

IN THE SUPREME COURT OF THE STATE OF NEVADA

Alec Dave,	)	Supreme Ct No. 84165
	)	District Ct No. 21-7272
Appellant,	)	Electronically Filed
	)	Apr 26 2022 05:31 p.m.
vs.	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
The State of Nevada,	)	
	)	
Respondent	)	
	)	

**Appellant's Appendix**

ATTORNEY FOR APPELLANT      ATTORNEY FOR RESPONDENT

Humboldt County Public Defender  
Matt Stermitz, NSB # 3610  
Drawer 309  
Winnemucca, Nevada 89445  
775-623-6550

Humboldt County DA  
Michael Macdonald  
Drawer 909  
Winnemucca, Nevada 89445  
775-623-6363

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HUMBOLDT COUNTY DISTRICT ATTORNEY  
P.O. Box 909  
Winnemucca, Nevada 89446

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NO. CR2107272  
DEPT. 2

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DISTRICT COURT CLERK

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF HUMBOLDT.

-oOo-

STATE OF NEVADA,  
Plaintiff,

vs.

INFORMATION

ALEC DAVE  
DOB: 08/03/1997  
Defendant.

MICHAEL MACDONALD, District Attorney of Humboldt County,  
Nevada, in the name and by the authority of the State of Nevada,  
informs the Court:

COUNT I

LEWDNESS WITH CHILD UNDER 14 YEARS,  
A CATEGORY A FELONY  
AS DEFINED BY NRS 201.230 (2)

That the Defendant did knowingly, willfully, unlawfully  
and lewdly commit any lewd or lascivious act, other than  
acts constituting the crime of sexual assault, upon or  
with the body, or any part or member thereof, of a child  
under the age of 14 years, with the intent of arousing,  
appealing to, or gratifying the lust or passions or  
sexual desires of that person or of that child, in the  
following manner, to-wit: That on or about October,  
November, and/or December 2020, at or near the location  
of 465 Lasa Drive, McDermitt, County of Humboldt, State  
of Nevada, the Defendant had sexual intercourse with a  
known but unnamed female juvenile identified as JF1 date  
of birth June 5, 2008.

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HUMBOLDT COUNTY DISTRICT ATTORNEY  
P.O. Box 909  
Winnemucca, Nevada 89446

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COUNT II

**LEWDNESS WITH CHILD UNDER 14 YEARS,**  
**A CATEGORY A FELONY**  
**AS DEFINED BY NRS 201.230(2)**

That the Defendant did knowingly, willfully, unlawfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, in the following manner, to-wit: That between 2017 and 2019, at or near the location of 465 Lasa Drive, McDermitt, County of Humboldt, State of Nevada, the Defendant had anal intercourse with a known but unnamed female juvenile identified as JF2 date of birth July 5, 2009.

COUNT III

**LEWDNESS WITH CHILD UNDER 14 YEARS,**  
**A CATEGORY A FELONY**  
**AS DEFINED BY NRS 201.230(2)**

That the Defendant did knowingly, willfully, unlawfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, in the following manner, to-wit: That on or about the spring of 2019, at or near the location of 465 Lasa Drive, McDermitt, County of Humboldt, State of Nevada, the Defendant had anal intercourse with a known but unnamed male juvenile identified as JM2 date of birth April 13, 2008.

COUNT IV

**LEWDNESS WITH CHILD UNDER 14 YEARS,**  
**A CATEGORY A FELONY**  
**AS DEFINED BY NRS 201.230(2)**

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

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HUMBOLDT COUNTY DISTRICT ATTORNEY  
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Winnemucca, Nevada 89446

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appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, in the following manner, to-wit: That between May 2015 through August 2018, at or near the location of 465 Lasa Drive, McDermitt, County of Humboldt, State of Nevada, the Defendant had anal intercourse with a known but unnamed male juvenile identified as JM3 date of birth September 25, 2005, multiple occasions, against his will or under circumstances where he knew or should have known JM3 was incapable of resisting.

All of which is contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Nevada.

That the names of all witnesses who will testify for the State of Nevada in said action that are known to the District Attorney at the time of the filing of this Information are listed with addresses on the annexed Exhibit "A" and the names of all other witnesses who will testify for the State of Nevada that become known to the District Attorney before time of trial will be endorsed hereon by subsequent Exhibit.

Furthermore, pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

  
\_\_\_\_\_  
KEVIN L. PASQUALE  
Chief Deputy District Attorney  
Nevada Bar #768

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EXHIBIT "A"  
INFORMATION

Names and Addresses Known to the  
District Attorney at the time of  
Filing of the Information

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JF1  
c/o Parent and/or Guardian  
McDermitt, NV 89421

JF2  
c/o Parent and/or Guardian  
McDermitt, NV 89421

JM2  
c/o Parent and/or Guardian  
McDermitt, NV 89421

JM3  
c/o Parent and/or Guardian  
McDermitt, NV 89421

Jacqueline Mitcham  
Humboldt County Sheriff's Office  
25 West 5th Street Courthouse  
Winnemucca, NV 89445

Deputy Christopher Sjoblom  
Humboldt County Sheriff's Office  
25 West 5th Street Courthouse  
Winnemucca, NV 89445

HUMBOLDT COUNTY DISTRICT ATTORNEY  
P.O. Box 909  
Winnemucca, Nevada 89446

HUMBOLDT COUNTY DISTRICT ATTORNEY  
P.O. Box 909  
Winnemucca, Nevada 89446

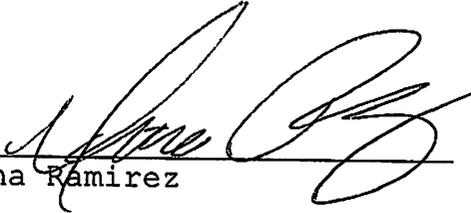
CERTIFICATE OF SERVICE

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Pursuant to NRC 5(b), I certify that I am an employee of the Humboldt County District Attorney's Office, and that on the 13 day of October 2021, I delivered a true copy of the **INFORMATION** to:

Matthew J. Stermitz  
P.O. Box 309  
Winnemucca, NV 89446

- U.S. Mail
- Certified Mail
- Hand-delivered
- Placed in DCT Box
- Via Facsimile

  
Gina Ramirez

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Case No. CB21-7272

Dept. No. 2

2021 OCT 27 AM 10:54

CLERK OF DISTRICT COURT  
HUMBOLDT COUNTY, NEVADA

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF HUMBOLDT

THE STATE OF NEVADA,

Plaintiff,

vs.

ALEC DAVE,

Defendant.

PLEA AGREEMENT

I, Alec Dave, defendant, hereby agree to plead guilty to four counts of lewdness with a child under the age of 14, a category A felony, in violation of NRS 201.230(1)(a).

My decision to plead guilty is based upon the plea agreement in this case which is as follows: The Humboldt County District Attorney will not prosecute me for any other crimes now known to the Humboldt County District Attorney to have been committed by me in Humboldt County, if any.

~~The Humboldt County District Attorney will not prosecute me for any other crimes now known to the Humboldt County District Attorney to have been committed by me in Humboldt County, if any.~~

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty I admit sufficient facts exist to support all the elements of the offense to which I now plead.

I understand had the matter gone to trial the State of Nevada would have had to prove beyond a reasonable doubt the following elements:

COUNT I

1. That the Defendant did knowingly, willfully and intentionally,

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2. Commit a lewd or lascivious act,
3. Upon or with the body of a child, under the age of 14, R.S., D.O.B.  
06/05/08,
4. With the intent of arousing appealing to or gratifying his lust, passions  
or sexual desires or those of the child,
5. Between 2017 – 2021,
6. In Humboldt County, State of Nevada.

COUNT 2

1. That the Defendant did knowingly, willfully and intentionally,
2. Commit a lewd or lascivious act,
3. Upon or with the body of a child under the age of 14, S.S., D.O.B.  
07/15/09,
4. With the intent of arousing appealing to or gratifying his lust, passions  
or sexual desires or those of the child,
5. Between 2017 – 2021,
6. In Humboldt County, State of Nevada.

COUNT 3

1. That the Defendant did knowingly, willfully and intentionally,
2. Commit a lewd or lascivious act,
3. Upon or with the body of a child under the age of 14, A.S., D.O.B.  
04/13/08,
4. With the intent of arousing appealing to or gratifying his lust, passions  
or sexual desires or those of the child,
5. Between 2017 – 2021,
6. In Humboldt County, State of Nevada.

COUNT 4

1. That the Defendant did knowingly, willfully and intentionally,
2. Commit a lewd or lascivious act,

1 3. Upon or with the body of a child under the age of 14, P.S., D.O.B.  
2 09/25/05,

3 4. With the intent of arousing appealing to or gratifying his lust, passions  
4 or sexual desires or those of the child,

5 5. Between 2017 – 2019,

6 6. In Humboldt County, State of Nevada.

7 I understand as a consequence of my guilty pleas I will be punished by  
8 imprisonment in the State Prison for a term of 10 years to life.

9 For each count to which I plead guilty. I understand that the law requires  
10 me to pay an administrative assessment fee of \$ 25, a DNA fee in the amount of  
11 \$ 150.00 and a \$ 3 DNA assessment fee.

12 I understand that, if appropriate, I will be ordered to make restitution to the  
13 victim of the offenses to which I am pleading to and to the victim of any related  
14 offense which is being dismissed or not prosecuted pursuant to this agreement, I  
15 will also be ordered to reimburse the State of Nevada for expenses related to my  
16 extradition, if any.

17 I understand that I am not eligible for probation for the offense too which I  
18 plead. NRS 176A.100.

19 In understand I will be required to register as a sexual offender and will be  
20 subject to a term of lifetime supervision. NRS 176.0931.

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

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

27 I have not been promised or guaranteed any particular sentence by  
28 anyone. I know that my sentence is to be determined by the court within the

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1 limits prescribed by statute. I understand that if my attorney or the State of  
2 Nevada or both recommend any specific punishment to the court, the court is not  
3 obligated to accept the recommendation.

4 I understand that the division of parole and probation of the department of  
5 public safety may or will prepare a report for the sentencing judge before  
6 sentencing. This report will include relevant matters relating to sentencing,  
7 including my criminal history. I understand that this report may contain hearsay  
8 information regarding my background and criminal history. I understand the  
9 presentence investigation and report must include a psychosexual evaluation.  
10 NRS 176.135(2)(b). I understand the division of parole and probation of the  
11 department of public safety will arrange for the psychosexual evaluation. NRS  
12 176.139(1). My attorney and I will each have the opportunity to comment on the  
13 information in the report at sentencing.

14 I understand that if the State of Nevada has agreed to recommend a  
15 particular sentence or agreed not to present argument regarding the sentence,  
16 such agreement is contingent upon my appearance in Court on the initial  
17 sentencing date. I understand that if I fail to appear for any future scheduled  
18 court date in regards to this case or I commit a new criminal offense prior to  
19 sentencing, the State of Nevada is released from any agreement as to sentence  
20 and would regain the full right to argue for any lawful sentence.

#### 21 WAIVER OF RIGHTS

22 By entering my plea of guilty, I understand that I have waived the following  
23 rights and privileges:

24 1. The constitutional privilege against self-incrimination, including the  
25 right to refuse to testify at trial, in which event the prosecution would not be  
26 allowed to comment to the jury about my refusal to testify.

27 2. The constitutional right to a speedy and public trial by an impartial  
28 jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I

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1 would be entitled to the assistance of an attorney, either appointed or retained.  
2 At trial, the state would bear the burden of proving beyond a reasonable doubt  
3 each element of the offense charged.

4 3. The constitutional right to confront and cross-examine any  
5 witnesses whom would testify against me.

6 4. The constitutional right to subpoena witnesses to testify on my  
7 behalf.

8 5. The constitutional right to testify in my own defense.

9 6. The right to appeal the conviction, with the assistance of an  
10 attorney, either appointed or retained, unless the appeal is based upon  
11 reasonable constitutional, jurisdictional or other grounds that challenge the  
12 legality of the proceedings and except as otherwise provided in subsection 3 of  
13 NRS 174.035.

#### 14 VOLUNTARINESS OF PLEA

15 I have discussed the elements of all the original charges with my attorney  
16 and I understand the nature of the charges against me.

17 I understand the state would have to prove each element of the charge  
18 against me at trial.

19 I have discussed with my attorney any possible defenses and  
20 circumstances which might be in my favor.

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

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

25 I am signing this agreement voluntarily, after consultation with my  
26 attorney and I am not acting under duress or coercion by virtue of any promises  
27 of leniency, except for those set forth in this agreement.  
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1 I am not now under the influence of intoxicating liquor or a drug, which  
2 may impair my ability to comprehend or understand this agreement or the  
3 proceeding surrounding my entry of plea.

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

7 Dated this 15<sup>th</sup> day of September, 2021.

8   
9 \_\_\_\_\_  
10 Alec Dave  
11 Defendant

12 Dated this 4 day of October, 2021.

13   
14 \_\_\_\_\_  
15 Kevin Pasquale  
16 Chief Deputy District Attorney

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify:

1. I have fully explained to the defendant the allegations contained in the charges to which a plea is entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant are in the best interest of the defendant.

4. To the best of my knowledge and belief, the defendant:

(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.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

Dated this 15<sup>th</sup> day of September, 2021.

Matt Stermitz  
Matt Stermitz  
Humboldt County Public Defender  
Attorney for the Defendant

1 Case No. CR 2107272

2 Dept. No. II

FILED

2022 JAN 21 PM 3:19

TAMI RAE SPERO  
DIST. COURT CLERK

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6 **IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**  
7 **IN AND FOR THE COUNTY OF HUMBOLDT.**

8 -oOo-

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

**JUDGMENT OF CONVICTION**

12 ALEC DAVE,

Defendant. /

13 WHEREAS, on the 2nd day of November, 2021, the Defendant entered his plea of  
14 guilty to four (4) counts of LEWDNESS WITH A CHILD UNDER 14 YEARS, Category A  
15 Felonies, and the matter having been submitted before the Honorable Judge Michael R. Montero.

16 At the time Defendant entered the plea of guilty, this Court informed the Defendant of  
17 the privilege against compulsory self-incrimination, the right to a speedy trial, the right to a trial  
18 by jury, the right to compulsory process to compel witnesses to testify on behalf of the  
19 Defendant and the right to confront the accusers. That after being so advised, the Defendant  
20 stated that these rights were understood and still desired this Court to accept the plea of guilty.

21 The Court having accepted the Defendant's plea of guilty, set the date of the 11<sup>th</sup> day  
22 of January, 2022, at the hour of 9:30 a.m. as the date and time for imposing judgment and  
23 sentence.  
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1 Furthermore, at the time Defendant entered the plea of guilty and at the time of  
2 sentencing, Defendant was represented by attorney, MATT STERMITZ, Humboldt County  
3 Public Defender; also present in Court were TAMI RAE SPERO, Humboldt County Court Clerk  
4 or her designated agent; MIKE ALLEN, Sheriff of Humboldt County or his designated agent;  
5 DEBBIE OKUMA, representing the Division of Parole and Probation; and MICHAEL  
6 MACDONALD, Humboldt County District Attorney or his designated agent, representing the  
7 State of Nevada.

8 The Defendant having appeared on 11<sup>th</sup> day of January, 2022, represented by counsel  
9 and Defendant having been given the opportunity to exercise the right of allocution and having  
10 shown no legal cause why judgment should not be pronounced at this time.

11 The above-entitled Court having pronounced ALEC DAVE guilty of four (4) counts  
12 of LEWDNESS WITH A CHILD UNDER 14 YEARS, Category A Felonies, in violation of  
13 NRS 201.230 (2), on the 11<sup>th</sup> day of January, 2022, the Defendant was thereby ordered by the  
14 Court to serve life in the Nevada Department of Corrections with the possibility of parole, with  
15 eligibility for parole beginning when a minimum of ten (10) years has been served, on each  
16 count, with credit for time served of three hundred fifty-nine (359) days on Count I. Said  
17 sentences are to run consecutively.

18 The Defendant is ordered to pay an administrative assessment fee in the amount of  
19 \$25.00 on Count I, Count II, Count III and Count IV, a DNA collection fee in the amount of  
20 \$3.00 on Count I, Count II, Count III and Count IV, a DNA fee in the amount of \$150.00 on  
21 Count I, a fine in the amount of \$10,000 on Count I, Count II, Count III, Count IV for a total of  
22 \$40,000, all payable to the Humboldt County Clerk of the Court. The Defendant is further  
23 ordered to pay a psychosexual evaluation fee in the amount of \$750.00 on Count I, payable to the  
24 Division of Parole and Probation.

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Furthermore, bail, if any, is hereby exonerated.

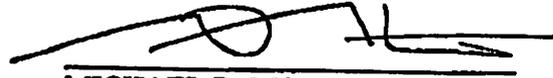
MATT STERMITZ, Humboldt County Public Defender, represented the Defendant during all stages of the proceedings;

MICHAEL MACDONALD, Humboldt County District Attorney, represented the State of Nevada at all stages of these proceedings.

Therefore, the clerk of the above-entitled Court is hereby directed to enter this Judgment of Conviction as a part of the record in the above-entitled matter.

Furthermore, pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

DATED this 21<sup>st</sup> day of January, 2022, in the City of Winnemucca, County of Humboldt, State of Nevada.



MICHAEL R. MONTERO  
DISTRICT COURT JUDGE

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the Sixth Judicial District Court, and that on the 21<sup>st</sup> day of January, 2022, I delivered at Winnemucca, Nevada, by the following means, a copy of the JUDGMENT OF CONVICTION to:

MICHAEL MACDONALD  
Humboldt County District Attorney  
501 S. Bridge Street  
Winnemucca, Nevada 89445  
(DCT Box)

MATT STERMITZ  
Humboldt County Public Defender  
Box 309  
Winnemucca, Nevada 89445  
(DCT Box)

  
Elisha Formby  
Judicial Assistant

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1 Case No. CR 21-7272  
2 Dept. No. 2

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2022 JAN 27 AM 10:20

3 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
4 IN AND FOR THE COUNTY OF HUMBOLDT

5 \_\_\_\_\_  
6 STATE OF NEVADA,  
7  
8 Plaintiff,  
9 vs.  
10 ALEC DAVE,  
11  
12 Defendant.  
13 \_\_\_\_\_

14 NOTICE OF APPEAL

15 Alec Dave, defendant, by and through his attorney, Matt Stermitz, the Humboldt  
16 County Public Defender, appeals to the Nevada Supreme Court from the Judgment of  
17 Conviction entered herein on the 21st day of January, 2022, and attached hereto.  
18 Dated this 27th day of January, 2022.

19 Matt Stermitz  
20 Matt Stermitz, Bar # 03610  
21 Humboldt County Public Defender  
22 Drawer 309  
23 Winnemucca, Nevada 89445  
24 775-623-6550

25 CERTIFICATE OF SERVICE

26 Pursuant to applicable appellate rules, on the 27<sup>th</sup> day of January, 2022, the  
27 undersigned mailed a true and correct copy of the foregoing, addressed to: Humboldt  
28 County District Attorney, Drawer 909, Winnemucca, Nevada 89445, and Alec Dave,  
HCDC, 801 E. Fairgrounds Road, Winnemucca, NV 89445.

29 Matt Stermitz  
30 Matt Stermitz

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IN THE SIXTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF HUMBOLDT  
BEFORE THE HONORABLE MICHAEL MONTERO, DISTRICT JUDGE

-oOo-

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STATE OF NEVADA,

Plaintiff,

Case No. CR 21-7272

V.

Dept. No. II

ALEC DAVE,

Defendant.

\_\_\_\_\_ /

**COPY**

Transcript of proceedings

Sentencing

January 11, 2022

Winnemucca, Nevada

Transcribed By: Kathy Jackson, CSR - (775) 745-2327

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A P P E A R A N C E S

For the Plaintiff: Michael Macdonald, Esq.  
Humboldt County District Attorney's  
Office  
P.O. Box 909  
Winnemucca, Nevada 89445

For the Defendant: Matt Stermitz, Esq.  
Humboldt County Public Defender  
Drawer 309  
Winnemucca, Nevada 89445

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JANUARY 11, 2022, WINNEMUCCA, NEVADA

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THE COURT: We're on the record in Case CR217272, case captioned State of Nevada, plaintiff versus Alec Dave, defendant. The record today will reflect the presence of Mr. Dave appearing via Zoom from the Humboldt County Detention Center represented by Mr. Matthew Stermitz.

Good morning, Mr. Stermitz.

MR. STERMITZ: Good morning.

THE COURT: Mr. Michael Macdonald on behalf of the State. I have with the division of parole and probation Ms. Poole and Officer Hill, both appearing via Zoom. Ms. Byrd with pretrial services here in the courtroom. This matter is on the Court's calendar today for purposes of sentencing.

And, Mr. Stermitz, are we prepared to proceed with sentencing?

MR. STERMITZ: We are.

THE COURT: And, Mr. Stermitz, have you received a copy of the presentence investigation report filed on December 30th, 2021?

MR. STERMITZ: Yes, and it's been provided to Mr. Dave.

THE COURT: And are you aware of any factual

1 corrections to the presentence investigation report?

2 MR. STERMITZ: No.

3 THE COURT: And, Mr. Dave, we're speaking about  
4 the presentence investigation report. Have you had an  
5 opportunity to review that document?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. Have you found any factual  
8 corrections that need to be made to the presentence  
9 investigation report?

10 THE DEFENDANT: No.

11 THE COURT: Okay. Mr. Macdonald, does the State  
12 have a copy of the presentence investigation report?

13 MR. MACDONALD: We do, Your Honor.

14 THE COURT: Any factual corrections?

15 MR. MACDONALD: We're not aware of any at this  
16 time. Thank you.

17 THE COURT: Okay. Thank you.

18 And, Mr. Stermitz, any evidence today for  
19 purposes of sentencing?

20 MR. STERMITZ: No.

21 THE COURT: And, Mr. Macdonald, any evidence for  
22 purposes of sentencing?

23 MR. MACDONALD: No evidence, Your Honor. We  
24 believe we do have victim impact statements of the people.

1 We did have an opportunity to share with the Court.

2 THE COURT: Okay. Thank you.

3 The Court would like to reflect today that the  
4 presentence investigation report has just really two  
5 documents attached. That is a billing statement from Sheri  
6 Hixon-Brenenstall, Dr. Brenenstall and also a psychosexual  
7 evaluation acknowledgment form. Those are the only two  
8 attachments to the presentence investigation report today.

9 Mr. Stermitz, you may proceed with argument.

10 MR. STERMITZ: Your Honor, Mr. Dave is a  
11 relatively young man who grew up and spent his entire life in  
12 McDermitt. I don't think he ventured far beyond where he  
13 grew up. And I think based on his age and his remorse, we  
14 believe that concurrent sentences are appropriate.

15 THE COURT: Thank you.

16 Mr. Macdonald, you may proceed with argument.

17 MR. MACDONALD: Thank you, Your Honor.

18 THE COURT: I'm sorry. Hold on just one moment.  
19 I'm just a little concerned about if we -- if the sound  
20 system is picking up the child it may not pick up completely  
21 everything that's said in court. Thank you. I appreciate  
22 that.

23 Mr. Macdonald, you may proceed.

24 MR. MACDONALD: Thank you, Your Honor. Mr. Dave

1 entered his pleas of guilty to four counts of lewdness with a  
2 child under the age of 14, a category A felony. The penalty  
3 as provided by NRS chapter 201.230 subsection (2) indicates  
4 that shall be punished in the state prison for life with the  
5 possibility of parole with eligibility for parole beginning  
6 when a minimum of ten years has been served and may be  
7 further punished by a fine of not more than \$10,000.

8 As also indicated in the plea agreement pursuant  
9 to 176A.100, if a person is found guilty, district court upon  
10 verdict or plea, it lists various cases or charges including  
11 lewdness with a child pursuant to 201.230, the Court shall  
12 not suspend the execution of sentence imposed for grant of  
13 probation to the person. The real issue before this Court is  
14 whether the Court runs the four counts concurrently or  
15 consecutively.

16 The State in negotiations provided and not to  
17 prosecute Mr. Dave for any other crimes known to the Humboldt  
18 County District Attorney's Office and have been committed in  
19 Humboldt County at the time of the execution of this  
20 agreement.

21 This case, his plea of guilty to four counts as  
22 indicated earlier representing four different victims. I  
23 believe you will hear the victim impact statement from the  
24 mother of three today. And you may hear from one of her

1 kids, a young man sitting in court today. At the minimum he  
2 wanted you to know that he is here. And if -- and if he  
3 determines that he's not willing or able to speak he wanted  
4 you to know that he is present today.

5 But with that the State will submit.

6 THE COURT: Thank you, Mr. Macdonald.

7 Mr. Dave, you're appearing today for the  
8 sentencing hearing from the Humboldt County Detention Center  
9 via Zoom due to some COVID-19 concerns. The Court and -- and  
10 we have both video and audio connections today. Your  
11 attorney is present here in the courtroom. Both attorneys  
12 are present here in the courtroom. I -- I'm able to see you  
13 very well through the video. Have you been able to see and  
14 hear everything that has been said here in the courtroom?

15 THE DEFENDANT: Yes.

16 THE COURT: At this time I would like to give you  
17 an opportunity of allocution which means that you may make a  
18 statement to the Court or offer information in mitigation of  
19 punishment. Do you wish to make any statement today?

20 THE DEFENDANT: No.

21 THE COURT: Okay. Does the division of parole  
22 and probation, Ms. Poole, have anything further to add?

23 MS. POOLE: No, Your Honor.

24 THE COURT: And having declined the opportunity

1 at allocution I would like to offer, if there are any victims  
2 that wish to make a statement that they may come forward and  
3 be placed under oath and provide that statement.

4 Good morning, ma'am. First if you'll raise your  
5 right hand. Face the clerk. The clerk is going to place you  
6 under oath.

7 (Whereupon, the oath was administered.)

8 THE COURT: If you'll please come up here and  
9 take the witness stand. How are you?

10 THE WITNESS: Fine. Thank you.

11 THE COURT: Are you comfortable removing your  
12 mask to speak?

13 THE WITNESS: Yes.

14 THE COURT: I'm going to allow that if you're  
15 comfortable doing so.

16 THE WITNESS: Yes, sir.

17 THE COURT: Can you please first make sure you  
18 speak into the microphone. And then can you state your full  
19 name for the record.

20 THE WITNESS: Yes. My name is Naomi Ailene  
21 Horse. And I'm the mother of three of the victims.

22 THE COURT: Okay. And, ma'am, you may proceed  
23 with your statement.

24 THE WITNESS: Okay. I just want to say today is

1 a sad day for our family, but we have been waiting for this  
2 day to come. We've been through so much since we learned  
3 about what happened. It has damaged them so much. And it  
4 hurts to hear about what was done to them by a person that  
5 was supposed to love and protect them, someone that we  
6 trusted so much, especially a family member. To see them cry  
7 and talk about suicide is the worst thing ever to hear from  
8 your child. Saying that they don't want to be here anymore  
9 because they can't handle it. And we have to stay with them  
10 all of the time.

11 My husband had to quit his job because he has to  
12 be with them all the time. I hope today is closure and  
13 healing for all of us for our family. What is done is  
14 unforgivable. And we just hope we can move past this. And I  
15 hope that you get the help that you need also. That is all.

16 THE COURT: Thank you, ma'am. You may step down.  
17 (Witness excused.)

18 THE COURT: Mr. Macdonald, do we have any further  
19 victim impact statements?

20 MR. MACDONALD: No, Your Honor. Thank you for  
21 the opportunity.

22 THE COURT: Mr. Dave, hearing no legal cause why  
23 you should not be sentenced and based upon your pleas of  
24 guilty this Court does now pronounce you guilty to the crimes

1 as set forth in the information and guilty plea agreement,  
2 Count One, lewdness with a child under the age of 14 years, a  
3 category A felony. Count Two, lewdness with a child under  
4 the age of 14, a category A felony. Count Three, lewdness  
5 with a child under the age of 14, a category A felony. And  
6 Count Four, lewdness with a child under the age of 14, a  
7 category A felony. In accordance with the laws of the State  
8 of Nevada it will be the order and judgment of this Court  
9 that the defendant, Alec Dave, be sentenced as follows.

10 As a part of the sentence in this case the Court  
11 renders judgment against the defendant in the following  
12 amounts on Count One, administrative assessment fee of \$25,  
13 DNA administrative assessment fee of \$3, DNA fee in the  
14 amount of \$150 and a psychosexual fee in the amount of \$750.

15 On Count Two there will be a 25 dollar  
16 administrative assessment fee and a three dollar DNA fee.  
17 Count Three, a 25 administrative assessment fee and a three  
18 dollar DNA fee. Count Four, a 25 dollar administrative  
19 assessment and a three dollar DNA fee.

20 The current -- the Court further orders on each  
21 of these counts and it is without really any discretion on  
22 the ability of the Court because this is what the law  
23 requires for these offenses would be a term of imprisonment  
24 in the Nevada Department of Corrections for life with the

1 possibility of parole with eligibility beginning when a  
2 minimum of ten years has been served.

3 The only discretion the Court really has with  
4 regards to this offense is the amount of the fine which is  
5 maybe further punished fine of not more than \$10,000.

6 In this case the Court is going to impose that  
7 sentence of life with the possibility after a minimum of ten  
8 years has been served on Counts One, Two, Three and Four.  
9 The Court further orders the 10,000 dollar fine as to all  
10 four counts, 10,000 on One, 10,000 on Two, on Three and on  
11 Four.

12 The Court further orders that this sentence,  
13 these sentences -- well, first there is a credit for time  
14 served. And that has been calculated at 359 days credit for  
15 time served to be applied towards this sentence and these  
16 sentences will run consecutive. That will be the order of  
17 this Court today. And Mr. Dave will remain in the custody of  
18 the sheriff to further carry out this sentence with the  
19 Nevada Department of Corrections.

20 We'll be in recess for today.

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1 STATE OF NEVADA, )  
2 CARSON CITY. )

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I, KATHY JACKSON, do hereby certify:

That on January 11, 2022, a sentencing was held in the within-entitled matter in the District Court of Humboldt County, Winnemucca, Nevada;

That said sentencing was recorded by a recording system, and said recording was delivered to me for transcription;

That the foregoing transcript, consisting of pages 1 through 12 is a full, true and correct transcript of said recording performed to the best of my ability.

Dated at Carson City, Nevada, this 2nd day of March, 2022.

/s/ Kathy Jackson  
KATHY JACKSON, CCR  
Nevada CCR #402

Sixth Judicial District Court - Humboldt County  
Case Summary

Run: 01/27/2022  
10:35:25

Case #: CR2107272  
Judge: MONTERO, MICHAEL R.  
Date Filed: 10/11/2021 Department:  
Case Type: FELONY/PERSON

Plaintiff(s)	Attorney(s)
NEVADA, THE STATE	DISTRICT ATTORNEY
Defendant(s)	Attorney(s)
DAVE, ALEC	PUBLIC DEFENDER

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
01/13/2022	ADMIN	\$100.00	\$0.00	\$0.00	\$100.00
01/21/2022	DNA	\$150.00	\$0.00	\$0.00	\$150.00
01/21/2022	DNA/3	\$12.00	\$0.00	\$0.00	\$12.00

Charge: 201.230 LEWDNESS WITH A CHILD UNDER AGE 14 YEARS F/A Count 1

Sent:

Disp/Judgment: Date:

Hearings:

Date	Time	Hearing
11/02/2021	9:30AM	ARRAIGNMENT
01/11/2022	9:30AM	SENTENCING HEARING

Filings:

Date	Filing
10/11/2021	JUDGE MONTERO, MICHAEL R.: ASSIGNED
10/11/2021	DEFENSE ATTORNEY: PUBLIC DEFENDER ASSIGNED
10/11/2021	PROSECUTOR: DISTRICT ATTORNEY ASSIGNED
10/11/2021	ARREST SEQ: 1 - (NRS200.366) NRS 200.366 SEXUAL ASSAULT ON CHILD UNDER 14 YRS
10/11/2021	ARREST SEQ: 2 - (NRS200.366) NRS 200.366 SEXUAL ASSAULT ON CHILD UNDER 14 YRS
10/11/2021	JUSTICE COURT PROCEEDINGS (21CR00269)
10/12/2021	ARRAIGNMENT SET FOR 11/02/2021 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
10/13/2021	INFORMATION AND COPY
10/27/2021	PLEA AGREEMENT (GUILTY)
11/02/2021	SENTENCING HEARING SET FOR 01/11/2022 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
11/02/2021	MINUTES- ARRAIGNMENT
11/03/2021	DEFENDANT ENTERED PLEA OF GPLEA SEQ 1
11/03/2021	DEFENDANT ENTERED PLEA OF GPLEA SEQ 2

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Run: 01/27/2022  
10:36:15

Case Summary

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11/03/2021 DEFENDANT ENTERED PLEA OF GPLEA SEQ 3  
11/03/2021 DEFENDANT ENTERED PLEA OF GPLEA SEQ 4  
11/03/2021 FORM  
11/03/2021 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CR2107272,  
THE STATE OF NEVADA VS. DAVE, ALEC WITH 1 ATTACHMENTS FROM DOCKETS  
FORM-11/3/2021 (PSI REQUEST SENT TO MARNI POOL)  
  
12/30/2021 PRE-SENTENCE INVESTIGATION REPORT  
01/11/2022 MINUTES-SENTENCING HEARING  
01/21/2022 JUDGMENT OF CONVICTION  
01/21/2022 GREETINGS  
01/27/2022 NOTICE OF APPEAL  
01/27/2022 CASE APPEAL STATEMENT  
01/27/2022 REQUEST FOR TRANSCRIPT

000031

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01/27/2022 REQUEST FOR TRANSCRIPT

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CERTIFICATE OF SERVICE

Pursuant to applicable appellate rules, on the 26<sup>th</sup> day of April, 2022, the undersigned mailed a true and correct copy of the foregoing, addressed to Alec Dave, # 1252965, NNCC, Box 7000, Carson City, NV 89702.

Matt Stermitz  
Matt Stermitz