

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON MEDINA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 83532

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Mary Kay Holthus, District Judge
District Court No. C-20-3349446-1

APPELLANT'S APPENDIX
VOL. 1 OF 1

Michael Sanft (8245)
SANFT LAW
411 East Bonneville Avenue, Suite 330
Las Vegas, Nevada 89101
(702) 497-8008

Attorney for Appellant Aaron Medina

Electronically Filed
Feb 02 2022 11:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 2nd day of February, 2022, a copy of the foregoing Appendix was served by electronic filing as follows:

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

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

DATED this 2nd day of February, 2022.

A handwritten signature in black ink, consisting of a large, sweeping 'M' followed by a smaller, more intricate flourish.

Michael Sanft, Esq. (8245)
SANFT LAW
411 East Bonneville Avenue, Suite 330
Las Vegas, Nevada 89101
(702) 497-8008

Attorney for Appellant Aaron Medina

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 14

Court Minutes



L012385976

20FM0005X

State of Nevada vs. Medina, Aaron

Lead Atty: Public Defender

6/3/2020 10:00:00 AM Preliminary Hearing (In custody)

Result: Matter Heard

PARTIES	State Of Nevada	DiGiacomo, Sandra
PRESENT:	Attorney	Radosta, Violet R
	Attorney	Public Defender
	Defendant	Medina, Aaron

Judge: Chelini, Amy

Court Reporter: Fluker, Kris

Court Clerk: Proctor, Mauresha

PROCEEDINGS

Attorneys:	Radosta, Violet R	Medina, Aaron	Added
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Hearings:	6/24/2020 8:30:00 AM: Negotiations	Added
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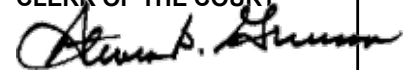
Events: **Continued For Negotiations**

Bail Stands - Cash or Surety *Amount: \$250,000.00*

Counts: 001; 002; 003; 004; 005 - \$250,000.00/\$250,000.00 Total Bail

**Release Order - Bail AND Electronic Monitoring -
High Level**

No Contact with Victim



IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SANDRA DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AARON MARIO MEDINA, #2596004

Defendant.

CASE NO: C-20-349446-1

DEPT NO: XV

INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant above named, AARON MARIO MEDINA, accused by the Clark County Grand Jury of the crime(s) of LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975) and SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), committed at and within the County of Clark, State of Nevada, on or between October 10, 2017 and January 7, 2020, as follows:

COUNT 1 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 10, 2017 and December 31, 2018, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of fourteen years, to wit: J.W., by using his lips and/or mouth and/or tongue to kiss the lips and/or mouth of J.W., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of Defendant, or J.W.

AA002

1 COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

2 did, on or between October 10, 2017 and October 9, 2019, willfully, lewdly, unlawfully,
3 and feloniously commit a lewd or lascivious act upon or with the body, or any part or member
4 thereof, of a child under the age of fourteen years, to wit: J.W, by using his hand(s) and/or
5 finger(s) to touch and/or rub and/or fondle the genital area of J.W. and/or by using his mouth
6 and/or lips to touch and/or kiss the buttocks of J.W., with the intent of arousing, appealing to,
7 or gratifying the lust, passions, or sexual desires of Defendant, or J.W.

8 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

9 did, on or between October 10, 2017 and October 9, 2019, then and there willfully,
10 unlawfully, and feloniously commit a sexual penetration upon J.W., a child under the age of
11 14 years, to wit: fellatio, by placing the penis of J.W. on or in the mouth of Defendant.

12 COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

13 did, on or between October 10, 2017 and October 9, 2019, willfully, lewdly,
14 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
15 or member thereof, of a child under the age of fourteen years, to wit: J.W., by causing and/or
16 directing and/or allowing J.W. to use his hand(s) and/or finger(s) to touch and/or rub and/or
17 fondle the Defendant's genital area, with the intent of arousing, appealing to, or gratifying the
18 lust, passions, or sexual desires of Defendant, or J.W.

19 //

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1 COUNT 5 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE
2 did, on or between December 20, 2019, and January 7, 2020, then and there willfully,
3 unlawfully, and feloniously commit a sexual penetration upon J.W., a child under the age of
4 14 years, to wit: fellatio, by placing the penis of J.W. on or in the mouth of Defendant.

5 DATED this 15th day of July, 2020.

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

9 BY /s// SANDRA DIGIACOMO
10 SANDRA DIGIACOMO
11 Chief Deputy District Attorney
12 Nevada Bar #006204

13
14
15 ENDORSEMENT: A True Bill

16
17 /s// STEVEN LURVEY
18 Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

MEDINA, JOAQUIN – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

HYATT, DIANA - LVMPD

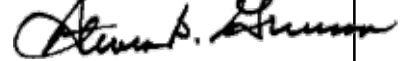
Additional Witnesses known to the District Attorney at time of filing the Indictment:

CSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

19BGJ153X/20FM0005X/cl -GJ
LVMPD EV#200100031536
(TK)



AIND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SANDRA DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

AARON MARIO MEDINA,
#2596004
Defendant.

CASE NO: **C-20-349446-1**

DEPT NO: **XV**

AMENDED
INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

As Defendant above named, **AARON MARIO MEDINA** is accused by the Clark County Grand Jury of the crimes of **COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony - NRS 200.364, 200.366, 193.330 - NOC 50123)** and **COUNT 2 - ATTEMPT LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category B Felony - NRS 201.230(2) - NOC 60471)** and committed at and within the County of Clark, State of Nevada, on or between October 10, 2017 and January 7, 2020, as follows:

//

//

//

//

AA006

COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
YEARS OF AGE

Defendant did then and there, willfully, unlawfully and feloniously attempt to commit a sexual penetration upon J.W., a child under the age of 14 years, to wit: fellatio, by attempting to place the penis of J.W. on and/or into the mouth of Defendant.

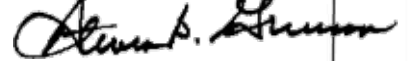
COUNT 2 - ATTEMPT LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did willfully, lewdly, unlawfully and feloniously attempt to commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of fourteen years, to wit: J.W., by attempting to use his mouth and/or tongue to touch and/or kiss and/or lick the mouth and/or tongue and/or buttock(s) of J.W., and/or attempt to use his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area of J.W., and/or attempt to cause and/or direct and/or encourage J.W. to use the hand(s) and/or finger(s) of J.W. to touch and/or rub and/or fondle the genital area of Defendant, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of Defendant, or J.W.

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

BY /s/ Sandra Digiacomo
SANDRA DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204

19BGJ153X/20FM0005X/hjc/SVU
LVMPD EV#200100031536



1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SANDRA DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702)671-2500
11 Attorney for Plaintiff

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

9 THE STATE OF NEVADA,
10
11 Plaintiff,

12 -vs-

13 AARON MARIO MEDINA,
14 #2596004

15 Defendant.

CASE NO: C-20-349446-1

DEPT NO: XV

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty, pursuant to North Carolina v. Alford, 400 U.S. 25 (1970),
17 to: **COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER**
18 **FOURTEEN YEARS OF AGE (Category B Felony - NRS 200.364, 200.366, 193.330 -**
19 **NOC 50123) and COUNT 2 - ATTEMPT LEWDNESS WITH A CHILD UNDER THE**
20 **AGE OF 14 (Category B Felony - NRS 201.230(2) - NOC 60471) as more fully alleged in**
21 **the charging document attached hereto as Exhibit "1".**

22 My decision to plead guilty is based upon the Alford plea agreement in this case which
23 is as follows:

24 Both parties stipulate to my serving a minimum term of eight (8) years to a maximum
25 term of twenty (20) years for Count 1, and a minimum term of two (2) years to a maximum
26 term of five (5) years for Count 2 to be served consecutively to Count 1, for an aggregate
27 minimum term of ten (10) years to a maximum term of twenty-five (25) years in the Nevada
28 Department of Corrections. Both parties waive any and all defects in the pleadings.

1 I agree to the forfeiture of any and all electronic storage devices, computers, and/or
2 related equipment and/or weapons or any interest in any electronic storage devices, computers
3 and/or related equipment and/or weapons seized and/or impounded in connection with the
4 instant case and/or any other case negotiated in whole or in part in conjunction with this plea
5 agreement.

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

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

17 CONSEQUENCES OF THE PLEA

18 By pleading guilty pursuant to the Alford decision, it is my desire to avoid the
19 possibility of being convicted of more offenses or of a greater offense if I were to proceed to
20 trial on the original charge(s) and of also receiving a greater penalty. I understand that my
21 decision to plead guilty by way of the Alford decision does not require me to admit guilt, but
22 is based upon my belief that the State would present sufficient evidence at trial that a jury
23 would return a verdict of guilty of a greater offense or of more offenses than that to which I
24 am pleading guilty.

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

27 //

28 //

1 I understand that as a consequence of my plea of guilty by way of the Alford decision
2 the Court must sentence me to imprisonment in the Nevada Department of Corrections for a
3 minimum term of not less than two (2) years and a maximum term of not more than twenty
4 (20) years for each Count. The minimum term of imprisonment may not exceed forty percent
5 (40%) of the maximum term of imprisonment. I understand that the law requires me to pay an
6 Administrative Assessment Fee.

7 Pursuant to this agreement, I understand that I am not eligible for probation for the
8 offenses to which I am pleading guilty.

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

16 I understand that, pursuant to NRS 176.0931, the Court must include as part of my
17 sentence, in addition to any other penalties provided by law, a special sentence of lifetime
18 supervision commencing after any period of probation or any term of imprisonment and period
19 of release upon parole.

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

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

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

1 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
2 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
3 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
4 and may receive a higher sentencing range.

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

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

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

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

14 I understand that if the State of Nevada has agreed to recommend or stipulate a
15 particular sentence or has agreed not to present argument regarding the sentence, or agreed not
16 to oppose a particular sentence, such agreement is contingent upon my appearance in court on
17 the initial sentencing date (and any subsequent dates if the sentencing is continued). I
18 understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal
19 offense prior to sentencing the State of Nevada would regain the full right to argue for any
20 lawful sentence.

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

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

- 26 1. The removal from the United States through deportation;
- 27 2. An inability to reenter the United States;
- 28 3. The inability to gain United States citizenship or legal residency;

4. An inability to renew and/or retain any legal residency status; and/or
5. An indeterminate term of confinement, with the United States Federal Government based on my conviction and immigration status.

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

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

WAIVER OF RIGHTS

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

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.

1 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

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

20 DATED this 6 day of October, 2020. *Signature affixed by Violet Radosta at direction of Aaron Medina*

21
22 Aaron Medina
23 AARON MARIO MEDINA
Defendant

24 AGREED TO BY:

25
26 /s/ Sandra Digiacomio

27 SANDRA DIGIACOMO
28 Chief Deputy District Attorney
Nevada Bar #006204

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court 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
7 restitution that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration
9 status and explained to Defendant that if Defendant is not a United States
10 citizen any criminal conviction will most likely result in serious negative
11 immigration 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
17 Federal Government based on the conviction and immigration
18 status.

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

- 24 4. All pleas of guilty offered by the Defendant pursuant to this agreement
25 are consistent with the facts known to me and are made with my advice
26 to the Defendant.
- 27 5. To the best of my knowledge and belief, the Defendant:
- 28 a. Is competent and understands the charges and the consequences
of pleading guilty as provided in this agreement,
- 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 6 day of October, 2020.


VIOLET RADOSTA, DPD

hjc/SVU

1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SANDRA DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

9 THE STATE OF NEVADA,
10
11 Plaintiff,

12 -vs-

13 **AARON MARIO MEDINA,**
14 **#2596004**
15 Defendant.

CASE NO: **C-20-349446-1**

DEPT NO: **XV**

A M E N D E D
I N D I C T M E N T

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

18 As Defendant above named, **AARON MARIO MEDINA** is accused by the Clark
19 County Grand Jury of the crimes of **COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH**
20 **A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony - NRS 200.364,**
21 **200.366, 193.330 - NOC 50123) and COUNT 2 - ATTEMPT LEWDNESS WITH A**
22 **CHILD UNDER THE AGE OF 14 (Category B Felony - NRS 201.230(2) - NOC 60471)**
23 and committed at and within the County of Clark, State of Nevada, on or between October 10,
24 2017 and January 7, 2020, as follows:

25 //

26 //

27 //

28 //

EXHIBIT "1"

COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
YEARS OF AGE

Defendant did then and there, willfully, unlawfully and feloniously attempt to commit a sexual penetration upon J.W., a child under the age of 14 years, to wit: fellatio, by attempting to place the penis of J.W. on and/or into the mouth of Defendant.

COUNT 2 - ATTEMPT LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did willfully, lewdly, unlawfully and feloniously attempt to commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of fourteen years, to wit: J.W., by attempting to use his mouth and/or tongue to touch and/or kiss and/or lick the mouth and/or tongue and/or buttock(s) of J.W., and/or attempt to use his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area of J.W., and/or attempt to cause and/or direct and/or encourage J.W. to use the hand(s) and/or finger(s) of J.W. to touch and/or rub and/or fondle the genital area of Defendant, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of Defendant, or J.W.

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

BY /s/ Sandra Digiacomo
SANDRA DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204

19BGJ153X/20FM0005X/hjc/SVU
LVMPD EV#200100031536

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO.: C-20-349446-1
DEPT. NO.: XV

AARON MARIO MADINA,
#2596004

Defendant.

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE
TUESDAY, OCTOBER 6, 2020

RECORDER'S TRANSCRIPT RE:
ENTRY OF PLEA

APPEARANCES:

For the State: SANDRA K. DIGIACOMO, ESQ.

For the Defendant: VIOLET R. RADOSTA, ESQ.

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 6, 2020, 3:15 P.M.

2 * * * * *

3 COURT CLERK: Nevada versus Aaron Medina.

4 MRS. DIGIACOMO: Good afternoon, Your Honor, Sandra Digiacomio, on
5 behalf of the State.

6 THE COURT: Do we have - -

7 MRS. DIGIACOMO: Ms. Radosta on, but she's muted.

8 MS. RADOSTA: Still muted, sorry, Judge.

9 THE COURT: Okay. That's okay - -

10 MS. RADOSTA: Violet Radosta from the Public Defenders Office, on behalf of
11 Mr. Medina.

12 THE COURT: Okay.

13 MS. RADOSTA: With the Court's permission, we have this matter resolved
14 from our settlement conference earlier today.

15 THE COURT: What are the negotiations?

16 MS. RADOSTA: Mr. Medina is prepared - - and I did e-file the Alford Plea
17 Agreement about twenty minutes ago. He's prepared to enter an Alford Plea on two
18 counts; attempt sexual assault with a minor under the age of fourteen is count one.
19 And attempt lewdness with a child under the age of fourteen is count two.

20 The State and the defense are stipulating to eight to twenty-year sentence on
21 count one and a consecutive five-year sentence on count two, for an aggregate total
22 of ten to twenty-five years, for both counts.

23 THE COURT: Is that the State's - -

24 MRS. DIGIACOMO: That is correct, Your Honor, and pursuant to Supreme
25 Court Rules, this technically is a conditional plea because it is a result of a

1 settlement conference. However, that language was not included in the Guilty Plea
2 since it is by Rule.

3 THE COURT: Okay. Mr. Medina, can you hear us, okay?

4 MR. MEDINA: Yes, sir, I can.

5 THE COURT: And you heard what Ms. Radosta said about the negotiations?

6 Mr. MEDINA: I did.

7 THE COURT: And you are in agreement with that as well?

8 MR. MEDINA: Yes, sir.

9 THE COURT: Thank you. And Mr. Medina, do you waive the formal reading of
10 the charges?

11 MR. MEDINA: Yes, sir.

12 THE COURT: What's your true full name?

13 MR. MEDINA: Aaron Mario Medina.

14 THE COURT: So, you know, if that's not your true full name, you must declare
15 your true name to me, or all proceedings, in this case, will be under the name set
16 forth in the Amended Indictment, which is Aaron Mario Medina. Do you understand
17 that?

18 MR. MEDINA: Yes, sir.

19 THE COURT: How old are you?

20 MR. MEDINA: I'm 32 in half.

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

22 MR. MEDINA: I'm a high school graduate with some college.

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

24 MR. MEDINA: No, sir.

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

1 MR. MEDINA: Yes.

2 THE COURT: Have you been treated recently for any mental illness or
3 addiction of any kind?

4 MR. MEDINA: No, sir.

5 THE COURT: Has anyone ever suggested that you should be treated for a
6 mental health or emotional condition?

7 MR. MEDINA: No, sir.

8 THE COURT: Are you currently under the influence of any drug, medication,
9 or alcoholic beverage?

10 MR. MEDINA: No, sir.

11 THE COURT: Have you been on any medication during your time at the Jail?

12 MR. MEDINA: No, sir.

13 THE COURT: Prior to being in custody, did you take any mental health
14 medications?

15 MR. MEDINA: No, sir.

16 THE COURT: Do you understand what's happening this afternoon?

17 MR. MEDINA: Yes, sir, I do.

18 THE COURT: Ms. Rodosta, have you observed any cognitive difficulties with
19 Mr. Medina?

20 MS. RADOSTA: No, Your Honor.

21 THE COURT: Mr. Medina, have you received a copy of the Amended
22 Indictment charging you with: Count one – attempt sexual assault with a minor
23 under fourteen years of age, category B Felony and Count two – attempt lewdness
24 with a child under the age of fourteen, category B Felony?

25 ///

1 MS. RADOSTA: For the record, Your Honor, he has not received an actual
2 copy of it, as we did the settlement conference this morning. And I was unable to get
3 documents to the jail that quickly. I did review the Plea Agreement and the new
4 charging document with him prior to this Court appearance.

5 THE COURT: Okay. Mr. Medina, did your attorney review with you the
6 Amended Indictment?

7 MR. MEDINA: That's correct.

8 THE COURT: Thank you. Do you understand the charges contained in the
9 Amended Indictment?

10 MR. MEDINA: I do.

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

12 MR. MEDINA: I did.

13 THE COURT: Based on the totality of the circumstances, are you satisfied
14 with the representation and advice given to you by your attorney?

15 MR. MEDINA: Yes, sir.

16 THE COURT: As to the charges contained in the Amended Indictment, how
17 do you plead guilty or not guilty?

18 MR. MEDINA: I enter a Plea by Alford.

19 THE COURT: Oh, thank you, I apologize for not stating that, thank you. Are
20 you making this plea both freely and voluntarily?

21 MR. MEDINA: Yes, sir.

22 THE COURT: Has anyone forced or threatened you, or anyone close to you,
23 to get you to enter this plea?

24 MR. MEDINA: No, sir.

25 ///

1 THE COURT: Has anyone made you promises, other than what's in the
2 Guilty Plea Agreement, to get you to enter this plea?

3 MR. MEDINA: No. sir.

4 THE COURT: I have before me a written Guilty Plea Agreement. Did you
5 authorize your Attorney to sign it on your behalf?

6 MR. MEDINA: Yes, sir, I did.

7 THE COURT: Before you authorize her to sign it on your behalf, did she read
8 it to you and discuss it with you?

9 MR. MEDINA: She discussed it with me, yes.

10 THE COURT: Do you understand everything contained in the Guilty Plea
11 Agreement?

12 MR. MEDINA: I understand.

13 THE COURT: Do you understand the Constitutional rights you are giving up
14 by entering a plea of guilty pursuant to Alford?

15 MR. MEDINA: I do.

16 THE COURT: Do you understand that you have the right to appeal on
17 reasonable constitutional, jurisdictional, or other grounds that challenged the legality
18 of the proceedings?

19 MR. MEDINA: I do.

20 THE COURT: Do you understand if you are not a United States citizen that
21 entering a plea of guilty pursuant to Alford may have immigration consequences,
22 including deportation?

23 MR. MEDINA: I do.

24 THE COURT: Do you understand that the range of punishment is - -

25 MS. RADOSTA: It's on page three, Your Honor.

1 THE COURT: Oh, thanks. Let's see, um, a minimum term not less than two
2 years and a maximum term not more than twenty years for each of the two Counts.
3 The minimum term may not exceed forty percent of the maximum; the law requires
4 you to pay fines and fees; that you are not eligible for probation for the offenses to
5 which you are pleading guilty.

6 Before you are eligible for parole, you have to be review by a panel pursuant
7 to NRS 176.0931; the Court must include as part of your sentence, in addition to any
8 other penalties provided by law, a special sentence of lifetime supervision
9 commencing after any period of probation or any term of imprisonment and period of
10 release upon parole.

11 That the Court will include as part of your sentence, in addition to any other
12 penalties provided by law, you must register as a sex offender within forty-eight
13 hours of release from custody onto Parole and Probation, and submit to blood
14 and/or saliva tests under the direction of Parole and Probation. You'll be ordered to
15 make restitution. Sentences may be imposed consecutively or concurrently. Do you
16 understand all of that?

17 MR. MEDINA: I do. Yes, sir.

18 THE COURT: Did I adequately cover that counsel?

19 MRS. DIGIACOMO: Yes, Your Honor.

20 MS. RADOSTA: Yes, Your Honor.

21 THE COURT: Okay, thank you both. And Mr. Medina, you understand that
22 sentencing is up to me or your sentencing judge, including whether the counts run
23 consecutive or concurrent?

24 MR. MEDINA: I understand.

25 ///

1 THE COURT: Do you understand that you are not guaranteed to have me as
2 your sentencing judge; it can be any constitutionally seated district court judge or
3 senior judge assigned by the Supreme Court?

4 MR. MEDINA: I understand.

5 THE COURT: Do you understand that no one is in a position to promise you
6 probation, leniency, or special treatment?

7 MR. MEDINA: I understand.

8 THE COURT: Because this is an Alford plea, what facts would the State seek
9 to prove if this matter went to trial?

10 MRS. DIGIACOMO: Thank you, Your Honor. If this matter went to trial, the
11 State would prove beyond a reasonable doubt that on or between October 10th,
12 2017, and January 7th, 2020, that Defendant did commit acts of sexual assault of a
13 minor under fourteen years of age, and lewdness with a child under the age of
14 fourteen, on his nephew who was between the ages of ten and twelve at the time.

15 There were several different incidents. In one incident, the Defendant did
16 have the victim alone in a shed where he kissed him with his tongue on the mouth
17 and touched his body. In another incident, the Defendant licked and/or fondle the
18 genital area and the buttocks area of the victim, and the Defendant put his mouth on
19 the penis area of the victim, moving his head up and down performing fellatio. In
20 another incident, the Defendant took the victim by a railroad track; he got out of the
21 car and went around to the passenger side, and pulled down his pants, and forced
22 the victim to use his hands on the Defendant's penis um, to rub his penis. Another
23 incident, the Defendant went in while the victim was sleeping - - and that was the
24 last one - - pulled down his pants and underwear, and the Defendant put his mouth
25 on the victim's penis and moved his head up and down, performing fellatio on the

1 victim. The Court's indulgence

2 THE COURT: Sure.

3 MRS. DIGIACOMO: And I think that sufficiently covers what's alleged in the
4 Indictment, as well as the Amended Indictment.

5 THE COURT: Thank you.

6 MRS. DIGIACOMO: And with that, I'll submit it.

7 THE COURT: Mr. Medina, do you understand that the Court will rely on the
8 facts just stated in determining the factual basis for your plea?

9 MR. MEDINA: I understand.

10 THE COURT: And you have made a determination that it is in your best
11 interest to accept the plea negotiations and enter this type of guilty plea, is that
12 right?

13 MR. MEDINA: I believe so, yes.

14 THE COURT: And one of the reasons you decided to do this is to avoid the
15 possible harsher penalty if you were convicted of the original charges at trial,
16 correct?

17 MR. MEDINA: I'm sorry, one more time.

18 THE COURT: Oh sure, no problem. One of the reasons you decided to do this
19 is to avoid the possible harsher penalty if you were convicted of the original charges
20 at trial, correct?

21 MR. MEDINA: Okay. That's correct.

22 THE COURT: Do you have any questions you would like to ask me or your
23 attorney before I accept this plea?

24 MR. MEDINA: Not at the moment, thank you.

25 THE COURT: You're welcome. Is the State satisfied with the canvass?

1 MRS. DIGIACOMO: Yes, Your Honor.

2 THE COURT: Thank you. The Court finds that the defendant Medina's plea
3 of guilty is freely and voluntarily made and that the Defendant understands the
4 nature of the offenses and the consequences of his plea, and therefore, the Court
5 accepts the plea of guilty by way of Alford.

6 The matter is referred to the Department of Parole and Probation for a pre-
7 sentence investigation report and set for in custody sentencing date.

8 COURT CLERK: Judge, does he need to have a Psychosexual Report or no?

9 MRS. DIGIACOMO: No, the State is willing - -

10 MS. RADOSTA: No, the State is stipulating - -

11 MRS. DIGIACOMO: Yeah, the State will waive it.

12 THE COURT: Okay.

13 MS. RADOSTA: As will the Defense.

14 THE COURT: Thank you, both.

15 MRS. DIGIACOMO: If the Court could reflect that in the minutes.

16 COURT CLERK: Yes. And the sentencing date will be November 19th, 2020,
17 at 8:30 a.m.

18 MRS. DIGIACOMO: And, Your Honor, I have one housekeeping matter.

19 THE COURT: Sure.

20 MRS. DIGIACOMO: With regard to the Bad Acts Motion that you granted, do
21 you still want the State to complete the full Order? Or do you want just a short
22 Order, so the record is clear?

23 THE COURT: That's a good question. It may be largely moot now, and a short
24 one is probably fine unless - -

25 / / /

1 MRS. DIGIACOMO: Okay. And that's fine, Your Honor; I mean, we have the
2 record that was made too if an issue ever comes up down the road.

3 THE COURT: Yeah, a short one is probably fine.

4 MRS. DIGIACOMO: All right, thank you, Your Honor.

5 THE COURT: Thank you.

6 MS. RADOSTA: Thank you. I would just ask that the remaining - - we have a
7 couple of status check dates coming up in the next few weeks if those could be
8 vacated?

9 THE COURT: Vacate, yes. Thank you very much.

10 MRS. DIGIACOMO: Will we still be on the Central Trial Readiness calendar
11 tomorrow, or is that going to be vacated by this Court as well?

12 THE COURT: No. That's got to be vacated.

13 COURT CLERK: Yeah, their Clerk has been emailing me, asking whether Mr.
14 Medina entered a plea, and so, I'll email her right now, and they will take that off
15 calendar.

16 MRS. DIGIACOMO: Okay, thank you.

17 MS. RADOSTA: Thank you.

18 THE COURT: Thank you, all.

19 [Proceedings concluded, 3:29 p.m.]

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

22 
23 _____
24 MATTHEW YARBROUGH
25 Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO.: C-20-349446-1
DEPT. NO.: XV

AARON MEDINA,
Defendant.

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE
THURSDAY, NOVEMBER 19, 20210

RECORDER'S TRANSCRIPT RE:
SENTENCING

APPEARANCES:

For the State: SANDRA K. DIGIACOMO, ESQ.
(Appeared Via Blue Jeans)

For the Defendant: VIOLET R. RADOSTA, ESQ.
(Appeared Via Blue Jeans)

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, NOVEMBER 19, 2020, 2:47 P.M.

2 * * * * *

3 COURT CLERK: C-20-349446-1 State of Nevada versus Aaron Medina.

4 MRS. DIGIACOMO: Good afternoon, Your Honor. Sandra Digiacomo, on
5 behalf of the State.

6 MS. RADOSTA: Good afternnon, Your Honor. Violet Radosta, on behalf of
7 Mr. Medina, who's present via Blue Jeans.

8 THE COURT: Mr. Medina, can you hear us?

9 MR. MEDINA: Yes, Your Honor, good afternoon.

10 THE COURT: Good afternoon, any issues with the PSI?

11 MR. MEDINA: No, Your Honor.

12 THE COURT: And you - -

13 MS. RADOSTA: Your Honor, I would just like, um, it reflected - - it indicated
14 that it's a failure to appear, PSI. Which he was given the opportunity to give a
15 statement, and he chose not to. But it is not technically a failure to appear, PSI
16 because he has been in custody this entire time.

17 MR. MEDINA: Your Honor.

18 THE COURT: Sure.

19 MR. MEDINA: For that reason, what Ms. Radosta just said is because, for the
20 record, I would like to recant - - take back my deal that I signed for. And with that, if
21 granted and having asked, Your Honor, if you can order Ms. Radosta to be
22 removed, and I ask for a term of cancel, please?

23 THE COURT: Sounds like we'll need to come back.

24 MS. RADOSTA: Yeah, Your Honor. I spoke to Mr. Medina this morning for
25 about thirty minutes, and he did not tell me at that point in time that he was going to

1 be making this request. But the standard operating procedure, um, when a client
2 does not wish to move forward, um, with the Court's permission, I would ask that
3 alternate counsel be appointed at this time. So, that they can take a look at the
4 negotiations and the case and those such things.

5 THE COURT: So, Mr. Medina, you do not want to go forward with your
6 sentencing, is that right?

7 MR. MEDINA: Correct, and also, the reason why I did not inform Ms. Radosta
8 this morning. It was because, out of fear, that she would advise me not to do it - -

9 THE COURT: Okay. So, I'm going to stop you there because I don't want you
10 to tell me something that, you know, you may not want to or need to right now. But -
11 - so, with that do I send it over to Christensen's Office or - -

12 MS. RADOSTA: I think technically, Your Honor, since it's a potential life
13 sentence, it should probably go through to Mr. Christensen's Office, yes.

14 THE COURT: Okay. Anything - -

15 MS. RADOSTA: Because, if, Your Honor, were to see fit to allow him to
16 withdraw his plea, that new attorney would stay on the case.

17 MS. DIGIACOMO: Well, I disagree not necessarily. A lot of times, they would
18 look at the plea, and it goes back to the original attorney. There's not a reason - -

19 MS. RADOSTA: What I mean is if the - - no, no, Sandy, if he's allowed to
20 withdraw his plea. If the Judge allows that, then the new attorney stays on the case
21 because I can't stay on it at that point. That was my only - - that's why I think it
22 needs to go to Drew.

23 THE COURT: If the State bears what you are saying. Okay. So, let's refer to
24 Mr. Christensen's Office and let's - - boy, um, whoever it is will need - - let's bring
25 you back in maybe - - let's see.

1 MS. DIGIACOMO: Your Honor, I would ask for the second week of
2 December, not the first week starting with November 30th? I'd ask for the next one.

3 THE COURT: That's a good idea.

4 MS. DIGIACOMO: Thank you.

5 THE COURT: Thank you. Let's bring you back on December 8th for
6 appointment of counsel to review and go from there.

7 MS. DIGIACOMO: Thank you, Your Honor.

8 MS. RADOSTA: I will reach out to Mr. Christensen as well.

9 THE COURT: Thank you.

10 MR. MEDINA: Your Honor.

11 THE COURT: We'll see you back on December 8th at 1:45, Mr. Medina.

12 MR. MEDINA: I just had a small request, if I may, please.

13 THE COURT: You can ask.

14 MR. MEDINA: If possible, Ms. Radosta sends me a copy of my full discovery
15 because I'm - - during a couple of video visits when she visited me. She had my
16 case file on her desk, and I seen it was more paperwork than what she actually sent
17 to me.

18 THE COURT: So, I'm not going to order that right now. But if, you know, if you
19 need relief, hopefully, your new attorney will be able to help you.

20 MR. MEDINA: Okay. I appreciate that.

21 THE COURT: Thank you.

22 MS. RADOSTA: Thank you, Your Honor.

23 ///

24 ///

25 ///

1 MS. DIGIACOMO: Thank you.

2 THE COURT: Thank you.

3 [Proceedings concluded, 2:52 p.m.]

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

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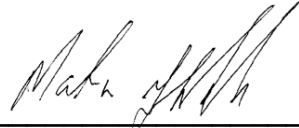
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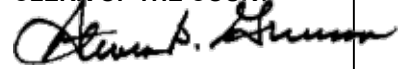
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MATTHEW YARBROUGH
Court Recorder/Transcriber



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**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA

Plaintiff,

vs.

AARON MARIO MEDINA, #2596004

Defendant.

Case No. C-20-349446-1
Dept: 18

**MOTION TO WITHDRAW GUILTY
PLEA**

Defendant AARON MARIO MEDINA (hereinafter "Defendant"), by and through his attorney, Michael Sanft, Esq., and, pursuant to NRS 176.165 and the United States and Nevada Constitutions, moves this Honorable Court to withdraw his guilty plea entered on October 6, 2020, on the following grounds:

- (1) Defendant's plea was not knowingly and intelligently entered ultimately due to the conditions established to separate him from counsel during the entire case; and
- (2) Allowing the plea to stand would be fundamentally unfair.

This Motion is made and based upon the papers and pleadings on file herein, the

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...

...

Points and Authorities which follow and arguments of counsel if required by this Court at the time of the hearing.

DATED this 27th day of April, 2021.

SANFT LAW



MICHAEL SANFT, ESQ.

NOTICE OF MOTION

PLEASE TAKE NOTICE, that the undersigned will bring the above and foregoing **MOTION TO WITHDRAW GUILTY PLEA** on for hearing before the above-entitled Court on the ____ day of _____, 20__, at _____.m., of said day, or as soon thereafter as counsel can be heard.

DATED this 27th day of April, 2021.

SANFT LAW



MICHAEL SANFT, ESQ.

POINTS AND AUTHORITIES

I. FACTS

On July 17, 2020, Defendant was indicted with multiple counts of Sexual Assault with a Minor Under Fourteen Years of Age, Attempt Sexual Assault with a Minor Under Fourteen Years of Age, and Lewdness with a Child Under the Age of Fourteen. Seasoned attorney Violet Radosta ("Radosta") of the Public Defender's Office's sex crimes unit was Defendant's appointed counsel.

Defendant and Radosta met at various times to discuss discovery, defenses, legal issues, and possible resolution including trial or a negotiation. Radosta also reached out to

1 Defendant's parents per Defendant's request to interview them. Radosta further requested
2 additional discovery from the State.

3 On August 26, 2020, Radosta and Defendant appeared for a Central Trial Readiness
4 Conference. Radosta announced ready for trial. Both parties agreed to a settlement
5 conference before trial.

6 On September 21, 2020, Radosta filed a 21 page Opposition to the State's Motion to
7 Admit Evidence of Other Crimes, Wrongs, or Acts.

8 On October 6, 2020, Defendant and Radosta participated in a settlement conference
9 scheduled for 8:00 a.m. Defendant directed Radosta to sign a standard Settlement
10 Conference Acknowledgment form on his behalf due to COVID-19 restrictions. A deal
11 was struck wherein the State and Defendant agreed to an intended aggregate of 10 to 25
12 years in prison, and that Defendant would plead guilty per the *North Carolina v. Alford*
13 decision.

14 The State then prepared a Guilty Plea Agreement ("GPA"), which Radosta reviewed
15 with Defendant. Defendant directed Radosta to sign his GPA on his behalf due to
16 COVID-19 restrictions. At 1:45 p.m., the Court accepted the GPA after canvassing
17 Defendant and assessing his understanding of the agreement.

18 At his sentencing on November 19, 2020, Defendant requested to withdraw his
19 guilty plea.

20 Defendant now believes that the negotiation as currently fashioned, was ill advised
21 and not in his best interest. According to Defendant, 1) he was never provided a full set of
22 his discovery in his case prior to entering a negotiation; 2) his defenses were never fully
23 investigated in preparation for trial; 3) veiled threats were used against his parents to
24 frighten them, and him in turn, to agreeing to any negotiation; and 4) at the settlement
25 agreement, he was rushed into an agreement and rushed into entry of that plea without fully
26 understanding what was happening, and that he, not his counsel, was more prepared and
27 motivated to participate in the process.

28 This motion to withdraw Defendant's plea now follows.

II. LAW

The question of a defendant's guilt or innocence is not put in issue with a motion to withdraw a plea of guilty. State v. District Court, 85 Nev. 381, 385 (1969); Hargrove v. State, 100 Nev. 498, 502 (1984); Kercheval v. United States, 274 U.S. 220, 224 (1927).

The validity of a defendant's guilty plea must be challenged in the first instance in the sentencing court by way of a motion to withdraw the plea or by way of a petition for post conviction relief. Bryant v. State, 102 Nev. 268, 272 (1986). "[T]he test is essentially factual in nature, and is thus best suited to trial court review in the first instance." Bryant v. State, 102 Nev. at 272. "[T]he burden [is] on the defendant to establish that his plea was not entered knowingly and intelligently" or that it was the product of coercion. Bryant v. State, 102 Nev. at 272; Gardner v. State, 91 Nev. 443, 446-47 (1975). The decision of the trial court to allow a defendant to withdraw his guilty plea "is discretionary and will not be reversed unless there has been a clear abuse of that discretion." State v. District Court, 85 Nev. at 385; State v. Adams, 94 Nev. 503, 505 (1978); Bryant v. State, 102 Nev. at 272.

A. A GUILTY PLEA IS A WAIVER OF CONSTITUTIONAL RIGHTS

"[A] guilty plea is a grave and solemn act to be accepted only with care and discernment." Brady v. United States, 397 U.S. 742, 748 (1970); Parker v. State, 100 Nev. 264, 265 (1984) ("Entry of a guilty plea is a solemn process"). "[T]he decision to enter a plea of guilty is personal to the accused, not his or her attorney." Parker v. State, 100 Nev. at 265.

A guilty plea must be voluntarily entered because it is a waiver of constitutional rights. The longstanding test for determining the validity of a guilty plea has been "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." North Carolina v. Alford, 400 U.S. 25, 31 (1970); Hill v. Lockhart, 474 U.S. 52, 56 (1985).

"[A] plea cannot support a judgment of guilt unless it [is] voluntary in a constitutional sense." Henderson v. Morgan, 426 U.S. 637, 644 (1976). McCarthy v. United States, 394 U.S. 459, 466 (1969). "To be voluntary, a guilty plea cannot be induced

1 by misrepresentation, including unfulfilled or unfulfillable promises." Brady v. United
2 States, 397 U.S. 755. "A plea of guilty is more than a confession which admits that the
3 accused did various acts; it is itself a conviction; nothing remains but to give judgment and
4 determine punishment." Boykin v. Alabama, 395 U.S. 238, 242 (1969); Kercheval v.
5 United states, 274 U.S. at 223. "Several federal constitutional rights are involved in a
6 waiver that takes place when a plea of guilty is entered in a state criminal trial." Boykin v.
7 Alabama, 395 U.S. at 242:

8 A defendant who enters such a plea simultaneously waives
9 several constitutional rights, including his privilege against
10 compulsory self-incrimination, his right to trial by jury, and
11 his right to confront his accusers.

12 McCarthy v. United States, 394 U.S. at 466; Taylor v. Warden, 96 Nev. 272, 274 (1980).
13 "Waivers of [these] constitutional rights not only must be voluntary but must be knowing,
14 intelligent acts done with sufficient awareness of the relevant circumstances and likely
15 consequences." Brady v. United States, 397 U.S. at 748. "[I]f a defendant's guilty plea is
16 not equally voluntary and knowing, it has been obtained in violation of due process and is
17 therefore void." McCarthy v. United States, 394 U.S. at 466.

18 "The question as to whether a plea is voluntarily entered will turn on the facts and
19 circumstances of each particular case." Taylor v. Warden, 96 Nev. at 274. "[T]he focus of
20 the voluntariness inquiry is upon the frame of mind of the defendant at the time he decides
21 to plead." Taylor v. Warden, 96 Nev. at 274-75.

22 "The court must examine the data available to the defendant's mind and take into
23 account the natural strains and anxieties of a person in the defendant's position." United
24 States v. Mancusi, 275 F.Supp. at 516. "There is little merit in the ... contention that a
25 subjective test of what the defendant believed ... is too difficult to apply. The state of a
26 man's mind, like most other issues of fact, is decided on the basis of reasonable inferences
27 drawn from the known surrounding facts and circumstances." United States v. Mancusi,
28 275 F.Supp. at 518. After all, "the [whole] test [of whether a plea was voluntarily entered]
is essentially factual in nature" Bryant v. State, 102 Nev. at 272.

B. ANY SUBSTANTIAL REASON THAT IS FAIR AND JUST IS SUFFICIENT TO WITHDRAW A PLEA

"A district court may, in its discretion, grant a defendant's [presentence] motion to withdraw a guilty plea for any 'substantial reason' if it is 'fair and just.'" Molina v. State, 87 P.3d 533, 537 (Nev 2004). Accordingly, Nevada trial and appellate courts must apply a more relaxed standard to presentence motions to withdraw guilty pleas than to post-sentencing motions. See NRS 176.165. A district court must examine the totality of the circumstances to determine whether a defendant entered his plea voluntarily, knowingly, and intelligently. Molina, 87 P.3d at 537.

"In reviewing an attack on a guilty plea a court must consider whether the plea was voluntarily entered as well as whether, considered as a whole, the process by which the plea was obtained was fundamentally fair." Taylor v. Warden, 96 Nev. at 274.

The inquiry as to whether the process by which the plea was taken is fundamentally fair involves "different considerations" than those involved in the standard inquiry into voluntariness. Taylor v. Warden, 96 Nev. at 275. "Rather than focusing on the state of mind of the defendant, the focus of this inquiry is upon the process in which the plea has been obtained." Taylor v. Warden, 96 Nev. at 275.

A reviewing court need not look only to the technical sufficiency of a plea canvass to determine whether a plea has been entered with a true understanding of the nature of the offense charged. Bryant v. State, 102 Nev. at 271. The court may "review the entire record, and look to the totality of the facts and circumstances of a defendant's case, to determine whether a defendant entered his plea with an actual understanding of the nature of the charges against him." Bryant v. State, 102 Nev. at 271; Stocks v. Warden, 86 Nev. at 761 ("The voluntariness of [a defendant's] plea is to be determined by considering all relevant circumstances surrounding it").

In Stevenson v. State, the Nevada Supreme Court returned to its original 1969 analysis of NRS 176.165, which centered on withdrawing a guilty plea for "any substantial reason the granting of the privilege seems 'fair and just'". See Stevenson v. State, 354 P.3d

1 1277 (Nev. 2015) quoting State v. Second Judicial Dist. Court (Bernadelli), 85 Nev. 381,
2 385, 455 P.2d 923, 926 (1969).

3 **III. ARGUMENT**

4 **A. ALLOWING THE PLEA TO STAND WOULD BE FUNDAMENTALLY**
5 **UNFAIR.**

6 The offer made by the State was the result of perceived hard work and participation
7 of the State and Radosta. However, if Defendant's claims have merit, then the Defendant
8 walked into a situation unprepared to negotiate in good faith. The court system as a whole
9 has balanced the needs of the safety of the public during an epidemic with the needs to
10 protect the constitutional rights of defendants. However, mandated distance to protect and
11 prevent the spread of COVID-19 has further complicated and distanced client from
12 counsel. This is readily apparent in both the lack of personal visits in rooms to review
13 paper discovery, discuss defense strategies, or prepare for trial, as well as when reviewing
14 and answering questions regarding guilty plea agreements.

15 In this matter, Defendant's position highlights the problems associated with
16 mandated distance between him and his counsel, and as a result, he entered into a guilty
17 plea agreement that he was not fully comfortable or vested in. Based on Defendant's
18 allegations, his guilty plea should be withdrawn as it would be fair and just to do so.

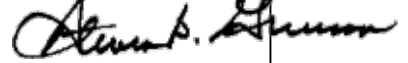
19 **IV. CONCLUSION**

20 Based upon the foregoing, Defendant AARON MARIO MEDINA respectfully requests that
21 this Court allow him to withdraw his guilty plea and set this matter for trial at a date convenient to
22 this Court.

23 DATED this 27th day of April, 2021.

24 SANFT LAW

25 
26 _____
27 MICHAEL SANFT, ESQ.
28



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 AARON MARIO MEDINA,
12 Defendant.

13
14 CASE#: C-20-349446-1
15 DEPT. XVIII

16
17 BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE
18 THURSDAY, MAY 27, 2021

19
20 **RECORDER'S TRANSCRIPT OF HEARING:**
21 **DEFENDANT'S MOTION TO WITHDRAW PLEA**

22 APPEARANCES:

23 For the State:

24 SANDRA DiGIACOMO, ESQ.
25 Deputy District Attorney

For the Defendant:

MICHAEL W. SANFT, ESQ.

RECORDED BY: YVETTE SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, May 27, 2021

[Hearing began at 10:56 a.m.]

THE COURT CLERK: State of Nevada versus Aaron Medina,
C349446-1.

MR. SANFT: Sorry Sandy, I was here, I just said I'm going to
drop in, in person.

MS. DiGIACOMO: Yes, no problem.

THE COURT: All right --

MS. DiGIACOMO: Your Honor, I haven't filed my opposition
yet, because we did an order for transcripts, April 27th, I believe, or 28th
and they weren't done as of yesterday, so I need the transcript of the
entry of plea before I do my opposition.

THE COURT: You're looking at me like you're surprised.

THE COURT RECORDER: Because I don't have him on my
list. Did she serve our department or another department?

THE COURT: Can you hear Yvette?

MS. DiGIACOMO: It was filed in Odyssey in this department.
Let me look at it, hang on.

THE COURT RECORDER: In my stack, I don't have it in my
stack that I --

THE COURT: Is there another stack?

THE COURT RECORDER: No, I only have one stack.

THE COURT: Does someone else have a stack?

THE COURT RECORDER: It may be in another department

1 that has another stack.

2 THE COURT: Oh no, this would be in here. All right, we don't
3 -- Yvette doesn't have an order.

4 MS. DiGIACOMO: Hold on, I can tell you it was filed -- it's in
5 Odyssey filed on April 27th, let me see if the department is wrong. It's
6 Department 18 on here. Do you want me to --

7 THE COURT: Well, if it's there --

8 MS. DiGIACOMO: -- resend it over? Did she pull it up?

9 THE COURT: We can print it out -- what do you need? Print
10 out?

11 THE COURT RECORDER: I actually need the order signed. Is
12 my name on there? Oh, so it's Matt Yarborough.

13 THE COURT: Why?

14 THE COURT CLERK: It was on October 6, 2020, so maybe
15 he was the recorder at that time.

16 THE COURT: Oh. All right. It's not my court -- I don't know
17 what we do with this guys. Can somebody tell me?

18 THE COURT RECORDER: Just -- if she can do an order and
19 just put my name on it and CC me, so that the email comes to me, and I
20 will know that I have an order out there.

21 THE COURT: It went to the court recorder from back then,
22 which wasn't Yvette.

23 MS. DiGIACOMO: Okay.

24 THE COURT: It didn't get done, and if you re-do it and put
25 Yvette's name on it and CC her, I'll sign it, she'll do it, and we'll get it

1 done.

2 MS. DiGIACOMO: Okay. All right. Thank you. Sorry about

3 that.

4 THE COURT: I don't know that it's anybody's fault. It's all

5 good.

6 MS. DiGIACOMO: Okay.

7 THE COURT: And then do we need a status check --

8 MS. DiGIACOMO: I need --

9 THE COURT: -- when the transcript is ready, give you some

10 time. What do we need? You start right at 10?

11 MS. DiGIACOMO: -- she knows about how long it'll be --

12 MR. SANFT: No, Your Honor, go ahead. We got plenty of

13 time.

14 THE COURT: I'm sorry.

15 MS. DiGIACOMO: I was saying, I she knows how long it'll

16 take her about to get the transcript done, I'd just like a week or so after

17 that.

18 THE COURT: How long will it take you to get the transcript

19 done, it's a guilty plea.

20 THE COURT RECORDER: Depends on how long it is, but if

21 you could just give me a week, then I'll just --

22 MS. DiGIACOMO: It's just a normal canvass.

23 THE COURT: Normal canvass, just one of those.

24 THE COURT RECORDER: Okay, 30 days?

25 THE COURT: It's just a guilty plea canvass.

1 THE COURT RECORDER: Oh, okay, yeah that's --
2 THE COURT: Can you get it done --
3 THE COURT RECORDER: -- two weeks?
4 THE COURT: -- two weeks for that, and I'll give -- how much
5 time do you want after that?
6 MS. DiGIACOMO: A week or so, so maybe set the argument
7 in a month, and we should be good.
8 THE COURT: Okay.
9 THE COURT CLERK: Okay, so that'll be June 28th -- or I'm
10 sorry, you're Tuesday right?
11 THE COURT: Right.
12 THE COURT CLERK: That'll be June 29th at 11:00.
13 MS. DiGIACOMO: And Your Honor, I am so sorry, I have the
14 Grand Jury that morning, can we do July 1st instead?
15 THE COURT: July 1st, she has Grand Jury that day, sure.
16 How about July 8th?
17 MS. DiGIACOMO: Okay, that's fine with the State.
18 THE COURT: Mr. Sanft?
19 MR. SANFT: Yeah, that's fine, yep.
20 THE COURT CLERK: July 8th at 11:00.
21 MR. SANFT: Thank you, Your Honor.
22 MS. DiGIACOMO: Thank you.
23 THE COURT: Is Mr. Medina here or somewhere else?
24 MR. SANFT: No, he's in custody, Your Honor, he's present.
25 MS. DiGIACOMO: He's in jail.

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MS. DiGIACOMO: Yeah, he's on Bluejeans.

THE COURT: Mr. Medina, you know what's going on?

THE DEFENDANT: Yes ma'am, I do. Thank you.

THE COURT: All right.

MS. DiGIACOMO: All right, thank you.

MR. SANFT: Thank you, Your Honor.

[Hearing concluded at 11:01 a.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.

A handwritten signature in black ink, appearing to read "Yvette G. Sison", is written over a horizontal line.

Yvette G. Sison
Court Recorder/Transcriber

Heather S. Linn

CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SANDRA K. DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204
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-

**AARON MEDINA, aka,
Aaron Mario Medina, #2596004**

Defendant.

CASE NO: C-20-349446-1

DEPT NO: XVIII

ORDER DENYING DEFENDANT'S MOTION TO WITHDRAW PLEA

**DATE OF HEARING: 07/08/2021
TIME OF HEARING: 11:00 A.M.**

THIS MATTER having come on for hearing before the above entitled Court on the 8th day of July, 2021, the Defendant being present, Represented by MICHAEL SANFT, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through SANDRA K. DIGIACOMO, Chief Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

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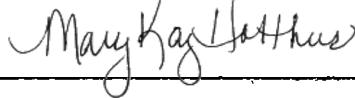
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1 IT IS HEREBY ORDERED that the Defendant's Motion, shall be, and it is DENIED,
2 there is no legal basis for Defendant to be allowed to withdraw their plea.

3 DATED this _____ day of July, 2021. Dated this 17th day of July, 2021

4 
5 _____

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

50B 012 22C5 8344
Mary Kay Holthus
District Court Judge

9 BY


10 SANDRA K. DIGIACOMO
11 Chief Deputy District Attorney
12 Nevada Bar #006204
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28 20FM0005X/mlb/SVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 State of Nevada

CASE NO: C-20-349446-1

7 vs

DEPT. NO. Department 18

8 Aaron Medina
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: 7/17/2021

15 Dept 15 Law Clerk

Dept15LC@clarkcountycourts.us

16 howard conrad

howard.conrad@clarkcountyda.com

17 linda mason

linda.mason@clarkcountyda.com

18 DeLois Williams

Delois.Williams@clarkcountynv.gov

19 Michael Sanft

michael@sanftlaw.com

20 Mary Bailey

Mary.Bailey@clarkcountyda.com

21 VIOLET DPD

vadostrvr@clarkcountynv.gov

22 ANN PD SECRETARY

mcmahaae@clarkcountynv.gov

23 PUBLIC CLERK

pdclerk@clarkcountynv.gov

24 SANDRA DDA

sandra.digiacomio@clarkcountyda.com

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THE STATE OF NEVADA,
Plaintiff,
vs.
AARON MARIO MEDINA,
Defendant.

VS.

AARON MARIO MEDINA,
Defendant.

**RECORDER'S TRANSCRIPT OF HEARING:
SENTENCING**

For the State:

For the Defendant:
[Appearance via BlueJeans]

MICHAEL W. SANFT, ESQ.

AA049

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Las Vegas, Nevada, Tuesday, August 17, 2021

[Hearing began at 12:41 p.m.]

THE COURT CLERK: C349446, Aaron Medina

MS. DiGIACOMO: Sandra DiGiacomo on behalf of the State.

MR. SANFT: Good Afternoon, Your Honor, Michael Sanft on behalf of Mr. Medina who is present in custody.

THE COURT: All right, on October 6, 2020, he entered a plea to attempt sexual assault with a minor under 14, two counts -- no excuse me, the second count is attempt lewdness with a child under the age of 14.

THE DEFENDANT: Your Honor --

THE COURT: Yes.

THE DEFENDANT: -- I apologize so much. I was just wondering if I may ask you, can I be heard at the end due to the sensitivity of the case, please.

MR. SANFT: I think my client wants to trail this matter so that it doesn't -- he can be forth right.

THE COURT: All right, no problem.

MR. SANFT: Thank you.

THE COURT: We'll trail this.

THE DEFENDANT: Thank you.

[Case trailed at 12:42 p.m.]

[Case recalled at 12:53 p.m.]

THE COURT CLERK: Recalling C349446, State of Nevada

1 versus Medina.

2 THE COURT: This is the time set for sentencing in this
3 matter. The Defendant entered a plea on October 6, 2020. I hereby
4 adjudge him guilty of attempt sexual assault with a minor under 14 years
5 of age and attempt lewdness with a child under the age of 14. State, go
6 ahead.

7 MS. DiGIACOMO: Your Honor, pursuant to the negotiations,
8 we're stipulating to 96 to 240 months on Count 1 --

9 THE COURT: Did you hear that at all?

10 MS. DiGIACOMO: -- 24 to 60 months on --

11 THE COURT: You're cutting out. Your technology is terrible.
12 Speak into the microphone please.

13 MS. DiGIACOMO: I'm cutting out?

14 THE COURT: Yes, you were cutting out.

15 MS. DiGIACOMO: Okay, I was saying that as to Count 1,
16 we're stipulating 96 to 240 months -- can you hear me?

17 THE COURT: No, you cut out just as you said the months.

18 MS. DiGIACOMO: I don't know -- I don't know -- because I --
19 maybe Mr. Sanft can put it on the record what the negotiations are.

20 THE COURT: Please do.

21 MR. SANFT: Yes, Your Honor. What we've agreed upon is a
22 stipulated 8 to 20 on Count 1 to run consecutive with a 2 to 5 on Count
23 2, for an aggregate intended amount of 10 to 25 years.

24 THE COURT: Okay. Mr. Medina, do you understand what
25 counsel has said?

1 THE DEFENDANT: Yes I do.

2 THE COURT: Where is he?

3 MR. SANFT: He's bottom left, Your Honor.

4 THE COURT: Why can't he be up front so I can see him? I'm
5 going to sentence this guy to a bunch of years, and I'm seeing myself on
6 the picture.

7 THE DEFENDANT: Yes sir, I understand.

8 MR. SANFT: There he is, Your Honor.

9 THE COURT: This is incredible. Mr. Medina, do you
10 understand what counsel has said about the sentence in this matter?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: And you agree to this?

13 THE DEFENDANT: Yes.

14 THE COURT: Is there anything you want to say before I
15 sentence you?

16 THE DEFENDANT: If I may please.

17 THE COURT: Go ahead.

18 THE DEFENDANT: Good Afternoon, Your Honor. Thank you
19 so much for allowing me to say somethings, since I was never given the
20 opportunity to, right from the beginning of this case. I will not take too
21 much of your time, so I will be quick. Obviously, I am not learned in the
22 law, so I will do my best to explain what I am saying.

23 I would like to point out for the record that I voluntarily
24 surrendered myself to Metro at CCDC on March 19, 2020, when I
25 received a letter in the mail of a court document that was a warrant of

1 arrest issued six weeks prior.

2 To put it bluntly, if you ask me, six weeks is plenty of time for
3 someone to get all their ducks in a row and get out of dodge. The fact
4 is, I did not do that. I had no reason to. If you'll take a quick look into
5 my background, you'll see I have no failures to appear and no
6 indications that I took flight at any time that I had dealings with any court
7 or the legal system.

8 It is to my understanding an arrest warrant is only to answer to
9 a complaint and/or appear before a court or judge, not sit in jail for 18
10 months, with a bail that I cannot achieve.

11 Apparently, the LVMPD did not take care to fulfill their duty
12 during those six weeks; for the lack of performance by Public Defender
13 Violet R. Radosta to request a preliminary hearing instead, 112 days
14 after being booked and to CCDC, the State takes my case to the Grand
15 Jury.

16 Not to mention, I am requesting from the State, Sandra
17 DiGiacomo, to disclose or turn over any or all evidence that might have
18 that could be favorable and/or helpful in my defense, which I personally
19 never received and still.

20 But, in the event that it was, Ms. Radosta did not seem to think
21 that it was important enough to share it with me. The only evidence that
22 I am aware of are statements from two different people that Ms.
23 DiGiacomo [unintelligible] each other but yet do not match.

24 And the reason why Ms. DiGiacomo presented my case to the
25 Grand Jury is because she threatened to not negotiate and remove the

1 offers from then and into the future, while I asked for a preliminary
2 hearing.

3 I was forced to withdraw my guilty plea on November 19,
4 2020, mind you, a plea deal without any legal advice or representation
5 whatsoever. Despite your popular belief, I was in fact under duress,
6 leaving a daughter; alternative, I was forced to take this deal. At that
7 moment, my greatest fear came to life, going back to prison.

8 Ms. Radosta mentions to my mother a lesser sentence
9 structure/offer, which was made by Ms. DiGiacomo that she
10 recommends I should accept, and yet here I am faced with a much
11 harsher punishment today, and yes I do have that in writing.

12 I am still unaware of the totality of evidence, if any, which
13 leaves me with no real defense except to say not guilty; and now I suffer
14 an even greater deal of mental anguish on this whole unfortunate event
15 in my life.

16 With all this being said, I leave my life in God's hands and
17 under his mercy, as he knows what's best for me.

18 As for Your Honor's mercy, I am only willingly to go forward
19 and accept this sentence today, as it seems I have no other choice.

20 On a quick note, if I may speak freely, I did a prison sentence
21 that I just completed in 2016, and it seems that the things that I had
22 done after my release, everybody looks over -- overlooks it, excuse me.

23 I was released from NDOC, on parole for six months, which I
24 successfully completed. Soon after that at, as -- well on parole, as per
25 my PO, he said I could either go to school or find a job. Coming from a

1 small town in Overton, there's not very much opportunities for
2 employment. So, instead I went to a job fair that put me into schooling. A
3 week after I completed -- a week before I completed parole, I had started
4 cosmetology training. I had completed this training for a year, and I had
5 my certificate in cosmetology. Then after, I found a job, not in
6 cosmetology, but I found a job as a cashier at truck stop that's over by
7 the ski line. I had been at this job for 18 months almost. I had tried to
8 do my best, to be out there while I was released from NDOC.

9 It was -- kind of blows my mind that even though I was coming
10 from a small town, I moved out and came to Vegas to seek more
11 opportunities so that way I can establish a life for myself, and yet, stuff in
12 life just happens.

13 Like I said and explained to you, Your Honor -- and thank you
14 for allowing me to say something, I'm ready to move forward. I'll accept
15 the sentence today. I -- I'm losing everything. My mother had just told
16 me that my father might lose his job, that he has been there since he
17 was 17 years old, and last weekend, he just turned 56; that means they
18 will lose their house, their company that they have had since the 80's,
19 way before I was even born. Thank you, Your Honor.

20 THE COURT: Thank you. I just want you to know I've looked
21 at the entire family in this matter, the pre-sentence report, and your
22 background -- you have a previous felony conviction looks like, now you
23 got two more felony convictions.

24 I think Ms. DiGiacomo has been generous to you on this
25 particular sentencing; it could've been much worse. I think you were

1 smart in taking this, because I think someday you'll get out, and you'll be
2 on parole. You got to get your life together. This is not the way to live.

3 So, in accordance with the laws in the State of Nevada, this
4 Court does hereby sentence you, in addition to the administrative
5 assessment fee of \$25, DNA fee of \$150, DNA administrative
6 assessment fee of \$3, and indigent defense fee of \$250, on Count 1, a
7 minimum term of 8 years, a maximum of 20 years in the Nevada
8 Department of Corrections.

9 On Count 2, a minimum term of 2 years, a maximum of 5
10 years in Nevada Department of Corrections, for a total sentence of 10 to
11 25 years; and what's the credit for time served I wasn't able to tell that
12 from the --

13 MR. SANFT: Its 517 days.

14 THE COURT: -- 517 days credit for time served; and that'll be
15 the order. Good luck to you. I hope that this time in prison, you get your
16 life together.

17 MS. DiGIACOMO: Your Honor --

18 THE COURT: Yes.

19 MS. DiGIACOMO: -- Your Honor, I apologize, it's also lifetime
20 supervision.

21 MR. SANFT: Lifetime supervision.

22 MS. DiGIACOMO: And sex registration.

23 THE COURT: If anybody can understand what she's saying?

24 MR. SANFT: I'll let the Court know. So, under statute, Your
25 Honor, you also have to advise my client with regards to lifetime

1 supervision and sexual offender registration.

2 THE COURT: You understand that because of the nature of
3 the offenses that you've been convicted of, you have to register as a sex
4 offender when you're released, and also you're under lifetime
5 supervision.

6 THE DEFENDANT: Yes sir.

7 THE COURT: Okay. Anything else Ms. DiGiacomo --

8 MS. DiGIACOMO: No, thank you.

9 THE COURT: -- except for getting a new microphone in the
10 DA's Office.

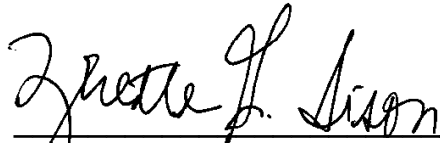
11 MR. SANFT: Thank you, Your Honor.

12 THE COURT: All right. Good luck everybody.

13 [Hearing concluded at 1:04 p.m.]

14 * * * * *

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18 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.

19
20 
21 Yvette G. Sison
22 Court Recorder/Transcriber
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JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AARON MARIO MEDINA
#2596004

Defendant.

CASE NO. C-20-349446-1

DEPT. NO. XVIII

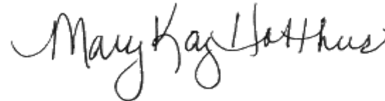
JUDGMENT OF CONVICTION
(PLEA OF GUILTY- ALFORD)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), to the crimes of COUNT 1 – ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony) in violation of NRS 200.364, 200.366, 193.330; and COUNT 2 – ATTEMPT LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category B Felony) in violation of NRS 201.230(2); thereafter, on the 17th day of August, 2021, the Defendant was present in court for sentencing, via Blue jeans, with counsel MICHAEL W. SANFT, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee and

1 \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA
2 Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections as follows:
3 COUNT 1 - a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole eligibility of
4 EIGHT (8) YEARS; and COUNT 2 - a MAXIMUM of FIVE (5) YEARS with a MINIMUM
5 parole eligibility of TWO (2) YEARS, CONSECUTIVE to COUNT 1; with FIVE HUNDRED
6 SEVENTEEN (517) DAYS credit for time served. The AGGREGATE TOTAL sentence is
7 TWENTY-FIVE (25) YEARS MAXIMUM with a MINIMUM Parole Eligibility of TEN (10)
8 YEARS.
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12 Dated this 23rd day of August, 2021

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16 51B 31A FE59 CA4E
17 Mary Kay Holthus
18 District Court Judge
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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

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5
6 State of Nevada

CASE NO: C-20-349446-1

7 vs

DEPT. NO. Department 18

8 Aaron Medina
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: 8/23/2021

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Case Number: C-20-349446-1

CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on September 16, 2021, I served the foregoing document via electronic filing on:

Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155

____s/s Megan Hampton____
Employee of SANFT LAW