

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ADAM TRUSCA,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

CHRISTOPHER ADAM TRUSCA,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

NO. 83853 Electronically Filed
Mar 23 2022 02:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NO. 84183

APPELLANT'S APPENDIX VOLUME 1 OF 1 PAGES 0001-0127

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CHRISTOPHER TRUSCA, aka,
Christopher Adam Trusca #2741887,
Defendant.

CASE NO: C-21-356689-1

DEPT NO: XVIII

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.


STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That CHRISTOPHER TRUSCA, aka, Christopher Adam Trusca, the Defendant above named, having committed the crime of **POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730 - NOC 50374)**, on or about the 16th day of September, 2018, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did willfully, unlawfully, feloniously, and knowingly have in his possession any film, photograph, or other visual presentation depicting a child under the age of 16 years of age as the subject of a sexual portrayal and/or engaging in, simulating, or assisting others to engage in or simulate sexual

1 conduct on a device, to-wit: a Dropbox Cloud storage account for username "Chris Buddy"
2 and/or an Apple iPhone X, bearing Serial No. GHLX720KJCLF.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY


7 WILLIAM CHARLES ROWLES
8 Chief Deputy District Attorney
9 Nevada Bar #013577

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(TK)

Steven D. Harrison

1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 WILLIAM CHARLES ROWLES
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8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
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11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

CASE NO: C-21-356689-1

12 CHRISTOPHER TRUSCA, aka,
13 Christopher Adam Trusca #2741887,

DEPT NO: XVIII

14 Defendant.

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **POSSESSION OF VISUAL PRESENTATION**
17 **DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,**
18 **200.730 - NOC 50374),** as more fully alleged in the charging document attached hereto as
19 Exhibit "1".

20 My decision to plead guilty is based upon the plea agreement in this case which is as
21 follows:

22 The parties both retain the right to argue. The State will have no opposition to removing
23 electronic monitoring at entry of plea.

24 I agree to the forfeiture of any and all electronic storage devices, computers, and/or
25 related equipment and/or weapons or any interest in any electronic storage devices, computers
26 and/or related equipment and/or weapons seized and/or impounded in connection with the
27 instant case and/or any other case negotiated in whole or in part in conjunction with this plea
28 agreement.

1 I understand and agree that, if I fail to interview with the Department of Parole and
2 Probation (P&P), fail to appear at any subsequent hearings in this case, or an independent
3 magistrate, by affidavit review, confirms probable cause against me for new criminal charges
4 including reckless driving or DUI, but excluding minor traffic violations, the State will have
5 the unqualified right to argue for any legal sentence and term of confinement allowable for the
6 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
7 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without
8 the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite
9 twenty-five (25) year term with the possibility of parole after ten (10) years.

10 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
11 plea agreement.

12 CONSEQUENCES OF THE PLEA

13 I understand that by pleading guilty I admit the facts which support all the elements of
14 the offense(s) to which I now plead as set forth in Exhibit "1".

15 I understand that as a consequence of my plea of guilty the Court must sentence me to
16 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
17 ONE (1) year and a maximum term of not more than SIX (6) years. The minimum term of
18 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
19 understand that I may also be fined up to \$5,000.00. I understand that the law requires me to
20 pay an Administrative Assessment Fee.

21 I understand that, if appropriate, I will be ordered to make restitution to the victim of
22 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
23 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
24 reimburse the State of Nevada for any expenses related to my extradition, if any.

25 I understand that pursuant to NRS 176.139 and my plea of guilty to a sexual offense for
26 which the suspension of sentence or the granting of probation is permitted, P&P shall arrange
27 for a psychosexual evaluation as part of the Division's Presentence Investigation (PSI) Report
28 to the court.

1 I understand that I am not eligible for probation pursuant to NRS 176A.110 unless the
2 psychosexual evaluation certifies that I do not represent a high risk to reoffend based upon a
3 currently accepted standard of assessment. I understand that, except as otherwise provided by
4 statute, the question of whether I receive probation is in the discretion of the sentencing judge.

5 I understand that, before I am eligible for parole a panel consisting of the Administrator
6 of the Mental Health and Developmental Services of the Department of Human Resources or
7 his designee; the Director of the Department of Corrections or his designee; and a psychologist
8 licensed to practice in this state or a psychiatrist licensed to practice medicine in this state
9 certifies that I was under observation while confined in an institution of the department of
10 corrections and that I do not represent a high risk to reoffend based upon a currently accepted
11 standard of assessment.

12 I understand that the Court will include as part of my sentence, in addition to any other
13 penalties provided by law, pursuant to NRS 179D.441 to 179D.550, inclusive, I must register
14 as a sex offender within forty-eight (48) hours of release from custody onto probation or parole.

15 I understand that I must submit to blood and/or saliva tests under the direction of P&P
16 to determine genetic markers and/or secretor status.

17 I understand that if more than one sentence of imprisonment is imposed and I am
18 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
19 the sentences served concurrently or consecutively.

20 I understand that information regarding charges not filed, dismissed charges, or charges
21 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

22 I have not been promised or guaranteed any particular sentence by anyone. I know that
23 my sentence is to be determined by the Court within the limits prescribed by statute.

24 I understand that if my attorney or the State of Nevada or both recommend any specific
25 punishment to the Court, the Court is not obligated to accept the recommendation.

26 I understand that if the State of Nevada has agreed to recommend or stipulate a
27 particular sentence or has agreed not to present argument regarding the sentence, or agreed not
28 to oppose a particular sentence, such agreement is contingent upon my appearance in court on

1 the initial sentencing date (and any subsequent dates if the sentencing is continued). I
2 understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal
3 offense prior to sentencing the State of Nevada would regain the full right to argue for any
4 lawful sentence.

5 I understand if the offense(s) to which I am pleading guilty to was committed while I
6 was incarcerated on another charge or while I was on probation or parole that I am not eligible
7 for credit for time served toward the instant offense(s).

8 I understand that if I am not a United States citizen, any criminal conviction will likely
9 result in serious negative immigration consequences including but not limited to:

- 10 1. The removal from the United States through deportation;
- 11 2. An inability to reenter the United States;
- 12 3. The inability to gain United States citizenship or legal residency;
- 13 4. An inability to renew and/or retain any legal residency status; and/or
- 14 5. An indeterminate term of confinement, with the United States Federal
15 Government based on my conviction and immigration status.

16 Regardless of what I have been told by any attorney, no one can promise me that this
17 conviction will not result in negative immigration consequences and/or impact my ability to
18 become a United States citizen and/or a legal resident.

19 I understand that P&P will prepare a report for the sentencing judge prior to sentencing.
20 This report will include matters relevant to the issue of sentencing, including my criminal
21 history. This report may contain hearsay information regarding my background and criminal
22 history. My attorney and I will each have the opportunity to comment on the information
23 contained in the report at the time of sentencing. Unless the District Attorney has specifically
24 agreed otherwise, then the District Attorney may also comment on this report.

25 WAIVER OF RIGHTS

26 By entering my plea of guilty, I understand that I am waiving and forever giving up the
27 following rights and privileges:

28 ///

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.


I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

1 I am not now under the influence of any intoxicating liquor, a controlled substance or
2 other drug which would in any manner impair my ability to comprehend or understand this
3 agreement or the proceedings surrounding my entry of this plea.

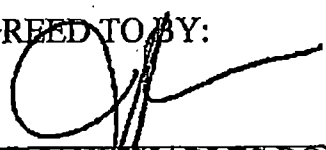
4 My attorney has answered all my questions regarding this guilty plea agreement and its
5 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

6 DATED this 15th day of April, 2021.

7 June

8 
9 CHRISTOPHER TRUSCA, aka,
Christopher Adam Trusca
10 Defendant

11 AGREED TO BY:

12 
13 WILLIAM CHARLES ROWLES
14 Chief Deputy District Attorney
Nevada Bar #013577

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
12 a. The removal from the United States through deportation;
13 b. An inability to reenter the United States;
14 c. The inability to gain United States citizenship or legal residency;
15 d. An inability to renew and/or retain any legal residency status; and/or
16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
25 5. To the best of my knowledge and belief, the Defendant:
26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 2nd day of June, 2021.


JOHN SCHALLER, ESQ.

mlb/SVU

1 INFM
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2 Clark County District Attorney
Nevada Bar #001565
3 WILLIAM CHARLES ROWLES
Chief Deputy District Attorney
4 Nevada Bar #013577
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(702) 671-2500
6 Attorney for Plaintiff

7
8 DISTRICT COURT
CLARK COUNTY, NEVADA
9

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 CHRISTOPHER TRUSCA, aka,
Christopher Adam Trusca #2741887,

14 Defendant.
15

CASE NO: C-21-356689-1

DEPT NO: XVIII

INFORMATION

16 STATE OF NEVADA }
17 COUNTY OF CLARK } ss.

18 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
19 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That CHRISTOPHER TRUSCA, aka, Christopher Adam Trusca, the Defendant above
21 named, having committed the crime of **POSSESSION OF VISUAL PRESENTATION**
22 **DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,**
23 **200.730 - NOC 50374)**, on or about the 16th day of September, 2018, within the County of
24 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
25 and provided, and against the peace and dignity of the State of Nevada, did willfully,
26 unlawfully, feloniously, and knowingly have in his possession any film, photograph, or other
27 visual presentation depicting a child under the age of 16 years of age as the subject of a sexual
28 portrayal and/or engaging in, simulating, or assisting others to engage in or simulate sexual

EXHIBIT "1"


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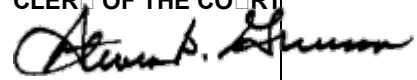
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2 and/or an Apple iPhone X, bearing Serial No. GHLX720KJCLF.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY


7 WILLIAM CHARLES ROWLES
8 Chief Deputy District Attorney
9 Nevada Bar #013577

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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
CHRISTOPHER TRUSCA,
Defendant.

CASE#: C-21-356689-1
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS,
DISTRICT COURT JUDGE
TUESDAY, JUNE 22, 2021

**RECORDER'S TRANSCRIPT OF HEARING:
INITIAL ARRAIGNMENT**

APPEARANCES:

For the State:

JAY P. RAMAN, ESQ.
Deputy District Attorney

For the Defendant:

JOHN F. SCHALLER, ESQ.

RECORDED BY: YVETTE G. SISON, COURT RECORDER

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Las Vegas, Nevada, Tuesday, June 22, 2021

[Hearing began at 2:19 p.m.]

THE COURT CLERK: C356689, State of Nevada versus Christopher Trusca.

MR. SCHALLER: Good Afternoon, Your Honor, John Schaller, Nevada Bar #15092, standing in for Peter Isso on behalf of the Defendant, Christopher Trusca, who is also present.

THE COURT: Good Afternoon. I have here a guilty plea agreement. Is this resolved?

MR. SCHALLER: Yes, Your Honor.

THE COURT: What are the negotiations?

MR. RAMAN: Judge, Mr. Trusca is going to be pleading guilty to possession of visual presentation depicting sexual contact of a child or conduct of a child. Both parties retain the right to argue. State will have no opposition to removing electronic monitoring at entry of plea.

THE COURT: Is that correct State?

MR. RAMAN: Yeah, I said it.

THE COURT: I'm sorry.

MR. RAMAN: I was the one that said the words.

THE COURT: Oh, I looked at you and I didn't -- your mouth -- well you have a mask on. Is that correct?

MR. SCHALLER: That is correct, Your Honor.

THE COURT: You know, did I mention we've been here since 11 o'clock?

1 MR. SCHALLER: That is correct, Your Honor.

2 THE COURT: Okay; and Mr. Trusca is that your
3 understanding?

4 THE DEFENDANT: Yes it is, but I'm not on electronic
5 monitoring right now though. I'm not sure exactly why that was still on
6 me.

7 THE COURT: Right. You want to be?

8 THE DEFENDANT: No.

9 THE COURT: What's is your true name?

10 THE DEFENDANT: Christopher Trusca.

11 THE COURT: How old are you?

12 THE DEFENDANT: I'm 31.

13 THE COURT: Do you read, write, and understand the English
14 language?

15 THE DEFENDANT: Yes I do, Your Honor.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: I'm sorry?

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: Junior in high school.

20 THE COURT: Do you have any sort of learning disability?

21 THE DEFENDANT: No, I don't.

22 THE COURT: Have you recently been treated for mental
23 illness of addiction?

24 THE DEFENDANT: Addiction, yes.

25 THE COURT: What kind?

1 THE DEFENDANT: Heroine.

2 THE COURT: Anything about that that's making it difficult for
3 you to understand what's going on here?

4 THE DEFENDANT: No.

5 THE COURT: Okay. Are you currently under the influence of
6 any drug, medication, or alcohol?

7 THE DEFENDANT: No, I'm not.

8 THE COURT: Have you reviewed the information charging
9 you with possession of visual presentation depicting sexual conduct of a
10 child?

11 THE DEFENDANT: Yes I have ma'am.

12 THE COURT: And do you understand the nature of the
13 charges in the information?

14 THE DEFENDANT: Yes I do, Your Honor.

15 THE COURT: Have you discussed this case with your
16 attorney?

17 THE DEFENDANT: I have.

18 THE COURT: Are you satisfied with the representation and
19 advice given to you by your attorney?

20 THE DEFENDANT: Yes I am, Your Honor.

21 THE COURT: Do you plead guilty or not guilty to the charges
22 in the information?

23 THE DEFENDANT: I plead guilty, Your Honor.

24 THE COURT: Are you making this plea freely and voluntarily?

25 THE DEFENDANT: Yes, I am.

1 THE COURT: Has anyone forced or threatened you or
2 anyone close to you to get you to plead guilty?

3 THE DEFENDANT: No.

4 THE COURT: Has anyone made you promises other than
5 what's in the guilty plea agreement in order to get you to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: A guilty plea agreement has been filed in this
8 case. Did you sign this agreement?

9 THE DEFENDANT: Yes I did.

10 THE COURT: And before you signed it did you read it and
11 discuss it with your attorney?

12 THE DEFENDANT: Yes I did, Your Honor.

13 THE COURT: Did your attorney fully and completely answer
14 all of your questions about your guilty plea?

15 THE DEFENDANT: Yes he did.

16 THE COURT: Do you understand everything in the guilty plea
17 agreement?

18 THE DEFENDANT: Yes I do.

19 THE COURT: Do you understand that the constitutional and
20 appellate rights you're giving up by pleading guilty?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand if you're not a United States
23 citizen entering a plea of guilty may have immigration consequences
24 including deportation?

25 THE DEFENDANT: Yes I do.

1 THE COURT: Do you understand the range of punishment is
2 one to six years in the Nevada Department of Corrections, you may be
3 fined up to \$5,000?

4 THE DEFENDANT: Yes I do, Your Honor.

5 THE COURT: Do you also understand that pursuant to 176,
6 because you're pleading guilty to a sexual offense, P&P is going to
7 arrange a psychosexual evaluation for you, and you won't be eligible for
8 probation unless that psychosexual evaluations represents that you --
9 that you don't represent a high risk to re-offend. Do you understand
10 that?

11 THE DEFENDANT: Yes I do, Your Honor.

12 THE COURT: And -- before you're eligible for parole, you will
13 similarly need to be found not a high risk to re-offend, do you understand
14 that?

15 THE DEFENDANT: Yes I do.

16 THE COURT: And also as part of your sentence, you will be
17 required to register as a sex offender, do you understand that?

18 THE DEFENDANT: Yes I do, Your Honor.

19 THE COURT: No lifetime supervision? Is that right?

20 MR. RAMAN: Your Honor, I'm not familiar with whether this
21 charge carries that or not.

22 THE COURT: I don't see it in the guilty plea. I don't recall it
23 being --

24 MR. SCHALLER: It's not in the guilty plea agreement, Your
25 Honor.

1 THE COURT: Okay, we'll leave it that then I guess. If there's
2 an issue, we'll deal with it later. Do you understand that sentencing is
3 up to the Court including whether cases or counts run concurrently or
4 consecutively?

5 THE DEFENDANT: Yes I do.

6 THE COURT: And do you understand that no one is in a
7 position to promise you probation, leniency, or any special treatment?

8 THE DEFENDANT: Yes.

9 THE COURT: In the information, it says that on or about
10 September 16, 2018, here in Clark County, Nevada you did willfully,
11 unlawfully, and feloniously have in your possession any film,
12 photograph, or other visual presentation depicting a child under the age
13 of 16 as a subject of a sexual portrayal and/or engaging in simulating or
14 assisting others to engage in simulate sexual conduct on a device that
15 being a DropBox Cloud storage account for user name Chris Buddy
16 and/or Apple Iphone X10 bearing serial number ending in JCLF. Is that
17 what happened?

18 THE DEFENDANT: Yes it is, Your Honor.

19 THE COURT: Do you have any questions you'd like to ask
20 me or your attorney before I accept your plea?

21 THE DEFENDANT: No ma'am, thank you.

22 THE COURT: Mr. Raman, is that good?

23 MR. RAMAN: Yes it is, Your Honor.

24 THE COURT: The Court finds the Defendant's plea of guilty is
25 freely and voluntarily made, and the Defendant understands the nature

1 of the offense and the consequences of the plea and, therefore, accepts
2 his plea of guilty. The matter is referred to the Department of Parole and
3 Probation for a pre-sentence investigation report and set for sentencing -

4 -

5 THE COURT CLERK: October 19th, 12:30 p.m.

6 THE COURT: -- and to the extent -- I know it's not relevant,
7 but I'll make the record clear that --

8 MR. SCHALLER: Thank you.

9 THE COURT: -- pursuant to negotiations, he's removed from
10 electronic monitoring; right?

11 MR. RAMAN: Yes.

12 THE COURT: Get to P&P within 48 hours all right?

13 THE DEFENDANT: Thank you, okay.

14 THE COURT: Thank you.

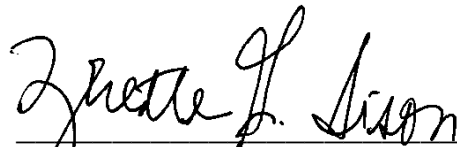
15 MR. SCHALLER: Thank you, Your Honor.

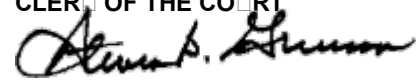
16 MR. RAMAN: Thank you, Your Honor.

17 [Hearing concluded at 2:26 p.m.]

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22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
audio/video proceedings in the above-entitled case to the best of my ability.

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24 
25 Yvette G. Sison
Court Recorder/Transcriber



October 18, 2021

Your Honor,

This is every parent's worse nightmare. I never thought that I will have to write this letter to the court. I am not here to find excuses for Chris because there is no such a thing. I just wished that maybe I can help the court to understand the long journey from Christopher's childhood until today. Maybe his experience will help some other kids to make the right decision in life.

Sixteen years ago, Christopher moved to Las Vegas with his mother, grandmother, Nicky, his brother and two cats. He found himself in a strange place without any roots, any friends, only surrounded by his family who did the best to guide him. The only friend he ever had, his only mentor, was my other son, Nicholas.

In July 21st 2005, Kannon, Nicholas' 9 month old son, died. Nicholas never got over the guilt of not being able to save his son. A year later, in Sept. 24, 2007, Nicholas died when he was asleep. It was a tragedy for the whole family but for Christopher it was a devastating blow. For 15 years, I tried everything within my power to erase Christopher's guilt of not showing up at 10 am at his brother's house. He showed up at 11:00 am instead. At that time, Nicky was dying and Christopher's life took a tragic turn for the worse. He lost his best friend, his mentor, his brother, his best buddy. Nicky was the wall around Chris protecting him against the bad experiences in life. Between the pain killer, and drugs, stole 15 years of his life. Depression, anxiety, self doubts and real bad company became his new world. He was arrested a few times for possession of paraphernalia. He was left bleeding in the parking lot after a robbery and he spent 17 days in ICU at Saint Rose Hospital not knowing if he can make it. He has been going non-stop to the detox clinic, keep fighting, keep failing, but he never ever hurt anybody except himself.

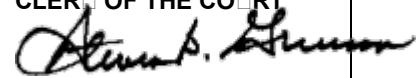
Being under the influence of drugs is absolutely no excuse for him, being charge with this horrible crime. Through his life, he was almost non-stop surrounded by children belonging to his best friends' or girlfriends' and never ever gave anyone even a hint that he can hurt them.

On May 7, 2021, his little girl, Elodie, was born. He spent the next 2 months at the hospital while Elodie was fighting for her life being born with a congenital heart defect. She was a fighter just like him and finally she came home. His whole world is around Elodie and even if he is still fighting through this addiction, depression and anxiety he kept trying to better himself. He is a different person today. He has a real purpose in life. He is helping me with my business anytime I need it. His mother, grandmother and his step father, a 20 years detective in Las Vegas, provided full support and all the necessary help. He completed his probation, paid in full all his fines, never got in trouble, even when he spent 4 days in jail because of an error on the court system. He came up and kept on going.

Your honor, I am just as guilty as my son for being ignorant about the power of drugs and alcohol, without thinking they can destroy lives. Now I learned my lesson and I hope it's not too late. There are a lot of people who can vouch for my son. Please give my son one more chance. He is all I have left. Thank you.

Sincerely,

Cristian Trusca



1 RTRAN

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,
7
8 Plaintiff,
9 vs.
10 CHRISTOPHER TRUSCA,
11 Defendant.

12)
13) CASE NO.: C-21-356689-1
14)
15) DEPT. NO.: XV
16)
17)
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25)

14 BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE
15 TUESDAY, OCTOBER 19, 2021

16
17 RECORDER'S TRANSCRIPT RE:
18 **SENTENCING**

19 APPEARANCES:

20 For the State: WILLIAM C. ROWLES, ESQ.
(Appearing Via BlueJeans)

21 For the Defendant: JOHN B. LANNING, ESQ.
22 (Appearing Via BlueJeans)

23
24 TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER
25

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 19, 2021, 1:15 P.M.

2 * * * * *

3 COURT CLERK: C356689-1, State of Nevada versus Christopher Trusca.

4 MR. TRUSCA: Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 MR. LANNING: Good afternoon. John Lanning, bar number 15585, appearing
7 on behalf of the defendant Christopher Trusca. And filling in for John Schaller. I am,
8 as well as the Defendant is present via BlueJeans.

9 THE COURT: Good afternoon. And Mr. Trusca, can you hear us, okay?

10 MR. TRUSCA: Yes, I can.

11 THE COURT: Okay. And Mrs. Villegas, are you on this one too?

12 MR. ROWLES: No, Your Honor. William Rowles, on behalf of the State.

13 THE COURT: Oh, sorry. I missed you, sorry about that. Um, are we ready for
14 sentencing?

15 MR. ROWLES: The State is ready, Your Honor.

16 MR. LANNING: Yes, Your Honor.

17 THE COURT: Okay. Mr. Trusca, are you under the influence of any drug,
18 medication, or alcoholic beverage?

19 MR. TRUSCA: No, I am not, Your Honor.

20 THE COURT: You understand that you are here to be sentenced today
21 because you plead guilty to possession of visual presentation depicting sexual
22 conduct of a child, Category B Felony?

23 MR. TRUSCA: Yes, Your Honor.

24 THE COURT: Have you had the opportunity to review, go over the Pre-
25 Sentence Investigation Report and Psychosexual Evaluation with your attorney?

1 MR. TRUSCA: Yes, Your Honor.

2 THE COURT: Do you have any issues, questions, or concerns with any of the
3 information contained in those documents?

4 MR. TRUSCA: No, Your Honor.

5 THE COURT: Okay, does the State have the right to argue on this one?

6 MR. ROWLES: Yes, Your Honor.

7 THE COURT: Go ahead.

8 **[State's Argument]**

9 MR. ROWLES: Your Honor, today I am going to be asking that you sentence
10 the Defendant to a term of incarceration in the Nevada Department of Corrections
11 for how long I'll submit [massive feedback from BlueJeans] - -

12 THE COURT: Um, I am sorry we are getting feedback from someone - -

13 MARSHAL: It's coming from the attorney [again massive feedback from
14 someone on BlueJeans] - -

15 THE COURT: Sorry, let's pause.

16 MARSHAL: It's coming from attorney Mr. Lanning - -

17 THE COURT: If you are not on this case, please mute yourself. Let's try that
18 again. Go ahead, Mr. Rowles.

19 MR. ROWLES: Yes, Your Honor. Today I am going to be asking this Court to
20 sentence the Defendant to a term of incarceration in the Nevada Department of
21 Corrections. The amount I'll submit to this Court's discretion. But I say that for three
22 reasons; one is, Your Honor, I don't believe that the PSI accurately reflects the true
23 extent of the amount of images that were recovered from Mr. Trusca's devices or his
24 online activity. Although only 771 images and 89 videos were ultimately found on his
25 device, during the course of our investigation - -

1 THE COURT: Let me pause you - -

2 MARSHAL: It's attorney John Lanning who is on this case. He needs to mute
3 himself while he is not speaking.

4 THE COURT: Counsel, if you could mute yourself because we're getting
5 feedback.

6 COURT RECORDER: There he goes.

7 THE COURT: Okay. Sorry about that, Mr. Rowles.

8 MR. ROWLES: Yes, Your Honor, as I was saying, when we - - during our
9 investigation when we issued an administrative subpoena to Dropbox, their return
10 for the Defendants account had over twenty-nine thousand images associated with
11 his Dropbox account. Now two thousand four hundred and forty-two images of this
12 were confirmed child sexual abuse material, ranging as low as individuals at the age
13 of what we would refer to as toddlers to prepubescent teenagers, all the way to
14 teenagers. So, I bring that to this Court's attention because I don't believe that the
15 PSI accurately reflects the true extent of the amount of images Mr. Trusca had. He
16 had several thousand images as young as toddlers and prepubescent teenagers on
17 his Dropbox account when he uploaded those. And finally, but fortunately,
18 N.C.M.E.C was able to identify and tip that off to law enforcement.

19 Second, Your Honor, this is not an individual that just downloaded one link,
20 one time over the course of his voyeurism into this child pornography. His Dropbox
21 account and his Maga NS link account show that on August 10th, 2017, he accessed
22 ten links of confirmed child sexual abuse material. Again, on August 10th, 2017,
23 nearly twenty minutes after his first access, he accessed an additional twenty links.
24 Now again, on September 13th, 2017, he accesses eleven links. On September 15th,
25 2017, he accesses twenty-five links. On August 23rd, 2018, he accesses eighty-six

1 links. On April 9th, 2019, he accesses seven links. On May 5th, 2019, he accesses
2 sixteen links, and all of this is confirmed child sexual abuse material. And on May
3 20th and May 26th, 2019, he accesses a total of twenty-one links. And total, we
4 uncovered one hundred and ninety-seven links that he downloaded for child
5 pornography.

6 So, the PSI sort of reads, and the Psychosexual Evaluation sort of reads that
7 this was an individual who, on one occasion, downloaded a link and viewed a couple
8 of thousand images of child pornography. That's not the case, Your Honor. This is
9 an individual that, over the course of two years, downloaded a hundred and ninety-
10 six links of child sexual abuse material. I say that because I take a big difference
11 between an individual who may be browsing the internet and stumbles across a link
12 where you have age difficult type situations, where the girl could be twenty-years-
13 old, or the girl could be fourteen-years-old. And you look at it one time, and then you
14 delete it. This individual viewed child pornography as young as toddlers over the
15 course of several years. I think that type of active online warrants punitive
16 punishment, and that's why I am asking this Court to sentence him to prison.

17 Now I don't get the opportunity to respond to the Defendant's statements and
18 migration. But the theme of this case over the last several years or the last year that
19 I have been assigned to it has been that Mr. Trusca has suffered from an opioid
20 addiction. And, Your Honor, I am sympathetic towards drug addiction, and I am
21 sympathetic towards drug addiction that causes an individual to commit property
22 crimes or cause an individual to commit financial crimes to support their addiction. I
23 don't accept, and I don't support the idea that drug addiction causes you to view
24 child pornography for several years. His opioid addiction did not cause him to view a
25 video of a prepubescent teenager masturbating and being forced to perform oral sex

1 on an adult male. That's just not how drug addiction works, in the State's opinion.
2 And I ask this Court, and I urge this Court to sort of disregard drug addition. He's not
3 here because he was feeding his addiction; he was here because he was viewing
4 child pornography over the course of several years. And for that reason, Your
5 Honor, I ask that you sentence him to prison, and in that, I'll submit.

6 THE COURT: Thank you very much. Defense counsel?

7 **[Defense Argument]**

8 MR. LANNING: Yes, Your Honor, we would ask that he have a suspended
9 sentence and be placed on supervised probation. A few different things, one if we
10 look at the PSI report, it clearly indicates that Mr. Trusca is - - he is not a sufficient
11 risk, and he would do just fine on supervised probation. Furthermore, if you look at
12 the Psychosexual Report, it shows that he has been sober from opiates for quite
13 some time now, I believe five months from the time the report was made.

14 Additionally, he also - - as long as there are certain terms and conditions,
15 there is no risk - - opposes a very low risk of recidivism, ah as far as monitoring his
16 communication and computer, which again, is the main issue.

17 THE COURT: Thank you very much. Mr. Trusca, is there anything you would
18 like to say?

19 **[Mr. Trusca's Statement to the Court]**

20 MR. TRUSCA: Um, yeah, I mean I have lots to say, Your Honor. I am
21 absolutely, you know, I completely do understand how, you know, someone can say
22 it's not drugs. And I am not going to say it's not drugs, or it's heroin that made me do
23 anything specific; it's was - - it was a whole portion of my life, Your Honor. I lost my
24 brother when I was seventeen; um, he was my best friend, and I kind of just went on
25 this bad downward spiral. I was in a place - - I don't know if you've ever been in a

1 place where you just don't - - in your own head, you don't ever know if you're going
2 to actually get out of it. And I was in a very, very dark and bad place in my life. And it
3 took me a long time, and I am still working on it every single day.

4 I am actually a father now, um, if, you know, and finally, for the first time in my
5 entire life, I have a reason. Um, an actual purpose, and - - I want to wake up every
6 single morning and be the best that I can be. I don't think I could actually ever say
7 that there's been a time in my life where I could say that, honestly, until now. I see
8 my daughter's face, and my whole life is finally - - I see what - - I see what is going
9 to make my whole life really mean something again. And it's the first time since my
10 brother has been gone, I actually feel like I have a chance, and there is something
11 good going on here, and I'm happy.

12 You know, I've always been around, you know, I've been around my entire
13 life, you know, and I've obviously just decided to start growing up [inaudible] they
14 can vouch for me, I've never done anything. And I would never hurt anybody, let
15 alone children ever. It's just something and - - it a couple of years now and where I
16 was then and where I am today is someone very different. Um, I literally stopped
17 everything in my life that was, your know, that brings me to where I was, and I can't -
18 - I was in a bad place, and I was in a bad place, I was in the hospital, I was on life
19 support, and I was in a very, very bad place for a while. And anyway, I don't want to
20 get too far off-topic. I appreciate everybody's time here; I - - I just want you to please
21 consider the fact that I am trying - - I'm trying my very best, Your Honor, I truly am.

22 THE COURT: Thank you.

23 **[Court's Ruling]**

24 THE COURT: Are you a Veteran or a member of the military?

25 MR. TRUSCA: No, I am not, Your Honor.

1 THE COURT: Thank you. The Court is going to adjudge defendant Trusca
2 guilty: possession of visual presentation depicting sexual conduct of a child, as a
3 Category B Felony. Four days credit time served, twenty-five dollar Administrative
4 Assessment, three dollar DNA Administrative Assessment, submit to DNA testing,
5 and that fee is hundred and fifty dollars. Psychosexual fee one thousand six
6 hundred seventy-six dollars and seventy cents.

7 Per N.R.S.179D.460. defendant Trusca shall register as a sex offender within
8 48 hours after sentencing or release from custody. And comply with the required
9 terms and conditions set forth under N.R.S. 176A.410. Minimum term nineteen
10 months, maximum term forty-eight months, to be served in the Nevada Department
11 of Corrections. The harm and conduct here is immense, and a prison term is
12 warranted. Defendant Trusca to report immediately to CCDC, and we need to set a
13 status check for next week to make sure he is in custody.

14 MR. TRUSCA: What.

15 COURT CLERK: And that will be October 26th, 2021, at 11:00 a.m.

16 COURT CLERK: And Judge, I don't think N.R.S 176A applies.

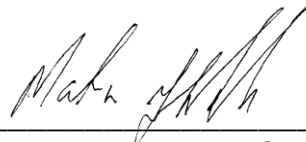
17 THE COURT: Okay, okay. So, 176A does not apply.

18 MR. ROWLES: Thank you, Your Honor.

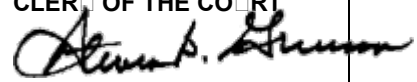
19 THE COURT: Thank you.

20 [Proceedings concluded, 1:29 p.m.]

21 * * * *ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 

24 MATTHEW YARBROUGH
25 Court Recorder/Transcriber



1 RTRAN
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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CHRISTOPHER TRUSCA,

12 Defendant.

CASE NO. C-21-356689-1

DEPT. VI

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE
14 TUESDAY, OCTOBER 26, 2021

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
16 **STATUS CHECK: SURRENDER**

17 **APPEARANCES:**

18 For the State:

19 WILLIAM C. ROWLES, ESQ.
Chief Deputy District Attorneys

20
21 For the Defendant:

JOHN B. LANNING, ESQ.

22
23
24
25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Tuesday, October 26, 2021, Las Vegas, Nevada

2
3 [Proceedings began at 12:41 p.m.]

4 THE COURT: -- 56689-1. He is being --

5 MR. ROWLES: Good morning, Your Honor, William Rowles --

6 THE COURT: -- brought in. Is this -- are you Mr. Schaller?

7 MR. LANNING: I'm filling in for Mr. Schaller. I'm John Lanning with the
8 same law firm.

9 THE COURT: Okay. Can you give us your bar number?

10 MR. LANNING: 15585.

11 THE COURT: And did you say Manning?

12 MR. LANNING: John Lanning.

13 THE COURT: Lanning. Okay, thank you.

14 All right so Mr. Trusca is present out of custody. Today is the time for
15 surrender, is that correct?

16 MR. LANNING: Yes, Your Honor.

17 THE COURT: All right. So the defendant has shown up in person.
18 He's present with Mr. Trusca, both in open. Ms. Villegas is present on behalf of --
19 or Mr. Rowles is present on behalf of the State. The defendant was previously
20 sentenced to 19 to 48 months in the Nevada Department of Corrections and today
21 he is just surrendering and will be taken in custody to serve that sentence.

22 MR. LANNING: Yes, Your Honor. He did want permission to address
23 the Court --

24 THE COURT: Oh --

25 MR. LANNING: -- if possible.

1 THE COURT: -- sure. Mr. Trusca?

2 THE DEFENDANT: I've actually just -- is there any possible way I can
3 get just a little -- like a little short amount of time to handle a couple of affairs? I
4 have a daughter and it's -- I'm the sole provider of her and my fiancé. And she just
5 -- she gonna be having a heart -- she has a heart issue and she going to be going
6 in for a small surgery in the next couple of weeks. I just wanna make sure that
7 there -- everything is okay before that. I just -- it's like biggest thing I'm afraid of is
8 like I'm not gonna be there to make sure that they are okay to do so.

9 THE COURT: What is the day of the surgery?

10 THE DEFENDANT: It will be the 6th of -- 15th of next month.

11 THE COURT: November 15th?

12 THE DEFENDANT: Yeah.

13 THE COURT: Mr. Rowles your position.

14 MR. ROWLES: Your Honor, the only concern I have is that he's not
15 on any sort of form of monitoring at this particular time. I wouldn't have any
16 objection to allowing him to taking care of his medical -- or his daughter's medical
17 procedures if he agrees to be placed on either mid-level or high-level electronic
18 monitoring to ensure he doesn't flee. I mean --

19 THE COURT: Okay. So you have to be on high-level electronic
20 monitoring if you wish to stay out, and then we can do a date of surrender after,
21 like a week after your daughter's surgery.

22 THE DEFENDANT: That would be great.

23 THE COURT: Okay. So the defendant will be places on electronic --
24 high-level electronic monitoring and his return date is?

25 THE CLERK: That'll be November 23rd at 11:00.

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THE COURT: Okay. All right?

THE DEFENDANT: Awesome. Thank you very much. I appreciate it.

THE COURT: You're welcome.

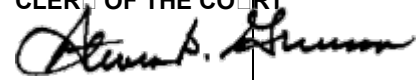
MR. ROWLES: Thank you, Judge

[Proceedings concluded at 12:44 p.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


De'Awna Takas
Court Recorder/Transcriber



MOT

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

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Jresch@convictionsolutions.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

CHRISTOPHER TRUSCA,

Defendant.

Case No.: C-21-356689-1

Dept. No: VI

MOTION TO MODIFY SENTENCE

[Hearing Requested]

COMES NOW, Defendant, Christopher Trusca, by and through his attorney, Jamie J. Resch, Esq., and hereby respectfully moves this Court, pursuant to NRS 176.555, for a new sentencing hearing due to the illegality or unconstitutionality of the Defendant's currently imposed sentence.

DATED this 8th day of November, 2021.

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 

JAMIE J. RESCH

Attorney for Defendant

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the Motion to Modify Sentence was made this 8th day of November, 2021, by Electronic Filing Service to:

Clark County District Attorney's Office

Motions@clarkcountyda.com

PDmotions@clarkcountyda.com



An Employee of Conviction Solutions

I.

PROCEDURAL AND FACTUAL BACKGROUND

Christopher Trusca ("Trusca") was convicted by way of guilty plea of one count of possession of visual presentation depicting sexual conduct of a child, a category B felony under NRS 200.700 and 200.730. According to the plea agreement, all sides reserved the right to argue.

Sentencing occurred on October 19, 2021. At that time, the Honorable Joe Hardy presided over the proceedings. Despite the strong support in the record for the grant of probation, Trusca was sentenced to 19 to 48 months in state prison. On October 26, 2021, this Court allowed Mr. Trusca additional time in which to surrender, potentially because of extreme health problems related to his five-month-old daughter. On November 2, 2021, undersigned counsel substituted into the case for purposes of appeal. It is Mr. Trusca's intent to appeal his conviction and sentence.

1 Before appealing however, Mr. Trusca presents this Court with an opportunity to modify
2 the previously imposed sentence by way of a new sentencing proceeding. Based on the
3 information provided in this motion, there are strong grounds to reconsider the previously
4 imposed sentence.
5

6 **II.**

7 **POINTS AND AUTHORITIES**

8
9 Mr. Trusca's position is two-fold. First, the Nevada Supreme Court has held that a
10 sentence can be modified at any time, effectively for any reason, prior to the time the Defendant
11 begins to serve it. Because this Court previously granted Mr. Trusca time to surrender, he has
12 not yet started to serve his sentence. As a result, the Court can simply reconsider it for any
13 reason. Alternatively, the sentence imposed by Judge Hardy was illegal in that it relied upon
14 materially untrue facts, occurred remotely over a connection poor enough to violate due
15 process, and was attenuated by a lack of preparation by counsel that rendered the proceedings
16 fundamentally unfair.
17
18

19 To be sure, many of these issues could just be raised in a direct appeal. That said, the
20 appeal process takes many months and Mr. Trusca hopes this Court can provide a more
21 expedient route to relief. Relatedly, while a motion pursuant to NRS 176.555 can be filed at any
22 time, this Court would likely lose jurisdiction over this request once the notice of appeal is filed.
23 Mr. Trusca therefore asks the Court to reconsider the sentence of imprisonment.
24
25

26 **A. The Court can modify Mr. Tusca's sentence because he has not started to serve**
27 **it yet, and it was imposed in an inaccurate and unconstitutional manner.**

28 Nevada law provides that an illegal sentence may be corrected at any time. NRS

1 176.555. As such, there is no question the instant motion is timely and properly presented for
2 this Court's consideration. As a starting point, Mr. Trusca has not yet started to serve his
3 sentence. The Court is therefore inherently empowered to reconsider it without any further
4 showing. Campbell v. Eighth Judicial Dist. Ct., 114 Nev. 410, 413, 957 P.2d 1141 (1998) (District
5 Court lacks jurisdiction to modify sentence once defendants "began to serve" said sentences).
6

7
8 Even where the Defendant has begun to serve a sentence, there are exceptions which
9 permit the District Court to modify it. The Nevada Supreme Court has explained:

10 We emphasize that a motion to modify a sentence is limited in scope to
11 sentences based on mistaken assumptions about a defendant's criminal record
12 which work to the defendant's extreme detriment. Motions to correct illegal
13 sentences address only the facial legality of a sentence. An "illegal sentence" for
14 purposes of a statute identical to NRS 176.555 was defined by the District of
15 Columbia Court of Appeals as "one 'at variance with the controlling sentencing
16 statute,' or 'illegal' in the sentence that the court goes beyond its authority by
17 acting without jurisdiction or imposing a sentence in excess of the statutory
18 maximum provided..." Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)
19 (quoting Prince v. United States, 432 A.2d 720, 721 (D.C. 1981) and Robinson v.
20 United States, 454 A.2d 810, 813 (D.C. 1982)). A motion to correct an illegal
21 sentence "presupposes a valid conviction and may not, therefore, be used to
22 challenge alleged errors in proceedings that occur prior to the imposition of
23 sentence." Id. A motion to correct an illegal sentence is an appropriate vehicle
24 for raising the claim that the sentence is facially illegal at any time; such a motion
25 cannot, however, be used as a vehicle for challenging the validity of a judgment
26 of conviction or sentence based on alleged errors occurring at trial or sentencing.
27 Issues concerning the validity of a conviction or sentence, except as detailed in
28 this opinion, must be raised in habeas proceedings.

23 Edwards v. State, 112 Nev. 704, 918 P.2d 321, 324 (1996).

24 The Nevada Supreme Court further explained that, as a matter of due process, "the
25 district court has inherent authority to correct, vacate, or modify a sentence that is based on a
26 materially untrue assumption or misstatement of fact that has worked to the extreme detriment
27
28

1 of the defendant, but only if the mistaken sentence 'is the result of the sentencing judge's
2 misapprehension of a defendant's criminal record.'" Id. at 324.

3
4 The Nevada Supreme Court's decision in Edwards reflects federal law, which recognizes a
5 "due process right to a fair sentencing procedure which includes the right to be sentenced on
6 the basis of accurate information." United States v. Rone, 743 F.2d 1169, 1171 (7th Cir. 1984),
7 citing United States v. Tucker, 404 U.S. 443 (1972). A sentence "must be set aside where the
8 defendant can demonstrate that false information formed part of the basis for the sentence." Id.
9

10 Crucially, the Nevada Supreme Court has held that sentencing based on erroneous
11 information, such as incorrect information supplied by the prosecution, can justify granting a
12 modification of a previously imposed sentence. State v. Eighth Judicial Dist. Ct., 100 Nev. 90,
13 100-101, 677 P.2d 1044 (1984). This is so even where the misrepresentations are "unintentional."
14 Id.
15

16 Under these authorities, it is Mr. Trusca's position that the Court is empowered to
17 reconsider the sentence previously imposed.
18

19 **B. The case should be resentenced because the original sentencing was based on**
20 **inaccurate information and conducted in an unconstitutional manner in**
21 **violation of Mr. Trusca's rights to due process and fundamental fairness.**
22

23 Assuming the Court were to agree that it could reconsider Mr. Trusca's sentence, there
24 are several reasons why it should do so.

25 First, materially untrue information was considered at sentencing and it likely affected
26 the sentence. While Mr. Trusca has a record of minor traffic and drug offenses, going into
27 sentencing in this matter he had zero felony convictions and had never received an opportunity
28

1 at formal probation. He should have been a strong candidate for probation, yet the sentencing
2 judge sentenced this first time felon to a sentence of imprisonment.

3
4 This may have occurred based on the prosecutions' representations that drug use does
5 not generally lead of a child porn addiction. What's "generally" true is not pertinent, because
6 sentencing is an individualized decision-making process. In Mr. Trusca's case, there was credible
7 evidence available both within and outside the record that would have explained the link
8 between substance abuse and viewing child pornography.
9

10 Publicly available scholarly research has in fact studied this exact relationship, and initial
11 findings show a correlation between those who view child pornography and drug abuse. Jung
12 et al found that over half of CP users admitted to drug use, with a slight increase in admitted
13 drug abuse for non-contact offenders (p.35, table 3). Jung notably compares this to their
14 alcohol use: "Although the samples did not differ in their use of alcohol around the time
15 preceding the index offence, non-contact offenders were more likely than child pornography
16 and child molesters to have used drugs" (p.18). Sandy Jung, Liam Ennis, Shayla Stein, Alberto L.
17 Choy & Tarah Hook (2013) Child pornography possessors: Comparisons and contrasts with
18 contact- and non-contact sex offenders, *Journal of Sexual Aggression*, 19:3, 295-310, DOI:
19 10.1080/13552600.2012.741267.
20
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23 Further, Carnes' 2005 study on "Addiction Interaction Disorder" linked sex addiction
24 (including porn addiction) to other addictions, finding that slightly under half of the survey sex
25 addicts suffered from a chemical dependency of some kind (pp.80-84, Tables 2-4). Carnes offers
26 several explanations for the linked addictions. First, Carnes finds that addictions can form a
27 "Cross Tolerance" addiction, where two (or more) addictions ramp up simultaneously - ie, "the
28

1 patient whose drinking and machine poker playing got worse at the same time. It is the parallel
2 leap in activity that should catch the clinician's attention" (pp. 87-89). Another is the "Fusion
3 Dependence" or "Intensification" addiction. Carnes provides an example similar to the scenario
4 here: "Think of the cocaine addict who has certain compulsive sexual behaviors and only does
5 them on cocaine. He does not do the sex separate from the cocaine, nor will he do the cocaine
6 without the sexual behavior. The addictions have become fused or inseparable" (pp.95-
7 97). Patrick J. Carnes, Robert E. Murray & Louis Charpentier (2005) *Bargains With Chaos: Sex*
8 *Addicts and Addiction Interaction Disorder, Sexual Addiction & Compulsivity*, 12:2-3, 79-120,
9 DOI: 10.1080/10720160500201371.

10 But the record here contained similar information that conflicted with the prosecutions'
11 representations. The psychosexual evaluation, tersely reasoned as it was, identified three bases
12 for its conclusion that Mr. Trusca was a moderate risk to reoffend: 1) the number of images at
13 issue, 2) the death of Mr. Trusca's brother and best friend (which coincides with the time Mr.
14 Trusca started to use illegal drugs and dropped out of school) and 3) Mr. Trusca's substantial
15 history of substance abuse to include Xanax and heroin at the time of the offenses here.

16 The record here shows viewing child pornography cannot be separated from Mr. Trusca's
17 drug use, and as noted above, treating one disorder may well resolve the other. Although
18 various treatment options exist for sex offenders, it is well understood that substance abusers
19 have a multitude of treatment options available, many of which are unquestionably available to
20 individuals on probation in Clark County, Nevada.

21 Second, as the Court knows from proceedings after the sentencing, Mr. Trusca has an
22 infant daughter who is seriously ill due to being born with two holes in her heart. She had to

1 remain in the hospital for a month after birth, and is now undergoing treatment that may
2 ultimately require surgery. See Exhibit A, "Medical Record."

3
4 Third, the sentencing proceeding was conducted in an unconstitutional manner in as
5 much as not only was it held remotely, but Mr. Trusca and his counsel were not in the same
6 location together during the hearing. In essence, Mr. Trusca was unrepresented because he had
7 no ability whatsoever to communicate with his attorney private during the sentencing hearing.
8 See Exhibit B, "Declaration of Christopher Trusca."

9
10 Briefly stated, a criminal defendant has a constitutional right to be present "at any stage
11 of the criminal proceeding that is critical to its outcome if his presence would contribute to the
12 fairness of the procedure." Kentucky v. Stincer, 482 U.S. 730, 745 (1987). Furthermore, "even in
13 situations where the defendant is not actually confronting witnesses or evidence against him, he
14 has a due process right 'to be present in his own person whenever his presence has a relation,
15 reasonably substantial, to the fulness of his opportunity to defend against the charge.'" Id.,
16 quoting Snyder v. Massachusetts, 291 U.S. 97, 105-106 (1934).

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19 Sentencing hearings are unquestionably a "critical stage" proceeding. Beals v. State, 106
20 Nev. 729, 731, 802 P.2d 2, 4 (1990). As a result, Mr. Trusca not only enjoyed a constitutional
21 right to be present at the time of sentencing, he also enjoyed the right to counsel at the time of
22 sentencing. Patterson v. State, 129 Nev. 168, 174, 298 P.3d 433 (2013) (Sixth Amendment right
23 to counsel applies to all critical stage proceedings), see also United States v. Chronic, 466 U.S.
24 648 (1984).

25
26
27 These rights were violated here in at least two ways. First, the concept that the
28 sentencing was held remotely over Bluejeans at all is, in and of itself, a violation of due process.

1 United States v. Williams, 641 F.3d 758, 764-65 (6th Cir. 2011) (noting that "all" federal circuits to
2 consider the issue have determined presence by video conference at sentencing violates the
3 defendant's right to be present for sentencing). This is all the more true here where the record
4 demonstrates significant technical difficulties impeded communication between the parties and
5 court, to include a poor connection as well as several interruptions by nonparticipants who
6 declined to mute themselves.
7
8

9 Second, even if virtual sentencing was consistent with the defendant's right to be present
10 for critical stage proceedings, an additional violation occurred here where counsel and Mr.
11 Trusca were not in the same location during the proceeding. Because that was so, Mr. Trusca
12 was denied his right to counsel because he had no ability to privately communicate with counsel
13 during the proceeding.
14

15 This led to several errors, such as that Mr. Trusca was forced to agree with his counsel
16 that he had reviewed the presentence report and psychosexual report with counsel prior to
17 sentencing when he in fact was unable to do so. This is borne out in part by the attached
18 declaration (Exhibit B) as well as counsel's billing records. See Exhibit C, "Billing Records."
19 According to the invoice, which does not identify the author of the billing records at issue,
20 counsel obtained the PSI and psychosexual reports on October 18, 2021, which was the day
21 prior to sentencing. Further, there is no indication in the invoice that the documents were
22 transmitted to the client. Further, there is a single block billing entry that identifies a .4 charge
23 for discussion of those documents with the client both "prior to sentencing and after sentencing
24 hearing" which Mr. Trusca disputes in the first instance.
25
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1 It is Mr. Trusca's representation to this Court that he did not have an opportunity to
2 review those documents with his counsel, and as a result, his counsel was woefully unprepared
3 to argue at the time of sentencing. Notably, no sentencing memorandum was filed, and counsel
4 who represented Mr. Trusca at the time of sentencing was an attorney who had made zero
5 appearances in the case prior to the time of sentencing.
6

7 But the issue isn't just ineffective preparation for sentencing, but also a denial of due
8 process and fundamental fairness during sentencing. Mr. Trusca had no ability to provide input
9 to counsel as the sentencing proceeded because he could not privately consult with him. As
10 one commentator has explained for parole revocation proceedings where the defendant and
11 defense counsel appear separately by video:
12
13

14 The physical separation of a parolee from counsel inevitably takes its toll on the
15 effectiveness of the counsel, and this effect is most strongly felt by the communication
16 between them. Some courts have tried to curb this problem by providing telephone lines
17 that allow for privileged communication. However, this practice still cannot replace the
18 quality of the attorney-client relationship created by in-person interaction. . . . [T]he
19 human interactions that foster the relationship are muted by the technology, which
20 detracts from the defendant's experience. Likewise, counsel cannot gauge the
21 defendant's mental and emotional state, and neither party can use nonverbal cues to
22 communicate with each other during a proceeding, both of which are necessary to
23 effective communication.

24 Kacey Marr, The Right to "Skype": The Due Process Concerns of Videoconferencing at Parole
25 Revocation Hearings, 81 U. Cin. L. Rev. 1515, 1533–34 (2013) (footnotes omitted).
26

27 Mr. Trusca isn't unmindful of the troubles caused by the pandemic, but at the time of his
28 sentencing, those were largely in the rearview mirror. The District Court's latest order related to
the pandemic was issued in June, and plainly states that out of custody defendants "shall"
appear in person for "sentencings where the negotiation contemplates a prison or jail

1 sentence..." Exhibit D, "Administrative Order," p. 20 of 27. As a result, even under the District
2 Court's own guidelines, Mr. Trusca and his counsel should have been present in person. A "face-
3 to-face meeting between the defendant and the judge permits the judge to experience 'those
4 impressions gleaned through . . . any personal confrontation in which one attempts to assess the
5 credibility or to evaluate the true moral fiber of another.'" United States v. Thompson, 599 F.3d
6 595, 600 (7th Cir. 2010) (quoting Del Piano v. United States, 575 F.2d 1066, 1069 (3d Cir. 1978)).
7
8

9 **C. Mr. Trusca was in custody from November 2 to November 4. The judgment of**
10 **conviction must be amended to include three additional days credit for time**
11 **served.**

12 If the Court otherwise denies this motion and compels Mr. Trusca to start serving his
13 sentence, an additional three days credit should be added to the four days already stated in the
14 judgment of conviction. As this Court knows, Mr. Trusca was granted additional time to remain
15 out of custody, after sentencing, largely related to his daughter's health issues. He was ordered
16 to get fitted for an ankle bracelet, which he went to do on November 2, 2021.
17
18

19 When he did, he was taken into custody and held on a no bail hold, in this case, until he
20 was fitted with an ankle bracelet and released on November 4, 2021. All of this should be
21 readily verifiable with the Clark County Detention Center. There is no known reason for the jail
22 to have held Mr. Trusca for three days, as this Court never remanded him into custody and
23 certainly never issued a no-bail hold.
24

25 Putting that aside, if nothing else, Mr. Trusca should receive credit for those three days if
26 he is ordered to start serving his sentence. The law is well settled in that "all time served after
27 sentencing is time served pursuant to the conviction and is included in the computation of time
28

1 served." Contreras v. Palmer, 2014 Nev. Unpub. LEXIS 1737 (2014). All time served must be
2 credited towards the defendant's ultimate sentence. Kuykendall v. State, 112 Nev. 1285, 926
3 P.2d 781 (1996).
4

5 While certainly not the gravest issue Mr. Trusca presents, his judgment of conviction
6 should be corrected to reflect these additional three days. Doing so nearly doubles his credit for
7 time served and ensures he will receive proper credit if incarcerated.
8

9 **III.**

10 **CONCLUSION**

11 Based on the points and authorities presented herein, Defendant requests this
12 Honorable Court grant this motion and order a new (in-person) sentencing proceeding.
13 Alternatively, Defendant requests the judgment of conviction be modified to reflect the seven
14 days served in this case.
15

16 DATED this 8th day of November, 2021.
17

18 Submitted By:

19 RESCH LAW, PLLC d/b/a Conviction Solutions
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21 By: 
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23 JAMIE J. RESCH

24 Attorney for Petitioner
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EXHIBIT A

Henderson Hospital

Respiratory

Diagnosis

Tachypnea <= 28D

Start Date End Date

5/8/2021 5/29/2021

History

Tachypnea noted on admit. Maintaining normal saturations in room air without significant distress. 5/14 Started on lasix per cardiology recommendations due to underlying cardiac defect. There was notable improvement in tachypnea with lasix.

Plan

Cardiovascular

Diagnosis

Murmur - other

Ventricular Septal Defect

Atrial Septal Defect

Peripheral Pulmonary Stenosis

Start Date End Date

5/11/2021 5/11/2021

5/12/2021

5/12/2021

5/12/2021

History

Murmur on exam 5/11. Echocardiogram done on 5/12 showed moderate muscular VSD w/ L->R shunt, moderate secundum ASD, mild RAE, bilateral PPS. 5/14 Discussed with Dr. Kwan and Dr. Galindo. they know of ongoing tachypnea - recommended BNP as baseline and starting lasix. 5/15 proBNP 2288- Dr. Akerman of cardiology recommends to continue lasix and repeat in 1 week. If the infant remains tachypneic then will repeat BNP in 1-2 days and consider increasing lasix dosing to TID. 5/21 pro BNP 1717 Discussed with Dr. Alexander on 5/22 recommended continuing same management and plan to obtain echo prior to discharge. ECHO done 6/1 in anticipation of discharge showed: Large fenestrated secundum ASD (left to right), mild to moderate right heart dilatation, small posterior muscular VSD (left to right shunt) and a trivial PPS.

Assessment

Echocardiogram 6/1 showed large fenestrated secundum ASD (left to right), mild to moderate right heart dilatation, small posterior muscular VSD (left to right shunt) and trivial PPS. No signs of heart failure. Infant is asymptomatic.

Plan

Monitor for signs of heart failure.

Continue Lasix ~1mg/kg/dose BID.

Follow up with cardiology 1-2 weeks after discharge.

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EXHIBIT B

DECLARATION OF CHRISTOPHER TRUSCA

Christopher Trusca does hereby declare:

1. That Declarant is the defendant in State v. Christopher Trusca.
2. That Declarant accepted a plea offer and was sentenced on October 19, 2021.
3. The sentencing was held remotely over the Internet. This wasn't my preference, especially since I was in a different physical location during sentencing than my attorney, and therefore had no way to communicate privately with him. My attorney only participated by audio and I didn't even actually see him during the hearing.
4. I've reviewed the invoice indicating an attorney talked to me the day of sentencing, but before the sentencing hearing. I dispute this, I definitely did not talk to my attorney the day of sentencing, prior to the sentencing.
5. At sentencing I stated I had no objections to the presentence report or psychosexual report, but I was just following my attorney's lead during sentencing. In fact, I had not reviewed those documents before sentencing at all, nor did my attorney even tell me anything about what was in them.
6. During sentencing, I participated by video on a telephone, the connection was poor and I wasn't able to hear everything. I observed other court proceedings while waiting for my matter to be called, and there were many interruptions by others and the moderator repeatedly had to intervene. Also nonparticipants kept interrupting and the judge had to repeatedly tell them to be quiet.
7. I was not able to communicate privately with my attorney during sentencing and therefore couldn't provide him points to argue on my behalf such as those raised in the motion to modify sentence. I wasn't capable of making those arguments myself which is a big reason I hired an attorney in the first place.
8. On October 26, 2021, the Court allowed me to remain out of custody until November 23rd, mostly due to my daughter's health. She is approximately five months old and

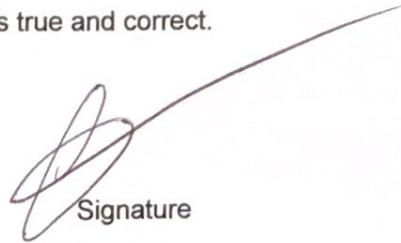
was born with two holes in her heart. She is in the process of getting scheduled for surgery to repair the holes. She is seriously ill and I am providing some medical records with the motions to document that fact.

9. If release on bail is continued, I will continue to make all court appearances and adhere to all court orders.

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

11/8/21

Executed on


Signature

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EXHIBIT C

Isso & Associates Law Firm, PLLC

8275 S Eastern Ave Suite 200
Las Vegas, NV 89123
United States

INVOICE

Invoice # 1917
Date: 10/21/2021
Due On: 11/20/2021

Christopher Trusca

00120-Trusca

Criminal - 20CRH001251

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2021	Contacted Department Chambers to obtain PSI report for client Christopher Trusca. Arranged for delivery of documents via email once John Schaller, Esq. confirms with clerk that she is authorized to send to me.	0.30	\$300.00	\$90.00
Service	10/18/2021	Obtained PSI report and pshycho sexual evaluation and reviewed in preparation for sentencing hearing.	1.40	\$300.00	\$420.00
Service	10/19/2021	Attended Court via bluejeans and represented client in sentencing hearing.	2.50	\$300.00	\$750.00
Service	10/19/2021	Phone consultation with client prior to sentencing and after sentencing hearing.	0.40	\$300.00	\$120.00
Service	10/19/2021	Telephonic conference with client's father Cristian Trusca	1.10	\$300.00	\$330.00
Service	10/19/2021	Took over phone call with client from Peter Isso, Esq. and discussed the events of earlier that day with client's father around 11p.m. same day as sentencing. Told him I would look into what can be done and update him tomorrow afternoon.	0.40	\$300.00	\$120.00
Service	10/19/2021	phone conferences with John Lanning and Peter Isso regarding sentencing	0.70	\$300.00	\$210.00
Service	10/20/2021	phonecall with Peter Isso and conference call with Peter Isso and Kirk Hamblin regarding sentencing	0.60	\$300.00	\$180.00
				Total	\$2,220.00

Please make all amounts payable to: Isso & Associates Law Firm, PLLC

Please pay within 30 days.

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EXHIBIT D

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3 **EIGHTH JUDICIAL DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 IN THE ADMINISTRATIVE MATTER
6 REGARDING ALL COURT OPERATIONS IN
7 RESPONSE TO COVID-19.

Administrative Order: 21-04

8 On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency in
9 response to the COVID-19 pandemic. The next day, March 13, 2020, the President of the United
10 States declared a nationwide emergency pursuant to §501(6) of the Robert T. Stanford Disaster
11 Relief and Emergency Assistance Act. 42 U.S.C. §§5121-5207.

12 After an initial reopening of businesses in 2020, on November 11, 2020, Governor Sisolak
13 announced an alarming increase in new COVID-19 cases in Nevada. The Governor requested all
14 individuals to stay in as much as possible, limit gatherings and wear face coverings at all times.
15 Clark County also issued a requirement for employees to wear face coverings at all times. On
16 February 15, 2021, Governor Sisolak increased the limit for gathering sizes based on the
17 decreasing COVID-19 numbers and the increased availability of vaccinations.

18 On April 27, 2021, the State of Nevada's COVID-19 Mitigation and Management Task
19 Force approved Clark County's Proposed Local Mitigation and Enforcement Plan effective May
20 1, 2021. The approved plan increased capacity restrictions for public gatherings to 80 percent
21 occupancy and reduced social distance requirements from six to three feet. On May 18, 2021, the
22 Clark County Board of Commissioners approved elimination of all capacity and social distancing
23 requirements effective June 1, 2021. Clark County also, with certain exceptions, approved the
24 elimination of mask requirements for those who are vaccinated.

25 The Nevada Constitution provides in Article 3 §1 that, "The powers of the Government of
26 the State of Nevada shall be divided into three separate departments, - the Legislative, - the
27 Executive and the Judicial; and no persons charged with the exercise of powers properly belonging
28 to one of these departments shall exercise any functions, appertaining to either of the others, except
in the cases expressly directed or permitted in this constitution." The Nevada Supreme Court has
also found that "In addition to the constitutionally expressed powers and functions of each

1 Department, each (the Legislative, the Executive, and the Judicial) possess inherent and incidental
2 powers that are properly termed ministerial. Ministerial functions are methods of implementation
3 to accomplish or put into effect the basic function of each Department.” Galloway v. Truesdell,
4 83 Nev. 13, 21, 422 P.2d 234, 237 (1967).

5 The judicial power is vested in the state Court system comprised of the Nevada Supreme
6 Court, the Nevada Court of Appeals, District Courts, Justice Courts and Municipal Courts. Nev.
7 Const. art. VI, §1. The Nevada Constitution expressly recognizes the Chief Justice as the
8 administrative head of the Court system. Nev. Const. art. VI §19. By expressly identifying the
9 Chief Justice as the Court system’s administrative leader, the Chief Justice has “inherent power to
10 take actions reasonably necessary to administer justice efficiently, fairly, and economically.”
11 Halverson v. Hardcastle, 123 Nev. 245, 260, 163 P.3d 428, 439 (2007). Consequently, the Nevada
12 Supreme Court, “through the Chief Justice, has the ultimately authority over the judiciary’s
13 inherent administrative functions.” Id. at 260, 163 P.3d at 439.

14 Rule 1.30(b) of the Rules of Practice for the Eighth Judicial District Court charges the
15 Chief Judge of the Eighth Judicial District Court with various responsibilities, including
16 supervising the administrative business of the District Court, ensuring the quality and continuity
17 of Court services, supervising the Court calendar, reassigning cases as convenience or necessity
18 requires, assuring the Court’s duties are timely and orderly performed, and otherwise facilitating
19 the business of the District Court.

20 During the COVID-19 pandemic, the District Court, in consultation with the Nevada
21 Supreme Court, concurred with the Governor and exercised its ministerial judicial powers. On an
22 emergency basis, the District Court entered Administrative Orders 20-01 through 20-14; 20-16;
23 20-17; 20-22 through 20-24; 21-01; and 21-03. These Orders changed Court procedures to
24 minimize person-to-person contact and mitigate the risk associated with the COVID-19 pandemic,
25 while continuing to provide essential Court services.

26 This order continues the District Court’s response to the COVID-19 pandemic. For
27 purposes of clarity and to avoid confusion, this order supersedes AO 20-01 through 20-13, 20-16,
28 20-17, 20-22, 20-23, 20-24, and 21-03. Any portions of those orders that remain in effect are
included in this order. AO 20-14 (the process for electronic processing of search warrants) remains
in effect. Except where otherwise noted, this order takes effect upon filing.

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- a. Employers should encourage employees to receive a COVID-19 vaccine.
- b. Organizations may have mask policies that are more restrictive than the CDC guidance.
- c. All employers must provide face coverings for unvaccinated employees and shall require these employees to wear face coverings in all instances where required by emergency directives, including any space visited by the general public, even if no one else is present.
- d. Close or limit access to common areas where employees are likely to congregate and interact. When in common areas, face coverings* are required for unvaccinated employees.
- e. Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces and equipment
- f. Conduct daily surveys of changes to staff/labor health conditions.
- g. Post signage with the latest CDC mask guidance for vaccinated and unvaccinated guests.

Screening Protocols

- (1) Persons not fully vaccinated who are not wearing a mask;
- (2) Persons who are ill or experiencing unexplained fever, cough, or shortness of breath.

///

Appearances by Alternative Means

To ensure access to justice, minimize foot traffic in court facilities, and to reduce the potential for spread of infection, appearances by alternative means remains preferred in all case types with the exceptions of bench trials, jury trials, and in-custody defendants appearing in the Lower Level Arraignment Courtroom. For trials, District Court Judges should, to the extent possible, accommodate requests to appear by alternative means for any attorney, party or witness who is considered a vulnerable person under current CDC guidelines. This includes persons who are over 65, pregnant, or suffering from an underlying health condition. For proceedings other than trials, no in-person appearance shall be made unless the assigned District Court Judge or Hearing Master determines that the particular circumstances of the case require a personal appearance.

The District Court has four methods of appearance by alternative means: videoconference through BlueJeans, telephone conference through BlueJeans, regular telephone, and CourtCall. Since CourtCall involves a cost to the litigants, no party may be required to use CourtCall at this time. Use of BlueJeans is strongly favored given the number of people the system can accommodate and its compatibility with the JAVS system. Video appearance is strongly preferred over other methods of appearance by alternative means, and required in criminal, dependency, and delinquency cases unless a video appearance is prevented by technological issues. Lawyers are urged to provide assistance to clients who lack the independent ability to appear by alternative means.

Attorneys, parties, and witnesses are reminded that alternative means still constitutes a court appearance and attire should remain professional and court appropriate. Appearances should be made from a quiet place free of distractions. Also, for the safety of the community and for the quality of the audio recording, no appearances by alternative means should be made while driving.

The requirement for a formal written notice of any appearance by alternative means remains suspended. Arrangements for alternative appearances may be made via e-mail to the department JEA. E-mails about scheduling appearances should not be sent to the department inboxes.

Nevada Supreme Court Rules Part IX expressly excludes juvenile proceedings from the rules governing appearances by telephonic and audiovisual transmission. This rule is suspended due to the COVID-19 pandemic. Attorneys, probation officers, social workers, parents, guardians,

1 and any other necessary parties to a juvenile proceeding are strongly encouraged to appear by
2 alternative means.

3 For convenience of the attorneys and litigants, each department is to set up a permanent
4 BlueJeans link for court appearances. Hearing may be held in that session or in breakout sessions
5 as determined by the department. All closed hearings should be held in breakout rooms for security
6 purposes.

7 For civil and domestic cases, if the judge intends to hold a hearing before deciding a matter,
8 the judicial department will contact attorneys or self-represented litigants two judicial days before
9 the hearing to determine which method of appearance the party intends to use and gather the
10 appropriate contact information to arrange for the appearance by alternative means.

11 For probate cases, attorneys appearing by alternative means or having clients appear by
12 alternative means must notify the departments via e-mail two judicial days before the appearance.
13 The e-mail to the department must include the case number for the proceeding and the names and
14 e-mail addresses for each person appearing by video. This will allow the department to send a link
15 to appear via video. If arrangements need to be made on shorter notice due to an emergency, the
16 judicial department must be contacted by phone.

17 For criminal cases, juvenile dependency cases, and juvenile delinquency cases all
18 appearances by alternative means for attorneys and out-of-custody defendant must be through
19 BlueJeans video unless technology problems make a phone conference necessary. Attorneys
20 appearing by video or having clients/witnesses/agency representatives/probation officers appear
21 by alternative means must notify the department via e-mail at least one judicial day before the
22 appearance. In juvenile cases, parents or guardians may provide their e-mail addresses to the
23 juvenile's attorney to arrange for the appearance. The e-mail to the department must include the
24 case number for the proceeding and the names and e-mail addresses for each person appearing by
25 video. This will allow the department to send a link to appear via video. If arrangements need
26 to be made on shorter notice due to an emergency, the judicial department must be contacted by
27 phone.

28 Media reporters may request to attend any public court proceeding by alternative means
for the purpose of observing the proceedings. Any reporter requesting an appearance in this manner
must contact the department for a BlueJeans video link. Reporters appearing by alternative means

1 must remain on mute and are not permitted to interject or speak during any proceeding. A reporter
2 violating this rule will lose the ability to appear by alternative means.

3
4 **Mandatory Face Coverings for Those Who are Unvaccinated, in Courtrooms, in Jury**
5 **Assembly and Other Designated Areas**

6
7 For the health and safety of all, members of the public who are not fully vaccinated must
8 wear face coverings that cover their noses and mouths. "Fully vaccinated" means two weeks after
9 completion of the vaccination process. Face coverings must be worn at all times while in any
10 Court facility and while in any security screening line to enter a Court facility. "Court facilities"
11 include the Regional Justice Center, the Family Court building, District Court courtrooms and
12 office space on the tenth and eleventh floors of the Phoenix building, District Court courtrooms
13 and office space in the Greystone building and District Court office space in the Clark Place
14 building.

15 All District Court judges and employees who are not fully vaccinated must cover their
16 noses and mouths with face coverings while at work unless they are alone in unshared work space.
17 This includes all common areas of any facility as well as parking lots, back hallways, employee-
18 only elevators, shared restrooms and break rooms. Judges and employees who are fully vaccinated
19 are still encouraged to wear face coverings while at work, but may choose not to do so outside of
20 the courtroom or other designated mask-required areas.

21 All attorneys, vendors, and employees of any organization or entity who work in a Court
22 facility who are not fully vaccinated must cover their noses and mouths with face coverings while
23 in any common areas of the facilities. Common areas include, but are not limited to, security
24 screening, lobby areas, public elevators, employee elevators, shared back hallways, public
25 restrooms and courtrooms. This includes, but is not limited to, employees of Las Vegas Justice
26 Court, Legal Aid Self-Help Centers, Clark County Clerk's Main Office, Clark County District
27 Attorney's Office, Clark County Public Defender's Office, Clark County Department of Juvenile
28 Justice Services, Clark County Department of Family Services, and contract counsel. Employees
of other organizations or entities with space in Court facilities are subject to the policies of their
individual employer while in their own organization's work space.

1 Those who are fully vaccinated are still encouraged to wear face coverings while in court
2 facilities, but may choose not to do so outside of the courtroom or other designated mask-required
3 areas.

4 Face covering requirements for those who are vaccinated have been eliminated by Clark
5 County with some exceptions, including public transportation and detention facilities. The Court
6 recognizes that, unlike most other facilities, attendance at court proceedings is often compelled
7 and people are frequently required to remain in enclosed courtrooms for extended period of time
8 (in excess of fifteen minutes). As a result, regardless of vaccination status, face coverings will be
9 required in courtrooms, jury assembly rooms, and other designated enclosed spaces where
10 members of the public congregate for extended periods of time.. These requirements will remain
in place until the CDC lifts mask requirements for unvaccinated people.

11 Children under the age of two and individuals who are unable to remove the face covering
12 without assistance do not have to comply with the above-referenced face covering directives.
13 Individuals who are unable to wear a face covering should make arrangements to appear by
14 alternative means.

15 Face coverings must cover the nose and mouth at all times. Face coverings with vents,
16 bandanas, or face coverings made out of mesh are not permitted. Face shields may be worn with a
mask as added protection, but may not be worn alone.

17 **Meetings**

18 Meeting by telephone, teleconference, videoconference or e-mail remain preferred. This
19 includes judges meetings; executive committee meetings; division judges meetings; bench-bar
20 meetings; any meetings with community partners; specialty Court staffing; specialty Court
21 graduations; administrative department meetings; continuing education meetings; meetings of
22 judges, hearing masters and/or staff within a particular case assignment. Meeting organizers of
23 in-person meetings should consider also providing a virtual option to encourage access for those
24 who may be unable to attending meetings. Those attending in-person meetings must follow mask
requirements provided in this order.

25 ///

1 **Social Distancing**

2 Social distancing requirements are being eliminated by Clark County on June 1, 2021. The
3 current three-foot social distancing requirements set by Clark County will remain in effect until
4 that date.

5 Even with the elimination of social distancing requirements, all District Court Judges are
6 encouraged to manage courtrooms to allow comfortable space between people in the courtroom –
7 for example, having the public sit in every other seat, or spacing jury chairs out to allow the
8 maximum amount of space between jurors.

9 **GENERAL PROVISIONS**

10 **Attorney Obligations**

11 Attorneys, as officers of the Court, have ethical obligations for cooperative civility under
12 normal circumstances. This Court, under the present circumstances, reminds attorneys that they
13 have an obligation to cooperate with the Courts and one another as we all navigate these
14 challenging circumstances. This is not the time to press for unwarranted tactical advantages,
15 unreasonably deny continuances or other accommodations, or otherwise take advantage of the
16 challenges presented due to the current pandemic. Lawyers are expected to be civil, professional,
17 and understanding of their colleagues, parties and witnesses who are ill or otherwise unable to
18 meet obligations because of the current restrictions.

19 **Re-Opening of the Clerk's Office to In-Person Filing**

20 The Civil/Criminal Clerk's Office and the Family Clerk's Office will both be open to
21 provide in-person services Mondays through Friday, 9:00 a.m. to 4:00 p.m. Litigants are
22 encouraged to file electronically without a personal visit to the Clerk's Office when at all possible.
23 For litigants who do not have the ability to electronically file documents, documents may be mailed
24 to the following addresses:

25 District Court Civil/Criminal Division
26 Attn: Clerk's Office
27 Regional Justice Center
28 200 Lewis Ave.
 Las Vegas, NV 89155

1 District Court Family Division
2 Attn: Clerk's Office
3 Family Court
4 601 N. Pecos Rd.
5 Las Vegas, NV 89155

6 Original wills may be lodged with the Clerk. The Clerk's Office shall maintain a safety
7 protocol for clerks tasked with opening mail and handling paper documents.

8 **Continuances**

9 The continuance of any trial or evidentiary hearing will be considered on a case-by-case
10 basis. Attorneys may have difficulty obtaining witnesses or being prepared for evidentiary
11 proceedings in the period immediately following the duration of the administrative orders relating
12 to COVID-19. Continuances should only be granted upon a showing of good cause to allow time
13 for preparation or to obtain witnesses. Judges will need to examine the merits of any application
14 for a continuance, balancing the consequences of a delay in the proceedings, the need to handle
15 the current backlog of cases, and the constraints placed on attorneys and litigants to prepare for a
16 trial or evidentiary hearing.

17 **Courtesy Copies**

18 No paper courtesy copies of any documents filed in Odyssey may be sent to the Court for
19 any case type. Judges are strongly discouraged from requesting e-mailed courtesy copies from
20 parties due to the burden it places on the system as a result of additional storage required. District
21 Court IT has created a Secure File Transfer Protocol for each department so that departments may
22 obtain electronic courtesy copies of larger documents. To reduce the potential spread of infection
23 through paper and to reduce Court operating costs, judges are strongly discouraged from having
24 documents printed from Odyssey to read.

25 Counsel should contact the Court Clerk for handling of documents that cannot be converted
26 to electronic format.

27 **Depositions**

28 In-person depositions may go forward although counsel should be sensitive to any health
issue and proceed by alternative means when appropriate. During the period this order is in effect
the Court interprets NRCP 28(a)(1) and NRCP 30 to allow the deposition officer to be in a separate
location from the deponent. See SCR Part IX-B(A) and (B) Rule 9.

1 Attorneys must cooperate in the scheduling of witnesses, in handling depositions by
2 alternative means when any participant is part of a vulnerable population, and in continuing
3 depositions when needed because of COVID-19 issues.

4 **Discovery (Civil and Domestic)**

5 All discovery hearings in both the civil and domestic case types shall continue to be
6 conducted by alternative means.

7 The tolling of discovery deadlines ended on July 1, 2020. This includes deposition by
8 written questions, interrogatories, production of documents, entering onto land for inspection
9 purposes and requests for admissions. The Court acknowledges that discovery may still be
10 impeded by COVID-19 related issues and it may be difficult to obtain certain items such as medical
11 records. Judges are encouraged to grant requests to continue discovery under these circumstances.

12 As of July 1, 2020, Rule 35 examinations may be scheduled as medical providers are
13 available. Parties may agree to schedule the Rule 35 exam sooner. Parties may also file a motion
14 with the Discovery Commissioner demonstrating good cause to proceed forward with a Rule 35
15 examination. Good cause includes an emergency such as imminent destruction or loss of evidence.
16 The motion shall also include protocols for ensuring the safety of the examiner and an affidavit
17 from the medical provider indicating that the provider is able to conduct the examination following
18 those protocols. Any issues with scheduling or health concerns of the party to be examined should
19 be addressed with the Discovery Commissioner.

20 Discovery motions may be resolved on the papers by way of a written recommendation
21 issued by the Discovery Commissioner. If the Commissioner determines oral argument is needed,
22 the hearing will be held by alternative means unless the Commissioner determines a personal
23 appearance is necessary.

24 **Electronic Service**

25 All lawyers and self-represented litigants are required to register for electronic service and
26 update any change of e-mail address with the Court. In the limited circumstance where a self-
27 represented litigant does not have an e-mail address, the Court Clerk's Office is directed to assist
28 the self-represented litigant in creating an e-mail address.

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1 **Hearings**

2 At this time, hearings of all sorts in all case types should go forward. Except as provided
3 in this order, all District Court non-evidentiary hearings should be conducted by video or
4 telephonic means or decided on the papers unless otherwise directed by a District Court Judge.

5 Evidentiary hearings should go forward. Appearances by witnesses, parties, and lawyers
6 by alternative means are encouraged unless the District Court Judge finds that a personal
7 appearance by an individual is necessary to the proceeding. To the extent possible, exhibits should
8 be produced, displayed, and admitted in an electronic format.

9 **Original Signature Requirements**

10 With the exception of documents requiring the signature of a notary, an electronic signature
11 will be considered an original signature. All documents filed with the Court may be electronically
12 signed as provided in the Nevada Electronic Filing and Conversion Rules, Rule 11(a). All
13 documents requiring a signature of another person may be electronically signed; however, the
14 party submitting the document must obtain e-mail verification of the other person's agreement to
15 sign electronically. That verification must be embedded in the document or attached as the last
16 page of the document.

17 Filers are reminded that NRCP Rule 11 provides sanctions for filing with improper
18 purpose, which would include a misrepresentation of a signature. Additionally, other civil or
19 criminal penalties could apply for misrepresenting or fraudulently signing a document.

20 **Proposed Orders**

21 All proposed orders, requests for orders shortening time, stipulation and orders, or any
22 other document submitted to a judge for signature shall be submitted to the appropriate department
23 electronically and signed electronically by the judge. A department inbox list is attached to this
24 order. DEPARTMENT INBOXES ARE TO BE USED ONLY FOR SUBMITTING
25 DOCUMENTS FOR THE JUDGE'S SIGNATURE. NO OTHER E-MAILS MAY BE SENT TO
26 DEPARTMENT INBOXES.

27 Proposed orders sent to a department's inbox should include only a blank line for the
28 judge's signature, e.g. _____. Signature lines should not include a date,
judge's name, or judge's title. Sufficient space should be allowed above and below the signature
line for the judge's signature and the electronic stamp including date, title, and name of the judge.

1 Documents must be submitted as a PDF document. If a judge has significant revisions, the
2 department will request a Microsoft Word version of the order from the submitting party for editing
3 purposes. The Court notes that both WordPerfect and Pages allow documents to be saved in a
4 Word format.

5 The e-mail subject line must identify the full case number, the filing event code, and the
6 name of the case. The information must be in that order for the Court's automated filing system
7 to work properly. This naming convention looks like: A-20-1234560-C - ORDR - Smith v. Doe

8 Documents not properly submitted may be returned.

9 NO ADDITIONAL ARGUMENT OR DISCUSSION SHOULD BE INCLUDED IN THE
10 E-MAIL.

11 After reviewing submitted documents, the judge will electronically sign and file the order
12 into the Odyssey system. The Court will not print or retain paper copies of the orders.

13 All documents submitted will be filed by the department and served to all parties registered
14 for electronic service. Parties are responsible for filing the Notice of Entry of Order as well as
15 serving orders by mail to any party who is not registered for electronic service.

16 For any self-represented litigant who is unable to submit an order by e-mail, the Court shall
17 prepare and file the order.

18 To ensure the integrity of electronically signed and filed orders, the Clerk's Office will
19 reject orders submitted for filing from outside of the Court.

20 **Rule 16.1 (Civil), 16.2 (Domestic), and 16.205 (Custody) Early Case Conferences**

21 Rule 16.1, 16.2, and 16.205 conferences should proceed. To the extent possible, all initial
22 disclosures, supplements and other written discovery should be exchanged through electronic
23 means. If a conference cannot proceed because of issues related to COVID-19, an appropriate
24 motion should be filed with the assigned District Court Judge.

25 Requests to continue deadlines should be filed with the assigned District Court Judge.

26 **Settlement Conferences (Civil, Criminal and Family Divisions)**

27 In order to assist with the backlog of trials, judicial settlement conferences are highly
28 encouraged. In all divisions, settlement briefs and supporting exhibits must be submitted
electronically. Settlement conferences may be held by alternative means. For in-person

1 conferences, participants who are not fully vaccinated must wear face coverings that cover their
2 noses and mouths at all times during the settlement conference.

3 In the Family Division, there are three possibilities for judicial settlement conferences: (1)
4 the Senior Judge Settlement Conference Program; (2) the Family Division Settlement Conference
5 Program; and (3) Senior Settlement Conferences. Settlement conferences should be requested
6 through the assigned department.

7 In the Civil Division, judicial settlement conference may be set through the Civil
8 Settlement Conference Program by contacting Department 30. Counsel may also contact
9 individual judges to request settlement conferences or reach out to the assigned departments to
10 submit a request for a senior judge to conduct a settlement conference. Attorneys and litigants may
11 not schedule settlement conferences directly with the senior judge program.

12 In the Criminal Division, requests for settlement conferences should be submitted via e-
13 mail on the settlement conference form to the Chief Judge. Settlement conferences may be
14 requested for cases where the defendant is in-custody or out-of-custody. The form must be filled
15 out completely or the conference will not be set. In-custody criminal settlement conferences will
16 be scheduled to take place in the Lower Level Arraignment courtroom only. Priority will be given
17 to trials where the defendant is in-custody and has invoked speedy trial rights and to older homicide
18 cases.

19 **Specialty Courts (All Divisions)**

20 All status hearings should go forward by alternative means unless a judge or hearing master
21 determines that circumstances warrant a personal appearance. No jail sanctions will be imposed
22 by any specialty court program for non-compliance. This does not prevent arrest of a participant
23 who is on probation for a probation violation. This also does not preclude a participant from being
24 placed on electronic monitoring; however, no Specialty Court participant may be placed on CCDC
25 house arrest with the exception of felony DUI participants in the first six months of the program
26 who lack the current ability to self-pay.

27 The Court will work with the treatment providers to continue to provide treatment while
28 balancing the safety of the participants and treatment provider staff.

Sealed Documents

If a party is requesting a document be sealed, the party must file a motion to file the document under seal. The party should separately file the document to be sealed, using the code TSPCA (Temporarily Sealed Pending Court Approval). The judge will review the motion and determine whether the document should be filed under seal. Failure to properly submit a motion to seal the documents, failure to submit the document separately, or failure to use the proper document code may result in the public electronic filing of the temporarily sealed document.

Service of Process

The Court recognizes that accomplishing personal service may continue to pose significant challenges at this time given that many businesses are closed or operating on a limited capacity. Properly documented service issues related to the COVID-19 pandemic will be considered good cause for a timely motion to extend service of process. For service issues between March 13, 2020 and June 30, 2020, good cause exists regardless of whether the motion is made before or after the 120-day service period. Effective July 1, 2020, motions to extend service of process must be filed prior to the expiration of the time to serve.

Summonses and Certified Copies

Summonses and certified copies shall be issued by the Court Clerk's Office. A lawyer or party seeking to have the Clerk of Court issue a summons under NRCP 4(b) shall e-file the summons. The filing code "SEI" must be used for the proper processing of the summons. The Clerk will issue the summons electronically. All certified copies will be issued electronically.

Trials

Bench trials in all case types should go forward in person. District Court Judges should, to the extent possible, accommodate requests to appear by alternative means for any attorney, party or witness who is considered a vulnerable person under current CDC guidelines or to appear by alternative means for any other reason deemed appropriate by the court. During bench trials, all participants in the trial, including the judge and court staff, must wear face coverings at all times.

If possible, trial exhibits should be produced, displayed, and admitted in an electronic format. If the use of electronic exhibits is not possible, exhibits should be submitted to the assigned judicial department at the direction of the Judge.

1 The District Court will continue to follow the update COVID-19 Jury Trial Plan for safely
2 conducting jury trials. The Jury Commissioner is to include health and safety information in the
3 jury summons, including mask requirements. Until June 7, 2021, District Court jury selection will
4 take place in the Jury Services Room or an alternate location designated by the court that allows
5 for sufficient social distancing of the jurors. After June 7, 2021, jury selection will take place in
6 individual courtrooms following all necessary protocols.

7 Effective the week of June 14, 2021, the individual District Courts will prioritize their own
8 criminal trials, beginning with criminal cases involving interstate compact issues and criminal
9 cases in which a defendant is in custody and has invoked speedy trial rights. District Court Judge
10 will handle calendar calls for criminal cases no later than Tuesday the week before trial.

11 All cases set for trial by the department will then be set for a Central Calendar Call calendar
12 the Wednesday prior to trial at 1:30 p.m. At that time, each case will receive a start date and time
13 on either Monday or Tuesday.

14 Beginning with the June 28, 2021 stack, the individual District Courts will prioritize their
15 own civil trials, beginning with NRCP 41(e) timeline concern; cases with statutory preferences;
16 cases with preferential trial settings and then by case age. District Court Judges handling civil
17 matters will handle calendar calls for civil cases no later than ten days prior to the beginning of the
18 stack. Organization of the civil panels requires all civil-criminal departments to be on consistent
19 5-week stacks, with the next stack beginning June 28.

20 Ten days prior to the beginning of the stack, each judge will provide the Chief Judge and
21 the Civil Presiding Judge a list of cases going to trial, the start date for each case and the number
22 of days anticipated for jury selection. Each case will then be assigned a day and time to receive a
23 jury panel for jury selection. Jury selection for civil cases will begin on the Wednesday or
24 Thursday prior to the start date for the trial.

25 For civil trials set the weeks of June 14 and June 18, 2021, by June 1, 2021 the District
26 Court Judges must provide the Chief Judge and the Civil Presiding Judge with a list of the cases,
27 start date and days for jury selection so jury panels can be organized for those cases.

28 Overflow calendars will not be resumed until the court resumes normal trial operations;
cases, however, may be reassigned as necessary to ensure that trials are completed.

1 In order to address the current backlog of cases, judge handling trials are expected to
2 provide full trial days for jury trials. Judges handling criminal assignments will necessarily require
3 coverage of criminal calendars. Judges handling civil assignments may request/arrange coverage.
4 The Chief and presiding judges will assist in coordinating calendar coverage if needed. Senior
5 judge assistance may be requested for covering calendars.

6 Panels for other courts in Clark County will be summonsed provided that the court
7 requesting the panel creates a safety plan for the juries. Key points of the plan will be included
8 with the jury summons.

9 This order shall continue to stay trial in civil cases for purposes of tolling NRC 41(e) until
10 July 1, 2021, except where a District Court Judge makes findings to lift the stay in a specific case
11 to allow the case to be tried.

12 The time period of any continuance entered as a result of this order shall be excluded for
13 the purposes of calculating speedy trial under NRS 178.556(1) and NRS 174.511 as the Court finds
14 that the ends of justice served by taking this action outweigh the interests of the parties and public
15 in a speedy trial.

16 **Writs of Execution and Writs of Garnishment**

17 Writs of execution and garnishment were previously stayed by Governor's Directive 017
18 §1-2. The stay was lifted in Governor's Directive 026.

19 **CIVIL MATTERS**

20 **Alternative Dispute Resolution**

21 All matters in the Court Annexed Arbitration Program, Court Annexed Mediation Program,
22 and Nevada Foreclosure Mediation Program should proceed. These matters may be conducted by
23 video or telephonic means when possible. If a personal meeting is necessary, CDC and Clark
24 County guidelines should be followed.

25 For any cases assigned to the Court Annexed Arbitration program, none of the time
26 between March 17, 2020 and June 1, 2020 shall count toward the one year deadline to hold any
27 arbitration hearing pursuant to NAR 12(B). Additional requests to toll time should be addressed
28 to the assigned District Court Judge on a case-by-case basis.

1 **Extension of Time Deadlines**

2 Pursuant to NRCP 6(b), the Court recognizes the COVID-19 emergency as constituting
3 “good cause” and “excusable neglect” warranting the extension of time in non-essential civil case
4 types. This provision expired July 1, 2020. This does not apply to time deadlines that must not
5 be extended under NRCP 6(b)(2) (motions under NRCP 50(b), 52(b), 59, and 60 and motions made
6 after NRCP 54(d)(2) time has expired).

7 **Evictions and Foreclosures**

8 Stays of residential and small business evictions and judicial foreclosures are not addressed
9 by this order. Any change or termination of federal or local directives relating to evictions and
10 foreclosures depend on the entity issuing the directive.

11 **Response Time for Offers of Judgment**

12 The tolling of time to respond to offers of judgment submitted pursuant to NRCP 68 ended
13 July 1, 2020. After the tolling, parties had until July 10, 2020 to respond to any pending offer of
14 judgment.

15 **Rule 16 Conferences**

16 Rule 16 conferences must be conducted by alternative means. The District Court Judges
17 should continue to comply with the deadlines set in NRCP 16(b)(2) but should be mindful that
18 attorneys and parties may face difficulties conducting discovery, obtaining discovery responses
19 and communicating with their clients. These potential difficulties should be addressed and taken
20 into consideration when issuing NRCP 16 scheduling orders.

21 **Subpoenas**

22 Attorneys no longer require advance approval from the discovery commissioner to issue
23 subpoenas under NRCP 45. The subpoena provisions found in AO 20-17 were lifted by AO 20-
24 22. Attorneys are reminded to notice and provide a copy of the subpoena to the other parties before
25 service under NRCP 45(a)(4)(A). The District Court expects continued cooperation from attorneys
26 when there are difficulties in obtaining documents due to issues arising from COVID-19.

27 **Short Trial Program**

28 The Short Trial Program will proceed. Short Trial Judge and Participants must comply
with the Eighth Judicial District Court’s Jury Trial Plan. Short bench trials may proceed,

1 preferably using alternative means to the extent possible. Due to overtime restraints, short trials
2 must conclude by 5:00 p.m.

4 **CRIMINAL MATTERS**

5 All criminal matters should proceed. Criminal law and motion hearing times will continue
6 as designated by the Chief Judge. Each judge will have a time to hear in-custody matters and a
7 separate time for out-of-custody matters. Judges are encouraged to limit status checks or request
8 status updates in writing and to consider ruling on the papers for motions that do not require oral
9 argument.

9 **Certified Copies**

10 Certified copies of prior felony convictions for the purpose of a habitual criminal
11 determination shall be electronically filed in Odyssey prior to sentencing. The filing should be
12 captioned "Certified Copies of Prior Felony Convictions." If the certification seal is on the back
13 of a page, the page should be copied and attached to the last page of the Judgment of Conviction.

14 **Grand Jury**

15 The three currently existing grand juries will continue to hear cases. The Court will replace
16 the existing grand juries, beginning with the longest-serving grand jury in order to return to an
17 annual rotation.

18 Any Grand Jurors who are unable to continue service to the Grand Jury due to COVID-19
19 related health or employment issues will be excused on a case-by-case basis and replaced with
20 alternates.

21 All Grand Juries will meet in the Grand Jury room, which has been marked to provide for
22 social distancing of grand jurors, witnesses, court reporter, and attorneys. All Grand Jurors,
23 witnesses, attorneys, and the court reporter will be required to wear face coverings covering their
24 nose and mouth while in the RJC and throughout the grand jury proceedings. No food or beverages
25 will be permitted in the Grand Jury room during presentments.

26 Nevada Revised Statute 172.138 provided for the use of audiovisual technology to present
27 live testimony at grand jury proceedings "if good cause otherwise exists." The statute requires
28 that the technology ensures that the witness may be "clearly heard and seen" and "examined." The

1 Nevada Supreme Court has also provided for use of audiovisual equipment in criminal proceedings
2 in Supreme Court Rules Part IX-A(B).

3 During the current COVID-19 pandemic, good cause exists to allow witnesses to appear
4 before the grand jury via audiovisual technology. In order for a witness to appear by alternative
5 means, the State must notify the Chief Judge's department two judicial days prior to the
6 proceeding. The State will provide the time of the witness's testimony and the name, telephone
7 number and e-mail address of the witness to allow a BlueJeans link to be sent to the witness.
8 District Court IT will assist with any issues with the audiovisual equipment on the Court side, but
is not responsible for issues on the witness's side.

9 Grand jury returns will be conducted by alternative means to prevent the Grand Jury
10 Forepersons from having to re-enter the Regional Justice Center.

11 **Guilty Pleas**

12 When the defendant is unable to provide a signed copy of the guilty plea due to appearance
13 by alternative means, the guilty plea shall be signed by counsel in the following manner: "Signature
14 affixed by (insert name of defense counsel) at the direction of (insert name of defendant)" The
15 judge shall make a record that because of COVID-19 precautions that the defendant was unable to
16 physically sign the guilty plea agreement. The defendant shall be canvassed by the judge taking
the plea as follows:

17
18 On page ____ of the plea agreement your attorney has signed your name with a
19 notation that they signed it at your direction. Is that correct?

20 Did you agree for your attorney to sign in place of your actual signature?

21 Did you knowingly, willingly and voluntarily direct your attorney to sign the
22 agreement on your behalf?

23 Before directing your attorney to sign for you, did you read the guilty plea
24 agreement and talk to your attorney about the terms of the guilty plea agreement?

25 Did you discuss that your attorney signing your name at your direction will be
26 treated the same as if you actually signed the plea agreement?

27 Do you agree to have the signature placed on the agreement by your attorney to
28 be treated the same as if you signed the plea agreement?

1 **In-Custody Appearances**

2 All in-custody defendants will appear by video to the assigned judicial departments for law
3 and motion calendars. Arraignments, competency, and in-custody specialty court matters will
4 continue to be heard in the lower-level arraignment Courtroom. Except for jury trials, no defendant
5 will be transported to a District Court courtroom absent extraordinary circumstances. Due to
6 limited access to alternative appearances, evidentiary hearings or lengthy sentencings for in-
7 custody defendants should be coordinated through the Chief Judge's office. Also, no defendant
8 who is in isolation pursuant to Detention Services protocol will be brought for any court
appearance.

9 Defense attorneys will have limited ability to discuss matters with their clients during Court
10 appearances. Attorney-client conversations will be facilitated if needed; however, attorneys are
11 cautioned that it will be absolutely necessary for clients to be prepared in advance of court.

12 **Out-of-Custody Appearances**

13 Due to the limited capacity of the Regional Justice Center at this time, out-of-custody
14 defendants must appear by alternative means whenever possible, including for entry of plea, status
15 checks, motions, and sentencing where the negotiation contemplates probation. Out-of-custody
16 defendants shall appear in person for probation revocation hearings where jail time or revocation
17 is being sought, sentencings where the negotiation contemplates a prison or jail sentence, trials,
18 and for any matter where the judge makes an individual determination that the defendant's
presence is necessary for the determination of the matter.

19 Lawyers representing indigent defendants are urged to provide assistance to defendants
20 who do not have the independent ability to appear by alternative means.

21 All attorneys are encouraged to appear by alternative means. Video appearance is required
22 in criminal matters unless prevented by technological issues. In order to appear by alternative
23 means in a criminal matter, attorneys must e-mail the department at least one judicial day in
24 advance of the Court appearance and provide the e-mail the attorney intends to use to appear. In
25 case of an emergency that does not allow for one day's notice, attorneys should contact the
26 department.
27
28

1 **DOMESTIC MATTERS**

2 **Confidential Reports**

3 Notwithstanding the provisions of EDCR 5.203, confidential reports (including custody
4 evaluations, child interviews, brief focus assessments, drug test results, and paternity test results)
5 shall be transmitted electronically to retained counsel, subject to the limitations imposed on
6 counsel pursuant to EDCR 5.301 and EDCR 5.304. For self-represented litigants, civil-domestic
7 departments may convey the information contained in the foregoing confidential reports by
8 telephone. The transmittal of this information by telephone shall include, where reasonably
9 practical, the reading of the information to the self-represented litigant. If unusual circumstances
10 exist, the Judge may have the self-represented litigant make a personal appearance to review the
11 report.

11 **Motions**

12 The Court may deny a motion at any time. The Court may grant all or any part of a motion
13 after an opposition has been filed or 21 days after service of the motion if no opposition was
14 filed. The Court may issue other written orders relating to the motion.

15 Motions related to emergency legal and physical custody issues should receive priority
16 with respect to the scheduling of a hearing on an appropriate order shortening time.

17 **GUARDIANSHIP**

18
19 All guardianship matters will proceed, including compliance hearings. Given the
20 vulnerability of the guardianship populations, all proposed protected persons and protected persons
21 must appear by alternative means.

22 **JUVENILE DEPENDENCY CASES**

23
24 All juvenile dependency matters should proceed. Appearances by alternative means for
25 lawyers, DFS workers, and others are strongly encouraged when possible.
26
27
28

1 **Adjudicatory Hearings**

2 When possible, pleas should be handled by alternative means. Pleas may be negotiated by
3 the parties and electronically filed with the Court. If the Court accepts the electronically filed plea,
4 a disposition hearing will be set within 15 business days.

5 Disposition hearings held pursuant to NRS 432B.540 and NRS 432B.550 may be heard by
6 alternative means. Reports must be filed with the Court in advance to help narrow the focus of
7 any hearing. Attorneys for the parents, the children and any CASA may file a report to supplement
8 the DFS recommendations for disposition, placement, and services to further assist in narrowing
9 the scope of the hearing.

10 All semi-annual reviews held pursuant to NRS 432B.580 may be decided on reports
11 submitted to the Court by DFS. Annual reviews held pursuant to NRS 432B.580 and NRS
12 432B.590 may be heard by alternative means.

13 **Termination of Parental Rights Proceedings**

14 Parents may appear in court for initial hearings on termination of parental rights; however,
15 a video appearance by the parents will be considered an in-person appearance for purposes of the
16 statute.

17 Termination of parental rights trials should go forward in person. District Court Judges
18 should, to the extent possible, accommodate requests to appear by alternative means for any
19 attorney, party or witness who is considered a vulnerable person under current CDC guidelines or
20 to appear by alternative means for any other reason deemed appropriate by the court. During bench
21 trials, all participants in the trial, including the judge and court staff, must wear face coverings at
22 all times.

23 Other motions may be decided on the papers or heard through alternative means. Status
24 checks maybe handled by written reports or, if necessary, heard by alternative means.

25 Mediations conducted pursuant to NRS 432B.5904 shall proceed by alternative means
26 when possible. Otherwise, the mediation should proceed with appropriate social distancing. For
27 in-person mediations, all participants must cover their noses and mouths with face coverings.

28 **Adoptions**

 Adoptions will proceed by alternative means or in person at the discretion of the Judge.

 ///

1 **Court-Ordered Admissions to Mental Health Facilities**

2 Hearings regarding court-ordered admissions to mental health facilities pursuant to NRS
3 432B.607 et. seq. may be held by alternative means.

4 **Child Haven and Parent Visitation**

5 Placements at Child Haven should be strongly discouraged. Out-of-state visitation will be
6 allowed unless the Court determines that visitation poses a health risk to the child. Visitation at
7 Child Haven and parental visitation of children in foster care may proceed if precautions are taken
8 to ensure the safety of the child and the well-being of others in the home in which the child resides.
9 The Division of Family Services is directed to create policies for visitation given the current
circumstances.

10 **Timely Filing of Orders**

11 Judicial departments will be responsible for timely filing orders from hearings. The
12 Division of Family Services will electronically upload orders for the Court for review and the
13 judicial departments will be responsible for reviewing and filing orders in a timely manner to
14 prevent disruption of federal funding.

15 **JUVENILE DELINQUENCY CASES**

16
17 All juvenile delinquency matters will proceed. Audiovisual appearances should be used
18 whenever possible for proceedings other than trials. No in-custody juvenile who is hospitalized,
19 isolated, or quarantined will be transported to court or appear for a court proceeding. Those
20 matters are to be continued until the juvenile is no longer under any hospitalization, isolation, or
21 quarantine. No juvenile matter may proceed without the juvenile present either in person or by
22 alternative means. If the juvenile is unavailable, the matter will be continued.

23 Juvenile delinquency trials should go forward in person. District Court Judges should, to
24 the extent possible, accommodate requests to appear by alternative means for any attorney, party
25 or witness who is considered a vulnerable person under current CDC guidelines or to appear by
26 alternative means for any other reason deemed appropriate by the court. During bench trials, all
27 participants in the trial, including the judge and court staff, must wear face coverings at all times.
28

1 **Signatures on Juvenile Written Admissions**

2 In order to ensure the rights of juveniles are being protected while the court allows
3 appearances by alternative means, all admissions must be in writing and include an
4 acknowledgment of rights and an acknowledgment of the standard terms and conditions of
5 probation or parole. Written admissions must be signed by the juvenile or signed by the juvenile's
6 attorney and be e-filed and accepted by the court.

7 If the juvenile is unable to personally sign the written admission due to coronavirus
8 precautions, the written admission shall be signed by counsel in the following manner:

9 Signature affixed by (insert name of defense counsel) at the direction of
10 (insert name of defendant). The judge shall make a record that because of
11 COVID-19 precautions that the defendant was unable to physically sign
 the [admission].

12 The defendant shall be canvassed by the judge taking the plea as follows:

13 On page [say page number] of the [admission] your attorney has signed your
14 name with a notation that they signed it at your direction. Is that correct?

15 Did you agree for your attorney to sign in place of your actual signature?

16 Before directing your attorney to sign for you, did you read the [admission] and
17 talk to your attorney about the terms of [probation or parole]?

18 Did you discuss that your attorney signing your name at your direction will be
19 treated the same as if you actually signed the [admission]?

20 Did you knowingly, willingly, and voluntarily direct your attorney to sign this
21 [admission] on your behalf?

22 Do you agree to have the signature placed on the [admission] by your attorney to
23 be treated the same as if you signed the [admission]?

24 **PROBATE**

25
26 Probate hearings on the Probate Commissioner's calendar that are opposed or require a
27 hearing shall go forward and be heard by alternative means unless the Probate Commissioner
28

1 determines a personal appearance is necessary. Matters that can be approved without a hearing
2 will be on the approved list if no objection has been electronically filed and served by 9:30 a.m.
3 on the day before the hearing. The approved list may be accessed on the probate section of the
4 District Court's website at:

5 <http://www.clarkcountycourts.us/departments/probate>

6 Once on the website, select the weekly probate calendar list.

7 Probate matters on the Probate Judges' calendars will be decided on the papers or heard by
8 video or telephonic means, unless the Judge determines a personal appearance is necessary.

9 If a party electronically files an election to proceed before the District Judge pursuant to
10 EDCR 4.08, any petitions on file will be set by the assigned judge.

11 Original wills may be lodged in person at the Clerk's Office.

12 Scheduling orders in contested matters may be requested by stipulation of the parties
13 submitted to chambers electronically with an order approving the proposed schedule. The assigned
14 Probate Judge or Probate Commissioner will set the evidentiary hearing or trial. Contested matters
15 will be decided on the papers or heard by alternative means unless the Judge or Commissioner
16 makes a determination that a personal appearance is necessary.

17 Sale confirmations currently set will be confirmed based upon the papers filed with the
18 Court and without the necessity of placing the sale for public bid, unless a notice of intent to
19 overbid is electronically filed and served 72 hours before the date of the sale confirmation hearing.
20 Any petition to confirm a sale filed after issuance of this Administrative Order shall contain, in
21 addition to the statutory requirements, language advising that the notice of intent to overbid must
22 be electronically filed and served 72 hours before the scheduled hearing. After receiving an
23 electronically filed notice of intent to overbid, the Court will set a remote hearing through video
24 or telephonic means. Otherwise the sale will be approved in accordance with the notice. All orders
25 on approved matters will be electronically filed by the Court and electronically served.

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COURT FACILITIES

Family Court and Services Complex

Family Law Self-Help Center

The Family Law Self-Help Center may begin providing in-person services. The Self-Help Center is encouraged to provide as many services as possible via telephone, e-mail, and other alternative means. Self-represented litigants may obtain help with family law forms and information at:

www.FamilyLawSelfHelpCenter.org

e-mail: flshcinfo@lascn.org

Telephone: (702) 455-1500 or (702)386-1070

Before re-opening to provide services to the public, the Family Self-Help Center has agreed to develop protocols to ensure the health and safety of staff and patrons. The protocols should include methods of limiting waiting times for services, mask-wearing, observing social distancing, and sanitation measures.

Family Mediation Center

The Family Mediation Center may provide in-person mediation services. The Family Mediation Center may continue conducting mediations via telephone or other alternative means. Child interviews and parent-child observations may be scheduled. The Family Mediation Center shall develop and follow protocols to ensure the health and safety of staff and patrons. The protocols must include methods of limiting waiting times for services, mask-wearing, and sanitation measures.

Donna's House Central

Donna's House Central will continue providing supervised visitation, supervised custody exchanges and other in-person services. Donna's House will continue to follow protocols to ensure the health and safety of staff and patrons.

Court Appointed Special Advocate Program

The Court Appointed Special Advocate Program may resume in-person trainings, orientations and other meetings with members of the public consistent with this order. The CASA

1 program is encouraged to continue conducting as much business as possible by telephone or other
2 alternative means.

3 **Regional Justice Center**

4 The District Court maintains responsibility for security in the RJC. In that regard, the
5 District Court remains concerned about the number of people entering the building during business
6 hours. Any efforts by building occupants to reduce the number of people entering the building are
7 appreciated and the District Court remains willing to assist however possible in these efforts.

8 **Civil Law Self-Help Center**

9 The Civil Law Self-Help Center may begin providing in-person services on or before April
10 1, 2021. The Self Help Center is encouraged to continue to serve as many individuals as possible
11 by phone, e-mail, live chat, and other alternative means. Self-represented litigants may obtain help
12 with civil forms, information, evictions and other matters from the Civil Law Self-Help Center:

13 www.CivilLawSelfHelpCenter.org

14 e-mail: clshcinfo@lascn.org

15 Telephone: (702) 671-3976

16 The Civil Law Self-Help Center has agreed to develop protocols to include methods of
17 limiting waiting times for services, observing social distancing, and sanitation measures.

18 **FINAL PROVISIONS**

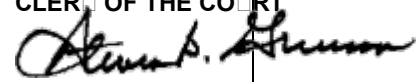
19 This order shall be reviewed no later than every 30 days and shall remain in effect until
20 modified or rescinded by a subsequent order.

21 **Dated this 4th day of June, 2021**

22 

23 **DBA F6B C0E9 EB81**
24 **Linda Marie Bell**
25 **District Court Judge**

26 
27 **James W. Hardesty**
28 **Chief Justice**
Nevada Supreme Court



MOT

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Drive, Suite 102

Las Vegas, Nevada, 89128

Telephone (702) 483-7360

Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

CHRISTOPHER TRUSCA,

Defendant.

Case No.: C-21-356689-1

Dept. No: VI

**DEFENDANT'S MOTION FOR BAIL PENDING
APPEAL**

[Hearing Requested]

COMES NOW, Defendant, Christopher Trusca, by and through his attorney, Jamie J. Resch, Esq., and hereby respectfully moves this Court, pursuant to NRS 178.488, for the setting of reasonable bail pending appeal.

This motion is based on the pleadings on file, documents attached and any oral argument.

DATED this 8th day of November, 2021.

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 

JAMIE J. RESCH

Attorney for Petitioner

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the foregoing Motion for Bail Pending Appeal was made this 8th day of November, 2021, by Electronic Filing Service to:

Clark County District Attorney's Office
Motions@clarkcountyda.com
PDmotions@clarkcountyda.com


An Employee of Conviction Solutions

POINTS AND AUTHORITIES

Christopher Trusca ("Trusca") was convicted by way of guilty plea of one count of possession of visual presentation depicting sexual conduct of a child, a category B felony under NRS 200.700 and 200.730. According to the plea agreement, all sides reserved the right to argue.

Sentencing occurred on October 19, 2021. At that time, the Honorable Joe Hardy presided over the proceedings. Despite the strong support in the record for the grant of probation, Trusca was sentenced to 19 to 48 months in state prison. On October 26, 2021, this Court allowed Mr. Trusca additional time in which to surrender, potentially because of extreme health problems related to his five-month-old daughter. On November 2, 2021, undersigned counsel substituted into the case for purposes of appeal. It is Mr. Trusca's intent to appeal his conviction and sentence.

1 Pursuant to NRS 178.488, this Court may grant bail pending appeal “unless it appears
2 that the appeal is frivolous or taken for delay.” Mr. Trusca remains out-of-custody at this time,
3 and therefore moves to so remain pending his direct appeal. Pursuant to the Court’s prior
4 order, he remains on high level electronic monitoring pending his surrender date.

5
6 Discussing the well-settled proposition that district courts are empowered to consider
7 bail pending appeal, the Nevada Supreme Court noted that additional considerations include
8 consideration of whether the defendant is a flight risk or danger to the community. Bergna v.
9 State, 120 Nev. 869, 875, 102 P.3d 549 (2004). Bail should not be denied unless the court can
10 highlight factors, in the record, which foreshadow the possibility of flight or danger. Id.
11

12
13 Bail in Bergna was ultimately denied in that it was a first degree murder case, and
14 evidence of record showed the defendant there planned a “particularly violent” crime under
15 circumstances designed to evade detection. Id. at 878. Here, the defendant’s case rests on
16 wholly different facts, starting with 1) that the State as part of the plea agreement agree not to
17 oppose the defendant’s OR release after entry of plea, and 2) the Court allowed the defendant
18 to remain free on electronic monitoring even after a prison sentence was imposed.
19

20
21 To the extent Defendant even wanted to flee, which he doesn’t, it would be a challenge
22 to do so on high level monitoring. Further, Mr. Trusca’s retention of appellate counsel indicates
23 his intent to lawfully challenge his conviction and sentence. Likewise, the danger to the
24 community is limited in as much as the charged offense was based on possession of child
25 pornography, and did not involve direct threats of violence towards another person by Mr.
26 Trusca. This is not to diminish the importance of the offense, but the “danger” that Mr. Trusca
27 would access those types of materials again is limited where his access to electronic devices, the
28

1 Internet, or other sources of contraband can be controlled as part of his high level monitoring.
2 Not to mention, Mr. Trusca is well aware now of the pains and penalties that accompany
3 possession of those types of materials.
4

5 Further, the pending appeal is taken in good faith and not for purposes of delay. In fact,
6 before filing a notice of appeal, Mr. Trusca intends to file a concurrent motion to modify his
7 sentence based on several factors. If anything, Mr. Trusca seeks to avoid delay, by attempting to
8 call certain errors to this Court's attention even before the time to appeal expires. Relatedly, the
9 appeal is certainly not frivolous in as much as the issues outlined in the motion to modify
10 sentence, as well as the structure of the sentencing itself, potentially violated his Constitutional
11 rights.
12

13
14 In particular, the sentencing was 1) overseen by a judge other than the judge assigned to
15 and familiar with the case, 2) incomplete in that Mr. Trusca did not have adequate time to review
16 the presentence report or properly prepare to address the court, and 3) held over not just a
17 video connection, but a spotty video connection that did not allow for complete communication
18 between the court and all parties. These types of issues are not frivolous as evidenced by the
19 fact the Nevada Supreme Court recently heard several similar issues in an en banc proceeding
20 that remains pending. See Lattimore v. State, #81343.
21

22
23 Other factors that this Court should consider are set forth in the declaration of Jamie
24 Resch, Esq., attached hereto and incorporated by reference.
25
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CONCLUSION

The Court should allow Mr. Trusca to remain on high level monitoring for the duration of his appeal to the Nevada Supreme Court. The appeal is not frivolous, is not taken for delay, and the record does not contain evidence of Mr. Trusca's risk of flight or danger to the community. As a result, Mr. Trusca is a candidate for bail pending his appeal.

DATED this 8th day of November, 2021.

Submitted By:

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 

JAMIE J. RESCH

Attorney for Petitioner

DECLARATION OF COUNSEL

Jamie J. Resch, Esq., does hereby declare:

1. That Declarant is an attorney duly licensed to practice law in all courts in the State of Nevada.
2. That Declarant is counsel for Christopher Trusca in this matter, to include with respect to a pending appeal as well as motions for bail and modification of sentence.
3. Mr. Trusca was sentenced to prison despite strong arguments that would have

1 supported a suspended sentence and the grant of probation. It is believed there are
2 several reasons for this, including that the sentencing court may have
3 misapprehended certain representations as fact which were not accurate. These will
4 be addressed in a concurrent motion to modify sentence.
5

- 6 4. If the motion to modify sentence is denied, Mr. Trusca intends to appeal. If that
7 happens, he requests the Court grant bail pending appeal. As noted in this motion,
8 the State agreed to an OR release after entry of plea. Further, even after he was
9 sentenced to prison, this Court allowed Mr. Trusca several weeks in which to
10 surrender. A strong case can be made that the State and this Court recognize Mr.
11 Trusca is not a particular flight risk or danger to the community.
12
13 5. Mr. Trusca has in fact never missed a court appearance in this matter, and he has
14 complied with all court orders.
15
16 6. Any appeal taken herein is not frivolous or made for delay. Similar issues have been
17 raised in multiple pending cases before the Nevada Supreme Court, particularly as it
18 pertains to remote sentencings held over low quality connections. There are also
19 issues related to the sentencing that may raise intertwined questions of either
20 attorney ineffectiveness (which may not be ripe for direct appeal) or fundamental
21 fairness and the right to counsel (which would be).
22
23 7. Mr. Trusca has been a resident of Clark County for many years, and although he has a
24 minor history of drug crimes prior to the instant offense, the evidence of record
25 explains that these offenses are related to a severe drug addiction problem that
26 started after the death of Mr. Trusca's older brother.
27
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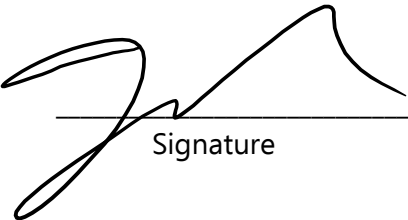
1 8. Mr. Trusca receives incredible support from an extended family that includes his
2 father, mother, and stepfather.

3
4 9. Mr. Trusca complied with this Court's orders, such as to get fitted for electronic
5 monitoring, even though that resulted him needlessly spending three days in custody
6 from November 2 to 4, 2021.

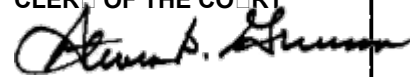
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8 10. If release on bail is continued, Mr. Trusca's stated intent is to continue to make all
9 court appearances and adhere to all court orders.

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

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13 _____11-8-21_____
14 Executed on

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Signature



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JOHN NIMAN
6 Deputy District Attorney
7 Nevada Bar #14408
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CHRISTOPHER TRUSC, aka,
13 Christopher Adam Trusca, #2741887
14 Defendant.

CASE NO: C-21-356689-1

DEPT NO: VI

15
16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO MODIFY SENTENCE**

17 DATE OF HEARING: November 23, 2021

18 TIME OF HEARING: 11:00 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the
21 attached Points and Authorities in Opposition to Defendant's Motion to Modify Sentence.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On September 9, 2020, the State charged Christopher Trusca ("Defendant") with two
4 (2) counts of Possession of Visual Presentation Depicting Sexual Conduct of a Child (Category
5 B Felony – NRS 200.700, 200.730 – NOC 50374), and one (1) count of Use of Internet To
6 Control Visual Presentation Depicting Sexual Conduct of a Person Under 16 Years of Age
7 (Category C Felony – NRS 200.727.1(a) – NOC 55090)

8 On June 17, 2021, the State filed an Information charging Defendant with one (1) count
9 of Possession of Visual Presentation Depicting Sexual Conduct of a Child (Category B Felony
10 – NRS 200.700, 200.730 – NOC 50374).

11 On June 22, 2021, Defendant pled guilty to the above count, according to a guilty plea
12 agreement. On October 19, 2021, the district court sentenced Defendant to nineteen (19)
13 months to forty-eight (48) months in the Nevada Department of Corrections ("NDC"), with
14 four (4) day credit for time served. On October 25, 2021, the District Court filed the Judgement
15 of Conviction.

16 On November 2, 2021, Defendant filed a substitution of Attorneys. On November 8,
17 2021, Defendant filed a Motion for Bail Pending Appeal and a Motion to Modify Sentence.
18 State's Opposition to Defendant's Motion to Modify Sentence follows:

19 **STATEMENT OF THE FACTS**

20 Defendant's Pre-Sentence Investigation Report ("PSI"), filed August 10, 2021, provides
21 a recitation of the facts of the subject offenses:

22
23 On September 17, 2018, Dropbox, an electronic service
24 provider, reported to the National Center for Missing and
25 Exploited Children (NCMEC) that one of their subscribers, the
26 defendant, later identified as Christopher Trusca aka Christopher
27 Adam Trusca, had uploaded six images of child pornographic
28 material to his cloud storage account on September 16, 2018. On
October 11, 2018, NCMEC forwarded the report to the Nevada
Internet Crimes Against Children Task Force (NVICACTF).
Dropbox provided Trusca's account information and IP address

1 login information. The IP address returned to Trusca's residence
2 in Henderson.

3 On May 31, 2019, a search warrant was executed on
4 Trusca's residence, and three items were seized. Officers searched
5 the items and located 771 images and 89 videos of illegal content.
6 When interviewed, Trusca admitted to uploading 100 to 1,000
7 (pictures and videos) that had bestiality and underage girls to his
8 Dropbox. He further admitted his actions were attributed to his
9 drug addiction to opioids and denied trading or exchanging links.
10 The videos were reviewed, and a warrant was issued for Trusca.

11 PSI, at 5.

12 ARGUMENT

13 **I. DEFENDANT MUST EITHER PROPERLY FILE A PETITION FOR WRIT OF 14 HABEAS CORPUS OR A MOTION TO MODIFY SENTENCE**

15 Defendant claims that this Court can reconsider the sentence while side skipping filing
16 an appeal. See Motion, at 3. Defendant asserts that:

17 [M]any of these issues could just be raised in a direct appeal. That
18 said, the *appeal process takes many months* and Mr. Trusca hopes
19 this *Court can provide a more expedient route to relief*. Relatedly,
20 while a motion pursuant to NRS 176.555 can be filed at any time,
21 this Court would likely lose jurisdiction over this request once the
22 notice of appeal is filed. Mr. Trusca therefore asks the Court to
23 *reconsider the sentence of imprisonment*.

24 Motion, at 3. However, Defendant is incorrect in his assertion and request, although Defendant
25 is correct that many of his claims would properly be brought on direct appeal.

26 After a judgment of conviction has been filed, NRS 34.724 states that a petition for writ
27 of habeas corpus "[c]omprehends and takes the place of all other common law, statutory or
28 other remedies which have been available for challenging the validity of the conviction or
sentence, and must be used exclusively in place of them." Thus, even if a motion for

1 reconsideration *were* available prior to the filing of a judgment of conviction, after the
2 judgment of conviction has been filed a *petition for writ of habeas corpus is the exclusive*
3 *remedy*, with two narrow exceptions: A motion to modify a sentence based on very narrow
4 due process grounds, and a motion to correct a facially illegal sentence. *See Passanisi v.*
5 *State*, 108 Nev. 318, 831 P.2d 1371 (1992).

6 Here, Defendant requests this Court to reconsider his sentence after the Court filed his
7 Judgment of Conviction. As such, the instant motion must be read as a motion to modify, as
8 the instant pleading is not a properly formatted petition for writ of habeas corpus. *See NRS*
9 *34.730, 34.735*.

10 **II. DEFENDANT IS NOT ENTITLED TO SENTENCE MODIFICATION**

11 Defendant requests this Court to reconsider Defendant's sentence for a variety of
12 reasons or at the very least modify Defendant's sentence by granting three (3) additional days
13 credit for time served *pursuant to* his Judgment of Conviction. *Motion*, at 6-11. However, all
14 Defendant's claims are outside the narrow scope for a motion to modify sentence. Even so,
15 the Court properly sentenced Defendant under NRS 200.730.

16 In general, a district court lacks jurisdiction to modify or vacate a sentence once the
17 defendant has started serving it. *See Passanisi v. State*, 108 Nev. 318, 322, 831 P.2d 1371,
18 1373 (1992) (overruled on other grounds, *Harris v. State*, 130 Nev. 435, 329 P.3d 619 (2014)).
19 However, a district court does have inherent authority to correct, vacate, or modify a sentence
20 where the defendant can demonstrate the sentence is based on a materially untrue assumption
21 or mistake of fact that has worked to the defendant's extreme detriment in violation of due
22 process. *See Edwards v. State*, 112 Nev. 704, 707, 918 P.2d 321,324 (1996).

23 Not every mistake or error during sentencing gives rise to a due process violation. *See*
24 *State v. Dist. Ct. (Husney)*, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). Such material
25 mistakes surrounding a defendant's criminal record can arise "either as a result of a sentencing
26 judge's correct perception of inaccurate or false information, or a sentencing judge's incorrect
27 perception or misapprehension of otherwise accurate or true information." *Id.*, 100 Nev. at 97,
28 677 P. 2d at 1048.

1 Additionally, raising other claims to attack the conviction or sentence is inappropriate
2 for a motion for sentence modification and must be raised by a timely filed direct appeal, or a
3 timely filed Petition or a Post-Conviction Writ of Habeas Corpus — pursuant to NRS 34.720-
4 34.830. *See Edwards*, 112 Nev. At 708, 918 P.2d at 324. 21. Moreover, "pursuant to NRS
5 34.724(2)(b), a post-conviction petition for a writ of habeas corpus comprehends and takes the
6 place of all other common-law, statutory, or other remedies which have been available for
7 challenging the validity of the conviction or sentence and must be used exclusively in place of
8 them." *Harris v. State*, 130 Nev. 448, 329 P.3d 619, 628 (2014).

9 Defendant's request that his sentence is modified because "Mr. Trusca was granted
10 additional time to remain out of custody, *after sentencing*." Motion, at 11. While out of
11 custody, "[h]e was ordered to get fitted for an ankle bracelet, which he went to do on November
12 2, 2021." However, "when he did, he was taken into custody . . . until he was fitted with an
13 ankle bracelet and released on November 4, 2021." *Id.* Any complaints regarding credit for
14 time served *pursuant — after sentencing* — must be filed in a petition directed to the Attorney
15 General. *See* NRS 34.724(2)(c).

16 Like above, Defendant's additionally claims — (1) the Court did not properly consider
17 the Defendant's criminal record and his drug addiction when rendering the sentence, (2)
18 Defendant in an unconstitutional manner as it was conducted remotely via Bluejeans¹ (3)
19 Defendant was coerced into saying he reviewed his PSI and his Psychosexual report, and (4)
20 Counsel providing ineffective assistance at the time of sentencing — are outside the scope of
21 a motion to modify sentence.

22 **A. THE COURT DID NOT MAKE A MATERIALLY UNTRUE ASSUMPTION OR**
23 **MISTAKE OF FACT THAT WORKED IN DEFENDANT'S EXTREME DETRIMENT**

24 Defendant fails to demonstrate, or even allege, that his sentence is based on a materially
25 untrue assumption or mistake of fact that has worked to his extreme detriment. *Edwards*, 112
26 Nev. at 707, 918 P.2d at 324. By pleading guilty, Defendant agreed to the facts as outlined in
27 _____

28 ¹ Sentencing Defendant via Bluejeans does not violate Defendant's right to be present. *See Chaparro*
v. State, 137 Nev. Adv. Op. 68, --- P.3d --- (2021).

1 the guilty plea agreement. *See* Guilty Plea Agreement (Exhibit 1).

2 Moreover, the Court was provided a PSI, which contained a recitation of the facts and
3 other pertinent information, and the guilty plea agreement, which included a description of the
4 facts. There is nothing in the record to suggest that the Court sentenced Defendant due to a
5 materially untrue assumption of fact.

6 Even if the Court was under a mistaken or untrue assumption of fact about his criminal
7 record, Defendant does not show that it worked to his extreme detriment. Defendant admitted
8 to police that he “[uploaded] 100 to 1000 (pictures and videos) that had bestiality and underage
9 girls to his Dropbox.” PSI at 5.

10 Defendant’s sentence was facially legal and was the result of a valid plea agreement.
11 Defendant fails to demonstrate or allege that the District Court relied upon any erroneous
12 assumptions about his criminal record to his extreme detriment in determining the length of
13 his sentence. In fact, Defendant cannot as he was sentenced to (19) months to forty-eight (48)
14 months when he faced a sentence of one (1) year to (6) years in NDOC. Defendant received
15 neither the minimum nor the maximum.

16 The District Court had statutory authority to impose the sentence it did, based on the
17 crime he was convicted of. Because Defendant's claims do not fall within the narrow
18 parameters permitted for a motion to modify sentence, the district court lacks jurisdiction over
19 Defendant’s case. *See* Passanisi, 108 Nev. at 321-22, 831 P.2d at 1372-73; *see also* Edwards,
20 112 Nev. at 707-08, 918 P.2d at 324.

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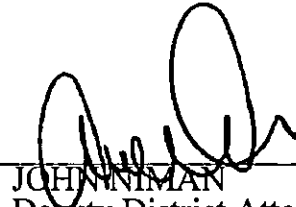
1 CONCLUSION

2 For the foregoing reasons, the State respectfully requests that Defendant's Motion for
3 Modification of Sentence be DENIED.

4 DATED this 9th day of November, 2021.

5
6 Respectfully submitted,
7 STEVEN B. WOLFSON
8 Clark County District Attorney
9 Nevada Bar #001565

10 BY


JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408

#10539 for

11
12
13
14 CERTIFICATE OF ELECTRONIC FILING

15
16 I hereby certify that service of State's Opposition To Defendant's Motion To Modify
17 Sentence, was made this 19th day of November, 2021, by Electronic Filing to:

18
19 JAMIE RESCH, ESQ.

20 EMAIL: jresch@convictionsolutions.com

21
22
23
24 
25 Secretary for the District Attorney's Office
26
27

28 JN/ch/mlb/SVU

Steven D. Grierson

1 **GPA**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **WILLIAM CHARLES ROWLES**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #013577**
8 **200 Lewis Avenue**
9 **Las Vegas, NV 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-21-356689-1

12 CHRISTOPHER TRUSCA, aka,
13 Christopher Adam Trusca #2741887,

DEPT NO: XVIII

14 Defendant.

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **POSSESSION OF VISUAL PRESENTATION**
17 **DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,**
18 **200.730 - NOC 50374),** as more fully alleged in the charging document attached hereto as
19 Exhibit "1".

20 My decision to plead guilty is based upon the plea agreement in this case which is as
21 follows;

22 The parties both retain the right to argue. The State will have no opposition to removing
23 electronic monitoring at entry of plea.

24 I agree to the forfeiture of any and all electronic storage devices, computers, and/or
25 related equipment and/or weapons or any interest in any electronic storage devices, computers
26 and/or related equipment and/or weapons seized and/or impounded in connection with the
27 instant case and/or any other case negotiated in whole or in part in conjunction with this plea
28 agreement.

EXHIBIT "1" 202030711\202030711C-GPA-(TRUSCA)-001.DOCX

1 I understand and agree that, if I fail to interview with the Department of Parole and
2 Probation (P&P), fail to appear at any subsequent hearings in this case, or an independent
3 magistrate, by affidavit review, confirms probable cause against me for new criminal charges
4 including reckless driving or DUI, but excluding minor traffic violations, the State will have
5 the unqualified right to argue for any legal sentence and term of confinement allowable for the
6 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
7 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without
8 the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite
9 twenty-five (25) year term with the possibility of parole after ten (10) years.

10 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
11 plea agreement.

12 CONSEQUENCES OF THE PLEA

13 I understand that by pleading guilty I admit the facts which support all the elements of
14 the offense(s) to which I now plead as set forth in Exhibit "1".

15 I understand that as a consequence of my plea of guilty the Court must sentence me to
16 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
17 ONE (1) year and a maximum term of not more than SIX (6) years. The minimum term of
18 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
19 understand that I may also be fined up to \$5,000.00. I understand that the law requires me to
20 pay an Administrative Assessment Fee.

21 I understand that, if appropriate, I will be ordered to make restitution to the victim of
22 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
23 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
24 reimburse the State of Nevada for any expenses related to my extradition, if any.

25 I understand that pursuant to NRS 176.139 and my plea of guilty to a sexual offense for
26 which the suspension of sentence or the granting of probation is permitted, P&P shall arrange
27 for a psychosexual evaluation as part of the Division's Presentence Investigation (PSI) Report
28 to the court.

1 I understand that I am not eligible for probation pursuant to NRS 176A.110 unless the
2 psychosexual evaluation certifies that I do not represent a high risk to reoffend based upon a
3 currently accepted standard of assessment. I understand that, except as otherwise provided by
4 statute, the question of whether I receive probation is in the discretion of the sentencing judge.

5 I understand that, before I am eligible for parole a panel consisting of the Administrator
6 of the Mental Health and Developmental Services of the Department of Human Resources or
7 his designee; the Director of the Department of Corrections or his designee; and a psychologist
8 licensed to practice in this state or a psychiatrist licensed to practice medicine in this state
9 certifies that I was under observation while confined in an institution of the department of
10 corrections and that I do not represent a high risk to reoffend based upon a currently accepted
11 standard of assessment.

12 I understand that the Court will include as part of my sentence, in addition to any other
13 penalties provided by law, pursuant to NRS 179D.441 to 179D.550, inclusive, I must register
14 as a sex offender within forty-eight (48) hours of release from custody onto probation or parole.

15 I understand that I must submit to blood and/or saliva tests under the direction of P&P
16 to determine genetic markers and/or secretor status.

17 I understand that if more than one sentence of imprisonment is imposed and I am
18 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
19 the sentences served concurrently or consecutively.

20 I understand that information regarding charges not filed, dismissed charges, or charges
21 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

22 I have not been promised or guaranteed any particular sentence by anyone. I know that
23 my sentence is to be determined by the Court within the limits prescribed by statute.

24 I understand that if my attorney or the State of Nevada or both recommend any specific
25 punishment to the Court, the Court is not obligated to accept the recommendation.

26 I understand that if the State of Nevada has agreed to recommend or stipulate a
27 particular sentence or has agreed not to present argument regarding the sentence, or agreed not
28 to oppose a particular sentence, such agreement is contingent upon my appearance in court on

1 the initial sentencing date (and any subsequent dates if the sentencing is continued). I
2 understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal
3 offense prior to sentencing the State of Nevada would regain the full right to argue for any
4 lawful sentence.

5 I understand if the offense(s) to which I am pleading guilty to was committed while I
6 was incarcerated on another charge or while I was on probation or parole that I am not eligible
7 for credit for time served toward the instant offense(s).

8 I understand that if I am not a United States citizen, any criminal conviction will likely
9 result in serious negative immigration consequences including but not limited to:

- 10 1. The removal from the United States through deportation;
- 11 2. An inability to reenter the United States;
- 12 3. The inability to gain United States citizenship or legal residency;
- 13 4. An inability to renew and/or retain any legal residency status; and/or
- 14 5. An indeterminate term of confinement, with the United States Federal
15 Government based on my conviction and immigration status.

16 Regardless of what I have been told by any attorney, no one can promise me that this
17 conviction will not result in negative immigration consequences and/or impact my ability to
18 become a United States citizen and/or a legal resident.

19 I understand that P&P will prepare a report for the sentencing judge prior to sentencing.
20 This report will include matters relevant to the issue of sentencing, including my criminal
21 history. This report may contain hearsay information regarding my background and criminal
22 history. My attorney and I will each have the opportunity to comment on the information
23 contained in the report at the time of sentencing. Unless the District Attorney has specifically
24 agreed otherwise, then the District Attorney may also comment on this report.

25 WAIVER OF RIGHTS

26 By entering my plea of guilty, I understand that I am waiving and forever giving up the
27 following rights and privileges:

28 ///

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

1 I am not now under the influence of any intoxicating liquor, a controlled substance or
2 other drug which would in any manner impair my ability to comprehend or understand this
3 agreement or the proceedings surrounding my entry of this plea.

4 My attorney has answered all my questions regarding this guilty plea agreement and its
5 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

6 DATED this 15th day of April, 2021.

7 June

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9 
CHRISTOPHER TRUSCA, aka,
Christopher Adam Trusca
Defendant

10
11 AGREED TO BY:

12 
13 WILLIAM CHARLES ROWLES
14 Chief Deputy District Attorney
Nevada Bar #013577
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1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
- 13 b. An inability to reenter the United States;
- 14 c. The inability to gain United States citizenship or legal residency;
- 15 d. An inability to renew and/or retain any legal residency status; and/or
- 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
- 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 2nd day of June, 2021.


JOHN SCHALLER, ESQ.

mlb/SVU

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 WILLIAM CHARLES ROWLES
6 Chief Deputy District Attorney
7 Nevada Bar #013577
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 CHRISTOPHER TRUSCA, aka,
14 Christopher Adam Trusca #2741887,

15 Defendant.

CASE NO: C-21-356689-1

DEPT NO: XVIII

INFORMATION

16 STATE OF NEVADA }
17 COUNTY OF CLARK } ss.

18 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
19 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That CHRISTOPHER TRUSCA, aka, Christopher Adam Trusca, the Defendant above
21 named, having committed the crime of **POSSESSION OF VISUAL PRESENTATION**
22 **DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,**
23 **200.730 - NOC 50374)**, on or about the 16th day of September, 2018, within the County of
24 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
25 and provided, and against the peace and dignity of the State of Nevada, did willfully,
26 unlawfully, feloniously, and knowingly have in his possession any film, photograph, or other
27 visual presentation depicting a child under the age of 16 years of age as the subject of a sexual
28 portrayal and/or engaging in, simulating, or assisting others to engage in or simulate sexual


EXHIBIT "1"

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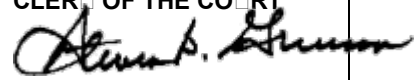
1 conduct on a device, to-wit: a Dropbox Cloud storage account for username "Chris Buddy"
2 and/or an Apple iPhone X, bearing Serial No. GHLX720KJCLF.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY


7 WILLIAM CHARLES ROWLES
8 Chief Deputy District Attorney
9 Nevada Bar #013577

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(TK)



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 CHRISTOPHER TRUSCA,

12 Defendant.

CASE NO. C-21-356689-1

DEPT. VI

13 BEFORE THE HONORABLE RONALD J. ISRAEL, DISTRICT COURT JUDGE
14 TUESDAY, NOVEMBER 23, 2021

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS: DEFENDANT'S MOTION**
16 **FOR BAIL PENDING APPEAL; DEFENDANT'S MOTION TO MODIFY**
17 **SENTENCE; STATUS CHECK: SURRENDER**

18 APPEARANCES:

19 For the State:

WILLIAM C. ROWLES, ESQ.
Chief Deputy District Attorneys

20
21 For the Defendant:

JAMIE J. RESCH, ESQ.

22
23
24
25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Tuesday, November 23, 2021, Las Vegas, Nevada

2
3 [Proceedings began at 11:14 a.m.]

4 THE COURT: Trusca, 356689. Counsel state your appearance.

5 MR. ROWLES: Good morning, Your Honor, William Rowles on behalf
6 of the State, 13577.

7 MR. RESCH: Jamie Resch, I'm here for Mr. Trusca who is also here
8 in person.

9 THE COURT: Okay this is defendant's motion to modify, and then
10 there's also motion for bail. Let's start with the motion to modify. Do you have
11 anything to add?

12 MR. RESCH: I do. Just some brief remarks. I read State's response.
13 They seem to agree that jurisdiction to modify a sentence could exist before the
14 defendant starts serving it, which he hasn't in this particular case, so that was our
15 initial point. But if we put that aside we've also shown that there were two
16 deficiencies at the time of sentencing such as the State's representations about
17 drug use and how it would've accounted for Mr. Trusca's actions, as well as the
18 fact that the sentencing was held remotely over the internet.

19 One fun note the day after I filed the motion the *Chaparro* case came
20 out. It's cited by the State. Purports to -- it's a published case, it purports to talk
21 about standards applicable to remote sentencings in Nevada. I would disagree
22 with the State's characterization that it simple holds it, sentencing, remotely were
23 permissible in all situations. I don't read it that way at all. What it said was, they're
24 permissible if they result in a fair and just hearing. Such as when the defendant --
25 and these cited on page six of the decision, has the ability to confidentially

1 communicate with counsel during the hearing as well as the fact in that case an
2 administrative order in effect at the time prohibited in-person hearings. In this case
3 we presented evidence that Mr. Trusca could not communicate confidentially with
4 his attorney at the time of sentencing because they were in two different locations
5 both on their phone. As well the order that I've provided with the motion at the time
6 of Mr. Trusca's sentencing said do it in person if there's a risk of going to prison.
7 So the exact opposite of the *Chaparro* case.

8 It's our position base on those two issues and/or the fact that he hasn't
9 started serving his sentence yet that the Court could modify the sentence to
10 include doing the sentencing over to remedy these errors.

11 THE COURT: Well first of all and I think even you quoted it, you're
12 argument that if there's a risk of going to prison that's not what is says. And
13 there's, I would imagine, I can't think of any, there's always a risk. Unless it's
14 somehow a conditional plea and then the Judge doesn't have to accept that. It is
15 and I don't have the -- I can't find the quote, but this was I believe the State --

16 MR. RESCH: Well they retained the right --

17 THE COURT: -- had no [indiscernible]

18 MR. RESCH: -- to argue, which in contrast to, I guess, a plea where
19 both sides were recommend probation, something like that. So the administrative
20 order in effect contemplated that if the plea calls for prison time or the potential for
21 prison time that it should be held in person, the sentencing.

22 THE COURT: So the other issue is, why didn't your client show up in
23 person? Nobody prevented that.

24 MR. RESCH: Okay, that's true. He's, of course, operating on the
25 advice of his attorneys, and so, you know, if you're uneducated in handling the

1 matter yourself --

2 THE COURT: So --

3 MR. RESCH: -- as most defendant's would be, they're relying on their
4 attorney to provide that information.

5 THE COURT: Okay. So your -- I assume that's -- your suggestion of
6 ineffective assistance, but that's not appropriate for a modification of sentence.

7 MR. RESCH: I agree with that, which is why we tried to steer clear of
8 that and I'm focusing on the just and fairness of the hearing, which is a
9 constitutional issue.

10 THE COURT: All right. State?

11 MR. ROWLES: Your Honor, the State's position is that he voluntarily
12 chose to appear via Bluejeans. He was out of custody. He wasn't even on
13 electronic monitoring at the time so there were no restrictions with his movement.
14 Him and his attorney chose to appear in different locations. You can't voluntarily
15 decide not to come to court and then raise that as an issue.

16 Second, Your Honor, as our opposition lays out, we don't believe this
17 is an appropriate remedy. The only basis to challenge on a motion to modify is for
18 material untrue or mistake regarding his criminal history. The rest needs to be
19 challenged in a pre-trial writ of habeas corpus, which has not been filed. This is
20 more appropriate for district court or -- excuse me, the Nevada Supreme Court or
21 writs of habeas corpus.

22 Second [sic], Your Honor, the State did not make a mistake of fact.
23 Correlation does not equal causation. The defense cites a study that doesn't
24 necessarily mean that because ingested heroine that all of a sudden I'm turned on
25 by little kids. All it does is suggest that people who are turned on by little kids also

1 like drugs. It's not a surprise that deadbeats do deadbeat things. This is an
2 individual who viewed child pornography on -- several times, downloaded several
3 images of child pornography over the course of several years. The sentence was
4 fair and just and appropriate. Unless the Court has any other specific questions, I'll
5 submit.

6 THE COURT: No. Go ahead.

7 MR. RESCH: If I may, sorry. That does remind me of one more issue.
8 As to the credits, then so I think we've explained Mr. Trusca's spent three
9 additional days in custody.

10 MR. ROWLES: Our opposition doesn't -- says we oppose that. I don't
11 oppose that, sorry.

12 MR. RESCH: Oh, okay. All right, so perhaps I'm hearing that we can
13 correct the Judgment of Conviction to include those days, bringing it to seven
14 instead of four.

15 THE COURT: That's --

16 MR. RESCH: If that's agreed upon then --

17 THE COURT: That's agreed --

18 MR. RESCH: -- I don't have anything --

19 THE COURT: -- upon?

20 MR. RESCH: -- further to say about that.

21 THE COURT: That's good.

22 MR. RESCH: Okay. I guess I would just say as far as the
23 representations, according to *State vs. Eighth Judicial District Court*, they don't
24 need to be intentional. It's just information that is not accurate and so even if the
25 Court wanted to set aside our studies, which I provided, they're simply provided a

1 proof that there is some evidence that there's a connection between drug use and
2 child pornography addiction. That was the entire theory of the psychosexual
3 examine, was that there was relationship between those two things. I don't think
4 the examiner explained it very well. She simply stated that it existed and then
5 came up with her risk to reoffend assessment without going into much depth. But
6 there definitely is a connection there. Not saying, of course, that all drug users will
7 view child porn or vice-versa but the pathology is that work on the addiction
8 diseases, as it it's being more commonly known these days, are similar and exist
9 in multiple ways to include drug use, child pornography, gambling or any other
10 types of addictions.

11 THE COURT: All right, thank you. I'm going to deny the motion and
12 here's why, first of all a motion to modify the sentence, although I suppose
13 because he hasn't started his -- he hasn't gone to prison yet it's appropriate to
14 potentially consider it but the grounds here are basically two:

15 One, that he allegedly didn't have, if you will, good communication
16 with his attorney and, again as I pointed out, that's clearly appears to be his --
17 and/or his counsel's choice. He is entitled to representation at this stage there's no
18 question of that. He was represented and answered appropriately, etcetera.

19 The second ground was regarding the drug information, etcetera.
20 There's nothing, and we don't have a record, so there's nothing to show that the
21 Judge took that in to account for anything other than hyperbole. And I guess
22 second to that is there's no real showing one way or the other regarding what
23 effect if any it does or doesn't have. And although I saw the study it again it leaves
24 it far from any conclusive effects either way. So again there's nothing to show that
25 Judge Hardy used that in deciding or making his decision. And so it's denied. I'm

1 giving him his three additional days. So that's it.

2 Then the motion for bail pending appeal anything to add on that?

3 MR. RESCH: Just super briefly. I'm handing the State a copy of this
4 letter which we got from his daughter's doctor the other day. Just again further
5 confirming we're talking about a 7-month-old -- how old is she, a 7-month-old baby
6 with serious heart problems. Mr. Trusca's the father, you know, in the middle of
7 trying to deal those things, I get it, but, you know, prison's inconvenient doesn't
8 matter what you're up to in your life, but there are compelling reasons for Mr.
9 Trusca to be out of custody to deal with those at this time. The standard on appeal
10 for bail is the question of, what is the risk to the community, what's the risk that he
11 will flee, and whether the issues are frivolous.

12 I would suggest the issues we previously discussed here today are at
13 least debatable and therefore not frivolous. As far as his danger to the community
14 and flight risk, we've addressed those in the motion. He's been out of custody with
15 no restrictions, has made all his court appearances, gotten in no further trouble.
16 For all these reasons there would be value in continuing his status on bail.
17 Certainly at the conclusion of the hearing today I will almost certainly be filing the
18 notice of appeal. It's been something like 29 days since the judgment was
19 entered.

20 THE COURT: So I wanted to ask you and I certainly didn't -- it's
21 appropriate to this as in my mind nothing to do with the other motion. On exhibit A
22 you attached some medical records and granted these are back -- and I have no
23 idea why you did, back in 5 of 29 if you look at the conclusion, no signs of heart
24 failure, infant is asymptomatic.

25 MR. RESCH: Oh, all right. May I approach? I do have an --

1 THE COURT: Okay.

2 MR. RESCH: -- updated letter.

3 THE COURT: Tell me what's going on now because generally -- and
4 I'm not a doctor, but they're following a problem that --

5 MR. RESCH: This is a letter from just the other day and identifies
6 congestive heart failure and a variety of other conditions that do require on going
7 care from the doctor. And I apologize for the first records, that was the best that I
8 had, you know, when you order records --

9 THE COURT: Okay, I --

10 MR. RESCH: --you get what they send you and had to pick from that.
11 But this I think more directly addresses the Court's point.

12 THE COURT: Well, again, I'm not a doctor; he's following her for a
13 problem with her heart, and I hate to say it you know a little medical knowledge,
14 that sometimes this when the child is born, these if you will, I believe it's a hole
15 they close up, and the again in 5/29 infant is asymptomatic. Now here he's still
16 following her but, and I certainly as a father would be worried, I'm not saying he
17 shouldn't be, you know, following, treating, etcetera, being concerned, but you had
18 indicated, I thought, surgery was imminent and as of, what, yesterday there's no
19 mention of that.

20 Do you want me to attach this as a Courts exhibit?

21 MR. RESCH: Could we please?

22 THE COURT: Sure.

23 MR. RESCH: Thank you. I can only represent that Mr. Trusca's
24 indicating to me right now that surgery is still contemplated. I think that at the time
25 it was presented certainly by the providers as something more imminent. Turns

1 out it hasn't happened. Again, as a father maybe thankful --

2 THE COURT: I'm --

3 MR. RESCH: -- you know, it's not like you wanna rush your --

4 THE COURT: -- sure he's anxious. I'm sure he's concerned. I am
5 sympathetic to that, but -- anyway, all right State your opposition.

6 MR. ROWLES: If I may respond orally, Your Honor?

7 THE COURT: Yes.

8 MR. ROWLES: With regards to the prefactors, I think the fact that he's
9 been convicted of possession of child sexual abuse material and sentenced to
10 prison demonstrate that he is a danger to our community. With regards to flight
11 risk, there is a significant difference between showing up to court when you
12 believe you might be a suitable candidate for probation, and showing up to court
13 when you are 100% aware that there is a prison sentence that is about to be
14 imposed.

15 With regards to the issues on appeal, I do believe these are frivolous,
16 Your Honor, as demonstrated by today's outcome with the motion to modify that's
17 really the biggest factor, Your Honor, is I don't think he's gonna have a likelihood
18 of success on appeal given the representations made during sentencing given the
19 fact that he voluntarily decided not to show up in-person for court especially given
20 the recent Nevada Supreme Court opinion allowing remote appearances for
21 sentencing hearings. On that, I'll submit.

22 With regards to the -- the only reason the State allowed Mr. Trusca to
23 move past his surrender date was because of the representations that there was a
24 surgery pending for his young daughter. There does not appear to be any surgery.
25 It appears to be an individual who has a condition that's being treated adequately

1 by the medical professionals. It's time for his sentence to be imposed, Your Honor.
2 The State would ask that this motion be denied.

3 THE COURT: Last word.

4 MR. RESCH: Sure. Just to be fair, you know, it took a certain level of
5 intestinal fortitude to walk in here today without any restrictions whatsoever and he
6 has done that. If allowed to stay out on bail he would continue to do that. They've
7 retained me. We're looking forward to the appeal. And, again, the standard is
8 whether or not the issues are frivolous. Deny does not mean frivolous. I
9 understand the Court's ruling here today. I, again, just simply suggest it's
10 debatable. The issues are raised in good faith and there's a basis to continue his
11 status on bail while we appeal them.

12 THE COURT: All right, thank you. Raising an issue for an appeal is
13 always appropriate, but I tend to in certain -- obviously by background is civil,
14 when they're talking about frivolous motions or generally when they're talking
15 about frivolous, they're asking to sanction -- extreme sanctions of dismissing a
16 case. So I looked up frivolous, and I believe Webster's says frivolous means no
17 sound basis in fact or law. And if we were deciding bail pending an appeal on
18 every case that while an appeal is being filed you always have the right to -- every
19 case I don't know if there's -- well certainly they don't file appeals in some cases
20 but I see them all the time, that doesn't mean that it is a sounds basis in fact or
21 law.

22 The arguments you made today, assuming those are the grounds on
23 appeal, to me, have no basis -- no sound basis in fact or law. Yes I denied him,
24 and could the supreme court possibly disagree? Well of course. But these to me
25 are very clear issues that do not, and I guess I have to keep repeating, no sounds

1 basis in fact or law. The guilty plea agreement is the guilty plea agreement. And
2 the issues raised do not have merit and so therefore I'm denying the motion for
3 bail pending appeal.

4 I will say for the record that he has made all his appearances,
5 including today. But that's not the basis for my denial. So that's it, he's gonna
6 surrender and we'll move forward.

7 MR. RESCH: With the Court's permission would -- I mean I'd be
8 happy to do it or if the State is prevailing here today as it sounds, could they be
9 directed to prepare an order so I have something to work off on appeal?

10 THE COURT: Absolutely.

11 MR. ROWLES: Yes, Your Honor.

12 THE COURT: Okay. What else?

13 THE MARSHAL: Your Honor he's being remanded now, or?

14 THE COURT: Yes, he's being remanded now.

15 MR. RESCH: Thank you.

16 THE COURT: He's surrendering either way you want to put it, yes.

17 [Proceedings concluded at 11:33 a.m.]

18 * * * * *

19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 De'Awna Takas
25 Court Recorder/Transcriber

Heather S. Lanning

CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO. C-21-356689-1

DEPT. NO. VI

CHRISTOPHER TRUSCA aka
Christopher Adam Trusca
#2741887

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony) in violation of NRS 200.700, 200.730; thereafter, on the 19th day of October, 2021, the Defendant was present in court for sentencing, via Blue jeans, with counsel JOHN B. LANNING, ESQ., via Blue jeans, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$1,676.70 Psychosexual Evaluation Fee and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA Collection

1 Fee, the Defendant is sentenced as follows: a MAXIMUM of FORTY-EIGHT (48) MONTHS
2 with a MINIMUM Parole Eligibility of NINETEEN (19) MONTHS in the Nevada Department
3 of Corrections (NDC); FOUR (4) DAYS credit for time served. COURT ORDERED Defendant
4 to Self-Surrender immediately.
5

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

10 Dated this 25th day of October, 2021

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14 **ACB 6D9 883E 58A0**
15 **Joe Hardy**
16 **District Court Judge**
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-21-356689-1

7 vs

DEPT. NO. Department 6

8 Christopher Trusca
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

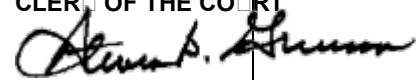
14 Service Date: 10/25/2021

15 Peter Isso, Esq.

peter@issolawfirm.lv.com

16 John Schaller, Esq.

jschaller@issolawfirm.lv.com



NOAS

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Dr., Suite 102

Las Vegas, Nevada, 89128

Telephone (702) 483-7360

Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

CHRISTOPHER TRUSCA,

Defendant.

Case No.: C-21-356689-1

Dept. No: VI

NOTICE OF APPEAL

Date of Hearing: N/A

Time of Hearing: N/A

Defendant Christopher Trusca hereby appeals to the Supreme Court of Nevada from the judgment of conviction and sentence filed on October 25, 2021.

DATED this 23rd day of November, 2021.

Submitted By:

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 

JAMIE J. RESCH

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on November 23, 2021, I served a true and correct copy of the foregoing Notice of Appeal via first class mail in envelopes addressed to:

Christopher Trusca #2741887
Clark County Detention Ctr.
330 S. Casino Ctr. Blvd.
Las Vegas, NV 89101

Clark County District Attorney
200 Lewis Ave.
Las Vegas, NV 89155

And electronic service was made this 23rd day of November, 2021, by Electronic Filing Service to:

Clark County District Attorney's Office
Motions@clarkcountyda.com
PDmotions@clarkcountyda.com



An Employee of Conviction Solutions

Heather S. Lanning

CLERK OF THE COURT

1 AJOCP

2
3
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6
7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C-21-356689-1

9 -VS-

DEPT. NO. VI

10
11 CHRISTOPHER TRUSCA aka
12 Christopher Adam Trusca
13 #2741887

Defendant.

14
15 AMENDED JUDGMENT OF CONVICTION
16 (PLEA OF GUILTY)
17

18
19 The Defendant previously appeared before the Court with counsel and entered a plea of
20 guilty to the crime of POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
21 CONDUCT OF A CHILD (Category B Felony) in violation of NRS 200.700, 200.730;
22 thereafter, on the 19th day of October, 2021, the Defendant was present in court for sentencing,
23 via Blue jeans, with counsel JOHN B. LANNING, ESQ., via Blue jeans, and good cause
24 appearing,
25

26 THE DEFENDANT WAS HEREBY ADJUDGED guilty of said offense and, in
27 addition to the \$25.00 Administrative Assessment Fee, \$1,676.70 Psychosexual Evaluation Fee
28 and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA

1 Collection Fee, the Defendant is sentenced as follows: a MAXIMUM of FORTY-EIGHT (48)
2 MONTHS with a MINIMUM Parole Eligibility of NINETEEN (19) MONTHS in the Nevada
3 Department of Corrections (NDC); FOUR (4) DAYS credit for time served. COURT
4 ORDERED Defendant to Self-Surrender immediately.
5

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

10 THEREAFTER on the 23rd day of November, 2021, the Defendant was present in court
11 with counsel Jamie J. Resch, ESQ. Pursuant to Defendant's Motion to Modify Sentence,
12 COURT ORDERED, Defendant is to receive SEVEN (7) DAYS credit for time served.
13
14

15 Dated this 26th day of January, 2022

16 
17

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19 EB9 694 9ED4 7BC2
20 Jacqueline M. Bluth
21 District Court Judge
22
23
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KB

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-21-356689-1

7 vs

DEPT. NO. Department 6

8 Christopher Trusca
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/26/2022

15 Jamie Resch

jresch@convictionsolutions.com

16 Peter Isso, Esq.

peter@issolaw.com

17 John Schaller, Esq.

jschaller@issolaw.com

18 Clark County DA

Motions@clarkcountyda.com

19 Clark County DA

PDmotions@clarkcountyda.com

20 dept lc

dept06lawclerk@clarkcountycourts.us

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
WILLIAM CHARLES ROWLES
Chief Deputy District Attorney
Nevada Bar #013577
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ADAM TRUSCA,
#2741887

Defendant.

CASE NO: **C-21-356689-1**
DEPT NO: **VI**

ORDER REGARDING DEFENDANT'S MOTIONS OF NOVEMBER 23, 2021

DATE OF HEARING: **NOVEMBER 23, 2021**
TIME OF HEARING: **11:00 A.M.**

THIS MATTER having presented before the above entitled Court on the 23rd day of NOVEMBER, 2022; Defendant present, represented by JAMIE RESCH, ESQ.; Plaintiff represented by STEVEN B. WOLFSON, District Attorney, through WILLIAM CHARLES ROWLES, Chief Deputy District Attorney; and having heard the arguments of counsel and good cause appearing,

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1 As to DEFENDANT'S MOTION TO MODIFY SENTENCE, having reviewed the
2 pleadings, listened to arguments from counsel, the **COURT ORDERS** that Defendant's
3 Motion is DENIED as Defendant voluntarily chose to appear via audio/visual technology and
4 to appear in different settings than his attorney; there is nothing in the record to suggest that
5 Defendant was prohibited from appearing in court or that Defendant had trouble
6 communicating with his attorney during the proceedings; furthermore, there is nothing in the
7 record to suggest that the sentencing judge relied on the opinion provided by the State regarding
8 drug use and the study provided by the defense is far from conclusive to suggest any statement
9 by the State was incorrect; however, the **COURT FURTHER ORDERS** Motion is
10 GRANTED as to credit for time served; Court stated Defendant is to be given SEVEN (7)
11 DAYS credit for time served; further

12 As to DEFENDANT'S MOTION FOR BAIL PENDING APPEAL, having reviewed the
13 pleadings, listened to arguments from counsel, the Court believes the issues raised do not have
14 merit having found there to be no sound basis in fact or law, and, therefore, **COURT ORDERS**
15 Defendant's Motion for Bail Pending Appeal is DENIED; further

16 As to STATUS CHECK: SURRENDER, **COURT ORDERED**, Defendant
17 REMANDED TO CUSTODY to serve the sentence previously ordered.

Dated this 26th day of January, 2022

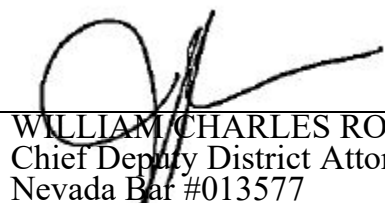


kj

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

878 4E3 4DC5 0978
Jacqueline M. Bluth
District Court Judge

24 BY



25 WILLIAM CHARLES ROWLES
26 Chief Deputy District Attorney
27 Nevada Bar #013577

28 hjc/SVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-21-356689-1

7 vs

DEPT. NO. Department 6

8 Christopher Trusca
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/26/2022

15 Jamie Resch

jresch@convictionsolutions.com

16 Peter Isso, Esq.

peter@issolaw.com

17 John Schaller, Esq.

jschaller@issolaw.com

18 Clark County DA

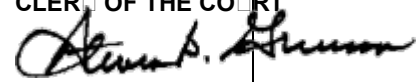
Motions@clarkcountyda.com

19 Clark County DA

PDmotions@clarkcountyda.com

20 dept lc

dept06lawclerk@clarkcountycourts.us



NOAS

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Dr., Suite 102

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Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

CHRISTOPHER TRUSCA,

Defendant.

Case No.: C-21-356689-1

Dept. No: VI

NOTICE OF APPEAL

Date of Hearing: N/A

Time of Hearing: N/A

Defendant Christopher Trusca hereby appeals to the Supreme Court of Nevada from the district court's Order Regarding Defendant's Motions of November 23, 2021 (order filed January 26, 2022).

DATED this 28th day of January, 2022.

Submitted By:

RESCH LAW, PLLC d/b/a Conviction Solutions

By: 

JAMIE J. RESCH

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on January 28, 2022, I served a true and correct copy of the foregoing Notice of Appeal via first class mail in envelopes addressed to:

Christopher Trusca #1250973
High Desert State Prison
PO BOX 650
Indian Springs, NV 89070

Clark County District Attorney
200 Lewis Ave.
Las Vegas, NV 89155

And electronic service was made this 28th day of January, 2022, by Electronic Filing
Service to:

Clark County District Attorney's Office
Motions@clarkcountyda.com
PDmotions@clarkcountyda.com


An Employee of Conviction Solutions

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ADAM TRUSCA,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

NO. 83853

CHRISTOPHER ADAM TRUSCA,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

NO. 84183

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically with the Nevada Supreme Court on the 23rd day of March 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven B. Wolfson, Clark County District Attorneys Office
Aaron Ford, Nevada Attorney General
Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 
Employee, Resch Law, PLLC d/b/a Conviction Solutions