

FILED

2021 DEC -2 PM 1:49

In The 2nd J.D.C. of Nevada
In and for Washoe county

ALICIA L. BROWN
CLERK OF THE COURT
BY [Signature]
DEPUTY
Electronically Filed
Dec 09 2021 10:51 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Luigi Delgado Prose
Petitioner

CASE: CR-18-1654
Dept. 9

Vs

State of Nevada
Respondent

Notice of Appeal

Notice is given that petitioner, pro se
hereby Appeals to the N.S.C. with All facts
finding conclusions of law herein. Habeas
Corpus was denied, (Nov 4th 2021),

This true and correct under penalty
of perjury N.R.S. 208.165.
11/28/2021 [Signature] Lopez Delgado

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing N.O.A. to the below address(es) on this 28 day of November, 2021, by placing same in the U.S. Mail via prison law library staff, pursuant to NRCP 5(b):

Attorney General
Ste 3900
555 E. Washington Ave
LV, NV. 89101

Kevin Naughton
Washoe County DA's Office
1 South Sierra St.
Reno NV 89501

L. Lopez Delgado
Luis Lopez Delgado #1213684
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

✓ In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding

N.O.A. filed in District Court Case No. CR181654 does not contain the social security number of any person.

Dated this 28 day of November, 2021.

Luis Lopez Delgado
Luis Lopez Delgado

✓ In Pro Se

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

LUIGY RICHARD LOPEZ-DELGADO,

Plaintiff,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. CR18-1654

Dept. No. 9

CASE APPEAL STATEMENT

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Luigy Lopez-Delgado.
2. This appeal is from an order entered by the Honorable Judge Scott Freeman.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:

Luigy Lopez-Delgado #1213684
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:

Jennifer P. Noble, Esq., SBN: 9446
P.O. Box 11130
Reno, Nevada 89520
5. Respondent's attorney is not licensed to practice law in Nevada: NA

6. Appellant is represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant was not granted leave to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on September 26th, 2018.
10. This is a criminal proceeding and the Appellant is appealing the Order Granting Motion to Dismiss in Part filed on November 4th, 2021.
11. The case has been the subject of a previous appeal to the Supreme Court.
Supreme Court No.: 78472
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 3rd day of December, 2021.

Alicia L. Lerud
Clerk of the Court
By: /s/ azamora
Amanda Zamora
Deputy Clerk

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE**

Case History - CR18-1654

DEPT. D9

HON. SCOTT N. FREEMAN

Report Date & Time

12/3/2021

9:59:45AM

Case ID:	CR18-1654	Case Description:	STATE VS LUIGY RICHARD LOPEZ-DELGADO (TN)(D9)
Case Type:	CRIMINAL	Initial Filing Date:	9/25/2018

Parties

APD	Marc P. Picker, Esq. - 3566
PNP	Div. of Parole & Probation - DPNP
PLTF	STATE OF NEVADA - STATE
DA	Jennifer P. Noble, Esq. - 9446
DA	Kevin P. Naughton, Esq. - 12834
DA	Nickolas J. Graham, Esq. - 10885
DEFT	LUIGI RICHARD LOPEZ-DELGADO (TN) - @217477
CAA	Orrin Johnson, Esq. - 10629
CAA	Krista D. Meier, Esq. - 8105

Charges

<i>Charge No.</i>	<i>Charge Code</i>	<i>Charge Date</i>	<i>Charge Description</i>
1	60323	12/11/2018	SAI STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR OLDER
2	60323	12/11/2018	SAI STATUTORY SEXUAL SEDUCTION BY PERSON AGE 21 OR OLDER
3	50368	12/11/2018	SAI USE OR PERMIT MINOR, UNDER AGE 18, TO PRODUCE PORNOGRAPHY
4	50374	12/11/2018	SAI POSSESS VISUAL PORNOGRAPHY OF PERSON UNDER AGE 16, FIRST OFFENSE
5	58747	12/11/2018	SAI LEWDNESS WITH CHILD OLDER THAN 14
6	58747	12/11/2018	SAI LEWDNESS WITH CHILD OLDER THAN 14
7	51078	12/11/2018	SAI LURE OR ATTEMPT TO LURE A CHILD WITH THE USE OF COMPUTER TECHNOLOGY TO ENGAGE IN SEXUAL CONDUCT
8	52983	12/11/2018	SAI ATTEMPTING TO PREVENT OR DISSUADE A WITNESS FROM TESTIFYING

Plea Information

<i>Charge No.</i>	<i>Plea Code</i>	<i>Plea Date</i>	<i>Plea Description</i>
3	50368		
4	50374	12/13/2018	PLED GUILTY
7	51078		
8	52983		
5	58747		
6	58747	12/13/2018	PLED GUILTY
2	60323	12/13/2018	PLED GUILTY
1	60323	11/1/2018	NOT GUILTY - ENTERED BY COURT

Sentences

<i>Date</i>	<i>Charge No.</i>	<i>Charge Desc</i>	<i>Time Served</i>	<i>Sentence Text</i>
3/14/2019	2	Nevada Dept. of Corrections		NDOC 48-120 MOS. + FEES; A SPECIAL SENTENCE OF LIFETIME SUPERVISION SHALL COMMENCE AFTER ANY PERIOD OF PROBATION, OR AFTER ANY TERM OF IMPRISONMENT, OR AFTER ANY PERIOD OF RELEASE ON PAROLE.

Report Does Not Contain Sealed Cases or Confidential Information

Case Description: STATE VS LUIGY RICHARD LOPEZ-DELGADO (TN)(D9)			
Case ID:	CR18-1654	Case Type:	CRIMINAL
		Initial Filing Date:	9/25/2018
3/14/2019	4 - Nevada Dept. of Corrections	NDOC 28-72 MOS., TO RUN CONSEC. TO COUNT I.	
3/14/2019	6 - Nevada Dept. of Corrections	NDOC 48-120 MOS., TO RUN CONCUR. W/ COUNT IV. THE AGGREGATE SENTENCE IS 76-192 MOS. IN NDOC.	

Release Information

Custody Status

12/20/2018	CUSTODY - WCJ	ACCESS.
12/20/2018	CUSTODY - WCJ	PRETRIAL SUPERVISION; NO CONTACT W/ VICTIMS AND NO INTERNET
12/20/2018	CUSTODY - WCJ	12/20/18 - BAIL IS HEREBY REDUCED TO \$25,000.00 BONDABLE W/

Hearings

Department	Event Description	Sched. Date & Time		Disposed Date
1 D3	ARRAIGNMENT	10/11/2018	09:00:00	10/11/2018
Event Extra Text:		Disposition: D455 10/11/2018 ON-GOING NEGOTIATIONS		
Department	Event Description	Sched. Date & Time		Disposed Date
2 D3	ARRAIGNMENT	11/1/2018	09:00:00	11/1/2018
Event Extra Text: CONT'D FROM 10/11 FOR ON-GOING NEGOTIATIONS		Disposition: D635 11/1/2018 AMENDED INFORMATION		
Department	Event Description	Sched. Date & Time		Disposed Date
3 D3	HEARING...	11/15/2018	14:00:00	11/13/2018
Event Extra Text: HEARING ON MOTION FOR NEW COUNSEL (YOUNG HEARING)		Disposition: D844 11/13/2018 DUE TO TRIAL		
Department	Event Description	Sched. Date & Time		Disposed Date
4 D3	HEARING...	11/29/2018	14:00:00	11/29/2018
Event Extra Text: HEARING ON MOTION FOR NEW COUNSEL (YOUNG HEARING)		Disposition: D425 11/29/2018 COUNSEL SLOCUM RELIEVED AS COUNSEL OF RECORD; APD OFFICE IS HEREBY APPOINTED AS COUNSEL OF RECORD; COUNSEL SLOCUM TO PREPARE AND SUBMIT ORDER.		
Department	Event Description	Sched. Date & Time		Disposed Date
5 D3	MOTION TO SET TRIAL	12/13/2018	09:00:00	12/13/2018
Event Extra Text: APD'S OFFICE APPOINTED AS COUNSEL OF RECORD AT YOUNG HEARING ON 11/29.		Disposition: D655 12/13/2018 COUNTS II, IV AND VI OF SECOND AMENDED INFORMATION		
Department	Event Description	Sched. Date & Time		Disposed Date
6 D3	Request for Submission	12/19/2018	11:06:00	1/16/2019
Event Extra Text: MOTION FOR BAIL REDUCTION		Disposition: S200 1/16/2019		

Case ID:		CR18-1654		Case Description: STATE VS LUIGY RICHARD LOPEZ-DELGADO (TN)(D9)		Case Type:		CRIMINAL		Initial Filing Date:		9/25/2018	
7		D3		MOTION - BAIL REDUCTION		12/20/2018		09:00:00		12/20/2018			
Event Extra Text:						Disposition:							
						D425		12/20/2018					
						BAIL IS HEREBY REDUCED TO \$25,000.00 BONDABLE W/ PRETRIAL SUPERVISION; DEFT. TO HAVE NO CONTACT WITH THE VICTIMS AND NO INTERNET							
8		D3		SENTENCING		3/14/2019		09:00:00		3/14/2019			
Event Extra Text:						Disposition:							
						D768		3/14/2019					
9		D9		Request for Submission		10/26/2020		08:15:00		1/4/2021			
Event Extra Text:		SUPPLEMENTAL BRIEF (NO ORDER PROVIDED)				Disposition:							
						S200		1/4/2021					
10		D9		Request for Submission		2/1/2021		11:46:00		3/30/2021			
Event Extra Text:		MOTION TO VACATE JOC AND WITHDRAW GUILTY PLEA (NO ORDER)				Disposition:							
						S200		3/30/2021					
11		D9		Request for Submission		7/8/2021		13:54:00		9/7/2021			
Event Extra Text:		Motion to Dismiss in Part				Disposition:							
						S200		9/7/2021					
12		D9		MOTION TO DISMISS...		11/2/2021		10:00:00		11/2/2021			
Event Extra Text:						Disposition:							
						D840		11/2/2021					
						WRIT OF HABEAS CORPUS							
13		D9		Request for Submission		11/2/2021		17:00:00		11/4/2021			
Event Extra Text:		DECISION OF WRIT OF HABEAS CORPUS				Disposition:							
						S200		11/4/2021					

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
DA	District Attorney's Office	DA1714504
SC	Supreme Court	SCN 78472
SJ	Sparks Justice's Court	17SCR02095
WC	Washoe County Sheriff's Office	PCNWASO0074509C
WC	Washoe County Sheriff's Office	WCSOWC17006416

Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)				
Case ID:	CR18-1654	Case Type:	CRIMINAL	Initial Filing Date: 9/25/2018
WC	Washoe County Sheriff's Office		PCNWASO0070047C	
Actions				
Action Entry Date	Code	Code Description	Text	
9/25/2018	2522	Notice of Bindover	Transaction 6896060 - Approved By: RRODRIGU : 09-25-2018:09:00:02	
9/25/2018	4105	Supplemental ...	Transaction 6896060 - Approved By: RRODRIGU : 09-25-2018:09:00:02	
9/25/2018	3700	Proceedings	Transaction 6896060 - Approved By: RRODRIGU : 09-25-2018:09:00:02	
9/25/2018	NEF	Proof of Electronic Service	Transaction 6896129 - Approved By: NOREVIEW : 09-25-2018:09:06:24	
9/25/2018	NEF	Proof of Electronic Service	Transaction 6896730 - Approved By: NOREVIEW : 09-25-2018:11:42:48	
9/25/2018	NEF	Proof of Electronic Service	Transaction 6896775 - Approved By: NOREVIEW : 09-25-2018:11:51:31	
9/25/2018	1250E	Application for Setting eFile	10/11/18 AT 0900 - Transaction 6896119 - Approved By: NOREVIEW : 09-25-2018:09:05:16	
9/25/2018	1491	Pretrl Srvc's Assessment Report	Transaction 6896653 - Approved By: NMASON : 09-25-2018:11:41:49	
9/25/2018	4075	Substitution of Counsel	JAY SLOCUM & LYNN BRANZELL PD - Transaction 6896234 - Approved By: CSULEZIC : 09-25-2018:11:50:31	
9/26/2018	3870	Request	Transaction 6898338 - Approved By: RRODRIGU : 09-26-2018:09:55:04	
9/26/2018	NEF	Proof of Electronic Service	Transaction 6898355 - Approved By: NOREVIEW : 09-26-2018:09:55:59	
9/26/2018	1800	Information	Transaction 6898338 - Approved By: RRODRIGU : 09-26-2018:09:55:04	
9/28/2018	NEF	Proof of Electronic Service	Transaction 6902501 - Approved By: NOREVIEW : 09-28-2018:09:22:44	
9/28/2018	1491	Pretrl Srvc's Assessment Report	Transaction 6902441 - Approved By: SHIGGINB : 09-28-2018:09:21:45	
10/9/2018	4105	Supplemental ...	PROCEEDINGS - Transaction 6917388 - Approved By: JALVAREZ : 10-09-2018:08:36:57	
10/9/2018	NEF	Proof of Electronic Service	Transaction 6917443 - Approved By: NOREVIEW : 10-09-2018:08:38:05	
10/24/2018	NEF	Proof of Electronic Service	Transaction 6946020 - Approved By: NOREVIEW : 10-24-2018:16:10:56	
10/24/2018	MIN	***Minutes	10/11/18 - ARRAIGNMENT - Transaction 6945998 - Approved By: NOREVIEW : 10-24-2018:16:08:43	
11/1/2018	NEF	Proof of Electronic Service	Transaction 6956859 - Approved By: NOREVIEW : 11-01-2018:08:16:44	
11/1/2018	1095	Amended Information	Transaction 6956846 - Approved By: JALVAREZ : 11-01-2018:08:15:53	
11/8/2018	MIN	***Minutes	11/1/18 - ARRAIGNMENT - Transaction 6969196 - Approved By: NOREVIEW : 11-08-2018:14:16:53	
11/8/2018	NEF	Proof of Electronic Service	Transaction 6969202 - Approved By: NOREVIEW : 11-08-2018:14:17:52	
11/13/2018	1250E	Application for Setting eFile	Transaction 6975117 - Approved By: NOREVIEW : 11-13-2018:17:28:47	
11/13/2018	NEF	Proof of Electronic Service	Transaction 6975118 - Approved By: NOREVIEW : 11-13-2018:17:29:35	
11/30/2018	3105	Ord Granting ...	ORDER GRANTING DISCHARGE OF ATTORNEY AND ORDER APPOINTING APD'S OFFICE - Transaction 6999584 - Approved By: NOREVIEW : 11-30-2018:08:17:06	
11/30/2018	NEF	Proof of Electronic Service	Transaction 6999584 - Approved By: NOREVIEW : 11-30-2018:08:17:06	
12/5/2018	MSEAL	**Sealed Minutes	11/29/18 - MOTION FOR NEW COUNSEL - Transaction 7009381 - Approved By: NOREVIEW : 12-05-2018:16:26:09	
12/5/2018	NEF	Proof of Electronic Service	Transaction 7009386 - Approved By: NOREVIEW : 12-05-2018:16:26:09	
12/11/2018	1115	Amended Second Information	Transaction 7017287 - Approved By: JALVAREZ : 12-11-2018:09:38:29	
12/11/2018	NEF	Proof of Electronic Service	Transaction 7017350 - Approved By: NOREVIEW : 12-11-2018:09:39:35	
12/13/2018	NEF	Proof of Electronic Service	Transaction 7023830 - Approved By: NOREVIEW : 12-13-2018:16:01:17	
12/13/2018	1785	Guilty Plea Memo/Agreement	Transaction 7023816 - Approved By: NOREVIEW : 12-13-2018:15:59:35	
12/13/2018	2020	Mtn for Bail Reduction	Transaction 7023968 - Approved By: PMSEWELL : 12-14-2018:08:24:33	
12/14/2018	NEF	Proof of Electronic Service	Transaction 7024237 - Approved By: NOREVIEW : 12-14-2018:08:25:35	
12/17/2018	MIN	***Minutes	12/13/18 - MOTION TO SET TRIAL/ARRAIGNMENT - Transaction 7026942 - Approved By: NOREVIEW : 12-17-2018:16:01:17	
12/17/2018	2645	Opposition to Mtn ...	OPPOSITION TO DEFENDANT'S MOTION FOR BAIL REDUCTION - Transaction 7027688 - Approved By: CSI	

Case ID:		Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)	
CR18-1654		Case Type:	CRIMINAL
		Initial Filing Date:	9/25/2018
12/17/2018	NEF	Proof of Electronic Service	Transaction 7028041 - Approved By: NOREVIEW : 12-17-2018:16:08:08
12/17/2018	NEF	Proof of Electronic Service	Transaction 7026958 - Approved By: NOREVIEW : 12-17-2018:11:49:06
12/18/2018	NEF	Proof of Electronic Service	Transaction 7029727 - Approved By: NOREVIEW : 12-18-2018:12:39:06
12/18/2018	3937	SJDC Hearing	Transaction 7029722 - Approved By: NOREVIEW : 12-18-2018:12:38:05
12/19/2018	NEF	Proof of Electronic Service	Transaction 7031641 - Approved By: NOREVIEW : 12-19-2018:11:07:31
12/19/2018	3860	Request for Submission	REQUEST FOR SUBMISSION - Transaction 7031401 - Approved By: YVILORIA : 12-19-2018:11:05:18
12/23/2018	4185	Transcript	11-1-18 ARRAIGNMENT - Transaction 7037491 - Approved By: NOREVIEW : 12-23-2018:05:20:18
12/23/2018	NEF	Proof of Electronic Service	Transaction 7037494 - Approved By: NOREVIEW : 12-23-2018:05:21:16
12/25/2018	4190	Transcript - Partial	11-29-18 HEARING ON MOTION FOR NEW COUNSEL - Transaction 7038861 - Approved By: NOREVIEW : 12
12/25/2018	NEF	Proof of Electronic Service	Transaction 7038863 - Approved By: NOREVIEW : 12-25-2018:12:58:17
12/25/2018	4187	Transcript - Sealed	11-29-18 HEARING ON MOTION FOR NEW COUNSEL - Transaction 7038862 - Approved By: CSULEZIC : 12-
12/26/2018	NEF	Proof of Electronic Service	Transaction 7038895 - Approved By: NOREVIEW : 12-26-2018:08:23:55
1/2/2019	4185	Transcript	12-13-18 MOTION TO SET TRIAL - Transaction 7046962 - Approved By: NOREVIEW : 01-02-2019:12:22:49
1/2/2019	NEF	Proof of Electronic Service	Transaction 7046964 - Approved By: NOREVIEW : 01-02-2019:12:23:37
1/7/2019	4185	Transcript	12-20-18 MOTION FOR BAIL REDUCTION - Transaction 7054055 - Approved By: NOREVIEW : 01-07-2019:12
1/7/2019	NEF	Proof of Electronic Service	Transaction 7054060 - Approved By: NOREVIEW : 01-07-2019:12:14:52
1/16/2019	S200	Request for Submission Complet	
2/11/2019	MIN	***Minutes	12/20/18 - MOTION BAIL REDUCTION - Transaction 7111998 - Approved By: NOREVIEW : 02-11-2019:11:02:3
2/11/2019	NEF	Proof of Electronic Service	Transaction 7112007 - Approved By: NOREVIEW : 02-11-2019:11:04:18
2/28/2019	4500	PSI - Confidential	Transaction 7142183 - Approved By: NMASON : 02-28-2019:16:54:01
2/28/2019	NEF	Proof of Electronic Service	Transaction 7142204 - Approved By: NOREVIEW : 02-28-2019:16:55:04
3/4/2019	NEF	Proof of Electronic Service	Transaction 7145681 - Approved By: NOREVIEW : 03-04-2019:11:51:50
3/4/2019	1652	Evaluations	CONFIDENTIAL PSYCHOLOGICAL EVALUATION TO BE FILED UNDER SEAL - Transaction 7145605 - Approv
3/12/2019	NEF	Proof of Electronic Service	Transaction 7161131 - Approved By: NOREVIEW : 03-12-2019:10:51:35
3/12/2019	3937	SJDC Hearing	Transaction 7161120 - Approved By: NOREVIEW : 03-12-2019:10:50:27
3/13/2019	NEF	Proof of Electronic Service	Transaction 7164062 - Approved By: NOREVIEW : 03-13-2019:13:34:08
3/13/2019	1930	Letters ...	DOCUMENTS TO BE CONSIDERED AT SENTENCING - Transaction 7163797 - Approved By: YVILORIA : 03-1
3/14/2019	NEF	Proof of Electronic Service	Transaction 7166602 - Approved By: NOREVIEW : 03-14-2019:13:24:40
3/14/2019	3373	Other ...	ACKNOWLEDGMENT BY DEFENDANT OF NRS 179D.460 AND NRS 176.0926 - Transaction 7166453 - Apprc
3/14/2019	COLL	Sent to Collections	14-MAR-2019
3/15/2019	NEF	Proof of Electronic Service	Transaction 7169301 - Approved By: NOREVIEW : 03-15-2019:14:55:45
3/15/2019	1850	Judgment of Conviction	Transaction 7169285 - Approved By: NOREVIEW : 03-15-2019:14:52:21
3/18/2019	1860	Judgment Conviction-Corrected	Transaction 7171677 - Approved By: NOREVIEW : 03-18-2019:13:52:08
3/18/2019	NEF	Proof of Electronic Service	Transaction 7171681 - Approved By: NOREVIEW : 03-18-2019:13:53:08
3/22/2019	COC	Evidence Chain of Custody Form	
3/28/2019	2490	Motion ...	MOTION TO DISMISS COUNTS I, III, V, VII AND VIII - Transaction 7190110 - Approved By: CSULEZIC : 03-28
3/28/2019	2905	Ord for Dismissal of Counts	I, III, V, VII, and VIII - Transaction 7191222 - Approved By: NOREVIEW : 03-28-2019:14:42:14
3/28/2019	NEF	Proof of Electronic Service	Transaction 7190219 - Approved By: NOREVIEW : 03-28-2019:10:45:56
3/28/2019	NEF	Proof of Electronic Service	Transaction 7191233 - Approved By: NOREVIEW : 03-28-2019:14:43:47

Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)				
Case ID:	CR18-1654	Case Type:	CRIMINAL	Initial Filing Date: 9/25/2018
3/29/2019	3868	Req to Crt Rptr - Rough Draft	REQUEST FOR ROUGH DRAFT TRANSCRIPTS - Transaction 7192549 - Approved By: YVILORIA : 03-29-2019	
3/29/2019	NEF	Proof of Electronic Service	Transaction 7192612 - Approved By: NOREVIEW : 03-29-2019:11:04:37	
3/29/2019	2515	Notice of Appeal Supreme Court	NOTICE OF APPEAL - Transaction 7192543 - Approved By: YVILORIA : 03-29-2019:10:46:53	
3/29/2019	1310	Case Appeal Statement	CASE APPEAL STATEMENT - Transaction 7192546 - Approved By: YVILORIA : 03-29-2019:10:48:09	
3/29/2019	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7192608 - Approved By: NOREVIEW : 03-29-2019:10:48:09	
3/29/2019	NEF	Proof of Electronic Service	Transaction 7192551 - Approved By: NOREVIEW : 03-29-2019:10:47:58	
3/29/2019	NEF	Proof of Electronic Service	Transaction 7192554 - Approved By: NOREVIEW : 03-29-2019:10:50:14	
3/29/2019	NEF	Proof of Electronic Service	Transaction 7192564 - Approved By: NOREVIEW : 03-29-2019:10:50:44	
4/1/2019	NEF	Proof of Electronic Service	Transaction 7195030 - Approved By: NOREVIEW : 04-01-2019:14:25:50	
4/1/2019	2528	Not/Doc/Rc'd/Not/Cons/by Crt	Transaction 7195016 - Approved By: NOREVIEW : 04-01-2019:14:24:25	
4/3/2019	1187	**Supreme Court Case No. ...	SUPREME COURT NO. 78472 - LOPEZ-DELGADO	
4/4/2019	1188	Supreme Court Receipt for Doc	SUPREME COURT NO. 78472 / RECEIPT FOR DOCUMENTS - Transaction 7201710 - Approved By: NOREVIEW : 04-04-2019:14:49:46	
4/4/2019	NEF	Proof of Electronic Service	Transaction 7202380 - Approved By: NOREVIEW : 04-04-2019:14:49:46	
4/4/2019	NEF	Proof of Electronic Service	Transaction 7201719 - Approved By: NOREVIEW : 04-04-2019:11:42:27	
4/4/2019	3370	Order ...	ORDER FOR ROUGH DRAFT TRANSCRIPTS - Transaction 7202376 - Approved By: NOREVIEW : 04-04-2019:11:42:27	
4/5/2019	NEF	Proof of Electronic Service	Transaction 7203965 - Approved By: NOREVIEW : 04-05-2019:11:09:50	
4/5/2019	3868	Req to Crt Rptr - Rough Draft	REQUEST FOR TRANSCRIPT OF PROCEEDINGS - Transaction 7203656 - Approved By: YVILORIA : 04-05-2019:11:09:50	
4/8/2019	NEF	Proof of Electronic Service	Transaction 7207373 - Approved By: NOREVIEW : 04-08-2019:15:57:54	
4/8/2019	1860	Judgment Conviction-Corrected	SECOND CORRECTED JUDGMENT OF CONVICTION - Transaction 7207366 - Approved By: NOREVIEW : 04-08-2019:15:57:54	
4/11/2019	NEF	Proof of Electronic Service	Transaction 7213640 - Approved By: NOREVIEW : 04-11-2019:11:05:34	
4/11/2019	3370	Order ...	ORDER FOR ROUGH DRAFT TRANSCRIPT - Transaction 7213615 - Approved By: NOREVIEW : 04-11-2019:11:05:34	
4/18/2019	NEF	Proof of Electronic Service	Transaction 7227433 - Approved By: NOREVIEW : 04-18-2019:16:08:04	
4/18/2019	3370	Order ...	ORDER FOR TRANSCRIPT OF PROCEEDINGS - Transaction 7227430 - Approved By: NOREVIEW : 04-18-2019:16:08:04	
4/25/2019	4185	Transcript	3-14-19 Sentencing - Transaction 7238833 - Approved By: NOREVIEW : 04-25-2019:15:25:33	
4/25/2019	NEF	Proof of Electronic Service	Transaction 7238839 - Approved By: NOREVIEW : 04-25-2019:15:26:45	
7/30/2019	FIE	**Document Filed in Error	FILED IN ERROR - INCORRECT CASE NUMBER ON DOCUMENT DEPUTY CLERK ERROR YVILORIA 7-30-2019	
7/30/2019	FIE	**Document Filed in Error	FILED IN ERROR - INCORRECT CASE NUMBER ON DOCUMENT DEPUTY CLERK ERROR YVILORIA 7-30-2019	
7/30/2019	NEF	Proof of Electronic Service	Transaction 7401476 - Approved By: NOREVIEW : 07-30-2019:11:38:20	
7/30/2019	NEF	Proof of Electronic Service	Transaction 7401595 - Approved By: NOREVIEW : 07-30-2019:12:02:16	
7/30/2019	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - PSI - Transaction 7401592 - Approved By: NOREVIEW : 07-30-2019:12:02:16	
7/30/2019	4126	Supreme Ct Order Directing...	SUPREME COURT NO. 78472 / ORDER DIRECTING TRANSMISSION OF PRESENTENCE INVESTIGATION	
1/7/2020	NEF	Proof of Electronic Service	Transaction 7672312 - Approved By: NOREVIEW : 01-07-2020:14:08:15	
1/7/2020	4133	Supreme Court Notice	SUPREME COURT NO. 78472 / NOTICE OF TRANSFER TO COURT OF APPEALS - Transaction 7672286 - Approved By: NOREVIEW : 01-07-2020:14:08:15	
2/11/2020	1860	Judgment Conviction-Corrected	THIRD CORRECTED JUDGMENT OF CONVICTION - Transaction 7734975 - Approved By: NOREVIEW : 02-11-2020:16:02:36	
2/11/2020	NEF	Proof of Electronic Service	Transaction 7734988 - Approved By: NOREVIEW : 02-11-2020:16:02:36	
2/19/2020	4134	Supreme Court Order Affirming	SUPREME COURT NO. 78472 / ORDER OF AFFIRMANCE - Transaction 7747985 - Approved By: NOREVIEW : 02-19-2020:14:17:40	
2/19/2020	NEF	Proof of Electronic Service	Transaction 7747997 - Approved By: NOREVIEW : 02-19-2020:14:17:40	
3/17/2020	4145	Supreme Court Remittitur	SUPREME COURT NO. 78472 / REMITTITUR - Transaction 7796178 - Approved By: NOREVIEW : 03-17-2020:14:17:40	
3/17/2020	4134	Supreme Court Order Affirming	SUPREME COURT NO. 78472 / ORDER OF AFFIRMANCE - Transaction 7796178 - Approved By: NOREVIEW : 03-17-2020:14:17:40	

Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)				
Case ID:	CR18-1654	Case Type:	CRIMINAL	Initial Filing Date: 9/25/2018
3/17/2020	NEF	Proof of Electronic Service	Transaction 7796185 - Approved By: NOREVIEW : 03-17-2020:12:27:54	
3/17/2020	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT NO. 78472 / CLERK'S CERTIFICATE & JUDGMENT - Transaction 7796178 - Approved By:	
5/12/2020	NEF	Proof of Electronic Service	Transaction 7873108 - Approved By: NOREVIEW : 05-12-2020:14:16:35	
5/12/2020	2490	Motion ...	MOTION FOR WITHDRAWAL OF COUNSEL AND PRODUCTION OF CASE FILE DOCUMENTS - Transaction	
5/13/2020	NEF	Proof of Electronic Service	Transaction 7875567 - Approved By: NOREVIEW : 05-13-2020:15:20:35	
5/13/2020	2490	Motion ...	MOTION TO VACATE JUDGMENT OF CONVICTION AND WITHDRAW GUILTY PLEA - Transaction 7875554 -	
5/22/2020	2645	Opposition to Mtn ...	OPPOSITION TO MOTION TO VACATE A J.O.C. AND WITHDRAW A GUILTY PLEA - Transaction 7890250 - Aq	
5/22/2020	2526	Notice of Change of Attorney	NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY: KEVIN NAUGHTON DA IN PLACE OF JENNIFER NOE	
5/22/2020	NEF	Proof of Electronic Service	Transaction 7890263 - Approved By: NOREVIEW : 05-22-2020:14:09:24	
5/27/2020	NEF	Proof of Electronic Service	Transaction 7893737 - Approved By: NOREVIEW : 05-27-2020:08:10:11	
5/27/2020	1312	Case Assignment Notification	RANDOMLY REASSIGNED TO D9 FROM D3 DUE TO ADMINISTRATIVE ORDER FILED 6/3/19 - Transaction :	
6/10/2020	NEF	Proof of Electronic Service	Transaction 7919091 - Approved By: NOREVIEW : 06-10-2020:15:40:42	
6/10/2020	3565	Pet Post-Conviction Relief	PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION RELIEF - Transaction 7919088 - Approved I	
6/11/2020	1670	Ex-Parte Mtn...	EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING - Tra	
6/11/2020	NEF	Proof of Electronic Service	Transaction 7921484 - Approved By: NOREVIEW : 06-11-2020:16:18:10	
6/22/2020	4105	Supplemental ...	SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT...	
7/1/2020	NEF	Proof of Electronic Service	Transaction 7952396 - Approved By: NOREVIEW : 07-01-2020:16:03:59	
7/1/2020	1215	Application Appoint Counsel	Transaction 7952393 - Approved By: NOREVIEW : 07-01-2020:16:03:10	
10/13/2020	2490	Motion ...	MOTION FOR STATUS CHECK	
10/26/2020	3860	Request for Submission	Transaction 8132185 - Approved By: NOREVIEW : 10-26-2020:08:15:44	
10/26/2020	4105	Supplemental ...	SUPPLEMENTAL BRIEF - Transaction 8132185 - Approved By: NOREVIEW : 10-26-2020:08:15:44	
10/26/2020	NEF	Proof of Electronic Service	Transaction 8132188 - Approved By: NOREVIEW : 10-26-2020:08:18:36	
1/4/2021	2705	Ord Appointing Administrator	ORDER (1) DIRECTING THE STATE TO RESPOND AND (2) GRANTING MOTION FOR APPOINTMENT OF C	
1/4/2021	S200	Request for Submission Complet		
1/4/2021	NEF	Proof of Electronic Service	Transaction 8228115 - Approved By: NOREVIEW : 01-04-2021:10:43:16	
2/1/2021	NEF	Proof of Electronic Service	Transaction 8272399 - Approved By: NOREVIEW : 02-01-2021:11:50:40	
2/1/2021	3860	Request for Submission	Transaction 8272393 - Approved By: NOREVIEW : 02-01-2021:11:49:41	
2/24/2021	2715	Ord Appointing Counsel	Transaction 8309699 - Approved By: NOREVIEW : 02-24-2021:08:27:52	
2/24/2021	NEF	Proof of Electronic Service	Transaction 8309703 - Approved By: NOREVIEW : 02-24-2021:08:28:47	
3/2/2021	NEF	Proof of Electronic Service	Transaction 8320435 - Approved By: NOREVIEW : 03-02-2021:11:12:10	
3/2/2021	1670	Ex-Parte Mtn...	EX PARTE BILLING INVOICE FOR LEGAL FEES - Transaction 8320397 - Approved By: YVILORIA : 03-02-202	
3/10/2021	2610	Notice ...	RECOMMENDATION OF ADMINISTRATOR FOR PAYMENT OF ATTORNEY FEES – Post-Conviction - Transac	
3/11/2021	NEF	Proof of Electronic Service	Transaction 8336822 - Approved By: NOREVIEW : 03-11-2021:07:45:23	
3/24/2021	2777	Ord Approving ...	ORDER APPROVING ATTORNEYS FEES - Transaction 8358732 - Approved By: NOREVIEW : 03-24-2021:12:!	
3/24/2021	NEF	Proof of Electronic Service	Transaction 8358738 - Approved By: NOREVIEW : 03-24-2021:12:54:55	
3/30/2021	S200	Request for Submission Complet		
3/30/2021	3370	Order ...	Transaction 8368980 - Approved By: NOREVIEW : 03-30-2021:16:01:17	
3/30/2021	NEF	Proof of Electronic Service	Transaction 8368987 - Approved By: NOREVIEW : 03-30-2021:16:02:13	
4/2/2021	NEF	Proof of Electronic Service	Transaction 8374805 - Approved By: NOREVIEW : 04-02-2021:11:09:55	

Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)				
Case ID:	CR18-1654	Case Type:	CRIMINAL	Initial Filing Date: 9/25/2018
4/2/2021	1670	Ex-Parte Mtn...	DFX: FILER SET AT LEVEL 5 - Transaction 8374788 - Approved By: AZAMORA : 04-02-2021:11:08:15	
4/8/2021	NEF	Proof of Electronic Service	Transaction 8386284 - Approved By: NOREVIEW : 04-08-2021:16:17:59	
4/8/2021	4100	Supplemental Petition	in Support of a Writ of Habeas Corpus (Post-Conviction) - Transaction 8386278 - Approved By: NOREVIEW : 04	
4/13/2021	2610	Notice ...	RECOMMENDATION FOR PAYMENT OF INTERIM ATTORNEY'S FEES - Transaction 8393554 - Approved By:	
4/14/2021	NEF	Proof of Electronic Service	Transaction 8393661 - Approved By: NOREVIEW : 04-14-2021:08:24:49	
4/28/2021	2777	Ord Approving ...	ORDER APPROVING INTERIM ATTORNEY'S FEES - Transaction 8417532 - Approved By: NOREVIEW : 04-28	
4/28/2021	NEF	Proof of Electronic Service	Transaction 8417537 - Approved By: NOREVIEW : 04-28-2021:12:01:53	
5/4/2021	1670	Ex-Parte Mtn...	EX PARTE BILLING INVOIE FOR LEGAL FEES - Transaction 8427084 - Approved By: YVILORIA : 05-04-2021:	
5/4/2021	NEF	Proof of Electronic Service	Transaction 8427182 - Approved By: NOREVIEW : 05-04-2021:14:51:27	
5/8/2021	2610	Notice ...	RECOMMENDATION FOR PAYMENT OF INTERIM ATTORNEY'S FEES – Post Conviction (Filed Under Seal) -	
5/10/2021	NEF	Proof of Electronic Service	Transaction 8435126 - Approved By: NOREVIEW : 05-10-2021:08:27:27	
5/19/2021	2777	Ord Approving ...	Transaction 8453329 - Approved By: NOREVIEW : 05-19-2021:13:52:56	
5/19/2021	NEF	Proof of Electronic Service	Transaction 8453334 - Approved By: NOREVIEW : 05-19-2021:13:53:53	
6/7/2021	2155	Mtn Partial Dismissal ...	MOTION TO DISMISS IN PART - Transaction 8481443 - Approved By: YVILORIA : 06-07-2021:10:52:42	
6/7/2021	4047	Stip Extension of Time ...	Transaction 8482153 - Approved By: NOREVIEW : 06-07-2021:13:12:21	
6/7/2021	NEF	Proof of Electronic Service	Transaction 8481533 - Approved By: NOREVIEW : 06-07-2021:10:53:49	
6/7/2021	NEF	Proof of Electronic Service	Transaction 8482157 - Approved By: NOREVIEW : 06-07-2021:13:13:16	
6/15/2021	NEF	Proof of Electronic Service	Transaction 8495860 - Approved By: NOREVIEW : 06-15-2021:11:27:11	
6/15/2021	2683	Ord Addressing Stipulation	Transaction 8495850 - Approved By: NOREVIEW : 06-15-2021:11:26:13	
7/6/2021	2645	Opposition to Mtn ...	to Dismiss - Transaction 8526859 - Approved By: AZAMORA : 07-06-2021:09:19:37	
7/6/2021	NEF	Proof of Electronic Service	Transaction 8526975 - Approved By: NOREVIEW : 07-06-2021:09:20:49	
7/8/2021	3860	Request for Submission	Transaction 8533594 - Approved By: NOREVIEW : 07-08-2021:13:57:46	
7/8/2021	NEF	Proof of Electronic Service	Transaction 8533599 - Approved By: NOREVIEW : 07-08-2021:13:58:45	
7/30/2021	NEF	Proof of Electronic Service	Transaction 8570847 - Approved By: NOREVIEW : 07-30-2021:12:23:40	
7/30/2021	1670	Ex-Parte Mtn...	EX PARTE BILLING INVOICE FOR LEGAL FEES - Transaction 8570728 - Approved By: CSULEZIC : 07-30-20:	
8/14/2021	2610	Notice ...	RECOMMENDATION FOR PAYMENT OF INTERIM ATTORNEY'S FEES – POST CONVICTION - Transaction 8	
8/16/2021	NEF	Proof of Electronic Service	Transaction 8596147 - Approved By: NOREVIEW : 08-16-2021:08:20:24	
8/17/2021	NEF	Proof of Electronic Service	Transaction 8599126 - Approved By: NOREVIEW : 08-17-2021:11:17:21	
8/17/2021	2777	Ord Approving ...	Transaction 8599120 - Approved By: NOREVIEW : 08-17-2021:11:16:22	
9/7/2021	3347	Ord to Set	Transaction 8633556 - Approved By: NOREVIEW : 09-07-2021:15:28:30	
9/7/2021	S200	Request for Submission Complet		
9/7/2021	NEF	Proof of Electronic Service	Transaction 8633564 - Approved By: NOREVIEW : 09-07-2021:15:29:31	
10/12/2021	NEF	Proof of Electronic Service	Transaction 8694088 - Approved By: NOREVIEW : 10-12-2021:16:45:22	
10/12/2021	1250	Application for Setting	EVIDENTIARY HEARING 11/02/2021 @10:00 Transaction 8694081 - Approved By: NOREVIEW : 10-12-2021:1	
10/12/2021	1260	Application Produce Prisoner	APPLICATION FOR ORDER TO PRODUCE PRISONER Transaction 8694081 - Approved By: NOREVIEW : 10-	
10/14/2021	3340	Ord to Produce Prisoner	Transaction 8697445 - Approved By: NOREVIEW : 10-14-2021:10:10:32	
10/14/2021	NEF	Proof of Electronic Service	Transaction 8697450 - Approved By: NOREVIEW : 10-14-2021:10:11:32	
10/27/2021	NEF	Proof of Electronic Service	Transaction 8720448 - Approved By: NOREVIEW : 10-27-2021:17:12:03	
10/27/2021	2550	Notice of Hearing	Transaction 8720447 - Approved By: NOREVIEW : 10-27-2021:17:09:23	

Case Description: STATE VS LUGY RICHARD LOPEZ-DELGADO (TN)(D9)			
Case ID:	CR18-1654	Case Type:	CRIMINAL
		Initial Filing Date:	9/25/2018
11/1/2021	NEF	Proof of Electronic Service	Transaction 8725049 - Approved By: NOREVIEW : 11-01-2021:14:29:16
11/1/2021	2610	Notice ...	NOTICE OF PROPOSED EXHIBITS SUBMITTED BY RESPONDENT FOR THE NOVEMBER 2, 2021 EVIDEN
11/2/2021	2502	** Notes ...	EXHIBITS A THROUGH M ATTACHED TO THE SUPPLEMENTAL PETITION FILED ON APRIL 8, 2021 ARE HE
11/2/2021	1670	Ex-Parte Mtn...	EX PARTE BILLING INVOICE FOR LEGAL FEES - Transaction 8728361 - Approved By: NMASON : 11-02-2021
11/2/2021	NEF	Proof of Electronic Service	Transaction 8728421 - Approved By: NOREVIEW : 11-02-2021:16:46:49
11/4/2021	S200	Request for Submission Complet	
11/4/2021	NEF	Proof of Electronic Service	Transaction 8733081 - Approved By: NOREVIEW : 11-04-2021:14:41:48
11/4/2021	3075	Ord Grant Partial Dismissal	ORDER GRANTING MOTION TO DISMISS IN PART - Transaction 8733072 - Approved By: NOREVIEW : 11-04
11/5/2021	MIN	***Minutes	11/2/21 - MOTION TO DISMISS - Transaction 8734181 - Approved By: NOREVIEW : 11-05-2021:09:15:03
11/5/2021	NEF	Proof of Electronic Service	Transaction 8734186 - Approved By: NOREVIEW : 11-05-2021:09:16:06
12/2/2021	2515	Notice of Appeal Supreme Court	
12/2/2021	2490	Motion ...	MOTION FOR WITHDRAWAL OF ATTORNEY RECORD AND DELIVERY OF RECORDS
12/3/2021	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8778877 - Approved By: N
12/3/2021	1310E	Case Appeal Statement	Transaction 8778877 - Approved By: NOREVIEW : 12-03-2021:09:59:02

Code: 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

LUIGY RICHARD LOPEZ-DELGADO,

Petitioner,

v.

THE STATE OF NEVADA,

Respondent.

Case No.: CR18-1654

Dept. No.: 9

ORDER GRANTING MOTION TO DISMISS IN PART

The motions in this case came before this Court for oral argument on November 2, 2021. At the time of the hearing, the Court was in receipt of Respondent THE STATE OF NEVADA's (hereafter "the State") *Motion to Dismiss in Part* filed June 7, 2021; and Petitioner LUIGY RICHARD LOPEZ-DELGADO's (hereafter "Petitioner") *Opposition to Motion to Dismiss* filed July 6, 2021.

Upon review of the moving papers and oral argument, with good cause appearing, the Court **GRANTS** the State's *Motion to Dismiss in Part*.

BACKGROUND

The Petitioner was charged with numerous felonies in an Information filed September 26, 2018. At that time, the Petitioner was charged with two counts of Statutory Sexual Seduction by Person Age 21 or Older, a category B felony, punishable by one to ten years in prison; one count of Use or Permit Minor, Under Age 18, to Produce Pornography, a category A felony, punishable by life imprisonment with parole eligibility after five years; one count of Possess Visual Pornography

1 of Person Under Age 16, First Offense, a category B felony, punishable by one to six years in
2 prison; two counts of Lewdness With Child Older Than 14, a category B felony, punishable by one
3 to ten years in prison; one count of Lure or Attempt to Lure a Child With the Use of Computer
4 Technology to Engage in Sexual Conduct, a category B felony, punishable by one to ten years in
5 prison; and one gross misdemeanor count of Attempting to Prevent or Dissuade a Witness from
6 Testifying.

7 The Petitioner entered favorable plea negotiations whereby he pled guilty to three counts in
8 exchange for a joint recommendation with the State for an aggregate sentence of 48 to 120 months
9 imprisonment. Consequently, Petitioner pled guilty to one count of Statutory Sexual Seduction by
10 Person Age 21 or Older; one count of Possess Visual Pornography of Person Under Age 16, First
11 Offense; and one count of Lewdness With Child Older Than 14.

12 At sentencing, this Court specifically finds the parties adhered to the plea negotiations and
13 recommended the agreed upon sentence. The Court imposed the sentences recommended by the
14 parties but, instead of running them all concurrently as the parties requested, the Court opted to run
15 one of the counts consecutively for an aggregate sentence of 76 to 192 months imprisonment. The
16 Petitioner unsuccessfully appealed his sentence, alleging that the Court abused its discretion in
17 sentencing. The Court of Appeals rejected the Petitioner's contentions and entered an Order of
18 Affirmance on February 18, 2020. *See Lopez-Delgado v. State*, Docket No. 78472-COA.

19 On June 10, 2020, the Petitioner filed a *Petition for Writ of Habeas Corpus (Post-*
20 *Conviction)* ("Petition"). On October 26, 2020, the Petitioner filed a "Supplement Brief." Counsel
21 was appointed for the Petitioner and filed a *Supplemental Petition in Support of a Writ of Habeas*
22 *Corpus (Post-Conviction)* ("Supplemental Petition") on April 8, 2021.

23 On June 7, 2021, the State filed its *Motion to Dismiss in Part*. On July 6, 2021, Petitioner
24 filed his *Opposition*. In his *Opposition*, Petitioner abandoned all arguments set forth in his original
25 *Writ* and *Supplemental Writ* allowing the claims labeled as B, C, and D to remain. On November 2,
26 2021, the Court heard oral arguments on the motion and the Writ.

27 Prior to oral arguments, the Petitioner abandoned claim B, which was the failure to
28 investigate claim. This left only two claims ripe for this Court's review at the hearing. Those claims
are (C) failure of the Petitioners counsel to object to the alleged breach of the plea agreement on the

1 part of the State; and (D) the failure of the Petitioner’s counsel to raise the alleged plea agreement
2 breach on appeal.¹

3 STANDARD OF REVIEW

4 A petitioner must demonstrate the facts underlying a claim of ineffective assistance of
5 counsel by a preponderance of the evidence, and a district court’s factual findings regarding a claim
6 of ineffective assistance of counsel are entitled to deference upon appeal. *See Means v. State*, 120
7 Nev. 1001, 1012, 103 P.3d 25, 33 (2004); *see also Riley v. State*, 110 Nev. 638, 647, 878 P.2d 272,
8 278 (1994). Habeas claims must consist of more than bare allegations, and an evidentiary hearing
9 on a habeas petition is mandated only if a petitioner asserts specific factual allegations that, if true,
10 would warrant relief and *are not belied or repelled by the record*. *Hargrove v. State*, 100 Nev. 498,
11 686 P.2d 222 (1984); *Nika v. State*, 124 Nev. 1272, 198 P.3d 839 (2008) (emphasis added).

12 A district court reviews claims of ineffective assistance of trial counsel under *Strickland v.*
13 *Washington*, 466 U.S. 668, 686-87 (1984); *see also Kirksey v. State*, 112 Nev. 980, 987, 923 P.2d
14 1102, 1107 (1996). Under *Strickland*, to prevail on a claim of ineffective assistance of trial counsel,
15 a petitioner must establish two elements: (1) counsel provided deficient performance, and (2) “the
16 deficient performance prejudiced the defense.” *Kirksey*, 112 Nev. 987, 923 P.2d at 107. To prove
17 deficient performance, a petitioner must show that counsel's performance fell below an objective
18 standard of reasonableness. *Id.*

19 To prove prejudice, a petitioner must demonstrate “a reasonable probability that, but for
20 counsel's errors, the result of the trial would have been different.” *Id.* at 988, 923 P.2d at 1107. “A
21 reasonable probability is a probability sufficient to undermine confidence in the outcome.”
22 *Strickland*, 466 U.S. at 694. Counsel's performance is measured by an objective standard of
23 reasonableness which takes into consideration prevailing professional norms and the totality of the
24 circumstances. *Strickland*, 466 U.S. at 688; *accord, Homick v. State*, 112 Nev. 304, 913 P.2d 1280
25 (1996). An insufficient showing on *either* element of the *Strickland* standard requires denial of the
26 claim. *Kirksey*, 112 Nev. at 988, 923 P.2d at 1107 (emphasis added).

27
28 ¹ The notations of “C” and “D” are derived from the Petitioner’s *Supplemental Petition*, and the State’s *Motion to Dismiss*, which directly addresses claims “C” and “D.”

1 When reviewing the record, the Court's view of counsel's performance must be highly
2 deferential, with every effort being taken to eliminate the distorting effects of hindsight. *Strickland*,
3 466 U.S. at 689, 691. In making a fair assessment of counsel's performance, the trial court must
4 reconstruct the circumstances of counsel's challenged conduct and evaluate that challenged act or
5 omission from counsel's perspective at the time, while remaining perfectly mindful that counsel is
6 “strongly presumed to have rendered adequate assistance and made all significant decisions in the
7 exercise of reasonable professional judgment.” *Id.* at 689-90. Accordingly, trial counsel's strategic
8 or tactical decisions will be “virtually unchallengeable absent extraordinary circumstances.”
9 *Doleman v. State*, 112 Nev. 843, 848, 921 P.2d 278, 280 (1996) (*quoting Howard v. State*, 106 Nev.
10 713, 722, 800 P.2d 175, 180 (1990)).

11 **DISCUSSION**

12 The two remaining claims for relief proffered by the Petitioner involve the foundational
13 claim that counsel at trial was ineffective for failing to object to the prosecutor allegedly breaching
14 the plea agreement at the time of sentencing. The second claim is that counsel was ineffective
15 because they failed to raise the breach of the plea agreement on appeal. As noted, the foundation of
16 both claims arise from whether the prosecutor breached the plea agreement during sentencing.
17 Upon review of the record, and after hearing oral arguments, this Court finds that the prosecutor did
18 not breach the plea agreement during the sentencing hearing. As such, the ineffective assistance of
19 counsel claim fails as there was nothing to object to at the time of sentencing, and thus nothing that
20 could have been appealed afterwards.

21 The parties in this case agreed to “stipulate to recommend at sentencing a term of
22 incarceration in the Nevada State Prison of 48-120 months on Count II, 28-72 months on Count IV,
23 and 48-120 months on Count VI and that all counts run concurrent to one another.” Motion, pg.
24 16:11-16 (*citing* GPM, p. 5). In sum, the parties agreed to recommend a sentence that would result
25 in the Petitioner serving 48-120 months in prison with all the counts running concurrently.

26 The Petitioner claimed in his supplemental petition that “once it became clear that Judge
27 Polaha was inclined to sentence more harshly than the State's recommendation, it became the State's
28 obligation to explain why the lower recommendation was appropriate...instead the State

1 aggressively continued to highlight aggravating factors, which in spite of the protestations of fealty
2 to the original recommendation, clearly was being used to justify a higher sentence.” *Supp.* pg.
3 7:22-26. Petitioner argued that the State proceeded to touch upon unnecessary facts that went
4 beyond the scope of the plea agreement which included “arguing against the recommendation
5 provided by Parole and Probation and scoffing at the psycho-sexual evaluation findings.” *Id.* pg.
6 8:1-2.

7 In his *Opposition*, Petitioner argues that “in determining whether the prosecution has
8 fulfilled its part of a plea bargain, the prosecution is held to the most meticulous standards of both
9 promise and performance.” *Kluttz v. Warden, Nev. State Prison*, 99 Nev. 681, 683 (1983). The
10 Court in *Kluttz* held that reversal is still required where the “spirit” of the agreement is violated. *Id.*
11 at 684. However, the Court finds that this argument is belied by the record and the totality of the
12 circumstances surrounding the arguments proffered by the State in the sentencing hearing. Neither
13 the agreement itself, nor its spirit were violated.

14 The Nevada Supreme Court has held that “a promise to recommend a sentence is not a
15 promise to stand silent.” *Sullivan v. State*, 115 Nev. 383, 389, 990 P.2d 1258, 1261 (1999). “Where
16 the state agrees to make a particular recommendation, the agreement, unlike an agreement to stand
17 silent or make no recommendation, does not by its terms restrict the state’s right to argue or present
18 facts in favor of the sentence recommendation.” *Id.* (emphasis added). However, a prosecutor “must
19 refrain from either explicitly or implicitly repudiating the agreement.” *Id.* In *Sullivan*, the court held
20 that the State did not breach the plea negotiations where the prosecutor complied with the plea
21 agreement by recommending the agreed upon sentence and the prosecutor’s comments about
22 Sullivan’s “criminal record and the circumstances of the instant offenses were clearly intended to
23 support the sentencing recommendation that the state agreed to make.” 115 Nev. at 390, 990 P.2d at
24 1262.

25 Here, the PSI recommended a sentence “in an aggregate both for less on the front end and
26 more on the back end than [was] stipulated within the plea agreement.” Sentencing Transcript, p. 4,
27 PSI p. 9 (recommending a term of 12-48 months on Count II, 12-36 months on Count IV, and 12-48
28 months on Count VI, all run consecutively for an aggregate recommendation of 36-132 months).
Defense counsel argued that “the psychosexual evaluation found that the Petitioner was not a high

1 risk to reoffend and that he would otherwise been statutorily eligible for probation but for the
2 parties' recommendation." Sentencing Transcript, p. 4. Counsel also argued that the Petitioner did
3 not have any criminal history; that "he's a young man;" and "[t]here are a lot of factors that we
4 believe you should take into account in determining what the appropriate and just sentence is."
5 Sentencing Transcript, p. 5. Counsel added that the joint recommendation of the parties was just
6 "one of those factors...." *Id.*

7 By the time that the State was able to make its argument, the Court had reviewed the PSI
8 report and had heard from Defense Counsel that it should consider several mitigating factors that
9 could potentially result in a sentence lower than agreed to by both parties as a result of the
10 recommendation contained in the PSI. The State sought to provide some context and additional
11 information in support of the parties' joint recommendation. The State explicitly told the Court that
12 was the reason for the argument:

13 **THE COURT:** Counsel, let me ask, you're going to stick with the agreement that
14 you had.

15 **MR. GRAHAM:** I am, yes, your Honor.

16 **THE COURT:** All right.

17 **MR. GRAHAM:** Absolutely, I think 4 to 10 years on this case is an absolutely
18 appropriate sentence. The reason I was going to argue is because Parole and
19 Probation recommended less than that. And I wanted to provide the Court with
20 information to show why a 4- to 10-year sentence would be appropriate.

21 Sentencing Transcript, pp. 5-6 (emphasis added).

22 The Court then stated that "I'm inclined to go higher than that. So go ahead." Sentencing
23 Transcript, p. 6. The prosecutor immediately responded by saying:

24 Okay. Thank you. So the record is crystal clear, I'm not arguing for anything other
25 than the stipulated sentence in this case. But what I would like to let the Court
26 know is that this is not two teenagers having sex. This is a case where the
defendant was 23.

27 *Id.* (emphasis added). The prosecutor also concluded his remarks by again reminding the Court that
28 "I think that the defendant's -- the proper and just sentence in this case would be the 4 to 10 years
that the parties have stipulated to." Sentencing Transcript, p. 15.

1 This record clearly shows that the State argued only to support the agreed upon sentencing
2 recommendation. The State argued as such because of a lower recommendation from the PSI report,
3 and Defense counsels' subsequent arguments. The Court finds that the State clearly stayed within
4 the bounds of the plea agreement. The State repeatedly expressed that it was not asking for any
5 sentence other than what the parties had agreed to recommend and provided factual information in
6 support of the agreed upon sentence after the Court had reviewed a different, lower
7 recommendation, and an implicit request from defense counsel to consider imposing something
8 other than the agreed upon sentence.

9 As a result, the prosecutor did not violate the terms or spirit of the plea agreement, and
10 counsel was not ineffective for failing to object. The record thus belies the Petitioner's claim that
11 the State breached the plea agreement and does not show that he would be entitled to any relief. As
12 such, this Court finds that counsel was not ineffective for failing to object to the sentencing
13 arguments made by the State, and this said counsel cannot be deemed ineffective for failing to argue
14 such a breach on appeal as there was nothing to appeal.

15 **CONCLUSION**

16 THEREFORE, and good cause appearing, IT IS HEREBY ORDERED that the State's
17 *Motion to Dismiss in Part* is GRANTED.

18 DATED this 4th day of November 2021.

19
20 
21 _____
22 DISTRICT JUDGE
23
24
25
26
27
28

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this 4th day of November, 2021, I deposited in the
4 County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:
6

7 [NONE]
8
9

10 Further, I certify that on the 4th day of November, 2021, I electronically filed the foregoing
11 with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the
12 following:

13 KRISTA MEIER, ESQ.
14 ORRIN JOHNSON, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)
15 KEVIN NAUGHTON, ESQ. for STATE OF NEVADA
16 NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
17 DIV. OF PAROLE & PROBATION
18 MARC PICKER, ESQ. for LUIGI RICHARD LOPEZ-DELGADO (TN)
19
20
21

22 

23 Judicial Assistant
24
25
26
27
28

CASE NO. CR18-1654

STATE OF NEVADA VS. LUIGY RICHARD LOPEZ

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/11/18
HON. JEROME M.
POLAHA
DEPT. NO. 3
G. Bartlett
(Clerk)
J. Dotson
(Reporter)

ARRAIGNMENT

Deputy D.A. George Smith represented the State.
Defendant present with counsel, Lynn Branzell, Deputy PD.
Probation Officer, Alexandra Ford, also present.
Counsel for Defendant addressed the Court and moved for a
continuance due to ongoing negotiations; no objection by counsel
for State; SO ORDERED.
COURT ORDERED: Matter continued for arraignment.
Defendant remanded to the custody of the Sheriff.

11/01/18
9:00 a.m.
Con't Arr

CASE NO. CR18-1654

STATE OF NEVADA VS. LUIGY RICHARD LOPEZ

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/01/18

HON. JEROME M.

ARRAIGNMENT

POLAHA

DEPT. NO. 3

G. Bartlett
(Clerk)

J. Dotson

(Reporter)

Deputy D.A. Alexandra Ford represented the State.

Defendant present with counsel, Jay Slocum, Deputy P.D.

TRUE NAME: Luigy Richard Lopez. Defendant handed copy of the
Amended Information and waived formal reading.

The Court and respective counsel discussed the reasoning behind
the plea negotiations.

During the canvassing of the Defendant, the Defendant had
hesitation in entering his plea.

The Clerk placed the Defendant under oath.

The Court made further inquiries of the Defendant; Defendant
responded thereto.

COURT ORDERED: The Court shall enter not guilty pleas on behalf
of the Defendant.

Counsel for State informed the Court that the State reserves it right
to refile the original charges; SO ORDERED.

The Defendant made a statement to the Court that he is not satisfied
with his counsel and requested a new attorney.

COURT ORDERED: Matter set for Young hearing.

Defendant remanded to the custody of the Sheriff.

11/15/18
2:00 p.m.
Young
Hearing

*The Clerk noted that the 60 day rule was never addressed and the
matter has not been set for trial.*

CASE NO. CR18-1654

STATE OF NEVADA VS. LUGY RICHARD LOPEZ-DELSADO

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/29/18
HON. JEROME M.
POLAHA
DEPT. NO. 3
G. Bartlett
(Clerk)
J. Dotson
(Reporter)

HEARING ON MOTION FOR NEW COUNSEL (YOUNG
HEARING) (sealed)

Deputy D.A. Nickolas Graham represented the State.
Defendant present with counsel, Jay Slocum, Deputy PD.
Counsel for Defendant moved to clear the courtroom and have the
record sealed; SO ORDERED.
Counsel Graham cleared the courtroom.
Counsel Slocum discussed the time spent with the Defendant at the
jail, the preliminary hearing process and stated that he negotiated
several offers for the Defendant.
The Defendant made a statement to the Court discussing his
displeasure with current counsel.
The Court read the guilty plea memorandum aloud to the
Defendant.
The Court informed the Defendant he is not finding any conflict
between counsel Slocum and the Defendant.
Further discussion between the Court, counsel and the Defendant.
Counsel Graham returned to the courtroom.
COURT ORDERED: Motion for new counsel is hereby granted.
The Alternate Public Defender's office is hereby assigned as
counsel of record. Counsel Slocum to prepare and submit order.
Matter set for hearing.
Defendant remanded to the custody of the Sheriff.

12/13/18
9:00 a.m.
Motion to Set
Trial

CASE NO. CR18-1654

STATE OF NEVADA VS. LUIGY RICHARD LOPEZ-DELGADO

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/13/2018
HON. JEROME M.
POLAHA
DEPT. NO. 3
G. Bartlett
(Clerk)
J. Dotson
(Reporter)

MOTION TO SET TRIAL/ARRAIGNMENT ON SECOND
AMENDED INFORMATION

Deputy D.A. Nickolas Graham represented the State.
Defendant present with counsel, Marc Picker, Deputy Alternate
P.D.
Probation Officer, Barbara Kelly, also present.
Counsel Picker addressed the Court and stated that negotiations
had been reached and the matter will proceed with arraignment and
the motion to set trial is moot; SO ORDERED.
TRUE NAME: LUIGY RICHARD LOPEZ-DELGADO. Defendant
handed a copy of the Information; waived formal reading; waived
time in which to enter a plea and plead Guilty to Statutory Sexual
Seduction by Person Age 21 or Older, Possess Visual Pornography
of Person Under Age 16, First Offense and Lewdness With Child
Older Than 14, as charged in Counts II, IV and VI of the Second
Amended Information.
Counsel for Defendant stated plea negotiations to the Court.
The Clerk swore in the Defendant for the Court's canvass,
Court interrogated the Defendant and informed him of his rights and
stated the possible penalties thereto.
Counsel for State stated elements of the charge he was prepared
to prove at the time of trial.
Court made finding that the Defendant is aware of his rights and
knowingly waives them, that there is a factual basis for the entry of
plea and the Court accepts the plea and enters a formal finding of
guilt on the record.
Respective counsel requested P.S.I. report.
COURT ORDERED: Matter continued for entry of judgment and
imposition of sentence.
Counsel for Defendant requested the matter be set for a bail
hearing; SO ORDERED.
Defendant remanded to the custody of the Sheriff.

12/20/18
9:00 a.m.
Sentencing

3/14/19
9:00 a.m.
Sentencing

CASE NO. CR18-1654

STATE OF NEVADA VS. LUGY RICHARD LOPEZ-DELSADO

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/20/18
HON. JEROME M.
POLAHA
DEPT. NO. 3
G. Bartlett
(Clerk)
J. Dotson
(Reporter)

MOTION - BAIL REDUCTION

Deputy D.A. Nickolas Graham represented the State.
Defendant present with counsel, Marc Picker, Deputy Alternate PD.
Probation Officer, Steve Em, also present.
Counsel for Defendant addressed the Court and moved to reduce
the Defendant's bail to \$10,000 and submitted the matter on the
pleadings.
Counsel for State discussed the amount of bail for each count and
requested the bail be set at \$80,000.00
Counsel for Defendant discussed the ties to the community and
stated that the Defendant has no objection to Pretrial Services
supervising him while on bail.
COURT ORDERED: Motion to reduce bail is hereby granted. Bail
is set at \$25,000.00 bondable with Pretrial Services supervision
with conditions of no contact with the victim(s) and no internet
access.
Defendant remanded to the custody of the Sheriff.

CASE NO. CR18-1654

STATE OF NEVADA VS. LUIGY RICHARD LOPEZ-DELGADO

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/2/21
HON. SCOTT N.
FREEMAN
DEPT. NO. 9
G. Bartlett
(Clerk)
L. Stubbs
(Reporter)

MOTION TO DISMISS

Hearing conducted via Zoom audiovisual conferencing.
Deputy D.A. Kevin Naughton represented the State.
Defendant was present with counsel, Orrin Johnson, Court
Appointed Attorney.

The Court made a record of the fact that this hearing was being held remotely because of the closure of the courthouse at 75 Court Street, in Reno, Washoe County, Nevada, due to the National and local emergency caused by COVID-19.

The Court and all participants appeared via simultaneous audiovisual transmission. The Court was physically located in Washoe County, Nevada which was the site of the court session. At the direction of the Court, all participants stated their appearances and location.

Respective counsel acknowledged receipt of notice that the hearing was taking place pursuant to the Second Judicial District Court's Administrative Orders entered in 2020, and the Nevada Supreme Court Rules - Part IX governing appearances by simultaneous audiovisual transmissions, and counsel stated they had no objection to proceeding in this manner.

The Court further made a record of the fact that these proceedings are open to the public for viewing and listening through the webinar/meeting invitation located on the Court's website and directed that if at any time anyone who is participating in this matter cannot see or hear the other participants in this case, they are to inform the Court.

Counsel Johnson informed the Court that he will only be proceeding on the Breach of Plea Agreement claim and moved to admit exhibits A through M that are attached to the supplemental petition; no objection by counsel for State.

COURT ORDERED: Exhibits A through M are hereby admitted.
Counsel Naughton discussed the sentencing transcript and stated that the District Attorney did not ask for more time during argument and further discussed the exchange between Judge Polaha and the Deputy D.A.

Counsel Johnson stated that the DA did not urge the Court to follow the plea agreement and stated that the DA implicitly argued for more time.

COURT ORDERED: Motion to dismiss is under advisement.
Defendant was remanded to the custody of the Nevada Department of Corrections.

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

LUIGY RICHARD LOPEZ-DELGADO,

Case No. CR18-1654

Plaintiff,

vs.

Dept. No. 9

THE STATE OF NEVADA,

Respondent.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 3rd day of December, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 3rd day of December, 2021.

Alicia L. Lerud
Clerk of the Court
By /s/azamora
Amanda Zamora
Deputy Clerk