

Steven D. Grierson

Electronically Filed
Sep 14 2022 03:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

In Proper Person
P.O. Box 650 H.D.S.P.
Indian Springs, Nevada 89018

8th DISTRICT COURT
Clark COUNTY NEVADA

Cristobal Benavides,

Petitioner,

-v-

State of Nevada; ET AL,

Respondent,

C-18-331026 - 1
Case No. A-22-849801-W
Dept.No. XVII
Docket _____

NOTICE OF APPEAL

Notice is hereby given that the PETITIONER, CRISTOBAL
Benavides, by and through himself in proper person, does now appeal
to the Supreme Court of the State of Nevada, the decision of the District
Court. Therefore, IT IS HERBY ORDERED that the petition
for Post-Conviction Relief shall be and is DENIED

Dated this date, 08/30/2022.

Respectfully Submitted,

Benavides

In Proper Person

RECEIVED
SEP 06 2022

CERTIFICATE OF SERVICE BY MAILING

I, Cristobal Benavides, hereby certify, pursuant to NRCP 5(b), that on this ___
day of 30 agosto, 2022, I mailed a true and correct copy of the foregoing, "notice
of appeal"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

District court
District Attorney
200 Lewis Avenue
PO Box 551222
Las Vegas NV 89155

Attorney General

DATED: this 30 day of agosto, 2022.

/In Propria Persona
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

(Title of Document)

filed in District Court Case number _____

☐ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Signature

Date

Print Name

Title

CRISTOBAL Benavides, I.D #1219435
HIGH DESERT STATE PRISON
P.O. BOX 650
Indian Springs, Nevada 89070

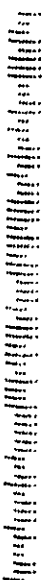
LAS VEGAS NV 890
31 AUG 2022 PM 4

FOREVER / USA

FOREVER / USA

ELIGHTN Judicial District Court
Clerk of Court
200 Lewis Ave
Las Vegas Nevada 89155

89101-630000





1 ASTA

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3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 CRISTOBAL BENAVIDES,

14 Defendant(s),
15

Case No: C-18-331026-1

Dept No: XVII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Cristobal Benavides

20 2. Judge: David Barker

21 3. Appellant(s): Cristobal Benavides

22 Counsel:

23 Cristobal Benavides #1219435
24 P.O. Box 650
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: April 3, 2018

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Post-Conviction Relief

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 78873

12. Child Custody or Visitation: N/A

Dated This 8 day of September 2022.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Cristobal Benavides

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-18-331026-1**

State of Nevada
vs
Cristobal Benavides

§ Location: **Department 17**
 § Judicial Officer: **Vacant, DC 17**
 § Filed on: **04/03/2018**
 § Case Number History:
 § Cross-Reference Case **C331026**
 § Number:
 § Defendant's Scope ID #: **1333191**
 § ITAG Booking Number: **1800006752**
 § ITAG Case ID: **1955696**
 § Lower Court Case # Root: **17F20658**
 § Lower Court Case Number: **17F20658X**
 § Metro Event Number: **1707193067**
 § Supreme Court No.: **78873**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 PCN: 0030340045 ACN: 1707193067 <i>Filed As:</i> COERCION SEXUALLY MOTIVATED Arrest: 02/07/2018 MET - Metro	201.230.2	F	06/26/2017	Case Status:	11/26/2019 Closed
2. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 <i>Filed As:</i> ATTEMPT LEWDNESS WITH A CHILD UNDER THE AGE OF 16	201.230.2	F	06/26/2017		
3. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	201.230.2	F	06/26/2017		
4. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	200.366.3c	F	06/26/2017		
5. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	201.230.2	F	06/26/2017		

Related Cases

A-22-849801-W (Writ Related Case)

Statistical Closures

11/26/2019 Jury Trial - Conviction - Criminal

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number C-18-331026-1
 Court Department 17
 Date Assigned 07/18/2022
 Judicial Officer Vacant, DC 17

PARTY INFORMATION
















Defendant	Benavides, Cristobal	<i>Lead Attorneys</i> Gersten, Joseph Z <i>Retained</i> 702-857-8777(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX**

CASE SUMMARY












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EVENTS

















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04/04/2018	 Information [3] Information	Index #3
04/23/2018	 Transcript of Proceedings [4] Reporter's Transcript of Unconditional Waiver of Preliminary Hearing, April 3, 2018	Index #4
04/30/2018	 Amended Information [5]	Index #5
09/06/2018	 Motion to Dismiss Counsel Party: Defendant Benavides, Cristobal [6] Motion to Dismiss Counsel and Appoint Alternate Counsel	Index #6
09/12/2018	 Motion [7] Motion for Release on Own Recognizance or, in the Alternative, on House Arrest	Index #7
09/21/2018	 Opposition [8] State's Opposition to Defendant s Motion For Own Recognizance Release Or, In The Alternative, House Arrest	Index #8
10/24/2018	 Motion [9] Motion for Discovery	Index #9
10/30/2018	 Response [10] State's Response to Defendant s Motion For Discovery and State s Counter-Motion for Reciprocal Discovery	Index #10
11/05/2018	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada [11] State's Notice of Witnesses and/or Expert Witnesses	Index #11
11/19/2018	 Filed Under Seal [12] Ex Parte Motion for Release of Certified Medical Records and Authorization for Related Witness Testimony	Index #12
11/19/2018	 Filed Under Seal [13] Order Releasing Certified Medical Records, Authorization for Related Witness Testimony, and Order to File Under Seal	Index #13
11/19/2018	 Motion to Dismiss Counsel Party: Defendant Benavides, Cristobal [14] Motion to Dismiss Counsel and to Appoint Alternate Counsel	Index #14
12/04/2018	 Filed Under Seal Filed By: Attorney Wolfson, Steven B	Index #15

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12/07/2018	 Receipt of Copy Filed by: Plaintiff State of Nevada <i>[16] Receipt of Copy</i>	Index #16
12/07/2018	 Receipt of Copy Filed by: Plaintiff State of Nevada <i>[17] Receipt of Copy</i>	Index #17
01/10/2019	 Motion to Dismiss Counsel <i>[18] Motion to Dismiss Counsel and Appointment of Alternative Counsel</i>	Index #18
03/12/2019	 Motion to Dismiss Counsel Party: Defendant Benavides, Cristobal <i>[19] Motion to Dismiss Counsel and Appointments of Alternative Counsel</i>	Index #19
03/18/2019	 Supplemental Witness List <i>[20] State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>	Index #20
03/26/2019	 Application to Proceed in Forma Pauperis Filed By: Defendant Benavides, Cristobal <i>[21]</i>	Index #21
04/03/2019	 Supplemental Witness List <i>[22] State's Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>	Index #22
04/08/2019	 Notice of Hearing <i>[23] Notice of Hearing</i>	Index #23
04/08/2019	 Clerk's Notice of Hearing <i>[24] Notice of Hearing</i>	Index #24
04/10/2019	 Order for Production of Inmate <i>[25] Order for Production of Inmate</i>	Index #25
04/29/2019	Administrative Reassignment - Judicial Officer Change <i>To Judge Jacqueline M. Bluth</i>	
05/01/2019	 Supplemental Witness List <i>[26] State's Third Supplemental Notice of Witnesses and/or Expert Witnesses</i>	Index #26
05/01/2019	 Jury List <i>[29]</i>	Index #29
05/02/2019	 Order <i>[27] Order Denying Defendant's Motion to Dismiss Counsel</i>	Index #27
05/02/2019	 Application to Proceed in Forma Pauperis Filed By: Defendant Benavides, Cristobal <i>[28]</i>	Index #28

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05/08/2019	 Instructions to the Jury <i>[32]</i>	<i>Index #32</i>
05/09/2019	 Verdict <i>[33]</i>	<i>Index #33</i>
05/09/2019	 Errata <i>[34] Errata to Notice of Hearing Filed on April 8, 2019</i>	<i>Index #34</i>
05/14/2019	 Order Granting Motion <i>[35] Order Granting State's Oral Motion to Admit Statements Under NRS 51.385</i>	<i>Index #35</i>
05/21/2019	 Notice of Appeal (Criminal) Party: Defendant Benavides, Cristobal <i>[36] Notice of Appeal</i>	<i>Index #36</i>
05/21/2019	 Affidavit in Support Filed By: Defendant Benavides, Cristobal <i>[37] Affidavit In Support of Motion to Proceed on Appeal In Forma Pauperis</i>	<i>Index #37</i>
05/22/2019	 Case Appeal Statement <i>[38] Case Appeal Statement</i>	<i>Index #38</i>
05/23/2019	 Motion to Dismiss Counsel Party: Defendant Benavides, Cristobal <i>[39] Motion to Dismiss Counsel and Appoint Alternate Counsel</i>	<i>Index #39</i>
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07/08/2019	 Judgment of Conviction <i>[42] Judgment of Conviction (Jury Trial)</i>	<i>Index #42</i>
07/09/2019	 Case Appeal Statement <i>[43] Case Appeal Statement</i>	<i>Index #43</i>
07/12/2019	 Notice of Appeal (Criminal) <i>[44] Notice of Appeal</i>	<i>Index #44</i>
07/12/2019	 Case Appeal Statement <i>[45] Case Appeal Statement</i>	<i>Index #45</i>
07/12/2019	 Request	<i>Index #46</i>




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	<i>[46] Request for Transcript of Proceedings</i>	
07/12/2019	 Request <i>[47] Request for Transcript of Proceedings</i>	Index #47
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08/02/2019	 Order to Proceed In Forma Pauperis Granted for: Defendant Benavides, Cristobal <i>[49]</i>	Index #49
08/19/2019	 Recorders Transcript of Hearing <i>[50] Recorders Transcript of Hearing Re: Arraignment Continued 04/30/2018</i>	Index #50
08/19/2019	 Recorders Transcript of Hearing <i>[51] Recorders Transcript of Hearing Re: Arraignment Continued 05/07/2018</i>	Index #51
08/19/2019	 Recorders Transcript of Hearing <i>[52] Recorders Transcript of Hearing Re: Arraignment Continued and Confirmation of Counsel 05/14/2018</i>	Index #52
08/19/2019	 Recorders Transcript of Hearing <i>[53] Recorders Partial Transcript of Hearing Re: Defendant s Motion For Release On Own Recognizance Or, In The Alternative, On House Arrest And Defendant s Motion To Dismiss Counsel And Appoint Alternate Counsel 10/01/2018</i>	Index #53
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08/19/2019	 Recorders Transcript of Hearing <i>[55] Recorders Transcript of Hearing Re: Defendant s Motion For Discovery; State s Response To Defendant s Motion For Discovery And State s Counter-Motion For Reciprocal Discovery; And Status Check: Counsel 11/05/2018</i>	Index #55
08/19/2019	 Recorders Transcript of Hearing <i>[56] Recorders Transcript of Hearing Re: Motion To Dismiss Counsel And To Appoint Alternate Counsel And Calendar Call 11/26/2018</i>	Index #56
08/19/2019	 Recorders Transcript of Hearing <i>[57] Recorders Transcript of Hearing Re: Motion To Dismiss Counsel And To Appoint Alternate Counsel 12/05/2018</i>	Index #57
08/19/2019	 Recorders Transcript of Hearing <i>[58] Recorders Transcript of Hearing Re: Motion To Dismiss Counsel And Appointment Of Alternative Counsel 02/04/2019</i>	Index #58
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Call 04/22/2019

08/19/2019	 Recorders Transcript of Hearing <i>[61] Recorders Transcript of Hearing Re: Jury Trial - Day 1 - 04/29/2019</i>	<i>Index #61</i>
08/19/2019	 Recorders Transcript of Hearing <i>[62] Recorders Transcript of Hearing Re: Jury Trial - Day 2 - 04/30/2019</i>	<i>Index #62</i>
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08/19/2019	 Recorders Transcript of Hearing <i>[66] Recorders Transcript of Hearing Re: Jury Trial - Day 6 - May 8, 2019</i>	<i>Index #66</i>
08/19/2019	 Recorders Transcript of Hearing <i>[67] Recorders Transcript of Hearing Re: Motion To Dismiss Counsel And Appoint Alternate Counsel 06/24/2019</i>	<i>Index #67</i>
08/19/2019	 Recorders Transcript of Hearing <i>[68] Recorders Transcript of Hearing Re: Sentencing 06/26/2019</i>	<i>Index #68</i>
11/26/2019	 Criminal Order to Statistically Close Case <i>[69] Criminal Order to Statistically Close Case</i>	<i>Index #69</i>
11/24/2020	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[70] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i>	<i>Index #70</i>
12/15/2020	 Motion Filed By: Defendant Benavides, Cristobal <i>[71] Motion to Withdraw Counsel</i>	<i>Index #71</i>
09/07/2021	Case Reassigned to Department 17 <i>From Judge Jacqueline Bluth to Judge Michael Villani</i>	
01/25/2022	 Motion Filed By: Defendant Benavides, Cristobal <i>[72] Motion to Obtain All Transcripts Related to Case</i>	<i>Index #72</i>
03/04/2022	 Supplemental List of Documents Filed By: Defendant Benavides, Cristobal <i>[73] Index of Documents</i>	<i>Index #73</i>
06/02/2022	 Findings of Fact, Conclusions of Law and Order <i>[74] Findings of Fact, Conclusions of Law and Order</i>	<i>Index #74</i>
06/06/2022	 Notice of Entry <i>[75] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>	<i>Index #75</i>

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06/08/2022	 Application to Proceed in Forma Pauperis Filed By: Defendant Benavides, Cristobal <i>[76] Application to Proceed in Forma Pauperis</i>	<i>Index #76</i>
07/13/2022	 Response Filed by: Defendant Benavides, Cristobal <i>[77] Response to the Judgment of Petition for Writ of Habeas Corpus</i>	<i>Index #77</i>
07/18/2022	Administrative Reassignment - Judicial Officer Change <i>Cases Reassigned from Judge Michael Villani to Vacant, DC 17</i>	
09/06/2022	 Notice of Appeal (Criminal) <i>[78] Notice of Appeal</i>	<i>Index #78</i>
09/08/2022	 Case Appeal Statement <i>Case Appeal Statement</i>	<i>Index #79</i>

DISPOSITIONS

04/05/2018	<p>Plea (Judicial Officer: Bluth, Jacqueline M.)</p> <ol style="list-style-type: none"> LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: 0030340045 Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: Sequence: SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Not Guilty PCN: Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: Sequence: 	
05/08/2019	<p>Disposition (Judicial Officer: Bluth, Jacqueline M.)</p> <ol style="list-style-type: none"> LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: 0030340045 Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Not Guilty PCN: Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Guilty PCN: Sequence: SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Guilty PCN: Sequence: LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Guilty 	

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PCN: Sequence:

HEARINGS

04/05/2018



Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa)

Plea Entered;

Journal Entry Details:

Deputized Law Clerk, Ashley Lacher, present on behalf of the State. Michelle Roth, Spanish Interpreter, also present. Mr. Whipple stated additional time is need to go over negotiations with Deft. and requested a continuance. COURT ORDERED matter CONTINUED to the assigned department. CUSTODY 04/23/18 8:30 AM ARRAIGNMENT CONTINUED (DEPT 6);

04/23/2018



Arraignment Continued (8:30 AM) (Judicial Officer: Cadish, Elissa F.)

04/23/2018, 04/30/2018, 05/07/2018, 05/14/2018

Continued;

Continued;

Continued;

Matter Heard;

Continued;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Spanish Interpreter: Maria Peters CONFERENCE AT BENCH. Court noted the understanding that after a review of the file the Public Defender (P.D.) has determined there is a conflict; they've represented a witness in the case and new counsel is needed. COURT ORDERED, proceedings CONTINUED for confirmation of counsel. CUSTODY 5-14-18 8:30 AM ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL CLERK'S NOTE: Drew Christensen notified of calendared proceedings.;

Continued;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Spanish Interpreter: Alicia Herrera Amended Information FILED IN OPEN COURT. Ms. Schwartz advised the file was just received, she's not had an opportunity to speak with the Defendant and requested a continuance. There being no opposition, COURT SO ORDERED. CUSTODY 5-7-18 8:30 AM ARRAIGNMENT CONTINUED;

Continued;

Continued;

Continued;

Matter Heard;

Journal Entry Details:


Spanish Interpreter: Alex Andrade. Court noted proceedings were continued from Arraignment Court. Mr. Whipple advised the Defendant was having hearing issues in Arraignment Court and proceedings were moved up here. Mr. Whipple stated the Defendant would like to go trial, but he's not been retained for trial and moved to withdraw. Statement by Defendant advising there's evidence he was in the hospital for 3 days due to medications that cause him anxiety, and he was under the influence of medications while in Court and wanted to ask the Court for a Preliminary Hearing, which was not granted. Court noted the understanding the Defendant waived the Preliminary Hearing to come up to District Court. Defendant stated that was not right, as he only had a few minutes with counsel. Ms. Clemons advised the Court of the offer made to the Defendant. Court inquired if the Defendant was aware of the offer. Defendant stated he was not well due to the medications, the offer was understood and rejected, and requested a Public Defender (P.D.) and that the Court consider the health issues he had a the time. Ms. Clemons stated an Amended Information will be filed due to the rejection of the offer. Given the Defendant is not proceeding with the plea agreement, COURT ORDERED, Brett Whipple WITHDRAWN as counsel; Defendant is to complete the financial form to determine if he's indigent and qualifies for the assistance of appointed counsel; proceedings TRAILED. MATTER RECALLED: Present on behalf of the State of Nevada, Mary Kay Holthus. Colloquy regarding the financial form completed by the

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Defendant. Based upon the completed paperwork, Court stated it appears the Defendant's indigent. Ms. Kierny advised a conflict check has been completed and the P.D. can accept the appointment; Defendant is willing to waive. Court stated an Amended Information is needed and ORDERED, P.D. APPOINTED; proceedings CONTINUED. CUSTODY 4-30-18 8:30 AM ARRAIGNMENT CONTINUED;


05/14/2018 **Confirmation of Counsel** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
Confirmed;

05/14/2018  **All Pending Motions** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
Matter Heard;
Journal Entry Details:
ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL Spanish Interpreter: Mario Torres Ms. Coffee confirmed the Special Public Defender as counsel. COURT SO ORDERED. Defendant BENAVIDES ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY (60) DAY RULE. COURT ORDERED, matter SET for trial. CUSTODY 11-26-18 9:30 AM CALENDAR CALL 12-3-18 10:00 AM JURY TRIAL;

10/01/2018 **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel
Denied;

10/01/2018 **Motion for Own Recognizance Release/Setting Reasonable Bail** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest
Denied;

10/01/2018  **All Pending Motions** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
Matter Heard;
Journal Entry Details:
Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel...Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest Spanish Interpreter: Irma Sanchez. Matters submitted by Ms. Coffee. Court noted a hearing outside the present of the State will be needed to address the motion to dismiss counsel. Upon the inquiry of the Court Defendant stated he still is looking to dismiss the Special Public Defender as this attorney is not helping him. COURT ORDERED, proceedings SEALED for a hearing outside the presence of the State, and with the only parties being present are the Defendant and counsel, the interpreter, Court staff and security personnel. PROCEEDINGS ON THE RECORD. Ms. Clemons present on behalf of the State. Court noted the Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel was DENIED and a status check has been scheduled October 31st to determine how things are going with counsel. Argument in support of Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest/monitoring by Ms. Coffee; there's no INS hold, he has employment and family. Argument in opposition by Ms. Clemons, noting \$100,000.00 is appropriate. Ms. Coffee argued \$100,000.00 is clearly beyond the Defendant's means. Court stated findings and ORDERED, Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest DENIED. CUSTODY 10-31-18 8:30 AM STATUS CHECK: COUNSEL 1-2-19 8:30 AM SENTENCING;

10/31/2018  **Status Check** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
10/31/2018, 11/05/2018
Status Check: Counsel
Continued;
Matter Heard;
Continued;
Matter Heard;
Journal Entry Details:

Spanish Interpreter: Jeff Hanks. Ms. Coffee stated she was not able to visit the Defendant and get things done that she needed be done, advising a discovery motion was filed, is calendared November 5th and requested a continuance of proceeding until Monday, stating prior to that she will go and see the Defendant. Defendant stated it's believed his rights have been violated in 8 different ways that he would like to mention to the Court. Court stated if a hearing outside

CASE SUMMARY**CASE NO. C-18-331026-1**


the presence of the State is necessary, it cannot happen now. Ms. Coffee stated she will speak with the Defendant, advising 1 of the issues is prior counsel waived up without adequate communication with the Defendant, who felt he was entitled to a preliminary hearing; the situation has been explained to the Defendant that it's a limited hearing, matters will be discussed with him along with his 8 issues and if he would like to pursue it, he can. COURT ORDERED, matter CONTINUED; Ms. Coffee is to go and meet with the Defendant to discuss his issues and any issues to be raised, at which time the Court will hear those issues. CUSTODY 11-5-18 8:30 AM Status Check: Counsel...Defendant's Motion For Discovery;

11/05/2018 **Motion for Discovery (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)

Defendant's Motion for Discovery
Granted in Part;

11/05/2018 **Response and Countermotion (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)

State's Response to Defendant's Motion For Discovery and State's Counter-Motion for Reciprocal Discovery
Granted;

11/05/2018  **All Pending Motions (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)

Matter Heard;
Journal Entry Details:

Defendant's Motion for Discovery...State's Response to Defendant's Motion For Discovery and State's Counter- Motion for Reciprocal Discovery...Status Check: Counsel Spanish Interpreter: Ricardo Pico Ms. Coffee stated she met with the Defendant Friday and talked about many things, but there's a recurring issue as to prior counsel Brett Whipple waiving up, at which time it's not thought there was great communication; that being said, the Defendant has been told he's not getting the Preliminary Hearing back; as to the Discovery Motion, a file review was conducted and issues about outstanding discovery were discussed; ready to proceed to trial, but am not certain what the Defendant's personal feelings are with me representing him. Defendant stated he always wanted a Preliminary Hearing and did not waive it or sign anything. Court noted there was a Preliminary Hearing and nothing had to be signed. Defendant stated when he appeared in Court he was under the influence of some medications and was not under a normal condition to take a legal plea. Court stated that no matter who the attorney is, the case is not going back to Justice Court. Defendant stated his rights have been violated and he needs to file a motion to get another attorney. Court noted there's no legitimate basis to obtain other counsel and no other attorney will get the case back to Justice Court. If that's the case, Defendant requested he be heard in regards to his rights being violated. Court stated it's been heard about the Defendant's rights being violated; the case still is not going back to Justice Court. Colloquy regarding Defendant's prior own recognizance release motion. Court stated findings and ORDERED, Defendant's request for an own recognizance release is still DENIED and there's no basis for the appointment of new counsel. Continued argument in support of dismissal of counsel by Defendant. Ms. Coffee stated discovery has been reviewed with the Defendant and all that she can send to him that's appropriate has been sent; it's not translated as there's no funds for that; someone can interpret it for him; discovery on the case has been gone over in detail. Court stated findings and ORDERED, the motion to dismiss counsel remains DENIED. Arguments by counsel regarding Defendant's Motion for Discovery, Court stated findings and ORDERED the following: 1. All statements of the defendant. - GRANTED 2. All statements of witnesses and/or potential witnesses contacted during investigation of this matter. - GRANTED 3. All law enforcement records that contain any relevant and/or material information related to this case. - GRANTED 4. All crime scene analysis and forensic testing. - GRANTED 5. All relevant report, if any, chain of custody, including report of any destruction of any evidence in the case. - GRANTED 6. All updated witness contact information, to include last known address(es) and phone number(s) - GRANTED 7. Disclosure of any and all compensation, express or implied, promises of favorable treatment or leniency or any other benefit that any of the State' witnesses may of have received in exchange for their cooperation with this or any related prosecution. - GRANTED 8. Any and all impeachment information, of which the prosecution is aware, located in the personnel files of any police witness called to testify at trial or any pretrial hearing. - GRANTED; State is to review the personnel files of law enforcement witnesses to be called and should they find anything affecting that persons credibility, it should be disclosed to defense counsel, or provided to the Court for in-camera review to determine if it should be disclosed. 9. Criminal history information on any witness, actual or potential and/or any other information relevant to impeachment. - GRANTED; State is to provide any felony convictions or convictions of crimes of moral turpitude within the last 10 years; DENIED beyond that. 10. Any Department of Child and Family Services and/or Child Protective Service (or equivalent

CASE SUMMARY

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department in another State) records material to the instant case, including any and all notes of caseworkers or their agents or assistants. GRANTED; records in regards to the different events are to be submitted to the Court for in-camera review to determine if it should be disclosed or not. 11. All notes and records of any physical exam done on the subject minor or anyone else in connection with this case including andy reports, media, film, labs or any other relevant related information including notes of any exams refused or not completed. - GRANTED 12. Any information know or which could be known by the diligent actions of the State of any previous allegations of sexual misconduct or abuse made by the subject minor including information related to sexual knowledge or possible false allegations. - GRANTED FURTHER ORDERED, State's request for reciprocal discovery GRANTED; Special Public Defender will remain as counsel. Colloquy regarding trial readiness. Ms. Clemons stated she may have a scheduling issue, and if need be will find someone else to handle the case. CUSTODY 11-26-18 9:30 AM CALENDAR CALL 12-3-18 10:00 AM JURY TRIAL;

11/26/2018



All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)

Matter Heard;

Journal Entry Details:

Motion To Dismiss Counsel And To Appoint Alternate Counsel...Calendar Call Spanish Interpreter: Richard Evans. Colloquy regarding motion. Ms. Coffee stated she anticipated announcing ready, but discovery issues have come up; don't have the medical report and CPS records. Ms. Clemons stated an order should have been prepared by defense counsel if the CPS records were wanted. Court stated a subpoena will be signed. Ms. Coffee stated the medical examination is also needed. Ms. Clemons stated an order was signed, but would not be accepted by the Clerks Office; it was then faxed by the Judicial Executive Assistant; thus the delay. Court noted discovery issues remain. Ms. Coffee stated there's the medical and DNA issues, it's not believed the trial can be done in 5 days and she's not comfortable proceeding without those things; it's uncertain as to the timing of the Defendant's motion. Court noted the motion was filed November 15th. Ms. Coffee stated she's not met with the Defendant since the last hearing; they've communicated as far as announcing ready, which has been the most communication had. Colloquy regarding prior negotiations, communications between Defendant and counsel, trial readiness, missing medical reports, CPS records and the time needed to obtain them. Ms. Coffee moved for a continuance of the trial, stating it's not overflow eligible and advising it's believed the Defendant's issues are the same. Statement by Defendant regarding prior withdrawal of counsel. COURT ORDERED, trial CONTINUED; motion CONTINUED and will be addressed at the end of the calendar. Colloquy regarding issues within the Motion To Dismiss Counsel. 12-5-18 8:30 AM MOTION TO DISMISS AND TO APPOINT ALTERNATE COUNSEL 4-22-19 9:30 AM CALENDAR CALL 4-29-19 10 AM JURY TRIAL;

11/26/2018

Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.)

Matter Heard;

11/26/2018



Motion to Dismiss (9:30 AM) (Judicial Officer: Cadish, Elissa F.)

11/26/2018, 12/05/2018

Motion to Dismiss Counsel and to Appoint Alternate Counsel

Continued;

Denied;

Journal Entry Details:

Spanish Interpreter: Maria Peters. Record made by Ms. Coffee, noting the Defendant is still upset about similar issues previously discussed and ruled on by the Court; he's been given current discovery and believes new discovery has come in, which once reviewed and redacted will be provided, advising all that can be done is being done to be ready for trial and there's no reason to think the case will not be ready for trial; more specific information can be provided with an ex parte talk. Upon the inquiry of the Court, Defendant stated he still seeks to dismiss counsel, advising he's only seen counsel twice since she was appointed. Colloquy between Court, Defendant and Ms. Coffee regarding the Motion To Dismiss Counsel. Court stated findings and ORDERED, Motion To Dismiss Counsel And To Appoint Alternate Counsel DENIED; matter SET for status check to see where we are. CUSTODY 2-6-19 8:30 AM Status Check 4-22-19 9:30 AM Calendar Call 4-29-19 10:00 AM Jury Trial;

Continued;

Denied;

12/03/2018

CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.)

CASE SUMMARY

CASE NO. C-18-331026-1

Vacated

12/14/2018



Minute Order (3:00 AM) (Judicial Officer: Cadish, Elissa F.)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court received in a sealed envelope records from the Clark County Department of Family Services, pursuant to an Order of this Court filed December 4, 2018 regarding records involving the named victim's mother. After reviewing the records, the Court is disclosing all of the records received to all parties, consisting of the Certificate of Custodian of Records, the Memo and attached Court Order from the District Attorney's office to the Department of Family Services, 5 pages of documents regarding an unrelated complaint, and a CD containing two audio files related to the allegations in this case. This does not constitute a ruling on the admissibility of any disclosed records. CLERK'S NOTE: The above minute order has been distributed to: Amy A. Coffee (Deputy Special Public Defender) & Steven B. Wolfson (District Attorney);

02/04/2019



Motion to Dismiss (8:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Events: 01/10/2019 Motion to Dismiss Counsel

Motion to Dismiss Counsel and Appointment of Alternative Counsel

MINUTES



Motion to Dismiss Counsel

[18] Motion to Dismiss Counsel and Appointment of Alternative Counsel

Denied;

Journal Entry Details:

Spanish Interpreter: Maria P. Gomez. Court noted the motion to dismiss counsel was denied twice prior. Ms. Coffee stated it's the same motion, the Defendant's not been spoken with in English and she's ready for trial. COURT ORDERED, Motion to Dismiss Counsel and Appointment of Alternative Counsel DENIED. Upon the inquiry of the Court, Ms. Coffee stated she's not certain what the hearing of February 6, 2019 is for, requested it be vacated and announced she'll be ready for trial. COURT ORDERED, proceedings of February 6, 2019 VACATED. Ms. Derjavina stated the only concern is she's not the deputy on the case and should there be any concerns with the February 6th date, it will be rescheduled. Defendant requested he be allowed to be heard. COURT ORDERED, request DENIED. 4-22-19 9:30 AM CALENDAR CALL 4-29-19 10:00 AM JURY TRIAL;

Index #18

02/06/2019

CANCELED Status Check (8:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Vacated

04/03/2019



Motion to Dismiss (8:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Motion to Dismiss Counsel and Appointments of Alternative Counsel

Denied;

Journal Entry Details:

Spanish Interpreter: Carlos Calvo. Ms. Coffee advised the motions filed by the Defendant are the same and have not substantially changed; the Investigator spoke to the Defendant in Spanish and it's the same recurring issues that are important to him; ready for trial and there's no personal issues with the Defendant. Colloquy regarding trial setting. Ms. Coffee stated she's been in contact with the District Attorney, did a file review and has all discovery which has been given to the Defendant; issues are more fundamental as he does not understand how the process works. Ms. Coffee stated she's doing all she can, advising a closed hearing can be held if more specifics are needed as to trial readiness. Argument in support of motion to dismiss counsel by Defendant, noting there's no evidence of his guilt and counsel has only come to see him for an hour and 35 minutes in the last year. Court stated findings, noting this is an inadequate case in this particular situation to reject court appointed counsel and appoint other counsel and ORDERED, Motion To Dismiss Counsel and Appointment of Alternative Counsel DENIED; trial date STANDS; State's to prepare the order. CUSTODY 4-22-19 9:30 AM CALENDAR CALL 4-29-19 10:00 AM JURY TRIAL ;

04/22/2019

Motion to Enforce (8:30 AM) (Judicial Officer: Bixler, James)

Defendant's Motion to Enforce 6th Amendment Right of Self-Representation and to Dismiss Inactive and Ineffective Attorney

Denied;

CASE SUMMARY

CASE NO. C-18-331026-1

04/22/2019



All Pending Motions (8:30 AM) (Judicial Officer: Bixler, James)

Matter Heard;

Journal Entry Details:

Defendant's Motion to Enforce 6th Amendment Right of Self- Representation and to Dismiss Inactive and Ineffective Attorney...Calendar Call Spanish Interpreter: Carlos Calvo. Ms. Coffee announced she's ready for trial, there's no outstanding discovery, then Defendant filed this motion. Ms. DiGiacomo announced the State's ready, advising the case is Ms. Clemons. Argument in support of motion by Defendant. COURT ORDERED, Defendant's Motion to Enforce 6th Amendment Right of Self- Representation and to Dismiss Inactive and Ineffective Attorney DENIED; Defendant cannot represent himself. Ms. Coffee stated she's ready for trial. COURT ORDERED, case to trial April 29, 2019, 10:00 AM. Colloquy regarding the basis for the Court's ruling denying Defendant's motion to represent himself. Ms Coffee stated she has no issues with the Defendant, advising she will do all she can to help defend him. Ms. DiGiacomo stated the trial will last 6 days with 7-10 witnesses, and will go into the second week. Ms. Coffee stated it will not be a full second week of trial and will only go 1-2 days in week two. Clerk directed counsel to contact the Judicial Executive Assistant (J.E.A.) in regards to actual trial start time and logistics. CUSTODY 4-29-19 1:00 PM JURY TRIAL CLERK'S NOTE: Pursuant to the J.E.A., the Jury Trial will start April; 29, 2019, 1:00 PM.;

04/22/2019

Calendar Call (9:30 AM) (Judicial Officer: Bixler, James)

Matter Heard;

04/29/2019



Jury Trial (1:00 PM) (Judicial Officer: Bluth, Jacqueline M.)

04/29/2019-05/01/2019, 05/06/2019-05/08/2019

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Spanish Interpreter: Rafael Leal. OUTSIDE THE PRESENCE OF THE JURY: Instructions settled. Ms. Clemons moved for the filing of a Second Amended Information changing the time lines and presented argument in support there of. Argument in opposition by Ms. Coffee. Court stated findings and ORDERED, the Second Amended Information will be allowed to be filed. Second Amended Information FILED IN OPEN COURT. Instructions settled. Court canvassed the Defendant in regards to his constitutional rights as to any testimony. Defendant stated that upon the advise of counsel he will not testify. Instructions settled. IN THE PRESENCE OF THE JURY. State REST. Defense REST. Closing arguments on behalf of the State by Ms. Moors. and on behalf of the Defendant by Ms. Coffee. OUTSIDE THE PRESENCE OF THE JURY. Argument regarding slides shown and statements made by defense counsel during closing arguments and State's objections to those slides and statements. IN THE PRESENCE OF THE JURY: Closing rebuttal arguments on behalf of the State by Ms. Clemons. Alternate Jurors identified, admonished and released. At the hour of 3:45 pm, the Jury retired to commence with deliberations. OUTSIDE THE PRESENCE OF THE JURY: Ms. Clemons advised an e-mail was received that Priscilla (mother) called the investigator last night stating the Defendant called his wife, telling her Priscilla provided a video of him molesting the children, which did not happen, and now she's angry and would like them out; it's retaliatory in the opinion of the State and request his phone privileges be revoked. Ms. Coffee objected arguing what's been represented cannot be verified. COURT ORDERED, Defendant's phone privileges will not be revoked, admonishing there's still a no contact order in regards to Priscilla and the children; there's not to be any contact by phone or a third party. Defendant acknowledged his understanding. Court noted whether or not the Defendant spoke with his wife in regards to what was represented by the State, the Court can consider any evidence, including what's been represented by the State, admonishing the Defendant it's in his best interest to behave to the best of his ability. IN THE PRESENCE OF THE JURY: Spanish Interpreter: Jeff Hanks. At the hour of 5:29 pm, the Jury returned with a verdict as follows: COUNT 1- LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - NOT GUILTY COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - NOT GUILTY COUNT 3 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - GUILTY COUNT 4- SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE - GUILTY COUNT 5- LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - GUILTY Jury polled. Court THANKED AND EXCUSED the Jury. OUTSIDE THE PRESENCE OF THE JURY: Colloquy

CASE SUMMARY

CASE NO. C-18-331026-1

regarding bail. COURT ORDERED, Defendant REMANDED WITHOUT BAIL; matter REFERRED to the Division of Parole and Probation and SET for sentencing. CUSTODY 6-26-19 9:30 AM SENTENCING;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Spanish Interpreter: Rafael Leal IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). COURT ORDERED, proceedings CONTINUED to May 8th, 1:00 PM; Jurors admonished and released.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Spanish Interpreters Soledad Garcia & Rafael Lean. Colloquy regarding scheduling and NRS 51.385 hearing and the hearsay evidence sought to be introduced. Statement by Defendant regarding proceedings, noting he's not be allowed to talk and needs to be heard; attorney's have stopped him from speaking. Court noted the Defendant's spoken with Mr. Page most of the time and Ms. Coffee not been seen interrupting. Colloquy regarding Defendant's understanding of proceedings, prior counsel, waiver of preliminary hearing. Court stated the lower Court found the Defendant waived his right to a preliminary hearing and both attorneys had the opportunity to look at the waiver. Defendant requested investigations be conducted into his mental condition and mental state at that time. Court stated if counsel thought anything was wrong it would have been brought to the attention of the Court; will proceed with the NRS 51.385 hearing. Testimony and Exhibits presented (See Worksheet). Argument by Ms. Clemons in support of the admission of statements by Zayanna. Argument in opposition by Ms. Coffee. Court stated findings and ORDERED, NRS 51.385 motion GRANTED. IN THE PRESENCE OF THE JURY: Panel sworn. Opening Statements on behalf of the State by Ms. Clemons, and on behalf of the Defendant by Mr. Page. Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding timelines of acts and the Amended Information. IN THE PRESENCE OF THE JURY: Testimony and Exhibits (See Worksheet). COURT ORDERED, proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Record made by the Court regarding NRS. 178.571(2) and ruling that Ms. Washington could sit next to the victim while testifying.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters Heidi Leal, Rafael Leal. Outside the presence of other Prospective Jurors, Court and counsel addressed Prospective Juror 980 regarding the Jurors ability to serve. COURT ORDERED, Prospective Juror 980 excused. IN THE PRESENCE OF PROSPECTIVE JURORS: Voir Dire. Peremptory Challenges exercised. Jury Impaneled. IN THE PRESENCE OF THE JURY: Jury instructed by the Court. Reading of the Amended Information and Defendant's plea thereto announced. COURT ORDERED, proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding Defendant's request to address the Jurors during jury selection, proceedings, procedures, Defendant's understanding of the process, his right(s) and opportunity to testify, scheduling of the NRS 51.385 hearing.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

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Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters: Patricia Tejada, Heidi Leal, Rafael Leal. Ms. Coffee advised she was under the impression the Defendant could still take the offer; this morning Defendant spoke with Mr. Page and indicated he wanted the negotiation, State indicated the offer was rescinded. Ms. Coffee stated it was her fault for not having the correct information, advising the Court of what transpired yesterday. Ms. Clemons informed the Court of the offer, advising it's the State's intention that was once trial started the offer's off the table. Court noted the offer and stated when Defendant was asked if negotiations were heard, Defendant answered yes and he will not take the deal; at that time the offer was taken off the table once the Jury process started; there was miscommunication and defense counsel thought the offer was still available and it's not at this time; Defendant's willing to take the offer, but it's no longer available once the Jury process started. Upon inquiry of the Court, Defendant acknowledged his understanding of matters and is talking with Mr. Page about it. Upon the inquiry of the Court, Ms. Clemons stated there's no offers on the table. Outside the presence of other Prospective Jurors, Court and counsel separately addressed Prospective Jurors 803, 878, 879 regarding their ability to serve. COURT ORDERED, Prospective Jurors 803, 878, 879 excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding scheduling. COURT ORDERED, Prospective Juror 759 excused. Outside presence of other Prospective Jurors, Court and counsel addressed Prospective Juror 761 regarding their ability to serve. COURT ORDERED, 761 excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Prospective Jurors 853, 784, 980. ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters: Soledad Garcia and Maria P. Gomez. Colloquy regarding Defendant's eye medication, how/or why it affects his hearing, options to remedy Defendant's hearing difficulties. Upon the inquiry of the Court, Defendant stated an offer was discussed with counsel, rejected negotiations and want a trial. Colloquy between Court and Defendant regarding Defendant's prior request for self representation and his comfort with counsel going forward. Colloquy between Court and counsel regarding defense subpoenaed Race and Ethnicity Report. Arguments regarding objections to the report by Ms. Coffee, objecting to the panel at large and requesting the presence of the Jury Commissioner. Matter submitted by Ms. Clemons. Jury Commissioner Mariah Witt sworn and testified. Arguments by Mr. Afshar and Ms. Coffee. Court stated findings and ORDERED, Motion for New Venire DENIED. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Introductory comments by the Court. State's introduction of case by Ms. Clemons and on behalf of the Defendant by Ms. Coffee. Roll of Prospective Jurors called and sworn. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Prospective Jurors to be excused. At the request of counsel, Court requested the Interpreter speak up so the Defendant can hear and if he cannot hear, Defendants to let Mr. Page know. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Coffee advised there'll be potential challenges for cause that can wait until follow-up questioning; nothing is being waived at this point. ;

06/24/2019



Motion to Dismiss (9:30 AM) (Judicial Officer: Bluth, Jacqueline M.)

Motion to Dismiss Counsel and Appoint Alternate Counsel

Denied;

Journal Entry Details:

Spanish Interpreter: Soledad Garcia Mr. Page stated he's spoken with the Defendant briefly and the specific concerns is he's filed notice to the Nevada Supreme Court seeking an appeal; he's been told it's premature and as soon as he's been sentenced a notice of appeal will be filed. Defendant moved for the dismissal of counsel and presented argument in support thereof. Court stated findings and ORDERED, Motion To Dismiss Counsel and Appoint Alternate Counsel DENIED; State's to prepare the order. CUSTODY 6-26-19 9:30 AM SENTENCING;

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06/26/2019

**Sentencing (9:30 AM)** (Judicial Officer: Bluth, Jacqueline M.)

Defendant Sentenced;

Journal Entry Details:

Spanish Interpreter: Carola Anderson Colloquy regarding counts. Argument by Ms. Clemons. Defendant requested the Court accept his appeal, advising he would like to represent himself. Court stated for today's purposes it's just sentencing; the Court has nothing to do with the Defendant's appeal; counsel will argue as to sentencing. Defendant requested a continuance to understand all that's here. Argument by Mr. Page, advising they've gone through the important parts of the Presentence Investigation Report (PSI) and all has been explained to the Defendant. Defendant stated there's a lot of things counsel did not know to explain to him. Colloquy between Court and Defendant in regards to Defendant's concerns within the PSI. Defendant stated pretty much everything has not been explained. Mr. Page stated they went over it all and the Defendant never said he did not understand what's there, or ask any additional questions. Record made by the Court, noting the Defendant's been given at least 10 opportunities to tell the Court what's not understood in the PSI and refuses to do so; the records to reflect that counsel went to the jail and went through everything with the Defendant and at no point and time did the Defendant ask any questions in regards to his inability to understand; the Court's satisfied this is a long list of tactics to continue to push this out as he does not like what's taking place with the case; the Court's comfortable proceeding with sentencing. By virtue of the Jury Verdict, Defendant BENAVIDES ADJUDGED GUILTY OF COUNTS, 3 AND 5, LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F), and COUNT 4 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers \$3.00 DNA Collection fee, \$250.00 Indigent Defense Civil Assessment fee and \$3,646.40 restitution payable to Clark County Social Services, as to COUNT 3, Defendant SENTENCED to LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER TEN (10) YEARS, as to COUNT 4 LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER THIRTY-FIVE (35) YEARS CONSECUTIVE TO COUNT 3, and as to COUNT 5, LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER TEN (10) YEARS CONSECUTIVE TO COUNT 4; FIVE HUNDRED FIVE (505) DAYS credit for time served. FURTHER ORDERED, a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment; Defendant's to register as a sex offender in accordance with NRS 179D.460 within 48 hours after sentencing or upon release from any term of probation, parole or imprisonment. Bond if any EXONERATED. NDC;

08/28/2019

**Appointment of Counsel (9:30 AM)** (Judicial Officer: Bluth, Jacqueline M.)*Appellate Counsel*

Granted;

Journal Entry Details:

Defendant not present. Appearing on behalf of the Special Public Defender, Attorney Melinda Simpkins. Court noted the Defendant's in the Nevada Department of Corrections (NDC), the case was handled by the Special Public Defender and appellant counsel is being appointed. Upon the inquiry of the Court, Mr. Gersten CONFIRMED as appellant counsel. Ms. Simpkins stated the file is being handed over to counsel. Mr. Gersten stated it's been received. NDC;

01/06/2021

**Motion (11:00 AM)** (Judicial Officer: Bluth, Jacqueline M.)*Motion to Withdraw Counsel*

Granted;

Journal Entry Details:

Court stated findings and ORDERED, Motion To Withdraw Counsel GRANTED; filed materials should be returned to the Defendant. NDC CLERK'S NOTE: The above minute order has been distributed via e-mail to: Attorney Joseph Z. Gersten. kar 1/11/21;

02/16/2022

**Motion (8:30 AM)** (Judicial Officer: Villani, Michael)*Motion to Obtain All Transcripts Related to Case*

Matter Heard;

Journal Entry Details:

Joseph Gersten, Esq. and Defendant not present. Court noted Defendant has filed a Motion to Obtain Transcripts and does not identify why he had appealed this case. Court further noted his conviction had been affirmed in November 2020. COURT ORDERED, Mr. Gersten to send

CASE SUMMARY

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a copy of the file to the Defendant and status check SET for the filing of the index. Court advised the status check would be vacated once the index was filed. NDC 3/9/2022 9:30 AM STATUS CHECK: INDEX CLERK'S NOTE: Mr. Gersten was notified by e-mail of the Court's Order on 2/24/2022. SA;

03/04/2022



Minute Order (3:00 AM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

Status Check: Index set to come before this Court on the March 9, 2022 Calendar at 9:30 A.M. COURT NOTES, Index of Documents filed on March 4, 2022. COURT ORDERED, matter VACATED. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve/ SA 3/4/2022;

03/09/2022

CANCELED Status Check: Status of Case (9:30 AM) (Judicial Officer: Gibbons, Mark)

Vacated

Status Check: Index

Heather S. Linn
CLERK OF THE COURT

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
Deputy District Attorney
Nevada Bar #014408
8200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CRISTOBAL BENAVIDES,
#1219435
Defendant.

CASE NO: **A-22-849801-W**
C-18-331026-1

DEPT NO: **XVII**

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: **MAY 25, 2022**
TIME OF HEARING: **8:30 AM**

THIS CAUSE presented before the Honorable MICHAEL VILLANI, District Judge,
on the 25th day of May, 2022; Defendant not present, IN PROPER PERSON; Respondent
represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through
Deputy District Attorney BRIANNA STUTZ; and having considered the matter, including
briefs, transcripts, and documents on file herein, the Court makes the following Findings of
Fact and Conclusions of Law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On February 27, 2018, Petitioner Cristobal Benavides (hereinafter "Petitioner") was
4 charged by way of Amended Criminal Complaint with four (4) counts of Lewdness With A
5 Child Under The Age Of 14 (Category A Felony - NRS 201.230 - NOC 50975) and one (1)
6 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony -
7 NRS 200.364, 200.366 - NOC 50105).

8 Pursuant to a plea agreement negotiated by his private counsel, Mr. Bret Whipple,
9 Petitioner unconditionally waived his right to a preliminary hearing in Justice Court and was
10 bound over to District Court on April 3, 2018.

11 On April 4, 2018, the State filed an Information, charging Petitioner with one (1) count
12 of Coercion Sexually Motivated (Category B Felony - NRS 207.190, 175.547, 207.193 - NOC
13 55532) and one (1) count of Attempt Lewdness With A Child Under The Age Of 16 (Category
14 C Felony - NRS 201.230, 193.330 - NOC 60321).

15 However, at his arraignment in District Court on April 23, 2018, Petitioner withdrew
16 from the plea agreement and Mr. Bret Whipple withdrew as Petitioner's counsel. The Special
17 Public Defender was appointed as Petitioner's counsel.

18 The State then filed an Amended Information on April 30, 2018, charging Petitioner
19 with four (4) counts of Lewdness With A Child Under The Age Of 14 (Category A Felony -
20 NRS 201.230 - NOC 50975) and one (1) count of Sexual Assault With A Minor Under
21 Fourteen Years Of Age (Category A Felony - NRS 200.364, 200.366 - NOC 50105).¹

22 On April 29, 2019, Petitioner proceeded to trial on the Amended Information.² Deputy
23 Special Public Defenders Ms. Amy Coffee and Mr. Daniel Page served as Petitioner's trial
24 counsel. On May 9, 2019, after nine (9) days of trial, the jury found Petitioner guilty of two
25 (2) counts of Lewdness With A Child Under The Age Of 14 (Counts 3 and 5) and one (1)

26 ¹ Pursuant to the plea agreement, two (2) lewdness charges in the Amended Criminal Complaint were to be dismissed as
27 part of the negotiated plea agreement, but the State reinstated these charges after Petitioner withdrew from the plea
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between June 26, 2017 and July 17, 2017.

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2 found Petitioner not guilty of two (2) counts of Lewdness With A Child Under The Age Of 14
3 (Counts 1 and 2).

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5 of parole after fifty-five (55) years, with five hundred five (505) days credit for time served.
6 Additionally, a sentence of lifetime supervision was imposed to commence upon release from
7 any term of probation, parole, or imprisonment. Petitioner's Judgment of Conviction was filed
8 on July 8, 2019.

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10 Remittitur issued on November 16, 2020.

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12 "Petition") on March 16, 2022. The State filed a response on April 27, 2022. Petitioner did not
13 file a reply. On May 25, 2022, this Court denied the Petition for the following reasons.

14 **STATEMENT OF FACTS**

15 Petitioner's Presentence Investigation Report (hereinafter "PSI") summarized the facts
16 of the crime as follows:

17 On July 19, 2017, officers responded to a local hospital in reference
18 to Child Molestation. The victim's mother informed officers that her
19 family was staying at her boyfriend's parents' home. On July 17,
20 2017, her boyfriend's father, identified as the defendant, Cristobal
21 Benavides, suggested her children watch a DVD in the bedroom. Her
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25 On July 27, 2017, during a forensic interview the victim stated, "My
26 dad's dad did something bad to me" after being asked why she was
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The victim stated it hurt when the defendant’s fingers were in her private, “it felt like something was biting me,” and she felt the pain, “in the middle of my private, like, where I pee.” When her sister left the room for some water, the defendant kissed her on her private over her shorts. The victim stated this was the third incident of Mr. Benavides touching her.

The victim described the first incident in which Mr. Benavides touched her. The victim was in the bedroom alone with Mr. Benavides. She was watching a show on the floor then moved to the bed. Mr. Benavides made a motion she took to mean “come over here.” She went over and he pulled her arm so she was close to him. She was lying on the bed and he was sitting. He then squished her private over her pajama shorts. She did not know what made him stop touching her private. In the second incident, the victim and her older sister were in the defendant’s room trying to take a nap. The victim was lying on her side and Mr. Benavides was behind her touching her on the side like he was trying to get her closer to him. He touched her butt, then her side, then squished her private with is hand, over her clothes.

PSI 5.

ANALYSIS

I. THE PETITION IS PROCEDURALLY TIME-BARRED AND PETITIONER HAS FAILED TO SHOW GOOD CAUSE OR PREJUDICE TO OVERCOME PROCEDURAL BARS

The Petition is procedurally time-barred, as it was not filed within the one-year statutory limit after the Nevada Court of Appeals issued its remittitur. Additionally, Petitioner has failed to show good cause or prejudice to overcome procedural bars. Therefore, this Court denies the Petition.

A. NRS 34.726(1): Limitations On Time To File

As aptly explained by NRS 34.726(1):

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur. For the purposes of this subsection, good cause

for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

NRS 34.726(1)(a)(b).

The one-year time bar of NRS 34.726(1) is strictly construed. Gonzales v. State, 118 Nev. 590, 593-596, 53 P.3d 901, 902-904 (2002) (rejected post-conviction petition filed two days late pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). The Nevada Supreme Court has held that NRS 34.726(1) should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). The one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

Petitioner failed to file prior to the one-year deadline. Remittitur issued from Petitioner’s appeal on November 16, 2020. As such, Petitioner had until November 16, 2021 to file a timely habeas petition. Petitioner filed the instant Petition on March 16, 2022.³ Accordingly, the Petition was filed four (4) months after Petitioner’s one-year deadline. Therefore, the Petition is time-barred, and this Court must deny the Petition absent a showing of good cause and prejudice.

B. Application of Procedural Bars is Mandatory

The Nevada Supreme Court has held that the district court has a *duty* to consider whether post-conviction claims are procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court found that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory,” noting:

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³ The Petition was received by the district court on March 3, 2022. Petition at 1. It was not filed until March 16, 2022. Id. NRS 34.726 says a petition “must be filed within 1 year” of remittitur issuing, but even if the earlier received date controlled the Petition is untimely.

1 Habeas corpus petitions that are filed many years after conviction are
2 an unreasonable burden on the criminal justice system. The necessity
3 for a workable system dictates that there must exist a time when a
criminal conviction is final.

4 Id. Additionally, the Court held that procedural bars “cannot be ignored [by the district court]
5 when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
6 has granted no discretion to the district courts regarding whether to apply the statutory
7 procedural bars; the rules must be applied.

8 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).
9 There the Court ruled that the defendant’s petition was “untimely, successive, and an abuse of
10 the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324, 307
11 P.3d at 326. Accordingly, the Court reversed the district court and ordered the defendant’s
12 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23. The
13 procedural bars are so fundamental to the post-conviction process that they must be applied
14 by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

15 **C. Petitioner Has Failed To Show Good Cause or Prejudice to Overcome**
16 **Procedural Bars**

17 Petitioner’s failure to prove good cause or prejudice requires the dismissal of the
18 Petition. To avoid procedural default, a petitioner has the burden of pleading and proving
19 specific facts that demonstrate good cause for his failure to present his claim in earlier
20 proceedings or comply with the statutory requirements. See Hogan, 109 Nev. at 959-60, 860
21 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305. “To establish good cause, appellants
22 *must* show that an impediment external to the defense prevented their compliance with the
23 applicable procedural rule.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
24 (emphasis added); see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003);
25 Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external impediment could be “that the
26 factual or legal basis for a claim was not reasonably available to counsel, or that ‘some
27 interference by officials’ made compliance impracticable.” Hathaway, 119 Nev. at 251, 71
28 P.3d at 506 (*quoting Murray v. Carrier*, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)); see

1 also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (*citing* Harris v. Warden, 114 Nev. 956, 959-
2 60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the petition must not be the fault of
3 the petitioner. NRS 34.726(1)(a).

4 The Nevada Supreme Court has clarified that, a petitioner cannot attempt to
5 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
6 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71
7 P.3d at 506; (*quoting* Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the
8 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel
9 to forward a copy of the file to a petitioner have been found not to constitute good cause. See
10 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as
11 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,
12 111 Nev. 335, 890 P.2d 797 (1995).

13 Further, a petitioner raising good cause to excuse procedural bars must do so within a
14 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
15 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see
16 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506–07 (stating that a claim reasonably
17 available to the petitioner during the statutory time period did not constitute good cause to
18 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good
19 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S. 446,
20 453 120 S.Ct. 1587, 1592 (2000).

21 To demonstrate prejudice to overcome the procedural bars, a petitioner must show “not
22 merely that the errors of [the proceeding] created possibility of prejudice, but that they worked
23 to his actual and substantial disadvantage, in affecting the state proceedings with error of
24 constitutional dimensions.” Hogan v Warden, 109 Nev. at 960, 860 P.2d at 716 (internal
25 quotation omitted), Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545.

26 Here, Petitioner has failed to establish any good cause for why these claims should be
27 considered. Petitioner has not alleged, much less shown, that he has suffered an impediment
28 external to the defense. Nor has Petitioner shown a new factual or legal basis for these claims

1 that was unavailable at the time of his direct appeal. See Clem v. State, 119 Nev. 615, 621, 81
2 P.3d 521, 525 (2003). Accordingly, Petitioner has failed to show good cause or prejudice.

3 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner
4 had all the facts and law necessary to timely allege his four (4) claims. For instance,
5 Petitioner's first claim alleges ineffective assistance of trial and appellate counsel regarding
6 jury instructions and trial strategies, and all of the facts and law necessary to make the claim
7 in a timely manner have been available since the jury trial concluded on May 9, 2019, or since
8 remittitur issued from the appeal on November 16, 2020. See Petition 6. Similarly, Petitioner's
9 second claim alleges ineffective assistance of appellate counsel, and all the facts and law
10 necessary to make the claim in a timely manner have been available since remittitur issued.
11 See Petition 7. Petitioner's third claim alleges ineffective assistance of trial counsel for failing
12 to file a motion and call a witness, and all the facts and law necessary to make the claim in a
13 timely manner have likewise been available since the jury trial concluded. See Petition 8.
14 Lastly, Petitioner's fourth claim is cumulative error; however, the Nevada Supreme Court has
15 never held that instances of ineffective assistance of counsel can be cumulated. Even if it could,
16 it does not demonstrate good cause. See Petition 9. Petitioner was able to timely file the
17 Petition but did not. The Petition is procedurally time-barred and Petitioner has failed to show
18 good cause or prejudice to overcome procedural bars.

19 **ORDER**

20 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction
21 Relief shall be and is DENIED.

22 Dated this 2nd day of June, 2022

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

25 BY

26 
JOHN AFSHAR
27 Deputy District Attorney
Nevada Bar #14408

for

CCB 051 0074 B4AC
David Barker
District Court Judge

28 hjc/SVU

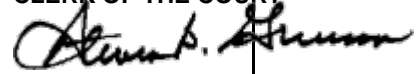
1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Cristobal Benavides, Plaintiff(s) | CASE NO: A-22-849801-W
7 vs. | DEPT. NO. Department 17
8 Nevada State of, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CRISTOBAL BENAVIDES,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-18-331026-1

Dept No: XVII

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on June 2, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on June 6, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 6 day of June 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Cristobal Benavides # 1219435	Joseph Z. Gersten, Esq.
P.O. Box 650	9680 W. Tropicana Ave., #146
Indain Springs, NV 89070	Las Vegas, NV 89147

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
Deputy District Attorney
Nevada Bar #014408
8200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CRISTOBAL BENAVIDES,
#1219435
Defendant.

CASE NO: **A-22-849801-W**
C-18-331026-1

DEPT NO: **XVII**

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: **MAY 25, 2022**
TIME OF HEARING: **8:30 AM**

THIS CAUSE presented before the Honorable MICHAEL VILLANI, District Judge,
on the 25th day of May, 2022; Defendant not present, IN PROPER PERSON; Respondent
represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through
Deputy District Attorney BRIANNA STUTZ; and having considered the matter, including
briefs, transcripts, and documents on file herein, the Court makes the following Findings of
Fact and Conclusions of Law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On February 27, 2018, Petitioner Cristobal Benavides (hereinafter "Petitioner") was
4 charged by way of Amended Criminal Complaint with four (4) counts of Lewdness With A
5 Child Under The Age Of 14 (Category A Felony - NRS 201.230 - NOC 50975) and one (1)
6 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony -
7 NRS 200.364, 200.366 - NOC 50105).

8 Pursuant to a plea agreement negotiated by his private counsel, Mr. Bret Whipple,
9 Petitioner unconditionally waived his right to a preliminary hearing in Justice Court and was
10 bound over to District Court on April 3, 2018.

11 On April 4, 2018, the State filed an Information, charging Petitioner with one (1) count
12 of Coercion Sexually Motivated (Category B Felony - NRS 207.190, 175.547, 207.193 - NOC
13 55532) and one (1) count of Attempt Lewdness With A Child Under The Age Of 16 (Category
14 C Felony - NRS 201.230, 193.330 - NOC 60321).

15 However, at his arraignment in District Court on April 23, 2018, Petitioner withdrew
16 from the plea agreement and Mr. Bret Whipple withdrew as Petitioner's counsel. The Special
17 Public Defender was appointed as Petitioner's counsel.

18 The State then filed an Amended Information on April 30, 2018, charging Petitioner
19 with four (4) counts of Lewdness With A Child Under The Age Of 14 (Category A Felony -
20 NRS 201.230 - NOC 50975) and one (1) count of Sexual Assault With A Minor Under
21 Fourteen Years Of Age (Category A Felony - NRS 200.364, 200.366 - NOC 50105).¹

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23 applicable procedural rule.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
24 (emphasis added); see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003);
25 Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external impediment could be “that the
26 factual or legal basis for a claim was not reasonably available to counsel, or that ‘some
27 interference by officials’ made compliance impracticable.” Hathaway, 119 Nev. at 251, 71
28 P.3d at 506 (*quoting Murray v. Carrier*, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)); see

1 also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (*citing* Harris v. Warden, 114 Nev. 956, 959-
2 60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the petition must not be the fault of
3 the petitioner. NRS 34.726(1)(a).

4 The Nevada Supreme Court has clarified that, a petitioner cannot attempt to
5 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
6 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71
7 P.3d at 506; (*quoting* Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the
8 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel
9 to forward a copy of the file to a petitioner have been found not to constitute good cause. See
10 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as
11 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,
12 111 Nev. 335, 890 P.2d 797 (1995).

13 Further, a petitioner raising good cause to excuse procedural bars must do so within a
14 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
15 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see
16 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506–07 (stating that a claim reasonably
17 available to the petitioner during the statutory time period did not constitute good cause to
18 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good
19 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S. 446,
20 453 120 S.Ct. 1587, 1592 (2000).

21 To demonstrate prejudice to overcome the procedural bars, a petitioner must show “not
22 merely that the errors of [the proceeding] created possibility of prejudice, but that they worked
23 to his actual and substantial disadvantage, in affecting the state proceedings with error of
24 constitutional dimensions.” Hogan v Warden, 109 Nev. at 960, 860 P.2d at 716 (internal
25 quotation omitted), Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545.

26 Here, Petitioner has failed to establish any good cause for why these claims should be
27 considered. Petitioner has not alleged, much less shown, that he has suffered an impediment
28 external to the defense. Nor has Petitioner shown a new factual or legal basis for these claims

1 that was unavailable at the time of his direct appeal. See Clem v. State, 119 Nev. 615, 621, 81
2 P.3d 521, 525 (2003). Accordingly, Petitioner has failed to show good cause or prejudice.

3 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner
4 had all the facts and law necessary to timely allege his four (4) claims. For instance,
5 Petitioner's first claim alleges ineffective assistance of trial and appellate counsel regarding
6 jury instructions and trial strategies, and all of the facts and law necessary to make the claim
7 in a timely manner have been available since the jury trial concluded on May 9, 2019, or since
8 remittitur issued from the appeal on November 16, 2020. See Petition 6. Similarly, Petitioner's
9 second claim alleges ineffective assistance of appellate counsel, and all the facts and law
10 necessary to make the claim in a timely manner have been available since remittitur issued.
11 See Petition 7. Petitioner's third claim alleges ineffective assistance of trial counsel for failing
12 to file a motion and call a witness, and all the facts and law necessary to make the claim in a
13 timely manner have likewise been available since the jury trial concluded. See Petition 8.
14 Lastly, Petitioner's fourth claim is cumulative error; however, the Nevada Supreme Court has
15 never held that instances of ineffective assistance of counsel can be cumulated. Even if it could,
16 it does not demonstrate good cause. See Petition 9. Petitioner was able to timely file the
17 Petition but did not. The Petition is procedurally time-barred and Petitioner has failed to show
18 good cause or prejudice to overcome procedural bars.

19 **ORDER**

20 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction
21 Relief shall be and is DENIED.

22 Dated this 2nd day of June, 2022

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

25 BY

26 
JOHN AFSHAR
27 Deputy District Attorney
Nevada Bar #14408

for

CCB 051 0074 B4AC
David Barker
District Court Judge

28 hjc/SVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Cristobal Benavides, Plaintiff(s) | CASE NO: A-22-849801-W
7 vs. | DEPT. NO. Department 17
8 Nevada State of, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 05, 2018

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

April 05, 2018 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Sharyne Suehiro
Dauriana Simpson

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Benavides, Cristobal Defendant
Whipple, Bret O Attorney

JOURNAL ENTRIES

- Deputized Law Clerk, Ashley Lacher, present on behalf of the State. Michelle Roth, Spanish Interpreter, also present.

Mr. Whipple stated additional time is need to go over negotiations with Deft. and requested a continuance. COURT ORDERED matter CONTINUED to the assigned department.

CUSTODY

04/23/18 8:30 AM ARRAIGNMENT CONTINUED (DEPT 6)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 23, 2018**

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

April 23, 2018 8:30 AM Arraignment Continued

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Holthus, Mary Kay	Attorney
	Kierny, Carli L.	Attorney
	State of Nevada	Plaintiff
	Whipple, Bret O	Attorney

JOURNAL ENTRIES

- Spanish Interpreter: Alex Andrade.

Court noted proceedings were continued from Arraignment Court. Mr. Whipple advised the Defendant was having hearing issues in Arraignment Court and proceedings were moved up here. Mr. Whipple stated the Defendant would like to go trial, but he's not been retained for trial and moved to withdraw. Statement by Defendant advising there's evidence he was in the hospital for 3 days due to medications that cause him anxiety, and he was under the influence of medications while in Court and wanted to ask the Court for a Preliminary Hearing, which was not granted. Court noted the understanding the Defendant waived the Preliminary Hearing to come up to District Court. Defendant stated that was not right, as he only had a few minutes with counsel. Ms. Clemons advised the Court of the offer made to the Defendant. Court inquired if the Defendant was aware of the offer.

Defendant stated he was not well due to the medications, the offer was understood and rejected, and requested a Public Defender (P.D.) and that the Court consider the health issues he had at the time. Ms. Clemons stated an Amended Information will be filed due to the rejection of the offer. Given the Defendant is not proceeding with the plea agreement, COURT ORDERED, Brett Whipple WITHDRAWN as counsel; Defendant is to complete the financial form to determine if he's indigent and qualifies for the assistance of appointed counsel; proceedings TRAILED.

MATTER RECALLED:

Present on behalf of the State of Nevada, Mary Kay Holthus. Colloquy regarding the financial form completed by the Defendant. Based upon the completed paperwork, Court stated it appears the Defendant's indigent. Ms. Kierny advised a conflict check has been completed and the P.D. can accept the appointment; Defendant is willing to waive. Court stated an Amended Information is needed and ORDERED, P.D. APPOINTED; proceedings CONTINUED.

CUSTODY

4-30-18 8:30 AM ARRAIGNMENT CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 30, 2018

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

April 30, 2018 8:30 AM Arraignment Continued

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Graham, Elana L.	Attorney
	Schwartz, Jennifer L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Alicia Herrera

Amended Information FILED IN OPEN COURT. Ms. Schwartz advised the file was just received, she's not had an opportunity to speak with the Defendant and requested a continuance. There being no opposition, COURT SO ORDERED.

CUSTODY

5-7-18 8:30 AM ARRAIGNMENT CONTINUED

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 07, 2018

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

May 07, 2018	8:30 AM	Arraignment Continued
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HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Schwartz, Jennifer L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Maria Peters

CONFERENCE AT BENCH.

Court noted the understanding that after a review of the file the Public Defender (P.D.) has determined there is a conflict; they've represented a witness in the case and new counsel is needed. COURT ORDERED, proceedings CONTINUED for confirmation of counsel.

CUSTODY

5-14-18 8:30 AM ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL

CLERK'S NOTE: Drew Christensen notified of calendared proceedings.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2018

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

May 14, 2018 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL

Spanish Interpreter: Mario Torres

Ms. Coffee confirmed the Special Public Defender as counsel. COURT SO ORDERED. Defendant BENAVIDES ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY (60) DAY RULE. COURT ORDERED, matter SET for trial.

CUSTODY

11-26-18 9:30 AM CALENDAR CALL

12-3-18 10:00 AM JURY TRIAL

PRINT DATE: 09/08/2022

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Minutes Date: April 05, 2018

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 01, 2018

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

October 01, 2018 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel...Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest

Spanish Interpreter: Irma Sanchez.

Matters submitted by Ms. Coffee. Court noted a hearing outside the present of the State will be needed to address the motion to dismiss counsel. Upon the inquiry of the Court Defendant stated he still is looking to dismiss the Special Public Defender as this attorney is not helping him. COURT ORDERED, proceedings SEALED for a hearing outside the presence of the State, and with the only parties being present are the Defendant and counsel, the interpreter, Court staff and security personnel.

PROCEEDINGS ON THE RECORD.

PRINT DATE: 09/08/2022

Page 9 of 43

Minutes Date: April 05, 2018

Ms. Clemons present on behalf of the State. Court noted the Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel was DENIED and a status check has been scheduled October 31st to determine how things are going with counsel. Argument in support of Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest/monitoring by Ms. Coffee; there's no INS hold, he has employment and family. Argument in opposition by Ms. Clemons, noting \$100,000.00 is appropriate. Ms. Coffee argued \$100,000.00 is clearly beyond the Defendant's means. Court stated findings and ORDERED, Defendant's Motion for Release on Own Recognizance or, in the Alternative, on House Arrest DENIED.

CUSTODY

10-31-18 8:30 AM STATUS CHECK: COUNSEL

1-2-19 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 31, 2018**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

October 31, 2018 8:30 AM Status Check

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Coffee, Amy A.	Attorney
	Scheible, Melanie L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Jeff Hanks.

Ms. Coffee stated she was not able to visit the Defendant and get things done that she needed be done, advising a discovery motion was filed, is calendared November 5th and requested a continuance of proceeding until Monday, stating prior to that she will go and see the Defendant. Defendant stated it's believed his rights have been violated in 8 different ways that he would like to mention to the Court. Court stated if a hearing outside the presence of the State is necessary, it cannot happen now. Ms. Coffee stated she will speak with the Defendant, advising 1 of the issues is prior counsel waived up without adequate communication with the Defendant, who felt he was entitled to a preliminary hearing; the situation has been explained to the Defendant that it's a limited hearing, matters will be discussed with him along with his 8 issues and if he would like to pursue it, he can. COURT ORDERED, matter CONTINUED; Ms. Coffee is to go and meet with the Defendant to discuss his issues and any issues to be raised, at which time the Court will hear those issues.

CUSTODY

11-5-18 8:30 AM Status Check: Counsel...Defendant's Motion For Discovery

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 05, 2018

C-18-331026-1	State of Nevada
	vs
	Cristobal Benavides

November 05, 2018 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Motion for Discovery...State's Response to Defendant's Motion For Discovery and State's Counter- Motion for Reciprocal Discovery...Status Check: Counsel

Spanish Interpreter: Ricardo Pico

Ms. Coffee stated she met with the Defendant Friday and talked about many things, but there's a recurring issue as to prior counsel Brett Whipple waiving up, at which time it's not thought there was great communication; that being said, the Defendant has been told he's not getting the Preliminary Hearing back; as to the Discovery Motion, a file review was conducted and issues about outstanding discovery were discussed; ready to proceed to trial, but am not certain what the Defendant's personal feelings are with me representing him. Defendant stated he always wanted a Preliminary Hearing

and did not waive it or sign anything. Court noted there was a Preliminary Hearing and nothing had to be signed. Defendant stated when he appeared in Court he was under the influence of some medications and was not under a normal condition to take a legal plea. Court stated that no matter who the attorney is, the case is not going back to Justice Court. Defendant stated his rights have been violated and he needs to file a motion to get another attorney. Court noted there's no legitimate basis to obtain other counsel and no other attorney will get the case back to Justice Court. If that's the case, Defendant requested he be heard in regards to his rights being violated. Court stated it's been heard about the Defendant's rights being violated; the case still is not going back to Justice Court. Colloquy regarding Defendant's prior own recognizance release motion. Court stated findings and ORDERED, Defendant's request for an own recognizance release is still DENIED and there's no basis for the appointment of new counsel. Continued argument in support of dismissal of counsel by Defendant. Ms. Coffee stated discovery has been reviewed with the Defendant and all that she can send to him that's appropriate has been sent; it's not translated as there's no funds for that; someone can interpret it for him; discovery on the case has been gone over in detail. Court stated findings and ORDERED, the motion to dismiss counsel remains DENIED.

Arguments by counsel regarding Defendant's Motion for Discovery, Court stated findings and ORDERED the following:

1. All statements of the defendant. - GRANTED
2. All statements of witnesses and/or potential witnesses contacted during investigation of this matter. - GRANTED
3. All law enforcement records that contain any relevant and/or material information related to this case. - GRANTED
4. All crime scene analysis and forensic testing. - GRANTED
5. All relevant report, if any, chain of custody, including report of any destruction of any evidence in the case. - GRANTED
6. All updated witness contact information, to include last known address(es) and phone number(s) - GRANTED
7. Disclosure of any and all compensation, express or implied, promises of favorable treatment or leniency or any other benefit that any of the State' witnesses may of have received in exchange for their cooperation with this or any related prosecution. - GRANTED
8. Any and all impeachment information, of which the prosecution is aware, located in the personnel files of any police witness called to testify at trial or any pretrial hearing. - GRANTED; State is to

review the personnel files of law enforcement witnesses to be called and should they find anything affecting that persons credibility, it should be disclosed to defense counsel, or provided to the Court for in-camera review to determine if it should be disclosed.

9. Criminal history information on any witness, actual or potential and/or any other information relevant to impeachment. - GRANTED; State is to provide any felony convictions or convictions of crimes of moral turpitude within the last 10 years; DENIED beyond that.

10. Any Department of Child and Family Services and/or Child Protective Service (or equivalent department in another State) records material to the instant case, including any and all notes of caseworkers or their agents or assistants. GRANTED; records in regards to the different events are to be submitted to the Court for in-camera review to determine if it should be disclosed or not.

11. All notes and records of any physical exam done on the subject minor or anyone else in connection with this case including andy reports, media, film, labs or any other relevant related information including notes of any exams refused or not completed. - GRANTED

12. Any information know or which could be known by the diligent actions of the State of any previous allegations of sexual misconduct or abuse made by the subject minor including information related to sexual knowledge or possible false allegations. - GRANTED

FURTHER ORDERED, State's request for reciprocal discovery GRANTED; Special Public Defender will remain as counsel. Colloquy regarding trial readiness. Ms. Clemons stated she may have a scheduling issue, and if need be will find someone else to handle the case.

CUSTODY

11-26-18 9:30 AM CALENDAR CALL

12-3-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 26, 2018**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

November 26, 2018 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Motion To Dismiss Counsel And To Appoint Alternate Counsel...Calendar Call

Spanish Interpreter: Richard Evans.

Colloquy regarding motion. Ms. Coffee stated she anticipated announcing ready, but discovery issues have come up; don't have the medical report and CPS records. Ms. Clemons stated an order should have been prepared by defense counsel if the CPS records were wanted. Court stated a subpoena will be signed. Ms. Coffee stated the medical examination is also needed. Ms. Clemons stated an order was signed, but would not be accepted by the Clerks Office; it was then faxed by the Judicial Executive Assistant; thus the delay. Court noted discovery issues remain. Ms. Coffee stated there's the medical and DNA issues, it's not believed the trial can be done in 5 days and she's not comfortable proceeding without those things; it's uncertain as to the timing of the Defendant's motion. Court noted the motion was filed November 15th. Ms. Coffee stated she's not met with the

Defendant since the last hearing; they've communicated as far as announcing ready, which has been the most communication had. Colloquy regarding prior negotiations, communications between Defendant and counsel, trial readiness, missing medical reports, CPS records and the time needed to obtain them. Ms. Coffee moved for a continuance of the trial, stating it's not overflow eligible and advising it's believed the Defendant's issues are the same. Statement by Defendant regarding prior withdrawal of counsel. COURT ORDERED, trial CONTINUED; motion CONTINUED and will be addressed at the end of the calendar. Colloquy regarding issues within the Motion To Dismiss Counsel.

12-5-18 8:30 AM MOTION TO DISMISS AND TO APPOINT ALTERNATE COUNSEL

4-22-19 9:30 AM CALENDAR CALL

4-29-19 10 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 05, 2018

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

December 05, 2018 8:30 AM Motion to Dismiss

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Coffee, Amy A.	Attorney
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Maria Peters.

Record made by Ms. Coffee, noting the Defendant is still upset about similar issues previously discussed and ruled on by the Court; he's been given current discovery and believes new discovery has come in, which once reviewed and redacted will be provided, advising all that can be done is being done to be ready for trial and there's no reason to think the case will not be ready for trial; more specific information can be provided with an ex parte talk. Upon the inquiry of the Court, Defendant stated he still seeks to dismiss counsel, advising he's only seen counsel twice since she was appointed. Colloquy between Court, Defendant and Ms. Coffee regarding the Motion To Dismiss Counsel. Court stated findings and ORDERED, Motion To Dismiss Counsel And To Appoint Alternate Counsel DENIED; matter SET for status check to see where we are.

CUSTODY

PRINT DATE: 09/08/2022

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Minutes Date: April 05, 2018

2-6-19 8:30 AM Status Check

4-22-19 9:30 AM Calendar Call

4-29-19 10:00 AM Jury Trial

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 14, 2018

C-18-331026-1	State of Nevada
	vs
	Cristobal Benavides

December 14, 2018 3:00 AM Minute Order

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court received in a sealed envelope records from the Clark County Department of Family Services, pursuant to an Order of this Court filed December 4, 2018 regarding records involving the named victim's mother. After reviewing the records, the Court is disclosing all of the records received to all parties, consisting of the Certificate of Custodian of Records, the Memo and attached Court Order from the District Attorney's office to the Department of Family Services, 5 pages of documents regarding an unrelated complaint, and a CD containing two audio files related to the allegations in this case. This does not constitute a ruling on the admissibility of any disclosed records.

CLERK'S NOTE: The above minute order has been distributed to: Amy A. Coffee (Deputy Special Public Defender) & Steven B. Wolfson (District Attorney)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 04, 2019

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

February 04, 2019 8:30 AM Motion to Dismiss

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Coffee, Amy A.	Attorney
	Derjavina, Ekaterina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Maria P. Gomez.

Court noted the motion to dismiss counsel was denied twice prior. Ms. Coffee stated it's the same motion, the Defendant's not been spoken with in English and she's ready for trial. COURT ORDERED, Motion to Dismiss Counsel and Appointment of Alternative Counsel DENIED. Upon the inquiry of the Court, Ms. Coffee stated she's not certain what the hearing of February 6, 2019 is for, requested it be vacated and announced she'll be ready for trial. COURT ORDERED, proceedings of February 6, 2019 VACATED. Ms. Derjavina stated the only concern is she's not the deputy on the case and should there be any concerns with the February 6th date, it will be rescheduled. Defendant requested he be allowed to be heard. COURT ORDERED, request DENIED.

4-22-19 9:30 AM CALENDAR CALL

PRINT DATE: 09/08/2022

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Minutes Date: April 05, 2018

4-29-19 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 03, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

April 03, 2019 8:30 AM Motion to Dismiss

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Coffee, Amy A.	Attorney
	Getler, Stephanie M.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Carlos Calvo.

Ms. Coffee advised the motions filed by the Defendant are the same and have not substantially changed; the Investigator spoke to the Defendant in Spanish and it's the same recurring issues that are important to him; ready for trial and there's no personal issues with the Defendant. Colloquy regarding trial setting. Ms. Coffee stated she's been in contact with the District Attorney, did a file review and has all discovery which has been given to the Defendant; issues are more fundamental as he does not understand how the process works. Ms. Coffee stated she's doing all she can, advising a closed hearing can be held if more specifics are needed as to trial readiness. Argument in support of motion to dismiss counsel by Defendant, noting there's no evidence of his guilt and counsel has only come to see him for an hour and 35 minutes in the last year. Court stated findings, noting this is an inadequate case in this particular situation to reject court appointed counsel and appoint other counsel and ORDERED, Motion To Dismiss Counsel and Appointment of Alternative Counsel

C-18-331026-1

DENIED; trial date STANDS; State's to prepare the order.

CUSTODY

4-22-19 9:30 AM CALENDAR CALL

4-29-19 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 22, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

April 22, 2019 8:30 AM All Pending Motions

HEARD BY: Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Coffee, Amy A.	Attorney
	Digiacomio, Sandra K.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Motion to Enforce 6th Amendment Right of Self- Representation and to Dismiss Inactive and Ineffective Attorney...Calendar Call

Spanish Interpreter: Carlos Calvo.

Ms. Coffee announced she's ready for trial, there's no outstanding discovery, then Defendant filed this motion. Ms. DiGiacomo announced the State's ready, advising the case is Ms. Clemons. Argument in support of motion by Defendant. COURT ORDERED, Defendant's Motion to Enforce 6th Amendment Right of Self- Representation and to Dismiss Inactive and Ineffective Attorney DENIED; Defendant cannot represent himself. Ms. Coffee stated she's ready for trial. COURT ORDERED, case to trial April 29, 2019, 10:00 AM. Colloquy regarding the basis for the Court's ruling denying Defendant's motion to represent himself. Ms Coffee stated she has no issues with the Defendant, advising she will do all she can to help defend him. Ms. DiGiacomo stated the trial will

last 6 days with 7-10 witnesses, and will go into the second week. Ms. Coffee stated it will not be a full second week of trial and will only go 1-2 days in week two. Clerk directed counsel to contact the Judicial Executive Assistant (J.E.A.) in regards to actual trial start time and logistics.

CUSTODY

4-29-19 1:00 PM JURY TRIAL

CLERK'S NOTE: Pursuant to the J.E.A., the Jury Trial will start April; 29, 2019, 1:00 PM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 29, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

April 29, 2019 1:00 PM Jury Trial

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Afshar, Navid	Attorney
	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters: Soledad Garcia and Maria P. Gomez. Colloquy regarding Defendant's eye medication, how/or why it affects his hearing, options to remedy Defendant's hearing difficulties. Upon the inquiry of the Court, Defendant stated an offer was discussed with counsel, rejected negotiations and want a trial. Colloquy between Court and Defendant regarding Defendant's prior request for self representation and his comfort with counsel going forward. Colloquy between Court and counsel regarding defense subpoenaed Race and Ethnicity Report. Arguments regarding objections to the report by Ms. Coffee, objecting to the panel at large and requesting the presence of the Jury Commissioner. Matter submitted by Ms. Clemons. Jury Commissioner Mariah Witt sworn and testified. Arguments by Mr. Afshar and Ms. Coffee. Court stated findings and ORDERED, Motion for New Venire DENIED. IN

THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Introductory comments by the Court. State's introduction of case by Ms. Clemons and on behalf of the Defendant by Ms. Coffee. Roll of Prospective Jurors called and sworn. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Prospective Jurors to be excused. At the request of counsel, Court requested the Interpreter speak up so the Defendant can hear and if he cannot hear, Defendants to let Mr. Page know. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Coffee advised there'll be potential challenges for cause that can wait until follow-up questioning; nothing is being waived at this point.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 30, 2019**

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

April 30, 2019 10:45 AM Jury Trial

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters: Patricia Tejada, Heidi Leal, Rafael Leal. Ms. Coffee advised she was under the impression the Defendant could still take the offer; this morning Defendant spoke with Mr. Page and indicated he wanted the negotiation, State indicated the offer was rescinded. Ms. Coffee stated it was her fault for not having the correct information, advising the Court of what transpired yesterday. Ms. Clemons informed the Court of the offer, advising it's the State's intention that was once trial started the offer's off the table. Court noted the offer and stated when Defendant was asked if negotiations were heard, Defendant answered yes and he will not take the deal; at that time the offer was taken off the table once the Jury process started; there was miscommunication and defense counsel thought the offer was still available and it's not at this time; Defendant's willing to take the offer, but it's no longer available once the Jury process started. Upon inquiry of the Court, Defendant acknowledged his

understanding of matters and is talking with Mr. Page about it. Upon the inquiry of the Court, Ms. Clemons stated there's no offers on the table. Outside the presence of other Prospective Jurors, Court and counsel separately addressed Prospective Jurors 803, 878, 879 regarding their ability to serve. COURT ORDERED, Prospective Jurors 803, 878, 879 excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding scheduling. COURT ORDERED, Prospective Juror 759 excused. Outside presence of other Prospective Jurors, Court and counsel addressed Prospective Juror 761 regarding their ability to serve. COURT ORDERED, 761 excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Prospective Jurors 853, 784, 980.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 01, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

May 01, 2019 1:00 PM Jury Trial

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Spanish Interpreters Heidi Leal, Rafael Leal. Outside the presence of other Prospective Jurors, Court and counsel addressed Prospective Juror 980 regarding the Jurors ability to serve. COURT ORDERED, Prospective Juror 980 excused. IN THE PRESENCE OF PROSPECTIVE JURORS: Voir Dire. Peremptory Challenges exercised. Jury Impaneled. IN THE PRESENCE OF THE JURY: Jury instructed by the Court. Reading of the Amended Information and Defendant's plea thereto announced. COURT ORDERED, proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding Defendant's request to address the Jurors during jury selection, proceedings, procedures, Defendant's understanding of the process, his right(s) and opportunity to testify, scheduling of the NRS 51.385 hearing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 06, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

May 06, 2019 11:00 AM Jury Trial

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Spanish Interpreters Soledad Garcia & Rafael Lean. Colloquy regarding scheduling and NRS 51.385 hearing and the hearsay evidence sought to be introduced. Statement by Defendant regarding proceedings, noting he's not be allowed to talk and needs to be heard; attorney's have stopped him from speaking. Court noted the Defendant's spoken with Mr. Page most of the time and Ms. Coffee not been seen interrupting. Colloquy regarding Defendant's understanding of proceedings, prior counsel, waiver of preliminary hearing. Court stated the lower Court found the Defendant waived his right to a preliminary hearing and both attorneys had the opportunity to look at the waiver. Defendant requested investigations be conducted into his mental condition and mental state at that time. Court stated if counsel thought anything was wrong it would have been brought to the attention of the Court; will proceed with the NRS 51.385 hearing. Testimony and Exhibits presented (See Worksheet). Argument by Ms. Clemons

in support of the admission of statements by Zayanna. Argument in opposition by Ms. Coffee. Court stated findings and ORDERED, NRS 51.385 motion GRANTED. IN THE PRESENCE OF THE JURY: Panel sworn. Opening Statements on behalf of the State by Ms. Clemons, and on behalf of the Defendant by Mr. Page. Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding timelines of acts and the Amended Information. IN THE PRESENCE OF THE JURY: Testimony and Exhibits (See Worksheet). COURT ORDERED, proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Record made by the Court regarding NRS. 178.571(2) and ruling that Ms. Washington could sit next to the victim while testifying.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 07, 2019

C-18-331026-1	State of Nevada
	vs
	Cristobal Benavides

May 07, 2019

1:00 PM

Jury Trial

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Rafael Leal

IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). COURT ORDERED, proceedings CONTINUED to May 8th, 1:00 PM; Jurors admonished and released.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 08, 2019**

C-18-331026-1 State of Nevada
vs
Cristobal Benavides

May 08, 2019 1:00 PM Jury Trial

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Benavides, Cristobal	Defendant
	Clemons, Jennifer M.	Attorney
	Coffee, Amy A.	Attorney
	Moors, Lindsey	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Rafael Leal.

OUTSIDE THE PRESENCE OF THE JURY: Instructions settled. Ms. Clemons moved for the filing of a Second Amended Information changing the time lines and presented argument in support there of. Argument in opposition by Ms. Coffee. Court stated findings and ORDERED, the Second Amended Information will be allowed to be filed. Second Amended Information FILED IN OPEN COURT. Instructions settled. Court canvassed the Defendant in regards to his constitutional rights as to any testimony. Defendant stated that upon the advise of counsel he will not testify. Instructions settled. IN THE PRESENCE OF THE JURY. State REST. Defense REST. Closing arguments on behalf of the State by Ms. Moors. and on behalf of the Defendant by Ms. Coffee. OUTSIDE THE PRESENCE OF THE JURY. Argument regarding slides shown and statements made by defense counsel during

closing arguments and State's objections to those slides and statements. IN THE PRESENCE OF THE JURY: Closing rebuttal arguments on behalf of the State by Ms. Clemons. Alternate Jurors identified, admonished and released. At the hour of 3:45 pm, the Jury retired to commence with deliberations. OUTSIDE THE PRESENCE OF THE JURY: Ms. Clemons advised an e-mail was received that Priscilla (mother) called the investigator last night stating the Defendant called his wife, telling her Priscilla provided a video of him molesting the children, which did not happen, and now she's angry and would like them out; it's retaliatory in the opinion of the State and request his phone privileges be revoked. Ms. Coffee objected arguing what's been represented cannot be verified. COURT ORDERED, Defendant's phone privileges will not be revoked, admonishing there's still a no contact order in regards to Priscilla and the children; there's not to be any contact by phone or a third party. Defendant acknowledged his understanding. Court noted whether or not the Defendant spoke with his wife in regards to what was represented by the State, the Court can consider any evidence, including what's been represented by the State, admonishing the Defendant it's in his best interest to behave to the best of his ability. IN THE PRESENCE OF THE JURY: Spanish Interpreter: Jeff Hanks. At the hour of 5:29 pm, the Jury returned with a verdict as follows:

COUNT 1- LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - NOT GUILTY

COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - NOT GUILTY

COUNT 3 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - GUILTY

COUNT 4- SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE - GUILTY

COUNT 5- LEWDNESS WITH A CHILD UNDER THE AGE OF 14 - GUILTY

Jury polled. Court THANKED AND EXCUSED the Jury.

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding bail. COURT ORDERED, Defendant REMANDED WITHOUT BAIL; matter REFERRED to the Division of Parole and Probation and SET for sentencing.

CUSTODY

6-26-19 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 24, 2019

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

June 24, 2019 9:30 AM Motion to Dismiss

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clowers, Shanon	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Soledad Garcia

Mr. Page stated he's spoken with the Defendant briefly and the specific concerns is he's filed notice to the Nevada Supreme Court seeking an appeal; he's been told it's premature and as soon as he's been sentenced a notice of appeal will be filed. Defendant moved for the dismissal of counsel and presented argument in support thereof. Court stated findings and ORDERED, Motion To Dismiss Counsel and Appoint Alternate Counsel DENIED; State's to prepare the order.

CUSTODY

6-26-19 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 2019**

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

June 26, 2019 9:30 AM Sentencing

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Benavides, Cristobal	Defendant
	Clowers, Shanon	Attorney
	Page, Daniel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter: Carola Anderson

Colloquy regarding counts. Argument by Ms. Clemons. Defendant requested the Court accept his appeal, advising he would like to represent himself. Court stated for today's purposes it's just sentencing; the Court has nothing to do with the Defendant's appeal; counsel will argue as to sentencing. Defendant requested a continuance to understand all that's here. Argument by Mr. Page, advising they've gone through the important parts of the Presentence Investigation Report (PSI) and all has been explained to the Defendant. Defendant stated there's a lot of things counsel did not know to explain to him. Colloquy between Court and Defendant in regards to Defendant's concerns within the PSI. Defendant stated pretty much everything has not been explained. Mr. Page stated they went over it all and the Defendant never said he did not understand what's there, or ask any additional questions. Record made by the Court, noting the Defendant's been given at least 10 opportunities to tell the Court what's not understood in the PSI and refuses to do so; the records to reflect that

counsel went to the jail and went through everything with the Defendant and at no point and time did the Defendant ask any questions in regards to his inability to understand; the Court's satisfied this is a long list of tactics to continue to push this out as he does not like what's taking place with the case; the Court's comfortable proceeding with sentencing. By virtue of the Jury Verdict, Defendant BENAVIDES ADJUDGED GUILTY OF COUNTS, 3 AND 5, LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F), and COUNT 4 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers \$3.00 DNA Collection fee, \$250.00 Indigent Defense Civil Assessment fee and \$3,646.40 restitution payable to Clark County Social Services, as to COUNT 3, Defendant SENTENCED to LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER TEN (10) YEARS, as to COUNT 4 LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER THIRTY-FIVE (35) YEARS CONSECUTIVE TO COUNT 3, and as to COUNT 5, LIFE in the Nevada Department of Corrections WITH PAROLE ELIGIBILITY AFTER TEN (10) YEARS CONSECUTIVE TO COUNT 4; FIVE HUNDRED FIVE (505) DAYS credit for time served. FURTHER ORDERED, a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment; Defendant's to register as a sex offender in accordance with NRS 179D.460 within 48 hours after sentencing or upon release from any term of probation, parole or imprisonment.

Bond if any EXONERATED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 28, 2019

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

August 28, 2019 9:30 AM Appointment of Counsel

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Clowers, Shanon Attorney
 Gersten, Joseph Z Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present.

Appearing on behalf of the Special Public Defender, Attorney Melinda Simpkins. Court noted the Defendant's in the Nevada Department of Corrections (NDC), the case was handled by the Special Public Defender and appellant counsel is being appointed. Upon the inquiry of the Court, Mr. Gersten CONFIRMED as appellant counsel. Ms. Simpkins stated the file is being handed over to counsel. Mr. Gersten stated it's been received.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2021

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

January 06, 2021 11:00 AM Motion

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- Court stated findings and ORDERED, Motion To Withdraw Counsel GRANTED; filed materials should be returned to the Defendant.

NDC

CLERK'S NOTE: The above minute order has been distributed via e-mail to: Attorney Joseph Z. Gersten. kar 1/11/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 16, 2022

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

February 16, 2022 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Botelho, Agnes M Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Joseph Gersten, Esq. and Defendant not present.

Court noted Defendant has filed a Motion to Obtain Transcripts and does not identify why he had appealed this case. Court further noted his conviction had been affirmed in November 2020. COURT ORDERED, Mr. Gersten to send a copy of the file to the Defendant and status check SET for the filing of the index. Court advised the status check would be vacated once the index was filed.

NDC

3/9/2022 9:30 AM STATUS CHECK: INDEX

CLERK'S NOTE: Mr. Gersten was notified by e-mail of the Court's Order on 2/24/2022. SA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 04, 2022

C-18-331026-1 State of Nevada
 vs
 Cristobal Benavides

March 04, 2022 3:00 AM Minute Order

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Samantha Albrecht

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Status Check: Index set to come before this Court on the March 9, 2022 Calendar at 9:30 A.M.
COURT NOTES, Index of Documents filed on March 4, 2022. COURT ORDERED, matter VACATED.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey
File & Serve/ SA 3/4/2022

Case No: C 331026

C331026

VS.

CRISTOBAL BENAVIDES

COURT'S

EXHIBITS

12/14/18 *as*

EXHIBIT(S) LIST

Case No.: C331026

Trial Date: APRIL 29, 2019

Dept. No.: 6

Judge: SACQUELINE BLUTH

Plaintiff: ST OF NEVADA

Court Clerk: KEITH REED

Recorder: DE'AWNA TAKAS

Counsel for Plaintiff:

VS.

Defendant: CRISTOBAL BENAVIDES

JENNIFER CLEMONS + LINDSEY MOORS

Counsel for Defendant:

AMY COFFEE + DANIEL PAGE

TRIAL BEFORE THE COURT

STATE'S EXHIBITS

[illegible]

EXHIBIT(S) LIST

Case No.: C331026

Trial Date: APRIL 29, 2019

Dept. No.: 6

Judge: JACQUELINE BLUTH

Plaintiff: ST OF NEVADA

Court Clerk: KEITH REED

Recorder: DE'AWNA TAKAS

Counsel for Plaintiff: _____

vs.

Defendant: CRISTOBAL BENAVIDES

JENNIFER CLEMONS + LINDSEY MOORE

Counsel for Defendant: _____

AMY COFFEE + DANIEL PAGE

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	SUBPOENA			4-29-19	AK
2	TABLE: RACE + HISPANIC ORIGIN			4-29-19	AK
3	JUROR QUESTION			5-6-19	AK
4	JUROR QUESTION			5-6-19	AK
5	JUROR QUESTION			5-6-19	AK
6	JUROR QUESTION			5-6-19	AK
7	JUROR QUESTION			5-6-19	AK
8	JUROR QUESTION			5-7-19	AK
9	JUROR QUESTION			5-7-19	AK
10	JUROR QUESTION			5-7-19	AK
11	VOLUNTARY STATEMENT TRANSCRIPT			5-7-19	AK
12	DEFENDANT'S PROPOSED JURY INSTRUCTIONS			5-8-19	AK

AMENDED EXHIBIT(S) LIST

Case No.: C 331026

Trial Date: APRIL 29, 2019

Dept. No.: 6

Judge: JACQUELINE BLUTH

Plaintiff: ST OF NEVADA

Court Clerk: KEITH REED

Recorder: DE'AWNA TAKAS

Counsel for Plaintiff: _____

vs.

Defendant: CRISTOBAL BENAVIDES

JENNIFER CLEMONS + LINDSEY MORRIS

Counsel for Defendant: _____

AMY COFFEE + DANIEL PAGE

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	SUBPOENA			4-29-19	MS
2	TABLE: RACE + HISPANIC ORIGIN			4-29-19	MS
3	JUROR QUESTION			5-6-19	MS
4	JUROR QUESTION			5-6-19	MS
5	JUROR QUESTION			5-6-19	MS
6	JUROR QUESTION			5-6-19	MS
7	JUROR QUESTION			5-6-19	MS
8	JUROR QUESTION			5-7-19	MS
9	JUROR QUESTION			5-7-19	MS
10	JUROR QUESTION			5-7-19	MS
11	VOLUNTARY STATEMENT TRANSCRIPT			5-7-19	MS
12	DEFENDANT'S PROPOSED JURY INSTRUCTIONS			5-8-19	MS
13	DEFENSE CLOSING ARGUMENT			5-8-19	PS
14	STATE'S POWER POINT			5-8-19	MS

EXHIBIT(S) LIST

Case No.: C331026

Hearing Date: MAY 6, 2019

Dept. No.: 6

Judge: SACQUELINE BLUTH

Plaintiff: STATE OF NEVADA

Court Clerk: KEITH REED

Recorder: DE'AWNA TAKAS

Counsel for Plaintiff: _____

VS.

Defendant: CRISTOBAL BENAVIDES

JENNIFER CLEMONS + LINDSEY MOORS

Counsel for Defendant: _____

AMY COFFEE + DANIEL PAGE

HEARING BEFORE THE COURT

STATE'S EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF
ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

CRISTOBAL BENAVIDES,

Defendant(s).

Case No: C-18-331026-1

Dept No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 8 day of September 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk