getting Guillermo Renteria-Novoa in trouble to save herself.  
3 Guillermo is not guilty of any crime. This was a consensual  
4 relationship. Roxana was having a secret relationship with  
5 Yahir, her cousin. She was also having a secret relationship  
6 with her mom's ex-boyfriend. She was going to get in trouble  
7 for both of those relationships, so she made up these  
8 allegations to get herself out of trouble.

9 We saw this picture when Roxana testified and she  
10 said that Guillermo took it. This was at her 15th birthday,  
11 her Quinceanera. That's not the look of a -- of a person  
12 that's looking at their victimizer. That's the look of a girl  
13 that's happy to be turning 15 and that's the picture that  
14 Guillermo took of her on that day. That's not the picture of  
15 an abused victim.

16 In this case, Roxana simply is not credible, and you  
17 have a credibility instruction in one of your jury  
18 instructions. That's Instruction No. 27. But that  
19 instruction tells you that -- it's that the credibility or  
20 believability of a witness should be determined upon the  
21 stand, his relationship to the parties' fears, motives,  
22 interests or feelings, opportunity to observe the matter to  
23 which he testified, and the reasonableness of his statements  
24 and strengths or weaknesses of his recollections.

25 Looking at this case and looking at this instruction,

1 you can see that Roxana simply doesn't have any credibility.  
2 Additionally, you'll see in this case, as you saw, there was a  
3 complete lack of investigation by the police. They took a few  
4 statements and that was about it. And you heard Mr.  
5 Renteria-Novoa's statement, which is credible. Mr. Renteria  
6 came clean. He said -- he said what he did do. He admitted  
7 to what he did do. He denied what he didn't do and his  
8 statement was credible.

9           So one of the things that makes Roxana not credible  
10 is the inconsistent stories that she told, and that's one of  
11 the things that you can consider when you're looking at her  
12 credibility, in addition to she told inconsistent stories to  
13 several people. In addition to the inconsistencies, you're  
14 going to -- you heard the testimony of her family, and her  
15 family also shows that she's simply not credible. Okay. So  
16 the inconsistent stories, you heard what she told her family.  
17 She told her family several different stories.

18           In addition to her family, she talked to a counselor.  
19 She told the counselor a different story. After she spoke to  
20 the counselor, she did a written statement for the police,  
21 which was different. Then she gave a recorded statement to  
22 the police several weeks later, which was also different.  
23 Then finally, at the preliminary hearing, that's when she made  
24 the bulk of her allegations. That was completely different  
25 than anything she had ever said, and that was about nine

1 months before any allegations came to light.

2 Now, let's start with her family. What did she tell  
3 her family? She said -- she told Maritza, you heard Maritza  
4 testify that Guillermo was bothering her. She never said  
5 anything about any type of sexual contact with Guillermo. She  
6 never said anything about sex with her cousin, simply that  
7 Guillermo was bothering her and wanted her to answer the  
8 phone. That was the only thing that Maritza said.

9 Janet, she spoke to her Aunt Janet. She gave  
10 absolutely no details about what happened. All she said is  
11 that she was just -- she was being touched and that's it.  
12 Also, when she was -- when she talked about Yahir, she didn't  
13 say anything about sex or kissing or anything. All she said  
14 was she was sitting on Yahir's legs.

15 And you heard the 9-1-1 call and you heard Jeimi  
16 testify. Jeimi testified, well, through her 9-1-1 tape, that  
17 the abuse had been going on for three years, and this was 2009  
18 when this call was made, so they said three years in 2009.

19 Now, when they went to the counselor, which was right  
20 before 9-1-1 was called, they told the counselor that she had  
21 been abused for the past year. Also, they said it happened  
22 since she was 13 years old and that she was digitally  
23 penetrated on three different occasions. That's the first  
24 time that information comes up is when she's telling the  
25 counselor, and she tells the counselor she had been abused for

1 the past year, not three years, not five years. It's  
2 specifically for the past year.

3 Then we go to the written statement which happened  
4 the day the police were called. Again, Roxana says that she  
5 -- her private parts were touched, he put his hand inside of  
6 her; however, there was no mention of some of the biggest  
7 details, and the most egregious conduct here was the vaginal  
8 licking and the anal licking and there's absolutely no mention  
9 of that. No mention to the counselor, no mention to her  
10 family, no mention at all. And if you look at -- also looking  
11 at the written statement, you see that she was concerned about  
12 a sexual relationship coming out with her and her cousin.

13 So a few weeks later, she does her recorded  
14 statement. Now, she says the touching next started in 2004.  
15 This is 2010 when she's giving this statement, but she says it  
16 happened in 2004, so it's about five years now that she's  
17 saying this happened. So we went from three years to one year  
18 to possibly five years. They asked her about the last time  
19 she was touched and the last time she was touched, again, she  
20 doesn't mention anything about any type of anal licking or any  
21 type of vaginal licking. She just says that she was touched.  
22 And now, she only says that she kissed Yahir. Nothing about a  
23 sexual relationship, nothing about just sitting on his legs,  
24 now they just kissed.

25 Then we get to the preliminary hearing. Now, the

1 preliminary hearing, as you heard, was about nine months after  
2 the first -- after the case first started after the police  
3 were called. Now, she is 11 years old when the touching  
4 started. Her breasts were touched, her vagina was touched.  
5 Now, she adds to the detail that Guillermo licked her vagina  
6 and licked her anus. This is the first time this is -- she  
7 says any of this in the entire nine months that the case is  
8 going on. So she simply is not credible when her story  
9 changes that way.

10           Additionally, you heard Roxana testify to you here in  
11 court that Maritza knew, that she talked to Maritza about  
12 Yahir and they had a discussion and her and Maritza discussed  
13 it and they talked about it being wrong and they needed to  
14 stop and some other things about this whole relationship. But  
15 you heard Maritza testify. When she testified, she said that  
16 she didn't know anything about it until this -- all these  
17 allegations came out, so that was the lie Roxana told directly  
18 to you.

19           Another thing that shows Roxana's credible is the  
20 gifts she accepted. Now, if she was being abused, would she  
21 accept gifts from her abuser? Would she accept shoes, iPods,  
22 backpacks from the person that was touching her breasts and  
23 licking her anus and licking her vagina? No, that simply  
24 doesn't make any sense. In addition to the gifts, you also  
25 heard that she would call him occasionally. She said that he

1 would call a lot more, but she also called him and she  
2 admitted that on the stand.

3           So in addition to the inconsistent stories, we have  
4 the family's testimony. Now, the family's testimony starts  
5 with Marissa -- or Maritza. She says that Guillermo never  
6 harassed her at work. Now, Roxana, when she testified, she  
7 said that, yeah, that Guillermo would go to her work and  
8 harass her, but we have no evidence of that through Maritza.  
9 Maritza said she never saw anything like that at work, any  
10 type -- anything that was abnormal. She said their  
11 relationship seemed like a normal relationship. She didn't  
12 suspect anything, and Roxana never told her anything about  
13 Guillermo. And Rox -- again, Roxana never told her anything  
14 about Yahir.

15           We heard from Roxana's mother, who was very  
16 emotional. She said she never suspected anything. If she  
17 would have suspected something, she would have done something.  
18 She loves her daughter, she cares about her daughter, she  
19 would have done something if she suspected something was  
20 wrong. And to say something was going on from the time she  
21 was 11 until the time the police were called is simply  
22 unreasonable and simply doesn't make any sense.

23           We heard from Janet. Janet, also, didn't suspect  
24 anything. She said if she would have suspected something, she  
25 would have told somebody.

1           You also heard about the immigration benefits that  
2 Roxana received as a result of this case. Before these  
3 allegations, Roxana and her mother did not have legal status  
4 in this country. After these allegations came to light and  
5 after the preliminary hearing, they were both given visas.  
6 Now, they can both work here and stay here legally, which is  
7 -- which, you would agree, it's a huge benefit. And that's  
8 all as a result of being a victim of a crime in this country.  
9 If they were not victims, they would still not have -- they  
10 still would not have legal status.

11           We also heard about -- we also heard Mr. Renteria's  
12 statement. You heard that police went to his home, they left  
13 a card. He called the same day. He played phone tag with the  
14 detective. He went down to the police station. Well, first,  
15 he made an appointment with the detective. He went down there  
16 on his own, not in cuffs. He went down there on his own to  
17 tell his side of the story, and that's what he did. He  
18 admitted to -- he admitted to the contact. He admitted that  
19 he had seen her breasts. He admitted to the other things, but  
20 he did not admit to was the sexual penetration. That's  
21 because that didn't happen.

22           Another thing that you can look at when looking at  
23 whether you believe Mr. Renteria is credible is found in  
24 Instruction 23. It says the lack of flight of a person after  
25 he is accused of a crime is not sufficient in itself to

1 establish that he is not guilty, but it is a fact that --  
2 which may be considered by you in light of all other proved  
3 facts in deciding the question of whether he is guilty or not  
4 guilty.

5 Well, you heard after this, Guillermo was not  
6 arrested. It took months before he was arrested. He went  
7 about his life. He didn't leave the city, he didn't leave the  
8 state, he didn't leave the country. He stayed doing what he  
9 was going because his conscience was clear. He didn't flee,  
10 and this instruction shows that if you -- that's something  
11 that you can consider when considering his statement.

12 Additionally, in this case, you see that there is a  
13 total lack of police investigation. There is no DNA. There  
14 is no fingerprints. You heard from the detective that they  
15 didn't do any type of forensic work. You heard that -- from  
16 Roxana that a lot of these acts allegedly occurred in her  
17 house, which the police would have had access to; yet, they  
18 did no type of forensic work. They could have checked for  
19 DNA, they could have checked for prints, they could have  
20 checked for any type of fluids. They did none of that. And  
21 when we talked in jury selection, one of the questions I asked  
22 was is -- do you think that people are entitled to a complete  
23 thorough investigation when they're accused of a crime, and  
24 the answer was yes, you are entitled to that. Mr.  
25 Renteria-Novoa did not get that.



1           They also interviewed several -- they also failed to  
2 interview several witnesses. They didn't interview Rosa, they  
3 didn't interview Janet, they didn't interview Jeimi or Maritza  
4 to find out what they knew about the case.

5           MS. FLECK: That's a mis -- I mean, I'll clear it up,  
6 but it's a misstatement. Rosa was interviewed and so was --

7           THE COURT: Hang on. Hang on.

8           MS. FLECK: -- Janet.

9           THE COURT: Are you making an objection or what?

10          MS. FLECK: I object because it's wrong.

11          THE COURT: All right. Well, you can correct it on  
12 rebuttal.

13          MR. FELICIANO: So the instruction on sexual assault  
14 with a minor under the age of 14 is found at -- one of them is  
15 found at Instruction 5. And what that instruction tells you,  
16 if the State fails to prove beyond a reasonable doubt -- I'm  
17 paraphrasing. If the State fails to prove beyond a reasonable  
18 doubt that they have proved their case, then Mr.  
19 Renteria-Novoa is entitled to a verdict of not guilty, and  
20 that's exactly what we have here. Roxana was not under 14  
21 years old when any of this conduct started and there was no  
22 sexual penetration.

23          So the next instruction is instruction -- is  
24 instruction -- well, I'm sorry. Is Lewdness with a minor  
25 under the age of 14, that's Instruction 14. Again, if the

1 State fails to prove lewdness with a child beyond the -- under  
2 the age of 14, then Mr. Renteria-Novoa is entitled to a  
3 verdict of not guilty. Here, again, Roxana was not under 14  
4 years old when any of the touching happened; therefore, he's  
5 not guilty of those charges.

6 Next is sexual assault with a minor under the age of  
7 16. That's found in Instruction 7, and that basically mirrors  
8 Instruction 5. Basically, if the State fails to prove their  
9 case beyond a reasonable doubt, then he is entitled to a  
10 verdict of not guilty. In this case, Roxana consented to the  
11 contact. She consented to the conduct. There was no sexual  
12 penetration; therefore, there is no sexual assault with a  
13 minor under the age of 16.

14 Next we have sexual assault, which, again, is similar  
15 except there is no age requirement on this one. That's in  
16 Instruction 9, and Instruction 9 basically tells you if you --  
17 if the State fails to prove beyond a reasonable doubt that  
18 they have proven their case, that Mr. Renteria-Novoa is  
19 entitled to a verdict of not guilty.

20 Now, regarding the sexual assault charges, the last  
21 Instruction is 10 -- or the last one I want to talk about is  
22 10. This one -- this one states basically that if you don't  
23 find there was no -- ever any penetration, you must find him  
24 guilty of all the sexual assault charges, meaning the sexual  
25 assault under the age of 14, under the age of 16 and the

1 sexual assault charge. So because they have not proven beyond  
2 a reasonable doubt that there was penetration, you must find  
3 him not guilty.

4 Open and gross lewdness is found at 21. Again,  
5 because Roxana consented to the conduct, there is no open and  
6 gross lewdness, so Mr. Renteria-Novoa is not guilty of that  
7 charge -- those charges, rather.

8 The last instruction I'll direct you to is reasonable  
9 doubt instruction, which I'm not going to read the instruction  
10 to you, but you can read it when you're back in the jury room.  
11 But basically, what -- part of the instruction says is that  
12 you have to have an abiding conviction of the truth of the  
13 charge for there to be -- for there not to be a reasonable  
14 doubt, so can you say you have that here? Do you have an  
15 abiding conviction of the truth of the charges? Can you say  
16 that when Roxana's stories are completely inconsistent, when  
17 there was no forensic analysis or forensic testing done, when  
18 her family says things that are different than what she says?  
19 And looking at the way Roxana acted herself, can you really  
20 say there's no reasonable doubt in this case? We submit that  
21 you can't. There's simply too much reasonable doubt. Looking  
22 at all of the circumstances, looking at all of the  
23 inconsistencies, Mr. Renteria is not guilty of any charges.

24 As I said a moment ago, this case is about it's  
25 better him than me, and that's what we have shown you

1 throughout this trial. This was a consensual relationship.  
2 Roxana was about to be found out about her cousin and about  
3 her -- about her relationship with Guillermo. She was about  
4 to get in trouble. She made these allegations to get herself  
5 out of trouble. Based on that, we'd ask that you find Mr.  
6 Renteria-Novoa not guilty on all counts. Thanks.

7 THE COURT: Does the State wish to make a final  
8 rebuttal argument?

9 MS. FLECK: Yeah, I do. Thank you. Can we flip it  
10 over to the ELMO, please. Thank you.

11 STATE'S REBUTTAL ARGUMENT

12 MS. FLECK: This trial, ladies and gentlemen, like  
13 every trial that's happened before it, like every trial that's  
14 going to happen after it is about one thing. It's about a  
15 search and it's a search for the truth. In this particular  
16 case, it's a search for the truth of what happened between  
17 2005 -- 2004ish and 2009 between Roxana Perez and this  
18 defendant. You may think all of a sudden, I know we're all  
19 tired, that you're actually in the trial of State of Nevada  
20 versus Roxana Perez; however, you're not. To bring you back  
21 to reality, you are in the trial of State of Nevada versus  
22 Guillermo Renteria-Novoa.

23 So let's talk about the truth of what happened to  
24 this child starting when she was 12 years old by a person who  
25 by his own admission is her father figure, is the only man

1 that she had known in the United States as a father, as the  
2 one she knew back in Mexico left her and her sister Perla and  
3 her mother for another man. She comes here, she meets her  
4 cousin Yahir.

5 Again, not State of Nevada versus Yahir. Was Yahir  
6 taking advantage, also, of a small young girl, probably, but  
7 they're much closer in age, and you have a jury instruction  
8 that's going to tell you you are not here to determine the  
9 guilt of anybody else. There is but one man on trial today,  
10 and that is this defendant.

11 So he walks in and he finds an 11-year-old girl in  
12 bed with her cousin, under blankets with her cousin, and what  
13 does he do instead of counseling her, instead of advising her,  
14 instead of talking to her about the birds and the bees, no, he  
15 shows her about the birds and the bees. He literally turns a  
16 child into a woman over night.

17 Now, the defense tells you that this case is  
18 consensual. Okay. Well, first of all, straight away you  
19 cannot consent to lewdness with a minor, so we have counts  
20 pled under the age of 14 as lewdness with a minor. The  
21 defendant told you -- or Mr. Feliciano told you that there is  
22 no proof that this started before 14. I think in -- I think  
23 he actually conclusively said it didn't happen when she was  
24 younger than 14. He also told you that the defendant is the  
25 person who is credible. Of course, Roxana isn't, of course,

1 Metro isn't, of course, no one else in the case is but the  
2 defendant.

3 Well, if he's so credible, then let's take his word  
4 for it, okay? Because he tells the police this happened when  
5 she was 12 years old, that he walked in and he saw her with  
6 her cousin at 12 years old and that the sexual relationship  
7 starts immediately thereafter, and it starts with him touching  
8 her boobs --

9 MR. FELICIANO: Judge, I'm going to object. That's a  
10 misstatement.

11 MS. FLECK: You have the --

12 MR. FELICIANO: He found --

13 THE COURT: Hang on. Hang on.

14 MR. FELICIANO: He found --

15 THE COURT: This is -- the jury heard the testimony.  
16 They can draw the -- they can make conclusion -- their own  
17 conclusions about the facts. This is argument, all right?

18 MS. FLECK: I invite you to. If you want to -- if  
19 you want to listen to his statement again, I absolutely invite  
20 you to, and I promise that this is what you will hear. What  
21 you will hear is that he walked in and he saw her when she was  
22 12 years old, and you will hear that the relationship started  
23 after he saw her with her cousin, and that was at 12 years  
24 old. And it started by him looking at her boobs and her naked  
25 body, and it started with him touching her boobs and kissing

1 her boobs, and those are lewdnesses with a minor for which  
2 there is no defense of consent.

3 That means that he is touching her naked body with  
4 the intent of gratifying himself sexually or in his sick mind  
5 her sexually. There is no other reason that a 48-year-old man  
6 touches a 12-year-old's body, even a 13-year-old's body.  
7 There is no other reason but to sexually gratify themselves or  
8 her.

9 So when you go back to your -- to deliberate and you  
10 look at the verdict form and you see Counts 3 for rubbing  
11 breasts of the body under 14 and you see Count 8 for licking  
12 the breasts, when you see Count 14, rubbing and touching  
13 breasts, those are all under 14, and there is absolutely no  
14 defense to that. So consent, you cannot have a consensual  
15 sexual relationship between a father and a child.

16 Again, by the defendant's own admission, he is a  
17 father figure to her and they had a father daughter  
18 relationship. Why? Because they are not equals. They are  
19 not emotional equals. There is a power differential in this  
20 relationship that makes it impossible for her to consent.  
21 This is why teachers don't have sex with children. This is  
22 why psychiatrists don't have sex with their patients. There  
23 is no freewill here.

24 Clearly, these are under conditions in which the  
25 defendant, as a 48-year-old man who has helped raise this

1 child, knew or should have known that she is incapable of  
2 consenting. How do we know that there was sexual penetration  
3 when she was under 14? Because she sat on that witness stand,  
4 a girl who told you she came here illegally, a girl who has  
5 never disclosed the sickening events that that man put her  
6 through to her mother, to her aunt, to a teacher, to her  
7 sister, even to date. Is it -- is it strange that she has  
8 never said that before, absolutely not. What child could  
9 possibly make this up?

10 If she was going to make something up, it would be we  
11 had sex -- we had sex. We had actual intercourse, but that  
12 child that you saw on that witness stand is going to make up a  
13 story like he turned her over on all fours and took his tongue  
14 and systematically for 15 to 20 minutes licked her anus until  
15 he penetrated her anus with his tongue? She told you that  
16 because that's what happened, and if it didn't happen and if  
17 she didn't feel finally like she could free this from herself,  
18 she would never, ever walk in this courtroom, sit on that  
19 witness stand and disclose that kind of horrific embarrassing  
20 information to a room full of strangers.

21 It was under conditions in which the defendant knew  
22 or should have known. Furthermore, she's 12, she's 13, 14,  
23 15, 16 years old and she is complying because she is being  
24 threatened. You know that these threats occurred because up  
25 until 2009, even in December, you see the threats on text



1 messages. It's exactly like she said.

2 I mean, odd, right, that five years later he is still  
3 using this. When the threats started and she is 12, you have  
4 to understand what her mindset is. This is a naive girl who  
5 has barely come to this country, who has been caught doing  
6 something that's humiliating, okay? Not only is she with a  
7 boy and she's scared that her mom's going to find out, but  
8 that her whole family will know that she's making out with  
9 somebody within her family. That's embarrassing. And she's  
10 so naive that she's able to be manipulated. She's being able  
11 -- she's able to be manipulated by the defendant saying I'm  
12 going to tell everyone. I'm going to ruin your life. In her  
13 mind, it is. In her mind, there is literally something that  
14 her mother could do, an embarrassment through her family that  
15 would be worse for her than this man taking his tongue on a  
16 systematic repeated basis and sticking it into her anus. That  
17 is how much manipulation had been imposed upon her.

18 So consent, you have an instruction, and it's  
19 Instruction 20. It says it is a defense to the charge of  
20 sexual assault that the defendant entertained a reasonable and  
21 good faith belief that the alleged victim consented to engage  
22 in sexual penetration. If you find such reasonable good faith  
23 belief, even if mistaken, you must give the defendant the  
24 benefit of the doubt and find him not guilty of sexual  
25 assault. A belief that is based upon ambiguous conduct by the

1 alleged victim that is the product of force, violence, duress,  
2 menace or fear of immediate and unlawful bodily injury on the  
3 person or of another is not reasonable or good faith. So did  
4 he entertain a reasonable good faith belief that this act  
5 repeated over and over again for four years was consensual?

6 Let's look at his statement. What is the first thing  
7 that he says to the detective? I think I did a mistake.  
8 Well, if it's a consensual sexual relationship, why is it a  
9 mistake? Why is that the first thing that comes out of his  
10 mouth? Because he's raping a 12-year-old, a 13-year-old, a  
11 14-year-old, a 15-year-old, a 16-year-old, and that, ladies  
12 and gentlemen, is not a mistake. A mistake is cheating on  
13 your spouse, a mistake is, you know, maybe taking a little bit  
14 of extra money when you shouldn't take a little bit of extra  
15 money. This is 36 counts of criminal conduct. This is not a  
16 mistake.

17 He tells the detective, oh, I tell you the truth.  
18 You know, according to him, it was consensual and does he have  
19 a reasonable good faith to believe that she's consenting? He  
20 says I tell you the truth. Really? Look at how many times in  
21 his statement he did not tell the truth. It starts out with,  
22 well, yes, I was with her, but she just showed me. Well,  
23 showed me morphed into, well, yes, actually, I did -- I did  
24 touch one time or I kissed one time. It's always one time.  
25 And then, well, did you ever masturbate in front of her? No,

1 never. Did you ever masturbate in front of her? Okay. One  
2 time. Did you ever touch her? No, I never touched her.  
3 Never, never. Oh, one time I touched her vagina, of course,  
4 over her clothes.

5 Each and every time that the defendant [sic] asked  
6 him a question, he had a different response, yet he's the  
7 credible one. There's not a shred of truth through that,  
8 except for something like this. Yeah, I tried to have sex  
9 with her, but she wouldn't. The only reason he didn't have  
10 sexual penetration with her with penis to vagina is because  
11 she absolutely refused. Oh, and this one, I didn't have sex  
12 with her because I have too much respect for her and her  
13 mother. That's rich. So apparently, it's disrespectful to  
14 put your penis in a child, but it wasn't disrespectful to  
15 touch her breasts, to lick her breast, to touch her vagina, to  
16 look at her naked body. Apparently, that's not disrespectful  
17 according to the defendant.

18 So when you go through all the times that the defense  
19 told you, well, the defendant told you this, the defendant  
20 told you that, the defendant said he never kissed her vagina,  
21 as you know, you can't trust what the defendant says. Who can  
22 you trust? That girl that sat on the witness stand and poured  
23 her heart out to you.

24 Consensual, well, why does he have to threaten her?  
25 Why does he have to threaten a girl that is having a

1 consensual relationship with him? Now, she's 16 years old.  
2 Let's just pretend for argument's sake that by this point in  
3 time she has grown to love him. Let's just pretend and give  
4 him the benefit of that doubt. Well, really, normally, when  
5 women are in consensual relationships with men, they are  
6 watching their cell phones and they are literally willing it  
7 to ring. They are willing a text message to come through.  
8 They are not ignoring 15, 20 phone calls a day. They are  
9 begging for their boyfriend to call. So why do you have to  
10 threaten a woman that you're having a consensual sexual  
11 relationship with to call you? Because it wasn't consensual,  
12 because the only reason she had any contact with him ever is  
13 because he was blackmailing her and extorting sex from him  
14 [sic].

15 Consensual sexual relationship, let's again just go  
16 with the off chance that she's really making these deals with  
17 him, okay? It's ridiculous. I mean, she's accepted, what, a  
18 JanSport backpack, some shoes, some food, pure necessities  
19 from this man, who, again, admittedly is like a father to her.  
20 Is it reasonable to think that -- the defense said is it  
21 reasonable to think that, you know, if -- that a victim of a  
22 crime would be accepting these gifts and acting this way,  
23 yeah, it's reasonable.

24 In fact, it happens with victims around the world  
25 every single day, and that is why, ladies and gentlemen,

1 people can be victimized because it happens in houses that  
2 people would never expect. It happens with relationships with  
3 people -- with people that other people would never expect.

4 MR. FELICIANO: Judge, I'm going to object. This is  
5 improper --

6 THE COURT: Hang on.

7 MR. FELICIANO: -- argument.

8 THE COURT: I'm sorry?

9 MR. FELICIANO: Argument is improper.

10 THE COURT: How is it improper?

11 MR. FELICIANO: She's talking about other people  
12 around in other households throughout the world. That's  
13 absolutely improper.

14 MS. FLECK: All right. Well, you can draw on your  
15 common sense.

16 THE COURT: All right. Well, hang on. So do you  
17 want a ruling on the objection or are you just kind of moving  
18 on, Ms. Fleck?

19 MS. FLECK: I'll move on and I'll --

20 THE COURT: All right.

21 MS. FLECK: And I'll liken it to a law. Okay?  
22 There's a law, ladies and gentlemen, that tells us that the  
23 victim of a sexual assault or a lewdness does not need to be  
24 corroborated, and the reason that it doesn't need to be  
25 corroborated, that the victim does not, is for situations

1 exactly like this. Mr. Feliciano said that he thought it was  
2 ridiculous that no one in her family would ever expect that  
3 this abuse was occurring, but guess what, the Nevada Supreme  
4 Court, they didn't think it was very ridiculous when they came  
5 up with a law that told us that a victim doesn't need to be  
6 corroborated, and that's exactly why. Because people don't  
7 commit these kinds of crimes in the middle of a casino with  
8 an, you know, eye in the sky watching where it's all on video.  
9 They commit these kinds of crimes behind closed doors, under  
10 the eyes of a family that would never suspect them because  
11 they are their boyfriend, they are somebody that they trust,  
12 that they love, that they have brought into their home.  
13 That's how people like Guillermo Renteria-Novoa get away with  
14 it for so long and that's why he did.

15 So we were talking about this whole thing about her  
16 making deals to get things. Again, you know, she got a  
17 JanSport backpack. Is she going to allow him to do the things  
18 that he did to her for that long for a JanSport backpack?

19 Finally, consent, when you -- if you choose to listen  
20 to the defendant's statement again, there is a couple of times  
21 where the defendant -- detective asks him, was she okay with  
22 it, and it's like I hear crickets. Literally, the defendant  
23 is silent because he cannot come up with an excuse fast  
24 enough, because of course she was not okay with it. She's a  
25 beautiful young woman and she's going to have sex with this

1 man?

2 MR. FELICIANO: Judge, that's -- objection.

3 Disparaging. It's improper.

4 MS. FLECK: Okay. Let me rephrase.

5 THE COURT: Overruled. Overruled. Go ahead.

6 MS. FLECK: She's going to have sex with a  
7 48-year-old man who was helping raise her, who had been having  
8 sexual relationships with her mother? Of course she wasn't  
9 okay with it.

10 Okay. Briefly, you know, regarding Roxana's  
11 credibility, you saw her, you had the opportunity to listen to  
12 her, you saw when she cried, when she didn't cry. You saw  
13 what she had difficulty talking about and what she didn't.  
14 This is a young girl, again, who came here from Mexico,  
15 English is her second language, she has to talk about some of  
16 the most embarrassing things that have probably ever happened  
17 to her, much more have to discuss it. Do her stories lack in  
18 -- or have -- are they inconsistent?

19 Well, if a story is scripted, there aren't going to  
20 be inconsistencies because you have a script and you know it  
21 by heart, you've memorized it. But when you're telling the  
22 truth and you're recalling what has happened to you in your  
23 life, there's, of course, going to be small inconsistencies.  
24 You're never going to tell the same story twice when you're  
25 relaying -- even a trip, if you tell, you know, even when you

1 guys are out in the hall just waiting for us to, you know,  
2 argue instructions or whatever it is we're talking about in  
3 here, and you talk about, oh, last week I went to the -- you  
4 know, up to Mount Zion, you might tell the same story later on  
5 tonight at dinner and you won't tell the exact same details,  
6 but it doesn't -- does it mean that you're lying? Of course  
7 not. Different things come into mind. You might feel much  
8 more comfortable talking tonight at dinner with one of your  
9 friends than you do amongst each other. It certainly doesn't  
10 mean that somebody is lying.

11 The fact that she didn't tell anybody about the anal  
12 licking or the cunnilingus until she came into our office  
13 where she was talking with a female DA who does this every  
14 single day, that shows how credible she is. She was  
15 terrified --

16 MR. FELICIANO: Judge, I'm going to object. She's  
17 vouching at this point for the witness.

18 MS. FLECK: Okay. Well --

19 THE COURT: All right. Ms. --

20 MS. FLECK: And I'll rephrase.

21 THE COURT: Thanks.

22 MS. FLECK: But use that when you go back to judge  
23 her credibility. Up until that point, she had only spoken to  
24 men about this or people in her family. Her stories to  
25 Maritza, to Janet, to Jeimi, to the counselor, her written



1 statement, and then the one that -- her recorded statement,  
2 there really are no inconsistencies in those. Literally, the  
3 only thing that's different between any of them is that she  
4 never disclosed the cunnilingus or the anal licking.

5         There was a lot of talk about the fact that she --  
6 what years she said. End of the day, who cares what year she  
7 said. Go by what the defendant said. The defendant said it  
8 started when she was 12.

9         The police work, you know, of course, if it's not  
10 that Roxana is lying or that it's consensual or that she was  
11 doing it for gifts, it's that the police didn't do a good job.  
12 Well, what more could they have done? There's not going to be  
13 DNA in a case two months later. The last sexual encounter was  
14 in November of 2009.

15         Furthermore, what evidence was there? There was  
16 never an allegation that he penetrated her with his penis,  
17 that he came inside of her, that he came on her body. You can  
18 only do what you can do, and again, that's why the law  
19 accounts in cases like this for the fact that if you believe a  
20 victim beyond a reasonable doubt, it's enough.

21         So ladies and gentlemen, at the end of this case, we  
22 have the defendant admitting that he has made mistakes. That  
23 he wants to take responsibility for them. And his idea was to  
24 strike another deal with the detective. His idea was to, you  
25 know, just -- let's put this behind us. I'll stay away from

1 that family and I'll just move on with my life. But the  
2 problem is is that the mistakes that he made are bigger than  
3 that. The mistakes that he made are criminal. He  
4 systematically, repeatedly raped a child. First, she was 14,  
5 then she was 15. I'm sorry. First, she was 12 or 13, then  
6 14, 15 and 16. And for those mistakes, he needs to be held  
7 accountable, so I'm going to ask on behalf of the State of  
8 Nevada that you go back after a very long day, that you  
9 deliberate, and that you come back in here and you tell him  
10 that those mistakes are bigger than just pushing them aside  
11 and moving on and staying away from the family. Those  
12 mistakes are criminal. Those are choices that he made for  
13 which he needs to be held accountable. Thank you.

14 THE COURT: All right, ladies and gentlemen. You now  
15 have heard all the evidence as well as the arguments of  
16 counsel. The clerk will now swear the marshal to take charge  
17 of the jury and the court recorder will take charge of the  
18 alternates.

19 (OFFICERS OF THE COURT, SWORN)

20 THE COURT: All right. I will now tell you that the  
21 two alternates in our case are Juror No. 13, Mr.  
22 Gebrechristos, and Juror No. 14, Mr. Garwood. What I want the  
23 two of you to do is hang on for a couple minutes 'cause I have  
24 some separate instructions for you. The remaining 12 of you,  
25 what I want you to do is this. Joe is going to take you back

1 to the deliberation room.

2 I want you to do two things right now. First of all,  
3 I want you to pick a foreperson because you're going to need  
4 someone to come back here and answer a quick question that I  
5 have. The second thing that I want you to do, and this is the  
6 question that I'm going to ask you, is -- and you can decide  
7 any method you want to to pick a foreperson, but the second  
8 conversation I want you to have is what you want to do about  
9 scheduling? Do you want to call it a day and start tomorrow  
10 morning, or do you want to give it a stab at deliberating  
11 tonight? What I want you to do is go back and have as long a  
12 conversation or as short a conversation as you guys want to,  
13 and then when you're ready, let Joe know and he'll bring you  
14 back in here.

15 And Mr. Garwood and Mr. Gebrechristos, let me get you  
16 to hang on for one second.

17 THE MARSHAL: Do you let them take the --

18 THE COURT: The instructions?

19 THE MARSHAL: -- the instructions back?

20 THE COURT: Yes, they can --

21 THE MARSHAL: Okay.

22 THE COURT: -- take them back.

23 (Jury recessed at 7:49 p.m.)

24 THE COURT: All right. Mr. Gebrechristos and Mr.  
25 Garwood -- well, before I do that. Let me just tell you a

1 couple of things. In a moment, I'm going to discharge you and  
2 Sara over here sitting to the far right is going to have a  
3 conversation. Give her your cell phone number and your  
4 contact information. The two of you have heard all the  
5 evidence in this case. You will not be deliberating, but the  
6 reason we have alternates is it's actually surprisingly common  
7 that one of the jurors has some issue, maybe a family  
8 emergency, something like that where they can't deliberate.  
9 And rather than just do the whole trial over again, what we'll  
10 do is we'll give you a call on your cell phone and you -- one  
11 of you may have to jump in and start deliberating.

12 So even after you leave the courtroom tonight, you're  
13 still technically part of this case, which means that all the  
14 instructions I gave you before apply. Don't talk to anybody  
15 about this case, don't deliberate among yourselves about what  
16 you guys think, don't reach any conclusions, all of those  
17 kinds of things, all right, because tech -- because you could  
18 be called in at any second. I don't know what they're going  
19 to do, if they're going to keep on going tonight or if they're  
20 going to start in the morning, but you know, I would guess  
21 anecdotally and probably at least -- well, probably around a  
22 third of my cases we have to call one or sometimes both of the  
23 jurors in for whatever reason, just, you know, stuff happens,  
24 you know, that kind of thing.

25 So you know, you're -- since you're not actively

1 deliberating, so until you get a call from us, you can go  
2 about your daily lives, but don't do a brain dump and forget  
3 everything you heard the last couple days because you never  
4 know, right? And if anybody asks you, even if you go back to  
5 work tomorrow or go back to your families, if they ask you,  
6 hey, is the trial over, tell them, I'm an alternate, I can't  
7 talk to you about this case, I could be called in, all right?  
8 And all the same admonishments, don't research the case, don't  
9 go to the scene, all that kind of thing because technically  
10 you're still part of the jury, all right? So I'm going to  
11 have Sara take you back and she'll collect your information  
12 and you're free to go --

13 UNIDENTIFIED SPEAKER: Do we leave the paperwork here  
14 or --

15 THE COURT: I'm sorry? Yes. Leave all that stuff  
16 here. Joe will collect it. If we need to call you, you'll --  
17 he'll give you all those things back to you, all right?

18 THE COURT RECORDER: He's wondering if he has to work  
19 tomorrow?

20 THE COURT: I'm sorry?

21 THE COURT RECORDER: He might have to work tomorrow.

22 THE COURT: I'm sorry. Do you mean you have to go  
23 back to your employment?

24 UNIDENTIFIED SPEAKER: Yes.

25 THE COURT: Yeah, you're free to do so until or

1 unless you receive a call 'cause, you know, you may not be  
2 called. You might be called, but you -- obviously, you won't  
3 know so go back and resume your life, but tell your boss that  
4 since you're an alternate, there's a possibility you might be  
5 called, all right?

6 (Juror Nos. 13 and 14 exit the courtroom.)

7 MS. FLECK: What's that, sweetie?

8 THE COURT RECORDER: If their choice is to  
9 deliberate, we need something for them to have in the jury  
10 room for them to listen to the CDs.

11 MS. FLECK: Okay.

12 MR. GRAHAM: I got two.

13 MS. FLECK: Yeah. We actually have one.

14 THE COURT RECORDER: Okay.

15 THE COURT: Well, let's find out. They should --  
16 they're -- they'll probably come back pretty quickly --

17 MS. FLECK: Well, we'll leave it anyway.

18 MR. FELICIANO: A laptop?

19 MR. GRAHAM: Yeah.

20 MR. FELICIANO: Is there anything on there?

21 MR. GRAHAM: I don't think this one.

22 MS. FLECK: Well, we just said we're going to clear  
23 it off.

24 MS. FELICIANO: Usually they leave a laptop that's  
25 blank. They usually have one that they're IT department --

1 MR. GRAHAM: This one --  
2 MR. FELICIANO: Okay.  
3 MR. GRAHAM: Yeah, I'll clear this one.  
4 (Pause in proceedings)  
5 (Court recessed for the evening at 7:53 p.m.)  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

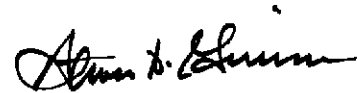
**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**KARR REPORTING, INC.  
Aurora, Colorado**

  
KIMBERLY LAWSON





CLERK OF THE COURT

1 JOC

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4  
5 THE STATE OF NEVADA,

6 Plaintiff,

CASE NO. C268285-1

7  
8 -vs-

DEPT. NO. XX

9 GUILLERMO RENTERIA-NOVOA  
10 #2755564

11 Defendant.

12 JUDGMENT OF CONVICTION

13 (JURY TRIAL)

14  
15 The Defendant previously entered a plea of not guilty to the crimes of COUNTS  
16 1, 2, 4, 5, 6, 9, 10, 12, 13, 14, 15, 17, 18, 20, 21 – SEXUAL ASSAULT WITH A MINOR  
17 UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 200.364, 200.366;  
18 COUNTS 3, 7, 8, 16, 19, 22 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
19 (Category A Felony), in violation of NRS 201.230; COUNTS 11, 31, 36 – OPEN OR  
20 GROSS LEWDNESS (Gross Misdemeanor), in violation of NRS 201.220; COUNTS 23,  
21 24, 25, 26, 27, 28, 29, 30 – SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF  
22 16 (Category A Felony), in violation of NRS 200.364, 200.366; and COUNTS 32, 33, 34,  
23 35 – SEXUAL ASSAULT (Category A Felony), in violation of NRS 200.364, 200.366;  
24 and the matter having been tried before a jury and the Defendant having been found  
25 guilty of the crimes of COUNT 1 – SEXUAL ASSAULT WITH A MINOR UNDER THE  
26 AGE OF 14 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 2 –  
27

AA 001046

RECEIVED  
SEP 10 2012  
DEPT. 20

1 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in  
2 violation of NRS 200.364, 200.366; COUNT 3 – LEWDNESS WITH A CHILD UNDER  
3 THE AGE OF 14 (Category A Felony), in violation of NRS 201.230; COUNT 4 –  
4 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in  
5 violation of NRS 200.364, 200.366; COUNT 5 – SEXUAL ASSAULT WITH A MINOR  
6 UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 200.364, 200.366;  
7 COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category A  
8 Felony), in violation of NRS 200.364, 200.366; COUNT 7 - LEWDNESS WITH A CHILD  
9 UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 201.230; COUNT 8 -  
10 LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony), in violation  
11 of NRS 201.230; COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE  
12 OF 14 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 10 -  
13 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in  
14 violation of NRS 200.364, 200.366; COUNT 11 - OPEN OR GROSS LEWDNESS  
15 (Gross Misdemeanor), in violation of NRS 201.220; COUNT 12 - SEXUAL ASSAULT  
16 WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in violation of NRS  
17 200.364, 200.366; COUNT 13 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE  
18 OF 14 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 14 -  
19 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in  
20 violation of NRS 200.364, 200.366; COUNT 15 - SEXUAL ASSAULT WITH A MINOR  
21 UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 200.364, 200.366;  
22 COUNT 16 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A  
23 Felony), in violation of NRS 201.230; COUNT 17 - SEXUAL ASSAULT WITH A MINOR

AA 001047

1 UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 200.364, 200.366;  
2 COUNT 18 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category  
3 A Felony), in violation of NRS 200.364, 200.366; COUNT 19 - LEWDNESS WITH A  
4 CHILD UNDER THE AGE OF 14 (Category A Felony), in violation of NRS 201.230;  
5 COUNT 20 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 14 (Category  
6 A Felony), in violation of NRS 200.364, 200.366; COUNT 21 - SEXUAL ASSAULT  
7 WITH A MINOR UNDER THE AGE OF 14 (Category A Felony), in violation of NRS  
8 200.364, 200.366; COUNT 22 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
9 (Category A Felony), in violation of NRS 201.230; COUNT 23 - SEXUAL ASSAULT  
10 WITH A MINOR UNDER THE AGE OF 16 (Category A Felony), in violation of NRS  
11 200.364, 200.366; COUNT 24 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE  
12 OF 16 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 25 -  
13 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 16 (Category A Felony), in  
14 violation of NRS 200.364, 200.366; COUNT 26 - SEXUAL ASSAULT WITH A MINOR  
15 UNDER THE AGE OF 16 (Category A Felony), in violation of NRS 200.364, 200.366;  
16 COUNT 27 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 16 (Category  
17 A Felony), in violation of NRS 200.364, 200.366; COUNT 28 - SEXUAL ASSAULT  
18 WITH A MINOR UNDER THE AGE OF 16 (Category A Felony), in violation of NRS  
19 200.364, 200.366; COUNT 29 - SEXUAL ASSAULT WITH A MINOR UNDER THE AGE  
20 OF 16 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 30 -  
21 SEXUAL ASSAULT WITH A MINOR UNDER THE AGE OF 16 (Category A Felony), in  
22 violation of NRS 200.364, 200.366; COUNT 31 - OPEN OR GROSS LEWDNESS  
23 (Gross Misdemeanor), in violation of NRS 201.220; COUNT 32 - SEXUAL ASSAULT

AA 001048

1 (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 33 - SEXUAL  
2 ASSAULT (Category A Felony), in violation of NRS 200.364, 200.366; COUNT 34 -  
3 SEXUAL ASSAULT (Category A Felony), in violation of NRS 200.364, 200.366; COUNT  
4 35 - SEXUAL ASSAULT (Category A Felony), in violation of NRS 200.364, 200.366;  
5 and COUNT 36 - OPEN OR GROSS LEWDNESS (Gross Misdemeanor), in violation of  
6 NRS 201.220; thereafter, on the 6<sup>TH</sup> day of September, 2012, the Defendant was  
7 present in court for sentencing with his counsels, AMY FELICIANO, Deputy Public  
8 Defender and, MIKE FELICIANO, Deputy Public Defender, and good cause appearing,  
9

10  
11 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in  
12 addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee  
13 including testing to determine genetic markers, and to PAY \$880.00 RESTITUTION, the  
14 Defendant is SENTENCED as follows: AS TO COUNTS 1, 2, 4, 5, 6, 9, 10, 12, 13, 14,  
15 15, 17, 18, 20, 21 - LIFE with a MINIMUM Parole Eligibility AFTER TWENTY (20)  
16 YEARS in the Nevada Department of Corrections (NDC); AS TO COUNTS 3, 7, 8, 16,  
17 19, 22 - LIFE with a MINIMUM Parole Eligibility AFTER TEN (10) YEARS in the Nevada  
18 Department of Corrections (NDC); AS TO COUNTS 23, 24, 25, 26, 27, 28, 29, 30 –  
19 LIFE with a MINIMUM Parole Eligibility AFTER TWENTY-FIVE (25) YEARS in the  
20 Nevada Department of Corrections (NDC); AS TO COUNTS 11, 31, 36 – TWELVE (12)  
21 MONTHS in the Clark County Detention Center (CCDC); and AS TO COUNTS 32, 33,  
22 34, 35 – LIFE with a MINIMUM Parole Eligibility AFTER TEN (10) YEARS in the  
23 Nevada Department of Corrections (NDC); COUNT 3 to run CONSECUTIVE to COUNT  
24 1; COUNT 6 to run CONSECUTIVE to COUNTS 1 and 3; COUNT 23 to run  
25 CONSECUTIVE to COUNTS 1, 3, and 6; COUNT 32 to run CONSECUTIVE to  
26  
27  
28

AA 001049

1 COUNTS 1, 3, 6 and 23; ALL REMAINING COUNTS to run CONCURRENT with each  
2 other; with SEVEN HUNDRED SIXTY-TWO (762) DAYS Credit for Time Served.

3 FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION  
4 is imposed to commence upon release from any term of imprisonment, probation or  
5 parole.  
6

7 ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender  
8 in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any  
9 release from custody.  
10

11 COURT FURTHER ORDERED, Registration after conviction; duties and  
12 procedure, offender or sex offender informed of duty to register; effect of failure to  
13 inform; duties and procedure upon receipt of notification from another jurisdiction or  
14 Federal Bureau of Investigation.

15 1. If the Central Repository receives notice from a court pursuant to NRS 176.0926 that  
16 an offender has been convicted of a crime against a child, pursuant to NRS 176.0927  
17 that a sex offender has been convicted of a sexual offense or pursuant to NRS 62F.220  
18 that a juvenile has been adjudicated delinquent for an offense for which the juvenile is  
19 subject to registration and community notification pursuant to NRS 179D.010 to  
20 179D.550, inclusive, the Central Repository shall:  
21

22 (a) If a record of registration has not previously been established for the offender or sex  
23 offender, notify the local law enforcement agency so that a record of registration may be  
24 established; or  
25

26 (b) If a record of registration has previously been established for the offender or sex  
27 offender, update the record of registration for the offender or sex offender and notify the  
28

AA 001050

1 appropriate local law enforcement agencies.

2 2. If the offender or sex offender named in the notice is granted probation or otherwise  
3 will not be incarcerated or confined, the Central Repository shall:  
4

5 (a) Immediately provide notification concerning the offender or sex offender to the  
6 appropriate local law enforcement agencies and, if the offender or sex offender resides  
7 in a jurisdiction which is outside of this State, to the appropriate law enforcement  
8 agency in that jurisdiction; and  
9

10 (b) Immediately provide community notification concerning the offender or sex offender  
11 pursuant to the provisions of NRS 179D.475.

12 3. If an offender or sex offender is incarcerated or confined and has previously been  
13 convicted of a crime against a child as described in NRS 179D.0357 or a sexual offense  
14 as described in NRS 179D.097, before the offender or sex offender is released:  
15

16 (a) The Department of Corrections or a local law enforcement agency in whose facility  
17 the offender or sex offender is incarcerated or confined shall:

18 (1) Inform the offender or sex offender of the requirements for registration, including, but  
19 not limited to:

20 (I) The duty to register initially with the appropriate law enforcement agency in the  
21 jurisdiction in which the offender or sex offender was convicted if the offender or sex  
22 offender is not a resident of that jurisdiction pursuant to NRS 179D.445;

24 (II) The duty to register in this State during any period in which the offender or sex  
25 offender is a resident of this State or a nonresident who is a student or worker within  
26 this State and the time within which the offender or sex offender is required to register  
27 pursuant to NRS 179D.460;  
28

AA 001051

1 (III) The duty to register in any other jurisdiction during any period in which the offender  
2 or sex offender is a resident of the other jurisdiction or a nonresident who is a student or  
3 worker within the other jurisdiction;

4  
5 (IV) If the offender or sex offender moves from this State to another jurisdiction, the duty  
6 to register with the appropriate law enforcement agency in the other jurisdiction;

7 (V) The duty to notify the local law enforcement agency for the jurisdiction in which the  
8 offender or sex offender now resides, in person, and the jurisdiction in which the  
9 offender or sex offender formerly resided, in person or in writing, if the offender or sex  
10 offender changes the address at which the offender or sex offender resides, including if  
11 the offender or sex offender moves from this State to another jurisdiction, or changes  
12 the primary address at which the offender or sex offender is a student or worker; and

13  
14 (VI) The duty to notify immediately the appropriate local law enforcement agency if the  
15 offender or sex offender is, expects to be or becomes enrolled as a student at an  
16 institution of higher education or changes the date of commencement or termination of  
17 the offender or sex offender s enrollment at an institution of higher education or if the  
18 offender or sex offender is, expects to be or becomes a worker at an institution of higher  
19 education or changes the date of commencement or termination of the offender or sex  
20 offender s work at an institution of higher education; and

21  
22  
23 (2) Require the offender or sex offender to read and sign a form stating that the  
24 requirements for registration have been explained and that the offender or sex offender  
25 understands the requirements for registration, and to forward the form to the Central  
26 Repository.

27  
28 (b) The Central Repository shall:

(1) Update the record of registration for the offender or sex offender;

AA 001052

1 (2) Provide community notification concerning the offender or sex offender pursuant to  
2 the provisions of NRS 179D.475; and

3 (3) Provide notification concerning the offender or sex offender to the appropriate local  
4 law enforcement agencies and, if the offender or sex offender will reside upon release in  
5 a jurisdiction which is outside of this State, to the appropriate law enforcement agency  
6 in that jurisdiction.

7  
8 4. The failure to provide an offender or sex offender with the information or confirmation  
9 form required by paragraph (a) of subsection 3 does not affect the duty of the offender  
10 or sex offender to register and to comply with all other provisions for registration.

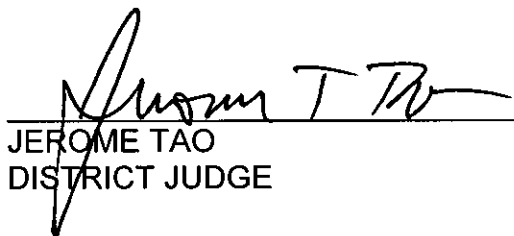
11  
12 5. If the Central Repository receives notice from another jurisdiction or the Federal  
13 Bureau of Investigation that an offender or sex offender is now residing or is a student  
14 or worker within this State, the Central Repository shall:

15 (a) Immediately provide notification concerning the offender or sex offender to the  
16 appropriate local law enforcement agencies;

17 (b) Establish a record of registration for the offender or sex offender; and

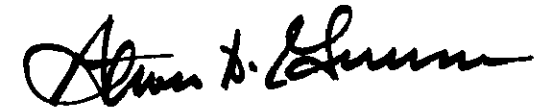
18 (c) Immediately provide community notification concerning the offender or sex offender  
19 pursuant to the provisions of NRS 179D.475. (Added to NRS by 1997, 1655; A 1999,  
20 1300; 2001, 2058; 2001 Special Session, 227; 2003, 289, 573, 1122; 2007, 2765,3252).

21  
22  
23  
24 DATED SEP 10 2012

25  
26  
27  
28  
  
JEROME TAO  
DISTRICT JUDGE

AA 001053





CLERK OF THE COURT

1 NOAS  
2 PHILIP J. KOHN, PUBLIC DEFENDER  
3 NEVADA BAR No. 0556  
4 309 South Third Street, Suite 226  
5 Las Vegas, Nevada 89155  
6 (702) 455-4685  
7 Attorney for Defendant

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA, )  
11 )  
12 Plaintiff, ) CASE NO. C-10-268285-1  
13 )  
14 v. ) DEPT. NO. XX  
15 )  
16 GUILLERMO RENTERIO-NOVOA, )  
17 )  
18 Defendant. )

19 NOTICE OF APPEAL

20 TO: THE STATE OF NEVADA

21 STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY,  
22 NEVADA and DEPARTMENT NO. XX OF THE EIGHTH JUDICIAL  
23 DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE  
24 COUNTY OF CLARK.

25 NOTICE is hereby given that Defendant, Guillermo  
26 Renterio-Novoa, presently incarcerated in the Nevada State Prison,  
27 appeals to the Supreme Court of the State of Nevada from the  
28 judgment entered against said Defendant on the 17<sup>th</sup> day of  
September, 2012, whereby he was convicted of Cts. 1, 2, 4, 5, 6,  
9, 10, 12, 13, 14, 15, 17, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29,  
30, 32 - Sexual Assault With a Minor Under the Age of 14; Ct. 3,  
7, 8, 16, 19, 22 - Lewdness With a Child Under The Age of 14; Ct.  
11, 31, 36 - Open or Gross Lewdness; Ct. 33, 34, 35 - Sexual  
Assault and sentenced to \$25 Admin. fee; \$150 DNA analysis fee;  
genetic testing; \$880 restitution; as to Cts. 1, 2, 4, 5, 6, 9,  
10, 12, 13, 14, 15, 17, 18, 20, 21 - 20 years to Life in prison;  
Cts. 3, 7, 8, 16, 19, 22 - 10 years to Life in prison; Cts. 23,

1 24, 25, 26, 27, 28, 28, 30 - 25 years to Life in prison; Cts., 11,  
2 31, 36 - 12 months in CCDC; Cts. 32, 33, 34, 35 - 10 years to  
3 Life; Ct. 3 to run consecutive to Ct. 1; Ct. 6 to run consecutive  
4 to Cts. 1 and 3; Ct. 23 to run consecutive to Cts. 1, 3, and 6;  
5 Ct. 32 to run consecutive to Cts. 1, 3, 6 and 23; all remainings  
6 counts to run concurrent with each other; 762 days CTS. Special  
7 sentence of lifetime supervision is imposed to commence upon  
8 release from any term of imprisonment, probation or parole.  
9 Ordered to register as a sex offender within 48 hours after any  
10 release from custody; registration after conviction, duties and  
11 procedure, offender or sex offender informed of duty to register,  
12 effect of failure to inform and procedure upon receipt of  
13 notification from another jurisdiction or FBI.

14 DATED this 5th day of October, 2012.

15 PHILIP J. KOHN  
16 CLARK COUNTY PUBLIC DEFENDER

17  
18 By: /s/ Nancy L. Lemcke  
19 NANCY L. LEMCKE, #5416  
20 Deputy Public Defender  
21 309 S. Third Street, Ste. 226  
22 Las Vegas, Nevada 89155  
23 (702) 455-4685  
24  
25  
26  
27  
28

## DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 5<sup>th</sup> day of October, 2012, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Guillermo Renterio-Novoa, Case No. C-10-268285-1, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Guillermo Renterio-Novoa c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. That there is a regular communication by mail between the place of mailing and the place so addressed.

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

EXECUTED on the 5<sup>th</sup> day of October, 2012.

/s/ Carrie M. Connolly  
An employee of the Clark County  
Public Defender's Office

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing  
was made this 5<sup>th</sup> day of October, 2012, by Electronic Filing to:

District Attorneys Office

E-Mail Address:

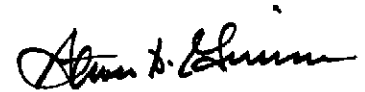
PDMotions@ccdancv.com

Jennifer.Garcia@ccdancv.com

Eileen.Davis@ccdancv.com

/s/ Carrie M. Connolly

Secretary for the  
Public Defender's Office

  
CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA, )

6 Plaintiff, )

7 vs. )

8 GUILLERMO RENTERIA-NOVOA, )

9 Defendant. )  
10

CASE NO. C268285

DEPT. NO. XX

11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12  
13 THURSDAY, SEPTEMBER 6, 2012

14 ***RECORDER'S TRANSCRIPT OF SENTENCING***

15  
16  
17  
18 APPEARANCES:

19 For the State:

MICHELLE FLECK  
Deputy District Attorney

20  
21 For Defendant:

MIKE FELICIANO  
AMY FELICIANO  
Deputies Public Defender

22  
23  
24 RECORDED BY: SARA RICHARDSON, COURT RECORDER

25 ALSO PRESENT: HECTOR VAZQUEZ-MENA, Interpreter

AA 001058

INDEX OF SPEAKERS

SPEAKERS:

PAGE

ROSA MARIA RODRIGUEZ RUIZ

6

AA 001059

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 6, 2012, 10:28 A.M.

2 THE COURT: State versus Guillermo Renteria-Novoa, C268285.

3 Mr. Renteria-Novoa is present in custody with the assistance of the Spanish  
4 interpreter.

5 For the record, Mr. Interpreter, what is your name?

6 THE INTERPRETER: Hector Vazquez-Mena.

7 THE COURT: Thank you. All right. This is the time set for sentencing. Is  
8 there any legal cause or reason why sentencing should not go forward?

9 MR. FELICIANO: No, Judge.

10 THE COURT: All right. Mr. Renteria-Novoa, pursuant to the verdict of the  
11 jury, I hereby adjudicate you guilty as follows, for the crime of sexual assault with a  
12 minor under the age of 14, a felony, on the following counts: 1, 2, 4, 5, 6, 9, 10, 12,  
13 13, 14, 15, 17, 18, 20, and 21. I also adjudicate you guilty of the offense of  
14 lewdness with a child under the age of 14 for the following counts: 3, 7, 8, 16, 19,  
15 and 22. I adjudicate you guilty of the offense of sexual assault with a minor under  
16 the age of 16 for the following counts: 23, 24, 25, 26, 27, 28, 29, and 30. I  
17 adjudicate you guilty of the offense of open or gross lewdness, a gross  
18 misdemeanor for the following counts: 11, 31, and 36. And adjudicate you guilty of  
19 the offense of sexual assault, a felony, for the following counts: 32, 33, 34, and 35.

20 For the record, Mr. Renteria-Novoa, are you a veteran of the United  
21 States Armed Forces?

22 THE DEFENDANT: No, I am illegal here.

23 THE COURT: All right. Thank you. Ms. Fleck, your position on sentencing?

24 MS. FLECK: Thank you, Your Honor. I have reviewed the P.S.I., and I would  
25 concur with P&P's recommendation which I believe amounts to 95 years and is a

**AA 001060**

1 good representation of the type of conduct that the defendant engaged in as well as  
2 the span of years. As you know, presiding over this trial, the sexual abuse in this  
3 case started when the victim was just 12 years old up until she was 16 years old.  
4 She is in the courthouse today, she's actually sitting outside, but too emotional and  
5 fearful and distraught to come in and watch sentencing. And I think that that speaks  
6 volumes as to the affect that this has still had on this child and on this family.

7           You know, watching the trial, watching the defendant throughout the  
8 trial, hearing what he said to the detectives and what we've presented to the jury,  
9 and then now what he says to P&P, this man has absolutely no remorse for what he  
10 has done. He continues to blame a -- what was a 12-year-old child, that he was, for  
11 all intents and purposes at that point in time, her father figure, for engaging in these  
12 sexual acts with a, you know, 45-year-old man. And to a child of that age,  
13 especially, I mean, these acts were beyond what someone of that age should ever  
14 engage in in any way consensually or not as a child. She was -- she was forced to  
15 do things that many people never do their entire life consensually.

16           The fact that he still says that these were sexual favors done in -- for  
17 gifts, when all of the evidence shows that the only reason that she engaged in this  
18 activity was because he was continually using fear and threats based upon  
19 something that had happened when she was 12, and he continued with those  
20 threats until she was about 16 years old and finally broke and finally realized that  
21 whatever happened with her mom wasn't as bad as what the defendant was doing.  
22 She was still too young and naïve when he first started this manipulation to realize  
23 that telling her mom that she had been kissing an age-appropriate cousin paled in  
24 comparison to what she was going to have to endure with the defendant for the rest  
25 of her -- her youth. I mean, he literally stole that from her.



1           So, I don't think that based upon, I mean, 95 years, it sounds like an  
2 awfully long time, but I would -- I would say that an awfully long time is the five solid  
3 years that this defendant repeatedly sexually abused a child. So, you know, you  
4 balance those two out and you compare those two, 95 years is -- is really, that's  
5 actually the gift. So I would submit it on P&P's recommendations. And I do have a  
6 speaker here. It's Roxane's mother, Rosa, I'm not sure when you'd like to hear from  
7 her.

8           THE COURT: Right, but you said Roxane's not going to be speaking then  
9 just --

10          MS. FLECK: She's not. No. Thank you.

11          THE COURT: All right. Mr. Renteria-Novoa, anything that you want to say  
12 prior to sentencing, or do you want to let your attorney speak for you?

13          THE DEFENDANT: I want this to go very fast.

14          THE COURT: Okay. On behalf of your client?

15          MR. FELICIANO: Judge, I would just note that Mr. Renteria does have no  
16 prior criminal history before this. He has no felonies, gross misdemeanors. It looks  
17 like he has one thing involving immigration several years ago. Basically, almost all  
18 these sentences are life sentences, so anything the Court imposes is going to be --  
19 could result in Mr. Renteria-Novoa dying in prison. Count 23 specifically is one of  
20 the 25-to-lives. We would ask the Court to impose that count, the 25-to-life, and run  
21 the other counts concurrent. That'll put him at parole eligibility when he's 75 years  
22 old. He's 50 now. And we would submit that 25 years is sufficient considering all  
23 the circumstances.

24          THE COURT: All right. Ms. Fleck, I show, the P.S.I. indicates restitution in  
25 the amount of \$880.00; is that the figure that you have, or do you have additional

1 information?

2 MS. FLECK: That's what I have as well. And the only thing that I would note,  
3 just because I noticed that while I was speaking you did have your head down kind  
4 of looking through your own notes, but even just the defendant's attitude today, I  
5 mean, he is -- he is laughing. It's --

6 MR. FELICIANO: Judge, I'm going to object.

7 MS. FLECK: No.

8 MR. FELICIANO: I think we've already had our sentencing argument.

9 MS. FLECK: It's funny, the entire process is funny to him. And I just, you  
10 know, I -- I'd just like you to recognize that today as well.

11 THE COURT: All right. Mr. Feliciano, the P.S.I. indicates 762 days credit for  
12 time served; is that correct?

13 MR. FELICIANO: Yes.

14 MS. FLECK: That's correct.

15 THE COURT: All right. We have, apparently a victim speaker. Is she in the  
16 courtroom or she's out in the hallway, or where is she?

17 MS. FLECK: She's here.

18 **ROSA MARIA RODRIGUEZ RUIZ,**

19 [having been called as a speaker and being first duly sworn, testified through the  
20 court-certified interpreter as follows:]

21 THE CLERK: Please be seated. Please state and spell your name for the  
22 record.

23 THE SPEAKER: Rosa Maria Rodriguez Ruiz.

24 THE MARSHAL: If we can have her scoot up so the microphone will pick  
25 up --

**AA 001063**

1 THE RECORDER: The microphone needs to be in front of the interpreter.

2 THE COURT: Hang on, let's get you -- and I'll note that the speaker is here  
3 with the assistance of the Spanish interpreter. For the record, Madam Interpreter,  
4 what is your name?

5 THE INTERPRETER: Carol Partiguan.

6 THE COURT: Thanks.

7 THE INTERPRETER: C-A-R-O-L, P-A-R-T-I-G-U-I-A-N.

8 THE COURT: All right. And Ms. Partiguan, if you can move the microphone  
9 in front of you rather than in front of Ms. Rodriguez, that would be great.

10 THE INTERPRETER: Is this better?

11 THE COURT: All right. Ma'am, what is it that you wanted me to know before  
12 sentencing?

13 THE SPEAKER: To start, I wanted to tell you that I made the effort of coming  
14 here today first of all to give thanks to everybody that helped me in this case. And  
15 to -- and to ask you as a judge to give him the maximum sentence you can give him  
16 because this really destroyed our lives. And that's why -- and that's why I'm asking  
17 you for him not to make fun of us. Please don't let what he did to my daughter just  
18 pass by.

19 THE DEFENDANT: [Uninterpreted Spanish]

20 THE COURT: Hey --

21 THE SPEAKER: Because I trusted in him, and he betrayed us. That's why  
22 one more time I beg you, we were not able to be at peace all this time. We had a lot  
23 of problems psychologically. I thank you as a judge. And please keep in mind my  
24 request as a mother, I believe that because we are two women alone that's why he  
25 took advantage of that. Thank you, thank you to everybody, and thank you to you.

**AA 001064**

1 THE COURT: All right. Thank you, ma'am. I have a question for you. One  
2 of the things that I impose as part of the sentence is any monetary loss that you and  
3 your daughter have suffered as a result of the crimes, should be compensated.  
4 Now, Mr. Renteria-Novoa is going to prison for a long time so he may or may not be  
5 able to pay anything. But just so the record is complete, I wanted to make sure that  
6 you, I at least order that he pay whatever is owed to you. I show, according to my  
7 paperwork, a financial loss in the amount of \$880.00; is that correct, or is there  
8 more, or is there less, or what?

9 THE SPEAKER: Okay. Not that I can recall at this moment. I don't care  
10 about the money. I just care about justice being done.

11 THE COURT: Okay. Ma'am, thank you very much for being here.

12 Was there anything else that you wanted to add or --

13 THE SPEAKER: In the name of my daughter and myself, I want to thank  
14 everybody, thank you.

15 THE COURT: All right. Thank you, ma'am, you can go ahead and have a  
16 seat in the back.

17 In accordance with the laws of the State of Nevada, I assess a \$25.00  
18 administrative assessment fee, a \$150.00 DNA analysis fee and require  
19 Mr. Renteria-Novoa to undergo testing for the determination of genetic markers and  
20 sentence him as follows: On Counts 1, 2, 4, 5, 6, 9, 10, 12, 13, 14, 15, 17, 18, 20,  
21 and 21 to a sentence of life with the possibility of parole after 20 years; on Counts 3,  
22 7, 8, 16, 19, and 22 to a sentence of life with the possibility of parole after 10 years;  
23 on Counts 23, 24, 25, 26, 27, 28, 29, and 30 to a sentence of life with the possibility  
24 of parole after 25 years; on Counts 11, 31, and 36 to 12 months in the Clark County  
25 Detention Center; on Counts 32, 33, 34, and 35 to a sentence of life with the

1 possibility of parole after 10 years.

2 Counts 3 to be consecutive to Count 1; Count 6 to be consecutive to  
3 Counts 3 and 1; Count 23 to be consecutive to Counts 1, 3, and 6; and Count 32 to  
4 be consecutive to Counts 1, 3, 6, and 23, all other counts to be concurrent. I also  
5 order that Mr. Renteria-Novoa pay restitution in the amount of \$880.00. I also  
6 impose a special sentence of lifetime supervision upon any release from  
7 incarceration and for both parties, do you want me to read all the conditions in, or do  
8 you want me to just incorporate all the provisions of the statute into the J.O.C.?

9 MR. FELICIANO: That's fine if they're in the J.O.C.

10 MS. FLECK: Yeah, that's fine with me as well.

11 THE COURT: All right. I also order that after his release from any period of  
12 incarceration that he must register as a sex offender within 48 hours pursuant to  
13 N.R.S. 179D.450, and that sentence will be with 762 days credit for time served.

14 MS. FLECK: Okay. Okay. I might need to --

15 MR. FELICIANO: Will there be minutes later, just so --

16 THE CLERK: Yeah.

17 THE COURT: Do you want me to repeat that?

18 MS. FLECK: Yeah.

19 MR. FELICIANO: I don't know, if there's minutes later I can just pull 'em off  
20 Odyssey.

21 MS. FLECK: I think that I wouldn't mind. I have -- if we could just go through  
22 it one more time.

23 THE COURT: Okay.

24 MS. FLECK: Sorry.

25 THE COURT: What is it that you have questions about?

1 MS. FLECK: Well, okay, so I've got --

2 THE COURT: Or do you want me to do the whole thing --

3 MS. FLECK: -- 1, 2, 4, 5, 6, 9, 10, 12, 13, 14, 15, those are all 20s, right?

4 THE COURT: Right. And then -- and 17, 18, 20, and 21 are also 20-to-life.

5 MS. FLECK: Okay. 17, 18, which ones? 19 and 20?

6 THE COURT: No, 17, 18, 20, and 21.

7 MS. FLECK: Okay.

8 THE COURT: And then on 3, 7, 8, 16, 19, and 22 those are 10-to-lives.

9 MS. FLECK: Okay.

10 THE COURT: On 23 -- basically, 23 through 30, those are 25-to-lives. 11, 31,  
11 and 36 are the gross misdemeanors, those are 12 months. And then 32, 33, 34,  
12 and 35 are 10-to-lives.

13 MS. FLECK: 32 through 35 are 10. Okay. And then we've got 3 consecutive  
14 to 1; 6 consecutive to 3 and 1.

15 THE COURT: 23 consecutive to 1, 3, and 6; and 32 consecutive to 1, 3, 6,  
16 and 23.

17 MS. FLECK: Okay.

18 THE COURT: And everything else concurrent.

19 MS. FLECK: Great. All right. Thank you so much.

20 THE COURT: All right. Good luck to you, Mr. Renteria-Novoa.

21 PROCEEDING CONCLUDED AT 10:44 A.M.

22 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-  
23 video recording of this proceeding in the above-entitled case.

24

25

  
SARA RICHARDSON  
Court Recorder/Transcriber

AA 001067

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

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 61865**  
District Court Case No. C268285

**FILED**  
**OCT 24 2014**

  
CLERK OF COURT

**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 the district court AFFIRMED."

Judgment, as quoted above, entered this 24<sup>th</sup> day of September, 2014.

C-10-268285-1  
CCJA  
NV Supreme Court Clerks Certificate/Judgm  
4390673



IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
October 21, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Sally Williams  
Deputy Clerk

AA 001068

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61865

**FILED**

SEP 24 2014

*ORDER OF AFFIRMANCE*

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of 15 counts of sexual assault of a minor under 14 years of age, 8 counts of sexual assault of a minor under 16 years of age, 4 counts of sexual assault, 6 counts of lewdness with a minor under 16 years of age, and 3 counts of open or gross lewdness. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

Guillermo Renteria-Novoa is an ex-boyfriend of the mother of R.P. Renteria-Novoa and R.P. had sexual relations over many years while she was a teenager. Renteria-Novoa was charged with numerous counts of sexual assault with a minor, sexual assault, lewdness with a minor, and open or gross lewdness.

At trial, R.P. testified that the relationship occurred because Renteria-Novoa threatened to reveal to her family that she was sexually intimate with her older cousin. Renteria-Novoa's defense asserted that the relationship was consensual and that R.P. exchanged sexual favors for material goods. The jury convicted Renteria-Novoa on all counts.



### *R.P.'s Testimony*

During cross-examination, Renteria-Novoa sought to reveal inconsistencies in R.P.'s previous recountings of the alleged abuse. On redirect, the State asked R.P. leading questions about her past statements in order to show that those statements were consistent. On appeal, Renteria-Novoa argues that this part of R.P.'s trial testimony was inadmissible hearsay.

Under NRS 51.035(2)(b), an out-of-court statement is not hearsay if it is "[c]onsistent with the declarant's testimony and offered to rebut an express or implied charge against the declarant of recent fabrication . . . ." Here, the State offered the prior consistent statements in order to rebut the defense's attempts to show fabrication. Thus, the statements were admissible.

Renteria-Novoa also argues that the State improperly used leading questions to elicit testimony during redirect. NRS 50.115(3)(a) states that "[l]eading questions may not be used on the direct examination of a witness *without the permission of the court.*" (Emphasis added). "Whether leading questions should be allowed is a matter mostly within the discretion of the trial court, and any abuse of the rules regarding them is not ordinarily a ground for reversal." *Barcus v. State*, 92 Nev. 289, 291, 550 P.2d 411, 412 (1976) (internal quotations omitted). Here, the court decided that the leading questions were a permissible way to bring out the prior consistent statements. Because leading questions are only prohibited without permission of the trial court, and the trial court gave permission, we do not find the use of leading questions to be grounds for reversal.

### *Use of "victim"*

Renteria-Novoa argues that the prosecutor's use of the term "victim" throughout trial was improper because it was an assertion of his personal opinion that Renteria-Novoa was guilty of the charged crimes. He alleges that the prosecutor's repeated uses of "victim" were interjections of opinion, constituted vouching, and minimized the prosecution's burden of proof, all of which are examples of prosecutorial misconduct. *See, e.g., Rowland v. State*, 118 Nev. 31, 39-40, 39 P.3d 114, 119 (2002); *McGuire v. State*, 100 Nev. 153, 158-59, 677 P.2d 1060, 1064 (1984).

In the present case, the prosecutor's use of "victim" was not misconduct. First, it was not interjecting opinion because the prosecutor was not asking the jury to convict based upon the prosecutor's personal opinions. Second, Renteria-Novoa has not shown that the prosecutor had any intent to mislead. *McGuire*, 100 Nev. at 158-59, 677 P.2d at 1064. Third, the prosecutor's use of the term "victim" was not vouching because the jury would not reasonably infer that the prosecutor meant to speak to the veracity of the accuser. *See Rowland*, 118 Nev. at 39, 39 P.3d at 119. Finally, the Nevada Revised Statutes use "victim" to refer to the accuser, not only in defining crimes but also in setting forth procedures. *See, e.g., NRS 50.090*. Therefore, we conclude that the use of the term "victim" was not prosecutorial misconduct.

Renteria-Novoa also contests the use of "victim" in the jury instructions and in the witnesses' testimony. For similar reasons, namely that the term was used to define sexual assault and not to express the opinion of the speaker, we also conclude that the use of "victim" in the jury instructions and by the witnesses was not improper.

### *Brady violations*

Renteria-Novoa argues that the State violated his constitutional rights, under *Brady v. Maryland*, 373 U.S. 83 (1963), by suppressing evidence of the U-visa that R.P. received as a result of the charges in this case.

To demonstrate a *Brady* violation, “the accused must make three showings: (1) the evidence is favorable to the accused, either because it is exculpatory or impeaching; (2) the State withheld the evidence, either intentionally or inadvertently; and (3) prejudice ensued, i.e., the evidence was material.” *State v. Huebler*, 128 Nev. \_\_\_, \_\_\_, 275 P.3d 91, 95 (2012) (internal quotations omitted). On the issue of prejudice, federal courts have held that there is no *Brady* violation so long as the evidence is eventually disclosed at a time when the defense can still use it. *Madsen v. Dormire*, 137 F.3d 602, 605 (8th Cir. 1998); see also *United States v. Scarborough*, 128 F.3d 1373, 1376 (10th Cir. 1997); *United States v. Word*, 806 F.2d 658, 665 (6th Cir. 1986); cf. *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977) (“There is no general constitutional right to discovery in a criminal case, and *Brady* did not create one . . .”). Here the defense discovered R.P.’s U-visa during trial and was able to present it to the jury through cross examination. There was no prejudice and, therefore, no *Brady* violation.

### *Renteria-Novoa’s call logs and R.P.’s phone number*

Renteria-Novoa argues that the evidence of his phone records were not relevant at the time that they were admitted, because the jury did not yet hear testimony as to R.P.’s phone number. Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than

it would be without the evidence.” NRS 48.015. Renteria-Novoa’s call logs were relevant because his numerous calls to R.P.’s phone tended to show that he had some kind of relationship with R.P.

Renteria-Novoa also argues that a witness’s testimony revealing R.P.’s phone number was hearsay because the witness only learned the number through R.P. telling him what it was. Evidence is inadmissible hearsay if it is an out-of-court “statement offered in evidence to prove the truth of the matter asserted” and it does not qualify for any exemption to the hearsay definition or exception to the hearsay rule. See NRS 51.035; NRS 51.065; NRS 51.075-.385.

We conclude that the witness testimony providing R.P.’s phone number was not hearsay. The witness testified that he knew her phone number belonged to her because he called her using the number. Thus, he was not testifying to an out-of-court statement about the number, but rather to his recollection of the number. See NRS 51.035. Accordingly, the district court did not abuse its discretion. *Chavez v. State*, 125 Nev. 328, 344, 213 P.3d 476, 487 (2009).

*Admission of prior bad acts*

Renteria-Novoa also argues that R.P.’s testimony, stating that he abused her two or three times a week, was inadmissible prior bad act evidence.

“[W]e review a district court’s decision to admit or exclude evidence for abuse of discretion.” *Id.* Prior bad act evidence is presumed inadmissible. *Ledbetter v. State*, 122 Nev. 252, 259, 129 P.3d 671, 677 (2006). However, prior bad acts are admissible when they show a common scheme or plan. See *id.* at 260, 129 P.3d at 677-78; see also NRS 48.045(2).

In *Daly v. State*, we held that uncharged acts of sexual abuse to which the child victim testified “fell within the ‘common scheme or plan’ exception to the general rule excluding evidence of prior bad acts.” 99 Nev. 564, 567, 665 P.2d 798, 801 (1983), *holding modified on other grounds by Richmond v. State*, 118 Nev. 924, 59 P.3d 1249 (2002). The child victim “testified that she had performed fellatio on appellant at his request an average of once or twice a week since she was about eight years old.” *Id.* at 566, 665 P.2d at 800. We noted that “[a]t least some of the uncharged acts allegedly occurred within the same time period as the charged acts, all alleged acts were between the appellant and his stepdaughter, and both the charged and uncharged acts allegedly occurred under very similar circumstances.” *Id.* at 567, 665 P.2d at 801.

The facts of this case are analogous to *Daly*. R.P. testified that the abuse occurred two or three times a week. The acts to which R.P. testified allegedly occurred at the time she lived at the University apartments, the same timeframe about which the jury heard that Renteria-Novoa committed other acts. The acts to which R.P. testified all involved her and Renteria-Novoa. And, according to R.P., the acts occurred in the same way every time. Under *Daly*, the uncharged acts of sexual abuse against R.P. fell within the common-scheme-or-plan exception to the rule against admitting prior bad acts. The district court did not abuse its discretion.

#### *Other issues*

Renteria-Novoa also argues that the State illegally excluded minority veniremembers from the jury, the information was insufficient and violated his constitutional rights, the district court misapplied Nevada’s rape-shield statute, his statement to police was not voluntary

and was given prior to him being mirandized, the evidence was insufficient to support the convictions, the convictions violated redundancy or double jeopardy principles, the district court's jury instructions misstated the law, the prosecution committed misconduct, and cumulative error warrants reversal. We find no merit in his arguments and affirm the judgment of the district court.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

*Hardesty* J.  
Hardesty

*Douglas* J.  
Douglas

*Cherry* J.  
Cherry

cc: Hon. Jerome T. Tao, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth 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: October 21st, 2014

Supreme Court Clerk, State of Nevada

By: Danip Thumma Deputy

AA 001076

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

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 61865**  
District Court Case No. C268285

**REMITTITUR**

TO: Steven D. Grierson, Eighth 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: October 21, 2014

Tracie Lindeman, Clerk of Court

By: Sally Williams  
Deputy Clerk

cc (without enclosures):  
Hon. Jerome T. Tao, District Judge  
Clark County Public Defender  
Clark 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 OCT 24 2014.

HEATHER UNGERMANN  
Deputy District Court Clerk

**RECEIVED**

**OCT 25 2014**

CLERK OF THE COURT



Case No. C269295-1

Dept. No. XIV XY

C-10-268285-1

IPWHC

Inmate Filed - Petition for Writ of Habeas  
4431986



27  
**FILED**  
FEB - 9 2015  
Clerk of Court  
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CLARK COUNTY

-oOo-

GILLERIO RENTERIA-NOVOA

Petitioner,

vs.

PETITION FOR WRIT  
OF HABEAS CORPUS  
(POST CONVICTION)

~~State of Nevada~~ GRN  
Respondent.  
I, Baer, Warden

INSTRUCTIONS:

- (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 prisons, 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 prisons.
- (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.

AA 001078

RECEIVED

FEB 09 2015

CLERK OF THE COURT

15

(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: Northern Nevada Correctional Center - Carson City County, Nevada

2. Name and location of court which entered the judgment of conviction under attack: 8<sup>th</sup> Judicial District Court - Clark County, Nevada - District Judge Hon. Jerome T. Tao

3. Date of judgment of conviction: September 17, 2012

4. Case number: C268285-1

5. (a) Length of sentence: 25 years to Life

(b) If sentence is death, state any date upon which execution is scheduled: No

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  
AA 001079

this time: \_\_\_\_\_

7. Nature of offense involved in conviction being challenged: Sexual assault, Lewdness under 14 years

8. What was your plea? (check one)

(a) Not Guilty ☒

(b) Guilty ☐

(c) Guilty but mentally ill ☐

(d) Nolo Contendere ☐

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: \_\_\_\_\_

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury ☒ (b) Judge without a jury ☐

11. Did you testify at the trial? Yes ☐ No ☒

12. Did you appeal from the judgment of conviction?  
Yes ☒ No ☐

13. If you did appeal, answer the following:

(a) Name of court: Nevada Supreme Court

(b) Case number or citation: 61865

(c) Result: Affirmed "Derided"

(d) Date of result: Sep. 24, 2014

AA 001080

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:

\_\_\_\_\_

\_\_\_\_\_

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ☐ No ☒

16. If your answer to No. 15 was "yes", give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Nature of proceedings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) Grounds raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: \_\_\_\_\_

\_\_\_\_\_

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Nature of proceedings: \_\_\_\_\_

- (3) Grounds raised: N/A
- (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐
- (5) Result: N/A
- (6) Date of result: N/A
- (7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A
- 

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

- (1) First petition, application or motion?  
Yes ☐ No ☐  
Citation or date of decision: N/A
- (2) Second petition, application or motion?  
Yes ☐ No ☐  
Citation or date of decision: N/A
- (3) Third or subsequent petitions, applications or motions?  
Yes ☐ No ☐  
Citation or date of decision: N/A

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed

AA 001082

five handwritten or typewritten pages in length.) N/A

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify: NO

(a) Which of the grounds is the same: N/A

(b) The proceedings in which these grounds were raised:

N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) N/A

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? NO If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

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: N/A

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

Mike Feliciano, Esq. and Amy A. Feliciano, Esq. Trial Attorneys  
and Nancy L. Leach, Esq. Direct Appeal Attorney <sup>all attorneys are</sup> Deputy Clark Co. Public  
Defenders.

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:

N/A

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.

AA 001084

1 (a) Ground one:

2 Petitioner is in custody in violation of his Sixth and Fourteenth Amendments  
3 of the United States Constitution under the guarantees of due process of law,  
4 effective assistance of counsel and equal protection.  
5 \_\_\_\_\_

6 Supporting Facts:

7 When I was first questioned, prior to arrest, by Mr. Jagger, I was not given,  
8 nor did ~~they~~ ask if I needed an interpreter. I did not understand what I  
9 was being asked and told him I spoke little to no English. When he read/told  
10 me my Miranda rights I did not understand what was going on and when  
11 he told me I could leave, I left. This occurred in December<sup>2008</sup> I was  
12 arrested in August of 2009. Prior to my arraignment/preliminary hearing  
13 in justice court, my public defender told me there was an offer of 1-5  
14 years if I plead now. I told him no as I did not do the crime. I  
15 asked my public defender to contact my witnesses and friends to  
16 investigate the claims against me. He never did. Instead he said  
17 he would use the alleged victims witnesses for my defense. I never  
18 spoke to an investigator and I don't believe my attorney used one for  
19 my case so nothing was investigated. My Attorney coerced me into  
20 waiving my right to a speedy trial by saying he needed more time  
21 to investigate my case and contact my witnesses. He never did  
22 contact anyone or investigate my innocence. The alleged victims  
23 testimony changed from the original police report to the preliminary  
24 hearing and my attorney did nothing to bring this to light. I  
25 was railroaded and did not receive a fair trial or effective assistance  
of counsel,



1 Ground two:

2 I am not a lawyer and do not understand the law so I need  
3 an attorney appointed who can help me determine what other  
4 claims/grounds I have.  
5 \_\_\_\_\_

6 Supporting Facts:  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

3 EXECUTED at Carson City, Nevada on the 5

4 <sup>620</sup>  
5 Day of January ~~February~~, 2015.

6  
7  
8 Guillermo Renteria Novoa

9  
10 Guillermo Renteria -Novoa

Nev

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61865

**FILED**

SEP 24 2014

*ORDER OF AFFIRMANCE*

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of 15 counts of sexual assault of a minor under 14 years of age, 8 counts of sexual assault of a minor under 16 years of age, 4 counts of sexual assault, 6 counts of lewdness with a minor under 16 years of age, and 3 counts of open or gross lewdness. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

Guillermo Renteria-Novoa is an ex-boyfriend of the mother of R.P. Renteria-Novoa and R.P. had sexual relations over many years while she was a teenager. Renteria-Novoa was charged with numerous counts of sexual assault with a minor, sexual assault, lewdness with a minor, and open or gross lewdness.

At trial, R.P. testified that the relationship occurred because Renteria-Novoa threatened to reveal to her family that she was sexually intimate with her older cousin. Renteria-Novoa's defense asserted that the relationship was consensual and that R.P. exchanged sexual favors for material goods. The jury convicted Renteria-Novoa on all counts.

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

Custermos Renteria Novoa.  
Petitioner

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 5 day of ~~GRN January~~ February, 20 15, by placing same into the hands of prison law library staff for posting in the U.S. Mail, pursuant to N.R.C.P. 5:

Steven D. Grierson  
Clerk of the Court  
Eighth Judicial Dist. Court  
200 Lewis Ave 3rd floor  
Las Vegas, NV 89155-1160  
Clark County District Attorney  
Steve Wolfson  
200 Lewis Ave 3rd floor  
Las Vegas, NV 89155  
Nevada 89

Custermos Renteria-Novoa  
Signature of Petitioner In Pro Se

///

///

///

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

The undersigned does hereby affirm that the preceding document, Petition  
for writ of habeas Corpus, Verification, Proof of Service

(Title of Document)

filed in case number: \_\_\_\_\_



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date

February 5, 2015

Guillermo Reuteria Novoa  
(Signature)

Guillermo Reuteria - Novoa  
(Print Name)

Pro Per  
(Attorney for)

1092343 UNCC  
Guillermo Renteria-Novoa  
P.O. Box 7000  
Carson City, NV 89702

021007Z JUL 90  
US POSTAGE  
\$02.45  
2.45  
ZIP 89701  
011012502121

Steven D. Grierson  
Clerk of the Court  
Eight Judicial District Court  
200 Leavitt Ave. 3<sup>rd</sup> floor  
Las Vegas, NV 89155-1160

LEGAL MAIL  
CONFIDENTIAL

AA 001091

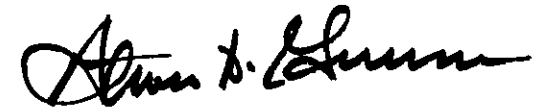


copy

Habeas Corpus

NORTHERN NEVADA  
CORRECTIONAL CENTER

FEB 05 2015



CLERK OF THE COURT

RSPN  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JAMES R. SWEETIN  
Chief Deputy District Attorney  
Nevada Bar #005144  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

GUILLERMO RENTERIA-NOVOA,  
#2755564

Defendant.

CASE NO: **C-10-268285-1**

DEPT NO: **XX**

**STATE'S RESPONSE TO DEFENDANT'S POST-CONVICTION**

**PETITION FOR WRIT OF HABEAS CORPUS**

DATE OF HEARING: APRIL 16, 2015  
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Post-Conviction Petition for Writ of Habeas Corpus.

This response is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

//

//



1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On January 26, 2011, the State filed an Information charging Defendant Guillermo  
4 Renteria-Novoa as follows: Counts 1-2, 4-6, 10-19, 22-23, and 25-30: Sexual Assault with a  
5 Minor under the age of 14; Counts 3, 7-9, 21, 24, and 43-44: Lewdness with a Child under the  
6 age of 14; Counts 20, 45, and 53: Open or Gross Lewdness; Counts 31-42: Sexual Assault  
7 with a Minor under the age of 16; and Counts 46-52: Sexual Assault.<sup>1</sup>

8 On May 21, 2012, Defendant's jury trial began. On May 25, 2012, the jury returned a  
9 verdict of guilty on all counts as charged in the Second Amended Information. On September  
10 6, 2012, Defendant was sentenced as follows: as to the Sexual Assault with a Minor under the  
11 age of 14 counts: Life with the possibility of parole after 20 years; as to the Lewdness with a  
12 Child under the Age of 14 counts: Life with the possibility of parole after 10 years; as to the  
13 Sexual Assault with a Minor under the age of 16 counts: Life with the possibility of parole  
14 after 25 years; as to the Open or Gross Lewdness counts: 12 months in the Clark County  
15 Detention Center; as to the Sexual Assault Counts: Life with the possibility of parole after 10  
16 years.<sup>2</sup> A Judgment of Conviction was filed on September 17, 2012.

17 Defendant filed a Notice of Appeal on October 5, 2012. The Nevada Supreme Court  
18 affirmed Defendant's convictions on September 24, 2014. Renteria-Novoa, No. 61865 (Sept.  
19 24, 2014). Remittitur issued October 21, 2014.

20 On February 9, 2015, Defendant filed the instant post-conviction Petition for Writ of  
21 Habeas Corpus. The State hereby responds as follows.

22 **ARGUMENT**

23 In Defendant's post-conviction petition, Defendant asserts several due process of law  
24 violations and ineffective assistance of trial counsel. Specifically, Defendant claims that his  
25 Miranda rights were violated, that his right to a speedy trial was violated, and that trial counsel  
26 was ineffective for failing to investigate witnesses on his behalf and for failing to reveal the  
27

28 <sup>1</sup> On May 22, 2012, the State filed a Second Amended Information dropping several counts.

<sup>2</sup> Count 3 to run to consecutive to Count 1; Count 6 to run consecutive to Counts 1 and 3; Counts 23 to run consecutive to Counts 1, 3, and 6; and Count 32 to run consecutive to Counts 1, 3, 6, and 23.

1 “inconsistent” testimony of the victim during trial. Defendant’s claims, however, are not  
2 properly raised in a post-conviction petition, belied by the record, barred by the law of the  
3 case, and are without merit. Accordingly, Defendant’s petition must be denied.

4 **I. DEFENDANT’S DUE PROCESS CLAIMS ARE NOT COGNIZABLE IN A**  
5 **PETITION FOR WRIT OF HABEAS CORPUS**

6 Defendant claims that he was not properly Mirandized during his interview with police  
7 Detectives because he was not granted an interpreter and that his right to a speedy trial was  
8 violated when counsel “coerced” him into waiving his right because counsel “needed more  
9 time to investigate.” PWHC at 8. Nevertheless, said claims are not cognizable in a post-  
10 conviction petition for writ of habeas corpus. See NRS 34.720 (“The provisions of NRS  
11 34.720 to 34.830...apply only to petitions...in which the petitioner: 1. Requests relief from a  
12 judgment of conviction or sentence in a criminal case; or 2. Challenges the computation of  
13 time that the petitioner has served pursuant to a judgment of conviction.”); McConnell v. State,  
14 125 Nev. 243, 247, 212 P.3d 307, 310 (2009). Because Defendant’s claims are framed as due  
15 process violations, they are outside of the limited scope of NRS Chapter 34.

16 Moreover, “all [] claims that are appropriate for a direct appeal must be pursued on  
17 direct appeal, or they will be considered waived in subsequent proceedings.” Franklin v. State,  
18 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added). “A court must dismiss a  
19 habeas petition if it presents claims that either were or could have been presented in an earlier  
20 proceeding, unless the court finds both cause for failing to present the claims earlier or for  
21 raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-  
22 47, 29 P.3d 498, 523 (2001). Here, Defendant’s claims are not cognizable in a post-conviction  
23 petition as they could have been brought in an earlier proceeding.

24 In any event, to the extent this Court construes Defendant’s Miranda claim as alleging  
25 counsel was ineffective for failing to appropriately challenge the purported violation below,  
26 his claim is belied by the record and barred by the law of the case. Indeed, the district court  
27 conducted a Jackson v. Denno hearing on May 15, 2012. The detective who interviewed  
28 Defendant testified that at no time during the interview did Defendant indicate that he did not

1 understand English, ask the detective to clarify himself, or ask the detective for an interpreter.  
2 RT 5-15-2012 at 12. Moreover, Defendant was properly Mirandized and informed the  
3 detective that he understand those rights. Id. at 13.

4 Importantly, Defendant's counsel thoroughly cross-examined the detective regarding  
5 Defendant's ability to understand English and the fact that Defendant spoke with a heavy  
6 Spanish accent. Id. at 17-20. The detective, however, maintained that the communication  
7 between the two was fine and that there was no need for an interpreter nor did Defendant ask  
8 for an interpreter. Id. at 19-20. Accordingly, Defendant's claim is belied by the record.

9 Additionally, Defendant's Miranda claim was also brought on direct appeal and held to  
10 be without merit. Renteria-Novoa, No. 61865 at 6. Thus, to the extent this Court considers  
11 Defendant's Miranda claim, it is also barred by the law of the case. See Hall v. State, 91 Nev.  
12 314, 315, 535 P.2d 797, 798 (1975).

13 To the extent this Court construes Defendant's speedy trial claim as alleging counsel  
14 was ineffective in informing Defendant that he needed time to prepare for trial, Defendant  
15 cannot demonstrate deficient performance. Strickland v. Washington, 466 U.S. 668, 686-87,  
16 104 S. Ct. 2052, 2063-64 (1984) (noting that deficient performance is performance that falls  
17 below an objective standard of reasonableness). Defendant waived his right to a speedy trial  
18 on November 5, 2010, and his trial occurred in May of 2012. Notably, Defendant was charged  
19 with four counts of sexual assault with a minor and one count of attempt sexual assault with a  
20 minor. To suggest that counsel could have proceeded to trial within 60 days considering the  
21 nature of the charges is inappropriate. Trial counsel needed adequate time to prepare for  
22 Defendant's case.

23 Indeed, trial counsel filed several pre-trial motions, such as a pre-trial petition for writ  
24 of habeas corpus on December 23, 2010, a Motion in Limine to preclude the State's experts  
25 from improper witness vouching, a motion to prevent the State from using the term "victim"  
26 during trial, and a motion for discovery on April 7, 2011. Moreover, as noted supra, trial  
27 counsel filed a motion to suppress on April 25, 2012, in an attempt to prevent Defendant's  
28 confession from being admitted during trial.

1           Importantly, as noted *infra*, trial counsel's strategy for trial was to attack the credibility  
2 of the State's witnesses. Thoroughly reviewing the victim's numerous statements required  
3 extensive time and attention to detail. In Defendant's motion for discovery, trial counsel  
4 requested all of the notes from the interviews of the victim and any witnesses in the case,  
5 including any audio and video recordings. Motion for Discovery 4-7-2011 at 7. Notably, on  
6 November 1, 2011, trial counsel represented to the district court that they were still in the  
7 process of receiving the statements of the victim and reviewing the statements. RT 11-1-2011  
8 at 2. The simple fact of the matter is, Defendant was charged with several serious felonies that  
9 required extensive investigation. Trial counsel would have been ineffective in insisting on  
10 proceeding to trial within 60 days. Defendant was not coerced into waiving his right to a  
11 speedy trial and then abandoned. Trial counsel properly informed Defendant of the need for  
12 an investigation and then properly investigated the case and filed several pre-trial motions on  
13 behalf of Defendant. Accordingly, Defendant cannot establish deficient performance.

## 14           **II. DEFENDANT HAS FAILED TO DEMONSTRATE INEFFECTIVE** 15           **ASSISTANCE OF COUNSEL**

16           Defendant asserts trial counsel was ineffective for failing to investigate witnesses on  
17 his behalf and for failing to reveal the "inconsistent" testimony of the victim. PWHC at 8.  
18 Defendant's claims, however, are belied by the record, barred by the law of the case, and  
19 without merit.

### 20           **a. Standard of Review**

21           In order to assert a claim of ineffective assistance of counsel, a defendant must prove  
22 he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of  
23 Strickland v. Washington, 466 U.S. 668, 686-87, 104 S. Ct. 2052, 2063-64 (1984) (accord  
24 State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993)). Under this test, a defendant  
25 must show that his counsel's representation fell below an objective standard of reasonableness,  
26 and, but for counsel's errors, there is a reasonable probability that the result of the proceedings  
27 would have been different. Strickland, 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068;  
28 Warden v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting Strickland's two-

1 part test).

2 Bare and conclusory claims are insufficient. See Hargrove v. State, 100 Nev. 498, 502,  
3 686 P.2d 222, 225 (1984). The claims must be supported by specific factual allegations that  
4 are not belied by the record, and, if true, would entitle him to relief. Id. Indeed, the Nevada  
5 Supreme Court has held “that a habeas corpus petitioner must prove the disputed factual  
6 allegations underlying his ineffective-assistance claim by a preponderance of the evidence.”  
7 Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (emphasis added). “A court may  
8 consider the two test elements in any order and need not consider both prongs if the defendant  
9 makes an insufficient showing on either one.” Kirksey v. State, 112 Nev. 980, 987, 923 P.2d  
10 1102, 1107 (1997).

11 **b. Failure to investigate**

12 Defendant claims trial counsel failed to “contact [his] witnesses and friends to  
13 investigate the claims against [him].” PWHC at 8. A defendant who contends that his attorney  
14 was ineffective because he did not adequately investigate must show how a better investigation  
15 would have rendered a more favorable outcome. Molina v. State, 120 Nev. 185, 87 P.3d 533  
16 (2004).

17 Defendant’s claims are vague accusations that fail to offer sufficient specific factual  
18 allegations under Molina. Indeed, consistent with Molina, it is not the responsibility of the  
19 State to develop vague claims asserted by the defendant for the purpose of arguing the issue.  
20 See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Defendant fails to identify  
21 these potential witnesses, what these potential witnesses would have said, or even if these  
22 potential witnesses would have spoken with counsel. See Davis v. State, 110 Nev. 1107, 1120,  
23 881 P.2d 657, 665 (1994) (noting that witnesses and victims cannot be compelled to speak  
24 with defense counsel or their agents).

25 In any event, the day-to-day conduct of the defense is the responsibility of the attorney.  
26 See Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2004); see also Ford v. State, 105 Nev.  
27 850, 853, 784 P.2d 951, 953 (1989) (noting that how to exam a witness is a tactical decision  
28 that is virtually unchallengeable absent extraordinary circumstances). As Defendant concedes,

1 trial counsel used the State's witnesses for Defendant's defense. PWHC at 8. As noted *infra*,  
2 trial counsel focused on the inconsistencies between the victim's statement on cross-  
3 examination and on the fact that Defendant came clean to establish that this contact was  
4 consensual.

5 Notably, the Nevada Supreme Court has repeatedly found that the uncorroborated  
6 testimony of a victim of a sexual offense is sufficient standing alone to sustain a verdict of  
7 guilty. Gaxiola v. State, 121 Nev. 638, 647, 119 P.3d 1225, 1231 (2005) (stating that the  
8 uncorroborated testimony of a victim, without more, is sufficient to uphold a rape conviction).  
9 Case law such as this was developed exactly for situations like the instant matter. These crimes  
10 were committed behind closed doors, under the eyes of a family that would never suspect them  
11 because Defendant was somebody that they trusted and loved, somebody that they brought  
12 into their home. Focusing on the victim's credibility through cross-examination of the State's  
13 witnesses instead of investigating witnesses who were not present during these assaults is not  
14 deficient performance. Equally, and for the same reasons, Defendant cannot demonstrate  
15 prejudice. There was overwhelming evidence presented that Defendant sexually assaulted the  
16 victim over the course of years. See Renteria-Novoa, No. 61865 at 7 (rejecting an  
17 insufficiency of the evidence argument on direct appeal). Instead of being a father figure to  
18 a very young, and vulnerable girl, Defendant abused his position for his own sexual  
19 gratification. His betrayal of trust will follow her for the rest of her life, and color all  
20 of the relationships she forms and develops.

21 **c. Failure to reveal *the "inconsistent" testimony of the victim***

22 Additionally, Defendant asserts trial counsel was ineffective for failing to reveal the  
23 inconsistent statements of the victim's testimony that changed from "the original police report  
24 to the preliminary hearing..." PWHC at 8. Defendant's claim is belied by the record,  
25 however, as trial counsel "sought to reveal [the] inconsistencies in [the victim's] previous  
26 recounting of the alleged abuse [during cross-examination]." Renteria-Novoa, No. 61865 at  
27 2; see Hargrove, 100 Nev. at 502, 686 P.2d at 225; see also Hall, 91 Nev. at 315, 535 P.2d at  
28 798.

1 Indeed, trial counsel thoroughly cross-examined the victim regarding her inconsistent  
2 statements and attempted to discredit the victim. For instance, trial counsel questioned the  
3 victim regarding the fact that she received a “U-Visa” as a result of her testimony, allowing  
4 her to remain in the country legally. RT 5-23-12 at 146-47. Moreover, trial counsel questioned  
5 the victim regarding her statements to the school counselor, Id. at 153, her statements to her  
6 family, Id. at 154, and her statements to the police, Id. at 155. Trial counsel emphasized that  
7 the victim’s statements were “inconsistent from one to the other” and that Defendant was  
8 “entitled to impeach her on what she told the police initially to the next statement, which is  
9 inconsistent, to the next statement, which is inconsistent.” Id. at 164. “[I]t’s different from  
10 what she said at the preliminary hearing, it’s different from what she said in her voluntary  
11 statement. It’s different from what...she said today.” Id. 167. The following colloquy took  
12 place:

13 Q: Now, today you testified that you put your hand [] that you  
would actually put your hand on his penis?

14 A: He would tell me to touch his penis.

15 Q: All right. Did you testify today that you actually put your hand  
16 on his penis?

17 A: Yes.

18 Q: Okay. Today, is that—that’s the first time we’re hearing that.  
That’s the first time you’ve said that, right?

19 A: I don’t think so. I think I said it before.

20 Q: Do you remember when you said it before?

21 A: Well, [] I talked [] I remember talking about it with Stacy.

22 Q: Okay. But you never said it in any of the previous statement  
23 that you gave?

24 A: I think the time I came in court for the first time.

25 Id. at 189-90.

26 Moreover, trial counsel emphasized that the victim had given inconsistent “stories”  
27 during closing arguments. RT 5-24-12 at 183. Specifically:

28 //

1 “So one of the things that makes [the victim] not credible is the  
2 inconsistent stories that she told, and that’s one of the things that  
3 you can consider when you’re looking at her credibility, in  
4 addition to [telling] inconsistent stories to several people. In  
5 addition to the inconsistencies, you’re going to [] you heard  
6 testimony of her family, and her family also shows that she’s  
7 simply not credible...[s]he told her family several different  
8 stories.”

9 “In addition to her family, she talked to a counselor. She told the  
10 counselor a different story. After she spoke to the counselor, she  
11 did a written statement for the police, which was different. Then  
12 she gave a recorded statement to the police several weeks later,  
13 which was also different. Then finally, at the preliminary hearing,  
14 that’s when she made the bulk of her allegations. That was  
15 completely different than anything she had ever said, and that was  
16 about nine months before any allegations came to light.”

17 “Now, let’s start with her family. What did she tell her family? []  
18 She never said anything about any type of sexual contact with [the  
19 Defendant]. She never said anything about sex with her  
20 cousin...she gave absolutely not details about what happened [to  
21 her aunt]. All she said is that she was just...being touched.”

22 “Then we go to the written statement which happened the day the  
23 police were called. Again, [the victim] says that...her private parts  
24 were touched, he put his hand inside of her; however, there was  
25 not mention of some of the biggest details [] [or] the most  
26 egregious conduct here...no mention to the counselor, no mention  
27 to her family, no mention at all...[s]o a few weeks later, she does  
28 her recorded statement. Now she says the touching next started in  
29 2004. This is 2010 when she’s giving this statement, but she says  
30 it happened in 2004, so it’s about five years now that she’s saying  
31 this happened. So we went from three years to one year to possibly  
32 five years. They asked her about the last time she was  
33 touched...she doesn’t mention anything about any type of anal  
34 licking or any type of vaginal licking. She just says that she was  
35 touched.”

36 “Then we get to the preliminary hearing....[n]ow she is 11 years  
37 old when the touching started. Her breasts were touched, her  
38 vagina was touched. Now, she adds to the detail that [the  
39 defendant] licked her vagina and licked her anus. So she simply  
40 is not credible when her story changes that way.”

41 Id. at 183-86. The simple fact of the matter is, trial counsel thoroughly emphasized the  
42 inconsistencies between the two parties and the Nevada Supreme Court noted as much.  
43 Accordingly, Defendant’s claim is barred by the law of the case and belied by the record.  
44 Renteria-Novoa, No. 61865 at 2; see Hargrove, 100 Nev. at 502, 686 P.2d at 225; see also  
45 Hall, 91 Nev. at 315, 535 P.2d at 798.



1           **III.     DEFENDANT IS NOT ENTITLED TO AN ATTORNEY**

2           The United States Supreme Court ruled in Coleman v. Thompson, 501 U.S. 722, 111  
3 S. Ct. 2546 (1991), that the Sixth Amendment provides no right to counsel in post-conviction  
4 proceedings. Nonetheless, NRS 34.750 provides:

5                     [a] petition may allege that the Defendant is unable to pay the costs  
6 of the proceedings or employ counsel. If the court is satisfied that  
7 the allegation of indigency is true and the petition is not dismissed  
8 summarily, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider whether:

9                             (a) The issues are difficult;

10                            (b) The Defendant is unable to comprehend the  
proceedings; or

11                           (c) Counsel is necessary to proceed with discovery.

12 Under NRS 34.750, it is clear that the court has discretion in determining whether to appoint  
13 counsel. However, the Nevada Supreme Court explained that a petitioner “must show that the  
14 requested review is not frivolous before he may have an attorney appointed.” Peterson v.  
15 Warden, Nevada State Prison, 87 Nev. 134, 483 P.2d 204 (1971). Here, Defendant’s claims  
16 are not difficult, belied by the record, barred by the law of the case, not cognizable in a post-  
17 conviction petition, and without merit. Further, Defendant has failed to demonstrate that he is  
18 unable to understand the proceedings or a need for discovery. Accordingly, Defendant is not  
19 entitled to post-conviction counsel and this Court should deny his request.

20                                     **CONCLUSION**

21           Based on the aforementioned, Defendant's petition should be denied.

22           DATED this 13th day of April, 2015.

23                                     Respectfully submitted,

24                                     STEVEN B. WOLFSON  
25                                     Clark County District Attorney  
26                                     Nevada Bar #001565

27                                     BY /s/ JAMES R. SWEETIN  
28                                     JAMES R. SWEETIN  
  Chief Deputy District Attorney  
  Nevada Bar #005144

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing was made this 13th day of  
APRIL 2015, to:

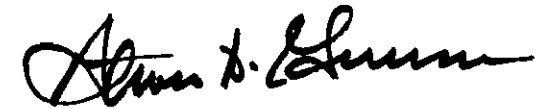
GUILLERMO RENTERIA-NOVOA, #1092343  
N.N.C.C.  
P.O. BOX 7000  
CARSON CITY, NV 89702

BY /s/ HOWARD CONRAD  
Secretary for the District Attorney's Office  
Special Victims Unit

hjc/SVU

ORIGINAL

Electronically Filed  
05/27/2015 04:20:48 PM



CLERK OF THE COURT

1 **FCL**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 JAMES R. SWEETIN  
6 Chief Deputy District Attorney  
7 Nevada Bar #005144  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 **DISTRICT COURT**  
8  
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 GUILLERMO RENTERIA-NOVOA,  
14 #2755564

15 Defendant.

CASE NO: C-10-268285-1

DEPT NO: XX

16 **FINDINGS OF FACT, CONCLUSIONS OF**

17 **LAW AND ORDER**

18 DATE OF HEARING: APRIL 16, 2015  
19 TIME OF HEARING: 8:30 AM

20 THIS CAUSE having come on for hearing before the Honorable CHARLES  
21 THOMPSON, District Judge, on the 16 day of April, 2015, the Petitioner not being present,  
22 proceeding IN FORMA PAUPERIS, the Respondent being represented by STEVEN B.  
23 WOLFSON, Clark County District Attorney, by and through ALICIA ALBRITTON, Chief  
24 Deputy District Attorney, and the Court having considered the matter, including briefs,  
25 transcripts, arguments of counsel, and documents on file herein, now therefore, the Court  
26 makes the following findings of fact and conclusions of law:

27 //

28 //

AA 001104

## FINDINGS OF FACT, CONCLUSIONS OF LAW

This is Petitioner Guillermo Renteria-Novoa's post-conviction petition for writ of habeas corpus. On January 26, 2011, the State filed an Information Petitioner as follows: Counts 1-2, 4-6, 10-19, 22-23, and 25-30: Sexual Assault with a Minor under the age of 14; Counts 3, 7-9, 21, 24, and 43-44: Lewdness with a Child under the age of 14; Counts 20, 45, and 53: Open or Gross Lewdness; Counts 31-42: Sexual Assault with a Minor under the age of 16; and Counts 46-52: Sexual Assault.<sup>1</sup>

On May 21, 2012, Petitioner's jury trial began. On May 25, 2012, the jury returned a verdict of guilty on all counts as charged in the Second Amended Information. On September 6, 2012, Petitioner was sentenced as follows: as to the Sexual Assault with a Minor under the age of 14 counts: Life with the possibility of parole after 20 years; as to the Lewdness with a Child under the Age of 14 counts: Life with the possibility of parole after 10 years; as to the Sexual Assault with a Minor under the age of 16 counts: Life with the possibility of parole after 25 years; as to the Open or Gross Lewdness counts: 12 months in the Clark County Detention Center; as to the Sexual Assault Counts: Life with the possibility of parole after 10 years. A Judgment of Conviction was filed on September 17, 2012.

Petitioner filed a Notice of Appeal on October 5, 2012. The Nevada Supreme Court affirmed Petitioner's convictions on September 24, 2014. Renteria-Novoa, No. 61865 (Sept. 24, 2014). Remittitur issued October 21, 2014.

On February 9, 2015, Petitioner filed the instant post-conviction petition. Petitioner asserts several due process of law violations and ineffective assistance of counsel claims. Specifically, Petitioner claims that his Miranda rights were violated, that his right to a speedy trial was violated, and that trial counsel was ineffective for failing to investigate witnesses on his behalf and for failing to reveal the "inconsistent" testimony of the victim during trial. Nonetheless, this Court finds, as to the grounds properly cognizable in a habeas-corpus petition, Petitioner's grounds are without merit.<sup>2</sup>

<sup>1</sup> On May 22, 2012, the State filed a Second Amended Information dropping several counts.

<sup>2</sup> Defendant's due process claims (a purported failure to be Mirandized and a purported speedy trial violation) are not cognizable in a post-conviction petition. See NRS 34.720 ("The provisions of NRS 34.720 to 34.830...apply only to petitions...in which the petitioner: 1. Requests relief from a

1 As to Petitioner's claim that trial counsel was ineffective for failing to investigate, this  
2 Court finds that Defendant's claim is without merit. A defendant who contends that his  
3 attorney was ineffective because he did not adequately investigate must show how a better  
4 investigation would have rendered a more favorable outcome. Molina v. State, 120 Nev. 185,  
5 87 P.3d 533 (2004); see Strickland v. Washington, 466 U.S. 668, 686-87, 104 S. Ct. 2052,  
6 2063-64 (1984) (noting that a defendant must show that his counsel's representation fell below  
7 an objective standard of reasonableness, and, but for counsel's errors, there is a reasonable  
8 probability that the result of the proceedings would have been different). Petitioner's claims  
9 are vague accusations that fail to offer sufficient specific factual allegations under Molina.  
10 Petitioner failed to identify these potential witnesses, what these potential witnesses would  
11 have said, or even if these potential witnesses would have spoken with counsel. See Hargrove  
12 v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (noting that bare and conclusory claims  
13 are insufficient); see also Davis v. State, 110 Nev. 1107, 1120, 881 P.2d 657, 665 (1994)  
14 (noting that witnesses and victims cannot be compelled to speak with defense counsel or their  
15 agents).

16 Moreover, the Nevada Supreme Court has *repeatedly* found that the uncorroborated  
17 testimony of a victim of a sexual offense is sufficient standing alone to sustain a verdict of  
18 guilty. Gaxiola v. State, 121 Nev. 638, 647, 119 P.3d 1225, 1231 (2005) (stating that the  
19 uncorroborated testimony of a victim, without more, is sufficient to uphold a rape conviction).  
20 Case law such as this was developed exactly for situations like the instant matter. These crimes  
21 were committed behind closed doors, under the eyes of a family that would never suspect them  
22 because Petitioner was somebody that they trusted and loved, somebody that they brought into  
23 their home. Petitioner's counsel focused on the victim's credibility through extensive cross-  
24 examination of the State's witnesses instead of investigating witnesses who were not present  
25 during these assaults. This is a trial strategy and is virtually unchallengeable. See Ford v.

---

26  
27 judgment of conviction or sentence in a criminal case; or 2. Challenges the computation of time that the petitioner has served pursuant to a judgment of  
28 conviction.); McConnell v. State, 125 Nev. 243, 247, 212 P.3d 307, 310 (2009). Moreover, "all [] claims that are appropriate for a direct appeal must be  
pursued on direct appeal, or they will be *considered waived in subsequent proceedings*." Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059  
(1994) (emphasis added). Because these claims are outside of the limited scope of NRS Chapter 34 and should have been raised, if at all, on direct  
appeal, they will not be considered.

1 State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989). Equally and for the same reasons,  
2 Petitioner cannot establish prejudice.

3 As to Petitioner's claim that counsel was ineffective for failing to reveal the inconsistent  
4 testimony of the victim, this Court finds that Petitioner's claim is belied by the record as trial  
5 counsel "sought to reveal [the] inconsistencies in [the victim's] previous recounting of the  
6 alleged abuse [during cross-examination]." Renteria-Novoa, No. 61865 at 2; see Hargrove,  
7 100 Nev. at 502, 686 P.2d at 225; see also Hall, 91 Nev. at 315, 535 P.2d at 798. The record  
8 is replete with cross-examination regarding the inconsistent statements of the victim. Trial  
9 counsel thoroughly emphasized the inconsistencies between the statements given and the  
10 Nevada Supreme Court noted as much. Therefore, this Court finds that Petitioner has failed  
11 to establish ineffective assistance of counsel as he has failed to establish deficient performance  
12 or prejudice.<sup>3</sup>

13 **ORDER**

14 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction  
15 Relief shall be, and is, denied.

16 DATED this 26 day of May, 2015.

17  
18   
DISTRICT JUDGE

19 ERIC JOHNSON

20 STEVEN B. WOLFSON  
21 Clark County District Attorney  
Nevada Bar #001565

22 BY  for

23 ALICIA ALBRITTON  
24 Chief Deputy District Attorney  
25 Nevada Bar #009492  
26  
27

28 <sup>3</sup> Because Defendant failed to establish that his issues were difficult, that he was unable to comprehend the proceedings, or that there was a need for discovery, he is not entitled to an attorney and his motion is hereby denied. See NRS 34.750; Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing was made this 20th day of MAY  
2015, to:

GUILLERMO RENTERIA-NOVOA, #1092343  
N.N.C.C.  
P.O. BOX 7000  
CARSON CITY, NV 89702

BY /s/ HOWARD CONRAD  
Secretary for the District Attorney's Office  
Special Victims Unit

hjc/SVU

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 68239**  
District Court Case No. C268285

**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:

"Reversed and Remanded."

Judgment, as quoted above, entered this 30<sup>th</sup> day of March, 2017.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
April 24, 2017.

Elizabeth A. Brown, Supreme Court Clerk

By: Dana Richards  
Deputy Clerk

AA 001109



IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68239

**FILED**

MAR 30 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Yama  
DEPUTY CLERK

Appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

*Reversed and remanded.*

Guillermo Renteria-Novoa, Carson City,  
in Pro Se.

Adam Paul Laxalt, Attorney General, Carson City; Steven B. Wolfson,  
District Attorney, Clark County,  
for Respondent.

---

BEFORE PICKERING, HARDESTY and PARRAGUIRRE, JJ.

*OPINION*

PER CURIAM:

Appellant Guillermo Renteria-Novoa was convicted, pursuant to a jury verdict, of 36 felony sexual offenses and sentenced to a total term of life with the possibility of parole after 85 years. After the judgment of conviction was affirmed on direct appeal, Renteria-Novoa filed a timely pro se postconviction petition for a writ of habeas corpus in the district

AA 001110

court and moved for the appointment of counsel. Under Nevada law, the appointment of postconviction counsel was discretionary with the district court because Renteria-Novoa had not been sentenced to death. *Compare* NRS 34.750(1), *with* NRS 34.820(1). Exercising that discretion, the district court declined to appoint postconviction counsel and denied the petition following a hearing at which Renteria-Novoa was not present.<sup>1</sup> This appeal followed. We take this opportunity to address the factors that are relevant to the district court's exercise of its discretion to appoint postconviction counsel under NRS 34.750(1). Because we conclude that the district court abused its discretion, we reverse and remand for further proceedings.<sup>2</sup>

Under NRS 34.750(1), the district court has discretion to appoint counsel to represent a petitioner who has filed a postconviction petition for a writ of habeas corpus if (1) the petitioner is indigent and (2) the petition is not summarily dismissed. The statute sets forth a nonexhaustive list of factors that the district court "may consider" in deciding whether to appoint postconviction counsel: the severity of the

---

<sup>1</sup>Senior Judge Charles Thompson presided over the hearing on the postconviction petition and orally denied the petition and the motion for appointment of counsel. Judge Johnson entered the written order denying the petition and motion.

<sup>2</sup>Although this matter was docketed before the amendments to the Nevada Rules of Appellate Procedure that allow parties appearing without the assistance of counsel to file briefs and other documents without seeking leave of court, *see* NRAP 28(k) (effective October 1, 2015); NRAP 46A (effective October 1, 2015), we have considered the pro se brief received on October 20, 2015, and the pro se informal brief received on February 12, 2016.

consequences that the petitioner faces, the difficulty of the issues presented, the petitioner's ability to comprehend the proceedings, and the necessity of counsel to proceed with discovery. We review the district court's decision to deny the appointment of counsel for an abuse of discretion.

The threshold requirements for the appointment of postconviction counsel were met in this case. First, the district court necessarily found that Renteria-Novoa was indigent when it granted him permission to proceed in forma pauperis in the postconviction proceedings. Second, the petition was not subject to summary dismissal as it was Renteria-Novoa's first petition challenging the validity of his judgment of conviction and sentence. *See* NRS 34.745(1), (4).

In briefly considering some of the factors identified in NRS 34.750(1), the district court noted in its written order that Renteria-Novoa had not demonstrated that the issues were difficult, that he was unable to comprehend the proceedings, or that discovery was needed. We disagree.

The motion for appointment of postconviction counsel generally tracked the factors set forth in NRS 34.750(1) without much explanation. With respect to Renteria-Novoa's ability to comprehend the proceedings in particular, the motion recited that he had "very limited knowledge of the law and process thereof." The petition made a similar representation, but it also indicated that Renteria-Novoa has limited English-language proficiency. The potential language barrier is further supported by the trial record, which shows that Renteria-Novoa had the assistance of a Spanish language interpreter throughout the trial proceedings. The use of an interpreter throughout trial indicates that Renteria-Novoa may be unable to comprehend the postconviction

proceedings due to a language barrier. While the district court specifically found that Renteria-Novoa did not demonstrate an inability to comprehend the proceedings, this finding, which was made after a hearing where Renteria-Novoa was not present and which appears to have been based solely on the petition, lacks support in the record, particularly as the petition was not well pleaded and Renteria-Novoa had previously needed an interpreter.

The other factors identified in NRS 34.750(1) also weigh in favor of the appointment of counsel in this case. The consequences that Renteria-Novoa faces are severe: he has been convicted of 36 felony offenses following a jury trial and is serving what arguably is the functional equivalent of a life-without-parole sentence as he must serve approximately 85 years before being eligible for release on parole. This petition is Renteria-Novoa's only opportunity to assert ineffective-assistance and other claims that could not have been raised at trial or on direct appeal. The pro se petition, although not well pleaded, raised several ineffective-assistance-of-counsel claims, including the failure to investigate, which may require discovery and investigation of facts outside the record.


We also are troubled by the possibility that the district court's decision as to the appointment of counsel was influenced by the assertion in the State's responsive pleading that, quoting *Peterson v. Warden*, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971), Renteria-Novoa had to "show that the requested review is not frivolous before he may have an attorney appointed." The quoted language from *Peterson* referred to former NRS 177.345(2). That provision addressed the appointment of counsel to assist a petitioner on appeal from the district court's judgment on a petition for

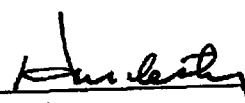
postconviction relief. 1969 Nev. Stat., ch. 87, § 5, at 107. It provided for the appointment of appellate postconviction counsel only if the appellate court determined that the petitioner's appeal "is not frivolous." NRS 177.345(2) (1969). In contrast, the appointment of postconviction counsel to represent the petitioner in the district court proceedings was mandatory if the petitioner was indigent, with no regard for whether the allegations in the petition were frivolous. NRS 177.345(1) (1969). And, when the Legislature later made the appointment of postconviction counsel to represent the petitioner in the district court proceedings discretionary and added the factors that today appear in NRS 34.750(1), the Legislature did not include the "frivolous" language that previously had restricted the appointment of appellate postconviction counsel under NRS 177.345(2) (1969). See 1987 Nev. Stat., ch. 539, § 42, at 1230-31 (amending NRS 177.345(1)). For these reasons and because NRS 177.345 was repealed in its entirety effective January 1, 1993, 1991 Nev. Stat., ch. 44, § 31, at 92, the language in *Peterson* has no bearing on a district court's decision to appoint postconviction counsel to represent a petitioner under current Nevada law set forth in NRS 34.750(1).

We take this opportunity to stress that the decision whether to appoint counsel under NRS 34.750(1) is not necessarily dependent upon whether a pro se petitioner has raised claims that clearly have merit or would warrant an evidentiary hearing. In some cases, such as this one where a language barrier may have interfered with the petitioner's ability to comprehend the proceedings, the petitioner may be unable to sufficiently present viable claims in his or her petition without the assistance of counsel. See generally *Woodward v. State*, 992 So. 2d 391, 392 (Fla. Dist. Ct. App. 2008) (noting that the decision to appoint counsel

"turns upon whether, under the circumstances of a particular case, the assistance of counsel is essential to accomplish a fair and thorough presentation of a defendant's claim(s) for collateral relief" (internal quotation marks omitted)); cf. *Martinez v. Ryan*, 566 U.S. 1, 11-12 (2012) (recognizing inherent difficulties for prisoners in presenting claims of trial error without the assistance of counsel). In such cases, the district court's failure to appoint postconviction counsel may deprive the petitioner of a meaningful opportunity to present his or her claims to the district court.

In light of the severity of the consequences that Renteria-Novoa faces, the potential need for discovery, and Renteria-Novoa's questionable proficiency with the English language, we conclude that the district court abused its discretion in declining to appoint postconviction counsel to represent Renteria-Novoa. Accordingly, we reverse the district court's order denying Renteria-Novoa's petition and remand this matter for the appointment of counsel to assist Renteria-Novoa in the postconviction proceedings.<sup>3</sup>

 J.  
Pickering

 J.  
Hardesty

 J.  
Parraguirre

<sup>3</sup>We express no opinion as to the merits of Renteria-Novoa's postconviction petition. Given our disposition of this matter, we deny the motion for appointment of appellate counsel submitted to this court on December 16, 2015.

**CERTIFIED COPY**

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

DATE: April 24, 2017

Supreme Court Clerk, State of Nevada

By: D. Richardson Deputy

AA 001116

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

GUILLERMO RENTERIA-NOVOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 68239**  
District Court Case No. C268285

**REMITTITUR**

TO: Steven D. Grierson, Eighth 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: April 24, 2017

Elizabeth A. Brown, Clerk of Court

By: Dana Richards  
Deputy Clerk

cc (without enclosures):

Hon. Eric Johnson, District Judge  
Guillermo Renteria-Novoa  
Attorney General/Carson City  
Clark 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 APR 28 2017.

HEATHER UNGERMANN

Deputy District Court Clerk

**RECEIVED**

**APR 28 2017**

**CLERK OF THE COURT**



1 **SUPPL**

2 **JEAN J. SCHWARTZER, ESQ.**

3 Nevada Bar No. 11223

4 Law Office of Jean J. Schwartzer

5 10620 Southern Highlands Parkway, Suite 110-473

6 Las Vegas, Nevada 89141

7 Phone: (702) 979-9941

8 Fax: (702) 977-9954

9 jean.schwartzter@gmail.com

10 Attorney for Petitioner

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 GUILLERMO RENTERIA-NOVOA, )

14 Petitioner, )

15 v. )

CASE NO: C268285-1

DEPT NO: XX

16 RENEE BAKER, WARDEN, )

17 Lovelock Correctional Center )

18 Respondent. )

19 **SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**  
20 **OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

21 DATE OF HEARING: February 7, 2019

22 TIME OF HEARING: 9:00 A.M.

23  
24 COMES NOW, GUILLERMO RENTERIA-NOVOA, by and through his attorney,  
25 JEAN SCHWARTZER, ESQ., and hereby submits the instant Supplemental  
26 Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus  
27 (Post-Conviction).

28 ///

**AA 001118**

1 This Supplemental Memorandum is made and based upon all the papers and  
2 pleadings on file herein, the attached points and authorities in support hereof, and oral  
3 argument at the time of hearing, if deemed necessary by this Honorable Court.

4  
5 DATED this 9<sup>th</sup> day of November, 2018.

6 Respectfully submitted,

7  
8 /s/ Jean J. Schwartzer

9 JEAN J. SCHWARTZER, ESQ.

10 Nevada Bar No. 11223

11 LAW OFFICE OF JEAN J. SCHWARTZER

12 10620 Southern Highlands Parkway

13 Suite 110-473

14 Las Vegas, Nevada 89141

15 Phone: (702) 979-9941

16 Fax: (702) 977-9954

17 Counsel for Petitioner

18  
19 **POINTS AND AUTHORITIES**

20  
21 **STATEMENT OF THE CASE**

22 On May 22, 2012, the State charged Guillermo Renteria-Novoa ("Petitioner") by  
23 way of Second Amended Information with a total of thirty-three (33) Category A Felonies  
24 and three (3) Gross Misdemeanors: **COUNTS 1, 2, 4, 5, 6, 9, 10, 12, 13, 14, 15, 17, 18, 20, &**  
25 **21** – Sexual Assault With a Minor Under the Age of 14 (Category A Felony – NRS  
26 200.364, 200.366); **COUNTS 3, 7, 8, 16, 19 & 22** – Lewdness With a Child Under the Age  
27 of 14 (Category A Felony – NRS 201.230); **COUNTS 23 through 30** – Sexual Assault with  
28 a Minor Under the Age of 16 (Category A Felony – NRS 200.364, 200.366); **COUNTS 11,**  
**31 & 36** – Open or Gross Lewdness (Gross Misdemeanor – NRS 201.220); and **COUNTS**  
**32 through 35** – Sexual Assault (Category A Felony – NRS 200.364, 200.366).

**AA 001119**

1       Petitioner's jury trial commenced on May 21, 2012. On May 25, 2012, the jury  
2 returned a verdict of guilty on all thirty-six (36) counts.

3       On September 6, 2012, the District Court sentenced Petitioner as follows: COUNTS  
4 1, 2, 4, 5, 6, 9, 10, 12, 13, 14, 15, 17, 18, 20, 21 - LIFE with the possibility of parole after  
5 TWENTY (20) YEARS; COUNTS 3, 7, 8, 16, 19, 22 - LIFE with the possibility of parole  
6 after TEN (10) YEARS; COUNTS 23, 24, 25, 26, 27, 28, 29, 30 - LIFE with possibility of  
7 parole after TWENTY FIVE (25) YEARS; COUNTS 11, 31, 36 - TWELVE (12) MONTHS  
8 Clark County Detention Center (CCDC); COUNTS 32, 33, 34, 35 - LIFE with the  
9 possibility of parole after TEN (10) YEARS, with 762 DAYS credit for time served.  
10 FURTHER COURT ORDERED, COUNT 3 TO RUN CONSECUTIVE TO COUNT 1;  
11 COUNT 6 TO RUN CONSECUTIVE TO COUNTS 1 & 3; COUNT 23 TO RUN  
12 CONSECUTIVE TO COUNTS 1, 3, & 6 AND COUNT 32 TO RUN CONSECUTIVE TO  
13 COUNTS 1, 3, 6 & 23; REMAINING COUNTS TO RUN CONCURRENT. FURTHER  
14 COURT ORDERED, a special SENTENCE OF LIFETIME SUPERVISION is imposed  
15 upon release from incarceration and pursuant to NRS 179D.450 and Petitioner must  
16 register as a sex offender within 48 hours of release from custody.

17       The District Court filed the Judgment of Conviction on September 17, 2012. On  
18 October 5, 2012, Petitioner filed a timely Notice of Appeal.

19       On September 24, 2014, the Supreme Court of Nevada affirmed Petitioner's  
20 conviction. Remittitur was issued on October 21, 2014.

21       On February 9, 2015, Petitioner filed a timely Petition for Writ of Habeas Corpus  
22 (Post-Conviction) as well as a Motion for Appointment of Counsel. On April 13, 2015, the  
23 State filed a Response. On April 16, 2015, a hearing was held wherein the Petition and  
24 Motion were denied. On May 27, 2015, the Findings of Fact, Conclusions of Law and  
25 Order were filed. On May 29, 2015, on Notice of Entry of Decision and Order was filed.

26       On June 15, 2015, Petitioner filed a timely Notice of Appeal. On March 30, 2017,  
27 the Supreme Court of Nevada reversed the denial of the Petition and Motion for  
28 Appointment of Counsel and remanded the case back to District Court for appointment

**AA 001120**

1 of counsel. Remittitur was issued on April 24, 2017.

2 On May 11, 2017, a hearing was held wherein Jean J. Schwartzer, Esq. was  
3 appointed to represent Petitioner in his post-conviction habeas proceedings.

4 Petitioner now files the instant Supplemental Memorandum of Points and  
5 Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction).

6  
7 **STATEMENT OF FACTS**

8 Minor victim, R.P., testified that between 2005 and 2009, Petitioner committed  
9 numerous sex crimes against her including touching her breasts, buttocks, vagina with  
10 his fingers and tongue; digitally penetrating her anus and vagina; rubbing her with his  
11 penis outside of her clothing; making her touch his penis and masturbating in front of  
12 her. She said that Petitioner threatened to tell her family about her inappropriate sexual  
13 conduct with her cousin if she did not comply with his requests. During time period of  
14 the alleged crimes, R.P. ranged in age from under 14 to 16 years of age. (See Trial  
15 Transcript Day 3 ("T3") at 195-223). Most of these accusations were not corroborated.

16 R.P.'s cousin, Maritza Moreno-Rodriguez ("Maritza") testified that she lived with  
17 R.P. and R.P.'s mother and had a respectful relationship with Petitioner. (See T3 at 231-  
18 233). Maritza testified that on November 29, 2009, Petitioner called her on her cell phone  
19 and asked that she tell R.P. that if she did not answer her phone, he [Petitioner] would  
20 tell everyone about R.P.'s sexual relationship with her cousin. (See T3 at 233-237). Maritza  
21 further testified that she never suspected Petitioner of assaulting R.P. and that she never  
22 told R.P.'s mother about the phone call from Petitioner on November 29, 2009. (See T3 at  
23 237-240).

24 R.P.'s mother, Rosa Moreno-Rodriguez ("Rosa"), testified that she learned from  
25 her sister, Janet Rodriguez ("Janet"), of the alleged sexual assault in December of 2009.  
26 (See T3 at 249-253). Rosa immediately called the police and reported the abuse. (See T3 at  
27 249-253). After reporting Petitioner to the police, Rosa claims she did not see Petitioner  
28 again except to talk to him once over the phone. (See T3 at 249-253). At no point in time

AA 001121

1 did Rosa ever suspect that Petitioner had any sort of inappropriate relationship with  
2 R.P.—had she thought so, she would have reported him sooner. (See T3 at 253-258).

3 Jeimi Leon (“Leon”) is R.P.’s cousin and the daughter of Janet. (See T3 at 261-265).  
4 Leon translated for Rosa when Rosa called 911 in December of 2009. (See T3 at 265-267).  
5 In December of 2009, Janet learned from her niece, Maritza, that R.P. had been sexually  
6 assaulted by Petitioner. (See Trial Transcript Day 4 (“T4”) at 9-10). She tried to convince  
7 R.P. to talk to someone about what she had gone through. (See T4 at 9-10). Janet also  
8 testified that she never suspected Petitioner of abusing R.P. (See T4 at 12-14).

9 Detective Ryan Jaegar (“Jaegar”) investigated this matter. (See T4 at 47-51). Jaegar  
10 stated that he did not recommend R.P. be taken to the hospital for an exam because the  
11 last instance of alleged assault was more than 72 hours before the report. (See T4 at 47-  
12 51). In this matter, Jaegar interviewed R.P. while she was at school. (See T4 at 51-54).  
13 During her interview, R.P. told Jaegar that Petitioner had been sexually abusing her for a  
14 while. (See T4 at 51-54). Over the course of the investigation, Jaegar spoke with R.P. and  
15 R.P.’s mother a few times, various other family members and Petitioner. (See T4 at 61-65,  
16 72-76).

17 During the interview, Petitioner was aware that he could leave at any time but  
18 stayed and talked because he wanted to “fix the problem.” (See T4 at 82-86). Petitioner  
19 corroborated some of the accusations during his voluntary statement, which was played  
20 for the jury at trial. (See T4 at 76-82; see also Trial Exhibit 27). The jury was also given a  
21 transcript of Petitioner’s statement. (See T4 at 80-81; see also Voluntary Statement of  
22 Guillermo Renteria-Novoa, attached hereto as “Exhibit 1”). Petitioner claimed he never  
23 blackmailed R.P. into performing sexual favors for him; he only used his knowledge of  
24 R.P.’s relationship with her cousin to get R.P. to answer his calls in 2009. (See T4 at 86-90).  
25 Petitioner stated that he caught R.P. engaging in inappropriate sexual conduct with her  
26 cousin. (See Exhibit 1 at 4-5). After this incident, R.P. would show Petitioner various  
27 naked body parts and ask for gifts in exchange. (See Exhibit 1 at 4-5). Petitioner admitted  
28 to kissing R.P.’s breasts on one occasion; masturbating on another occasion when R.P.

**AA 001122**

1 showed him a body part; and touching her vagina over her clothing on a third occasion.  
2 (See Exhibit 1 at 7-10). Throughout the interview, Petitioner's recollection of events  
3 changed several times, which lead Jaegar to believe that Petitioner was not being  
4 forthcoming with the authorities. (See T4 at 105-108).

5 At the time R.P. made the accusation against Petitioner, she was 16 years old and  
6 pregnant. The father of the child was not Petitioner. R.P.'s story changed numerous times  
7 between statements made to her family, counselor, police, at the preliminary hearing and  
8 then at trial. (See T4 at 183-87).

9 Trial counsel was ineffective for failing to challenge a biased juror and for failing  
10 to sanitize R.P.'s pregnancy at the time she made the accusation against Petitioner so as  
11 to present a complete and logically sound theory of defense. This prejudiced Petitioner  
12 and he is entitled to a new trial, especially given that Petitioner was convicted of the  
13 crimes based solely upon the testimony of R.P., most of them without any corroboration.

## 14 ARGUMENT

15  
16 In the instant case, Petitioner's proceedings were fundamentally unfair, he  
17 received ineffective assistance of counsel at trial, he was prejudiced, and is entitled to a  
18 new trial.

### 19 **I. INEFFECTIVE ASSISTANCE OF COUNSEL STANDARD**

20 To state a claim of ineffective assistance of counsel that is sufficient to invalidate a  
21 judgment of conviction, the petitioner must demonstrate that: (1) counsel's performance  
22 fell below an objective standard of reasonableness; and (2) counsel's errors were so  
23 severe that they rendered the verdict unreliable. Lozada v. State, 110 Nev. 349, 353, 871  
24 P.2d 944, 946 (1994) *citing* Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, (1984).

25 Once the defendant establishes that counsel's performance was deficient, the  
26 defendant must next show that, but for counsel's errors, the result of the trial would  
27 probably have been different. Strickland, 466 U.S. at 694, 104 S.Ct. at 2068; Davis v. State,

28 **AA 001123**

1 107 Nev. 600, 601, 602, 817 P.2d 1169, 1170 (1991). The defendant must also demonstrate  
2 errors were so egregious as to render the result of the trial unreliable or the proceedings  
3 fundamentally unfair. State v. Love, 109 Nev. 1136, 1145, 865 P.2d 322, 328 (1993) citing  
4 Lockhart v. Fretwell, 506 U.S. 364, 113 S.Ct. 838, 122 L.Ed.2d 180 (1993); Strickland, 466  
5 U.S. at 687, 104 S.Ct. at 2064.

6 First, the defendant must show that counsel's performance was deficient. This  
7 requires a showing that counsel made errors so serious that counsel was not functioning  
8 as the counsel guaranteed by the Sixth Amendment. Strickland, 466 U.S. at 687, 104 S.Ct.  
9 at 2064.

10 Second, the defendant must show that he was prejudiced by the deficient  
11 performance of prior counsel. In meeting the prejudice requirement of an ineffective  
12 assistance of counsel claim, Petitioner must show a reasonable probability that, but for  
13 counsel's error, the result of the trial would have been different. Reasonable probability is  
14 probability sufficient to undermine the confidence in the outcome. Kirksey, 112 Nev. at  
15 980, 923 P.2d at 1102.

16 "Strategy or decisions regarding the conduct of a defendant's case are virtually  
17 unchallengeable, absent extraordinary circumstances." Mazzan v. State, 105 Nev. 745, 783  
18 P.2d 430 (1989); Olausen v. State, 105 Nev. 110, 771 P.2d 583 (1989). **However, counsel is**  
19 **still required to be effective in his or her strategic decisions.** Strickland, 466 U.S. at 694,  
20 104 S.Ct. at 2068.

21 **II. GROUND ONE: TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO**  
22 **CHALLENGE A JUROR WHO ADMITTED TO BIAS IN FAVOR OF THE**  
23 **VICTIM WITNESS**

24 **A. Law**

25 "The purpose of jury voir dire is to discover whether a juror will consider and  
26 decide the facts impartially and conscientiously apply the law as charged by the court."  
27 Johnson v. State, 122 Nev. 1344, 1354, 148 P.3d 767, 774 (2006). "Even if 'only one juror is  
28 unduly biased or prejudiced,' the defendant is denied his constitutional right to an

AA 001124

1 impartial jury.” United States v. Eubanks, 591 F.2d 513, 517 (9th Cir.1979).

2 “The presence of a biased juror cannot be harmless; the error requires a new trial  
3 without a showing of actual prejudice.” Dyer v. Calderon, 151 F.3d 970, 973, n. 2 (9th  
4 Cir.1998); *see also* United States v. Martinez-Salazar, --- U.S. ---, ---, 120 S.Ct. 774, 782, 145  
5 L.Ed.2d 792 (2000). To show prejudice, the defendant would need only to show that a  
6 juror who remained on the jury was biased, either actually or impliedly. United States v.  
7 Gonzales, 214 F.3d 1109 (9th Cir.2000).

8 The relevant test for determining whether a juror is biased is “whether the juror[]  
9 ... had such fixed opinions that [he] could not judge impartially the guilt of the  
10 defendant.” Patton v. Yount, 467 U.S. 1025, 1035, 104 S.Ct. 2885, 2891 (1984) (citation  
11 omitted). The defendant must show that the juror’s “views were so fixed that he would  
12 not and did not honor his oath to faithfully apply the law” in the absence of a juror’s  
13 “stated intention to disregard it.” United States v. Quintero-Barraza, 78 F.3d 1344, 1350  
14 (9th Cir. 1995) (Cert denied by Quintero-Barraza v. United States, 519 U.S. 848, 117 S.Ct.  
15 135 (1996) (No. 95-9280).

16 Although “[b]ias can be revealed by a juror's express admission of that fact, ...  
17 more frequently, jurors are reluctant to admit actual bias, and the reality of their biased  
18 attitudes must be revealed by circumstantial evidence.” United States v. Allsup, 566 F.2d  
19 68, 71 (9th Cir.1977)(internal citations omitted). Determinations of impartiality may be  
20 based in large part upon demeanor. Gonzales, 214 F.3d at 1112. The Ninth Circuit Court  
21 of Appeals has held that prejudice is to be presumed “where the relationship between a  
22 prospective juror and some aspect of the litigation is such that it is highly unlikely that  
23 the average person could remain impartial in his deliberations under the circumstances.”  
24 Tinsley v. Borg, 895 F.2d 520, 527 (9th Cir.1990)(internal quotations and citations  
25 omitted)(emphasis added). A juror is considered to be impartial “only if he can lay aside  
26 his opinion and render a verdict based on the evidence presented in court...” Yount, 467  
27 U.S. at 1037 n.12. “**Doubts regarding bias must be resolved against the juror.**” Gonzales,  
28 214 F.3d at 1114 (emphasis added).

AA 001125



1  
2 **B. Juror No. 12 Admitted To Making a Credibility Determination in Favor**  
3 **of the Victim Before Hearing Any Evidence**

4 During voir dire, the following exchange took place between defense counsel and  
5 Juror No. 12 : 1

6  
7 **Prospective Juror:** 035  
8 Defense Counsel: Ms. Moreno-Zepeda?  
9 **Prospective Juror:** Mm-hmm.  
10 Defense Counsel: Now you heard us talk about the presumption  
11 of innocence and how everyone's presumed  
12 innocent. How does that make you feel? What  
13 do you think about that?  
14 **Prospective Juror:** I mean, it is our justice system and that's how  
15 it's built, so that's what we have to follow.  
16 Defense Counsel: So as Mr. Renteria-Novoa sits there right now,  
17 is he guilty or not guilty?  
18 **Prospective Juror:** Not guilty.  
19 Defense Counsel: And why is that?  
20 **Prospective Juror:** Because he hasn't been proven guilty yet.  
21 Defense Counsel: So if the State, after they present all their  
22 witnesses and you feel that they haven't  
23 proven their case, what would be your vote  
24 for, guilty or not guilty?  
25 **Prospective Juror:** I guess not guilty. It's just really hard to say  
26 because I haven't heard all the facts.  
27 Defense Counsel: And considering the nature of those charges,  
28 does that factor into it in any way as far as  
your ability to be fair?  
**Prospective Juror:** It is a very heinous crime in my eyes. I don't  
see why anybody would lie about something  
like that, especially if it happened so long  
ago, for her to, you know, bring those  
feelings back and just talk about that, it's just  
really hard to know that she's lying about  
something like that. I just....

1 Prior to being selected to sit on the jury as Juror No. 12, she was Prospective Juror No. 35. Additionally, Juror No.  
12 was *not* an alternate. (See Amended Jury List, attached hereto as "Exhibit 2").

1 Defense Counsel: Okay. So do you think that some child would  
2 never lie in that circumstance, or they could  
possibly lie?

3 Prospective Juror: I mean there is that possibility. But I believe  
4 she's 19 years old now, so for her to just  
5 revisit that and bring that all to light and  
6 want to go through all of this is just hard to,  
7 you know, really tell that she's—wouldn't lie  
8 about that.

8 Defense Counsel: Okay. All right. Thank you.

9 (See Transcript of Day Two of Trial, attached hereto as "Exhibit 3," 91-  
10 93)(emphasis added).

11 Initially Juror No. 12 indicated that she understood the presumption of innocence  
12 and that the State has the burden to prove Petitioner's guilty. However, upon further  
13 questioning by defense counsel, Juror No. 12 made it clear that she did not think a child  
14 who was molested would lie about such an ordeal years later and rehash old feelings and  
15 wounds. (See Exhibit 3 at 91-93). Juror No. 12 made a credibility determination with  
16 respect to the victim before hearing any evidence at all. This demonstrates that this juror  
17 was biased in favor of the victim witness and could not "lay aside [her] opinion and  
18 render a verdict based upon the evidence in court." Yount, 467 U.S. at 1037 n.12. Juror  
19 No. 12 had views that were fixed in favor of the victim witness. Therefore Juror No. 12  
20 was admittedly biased and partial in favor of the State. Id.; Quintero-Barraza, 78 F.3d at  
21 1350. **Any doubts to whether or not this Juror was biased "must be resolved against**  
22 **the juror."** Gonzales, 214 F.3d at 1114 (emphasis added).

### 23 C. Petitioner Was Prejudiced by Juror No. 12's Bias in Favor of the State's 24 Victim Witness

25 With respect to prejudice, during appellate and post-conviction proceedings  
26 evidence in the form of post-conviction testimony from a juror that he or she was biased  
27 in his or deliberation is not permitted. Therefore, to some degree, any appellate or post-  
28 conviction argument, whether by the State or a defendant, related to the prejudicial effect

AA 001127

1 of an alleged error on a juror's deliberation will always be speculation. However, the  
2 Supreme Court of the United States and the Ninth Circuit Court of Appeals have held  
3 that "[t]he presence of a biased juror cannot be harmless; the error requires a new trial  
4 without a showing of actual prejudice." Dyer, 151 F.3d at 973, n. 2 (emphasis added); *see*  
5 *also* Martinez-Salazar, --- U.S. ---, ---, 120 S.Ct. 774, 782, 145 L.Ed.2d 792 (2000). To show  
6 prejudice, the defendant would need only to show that a juror who remained on the jury  
7 was biased, either actually or impliedly. Gonzales, 214 F.3d 1109. As discussed, *supra*,  
8 Juror No. 12 was admittedly biased. *That bias cannot be harmless.* Dyer, *supra*; Gonzales,  
9 *supra*; *see also* Martinez-Salazar, *supra*. Therefore, the fact that defense counsel did not  
10 challenge this juror for cause or use a peremptory challenge on her falls below an  
11 objective standard of reasonableness. Counsel's failure to do so prejudiced Petitioner  
12 because the presence of a biased juror cannot be harmless and Petitioner was, in fact,  
13 found guilty. Therefore, Petitioner received ineffective assistance of counsel during jury  
14 selection, was prejudiced and is entitled to a new trial. Strickland, 466 U.S. at 694, 104  
15 S.Ct. 2052; Dyer, *supra*; Gonzales, *supra*; *see also* Martinez-Salazar, *supra*.

16 **III. GROUND TWO: TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO**  
17 **PROPERLY SANITIZE R.P.'S PREGNANCY SO AS TO PRESENT A**  
18 **COMPLETE THEORY OF DEFENSE**

19 **A. The Fact That R.P. Was Pregnant and 16 At the Time She Made the**  
20 **Accusations Against Petitioner Went to the Heart of Petitioner's Defense**

21 R.P. was 16 years old and pregnant when she told her mother about Petitioner's  
22 sexual contact with her. The father of the baby was neither her cousin nor Petitioner. It  
23 was during this same conversation that R.P. told her mother she was pregnant. On the  
24 first day of trial, defense counsel moved to admit R.P.'s pregnancy and then question  
25 R.P. about said pregnancy as a motive to fabricate the accusations against Petitioner. The  
26 State objected pursuant to the Nevada Rape Shield Law. (*See* Trial Transcript Day 1  
27 ("T1") at 2-11). The State further argued that this would hurt their case because the jury  
28 would naturally think that the father of the child was R.P.'s cousin. The Court stated that

**AA 001128**

1 her pregnancy simply makes her appear as though R.P. has sexual relations with a lot of  
2 men (which is prohibited under the Nevada Rape Shield Law) and questioned how the  
3 pregnancy was relevant. Defense counsel argued that the pregnancy is important to  
4 disclose because if R.P. told her mother and family that she was a victim, this would then  
5 ease the treatment she would receive from her family once she also revealed she was  
6 pregnant. (See T1 at 11-17). Defense counsel knew *from the onset of this case* that this was  
7 central to the theory of defense:

8            “In the declaration of warrant the officer says Roxana had just told her  
9 mother she was pregnant.....She's blaming [Petitioner] for raping her to  
10 get her out of trouble for being pregnant by somebody else. If she tells  
11 her mom that she's pregnant, she's going to get in trouble. But if she says  
12 at the same time, oh, and I've been sexually abused by your ex-boyfriend  
13 for years, that's going to minimize any amount to trouble she would  
14 have gotten in for being pregnant in the first place.

15 (See T1 at 5-7).

16            This Court agreed that R.P.'s pregnancy cut to the heart of the Petitioner's defense  
17 case but expressed that both the Court and the State were blindsided because the issue  
18 was not raised prior to trial in a written motion. (See T1 at 28-42). This Court then offered  
19 to let the defense sanitize the pregnancy and call it a “medical condition.” The defense  
20 objected to this compromise because teenagers do not get into trouble for simply having  
21 a medical condition but they do get in trouble for getting pregnant. (See T1 at 42-49).  
22 Ultimately, this Court denied the request to admit R.P.'s pregnancy pursuant to the  
23 Nevada Rape Shield Law and told the defense that it needed to think of another way to  
24 “phrase it, that it's not the sexual conduct, there's some consequences, she's going to be  
25 in trouble for something...” so that it does not connote that R.P. had sexual contact as a  
26 minor. (See T1 at 50). Defense responded by saying that there is no way to do this; their  
27 defense is “gutted;” and asked for a stay so as to file a brief with the Supreme Court of  
28 Nevada. (See T1 at 49-63). The District Court denied the request for the stay.

          On appeal, the issue of whether or not it was proper to admit R.P.'s pregnancy to

**AA 001129**

1 show motive to lie or be able to present a theory of defense, thereby subverting the  
2 Nevada Rape Shield Law, was fully briefed by both appellate counsel and the State. The  
3 Supreme Court of Nevada affirmed the denial of Petitioner's oral motion to admit R.P.'s  
4 pregnancy and found that the Nevada Rape Shield Law was properly applied. (See Order  
5 of Affirmance, Case No. 61865, attached hereto as "Exhibit 4," at 6-7). However there was  
6 absolutely no discussion by the Nevada Supreme Court regarding the materiality of this  
7 evidence of R.P. pregnancy. Id. In the instant Supplemental Memorandum, Petitioner is  
8 not attempting to reassert the argument made on appeal, which was that the District  
9 Court erred in denying Petitioner's oral motion to admit evidence of R.P.'s pregnancy.  
10 Petitioner is arguing that his trial counsel did not effectively prepare for this issue prior  
11 to trial and furthermore did not sanitize the pregnancy, discussed *infra* at section III(B),  
12 thereby providing an incomplete and weak defense theory. This amounts to ineffective  
13 assistance of counsel. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064; Kirksey, 112 Nev. at  
14 980, 923 P.2d at 1102.

15 **B. Defense Counsel Failed to Sanitize R.P.'s Pregnancy Despite Being**  
16 **Given the Opportunity to Do So By the Court**

17 "Few rights are more fundamental than that of an accused to present witnesses in  
18 his own defense." Chambers v. Mississippi, 410 U.S. 284, 302 (1973). Precluding a  
19 defendant from presenting evidence tending to exculpate offends Sixth Amendment jury  
20 trial, right to counsel, and confrontation clause guarantees. See Taylor v. Illinois, 484 U.S.  
21 400, 409 (1988)(providing that right of a defendant to present evidence "stands on no less  
22 footing than any other Sixth Amendment right"). It also abrogates Fourteenth  
23 Amendment Due Process guarantees, which "assure an accused the right to introduce  
24 into evidence any testimony or documentation which would tend to prove the  
25 defendant's theory of the case." Vipperman v. State, 96 Nev. 592, 596 (1980) (citations  
26 omitted); Crane v. Kentucky, 476 U.S. 683, 690 (1986).

27 At trial, defense counsel did nothing to sanitize R.P.'s pregnancy, despite being  
28 given the opportunity to do so as so ensure Petitioner was afforded his Due Process right

AA 001136

1 to introduce into evidence any testimony or documentation which would tend to prove  
2 the defendant's theory of the case. Vipperman, 96 Nev.at 596 (citations omitted); Crane,  
3 476 U.S. at 690. In opening and closing statements, defense counsel termed the defense  
4 theory as "better him than me." (See T3 at 17; T4 at 181-85). Counsel admitted that  
5 Petitioner and R.P. did have an inappropriate relationship but that it a) did not begin  
6 until R.P. was 14 years old thereby refuting Counts 1-10 and 12-22; b) was consensual  
7 from 15-16 thereby refuting Counts 11, 31 and 36; and c) penetration was not proven  
8 beyond a reasonable doubt thereby refuting Counts 32 to 35. (See T4 at 190-192). In short,  
9 the defense theory was that R.P. lied about when her sexual relationship started with  
10 Petitioner; what specific sexual acts occurred; and whether or not it was consensual. **Just**  
11 **as Juror No. 12 questioned: Why would anyone lie about something like that?**

12 To answer that question, defense counsel needed to present the motive R.P. had  
13 for fabricating or embellishing her relationship with Petitioner. However, due to  
14 counsel's failure to adequately prepare for the application of the Nevada Rape Shield  
15 Law, at the last minute counsel ultimately presented the weak defense theory that R.P.  
16 lied about her interaction with Petitioner because she was so afraid that Petitioner was  
17 going to tell her mother about her inappropriate relationship with her cousin, Yahir, as  
18 well as her inappropriate relationship with Petitioner. (See T4 at 182 and 193). Theoretic  
19 ally, with this lie, instead of being mad at her, her mother would focus her anger on  
20 Petitioner. First, it is nonsensical that Petitioner would tell R.P.'s mother about his own  
21 relationship with her daughter given that it would result in *Petitioner* suffering major  
22 consequences. Second, her relationship with Yahir occurred 5 years prior to the  
23 accusations she made against Petitioner. Given this temporal remoteness, R.P. would  
24 have plausible deniability regarding her relationship with her cousin due to the fact that  
25 Petitioner waited so long to tell R.P.'s mother, if he did, in fact, did tell her. It does not  
26 make sense that R.P. would be so scared of her family knowing about a 5 year old brief,  
27 benign and harmless dalliance with her cousin, that she would make up a story as severe  
28 as, "mom, your boyfriend has been sexually abusing me for the last five years."

AA 001131

1           What would have strengthened the defense theory of “better him than me,” would  
2 have been the argument that R.P. was so fearful of getting into trouble for making a  
3 serious mistake that is recent and that could negatively impact her the rest of her life with  
4 respect to opportunities; her education; future relationships; her health; her psychological  
5 state; as well as her financial and living situations. This would make any parent angry at;  
6 fearful for; disappointed in; and upset with their child, far more so than having an  
7 inappropriate relationship with a cousin 5 years ago that has long since ended. Being  
8 pregnant at 16 presents far more life altering issues and results in more severe  
9 consequences from parents.

10           While this Court ruled that the admission of the actual pregnancy was not allowed  
11 under the Nevada Rape Shield Law, a ruling affirmed by the Supreme Court of Nevada,  
12 defense counsel had the opportunity to sanitize the pregnancy. A simple way to do that  
13 would have been to call the pregnancy “a mistake recently made by R.P. that that could  
14 negatively impact her the rest of her life with respect to opportunities in life, education,  
15 future relationships, her health, her psychological state, as well as her financial and living  
16 situation; a mistake that would make her parents angry at; fearful for; disappointed in;  
17 and upset with her and would result in severe consequences.” Doing so would have  
18 allowed the defense to present its complete defense theory, which is that R.P. lied to  
19 minimize the judgment and punishment she would receive for making a huge mistake,  
20 and simultaneously would avoid violating the Nevada Rape Shield Law.

21           While defense counsel was not given much time to come up with a creative way to  
22 sanitize the pregnancy, this was simply because counsel failed to address this issue  
23 before the first day of trial. Failure to do so and failure to properly sanitize the pregnancy  
24 fell below an objective standard of reasonableness. Due to the fact that this was the only  
25 rational reason R.P. would have had for fabricating or embellishing aspects of her  
26 relationship with Petitioner, it cut to the core of the defense theory of “better him than  
27 me.” Given the fact that there was no corroboration for many of R.P. allegations, that she  
28 changed her story multiple times, and Petitioner’s only defense was that R.P. was not

**AA 001132**

1 being truthful, had trial counsel properly sanitized R.P.'s pregnancy, the outcome of trial  
2 with respect to some of the counts, would have been different and Petitioner was  
3 prejudiced. Therefore, Petitioner received ineffective assistance of counsel and is entitled  
4 to a new trial. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064; Kirksey, 112 Nev. at 980, 923  
5 P.2d at 1102.

#### 6 IV. CUMULATIVE ERROR

7 The relevant factors to consider in determining whether error is harmless or  
8 prejudicial include whether (1) the issue of innocence or guilt is close, (2) the quantity  
9 and character of the error (3) and the gravity of the crime charged." Mulder v. State, 116  
10 Nev. 1, 17, 992 P.2d 845, 854-55 (2000). The issue of Petitioner's guilt was somewhat close  
11 given that with respect to most of the counts, his conviction was based solely upon the  
12 uncorroborated testimony of R.P. Here, Petitioner was convicted of multiple counts (36  
13 total) of the grave crimes of Sexual Assault With a Minor Under the Age of 14, Lewdness  
14 With a Child Under the Age of 14, Open or Gross Lewdness, and Sexual Assault. He is  
15 serving a total sentence of LIFE with parole eligibility after serving eighty-five (85) years.

16 As discussed *supra*, two instances of ineffective assistance of counsel occurred in  
17 this case—failure to challenge an admittedly biased juror and failure to properly sanitize  
18 R.P.'s pregnancy so as to present a complete theory of defense. These errors on the part of  
19 trial counsel were harmful due to the fact that with respect to most of the counts, the only  
20 evidence was the uncorroborated testimony of the victim, who changed her story  
21 multiple times. As discussed *supra* in section III, R.P. had a motive to lie to her family  
22 about her relationship with Petitioner but that motive was never presented to the jury.  
23 Therefore, the Mulder factors weigh in favor of finding there is cumulative error  
24 warranting reversal of Petitioner's convictions and a new trial.

#### 25 V. REQUEST FOR EVIDENTIARY HEARING PURSUANT TO NRS 34.770

26 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing.  
27 NRS 34.770 provides:  
28

AA 001133



1 1. The judge or justice, upon review of the return, answer and all  
2 supporting documents which are filed, shall determine whether an  
3 evidentiary hearing is required. A petitioner must not be discharged or  
4 committed to the custody of a person other than the respondent *unless*  
5 *an evidentiary hearing is held.*

6 2. If the judge or justice determines that the petitioner is not entitled to  
7 relief and an evidentiary hearing is not required, he shall dismiss the  
8 petition without a hearing.

9 3. If the judge or justice determines that an evidentiary hearing is  
10 required, he shall grant the writ and shall set a date for the hearing.

11 Nev. Rev. Stat. § 34.770 (1991).

12 The Nevada Supreme Court has held that if a petition can be resolved without  
13 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110  
14 Nev. 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002).  
15 A defendant is entitled to an evidentiary hearing if his petition is supported by specific  
16 factual allegations, which, if true, would entitle him to relief unless the factual allegations  
17 are repelled by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; See also Hargrove  
18 v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984) (1984) (holding that “[a] defendant  
19 seeking post-conviction relief is not entitled to an evidentiary hearing on factual  
20 allegations belied or repelled by the record”). “A claim is ‘belied’ when it is contradicted  
21 or proven to be false by the record as it existed at the time the claim was made.” Mann,  
22 118 Nev. at 354, 46 P.3d at 1230 (2002). The district court cannot rely on affidavits  
23 submitted with a response or answer in determining whether the factual allegations are  
24 belied by the record. Id. at 354-56, 46 P.3d at 1230-31. Additionally, the district court  
25 cannot make credibility decisions without an evidentiary hearing. See Id. at 356, 46 P.3d  
26 at 1231 (rejecting suggestion that district court can resolve factual dispute within an  
27 evidentiary hearing and noting that “by observing the witnesses’ demeanors during an  
28 evidentiary hearing, the district court will be better able to judge credibility”).

Here, Petitioner has alleged that trial counsel was ineffective for failing to  
challenge an admittedly biased juror and for failing to properly sanitize R.P.’s pregnancy  
so as to present a complete theory of defense. Because the juror admitted to bias and  
prejudice is presumed where there is an admitted biased juror, discussed *supra* in section

**AA 001134**

1 II, there are no issues of credibility or fact. However, *the reason* why defense counsel did  
2 not challenge this particular juror is an issue of credibility and fact.  
3 Therefore, this issue may not be determined by the district court without an evidentiary  
4 hearing. Mann, 118 Nev. at 354-56, 46 P.3d at 1230-31. With respect to defense counsel's  
5 reason for not properly sanitizing R.P.'s pregnancy, this is an issue of fact and credibility  
6 and may not be determined by the district court without an evidentiary hearing. Mann,  
7 118 Nev. at 354-56, 46 P.3d at 1230-31.

8 While the State may claim that the decisions not to challenge Juror No. 12 and not  
9 to properly sanitize R.P.'s pregnant were strategic in nature and therefore virtually  
10 unquestionable, that is unclear from the record before the Court at this time. Finally,  
11 Petitioner has alleged specific factual allegations, which if true, would entitle him to relief  
12 and these allegations are not belied by the record. Therefore, Petitioner is entitled to an  
13 evidentiary hearing under NRS 34.770.

14 Dated this 9<sup>th</sup> day of November, 2018.

15  
16 /s/ Jean Schwartz

17 **JEAN J. SCHWARTZER, ESQ.**

18 Nevada Bar No. 11223

19 Law Office of Jean J. Schwartz

20 10620 Southern Highlands Parkway

21 Suite 110-473

22 Las Vegas, Nevada 89141

23 Phone: (702) 979-9941

24 Fax: (702) 977-9954

25 jean.schwartz@gmail.com

26 Attorney for Petitioner

27  
28 **AA 001135**

1  
2  
3 **CERTIFICATE OF SERVICE**

4 **IT IS HEREBY CERTIFIED** by the undersigned that 9<sup>th</sup> day of November, 2018,  
5 I served a true and correct copy of the foregoing **SUPPLEMENTAL MEMORANDUM**  
6 **OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF**  
7 **HABEAS CORPUS (POST-CONVICTION)** on the parties listed on the attached service  
8 list via one or more of the methods of service described below as indicated next to the  
9 name of the served individual or entity by a checked box:

10 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with  
11 postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada.

12 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or  
13 the party who has filed a written consent for such manner of service.

14 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand  
15 delivered by such designated individual whose particular duties include delivery of such  
16 on behalf of the firm, addressed to the individual(s) listed, signed by such individual or  
17 his/her representative accepting on his/her behalf. A receipt of copy signed and dated  
18 by such an individual confirming delivery of the document will be maintained with the  
19 document and is attached.

20 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for  
21 attachments to the electronic-mail address designated by the attorney or the party who  
22 has filed a written consent for such manner of service.

23 /s/ Jean Schwartz

24 **JEAN J. SCHWARTZER, ESQ.**

25 Nevada Bar No. 11223

26 Law Office of Jean J. Schwartz

27 10620 Southern Highlands Parkway

28 Suite 110-473

Las Vegas, Nevada 89141

Phone: (702) 979-9941

Fax: (702) 977-9954

jean.schwartz@gmail.com

Attorney for Petitioner

**AA 001136**

**SERVICE LIST**

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE 200 E. LEWIS AVENUE LAS VEGAS, NEVADA 89101 <a href="mailto:pdmotions@clarkcountyda.com">pdmotions@clarkcountyda.com</a>	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service
GUILLERMO RENTERIA-NOVOA INMATE NO. 1092343 LOVELOCK CORRECTIONAL CENTER 1200 PRISON ROAD LOVELOCK, NEVADA 89419		<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input checked="" type="checkbox"/> Mail service

**AA 001137**

# **EXHIBIT 1**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 1

EVENT #:091217-4008  
STATEMENT OF: GUILLERMO RENTERIA NOVOA

---

**SPECIFIC CRIME:** SEXUAL ASSAULT

**DATE OCCURRED:**

**TIME OCCURRED:**

**LOCATION OF OCCURRENCE:**

---

**CITY OF LAS VEGAS**

**CLARK COUNTY**

---

**NAME OF PERSON GIVING STATEMENT:** GUILLERMO RENTERIA NOVOA

**DOB:**

**SOCIAL SECURITY #:**

**RACE:**

**SEX:**

**HEIGHT:**

**WEIGHT:**

**HAIR:**

**EYES:**

**WORK SCHEDULE:**

**DAYS OFF:**

**HOME ADDRESS:** 3139 EAST SAHARA, #208, LV  
NV

**HOME PHONE:** 702-460-1242

**WORK ADDRESS:**

**WORK PHONE:**

**BEST PLACE TO  
CONTACT:**

**BEST TIME TO CONTACT:**

---

The following is the transcription of a tape-recorded interview conducted by DETECTIVE JAEGER, P# 5587, LVMPD Sexual Assault Detail, on MARCH 6, 2010, at 1012 hours.

Q: \_\_\_\_\_. Operator, this is Detective R. Jaeger J-A-E-G-E-R, P#5587. I'll be conducting one interview in reference to Event #091217-4008. The location of the interview is the ISD building located at 4750 West Oakey. The person being

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 2

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

interviewed's last name is R-E-N-T-E-R-I-A hyphen NOVOA N-O-V-O-A, first name of Guillermo G-U-I-L-L-E-R-M-O. His birthday is 12/4/61. His home address is 3139 East Sahara Space #208 in Las Vegas Nevada. Contact phone number is area code 702-460-1242. Today's date is 3/6/10 and the start of the interview is 1012 hours. Um, Guillermo, earlier we were -- we were talking a little bit before we went on the recording. Um, I reassured you that I'm not gonna take you to jail today. That's still true. The tape recording hasn't changed. Um, there's just some stuff -- there's rules I have to follow and before I talk to you about a criminal matter, I've got to advise you of your rights. So you have the right to remain silent. Anything you say can be used against you in either -- in a court of law. You have the right to the presence of an attorney. If you cannot afford an attorney, one will be appointed before questioning. Do you understand your rights?

A: Yes.

Q: Okay. Um, do you still want to talk with me about Roxana?

A: I -- I don't want to forgot --\_\_\_\_\_.

Q: You want to put...

((Crosstalk))

A: ...put everything away, I don't want to go see anymore family. I don't want to know nothing about that family. I think what I did a mistake, but I want to fix it.

Keep -- keep me away from her.

AA 001140

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 3

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: Okay. Yeah and we can do that. Um, for starters, how long did you live with her?

A: I live with her mom maybe for two years.

Q: And what -- do you remember the address when you lived with her?

A: Um, it was Flamingo -- \_\_\_\_\_ Flamingo.

Q: It -- was that a house or an apartment?

A: Apartment 100 -- 127.

Q: Is that gonna be East Flamingo, like Flamingo and -- \_\_\_\_\_.

A: East Flamingo.

Q: And what kind of relationship did you have with her mom?

A: Like, uh, boyfriend girlfriend.

Q: Okay. And I...

A: I -- I have my own apartment I have come -- came to see her every evening and I would stay there all night.

Q: Okay and what was your relationship like with Roxana?

A: Like a father and daughter.

Q: Okay and -- and did that relationship kind of change a little bit over time or...

A: She -- that relation change maybe two years ago when she got the high school.

Q: Okay. And -- and explain that to me, how did the relationship change?

A: Uh, she was make deals with me to show me -- show me her body -- body parts and for to get something like a clothes, shoes, anything she want. A-001-41Pod



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 4

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

or something like that. She come and said -- "I do this and you will give me that."

Like -- like I never force her to something -- to do something.

Q: Like i- if she wanted a -- an iPod, what -- what would she say? "Hey, I'll give you a blow job for an iPod" or what?

A: No. She, uh, just show -- show me her body.

Q: Okay, like, naked or...

A: Naked.

Q: Okay.

A: Just, like...

Q: Um, about when did this start? How old was she?

A: I -- she started to do things when I caught her with her cousin Zaer.

Q: Okay well what -- what happened with her and Za- Zaer?

A: I saw her and he was -- and he was with -- without clothes and she was bending on her knees in front of him. When I opened the door, I found -- I saw her and him and he pull out -- pull out or pull up his pant fast.

Q: So did it look like he -- she was giving him a blow job or...

A: It's something like that. I can't be sure, because when I opened the door, it was so fa- I found her -- him in that position. And mean time I found her and him just covered with a blanket -- the same blanket maybe -- \_\_\_\_\_ her or -- \_\_\_\_\_ him. I don't know what happened behind this blanket.

Q: How -- how old was she when you found her with Zaer?

AA 001142

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 5

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

A: I think she was 14, 15.

Q: Okay so she was about 14 or 15? And -- and did you ever tell her mom about that?

A: No, I kept -- I keep the secret for protection -- protection and I don't want to -- \_\_\_\_\_ because I want -- I -- I love her still like a daughter. I would like so many good things -- \_\_\_\_\_.

Q: What -- what other kind of things did you see that -- that made that -- your whole look on her change?

A: When -- when we -- when I found him with her -- with her cousin, I'm not sure -- I don't know, but I guess when she want something -- to buy something, she will have the money or money to get -- to get it , she make that kind of deals -- "I show you this, you give me that."

Q: Okay, so what was the -- the first deal that she made with ya?

A: The first deal was when -- \_\_\_\_\_ I think that she -- \_\_\_\_\_ show you my boobies, you take me to -- \_\_\_\_\_. That was the first deal, my boobs.

Q: Okay. And then, I mean, would you masturbate then or...

A: Never.

Q: I mean, and would you do it in front of her or would you just leave, like, and go somewhere else?

A: No. -- \_\_\_\_\_ show -- I saw her and I leave.

Q: Okay. And what did she -- was she okay with it or...

AA 001143

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 6

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

A: She was --\_\_\_\_\_ from food to shoes to backpack, I --\_\_\_\_\_ mp3 player.

Q: Her iPod?

A: I could not --\_\_\_\_\_ but I bought two times the same, because she wanted --\_\_\_\_\_ she lost it or --\_\_\_\_\_ she broke it. But I -- I --\_\_\_\_\_ don't want to speak about her, because I don't --\_\_\_\_\_ so she -- that -- that's okay for -- for him or for everybody in the family. So I don't want to say that if -- if we left this behind and keep for you right way. I told you my b- my life change. I don't want to see anymore that family. I don't want to --\_\_\_\_\_ I have enough problems with my job, with my friends and -- and other things too so for this time. So that's the point, I am not a bad a guy. I've had to be a good man, but sometimes we make mistakes. Like I tried to be the best man from -- from three years ago to now.

Q: So it -- it's safe to say now, you got everything turned around, right? I mean, you got a nice house, you have -- you're living with a new girlfriend, right?

A: It's not a nice house. It's a -- just a house --\_\_\_\_\_.

Q: I mean, it was...

A: Even though my house I keep clean.

Q: I mean, it wasn't...

A: She keeps clean. We go together to keep clean the house to keep another, but I told you I get my check last week. I -- in two weeks we --\_\_\_\_\_ AA 001144

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 7

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: --\_\_\_\_\_.

A: I pay my bills, I pay everything and I just keep my --\_\_\_\_\_ in my pocket --  
in my pocket for two weeks. So I have to...

Q: Money's tight.

A: Money's tight -- very tight. So I don't want to get an apartment, so for me it's  
better forgot her family -- forget her family and never talk -- talk -- speak about  
--\_\_\_\_\_ for him --\_\_\_\_\_.

Q: And -- and that's -- I want the same thing, but we need to find out, 'cause  
Roxanne is telling a little bit different story.

A: Yes. I think so, she's telling you her her own story, but I tell you my own story.  
And I can tell you this in front of her, whatever you want. You have to  
--\_\_\_\_\_ his story, but I tell you the truth.

Q: Okay.

A: That happened sometimes so...

Q: When -- when you -- when you say that happened, 'cause I think something more  
than just seeing her boobies has happened. I mean, have you ever kissed her  
breasts?

A: One time.

Q: Okay. Um, has she ever put her mouth on your penis?

A: No, never.

Q: Okay. Have you ever had sex with her?

AA 001145

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 8

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

A: No.

Q: Have you ever masturbated in front of her?

A: One time she was over there and showed me and yeah, I masturbate.

Q: And -- and which -- which apartment was that in? Was that at East Flamingo?

A: No it was in the -- \_\_\_\_\_ when she was living -- living, uh, -- \_\_\_\_\_.

Q: At Tamarist? Is that where she lives now still?

A: No she lives -- I don't know she -- she moved from there to another apartment and then to another apartment -- another -- \_\_\_\_\_ apartment. She's not -- she's moving -- \_\_\_\_\_ times. I -- that's a lot of -- \_\_\_\_\_ something that I would remember. She many times say, -- "With this I can get whatever I want from her." That is bad for a girl like 15, 16 -- \_\_\_\_\_.

Q: But for her mom it, kind of, works, right, 'cause she was...

A: Yeah, she's work, but she works, but I told her she use her special -- \_\_\_\_\_ with this I can get, uh, whatever I want in front of her.

Q: So you think that's where she learned?

A: That may be, I don't want to be too -- \_\_\_\_\_, but I think so. She can do that. She can do -- \_\_\_\_\_ "I can do that. I can get my phone, my p- -- \_\_\_\_\_ did that."

Q: When -- the -- the time you masturbated in front of her, was that like a while ago or about how long ago was that? Was it recent or...

A: Re- recent -- \_\_\_\_\_ um...

**AA 001146**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 9

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: Did this happen just a little while ago?

A: Uh, yes --\_\_\_\_\_...

Q: Or about -- about how old was she when this happened?

A: I think she was around 16, 15 --\_\_\_\_\_.

Q: So she was about 15 or 16?

A: Yes.

Q: Um, do you remember, like, what time of year? Was it around Christmas, in the summer?

A: Uh, really -- really don't know because I wasn't -- I wasn't even --\_\_\_\_\_ and I came to visit her mom many times a week, so I remember I was living the --\_\_\_\_\_. I wasn't even there. I was living at --\_\_\_\_\_.

Q: Okay you were living on --\_\_\_\_\_.

A: I was living --\_\_\_\_\_ that's where that -- that happened. I was living there for two years at that address, but I was to visit her and come back.

Q: Um, when -- you -- have you ever masturbated on her chest or anything like --\_\_\_\_\_?

A: No. No, no, no.

Q: And did you ever put your mouth on her vagina?

A: No.

Q: Just -- just on her breasts?

A: Yes.

AA 001147

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 10

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

- Q: And what did she say to that? Was she okay with it or...
- A: She make a deal remember. So I let you do -- do this, you -- you --\_\_\_\_\_.
- Q: So -- so the time you put her -- your mouth on her breasts, what did she get out of that? Did you buy her, like, some clothes or a camera or...
- A: Something like -- I don't remember what -- what the deal is that time, but maybe shoes, but it had to be the brand -- they have brands like a Converse or whatever, they had to be there's brands --\_\_\_\_\_. No, they were not shoes or whatever, --\_\_\_\_\_. I want this brand for this backpack JanSport or whatever backpack brand -- brand.
- Q: And then -- and then a time that -- that you were -- you were masturbating, was she just standing there or was she, like, doing, like...
- A: Well this is what -- I went --\_\_\_\_\_ show me that is it.
- Q: And it was just her -- was it just her breasts or did she ever get totally naked?
- A: Well yes --\_\_\_\_\_ may be totally, no.
- Q: Did you ever see her -- her vagina?
- A: One time she -- when -- one time she showed me.
- Q: Okay. Did you ever kiss her vagina?
- A: No.
- Q: Uh, did you ever touch it with your fingers?
- A: One time, um, with clothes, no naked.
- Q: Okay not naked, but did you ever touch it while she was naked? Not the vagina?

AA 061P48

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 11

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Just the one time was with clothes?

A: With -- with clothes on.

Q: Okay.

A: Sometimes like I said, I -- it's not -- \_\_\_\_\_ but nothing -- \_\_\_\_\_.

Q: And -- and she was okay with that?

A: I never push -- push her to do something. Whatever she wants to do, I don't -- \_\_\_\_\_. She make the deal. She make -- \_\_\_\_\_ I can -- \_\_\_\_\_, but something I can do, I cannot afford lipo. I can afford one camera -- digital camera or something like that, so I can do it. So we made a deal she had to do nothing. Every time she do something she was agree and never forced to do something. She had -- I -- \_\_\_\_\_ I know it was a mistake to see her, touch her and do that kind. But I want to fix this that's starting now. I don't want to get a large problem -- \_\_\_\_\_ because I change my life. I don't want to see anymore of her family. I don't want to see anymore Roxana. I don't want to see anyone there.

Q: Okay. When -- when was the last time you would have sent Roxana a text?

A: I think it was the December -- December last -- \_\_\_\_\_.

Q: So just a few months ago, like, um, around Christmas?

A: Yes, but the -- the text wasn't, um, I know -- she -- she -- her secrets -- secret. I know -- I found her with her cousin. And I found her with the -- \_\_\_\_\_. That's easy text -- \_\_\_\_\_. I know the secret, -- \_\_\_\_\_. AA 001149



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 12

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: I mean, did you kind of want to keep in touch with her because you like seeing her boobs, right?

A: Well, yes. But I told you, I changed my life. I found a new girl. I want to forget that. I want to forget that -- \_\_\_\_\_ and forget that. I don't want to see anymore of that family. I think so -- I -- when she be grown her mom be grown if, uh, couple bad things together.

Q: Um...

A: And now I assume I am the bad guy, but I'm not the only bad guy in this story. Roxana have -- she start and her cousin, her mom and me.

Q: I agree with that.

A: It's a lot of things to put together. -- \_\_\_\_\_ I don't want to see anymore of the family. I don't want to speak about anymore of that case. Um, I -- \_\_\_\_\_ if I assure -- I swear you -- I swear to you, I never talk with her anymore. From December to now, I never -- I never will be, uh, to get in touch with her or -- \_\_\_\_\_ her family.

Q: Th- they're actually going to court to make sure that you don't text her.

A: -- \_\_\_\_\_.

Q: Did -- did you know about that?

A: No. I told -- I -- I already changed their numbers -- contact numbers, everything about the family. I told -- I delete all of the telephone. I want to know if -- \_\_\_\_\_ or is -- \_\_\_\_\_.

AA 001150

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 13

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: 'Cause, uh, I looked through her phone and she saved every text from you that she's gotten. And most of them were in Spanish so I -- it took me a -- a while to read 'em, 'cause my Spanish isn't as good as your English, that's for sure.

A: No, my English is not good.

Q: And, uh, there were some texts that were pretty concerning to me in there. Um, one of them was a picture of her underwear.

A: Yes.

Q: H- how did you get her underwear?

A: --\_\_\_\_\_ gave to --\_\_\_\_\_ I -- I -- I have a text -- a text to --\_\_\_\_\_. I saw the dirty clothes was in the bathroom, so when I went to the bathroom, I found her and take a picture.

Q: Okay. So you didn't -- you never kept the underwear?

A: Never.

Q: Okay. Um...

A: I don't have und- underwear for her.

Q: Okay. I mean, why -- why would you take a picture of her underwear?

A: It was, like a joke like, uh, just like a joke like something not bad.

Q: Okay. And is -- is it safe to say that you were attracted to Roxana? She's a pretty good looking girl?

A: Attractive?

Q: Uh, attractive, like did you think she was good looking?

AA 001151

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 14

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

A: I think so -- she's pretty. Um, but the thing is, I loved her like a daughter, but she changed -- she changed when she was 15 or 16, she make change in her life, making something no good. She tried to get, um, --\_\_\_\_\_ from everywhere and everybody -- every -- everyone. So I thought -- I don't want to say that, but I think so, I'm pretty sure -- pretty sure --\_\_\_\_\_ make something too. Because she got, uh, --\_\_\_\_\_ for him too, also I -- --\_\_\_\_\_, but you have to ask her about Carlos --\_\_\_\_\_ and maybe --\_\_\_\_\_.

Q: Okay. --\_\_\_\_\_.

A: But that is...

Q: Yeah, that's another issue, 'cause I'm -- I'm c- I'm worried about you right now. That's all I'm worried about.

A: I give you the maybe two, maybe another two to be sure I am not the bad guy in this story -- the only bad guy in this story. --\_\_\_\_\_, my point is I insist I want to forget this. I want to keep away from me the family and I want to be a good man.

Q: And move on, right?

A: Whole time --\_\_\_\_\_.

Q: Put it past you.

A: Put it pa- past -- in the past and m- make a new life. That is my point. So...

Q: While these special deals were being made, what ever kept it from progressing to

APR 09 11 52

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 15

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

just having sex with her? I mean, was it something she wasn't interested in or something you weren't interested in? I mean, if she's showing you her breasts and letting her kiss your breasts for an iPod, I mean, was there ever a time when you said, -- "Hey, I'll give you \$100 if you sleep with me?"

A: No. I don't have money to -- to afford that. I to...

Q: W- was that one of the main reasons that you never did sleep with her is 'cause she wanted too much?

A: No, no, no. -- \_\_\_\_\_ I mean, in respect of her mom and her. I never force her to let me.

Q: I mean, is -- is one of the main reasons you never slept with her is 'cause you didn't want to disrespect her mom? Do you think she would have let you if you had asked her?

A: I don't know, really I don't know.

Q: I mean, what -- what if you had asked her for, like, a blow job or something, would she...

A: No, I never tried that.

Q: But do you think Roxana would have or...

A: I don't know.

Q: -- \_\_\_\_\_.

A: Maybe she did have deals with the -- \_\_\_\_\_ something, because, you know, I am older. It wasn't if -- I'm not the same age, you know, it's very

AA001153

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 16

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

different. So I don't know that. I try -- that's why I don't want to keep speaking of this, because really affects -- \_\_\_\_\_ family, mom would come for me and her sister family and all her family would be affected wit this.

Q: Oh yeah.

A: Because she -- she like something from that family that friend, that cousin, that -- so if it was for her, it was for -- \_\_\_\_\_ it's not for me. If it was it would be close to her. So I don't want to keep speaking of this, but I want to fix this. Um, if he want to keep away from her, I could do it very easy. I change my life, I don't want to see anymore of the family and I don't want to see her more.

Q: Yeah. Well, do you think it's okay to look at a 15-year-old's breasts?

A: No. No.

Q: -- \_\_\_\_\_. I mean, if -- I mean, was it -- was it just something that you did because it was there or -- 'cause I'm -- 'cause I'm -- I'm trying to figure out how the conversation would come up. You're -- you -- basically she's a step-daughter.

A: Yes.

Q: Yo- you're not married, but -- and you -- she would just -- she would just say, -- "Um, Guillermo, I need, uh, \$5 to go out tonight." Which she, kind of looks -- looks up to you, 'cause you're an adult. Would she say, -- "If you give me \$5 I'll show you my breasts?" Or would it be, -- "Well, before I give you the \$5 you have to show me your breasts?" I mean, whose idea would it be? Would it be hers or

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 17

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

yours?

A: No, sometimes it wasn't -- \_\_\_\_\_ to her. -- \_\_\_\_\_.

Q: 'Cause the -- I mean, the way she's telling the story, is she admits to you catching her with Zaer and you told her, -- "Well, I'm gonna tell your mom about what you're doing with Zaer" unless you do same stuff with me." So she didn't want to be put in a position of her mom finding out about what she was doing with her much older cousin, so she was going along with everything that you wanted. Is that -- is that safe to say that that's the way the story went or...

A: I don't remember the way to happen.

Q: So, I mean, were -- were you -- did you, kind of, use the fact that you caught her with her cousin to your advantage?

A: I found her when she was maybe 12 or -- \_\_\_\_\_ years old. I keep the secret for many years and for her -- for I didn't want to -- \_\_\_\_\_ her mom. Her mom was -- \_\_\_\_\_ the -- the -- \_\_\_\_\_ with the boys and...

Q: Yeah, I -- I -- I know -- I know why you didn't tell her mom, but did -- did you, kind of, use that as leverage against her? Did you say, -- "Hey, I know you're doing this with your cousin, you better do it with me or I'm gonna tell your mom." Did you ever do that?

A: That's why -- \_\_\_\_\_ when she -- \_\_\_\_\_ the phone, I start to do that, because she never answer the phone, she never does -- I said, -- "\_\_\_\_\_  
you go -- don't answer the phone, I -- \_\_\_\_\_..."

AA 001155

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 18

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: I know...

((Crosstalk))

Q: ...seen that message.

A: I to- I don't want to -- I want to keep one good relation because that's eight years of relation maybe seven years of relation. I want to keep that relation without that mistake, you know. As many years with that family, but if I can keep that relation so -- \_\_\_\_\_ keep away -- \_\_\_\_\_.

Q: Mm-hm. But y- you're not really trying to keep away because you've been texting her so much. You want to be with her some more. It wasn't until you learned that the cops were involved that you stopped texting her.

A: I did. I -- I didn't know the cops were involved. When I went to see her mom at the subway -- \_\_\_\_\_, I went -- \_\_\_\_\_ take everything and she was screaming, -- \_\_\_\_\_ "I want to call the police to take -- to take the stuff. I didn't want to come and meet you. I -- \_\_\_\_\_ anymore." And, uh, she told it to me, I will keep away from -- from you and forget. I want to know any more people -- \_\_\_\_\_.

Q: I -- I mean, I mean, you -- you can see why she's mad though, right? I mean, her...

A: Yeah, but -- \_\_\_\_\_.

Q: -- \_\_\_\_\_.

A: I don't see why it is -- \_\_\_\_\_. That is the point. I -- \_\_\_\_\_ AA 001156

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 19

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: So...

A: I am sure I found her making something wrong many times -- -- \_\_\_\_\_ time.

After -- I will tell you -- after -- \_\_\_\_\_ Carlos and...

Q: She -- she told me all about him. I know all about...

((Crosstalk))

A: Okay.

Q: And -- and I'm dealing with them too.

A: Yes.

((Crosstalk))

A: You know why she tell you -- I tell you what I see.

Q: Yeah a- and the stories are pretty close.

A: Yes.

Q: Um, what -- what if I told you that she said that you and her had had sex?

A: I tried to -- \_\_\_\_\_, but I never do it.

Q: Okay. Explain to me how you tried to have sex with her?

A: Approaching her and making a deal and she never do it, but I insist  
-- \_\_\_\_\_ we are walking the same -- \_\_\_\_\_. I mean, I never touch  
her. I never had sex with her.

((Crosstalk))

A: ...I -- -- \_\_\_\_\_.

((Crosstalk))

AA 001157



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 20

EVENT #091217-4008:  
STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: Penis to vagina sex.

A: Never. Never, never, never.

Q: Okay. Did you ever lay on top of her?

A: What is that? Like...

Q: She was on her back and you were --\_\_\_\_\_.

A: Never, never. Also I have to tell you something, --\_\_\_\_\_ her mom, me and her many years. Her mom, me and her all in the same bed with the same blanket for many years. I never touch her. I respect her like a daughter.

Q: But that changed when you saw her...

A: Yeah, it changed.

Q: Okay.

A: But I tell you I am not a bad guy. I am, uh, I am not a -- I try to be a good man, but sometimes we make -- we make mistakes.

Q: You make mistakes.

A: So I am in --\_\_\_\_\_ best position to fix this. My proposal -- proposal for both -- for both of them is I don't want to see anymore of that family. I don't want to remember that situation anymore. If I did something wrong, I have to fix making -- be a good man now from this point to this point. So my proposal is that I keep away from that family forever. I don't want to see anymore of that family. I don't want to see you anymore. And I -- you can be my friend, but I don't see you as a cop.

AA 001158

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 21

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: As a cop.

A: Cop.

Q: Um, so...

((Crosstalk))

Q: ...is there anything that I've forgotten to ask you? Anything that you think would be important that I need to know? 'Cause now is the time to get it all off your chest. If there's -- if there's something else that happened between you and Roxana, you've been carrying that weight around. You might as well leave it in here...

A: No.

Q: ...and get it all over with.

A: I leave everything. I -- let --\_\_\_\_\_. I am free. I am paying my mistakes. I am carrying with that. I can't see anymore her mom. I can't see anymore her -- housing -- her house. I --\_\_\_\_\_ -- I --\_\_\_\_\_ look that family. --\_\_\_\_\_ what I know --\_\_\_\_\_ to jobs for work for company for --\_\_\_\_\_ for everything. I lost a lot of things with that family. I am --\_\_\_\_\_ for that. So but if this is what I have to pay -- I have to pay that way. I don't -- I can't go to south Mexico, she's there. I have to work with the other --\_\_\_\_\_. I don't care --\_\_\_\_\_ to -- I don't allow family with --\_\_\_\_\_ for that mistake. I don't want to see anymore of that family. I am -  
- I lose a lot.

AA 001159

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 22

EVENT #091217-4008:

STATEMENT OF GUILLERMO RENTERIA NOVOA

Q: Okay.

A: --\_\_\_\_\_.

Q: All right, um, operator this concludes the interview. The same people present.

The time is 10:41.

---

**THIS VOLUNTARY STATEMENT WAS COMPLETED AT 4750 WEST OAKLEY ON  
THE 6TH DAY OF MARCH, 2010, AT 1041 HOURS.**

**RJ:Nettranscripts**

RJ031

**AA 001160**

# **EXHIBIT 2**

MAY 24 2012

BY, Tia Everett  
TIA EVERETT, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff(s),

CASE NO. C268285

-vs-

GUILLERMO RENTERIA-NOVOA

Defendant(s).

DEPT. NO. 20

C-10-268285-1  
AJUR  
Amended Jury List  
1860398



AMENDED JURY LIST

1. JOSHUA BRAHMER

7. VIRGINIA JOHNSON

2. GARY RICHARD

8. SCOTT THALER

3. JAMES SCHMIDT

9. SOPHIA STIPERSKI

4. GED CORDERO

10. DANIEL CARRERA

5. MICHAEL HELBERT

11. ROBERT DELL

6. GLENDA PAGE

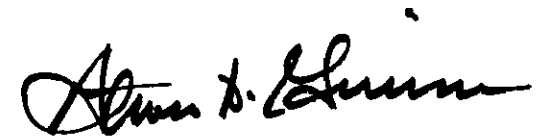
12. INGRID MORENO-ZEPEDA

SECRET ALTERNATE

1. MULUGETA GEBRECHRISTOS

2. GARY GARWOOD

# **EXHIBIT 3**



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C268285-1
	)	DEPT NO. XX
vs.	)	
	)	
GUILLERMO RENTERIA-NOVOA,	)	<b>TRANSCRIPT OF</b>
	)	<b>PROCEEDINGS</b>
Defendant.	)	
_____	)	

BEFORE THE HONORABLE JEROME TAO, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 2**

TUESDAY, MAY 22, 2012

APPEARANCES:

For the State: MICHELLE FLECK, ESQ.  
NICKOLAS J. GRAHAM, ESQ.  
Deputy District Attorneys

For the Defendant: MIKE FELICIANO, ESQ.  
AMY A. FELICIANO, ESQ.  
Deputy Public Defenders

Interpreters: Maria Peralta de Gomez  
Irma Sanchez  
Mario Maldonado  
Manuel Cavillo  
Rico Rodriguez  
Josephine Dooley

RECORDED BY SARA RICHARDSON, COURT RECORDER  
TRANSCRIBED BY: KARR Reporting, Inc.

1                   **LAS VEGAS, NEVADA, TUESDAY, MAY 22, 2012, 10:56 A.M.**

2                   \* \* \* \* \*

3                   (Outside the presence of the prospective jurors.)

4                   THE COURT: Back on the record. State versus  
5 Guillermo Renteria-Novoa. Case No. C268285. Mr. Renteria  
6 Novoa is present in custody with the assistance of a Spanish  
7 interpreter.

8                   Madam Interpreter, for the record, what is your name?

9                   THE INTERPRETER: Maria Peralta de Gomez.

10                  THE COURT: Thank you. Here's the situation. It is  
11 now 11:00 o'clock. We had instructed the jurors to come back  
12 here at 10:00 o'clock and check in with jury services on the  
13 third floor. They're all here except for Juror No. 64,  
14 Charolette Temple, who has not checked in downstairs and she's  
15 not out in the hallway right now.

16                  Everyone else is here, and we checked around and we  
17 don't have a cellphone number for her. People have been  
18 trying to get in touch with her from jury services and we are  
19 unable to do so. So I'll also note that it looks like if  
20 anybody in the box is challenged, she would actually be the  
21 very next juror to be put in the box.

22                  So the question is, what are we going to do about  
23 this? She's an hour late now officially, and the rest of the  
24 jury is waiting out in the hallway. And they've been waiting  
25 out there for at least half an hour. So anybody have any



1 suggestions, proposals?

2 MS. FLECK: She's the one who is sitting over here in  
3 the corner, 26, Seat 26?

4 THE MARSHAL: No. She's next up if we --

5 THE COURT: She's not in the box yet. She's the next  
6 person who would be in the box, so she doesn't have a numbered  
7 seat. She's in like the second row there.

8 MS. FLECK: Oh. I mean, that's fine. I don't have  
9 any problems getting rid of her. I can't even remember who  
10 she is.

11 THE COURT: I honestly can't even -- you know,  
12 because she's not in the box she hasn't been asked anything  
13 yet, and my notes indicate she hasn't responded to any of the  
14 general questions that I've asked the panel, so we don't know  
15 very much about her.

16 So on behalf of the defendant then?

17 MR. FELICIANO: We'll submit it, Judge.

18 THE COURT: All right. Well, here is what I'm going  
19 to do. She is over an hour late. No one has any contact  
20 information, and because I don't really know very much about  
21 her, she hasn't answered any questions in the affirmative or  
22 the negative, what we'll do is we'll proceed without her.

23 So what we'll do is we'll excuse Juror No. 64, and  
24 bring the rest of the jury in rather than have them just keep  
25 waiting out in the hallway then. All right, Randy.

1           Before we do that, is there anything else that either  
2 side wanted to put on the record?

3           MS. FLECK: Nothing from the State.

4           THE COURT: I'll note for the record that the second  
5 amended Information was filed in open court this morning by  
6 the State. On behalf of the defendant, do you guys have a  
7 copy of this?

8           MR. FELICIANO: We do.

9           THE COURT: Okay. And I also have been given -- I  
10 know we actually [unintelligible] off the record, but on the  
11 record given a proposed set of jury instructions revised by  
12 the State, and apparently to at least in part reflect the  
13 second amended Information. Does the defense have a copy of  
14 this?

15          MR. FELICIANO: We do.

16          THE COURT: All right. So what we'll do is we'll  
17 have to see how far we get today, and set aside some time  
18 maybe -- what I'm thinking was actually maybe tomorrow, I have  
19 a civil calendar that should be over relatively quickly,  
20 probably around like 10:00 or so, but at some point we need to  
21 settle the jury instructions.

22          I don't know if you guys think we'll be ready to do  
23 so tomorrow, or if you guys need more time to work on your  
24 proposed instructions.

25          MS. FELICIANO: I think it depends on how many

1 witnesses we get through. We're hesitant about settling jury  
2 instructions before we're done with the State's presentation  
3 of the evidence obviously. We're working on them, but there  
4 are some that we just can't submit.

5 THE COURT: Right. All right. Well, let's see how  
6 far we get and we'll have to do that at some point. I usually  
7 like to do it, you know, in the mornings before we bring the  
8 jury back, rather than have them wait for a couple hours just  
9 cooling their heels and wondering what's going on.

10 So all right. If there's nothing else that either  
11 side wanted to put on the record, let's go ahead and bring the  
12 jurors in.

13 I also notice that there's two other additional  
14 interpreters, one Spanish interpreter and one Tagalog  
15 interpreter from the court interpreter's office here to assist  
16 Jurors No. 69 and 71. For the record, can you state your  
17 names for the record?

18 THE INTERPRETER: Josephina Dooley, Tagalog  
19 interpreter, and --

20 THE INTERPRETER: Rico Rodriguez.

21 THE COURT: Okay. Thank you for being here. And  
22 when Mr. -- I'm sorry?

23 (The Court and clerk confer.)

24 THE COURT: Oh, you're both Tagalog interpreters?

25 THE INTERPRETER: Yes, Your Honor.

1 THE COURT: Oh. We need a second Spanish interpreter  
2 for Mr. Aguilar though. Do we have one?

3 THE MARSHAL: We've called and nobody's come over  
4 yet.

5 MS. FLECK: So they just sent somebody else.

6 THE COURT: Okay. Yeah. We don't need two Tagalog  
7 interpreters. We need one Spanish and one Tagalog. Well,  
8 Mr. Aguilar would actually be next up, since Ms. Temple's not  
9 here.

10 THE CLERK: [Inaudible.]

11 THE COURT: Got you. Okay.

12 THE COURT: All right. Well, did they give any --

13 THE MARSHAL: The secretary [inaudible] up  
14 immediately. She didn't know that he wasn't here.

15 THE COURT: Okay. Well, let's wait for a couple  
16 minutes then.

17 THE CLERK: Ms. Temple has just showed up. Jury  
18 services contacted Paula and she's on her way up.

19 THE COURT: Okay. Well, so let's wait a couple  
20 minutes for her to get here and for the interpreter to get  
21 here. So we'll go ahead and...

22 (Pause in proceeding.)

23 THE COURT: Are we still on the record?

24 THE COURT RECORDER: Yes.

25 THE COURT: All right. So that moots -- we've just

1 been notified by jury services that Ms. Temple, Juror No. 64,  
2 is here, so that moots the record that I made a couple minutes  
3 ago. So we'll wait until she gets here.

4 (Pause in proceeding.)

5 THE COURT: All right. We now have the assistance  
6 of a -- are we on the record?

7 THE COURT RECORDER: Mm-hmm.

8 THE COURT: A Spanish interpreter to assist  
9 Mr. Aguilar, Juror No. 68. Madam Interpreter, for the record,  
10 what is your name?

11 THE INTERPRETER: Irma Sanchez.

12 THE COURT: All right. Thanks. One of the jurors is  
13 going to come in here. Juror No. 68 is a Spanish-speaker, and  
14 what we're going to do is we're going to have him and the  
15 other Tagalog speakers sit in the first row over there. All  
16 right. Thanks.

17 All right. Randy, let's bring them in.

18 (Prospective jurors enter at 11:11 a.m.)

19 THE COURT: All right. Will counsel stipulate to the  
20 presence of the prospective jury?

21 MS. FLECK: The State does. Thank you.

22 MR. FELICIANO: Yes, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, welcome  
24 back. I know that we're off to a little bit of a later start  
25 than we had anticipated, but apparently we had trouble

1 rounding everybody up. But we're all here now, so we are  
2 ready to resume.

3 Yesterday afternoon the State passed the panel for  
4 cause. So on behalf of Mr. Renteria-Novoa, did you guys have  
5 any questions?

6 MR. FELICIANO: Yes, Your Honor.

7 THE COURT: All right. Please proceed.

8 MR. FELICIANO: Does anybody have the mike?

9 THE MARSHAL: I have the mike. Just let me know who  
10 you want it to go to.

11 MR. FELICIANO: Okay. I'm just going to go -- move  
12 along the line [inaudible].

13 THE MARSHAL: Folks, please remember, the last four  
14 of your badge number and your name, and speak directly into  
15 the top of the mike.

16 PROSPECTIVE JUROR NO. 001: 001, Brahmer.

17 MR. FELICIANO: Mr. Brahmer. Okay. You talked about  
18 some issue you had 21 years ago when you were -- were you  
19 arrested in that case?

20 PROSPECTIVE JUROR NO. 001: Yeah.

21 MR. FELICIANO: How were you treated by the police?

22 PROSPECTIVE JUROR NO. 001: Just fine.

23 MR. FELICIANO: And did you go to trial or anything  
24 like that?

25 PROSPECTIVE JUROR NO. 001: Just -- yeah, court, and

1 just an in and out type deal. No major -- no big deal.

2 MR. FELICIANO: And I wanted to ask you about the  
3 presumption of innocence. You've heard -- we heard a lot  
4 yesterday about the district attorney saying if they prove  
5 their case would people be willing to convict. Now, what if  
6 they don't prove their case?

7 PROSPECTIVE JUROR NO. 001: You acquit.

8 MR. FELICIANO: And how do you feel about that?

9 PROSPECTIVE JUROR NO. 001: That's fine. That's how  
10 it works.

11 MR. FELICIANO: So as Mr. Renteria-Novoa stands here  
12 now, if I were to ask you what your verdict was, what would  
13 you say?

14 PROSPECTIVE JUROR NO. 001: Not guilty.

15 MR. FELICIANO: And that's because?

16 PROSPECTIVE JUROR NO. 001: Because no one's proved  
17 anything yet. There's -- I don't even know if a crime's been  
18 committed.

19 MR. FELICIANO: And that's because that's what we're  
20 here for, right?

21 PROSPECTIVE JUROR NO. 001: [No audible response.]

22 MR. FELICIANO: So I mean, you've heard the nature of  
23 the allegations and, you know, these types of allegations can  
24 be very emotional for a lot of people, as we've heard  
25 yesterday. I mean, how does that make you feel, sitting on a

1 jury where we have allegations of sexual misconduct?

2 PROSPECTIVE JUROR NO. 001: It's a dirty world, you  
3 know, it happens. If it really happened, then it's horrible,  
4 but we don't know yet.

5 MR. FELICIANO: But the actual charge itself, is  
6 there something that it triggers in you where you don't think  
7 you could be fair, or do you think you could --

8 PROSPECTIVE JUROR NO. 001: No. Sure, I can be fair.  
9 Sure.

10 MR. FELICIANO: Now, is there anything else that  
11 since -- you know, you heard a lot of other questions and  
12 answers yesterday. Is there anything else that maybe  
13 triggered something in your mind that you wanted to share with  
14 us?

15 PROSPECTIVE JUROR NO. 001: No.

16 MR. FELICIANO: If you were sitting where  
17 Mr. Renteria-Novoa is sitting, would you want somebody like  
18 yourself, like minded sitting where you're sitting right now?

19 PROSPECTIVE JUROR NO. 001: Yeah.

20 MR. FELICIANO: So you think you can be fair?

21 PROSPECTIVE JUROR NO. 001: Sure.

22 MR. FELICIANO: All right. Thanks. If you could  
23 pass the mike. Thank you.

24 PROSPECTIVE JUROR NO. 002: 002, Garry Richard.

25 MR. FELICIANO: Mr. Richard, you have a child.



1 PROSPECTIVE JUROR NO. 002: Yes.

2 MR. FELICIANO: And you've heard the nature of these  
3 allegations.

4 PROSPECTIVE JUROR NO. 002: Yes.

5 MR. FELICIANO: How does that make you feel?

6 PROSPECTIVE JUROR NO. 002: It's shocking. You hear  
7 it all the time, on the news and everything also.

8 MR. FELICIANO: Do you think just because there's an  
9 allegation, an allegation has been made, does that make you  
10 think that something must have happened?

11 PROSPECTIVE JUROR NO. 002: No. No. I mean, we  
12 don't know the information on everything yet, so I'll sit and  
13 listen.

14 MR. FELICIANO: So is there anything that you've  
15 heard today or you've heard yesterday that would -- that makes  
16 you want to add something that we might want to know before we  
17 proceed about you?

18 PROSPECTIVE JUROR NO. 002: No. I'm open minded.

19 MR. FELICIANO: Now, you sat on a jury. Was that  
20 about 18 years ago?

21 PROSPECTIVE JUROR NO. 002: Correct.

22 MR. FELICIANO: When you were sitting on that jury,  
23 were the lawyers objecting and doing things like that, going  
24 back and forth?

25 PROSPECTIVE JUROR NO. 002: Yes.

1 MR. FELICIANO: Was it getting kind of maybe a little  
2 heated?

3 PROSPECTIVE JUROR NO. 002: It was, yes. I mean, but  
4 we came up with a decision and it was two -- two different  
5 stories about the whole entire thing, but we made a decision.

6 MR. FELICIANO: Now, as far as the way the lawyers  
7 were acting, how does that make you feel as far as lawyers  
8 getting up and objecting and...

9 PROSPECTIVE JUROR NO. 002: You guys have to do what  
10 you have to do. I mean, if one object to another, then you  
11 have the right. I mean, we still want to listen to each side.

12 MR. FELICIANO: All right. So like if we're over  
13 here during certain testimony and we're objecting and doing  
14 our job, are you going to hold that against us?

15 PROSPECTIVE JUROR NO. 002: No. You guys have to do  
16 your job.

17 MR. FELICIANO: Even if it might make it a little bit  
18 heated at some times?

19 PROSPECTIVE JUROR NO. 002: No. You guys still have  
20 to do your job.

21 MR. FELICIANO: Is that something that you're going  
22 to hold against Mr. Renteria --

23 PROSPECTIVE JUROR NO. 002: No.

24 MR. FELICIANO: -- the conduct of his lawyers?

25 PROSPECTIVE JUROR NO. 002: No.

1           MR. FELICIANO: Okay. Now, you had the carrying a  
2 concealed -- the CCW conviction way back. You said you since  
3 got your permit.

4           PROSPECTIVE JUROR NO. 002: Yes.

5           MR. FELICIANO: And do you -- you were treated fairly  
6 by the police?

7           PROSPECTIVE JUROR NO. 002: Yes. I was.

8           MR. FELICIANO: You didn't go to trial or anything  
9 like that?

10          PROSPECTIVE JUROR NO. 002: No. Just in and out of  
11 court and then paid the fine and they confiscated the weapon.

12          MR. FELICIANO: Now, if -- if you had gone to trial,  
13 I mean, what type of evidence would you expect -- maybe not  
14 specifically in your case. What type of evidence would you  
15 expect the government to bring against somebody? And there's  
16 no wrong answers.

17          PROSPECTIVE JUROR NO. 002: Yeah. I mean, I was  
18 wrong. I was young at the time for carrying it without a  
19 permit. I did have the blue card and everything else. It  
20 just wasn't, you know, registered through Metro to have a  
21 carrying a concealed weapon.

22          MR. FELICIANO: How about things like say  
23 fingerprints; is that something that you would expect to see  
24 if you were -- if you were listening to a case and trying to  
25 determine whether someone was guilty or innocent?

1 MS. FLECK: Judge, can we approach?

2 THE COURT: You may.

3 (Bench conference.)

4 MS. FLECK: I think that this is -- sorry. I think  
5 that this is improper. It's starting to go to like --

6 THE COURT: Yeah. [Inaudible.]

7 MS. FLECK: And it's like, you know, that we need to  
8 get into jury instructions and we need to start explaining  
9 that, you know, all evidence is -- the circumstantial evidence  
10 is [inaudible] into that jury instruction where, you know,  
11 the -- all you need is the testimony of the victim. Like  
12 you're starting to get into things that you're going to then  
13 need to explain instructions to them.

14 MR. FELICIANO: You know, yesterday they asked the  
15 CSI question, which is exactly the same type of thing.

16 THE COURT: Yeah, but the difference is they didn't  
17 go into specifics [inaudible] what about that.

18 MS. FLECK: And the difference is, is it's my burden.

19 MR. FELICIANO: It doesn't matter. What else are we  
20 talking about? We're talking about CSI. We're talking about  
21 [inaudible].

22 (Inaudible - remainder of bench not transcribed.)

23 (End bench conference.)

24 MR. FELICIANO: Okay. So just getting back to what  
25 we were talking about, say fingerprints. If there was a case

1 where say the State didn't have fingerprints, do you think  
2 that would affect your decision whether somebody was guilty or  
3 innocent?

4 PROSPECTIVE JUROR NO. 002: It probably will, yeah.  
5 Maybe.

6 MR. FELICIANO: What about things like DNA, like  
7 having DNA versus not having DNA?

8 PROSPECTIVE JUROR NO. 002: Well, if they have DNA,  
9 then it's proven.

10 MR. FELICIANO: So it's a pretty solid -- if there's  
11 some DNA, it's a pretty solid case; is that fair to say?

12 PROSPECTIVE JUROR NO. 002: Yes.

13 MR. FELICIANO: Okay. Thank you, sir.

14 PROSPECTIVE JUROR NO. 005: 005, James Schmidt.

15 MR. FELICIANO: Mr. Schmidt, you were -- your  
16 apartment was broken into years ago?

17 PROSPECTIVE JUROR NO. 005: About 40 years ago.

18 MR. FELICIANO: Forty years ago. Do you remember it  
19 pretty well?

20 PROSPECTIVE JUROR NO. 005: I wasn't there when it  
21 happened, so. I remember the incident. They just broke in a  
22 window and came in and...

23 MR. FELICIANO: Did the, when -- the police came out  
24 for it?

25 PROSPECTIVE JUROR NO. 005: Yeah. It was pretty

1 obvious it was a bunch of kids, because they stole a whole  
2 stack of Playboy magazines.

3 MR. FELICIANO: Did they take a lot of other things,  
4 or just the Playboy?

5 PROSPECTIVE JUROR NO. 005: That was probably worth  
6 as much as anything. You know, whatever was visible they  
7 grabbed and took.

8 MR. FELICIANO: So was there a -- you could tell  
9 where they came in from?

10 PROSPECTIVE JUROR NO. 005: Yeah. They broke a  
11 window out.

12 MR. FELICIANO: Did they do like forensic type work,  
13 like CSI type work?

14 PROSPECTIVE JUROR NO. 005: Not that I remember.

15 MR. FELICIANO: And how do you feel about that?

16 PROSPECTIVE JUROR NO. 005: I have no problem  
17 with it. It's something that happens.

18 MR. FELICIANO: Well, as far as like with a crime  
19 scene investigation, do you think someone who's charged with a  
20 crime is entitled to a complete thorough investigation?

21 PROSPECTIVE JUROR NO. 005: Absolutely.

22 MR. FELICIANO: And what are some things that would  
23 be included in the complete thorough investigation, say in  
24 your case, that might have changed the outcome?

25 PROSPECTIVE JUROR NO. 005: Well, they could have

1 found fingerprints. They may or may not have been on file,  
2 so -- if it was as they thought, kids.

3 MR. FELICIANO: And was it because, I guess, just the  
4 Playboys were stolen they really didn't do much with it, or --

5 PROSPECTIVE JUROR NO. 005: Well, there was a few  
6 other things. The stereo was taken and a few things like  
7 that. But the whole thing didn't amount to that much.

8 MR. FELICIANO: And you do have one son.

9 PROSPECTIVE JUROR NO. 005: Yes.

10 MR. FELICIANO: And I don't remember. Do you have  
11 grandkids?

12 PROSPECTIVE JUROR NO. 005: No, not yet.

13 MR. FELICIANO: The nature of these types of charges,  
14 how do they make you feel?

15 PROSPECTIVE JUROR NO. 005: They don't make me feel  
16 anything one way or the other particularly. I mean, it's  
17 something that goes on these days unfortunately.

18 MR. FELICIANO: All right. How do you feel -- I  
19 mean, do you think because somebody has been charged with a  
20 crime like this that they must have done it?

21 PROSPECTIVE JUROR NO. 005: Well, they've got to have  
22 some basis to make the charge. I'll have to hear what the  
23 information is.

24 MR. FELICIANO: So you need to listen to the  
25 witnesses and hear what they have to say?

1 PROSPECTIVE JUROR NO. 005: Absolutely.

2 MR. FELICIANO: And is it --

3 PROSPECTIVE JUROR NO. 005: I mean, somebody thinks  
4 they have enough to make a charge, but...

5 MR. FELICIANO: So when listening to the witnesses  
6 testify, when you're judging their credibility, what are  
7 things that you look at?

8 PROSPECTIVE JUROR NO. 005: Their actions, their  
9 attitude, the way they handle themselves in the situation.

10 MR. FELICIANO: What about --

11 PROSPECTIVE JUROR NO. 005: Whether they're confident  
12 in what they're saying or whether they're lying.

13 MR. FELICIANO: What about if say the information  
14 that they're testifying to changes over time, would that  
15 affect your --

16 PROSPECTIVE JUROR NO. 005: Changes in what way?

17 MR. FELICIANO: Well, if they tell a story one time  
18 and then it changes the next time they tell it, would that  
19 influence your -- how you see them as far as credible one way  
20 or another?

21 PROSPECTIVE JUROR NO. 005: Probably.

22 MR. FELICIANO: And the truth doesn't change.  
23 It's --

24 PROSPECTIVE JUROR NO. 005: Yeah. I mean, if you're  
25 going to tell a story, let's stick to it.



1 MR. FELICIANO: Okay. So I mean --

2 PROSPECTIVE JUROR NO. 005: Get your story straight  
3 before you start.

4 MR. FELICIANO: So I mean, do you think that the  
5 truth generally doesn't change and whatever's true tends to  
6 stay the same?

7 PROSPECTIVE JUROR NO. 005: I would think so, yes.

8 MR. FELICIANO: And how about like keeping lies, do  
9 you think keeping lies straight is difficult?

10 PROSPECTIVE JUROR NO. 005: It's more difficult than  
11 keeping the truth straight, definitely.

12 MR. FELICIANO: Is that because you have to kind of  
13 remember what you lied about?

14 PROSPECTIVE JUROR NO. 005: What did I say the last  
15 time.

16 MR. FELICIANO: You see that Mr. Renteria-Novoa's  
17 using the assistance of an interpreter. How does that make  
18 you feel one way or another?

19 PROSPECTIVE JUROR NO. 005: Not a whole lot  
20 [inaudible]. That's his right and his privilege.

21 MR. FELICIANO: I know these days there's a  
22 certain -- there's a certain climate. There are certain  
23 attitudes sometimes towards people that might not speak the  
24 language if they're here in this country. Is that anything --  
25 do you feel anything about that -- do you feel anything like

1 that, that, you know, he should be here, he should know the  
2 language, things like that?

3 PROSPECTIVE JUROR NO. 005: As far as that goes, I'm  
4 old school, you know. If you're going to live here you should  
5 be speaking the language, yes.

6 MR. FELICIANO: All right. But is that something you  
7 would hold against him, say as far as him being guilty or not  
8 guilty?

9 PROSPECTIVE JUROR NO. 005: No.

10 MR. FELICIANO: Now, is there anybody else that feels  
11 differently about that? You do. Okay. Can we -- we might  
12 have to bounce around a little bit. Thank you, sir.

13 Badge No. 38. Okay. So how do you feel about it?

14 PROSPECTIVE JUROR NO. 038: Well, I think he's  
15 clearly either now an illegal immigrant or was at some point  
16 of his coming to the U.S. And illegal immigration is by  
17 definition contemptuous, so it's clear that this man already  
18 breaks the law.

19 And the fact that he's lived here long enough to  
20 potentially commit crimes and still doesn't speak the language  
21 that's native to the U.S. is aggravating, to say the least.

22 MR. FELICIANO: And you had some issues with -- I  
23 guess at work, right, with Latino men?

24 PROSPECTIVE JUROR NO. 038: Correct.

25 MR. FELICIANO: It's happened a lot throughout the

1 years?

2 PROSPECTIVE JUROR NO. 038: Throughout my life, yes.

3 MR. FELICIANO: Now, it sounds like you have some  
4 pretty strong -- strong opinions about this; is that fair to  
5 say?

6 PROSPECTIVE JUROR NO. 038: Fair to say.

7 MR. FELICIANO: And it sounds like if you were  
8 sitting where Mr. Renteria-Novoa was sitting, you probably  
9 wouldn't want somebody who thinks like you sitting on this  
10 jury.

11 PROSPECTIVE JUROR NO. 038: Absolutely not.

12 MR. FELICIANO: Okay. So although you want to give  
13 him a fair shake, I would imagine, it sounds like it might be  
14 impossible in this case.

15 PROSPECTIVE JUROR NO. 038: I could not fairly give  
16 him a fair open minded opinion or trial because to me he's  
17 already a law breaker in the U.S.

18 MR. FELICIANO: Judge, I have a motion.

19 THE COURT: All right. Does the State wish to  
20 traverse?

21 MS. FLECK: No, that's okay. Thank you, Your Honor.

22 THE COURT: All right. Ms. Alessio, is that how you  
23 pronounce your last name, Alessio or Alessio?

24 PROSPECTIVE JUROR NO. 038: Alessio.

25 THE COURT: Thank you for your service. You are

1 excused. Please go down to the jury services room on the  
2 third floor and they'll give you further instructions.

3 PROSPECTIVE JUROR NO. 038: Okay. Thank you.

4 THE COURT: All right. So we need the next person,  
5 who will be?

6 THE CLERK: Badge No. 064, Charolette Temple.

7 THE COURT: All right. Ms. Temple, do you have the  
8 microphone? Since you're just now coming up here, can you  
9 give us a little bit of a biographical sketch? What do you  
10 do, are you married, what does your husband do, do you have  
11 kids?

12 THE MARSHAL: Your badge number.

13 PROSPECTIVE JUROR NO. 064: I'm an administrative  
14 assistant for Desert Springs Hospital.

15 THE COURT: I'm sorry. Can you repeat that?

16 PROSPECTIVE JUROR NO. 064: Administrative assistant  
17 for Desert Springs Hospital.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 064: Not married. I have  
20 a 29-year-old son, a two-year-old granddaughter that lives in  
21 Chicago.

22 THE COURT: And how long have you worked at that  
23 hospital?

24 PROSPECTIVE JUROR NO. 064: For 14 months.

25 THE COURT: Fourteen months. Did you live in Las

1 Vegas before that?

2 PROSPECTIVE JUROR NO. 064: No.

3 THE COURT: How -- so you've only been in Las Vegas  
4 for 14 months?

5 PROSPECTIVE JUROR NO. 064: I've been in Las Vegas  
6 for 12 month -- well, I've been in Las Vegas for 15 months.

7 THE COURT: Fifteen months. And where'd you move  
8 from?

9 PROSPECTIVE JUROR NO. 064: Texas.

10 THE COURT: From Texas. Did you come out here just  
11 for the job, or for other reasons?

12 PROSPECTIVE JUROR NO. 064: No. For other reasons.

13 THE COURT: Okay. So let me ask you this. You  
14 haven't been in Las Vegas for very long, 15 months. Do you  
15 feel like you're part of the community? And what I'm really  
16 getting at is this. Obviously the way -- what we want on the  
17 jury is a cross-section of the community, people who sort of  
18 care enough that they're taking an interest in what's going on  
19 here.

20 Given the fact you've only been here 15 months, do  
21 you feel that this is your home and you care about what's  
22 happening in this community in general?

23 PROSPECTIVE JUROR NO. 064: [Inaudible.]

24 THE COURT: I'm sorry?

25 PROSPECTIVE JUROR NO. 064: For now.

1 THE COURT: For now. Okay. Ever served on a jury  
2 before?

3 PROSPECTIVE JUROR NO. 064: No.

4 THE COURT: Have you or anyone close to you ever been  
5 the victim of a crime either sexual in nature or otherwise?

6 PROSPECTIVE JUROR NO. 064: My son.

7 THE COURT: Your son. Where and when and what  
8 happened?

9 PROSPECTIVE JUROR NO. 064: He was a victim of  
10 attempted murder in Chicago, Illinois.

11 THE COURT: How long ago?

12 PROSPECTIVE JUROR NO. 064: In 2002.

13 THE COURT: 2010.

14 PROSPECTIVE JUROR NO. 064: 2002.

15 THE COURT: Okay. Were the police called?

16 PROSPECTIVE JUROR NO. 064: Yes.

17 THE COURT: Was there a court case? Was someone  
18 arrested?

19 PROSPECTIVE JUROR NO. 064: Yes.

20 THE COURT: And did your son -- or did you have to  
21 participate in the court case at all?

22 PROSPECTIVE JUROR NO. 064: No.

23 THE COURT: All right. Your son, did he have to  
24 testify?

25 PROSPECTIVE JUROR NO. 064: Yes.

1 THE COURT: Are you happy with the way that court  
2 case worked out?

3 PROSPECTIVE JUROR NO. 064: Yes.

4 THE COURT: So was there anything about that case,  
5 what happened to your son or how the court system or the  
6 police treated him or anyone else in the case, that would  
7 affect your ability to be fair and impartial in this criminal  
8 case?

9 PROSPECTIVE JUROR NO. 064: No.

10 THE COURT: All right. Have you or anyone closely  
11 associated with you ever been accused of a crime, whether or  
12 not there was a conviction, either sexual in nature or  
13 otherwise?

14 PROSPECTIVE JUROR NO. 064: I had a DUI in 2006,  
15 January 1st of 2006.

16 THE COURT: Was that also in Chicago?

17 PROSPECTIVE JUROR NO. 064: In Texas.

18 THE COURT: Texas. I'm sorry. All right. Were you  
19 convicted?

20 PROSPECTIVE JUROR NO. 064: No.

21 THE COURT: Okay. What happened?

22 PROSPECTIVE JUROR NO. 064: They dropped it.

23 THE COURT: Oh. So the case was dismissed?

24 PROSPECTIVE JUROR NO. 064: Yes.

25 THE COURT: All right. Any feelings about that case?

1 Were you treated fairly by the police and the system?

2 PROSPECTIVE JUROR NO. 064: Yes.

3 THE COURT: Okay. A little bit of hesitation there.

4 Do you -- I mean, or am I reading too much into --

5 PROSPECTIVE JUROR NO. 064: It was a random thing.

6 It was New Year's Day and I was living in Houston at that  
7 time. It was my second day actually living in Houston from  
8 Chicago, and they randomly pulled over so many cars that was  
9 leaving a concert.

10 THE COURT: Right. Okay.

11 PROSPECTIVE JUROR NO. 064: And I was involved in the  
12 pullover.

13 THE COURT: Checkpoint type thing. Okay.

14 PROSPECTIVE JUROR NO. 064: Yes.

15 THE COURT: So the case was ultimately dismissed. So  
16 how do you feel overall about the criminal justice system and  
17 how you were treated?

18 PROSPECTIVE JUROR NO. 064: It was fine.

19 THE COURT: Okay. Anything about that case that  
20 would cause you to be something other than fair and impartial  
21 if asked to serve in this case?

22 PROSPECTIVE JUROR NO. 064: No.

23 THE COURT: So would you hold it against law  
24 enforcement in this case that the police in Texas pulled you  
25 over? If -- would you hold it against the DAs or any of their



1 witnesses in any way that, hey, you know, this was maybe a bad  
2 arrest in Houston and they just kind of pulled over everybody?  
3 Would that be an issue for you?

4 PROSPECTIVE JUROR NO. 064: No.

5 THE COURT: All right. Mr. Feliciano, you may  
6 continue.

7 THE MARSHAL: [Inaudible.]

8 MR. FELICIANO: Yes, please.

9 MS. FLECK: Judge, can we approach real quickly?

10 THE COURT: Sure.

11 (Bench conference.)

12 MS. FLECK: I get to question the new ones.

13 THE COURT: I'm sorry?

14 MS. FLECK: When if -- do I get to question the new  
15 ones once he's finished completely?

16 THE COURT: Yeah.

17 MS. FLECK: Okay. So once he's finished with  
18 everyone, and then I'll --

19 THE COURT: Or do you want to do it now? It doesn't  
20 matter to me either way. Whatever you prefer.

21 MR. FELICIANO: Do you just want to go now?

22 MS. FLECK: Yeah, that's fine.

23 MR. FELICIANO: Since -- should we stick with the  
24 same order?

25 THE COURT: You just wanted to do -- the two of you

1 just do right now, and just do --

2 MS. FLECK: I do it and then he'll go up again?

3 THE COURT: Yeah.

4 MS. FLECK: Once I pass for cause.

5 THE COURT: Yeah, let's do that.

6 (End bench conference.)

7 THE COURT: All right. Here's what we're going  
8 to do. Ms. Temple, since you just came up for the first time,  
9 we're going to allow Ms. Fleck to ask a couple questions of  
10 you first. All right.

11 MS. FLECK: Thank you, Your Honor.

12 Just briefly, just some of the questions that you  
13 heard yesterday regarding children and kind of children's  
14 experiences. If somebody at a young age made a kind of an  
15 immature decision, is that something that you would hold  
16 against them later in life, or would you be able to account  
17 for that?

18 PROSPECTIVE JUROR NO. 064: [Inaudible.]

19 THE COURT RECORDER: I can't hear her.

20 THE MARSHAL: Ma'am, [inaudible].

21 PROSPECTIVE JUROR NO. 064: Everybody makes some bad  
22 choices in life when they're younger, and I think everybody --  
23 I mean, some people change once they get older.

24 MS. FLECK: So just because someone at one point made  
25 maybe an immature decision, you would agree that they're

1 entitled to the exact same level of justice under the law as  
2 anyone else?

3 PROSPECTIVE JUROR NO. 064: Exactly.

4 MS. FLECK: Okay. Any problems that you have thought  
5 of or any issues that have come to mind as you've sat and  
6 listened to everybody?

7 PROSPECTIVE JUROR NO. 064: No.

8 MS. FLECK: Promise you'll do the very best job you  
9 can possibly do if you're chosen to be a juror?

10 PROSPECTIVE JUROR NO. 064: If I can.

11 MS. FLECK: Thank you. I will pass Ms. Temple for  
12 cause.

13 MR. FELICIANO: Can we approach briefly?

14 THE COURT: Sure.

15 (Bench conference.)

16 MR. FELICIANO: [Inaudible.]

17 MS. FLECK: I'll push it down so they can't see it.

18 THE COURT: Okay. I can't see it from here, so  
19 [inaudible].

20 MS. FLECK: Yeah. I'll push it down, or I'll  
21 minimize it.

22 THE COURT: Okay.

23 (End bench conference.)

24 THE COURT: All right. Mr. Feliciano, you may  
25 proceed.

1 MR. FELICIANO: Thank you.

2 THE MARSHAL: [Inaudible.]

3 MR. FELICIANO: Yes, please.

4 THE MARSHAL: Did you want Juror No. 3?

5 MR. FELICIANO: Perfect.

6 PROSPECTIVE JUROR NO. 053: 053, Antonio Correa.

7 MR. FELICIANO: Zero, five, three. Mr. Correa?

8 PROSPECTIVE JUROR NO. 053: Yeah.

9 MR. FELICIANO: You just heard what the last juror

10 that just got excused said. Did you hear that, about --

11 PROSPECTIVE JUROR NO. 053: Yes.

12 MR. FELICIANO: How do you feel about that?

13 PROSPECTIVE JUROR NO. 053: I'm Hispanic myself. I

14 was born in Puerto Rico, raised in Puerto Rico until I was 25

15 years old, so I have no issues with that.

16 MR. FELICIANO: Now, is there anybody else in this

17 room that feels the way that prospective juror feels? Because

18 now is the time. Okay. Could you pass the mike over to him

19 real quick.

20 And how do you feel about that?

21 PROSPECTIVE JUROR NO. 057: I think you --

22 MR. FELICIANO: I'm sorry. I need your badge number.

23 PROSPECTIVE JUROR NO. 057: 057.

24 MR. FELICIANO: Mr. Anderson?

25 PROSPECTIVE JUROR NO. 057: Yes.

1 MR. FELICIANO: So you feel the same way she felt  
2 about, I guess, non-English speakers?

3 PROSPECTIVE JUROR NO. 057: Yes.

4 MR. FELICIANO: Could you explain that for us?

5 PROSPECTIVE JUROR NO. 057: I think if you live here  
6 you should speak English.

7 MR. FELICIANO: All right. Do you feel that that  
8 feeling is so strong that you couldn't give Mr. Renteria-Novoa  
9 a fair trial?

10 PROSPECTIVE JUROR NO. 057: Yes.

11 MR. FELICIANO: And why is that? Could you maybe  
12 explain --

13 PROSPECTIVE JUROR NO. 057: Just how she said. I  
14 think if you live here you should speak English, and  
15 especially if you're getting in trouble you should be able to  
16 understand what's going on.

17 MR. FELICIANO: So although -- although you'd like to  
18 give Mr. Renteria a fair trial, is that something -- you're  
19 telling us that's something you just can't do?

20 PROSPECTIVE JUROR NO. 057: Yes.

21 MR. FELICIANO: Judge, I have a motion.

22 THE COURT: Mr. Anderson, let me ask you a question.  
23 Yesterday I asked everybody in the room does anybody here have  
24 a problem with the fact that the defendant is here with the  
25 assistance of a Spanish interpreter, and you didn't raise your

1 hand. How come your answer is different now?

2 PROSPECTIVE JUROR NO. 057: Well, I just --

3 THE COURT: Is it because you just heard what she  
4 said and you're trying to get off of jury duty? Because I'm  
5 going to be blunt with you. If I think that you're lying, I  
6 can throw you in jail.

7 PROSPECTIVE JUROR NO. 057: No, I'm not. I just -- I  
8 thought about it. I didn't really think about it until then.  
9 But I thought about it and that's how I feel. Like I didn't  
10 expect to be asked it, but now I thought about it over the day  
11 and I agree.

12 THE COURT: All right. Does the State wish to  
13 traverse?

14 MS. FLECK: No, thank you.

15 THE COURT: All right. Mr. Anderson, you -- let me  
16 ask you this. I mean, you may prefer that people in the  
17 United States speak English, but obviously you're aware that a  
18 lot of people don't, right?

19 PROSPECTIVE JUROR NO. 057: Yes.

20 THE COURT: All right. In fact, millions of people  
21 now living in the United States don't speak English, or at  
22 least don't speak it very well, correct?

23 PROSPECTIVE JUROR NO. 057: Yes.

24 THE COURT: Are you saying that in any case involving  
25 any one of those millions of people you could never be a fair

1 and impartial juror?

2 PROSPECTIVE JUROR NO. 057: I mean, I think if  
3 you're -- like if they're not getting in trouble, then I have  
4 no problem with it. But if they're in trouble and they're in  
5 court, they should be able to understand what's going on,  
6 otherwise you -- I mean, you should stay out of trouble either  
7 way, but especially if you're in this type of situation you  
8 should understand what's going on. Otherwise --

9 THE COURT: Well, if they don't understand what's  
10 going on, does that make them guilty of what they're accused  
11 of doing?

12 PROSPECTIVE JUROR NO. 057: I think that --

13 THE COURT: What about -- let me ask you a  
14 hypothetical. What if somebody who doesn't speak English  
15 happens to be falsely accused, now he's in court, he obviously  
16 doesn't understand what's going on. What would you do if you  
17 were a juror in that case? Would you find him guilty because  
18 he doesn't understand what's going on?

19 PROSPECTIVE JUROR NO. 057: Well, I also think that  
20 the charges just don't come out of nowhere. Like you don't  
21 just wake up one day and out of nowhere it's, you know, all  
22 the sudden you're in jail. Like something happens. So that's  
23 another reason that I don't think I would be able to be --

24 THE COURT: So anyone who's charged with a crime is  
25 automatically guilty; is that what you're saying?

1 PROSPECTIVE JUROR NO. 057: It depends on the crime.  
2 I mean, but for the most part, yes.

3 THE COURT: And does it make any difference to you  
4 whether the person who's charged with a crime does or does not  
5 speak English? I mean, isn't what you're saying also true of  
6 people who speak English, or am I misunderstanding?

7 PROSPECTIVE JUROR NO. 057: Well, yes. It's true for  
8 both sides that if you get -- I think for the most part if you  
9 get charged with a crime that you probably did it.

10 THE COURT: So I mean, do you not -- I mean, the  
11 point of a trial is to determine whether or not the person did  
12 what they are accused of doing. Do you understand that? I  
13 mean, I went through this yesterday and you didn't indicate  
14 any misunderstanding about what I said, right?

15 PROSPECTIVE JUROR NO. 057: Yes. But I mean, the  
16 more I thought about it -- I mean, I didn't raise my hand  
17 yesterday, but I thought about it and I agree with like what  
18 she was saying earlier.

19 THE COURT: All right. Mr. Anderson, here's what's  
20 going to happen. You don't get to go home. You get to go sit  
21 in the back of the courtroom. All right. So we're going to  
22 pull someone else to sit in your seat.

23 THE CLERK: Badge No. 068, Mr. Aguilar.

24 UNKNOWN SPEAKER: [Inaudible.]

25 THE COURT: Right. So I don't know how we're going



1 to do that. We need -- I don't know if there's a way that we  
2 can re-arrange people or...

3 I don't know if there's a way that we can...

4 (Inaudible discussion.)

5 THE COURT: All right. Mr. Aguilar, can you give us  
6 a brief biographical sketch of yourself? What do you do for a  
7 living, are you married, does your wife work, do you have  
8 kids?

9 PROSPECTIVE JUROR NO. 068: Yes. I'm married and I  
10 have children.

11 THE COURT: What do you do for a living?

12 PROSPECTIVE JUROR NO. 068: I'm a member of the  
13 carpenter's union.

14 THE COURT: Okay. How long have you lived in Las  
15 Vegas?

16 PROSPECTIVE JUROR NO. 068: I want to rectify  
17 something. I got confused yesterday. I said that I had been  
18 living here for 10 years. But I've been living here for 20  
19 years.

20 THE COURT: Oh, okay. All right. So you've been  
21 here for 20 years. And you said that you're married. Does  
22 your wife work?

23 PROSPECTIVE JUROR NO. 068: My wife works.

24 THE COURT: What does she do?

25 PROSPECTIVE JUROR NO. 068: She works as housekeeping

1 in Palazzo Venetian.

2 THE COURT: Okay. And how old are your kids?

3 PROSPECTIVE JUROR NO. 068: Sixteen, fourteen, and  
4 eight.

5 THE COURT: Are they boys or girls?

6 PROSPECTIVE JUROR NO. 068: Boys.

7 THE COURT: Have you ever served on a jury before?

8 PROSPECTIVE JUROR NO. 068: No.

9 THE COURT: Have you or anyone closely associated  
10 with you ever been the victim of a crime either sexual in  
11 nature or otherwise?

12 PROSPECTIVE JUROR NO. 068: No.

13 THE COURT: Have you or anyone closely associated  
14 with you ever been accused of a crime, whether or not there  
15 was a conviction, either sexual in nature or otherwise?

16 PROSPECTIVE JUROR NO. 068: No.

17 THE COURT: Okay. I appreciate it.

18 Ms. Fleck, do you have any questions for Mr. Aguilar?

19 MS. FLECK: Yes. Mr. Aguilar, now that you have an  
20 interpreter helping you, how do you feel now about  
21 participating in the trial?

22 PROSPECTIVE JUROR NO. 068: Well, I've listened to  
23 several experiences, unfortunate ones that I haven't happened,  
24 unfortunate ones that I haven't happened.

25 MS. FLECK: You mean while we were going through this

1 process?

2 PROSPECTIVE JUROR NO. 068: Yes.

3 MS. FLECK: So you mean other things that people have  
4 disclosed?

5 PROSPECTIVE JUROR NO. 068: No.

6 MS. FLECK: I don't understand. Have you -- now that  
7 you have the use of an interpreter, how do you feel about  
8 sitting as a juror, about the entire process?

9 PROSPECTIVE JUROR NO. 068: As far -- as far the  
10 questions that have been asked, I feel uncomfortable being  
11 here.

12 MS. FLECK: What part makes you uncomfortable?

13 PROSPECTIVE JUROR NO. 068: On the part of the  
14 accused, what he's accused about.

15 MS. FLECK: So the crime themselves make you feel  
16 uncomfortable?

17 PROSPECTIVE JUROR NO. 068: Yes, the crime.

18 MS. FLECK: Okay. I mean, is that just -- is it that  
19 you feel uncomfortable because they're of the nature of the  
20 crime, or is there something about the accused and his  
21 position that makes you feel uncomfortable?

22 PROSPECTIVE JUROR NO. 068: I'm not used to being in  
23 these kind of situations, but it's uncomfortable for me that  
24 somebody commits a crime.

25 MS. FLECK: Okay. Understood. You moved here 20