

FILED

2024 MAR 29 AM 10:52

4TH JUDICIAL DISTRICT
Electronically Filed
Apr 15 2024 02:37 PM
Elizabeth A. Brown
Clerk of Supreme Court

1 Case No. CR-FP-18-5030

2 Dept. No. 2

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5
6 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
7 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO
8

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 KEVIN JOHN MENTABERRY,

13 Defendant.
14

**NOTICE OF APPEAL (RE: APPEAL
DEPRIVATION – CASE NO. DC-CV-21-68)**

15 Notice is hereby given that Kevin John Mentaberry, defendant above named, hereby appeals to
16 the Supreme Court of Nevada issues arising before the entry of the original judgment of conviction
17 entered in this action on the 19th day of June, 2020.
18
19

20 DATED this 29th day of March, 2024.

21
22 Rebecca Plunkett
23

24 REBECCA PLUNKETT

25 Clerk of Court.

26
27 By 
28 Deputy Clerk

CERTIFICATE OF SERVICE

Pursuant to NRAP 3(d)(1), 4(c)(2), and 25(d), I certify that I am an employee of the Elko County Clerk's Office, and that on this 27th day of March, 2024, served by the following method of service:

<input checked="" type="checkbox"/> Regular US Mail	<input type="checkbox"/> Overnight UPS
<input type="checkbox"/> Certified US Mail	<input type="checkbox"/> Overnight Federal Express
<input type="checkbox"/> Registered US Mail	<input type="checkbox"/> Email
<input type="checkbox"/> Overnight US Mail	<input type="checkbox"/> Hand Delivery
<input type="checkbox"/> Personal Service	<input type="checkbox"/> Box in Clerk's Office

certified copies of the foregoing document and the "Order Granting Habeas Relief" (entered March 28, 2024 in Case No. DC-CV-21-68) addressed to:

Aaron D. Ford, Esq.
Attorney General
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Carson City, NV 89701
[Regular US Mail]

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Elko County District Attorney
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1200 Prison Road
Lovelock, NV 89419
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Clerk of the Nevada Supreme Court
201 S. Carson Street, Suite 201
Carson City, NV 89701
[Regular US Mail]

Kevin Mentaberry
162 Barite Street
Elko, NV 89801
[Regular US Mail]

Cristina Bonaker
(Name)

[Signature]
(Signature)

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

NEVADA, STATE OF V S. MENTABERRY, KEVIN
JOH

§
§
§
§

Location: Criminal
Judicial Officer: Kacin, Alvin R.
Filed on: 07/26/2018

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. Charge (Conversion)	CNVCHARGE	C	12/31/2017		
2. Charge (Conversion)	CNVCHARGE	C	12/31/2017	Case	06/19/2020 Closed
3. Charge (Conversion)	CNVCHARGE	C	12/31/2017	Status:	

Case Flags: Party in Jail

Related Cases

DC-CV-21-68 (Companion Case)

Statistical Closures

06/19/2020 Jury Trial - Conviction

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	ECDC-CRFP-18-5030
Court	Criminal
Date Assigned	02/07/2020
Judicial Officer	Kacin, Alvin R.

PARTY INFORMATION

Plaintiff	THE STATE OF NEVADA
Defendant	MENTABERRY, KEVIN JOHN

Attorneys

MALONE, JOHN
Retained
775-815-6067(H)

DATE

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

01/01/1900	Disposition 2. Charge (Conversion) JALAN Disposition (Converted) PCN: Sequence:
01/01/1900	Disposition 1. Charge (Conversion) JALAN Disposition (Converted) PCN: Sequence:
06/19/2020	Statistical Closure Jury Trial - Conviction (Date Entered: 06/19/2020 at 11:59 PM)
06/19/2020	Disposition 3. Charge (Conversion) Jury Trial - Conviction PCN: Sequence:
06/20/2018	Proceedings (Converted) <i>Notes: Event Type Code: C40</i> <i>Event Type Description: CRIMINAL COMPLAINT</i>

CASE SUMMARY
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CASE No. ECDC-CRFP-18-5030

06/20/2018	New Filing <i>conv usjr default new filing date</i>
07/02/2018	Proceedings (Converted) <i>Notes: Event Type Code: B08</i> <i>Event Type Description: BOOKING INFORMTN RPT</i> <i>Note: BOOKING DATE 06/26/18 AT 11:00</i>
07/03/2018	Proceedings (Converted) <i>Notes: Event Type Code: M24</i> <i>Event Type Description: MOT FOR ORDER</i> <i>Note: REDUCING BAIL</i>
07/03/2018	Proceedings (Converted) <i>Notes: Event Type Code: N10</i> <i>Event Type Description: NOTICE OF APPEARANCE</i>
07/05/2018	Proceedings (Converted) <i>Notes: Event Type Code: W12</i> <i>Event Type Description: WARRANT OF ARREST</i>
07/10/2018	Proceedings (Converted) <i>Notes: Event Type Code: O11</i> <i>Event Type Description: OPPOSITION TO MOTION</i> <i>Note: FOR REDUCTION OF BAIL</i>
07/23/2018	Proceedings (Converted) <i>Notes: Event Type Code: C44</i> <i>Event Type Description: COMMITMENT</i>
07/23/2018	Proceedings (Converted) <i>Notes: Event Type Code: O38</i> <i>Event Type Description: ORD BINDING OVER -DC</i>
07/24/2018	Proceedings (Converted) <i>Notes: Event Type Code: F24</i> <i>Event Type Description: FILE OPEN - DC CRIM</i> <i>Note: FILE OPENED - DC CRIMINAL</i>
07/24/2018	Proceedings (Converted) <i>Notes: Event Type Code: B08</i> <i>Event Type Description: BOOKING INFORMTN RPT</i> <i>Note: BOOKING DATE 06/29/18 AT 11:00 "REVISED"</i>
07/24/2018	Proceedings (Converted) <i>Notes: Event Type Code: R10</i> <i>Event Type Description: RECORD OF CT PROC.</i>
07/26/2018	Criminal Information <i>Title: CRIMINAL INFORMATION.pdf</i>
07/26/2018	USJR Additional Statistics <i>Felony - Crimes Against Persons</i>
07/26/2018	Criminal Information <i>Notes: Event Type Code: C41</i> <i>Event Type Description: CRIMINAL INFORMATION</i> <i>Note: Certified copy issued</i>
07/27/2018	Proceedings (Converted) <i>Notes: Event Type Code: B01</i> <i>Event Type Description: BAIL BOND</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

Note: SS-100-03470 (\$100,000.00)

07/27/2018	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 FOR REVIEW/SIGNATURE OF BAIL BOND</i>
07/27/2018	Proceedings (Converted) <i>Notes: Event Type Code: A76</i> <i>Event Type Description: AGREEMENT TO APPEAR</i> <i>Note: and Waive Extradition</i>
07/27/2018	Proceedings (Converted) <i>Notes: Event Type Code: R02</i> <i>Event Type Description: RECEIPT(S)</i> <i>Note: ECSO BAIL BOND RCPT #26861</i>
07/27/2018	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
08/29/2018	Proceedings (Converted) <i>Notes: Event Type Code: T19</i> <i>Event Type Description: TRANSCRIPT-PRELIM</i> <i>Note: PRELIMINARY HEARING HELD 07/20/18</i>
09/26/2018	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
10/01/2018	Proceedings (Converted) <i>Notes: Event Type Code: H70</i> <i>Event Type Description: HRG - DC2-ARRAIGN</i>
10/01/2018	Calendared Event (Converted) <i>Notes: Event Date: 10/01/2018 10:30</i> <i>Event Type Code: A</i> <i>Event Type Description: ARRAIGNMENT (DC)</i>
10/02/2018	Proceedings (Converted) <i>Notes: Event Type Code: R24</i> <i>Event Type Description: REQUEST</i> <i>Note: FOR DISCLOSURE BY DEFENDANT OF EVIDENCE RELATING TO DEFENSE.</i> <i>FILE CK'D OUT. PLACED PLEADING IN DC2'S P/U BOX 4:50 PM.</i>
10/16/2018	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
10/16/2018	Proceedings (Converted) <i>Notes: Event Type Code: P47</i> <i>Event Type Description: PRETRIAL ORDER</i>
01/09/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
01/14/2019	Calendared Event (Converted) <i>Notes: Event Date: 01/14/2019 10:30</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

	<i>Event Type Code: ECC</i> <i>Event Type Description: EARLY CASE CONF.</i>
01/14/2019	Proceedings (Converted) <i>Notes: Event Type Code: H44</i> <i>Event Type Description: HRG - DC2 CRHRG</i>
01/16/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
01/21/2019	Calendared Event (Converted) <i>Notes: Event Date: 01/21/2019 10:30</i> <i>Event Type Code: ECC</i> <i>Event Type Description: EARLY CASE CONF.</i> <i>Action Date: 12/03/2018</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i>
01/28/2019	Proceedings (Converted) <i>Notes: Event Type Code: N23</i> <i>Event Type Description: NOTICE OF INTENT</i> <i>Note: TO USE EXPERT WITNESS</i>
01/31/2019	Proceedings (Converted) <i>Notes: Event Type Code: M16</i> <i>Event Type Description: MOT FOR DISCOVERY</i>
02/04/2019	Proceedings (Converted) <i>Notes: Event Type Code: A59</i> <i>Event Type Description: ADDENDUM</i> <i>Note: TO NOTICE OF INTENT TO USE EXPERT WITNESS</i>
02/04/2019	Proceedings (Converted) <i>Notes: Event Type Code: N03</i> <i>Event Type Description: NON-OPPOSITION</i> <i>Note: TO MOTION FOR DISCOVERY</i>
02/06/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
02/06/2019	Proceedings (Converted) <i>Notes: Event Type Code: Z29</i> <i>Event Type Description: ORD SETTING HEARING</i>
02/07/2019	Calendared Event (Converted) <i>Notes: Event Date: 02/07/2019 11:30</i> <i>Event Type Code: HM</i> <i>Event Type Description: HEARING ON MOTION</i> <i>Note: HEARING ON MOTION</i> <i>Action Comment: FOR DISCOVERY</i>
02/07/2019	Proceedings (Converted) <i>Notes: Event Type Code: H44</i> <i>Event Type Description: HRG - DC2 CRHRG</i>
02/08/2019	Proceedings (Converted) <i>Notes: Event Type Code: S28</i> <i>Event Type Description: SUBMISSION OF ORDER</i>

CASE SUMMARY
DISTRICT CRIMINAL

CASE No. ECDC-CRFP-18-5030

Note: ORDER SENT TO JUDGE FOR SIGNATURE - ORDER GRANTING MOTION FOR DISCOVERY, COPIES PROVIDED BY MR. WOODBURY'S OFFICE FILE CHECKED OUT PLEADING PLACED IN DC 2 PICKUP BOX @ 2:34 P.M.

Action Date: 02/20/2019

Action Code: R99

Action Description: RESPONSE/ORDER

Action Comment: Order Granting Motion filed

02/20/2019	Proceedings (Converted) <i>Notes: Event Type Code: O91</i> <i>Event Type Description: ORD GRANTING MOTION</i> <i>Note: FOR DISCOVERY</i>
02/20/2019	Proceedings (Converted) <i>Notes: Event Type Code: S55</i> <i>Event Type Description: SECOND AMENDED</i> <i>Note: PRETRIAL ORDER</i>
02/20/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
02/22/2019	Calendared Event (Converted) <i>Notes: Event Date: 02/22/2019 16:00</i> <i>Event Type Code: HM</i> <i>Event Type Description: HEARING ON MOTION</i> <i>Note: HEARING ON PRETRIAL MOTIONS</i> <i>Action Date: 02/14/2019</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i>
03/04/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
03/07/2019	Proceedings (Converted) <i>Notes: Event Type Code: O91</i> <i>Event Type Description: ORD GRANTING MOTION</i> <i>Note: FOR DISCOVERY ENTERED FEBRUARY 20, 2019 ORDER SETTING STATUS HEARING ORDER FOR SERVICE OF ORDER PLACED IN DC2 BOX</i>
03/14/2019	Proceedings (Converted) <i>Notes: Event Type Code: H44</i> <i>Event Type Description: HRG - DC2 CRHRG</i>
03/14/2019	Calendared Event (Converted) <i>Notes: Event Date: 03/14/2019 14:00</i> <i>Event Type Code: SH</i> <i>Event Type Description: STATUS HEARING</i>
03/15/2019	Proceedings (Converted) <i>Notes: Event Type Code: O12</i> <i>Event Type Description: ORDER</i> <i>Note: ESTABLISHING BRIEFING SCHEDULE PLACED IN D2 BOX</i>
03/22/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
03/22/2019	Proceedings (Converted) <i>Notes: Event Type Code: R32</i>

CASE SUMMARY
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Event Type Description: RESPONSE

03/22/2019	Proceedings (Converted) <i>Notes: Event Type Code: O24</i> <i>Event Type Description: ORD APPOINTING ATTY</i>
03/26/2019	Calendared Event (Converted) <i>Notes: Event Date: 03/26/2019 09:00</i> <i>Event Type Code: J1</i> <i>Event Type Description: JURY TRIAL -- DAY 1</i> <i>Note: JURY TRIAL - DAY 1</i> <i>Action Date: 02/14/2019</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i> <i>Action Comment: 120 JURORS PRIORITY #2</i>
03/27/2019	Calendared Event (Converted) <i>Notes: Event Date: 03/27/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 02/14/2019</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i>
03/28/2019	Calendared Event (Converted) <i>Notes: Event Date: 03/28/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 02/14/2019</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i>
03/29/2019	Calendared Event (Converted) <i>Notes: Event Date: 03/29/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 02/14/2019</i> <i>Action Code: VAC</i> <i>Action Description: VACATED</i>
04/05/2019	Proceedings (Converted) <i>Notes: Event Type Code: O10</i> <i>Event Type Description: OPPOSITION</i> <i>Note: TO MOTION FOR DISCOVERY</i>
04/05/2019	Proceedings (Converted) <i>Notes: Event Type Code: R32</i> <i>Event Type Description: RESPONSE</i> <i>Note: TO DEFENDANT'S BRIEF REGARDING PRIVILEGED RECORDS</i>
04/12/2019	Proceedings (Converted) <i>Notes: Event Type Code: R16</i> <i>Event Type Description: REPLY</i> <i>Note: REGARDING PRIVILEGED RECORDS</i>
04/15/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

04/30/2019	Proceedings (Converted) <i>Notes: Event Type Code: O12</i> <i>Event Type Description: ORDER</i> <i>Note: VACATING ORDER GRANTING MOTION FOR DISCOVERY ENTERED FEBRUARY 20, 2019</i>
04/30/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
05/29/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
06/03/2019	Calendared Event (Converted) <i>Notes: Event Date: 06/03/2019 10:30</i> <i>Event Type Code: ECC</i> <i>Event Type Description: EARLY CASE CONF.</i>
06/03/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
06/03/2019	Proceedings (Converted) <i>Notes: Event Type Code: H44</i> <i>Event Type Description: HRG - DC2 CRHRG</i>
07/03/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
07/03/2019	Proceedings (Converted) <i>Notes: Event Type Code: C19</i> <i>Event Type Description: CLAIM</i> <i>Note: FOR COMPENSATION AND EXPENSES</i>
07/03/2019	Proceedings (Converted) <i>Notes: Event Type Code: S28</i> <i>Event Type Description: SUBMISSION OF ORDER</i> <i>Note: ORDER SENT TO JUDGE FOR SIGNATURE ORDER APPROVING CLAIM FOR COMPENSATION AND EXPENSES COPY PROVIDED BY KUMP OFFICE</i> <i>Action Date: 07/08/2019</i> <i>Action Code: R99</i> <i>Action Description: RESPONSE/ORDER</i> <i>Action Comment: ORDER APPROVING</i>
07/08/2019	Proceedings (Converted) <i>Notes: Event Type Code: O32</i> <i>Event Type Description: ORD APPROVING</i> <i>Note: CLAIM FOR COMPENSATION AND EXPENSES COPIES IN KUMP'S PICKUP BOX</i>
07/08/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
07/24/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

07/30/2019	Calendared Event (Converted) <i>Notes: Event Date: 07/30/2019 09:30</i> <i>Event Type Code: HM</i> <i>Event Type Description: HEARING ON MOTION</i> <i>Note: HEARING ON MOTION</i> <i>Action Comment: PRETRIAL MOTIONS</i>
07/30/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
08/09/2019	Proceedings (Converted) <i>Notes: Event Type Code: S15</i> <i>Event Type Description: STIPULATION</i> <i>Note: OF FACT</i>
08/12/2019	Proceedings (Converted) <i>Notes: Event Type Code: N38</i> <i>Event Type Description: NOTICE OF WITNESSES</i>
08/14/2019	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature</i>
08/14/2019	Proceedings (Converted) <i>Notes: Event Type Code: N38</i> <i>Event Type Description: NOTICE OF WITNESSES</i> <i>Note: (FILE CHECKED OUT SENT PLEADING TO DC 2)</i>
08/15/2019	Proceedings (Converted) <i>Notes: Event Type Code: Z49</i> <i>Event Type Description: ORD VACATING TRIAL</i> <i>Note: (FILE CHECKED OUT SENT PLEADING TO DC 2)</i>
08/20/2019	Calendared Event (Converted) <i>Notes: Event Date: 08/20/2019 09:00</i> <i>Event Type Code: J1</i> <i>Event Type Description: JURY TRIAL -- DAY 1</i> <i>Note: JURY TRIAL - DAY 1</i> <i>Action Date: 08/15/2019</i> <i>Action Code: CTN</i> <i>Action Description: CONTINUED</i> <i>Action Comment: PRIORTY#2-120JURORS</i>
08/21/2019	Calendared Event (Converted) <i>Notes: Event Date: 08/21/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 08/15/2019</i> <i>Action Code: CTN</i> <i>Action Description: CONTINUED</i>
08/22/2019	Calendared Event (Converted) <i>Notes: Event Date: 08/22/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 08/15/2019</i> <i>Action Code: CTN</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

Action Description: CONTINUED

08/23/2019	Calendared Event (Converted) <i>Notes: Event Date: 08/23/2019 09:00</i> <i>Event Type Code: J2</i> <i>Event Type Description: JURY TRIAL AD'L DAYS</i> <i>Note: JURY TRIAL ADDITIONAL DAYS</i> <i>Action Date: 08/15/2019</i> <i>Action Code: CTN</i> <i>Action Description: CONTINUED</i>
08/29/2019	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i>
08/29/2019	Proceedings (Converted) <i>Notes: Event Type Code: P47</i> <i>Event Type Description: PRETRIAL ORDER</i>
01/08/2020	Proceedings (Converted) <i>Notes: Event Type Code: S31</i> <i>Event Type Description: SUBPOENA ISSUED</i>
01/09/2020	Proceedings (Converted) <i>Notes: Event Type Code: V06</i> <i>Event Type Description: VOLUME CREATED</i> <i>Note: VOLUME 02 CREATED</i>
01/09/2020	Proceedings (Converted) <i>Notes: Event Type Code: A14</i> <i>Event Type Description: AMENDED</i> <i>Note: NOTICE OF WITNESSES</i>
01/16/2020	Proceedings (Converted) <i>Notes: Event Type Code: F15</i> <i>Event Type Description: FILE CHECKED OUT BY:</i> <i>Note: DC 2 for review/signature VOL 1&2</i>
01/21/2020	Proceedings (Converted) <i>Notes: Event Type Code: J14</i> <i>Event Type Description: JURY PANEL</i> <i>Note: 12 JURORS 2 ALTERNATES FILED IN OPEN COURT 01/21/20 at 3:25 p.m.</i>
01/21/2020	Calendared Event (Converted) <i>Notes: Event Date: 01/21/2020 09:00</i> <i>Event Type Code: J1</i> <i>Event Type Description: JURY TRIAL -- DAY 1</i> <i>Note: JURY TRIAL - DAY 1</i>
01/21/2020	Proceedings (Converted) <i>Notes: Event Type Code: H65</i> <i>Event Type Description: HRG - DC2-JURY TRIAL</i>
01/21/2020	Proceedings (Converted) <i>Notes: Event Type Code: J16</i> <i>Event Type Description: JURY TRIAL BEGAN</i>
01/22/2020	Proceedings (Converted) <i>Notes: Event Type Code: N49</i> <i>Event Type Description: NOTE ADDED TO FILE</i> <i>Note: JUROR NO. 11 JENAVE DEMICK WAS EXCUSED FROM THE JURY PANEL</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

11/22/20 AT 8:55 A.M.

01/22/2020 Calendared Event (Converted)
 Notes: Event Date: 01/22/2020 09:00
 Event Type Code: J2
 Event Type Description: JURY TRIAL AD'L DAYS
 Note: JURY TRIAL ADDITIONAL DAYS

01/23/2020 Proceedings (Converted)
 Notes: Event Type Code: J15
 Event Type Description: JURY QUESTIONS
 Note: QUESTION SUBMITTED BY JUROR NO. 13 AND ASKED FILED IN OPEN COURT
 01/23/20 AT 11:08 A.M.

01/23/2020 Proceedings (Converted)
 Notes: Event Type Code: J15
 Event Type Description: JURY QUESTIONS
 Note: QUESTION SUBMITTED BY JUROR NO. 6 WAS NOT ASKED DUE TO THE RULES
 OF EVIDENCE. FILED IN OPEN COURT 01/23/20 AT 4:04 P.M.

01/23/2020 Calendared Event (Converted)
 Notes: Event Date: 01/23/2020 09:00
 Event Type Code: J2
 Event Type Description: JURY TRIAL AD'L DAYS
 Note: JURY TRIAL ADDITIONAL DAYS

01/23/2020 Proceedings (Converted)
 Notes: Event Type Code: J15
 Event Type Description: JURY QUESTIONS
 Note: QUESTION SUBMITTED BY JUROR NO. 5 NOT ASKED DUE TO THE RULES OF
 EVIDENCE. FILED IN OPEN COURT 01/23/20 AT 2:02 P.M.

01/24/2020 Proceedings (Converted)
 Notes: Event Type Code: J15
 Event Type Description: JURY QUESTIONS
 Note: QUESTION SUBMITTED BY JUROR NO. 3 ON 1/23/20 NOT ASKED FILED 1/24/20
 AT 2:26 P.M. NOTE: WITNESS NOT RECALLED, PER JUDGE KACIN, FILED THIS DATE.

01/24/2020 Calendared Event (Converted)
 Notes: Event Date: 01/24/2020 09:00
 Event Type Code: J2
 Event Type Description: JURY TRIAL AD'L DAYS
 Note: JURY TRIAL ADDITIONAL DAYS

01/27/2020 Unknown Document
 Title: JURY INSTRUCTIONS FILED IN OPEN COURT.pdf

01/27/2020 Unknown Document
 Title: JURY VERDICT - GUILTY FILED IN OPEN COURT.pdf

01/27/2020 Proceedings (Converted)
 Notes: Event Type Code: J12
 Event Type Description: JURY INSTRUCTIONS
 Note: JURY INSTRUCTIONS NO. 1 THROUGH 34 FILED IN OPEN COURT 01/27/20 AT
 9:13 A.M.

01/27/2020 Proceedings (Converted)
 Notes: Event Type Code: J26
 Event Type Description: JURY VERDICT-GUILTY
 Note: JURY VERDICT: GUILTY COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD
 CHILD FILED IN OPEN COURT 01/27/20 AT 2:02 P.M.

01/28/2020 Proceedings (Converted)

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

	<i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i> <i>Note: ONLY VOL 1</i>
02/03/2020	Proceedings (Converted) <i>Notes: Event Type Code: F16</i> <i>Event Type Description: FILE CHECKED IN BY:</i> <i>Note: VOL. 2</i>
02/04/2020	Proceedings (Converted) <i>Notes: Event Type Code: N08</i> <i>Event Type Description: NOTICE OF</i> <i>Note: RESTITUTION CLAIM</i>
02/04/2020	Proceedings (Converted) <i>Notes: Event Type Code: T34</i> <i>Event Type Description: TRANS CONF RPT - P&P</i>
04/16/2020	Department 2 <i>Notes: PER DC 2 CKOUT LIST</i>
04/20/2020	Unknown Document <i>Title: STIPULATION TO CONTINUE SENTENCING HEARING.pdf</i> <i>Notes: PLACED IN DC2 BOX</i>
04/20/2020	Submission of Order <i>Title: SUBMISSION OF ORDER - ORDER TO CONTINUE SENTENCING HEARING.pdf</i> <i>Status: Order Filed</i> <i>Notes: PLACED IN DC2 BOX</i>
04/21/2020	Clerk's Office <i>Notes: VOL 1 AND 2</i>
04/21/2020	Unknown Document <i>Title: ORDER TO CONTINUE SENTENCING HEARING.pdf</i> <i>Notes: COPIES PLACE IN DA'S P/U BOX</i>
04/23/2020	Calendared Event (Converted) <i>Notes: Event Date: 04/23/2020 16:00</i> <i>Event Type Code: S</i> <i>Event Type Description: SENTENCING</i> <i>Note: SENTENCING</i>
06/09/2020	Department 2 <i>Notes: VOL 1 & 2 PER LIDIA</i>
06/17/2020	Unknown Document <i>Title: NOTICE OF RESTITUTION CLAIM.pdf</i> <i>Notes: FILE CHECKED OUT PLACED IN DC2 P/U BOX</i>
06/19/2020	Sentencing Hearing <i>Location: District Court Department 2</i> <i>Start: 06/19/2020 9:30AM</i>
06/19/2020	DC1 Sentencing Minutes <i>Title: 06.19.20 HRG - SENTENCING.rtf</i>
06/19/2020	Unknown Document <i>Title: NOTIFICATION OF CONVICTION.pdf</i> <i>Notes: FAXED TO NEVADA SEX OFFENDER REGISTRY</i>
06/19/2020	Unknown Document <i>Title: NOTIFICATION OF REQUIREMENTS FOR REGISTRATION.pdf</i> <i>Notes: FAXED TO NEVADA SEX OFFENDER REGISTRY</i>
06/19/2020	Clerk's Office <i>Notes: WITH JOC</i>
06/19/2020	Judgment of Conviction <i>Title: JUDGMENT OF CONVICTION.pdf</i> <i>Notes: COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD A CATEGORY B</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

FELONY AS DEFINED BY NRS 201.230 (NOC 60336); \$25 ADMIN FEE; \$3 GENETIC ADMIN FEE; \$150 GENETIC TESTING FEE; 28 TO 72 MOS IN PRISON; \$1,470.00 IN RESTITUTION; SENTENCE SUSPENDED AND PLACED ON 60 MOS PROBATION; NO ALCOHOL; OBTAIN SUBSTANCE ABUSE EVAL W/IN 30 DAYS; NO MARIJUANA; NO GAMBLING; SUBMIT DIGITAL STORAGE MEDIA TO SEARCHES; SERVE 180 DAYS IN ECJ W/CREDIT FOR 23 DAYS SERVED; NO CONTACT W/VICTIM AND CHAD AND SHAWNA EKLUND; ABIDE BY NRS 176A.410; SENTENCED TO LIFETIME SUPERVISION

6 PGS

****AMENDED JOC FILED 11/02/2021****

THE COURT HELD THE ORIGINAL SENTENCING ON JUNE 19, 2020 AND SUBSEQUENTLY ENTERED A JOC SETTING FORTH AN ILLEGAL SENTENCE. ON NOVEMBER 2, 2021 THE COURT HELD A RESENTENCING HRG AND SENTENCED THE DEFENDANT AS FOLLOWS.

\$25 ADMIN FEE; \$3 GENETIC ADMIN ASSESSMENT, \$150 GENETIC TESTING FEE; TO SERVE 28 TO 72 MOS IN PRISON WITH CREDIT FOR 116 DAYS SERVED. DEFENDANT TO PAY RESTITUTION IN THE AMOUNT OF \$1,470.00 WITH CREDIT FOR PAYMENT OF \$1,470.00.

DEFENDANT IS SETENCED TO A LIFETIME SUPERVISION.

3 PGS

****SECOND CORRECTED JOC FILED 1/04/22***

TO CORRECT THE SECOND PARAGRAPH ON PG 2 TO 'FOR COUNT 3, DEFENDANT SHALL SERVE A MAXIMUM.....'

INSTEAD OF FOR COUNT 2, DEFENDANT SHALL SERVE A MAXIMUM.....'

3 PGS

06/19/2020	USJR Statistical Classification <i>Jury Trial Conviction</i>
06/23/2020	Unknown Document <i>Title: BOOKING SHEET.pdf</i> <i>Notes: COMMITMENT</i>
06/26/2020	Unknown Document <i>Title: TRANS CONF RPT - NEVADA SEX OFFENDER REGISTRY.pdf</i> <i>Notes: NOTIFICATION OF CONVICTION, NOTIFICATION OF REQUIREMENTS AND JOC FAXED TO NEVADA SEX OFFENDER REGISTRY</i>
06/26/2020	Unknown Document <i>Title: TRANS CONF RPT - PER NV SEX OFFENDER REGISTRY'S REQUEST.pdf</i> <i>Notes: CONTAINS SOCIAL SECURITY NUMBER</i>
06/26/2020	Unknown Document <i>Title: TRANS CONF RPT - DPS.pdf</i> <i>Notes: BOOKING SHEET, CRIMINAL INFORMATION AND JOC FAXED TO DPS</i>
06/26/2020	Department 2 <i>Notes: VOL 1 & 2 TO REQUEST AN ORDER EXONERATING BOND</i>
07/02/2020	Clerk's Office <i>Notes: VOL 1 & 2 WITH ORD EXONERATING BAIL BOND</i>
07/02/2020	Unknown Document <i>Title: ORDER EXONERATING BAIL BOND.pdf</i> <i>Notes: BAIL BOND CERT SS-100-03470 EXONERATED CERTIFICATE MAILED TO AAWSOME BAIL BONDS PO BOX 444 ELKO, NV 89803</i>
07/02/2020	Unknown Document <i>Title: BOND EXONERATED CERTIFICATE SS-100-03470.pdf</i> <i>Notes: EXONERATED CERTIFICATE SS-100-03470 MAILED TO AAWSOME BAIL BONDS PO BOX 444 ELKO, NV 89803</i>
07/27/2020	Department 2 <i>Notes: PER LIDIA'S REQUEST</i>
07/28/2020	Clerk's Office
07/29/2020	Unknown Document <i>Title: ORDER ADMITTING DEFENDANT TO PROBATION AND FIXING THE TERMS THEREOF.pdf</i>
09/23/2020	Department 2 <i>Notes: VOL 2 - TO LIDIA</i>

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

09/24/2020	Clerk's Office <i>Notes: VOL 2</i>
09/30/2020	Unknown Document <i>Title: CONFESSION OF JUDGMENT IN THE AMOUNT OF \$1000.00.pdf</i>
09/30/2020	Unknown Document <i>Title: CONFESSION OF JUDGMENT IN THE AMOUNT OF \$470.00.pdf</i>
12/22/2020	Unknown Document <i>Title: SUBSTITUTION OF ATTORNEY FOR JOHN MALONE ESQ.pdf</i>
01/05/2021	Department 2 <i>Notes: FOR DC2 TO REVIEW REQUEST FOR RECORDED COPY OF SENTENCING HRG 6/19/20 BY MALONE ESQ</i>
02/17/2021	Clerk's Office <i>Notes: VOL 2</i>
02/18/2021	Confidential Document <i>Title: SENTENCING TRANSCRIPT OF PROCEEDINGS 6.19.20.pdf</i> <i>Notes: PER STICKY NOTE FROM JUDGE, THIS IS CONFIDENTIAL.</i>
04/26/2021	Department 2 <i>Notes: VOL 2 ONLY, CLERK BR ASKING IF COURT WOULD LIKE SENTENCING TRANSCRIPT PLACED IN A CONFIDENTIAL ENVELOPE AS IT CONTAINS THE VICTIM'S NAME</i>
04/26/2021	Unknown Document <i>Title: NOTE ADDED TO FILE AS TO A RESTITUTION PAYMENT.pdf</i> <i>Notes: CK 3608128 IN THE AMOUNT OF \$102.04 RECEIVED FROM THE STATE OF NEVADA OFFICE OF THE CONTROLLER</i>
04/26/2021	Clerk's Office <i>Notes: VOL 2 - COURT RESPONDED CONFIRMING TRANSCRIPTS SHOULD BE CONFIDENTIAL.</i>
05/19/2021	Unknown Document <i>Title: RECEIPT # 21-EC-CL-1304.pdf</i> <i>Notes: \$54.42 PAYMENT RECEIVED FROM NDOC AS CHECK 3611678 RECEIPT MAILED BACK TO NDOC</i>
05/20/2021	Unknown Document <i>Title: RECEIPT # 21-EC-CL-1318.pdf</i> <i>Notes: \$102.04 PAYMENT RECEIVED FROM NDOC AS CHECK 3608128 RECEIPT MAILED BACK TO NDOC</i>
06/16/2021	Unknown Document <i>Title: CLERK'S NOTE ADDED TO FILE.pdf</i> <i>Notes: CK 3618443 IN THE AMOUNT OF \$54.42 WAS FORWARD TO ELKO CO DA'S OFFICE ATTN: CAROLYN SMITH FOR POSSIBLE PROCESSING MONEY INTO THE ELKO COUNTY VICTIMS OF CRIME ACCOUNT.</i>
08/18/2021	Department 2 <i>Notes: vol 1&2</i>
08/23/2021	Unknown Document <i>Title: NOTE ADDED TO FILE AS TO A RESTITUTION PAYMENT..pdf</i> <i>Notes: CK 3608128 IN THE AMOUNT OF \$102.04 RECEIVED FROM THE STATE OF NEVADA OFFICE OF THE CONTROLLER</i>
08/23/2021	Clerk's Office <i>Notes: VOL 1 & 2 RETURNED AT WINDOW</i>
08/23/2021	Unknown Document <i>Title: ORDER TO SHOW CAUSE 9.10.21.pdf</i> <i>Notes: AT 2:00PM.</i>
09/01/2021	Department 2 <i>Notes: vol 1&2</i>
09/10/2021	Order to Show Cause Hearing <i>Location: District Court Department 2</i> <i>Start: 09/10/2021 2:00PM</i>
09/10/2021	DC Criminal Hearing Minutes <i>Title: 09.10.21 HRG - ORDER TO SHOW CAUSE.rtf</i>



CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

09/14/2021	Clerk's Office <i>Notes: VOL 1 & 2 RETURNED AT WINDOW</i>
09/14/2021	Unknown Document <i>Title: ORDER SETTING RESENTENCING HEARING 11.2.21.pdf</i> <i>Notes: AT 2:00PM.</i>
10/07/2021	Unknown Document <i>Title: RECEIPT.pdf</i> <i>Notes: EMAILED TO: EBS.KEVIN@YAHOO.COM</i>
10/07/2021	GL: Total Amount Still Owed on Case <i>\$0.00</i>
10/21/2021	Unknown Document <i>Title: NOTES ON RESTITUTION PAYMENTS.pdf</i> <i>Notes: THE DA VICTIM ADVOCATE AND THE COUNTY COMPTROLLER HAVE DETERMINED THAT THE RESTITUTION PAYMENTS THAT THE CLERKS OFFICE HAS RECEIVED FROM THE STATE OF NEVADA, OFFICE OF THE CONTROLLER SHOULD BE DELIVERED TO THE ELKO CO ADMINISTRATION OFFICE FOR PROCESSING. CK # 3642051 IN THE AMOUNT OF \$54.42 & CK # 3633469 IN THE AMOUNT OF \$108.84 WERE HAND DELIVERED TO SUSAN PAPROCKI, ELKO CO COMPTROLLER ON 10/21/2021 @ 9:20.A.M.</i>
10/27/2021	Department 2 <i>Notes: 2 VOL. PER CHECKOUT LIST</i>
11/02/2021	Sentencing Hearing <i>Location: District Court Department 2</i> <i>Start: 11/02/2021 2:00PM</i>
11/02/2021	DC1 Sentencing Minutes <i>Title: 11.02.21 HRG - SENTENCING.rtf</i> <i>Notes: EMAILED TO P&P 11/03/21</i>
11/02/2021	Clerk's Office <i>Notes: VOL 2 WITH CORRECTED JOC</i>
11/02/2021	Unknown Document <i>Title: CORRECTED JUDGMENT OF CONVICTION.pdf</i> <i>Notes: THE COURT HELD THE ORIGINAL SENTENCING ON JUNE 19, 2020 AND SUBSEQUENTLY ENTERED A JOC SETTING FORTH AN ILLEGAL SENTENCE. ON NOVEMBER 2, 2021 THE COURT HELD A RESENTENCING HRG AND SENTENCED THE DEFENDANT AS FOLLOWS. \$25 ADMIN FEE; \$3 GENETIC ADMIN ASSESSMENT, \$150 GENETIC TESTING FEE; TO SERVE 28 TO 72 MOS IN PRISON WITH CREDIT FOR 116 DAYS SERVED. DEFENDANT TO PAY RESTITUTION IN THE AMOUNT OF \$1,470.00 WITH CREDIT FOR PAYMENT OF \$1,470.00. DEFENDANT IS SETENCED TO A LIFETIME SUPERVISION. 3 PGS</i>
11/02/2021	Exhibit - Document <i>Location: Elko County Clerk's Office</i> <i>Status: Received</i> <i>Number: A</i> <i>Disposition: Admitted</i> <i>Description: LETTER FROM LIFE QUEST</i>
11/02/2021	Exhibit - Document <i>Location: Elko County Clerk's Office</i> <i>Status: Received</i> <i>Number: B</i> <i>Disposition: Admitted</i> <i>Description: PAYMENT FOR LIFE QUEST COUNSELING</i>
11/02/2021	Exhibit - Document <i>Location: Elko County Clerk's Office</i> <i>Status: Received</i> <i>Number: C</i> <i>Disposition: Admitted</i> <i>Description: PAYMENT OF PROBATION SUPERVISION FEES AND RESTITUTION</i>
11/05/2021	Unknown Document

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

	<i>Title: TRANS CONF RPT - DPS REGARDING THE CORRECTED JOC.pdf</i> <i>Notes: BOOKING SHEET, CRIMINAL INFORMATION, JOC AND CORRECTED JOC FAXED TO DPS</i>
11/05/2021	Unknown Document <i>Title: TRANS CONF RPT - NV DPS SEX OFFENDER REGISTRATION.pdf</i> <i>Notes: THAT INCLUDED THE CORRECT JUDGMENT OF CONVICTION</i>
11/10/2021	Unknown Document <i>Title: BOOKING SHEET 11.10.2021- REDACTED.pdf</i>
11/10/2021	Unknown Document <i>Title: BOOKING SHEET 11.10.2021- UNREDACTED.pdf</i>
12/13/2021	Unknown Document <i>Title: RECEIPT FOR DOCUMENTS.pdf</i> <i>Notes: SUPREME COURT</i>
01/04/2022	Unknown Document <i>Title: SECOND CORRECTED JUDGMENT OF CONVICTION.pdf</i> <i>Notes: TO CORRECT THE SECOND PARAGRAPH ON PG 2 TO 'FOR COUNT 3, DEFENDANT SHALL SERVE A MAXIMUM.....' INSTEAD OF FOR COUNT 2, DEFENDANT SHALL SERVE A MAXIMUM.....' 3 PGS</i>
01/21/2022	Unknown Document <i>Title: TRANSCRIPTS - JURY TRIAL VOL 1.pdf</i>
01/21/2022	Unknown Document <i>Title: TRANSCRIPTS - JURY TRIAL VOL 2.pdf</i>
01/21/2022	Unknown Document <i>Title: TRANSCRIPTS - JURY TRIAL VOL 3.pdf</i>
01/21/2022	Unknown Document <i>Title: TRANSCRIPTS - JURY TRIAL VOL 4.pdf</i>
01/31/2022	Unknown Document <i>Title: LETTER FROM P&P DATED 1.26.2022, P&P NO LONGER SUPERVISING THE DEFENDANT.pdf</i> <i>Notes: NO COPIES PROVIDED</i>
06/21/2022	Unknown Document <i>Title: TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DEFENSE OPENING STATEMENT.pdf</i>
06/21/2022	Unknown Document <i>Title: TRANSCRIPT OF PROCEEDINGS - JURY TRIAL DEFENSE CLOSING ARGUMENT.pdf</i>
08/29/2022	Unknown Document <i>Title: NOTICE OF TRANSFER TO COURT OF APPEALS (SUPREME COURT).pdf</i>
09/26/2022	Unknown Document <i>Title: ORDER OF AFFIRMANCE (SUPREME COURT).pdf</i>
10/21/2022	Unknown Document <i>Title: REQUEST FOR TRANSCRIPT.pdf</i> <i>Notes: 1 COPY RETURNED IN SASE TO JOHN MALONE ESQ. CHECKED OUT VOL 2 ONLY - TO DC 2 BOX FOR PICKUP</i>
10/21/2022	Department 2 <i>Notes: VOL 2 ONLY TO DC 2 - FOR REIVEW OF REQUEST FOR TRANSCRIPT</i>
10/21/2022	Clerk's Office <i>Notes: IN UPRIGHTS-VOL 2</i>
10/24/2022	Unknown Document <i>Title: TRANSCRIPT OF STATUS HEARING - FRIDAY, SEPTEMBER 10, 2021.pdf</i> <i>Notes: ORIGINAL IN CASE DC-CV-21-68</i>
10/24/2022	Unknown Document <i>Title: TRANSCRIPT OF SENTENCING - TUESDAY, NOVEMBER 2, 2021.pdf</i>
12/27/2022	Unknown Document <i>Title: ORDER DENYING REHEARING (SUPREME COURT).pdf</i>
03/27/2023	Unknown Document

CASE SUMMARY
DISTRICT CRIMINAL
CASE No. ECDC-CRFP-18-5030

03/27/2023	<i>Title: CLERK'S CERTIFICATE (SUPREME COURT).pdf</i> Unknown Document
03/27/2023	<i>Title: CERTIFIED ORDER OF AFFIRMANCE (SUPREME COURT).pdf</i> Unknown Document <i>Title: REMITTITUR (CERTIFIED COURT).pdf</i> <i>Notes: SIGNED AND SEALED. COPY MAILED TO SUPOREME COURT</i>
03/29/2024	 Notice of Appeal - Criminal <i>NOTICE OF APPEAL (RE: APPEAL DEPRIVATION - CASE NO. DC-CV-21-68)</i>
04/04/2024	 Certificate of Service <i>SIGNED AND SEALED. FILED WITH THE SUPREME COURT. COPIES EMAILED TO DA AND MALONE. MAILED TO DEFENDANT AND ATTORNEY GENERAL.</i>

FINANCIAL INFORMATION

No Financial Information Exists

1 CASE NO. CR-FP-18-5030

2 DEPT. NO. 2

2020 JUN 19 PM 3:51
2020 JUN 19
ELKO CO DISTRICT COURT

CLERK _____ DEPUTY LP @

3
4
5 **IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**
6 **OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO**
7

8 * * * * *

9 _____
10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

JUDGMENT OF CONVICTION

13 KEVIN JOHN MENTABERRY,

14 Defendant.
15 _____ /

16
17 On January 27, 2020, a jury found Defendant KEVIN JOHN MENTABERRY (date of
18 birth: December 22, 1977; place of birth: Boise, ID) guilty of **COUNT 3: LEWDNESS WITH A**
19 **14 OR 15 YEAR OLD CHILD A CATEGORY B FELONY AS DEFINED BY NRS 201.230**
20 **(NOC 60336)**, which crime occurred on or about December 31, 2017. The court held a
21 sentencing hearing on June 19, 2020, and sentenced Defendant as follows:

22 **IT IS ORDERED** that Defendant shall submit to a test to determine his
23 **genetic markers, and shall pay the genetic testing fee of \$150.00. In**
24 **addition, Defendant shall pay a genetic administrative assessment of**
\$3.00.

25 **IT IS FURTHER ORDERED** Defendant shall pay an administrative
26 **assessment of \$25.00.**

27 **For Count 1, Defendant shall serve a maximum term of 72 months and**
28 **a minimum term of 28 months in prison.**

1 IT IS FURTHER ORDERED that Defendant shall pay restitution in the
2 amount of \$1,470.00.

3 IT IS FURTHER ORDERED that the sentence for Count 3 is suspended
4 and Defendant is placed on a term of probation of 60 months.
5 Defendant shall comply with the standard rules of probation.

6 Defendant is required to follow the following special conditions:

- 7 1. That Defendant shall not consume any alcoholic beverages.
8 Further Defendant shall not possess alcoholic beverages or be
9 present in any cocktail lounge, bar or similar establishment for
10 which the primary purpose is serving alcoholic beverages;
- 11 2. That Defendant shall obtain a substance abuse evaluation from an
12 LADC within 30 days of release from custody, and shall enter and
13 complete a treatment program as deemed necessary and approved
14 by the Division of Parole and Probation;
- 15 3. That Defendant shall neither possess nor use marijuana and
16 marijuana products. Further Defendant shall not be present in any
17 dispensary or similar establishment for which the primary purpose
18 is selling marijuana and/or marijuana products;
- 19 4. That Defendant shall not gamble and shall not be present in a
20 gambling establishment;
- 21 5. That Defendant shall submit his digital storage media and any
22 media to which he has access or uses, including computers,
23 handheld devices and any network applications associated with
24 those devices, including social media and remote storage services,
25 to a search, and shall provide all passwords, unlock codes and
26 account information associated with those items, with or without a
27 search warrant, to the Division of Parole and Probation or its agent;
- 28 6. That Defendant shall serve 180 days in the Elko County Jail (with
credit for 23 days served) starting June 19, 2020;
7. That Defendant shall pay the restitution at a rate determined by the
Division of Parole and Probation;
8. That Defendant shall have no contact with his victim, AP;
9. That Defendant shall have no contact with Chad and Shawna
Eklund;

1
2 In addition to the conditions set forth above, Defendant shall abide by
3 the following conditions as required by NRS 176A.410:

4 1. Defendant shall submit to a search and seizure of his person,
5 residence or vehicle or any property under his control, at any time of
6 the day or night, without a warrant, by any parole and probation officer
7 or any peace officer, for the purpose of determining whether he has
8 violated any condition of probation or suspension of sentence or
9 committed any crime.

10 2. Defendant shall reside at a location only if:

11 a. The residence has been approved by the parole and probation
12 officer assigned to him.

13 b. If the residence is a facility that houses more than three persons
14 who have been released from prison, the facility is a facility for
15 transitional living for released offenders that is licensed pursuant to
16 chapter 449 of NRS.

17 c. Defendant keeps the parole and probation officer assigned to
18 him informed of Defendant's current address.

19 3. Defendant shall accept a position of employment or a position
20 as a volunteer only if it has been approved by the parole and probation
21 officer assigned to him and keep the parole and probation officer
22 informed of the location of Defendant's position of employment or
23 position as a volunteer.

24 4. Defendant shall abide by any curfew imposed by the parole and
25 probation officer assigned to him.

26 5. Defendant shall participate in and complete a program of
27 professional counseling approved by the Division.

28 6. Defendant shall submit to periodic tests, as requested by the
parole and probation officer assigned to him, to determine whether
Defendant is using a controlled substance.

7. Defendant shall submit to periodic polygraph examinations, as
requested by the parole and probation officer assigned to him.

1 8. Defendant shall not have contact or communicate with a victim
2 of his sexual offense or a witness who testified against Defendant or
3 solicit another person to engage in such contact or communication on
4 behalf of Defendant, unless approved by the Chief Parole and
5 Probation Officer or the Chief Parole and Probation Officer's designee
6 and a written agreement is entered into and signed in the manner set
7 forth in subsection 5 of NRS 176A.410.

8 9. Defendant shall not use aliases or fictitious names.

9 10. Defendant shall not obtain a post office box unless he receives
10 permission from the parole and probation officer assigned to him.

11 11. Defendant shall not have contact with a person less than 18
12 years of age in a secluded environment unless another adult who has
13 never been convicted of a sexual offense is present and permission
14 has been obtained from the parole and probation officer assigned to
15 Defendant in advance of each such contact.

16 12. Unless approved by the parole and probation officer assigned
17 to him and by a psychiatrist, psychologist or counselor treating him,
18 if any, Defendant shall not knowingly be within 500 feet of any place,
19 or if the place is a structure, within 500 feet of the actual structure, that
20 is designed primarily for use by or for children, including, without
21 limitation, a public or private school, a school bus stop, a center or
22 facility that provides day care services, a video arcade, an amusement
23 park, a playground, a park, an athletic field or a facility for youth
24 sports, or a motion picture theater. The provisions of this paragraph
25 apply only to a Defendant who is a Tier III offender.

26 13. Defendant shall comply with any protocol concerning the use
27 of prescription medication prescribed by a treating physician,
28 including, without limitation, any protocol concerning the use of
psychotropic medication.

14. Defendant shall not possess any sexually explicit material that
is deemed inappropriate by the parole and probation officer assigned
to him.

15. Defendant shall not give patronage to a business that offers a
sexually related form of entertainment and which is deemed
inappropriate by the parole and probation officer assigned to him.

1 16. Defendant shall not possess any electronic device capable of
2 accessing the Internet and not access the Internet through any such
3 device or any other means, unless possession of such a device or
4 such access is approved by the parole and probation officer assigned
5 to him.


6 17. Defendant shall inform the parole and probation officer
7 assigned to him if Defendant expects to be or becomes enrolled as a
8 student at an institution of higher education or changes the date of
9 commencement or termination of Defendant's enrollment at an
10 institution of higher education. As used in this paragraph, "institution
11 of higher education" has the meaning ascribed to it in NRS 179D.045.

12 IT IS FURTHER ORDERED that defendant is sentenced to lifetime supervision after
13 any period of probation or any term of imprisonment and any period of release on parole.

14 Throughout these proceedings, Defendant was represented by Gary D. Woodbury,
15 Esq.

16 THEREFORE, the Clerk of the Court is directed to enter this Judgment of Conviction
17 as part of the record in this matter.

18 DATED this 19 day of June 2020.

19 

20 ALVIN R. (AL) KACIN
21 District Court Judge
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1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District
3 Court, Department 2, and that on this 19 day of June 2020, I served by hand delivery by
4 placing a copy of said document in the agency box located in the Elko County Clerk's Office,
5 a true copy of the foregoing document to:

6
7 Elko County District Attorney

8 Gary D. Woodbury, Esq.

9 State of Nevada, Division of Parole & Probation

10 Elko County Sheriff

11 
12 WILLIAM ROBERT WOLF III
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**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 10/01/18

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Tyler J. Ingram, Esq.

Defendant present, not in custody, and represented by

Gary D. Woodbury, Esq.

Division of Parole and Probation represented by Sara Macias.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

ARRAIGNMENT – NOT GUILTY

Court convened at 10:54 a.m.

The Court noted the presence of the parties.

This was the date and time set for an arraignment on the Criminal Information filed July 26, 2018 charging COUNT 1: SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 16 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.336. (NOC 50106); OR, IN THE ALTERNATIVE TO COUNT 1, COUNT 2: STATUTORY SEXUAL SEDUCTION, A CATEGORY B FELONY AS DEFINED BY NRS 200.368(1) AND NRS 200.364(6). (NOC 60323); OR, IN THE ALTERNATIVE TO COUNTS 1 AND 2, COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336).

A certified copy of the Criminal Information was presented to the Defendant.

The Defendant advised that he reviewed the Criminal Information with his attorney, and was satisfied with legal representation to date.

Defense Counsel advised the Defendant would be entering a plea of not guilty and would be waiving his right to a trial within 60 days.

The name of the Defendant was correctly stated.

Defense counsel waived the formal reading of the Criminal Information.

The Court read the charging portion of the Criminal Information and asked the Defendant to enter a plea.

The Defendant entered a plea of not guilty to the charges.

The Court advised the Defendant of the right to be tried within 60 days from today's date.

The Defendant waived the sixty-day rule.

The Court advised that it would set a 4-day trial and call 120 prospective jurors with jury selection to take place in the Elko County Commissioner's room.

The Court advised the Defendant to remain in contact with his attorney regarding all future appearance dates.

The Court noted the preliminary hearing transcript was filed August 29, 2018

The Court **ORDERED** the Defendant be continued released on his previously posted bail bond in the amount of \$100,000.00.

Court adjourned at 11:00 a.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 02/07/19

VS.

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, not in custody, and represented by
Gary D. Woodbury, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

HEARING ON MOTION FOR DISCOVERY

Court convened at 11:31 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a hearing on a Motion for Discovery filed January 31, 2019.

The Court noted that the State filed a Non-Opposition to the Motion on February 4, 2019 and inquired of Counsel if they wished a written order be entered.

Defense counsel presented a statement regarding the report that was requested by the doctor.

The State advised that the family was declining to release medical records of Dr. Akhurana from Las Vegas Nevada and Leslie Rangel of Elko. The State presented further statement regarding an order needed to obtain medical records.

The Court advised Counsel to submit a proposed order.

The State presented an oral motion to continue due to a witness that was not available for trial and advised that the matter had been discussed and agreed upon by Defense counsel.

Defense counsel had no objection to a continuance and confirmed that the Defendant waived his right to a trial within 60 days.

The Court **GRANTED** the Oral Motion to Continue.

The Court advised that the Hearing on Motions scheduled for February 22, 2019 would be continued.

The Court advised Counsel that they would be contacted by the Judicial Assistant to reschedule a jury trial date and a pretrial motions hearing date.

The Court advised the Defendant to remain in contact with his attorney and his presence was mandatory for trial.

The Court **ORDERED** the trial scheduled to begin March 26, 2019 be vacated.

The Defendant was continued released on his previously posted bail bond in the amount of \$100,000.00.

Court adjourned at 11:38 a.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 01/14/19

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant not present, not in custody, and represented by
Gary D. Woodbury, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

EARLY CASE CONFERENCE

Court convened at 10:39 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for an Early Case Conference hearing on a Criminal Information filed July 26, 2018 charging COUNT 1: SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 16 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.336. (NOC 50106); OR, IN THE ALTERNATIVE TO COUNT 1, COUNT 2: STATUTORY SEXUAL SEDUCTION, A CATEGORY B FELONY AS DEFINED BY NRS 200.368(1) AND NRS 200.364(6). (NOC 60323); OR, IN THE ALTERNATIVE TO COUNTS 1 AND 2, COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336. The Court advised that this matter was scheduled for jury trial to begin March 26, 2019 through March 29, 2019 and was a priority 2 setting and further advised that a

Pretrial Motion hearing was scheduled for February 22, 2019. The Court noted that the preliminary hearing transcript had been received and inquired if there were any offers made in this matter.

The State advised that no offers of settlement had been extended and there were no outstanding offers that were ever made. The State advised that an expert report was anticipated.

Defense counsel confirmed that there were no outstanding offers.

The State advised that it did not have any Motions or Offers of Proof to be filed.

Court adjourned at 10:41 a.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 03/14/19

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, not in custody, and represented by
Gary D. Woodbury, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

STATUS HEARING

Court convened at 2:12 p.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a status hearing.

The State advised that the Ms. Rangel and the doctor were objecting to the medical records being disclosed. The State advised that the victim's mother was present in the audience today.

The Court advised that Counsel had stipulated that the records be provided for in camera review and noted that they had not been disclosed. The Court made a record of the reports and inquired if Counsel wished to submit briefs regarding the issue or present oral argument.

The State presented a statement regarding the victim and possibly appointing representation for the victim and advised that it may be appropriate to brief the matter.

Defense counsel submitted the matter.

The Court and Counsel discussed the matter further regarding appoint of counsel for the victim.

The Court inquired if there were any objection to the Court storing the records in chambers.

The State had no objection.

Defense counsel had no objection.

The Court noted that the mother of the victim, Ms. Eklund, objected to the records being provided. The Court discussed appointment of counsel to the victim and advised that it would not appoint representation for the psychiatrist.

Ms. Eklund advised that she had not considered representation for the victim.

The Court advised Ms. Eklund that a decision had not been made regarding disclosing the records to the Defense and discussed appointment of an attorney further with Ms. Eklund.

Ms. Eklund advised that she did not oppose the Court appointing an attorney for the victim regarding the victim's privilege regarding her medical and mental health reports.

Defense counsel requested to submit a brief first and the State submit a brief and it be allowed to submit a reply brief.

The Court **ORDERED** Defense counsel to submit a brief by March 22, 2019 and to State submit a brief by April 5, 2019 and Defense counsel to submit a reply brief by April 12, 2019.

The Court **FURTHER ORDERED** an attorney be appointed to represent the victim.

The Court advised that a copy of the order appointing attorney would be provided to the victim's mother, Ms. Eklund.

Court adjourned at 2:30 p.m.

IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA.

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 06/03/19

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Mark S. Mills, Esq.
Defendant not present, not in custody, and represented by
Gary D. Woodbury, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

EARLY CASE CONFERENCE

Court convened at 10:31 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for an Early Case Conference hearing on a Criminal Information filed July 26, 2018 charging COUNT 1: SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 16 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.336. (NOC 50106); OR, IN THE ALTERNATIVE TO COUNT 1, COUNT 2: STATUTORY SEXUAL SEDUCTION, A CATEGORY B FELONY AS DEFINED BY NRS 200.368(1) AND NRS 200.364(6). (NOC 60323); OR, IN THE ALTERNATIVE TO COUNTS 1 AND 2, COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336. The Court advised that this matter was scheduled for jury trial to begin August 20, 2019 through August 23, 2019 and was a priority 2 setting and further advised that a

Pretrial Motion hearing was scheduled for July 30, 2019 and inquired if there were any offers made in this matter.

Defense counsel advised that no offers had been made and this matter would proceed with trial.

The Court inquired if all motions had been disposed.

Defense counsel advised that it had not filed any motions.

The State advised that there were no pending unresolved motions.

Court adjourned at 10:33 a.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 01/21/20 – 01/27/20

VS.

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, not in custody, and represented by
Gary D. Woodbury, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

JURY TRIAL

Day One – January 21, 2020

Jury selection at the Elko County Commissioner's Room

Court convened at 9:21 a.m.

This was the date and time set for a jury trial on the Criminal Information filed July 26, 2018 charging COUNT 1: SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF 16 YEARS, A CATEGORY A FELONY AS DEFINED BY NRS 200.336. (NOC 50106); OR, IN THE ALTERNATIVE TO COUNT 1, COUNT 2: STATUTORY SEXUAL SEDUCTION, A CATEGORY B FELONY AS DEFINED BY NRS 200.368(1) AND NRS 200.364(6). (NOC 60323); OR, IN THE ALTERNATIVE TO COUNTS 1 AND 2, COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336).

The Court introduced Counsel to the prospective jurors and Defense counsel introduced the Defendant.

All prospective jurors were present except as follows: Marquise Carney, Joseph Carl Carpenter, Lauren Chesnut, Jennifer Dubbs, Jared Henry Duke, Ana Maria Espinoza, Thomas Ross Finch, Tiffany Lind, Daniel Joseph Miller, Daniel Scott Roberson, Alejandro Jose Ruiz, Deborah Lynn Shannon, Shirley L. Spencer, Cagen Clyde Sperry, and Terrance James Stephenson.

The Court instructed the Jury Commissioner to send a letter to all the prospective jurors who failed to appear.

The Clerk read the Criminal Information.

The Court informed the jury venire of the presumption of innocence pursuant to NRS 175.191 and of the definition of a reasonable doubt pursuant to NRS 175.211.

The Court made a statement to the jury venire describing the importance of their service as prospective jurors.

All prospective jurors were sworn on their voir dire.

The Clerk called the following 32 names: June M. Johnson, Kalob Tracy, Sonya Scott, Jennifer Ballard, April Dawnann Kelly, Douglas Edward Smouse, Tiffany Lynn Foster, Randy Q. Hesterlee, Lani Deloy Stradling, Shyra Smith, Marvin R. Orr, Tina Louise Breithaupt, Susan W. Ballew, Sandy Dann, Richard D. Gillespie, Larry Paul Bradshaw, Steven Blaine Parry, Alfred L. Koch, Jamie Nicole Stoddard, Steven Douglas Lohman, Ruby Leighanne Uhart, Karla R. Hartsell, Richard Timothy Bulmer, Jenave Jo Demick, Cindy Lou Fuller, Stacey Beeson-Wolters, Tabatha Lynn Rowe, Stephen V. Garcia, Cody Douglas Spring, Sylvia G. Soto, Nathan Wilkinson and Jeremy Wayne Armstrong.

The Court explained the jury selection process and asked general questions of the potential jurors.

Douglas E. Smouse was excused for cause and replaced by Kaitlin Ballew.

Steven D. Lohman was excused for cause and replaced by Yerenia Montalvo.

The Court admonished the potential jurors pursuant to NRS 175.121.

Court recessed for morning break at 10:15 a.m.

Court reconvened at 10:32 a.m.

The Court noted the presence of the parties.

Counsel approached the bench for a sidebar.

The Court advised that Counsel stipulated to release Yerenia Montalvo.

Yerenia Montalvo was excused for cause and replaced by Rachel Sanders.

The Court advised that Counsel had stipulated to release prospective juror seated in the audience, Carolyn R. Greenburg.

The Court continued asking general questions of the potential jurors.

Cody D. Spring was excused for cause and replaced by Mary T. Hess.

Ruby L. Uhart was excused for cause and replaced by Sean Stanton.

Jennifer Ballard was excused for cause and replaced by Dean E. Robertson.

Tiffani L. Foster was excused for cause and replaced by Katrina Huston.

Shyra Smith was excused for cause and replaced by Jennifer Dominguez.

Tina L. Breithaupt was excused for cause and replaced by Jessica Yvonne Herzog.

Jamie N. Stoddard was excused for cause and replaced by Montana Rae Robinson.

Karla R. Hartsell was excused for cause and replaced by Fermin J. Martinez.

Katrina Huston was excused for cause and replaced by Matt Howard Davis.

Jennifer Dominguez was excused for cause and replaced by Steven Eugene Cook.

Jessica Yvonne Herzog was excused for cause and replaced by Thomas K. Knudsen.

Richard T. Bulmer was excused for cause and replaced by Addison Anthony.

Stacey Beeson-Wolter was excused for cause and replaced by Robert J. Pierce.

Tabatha L. Rowe was excused for cause and replaced by Fred O. Baumgartner.

Fred O. Baumgartner was excused for cause and replaced by Rashay Lewis.

Thomas K. Knudsen was excused for cause and replaced by Debbie Lynn Dimattia.

Larry Paul Bradshaw was excused for cause and replaced by Jessie Jackson.

Rashay Lewis was excused for cause and replaced by Dane Miller.

Lani D. Stradling was excused for cause and replaced by Jonathan James Grijalva.

Alfred L. Koch was excused for cause and replaced by Suzanne Windous.

Suzanne Windous was excused for cause and replaced by Jorey R. Schroeder.

The Court admonished the potential jurors pursuant to NRS 175.121.

Court recessed for lunch break at 12:01 p.m.

Court reconvened at 1:24 p.m.

The Court noted the presence of the parties and further noted the presence of the prospective jurors.

The Court continued asking general questions of the potential jurors.

The Court concluded general questions.

The potential jurors introduced themselves.

The State examined the potential jurors on supplemental examination.

Defense counsel examined the potential jurors on supplemental examination.

The State passed the panel for cause.

Defense counsel passed the panel for cause.

The Court explained the peremptory challenge process to the prospective jury panel, and admonished and excused the panel so that Counsel could exercise their peremptory challenges.

The Court recessed at 2:48 p.m.

Court reconvened at 3:13 p.m. with Counsel and the Defendant present outside the presence of the jury for the purpose of exercising peremptory challenges.

The State's first peremptory challenge was juror number 15, Richard D. Gillespie.

Defense counsel's first peremptory challenge was juror number 1, June M. Johnson.

The State's second peremptory challenge was juror number 18, Debbie Lynn Dimattia.

Defense counsel's second peremptory challenge was juror number 6, Nathan Wilkinson.

The State's third peremptory challenge was juror number 14, Sandy Dann.

Defense counsel's third peremptory challenge was juror number 26, Matt Howard Davis.

The State's fourth peremptory challenge was juror number 13, Susan W. Ballew.

Defense counsel's fourth peremptory challenge was juror number 10, Mary Tedman Hess.

The State's fifth peremptory challenge was juror number 21, Jeremy Wayne Armstrong.

Defense counsel's fifth peremptory challenge was juror number 27, Steven Eugene Cook.

The State's sixth peremptory challenge was juror number 3, Sonya Scott.

Defense counsel's sixth peremptory challenge was juror number 12, Sean Stanton.

The State's seventh peremptory challenge was juror number 11, Marvin R. Orr.

Defense counsel's seventh peremptory challenge was juror number 23, Fermin Junior Martinez.

The State's eighth peremptory challenge was juror number 16, Addison Anthony.

Defense counsel waived its eighth peremptory challenge.

The State's alternate peremptory challenge was juror number 31, Jonathan James Grijalva.

Defense counsel's alternate peremptory challenge was juror number 29, Jessie Jackson.

The Court advised that it would read Jury Instructions No. 1 and No. 2 once the trial began.

Counsel concurred, and stipulated that the Court Reporter would not report the reading of Jury Instruction No. 1 and No. 2.

Court recessed at 3:25 p.m.

Court reconvened at 3:28 p.m.

The Court noted the presence of the parties.

The Clerk called the names of the 12 trial Jurors and the 2 Alternates, to wit: Kalob Tracy, Kaitlin Ballew, April Dawnann Kelly, Rachel Sanders, Randy Q. Hesterlee, Robert J. Pierce, Steven Blaine Parry, Dean E. Robertson, Sylvia G. Soto, Montana Rae Robinson, Jenave Jo Demick, Cindy Lou Fuller, Stephen V. Garcia and Dane Miller.

The Court thanked and excused those not called to serve as jurors.

The 12 Jurors and the 2 Alternates were sworn by the Clerk to try the case.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121 and informed them of their right to take notes pursuant to NRS 175.131.

The Court advised that it would read Jury Instructions No. 1 and No. 2 at this time.

Counsel concurred, and stipulated that the Court Reporter would not report the reading of Jury Instruction No. 1 and No. 2.

The Court read Jury Instruction No. 1 and No. 2.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

The Court advised the Jury and the Alternates that this matter would resume in the Department 2 Courtroom.

Court recessed for afternoon break at 3:57 p.m.

Court reconvened at 4:22 p.m. in the Department 2 Courtroom.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternates.

The Clerk read the Criminal Information omitting the formal parts.

Mr. Thompson presented an opening statement on behalf of the State.

Mr. Woodbury presented an opening statement on behalf of the Defendant.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed for evening break at 5:03 p.m.

JURY TRIAL
Day Two – January 22, 2020

Court reconvened at 8:49 a.m. outside the presence of the Jury and the Alternates for the purpose of speaking with a juror per their request.

The Court noted the presence of the parties.

Juror, Kalob Tracy, entered the courtroom and addressed the Court regarding having knowledge of one of the witnesses.

The Court asked follow up questions.

The State presented follow up questions. Defense counsel presented follow up questions.

Juror, Kalob Tracy, was excused from the courtroom.

The Court inquired if Counsel had any motions.

The State had no motions. Defense counsel had no motions.

The Court advised that Kalob Tracy would remain as a juror.

The Court advised that the Bailiff had indicated that juror Jenave Demick wished to address the Court.

The State requested that if a transcript was produced that the victim's name be redacted to her initials A.P.

The State and Defense counsel stipulated to the victims initials being used in the transcript instead of the victims full name.

Juror, Jenave Demick, entered the courtroom and presented a statement.

The State presented follow up questions. Defense counsel no questions.

The Court excused Jenave Demick as a juror and she exited the courtroom.

The Court advised that juror No. 13, Stephen Garcia, would be moved to seat 11 to replace juror Jenave Demick and Juror No. 14, Dane Miller, would be moved to seat 13.

Court recessed at 8:59 a.m.

Court reconvened at 9:11 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

The Court advised that one juror had been released.

The State presented a Stipulation of Fact as to the date of the event being December 31, 2017 and January 1, 2018 and the Defendant was 40 years of age and December 31, 2017 was a Sunday and the preliminary hearing was held July 20, 2018.

The Court inquired if Defense counsel agreed.

Defense counsel concurred.

The Court discussed the Stipulation of Fact to the Jury.

The Court directed the State to call its first witness.

A.P. was sworn and examined on direct by the State. The Witness identified the Defendant. The State continued direct examination of the Witness.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

The Court invoked the rule of exclusion.

Court recessed for morning break at 10:32 a.m.

Court reconvened at 1:18 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

A.P. resumed the stand and was reminded by the Court that she was still under oath.

Defense counsel examined the Witness on cross.

The Witness requested to take a break and exited the courtroom.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for afternoon break at 2:17 p.m.

Court reconvened at 2:40 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

A.P. resumed the stand and was reminded by the Court that she was still under oath.

Defense counsel continued cross examination. Defense counsel requested a recess be taken due the witness being upset.

The Court presented a statement.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for afternoon break at 3:21 p.m.

Court reconvened at 3:50 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

A.P. resumed the stand and was reminded by the Court that she was still under oath.

Defense counsel requested to read page 128 line 17 through 21 of the Preliminary Hearing Transcript. The State had no objection. Defense counsel read page 128 line 17 through 21 of the Preliminary Hearing Transcript.

Defense counsel continued cross examination. The State examined the Witness on redirect. Recross by Defense counsel.

The Court inquired if there were any jury questions.

No questions were submitted by the Jury.

The Court advised A.P. of the rule of exclusion and advised her that she would be retained subject to recall.

Witness excused.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for evening break at 4:57 p.m.

JURY TRIAL
Day Three – January 23, 2020

Court reconvened at 8:53 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Annie Holt was sworn and examined on direct by the State. The Witness identified the Defendant. The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 10, Photograph, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 10, Photograph, admitted.

The State continued direct examination of the Witness. The State offered 11, Photograph, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 11, Photograph, admitted.

The State continued direct examination of the Witness. The State offered 12, Photograph, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 12, Photograph, admitted.

The State continued direct examination of the Witness. The State offered 13, Photograph, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 13, Photograph, admitted.

The State continued direct examination of the Witness. Witness examined on cross by Defense counsel.

The Court advised that a break would be taken and advised the Witness of the Rule of Exclusion.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for morning break at 10:33 a.m.

Court reconvened at 10:56 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Annie Holt resumed the stand and she was reminded by the Court that she was still under oath.

Defense counsel continued cross examination of the Witness. No redirect.

The Court inquired if there were any jury questions.

One question was submitted by Juror No. 13

One question was submitted by Juror No. 3.

Counsel approached the bench for a sidebar.

One question submitted by Juror No. 13 was asked by the Court.

One question submitted by Juror No. 3 was not asked at this time.

The State presented follow up questions. No follow up by Defense counsel.

The Witness was excused subject to recall.

Leslie Rangel was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. Defense offered Plaintiff's Exhibit 3, Leslie Rangel's Statement, for admission.

The State offered Plaintiff's Exhibit 2, A.P.'s Statement, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 2, A.P.'s Statement, and Plaintiff's Exhibit 3, Leslie Rangel's Statement, admitted.

Defense counsel continued direct examination of the Witness.

The Court advised that a break would be taken and advised the Witness of the rule of exclusion.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for lunch break at 12:06 p.m.

Court reconvened at 1:50 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Leslie Rangel resumed the stand and was reminded by the Court that she was still under oath.

Defense counsel continued direct examination of the Witness. Redirect by the State. Recross by Defense counsel.

The Court inquired if there were any jury questions.

One question was submitted by Juror No. 5.

Counsel approached the bench for a sidebar.

One question submitted by Juror No. 5 was not asked due to the rules of evidence.

Witness excused.

Melissa Piasecki was sworn and examined on direct by the State. The State requested the Witness be recognized as an expert in forensic psychiatry.

Defense counsel had no voir dire.

The Court advised that the Witness would not be recognized as an expert and would be allowed to give her opinion in forensic psychiatry.

The State continued direct examination of the Witness. Witness examined on cross by Defense counsel.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for afternoon break at 3:34 p.m.

Court reconvened at 3:46 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Melissa Piasecki resumed the stand and was reminded by the Court that she was still under oath.

The State examined the Witness on redirect. Recross by Defense counsel.

The Court inquired if there were any jury questions.

One question was submitted by Juror No. 6.

Counsel approached the bench for a sidebar.

One question submitted by Juror No. 6 was not asked due to the rules of evidence.

The Witness was advised of the rule of exclusion.

Defense counsel requested that the witness, Melissa Plasecki, be retained and she available for telephonic testimony.

The Court advised Ms. Plasecki that she was retained subject to recall and she was excused from the courtroom.

Shawna Eklund was sworn and examined on direct by the State.

Juror No. 11, Stephen Garcia, requested to address the Court.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for break at 3:59 p.m.

Court reconvened at 4:00 p.m. outside the presence of the Jury and the Alternate to speak with Juror No. 11.

Stephen Garcia addressed the Court.

The State had no follow up questions. Defense counsel had no follow up questions.

The Jury and Alternate entered the Courtroom at 4:01 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Witness, Shawna Eklund, resumed the stand and was reminded by the Court that she was still under oath.

The State continued direct examination of the Witness. Witness examined on cross by Defense counsel. Redirect by the State. No recross by Defense counsel.

The Court inquired if there were any jury questions.

The Court advised the Witness of the rule of exclusion.

There being no jury questions, the Witness was excused subject to recall.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for evening break at 5:00 p.m.

JURY TRIAL
Day Four – January 24, 2020

Court reconvened at 8:23 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Officer Kyle Craig was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. Redirect by the State. Recross by Defense counsel.

The Court inquired if there were any jury questions.

The Court advised the Witness of the rule of exclusion.

There being no jury questions, the Witness was excused subject to recall.

Detective Michael Marshowsky was sworn and examined on direct by the State. The State offered Plaintiff's Exhibit 14, CD Video, for admission.

Defense counsel requested the Court withhold its ruling on the admissibility of Plaintiff's Exhibit 14 until after cross examination was concluded.

The Court advised that it would make a decision on the admissibility of Plaintiff's Exhibit 14 until after cross examination.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 1, Diagram drawing, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 1, Diagram Drawing, admitted.

The State continued direct examination of the Witness. The Witness examined on cross by Defense counsel.

The State offered Plaintiff's Exhibit 14, CD Video for admission.

Defense counsel presented objection to Plaintiff's Exhibit 14.

The State presented argument.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 14, CD Video, admitted.

The State examined the Witness on redirect. No recross by Defense counsel.

The State requested the Court take judicial notice that during the preliminary hearing the victim was only called by Defense counsel to testify.

The Court inquired if there were any jury questions.

There being no jury questions, the Witness was advised of the rule of exclusion and was excused.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed at 10:23 a.m.

Court reconvened at 10:23 a.m. outside the presence of the Jury and the Alternate.

The Court noted the presence of the parties.

The State requested the Court take judicial notice that during the preliminary hearing the victim A.P. was only asked to testify by Defense counsel and was not questioned by the State.

Defense counsel presented a statement.

The State presented argument.

The Court denied the request and advised that it would not take judicial notice.

The State advised that it would be resting its case-in-chief.

The Court canvassed the Defendant regarding his right to testify.

The Defendant advised that he had had sufficient time to discuss the matter with his attorney and was comfortable with his decision.

Defense counsel advised that he had three witnesses, Ava Mentaberry, Mazy Mentaberry, and Kevin Mentaberry.

Court recessed at 10:31 a.m.

Court reconvened at 10:46 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

The State rested its case-in-chief at 10:46 a.m.

Defense counsel called his first witness.

Ava Mentaberry was sworn and examined on direct by Defense counsel. Witness examined on cross by the State. No redirect.

The Court inquired if there were any jury questions.

The Court advised the Witness of the rule of exclusion.

There being no jury questions, the Witness was excused subject to recall.

Mazy Mentaberry was sworn and examined on direct by Defense counsel. Witness examined on cross by the State. No redirect by Defense counsel.

The Court inquired if there were any jury questions.

The Court advised the Witness of the rule of exclusion.

There being no jury questions, the Witness was excused.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for lunch break at 11:58 a.m.

Court reconvened at 1:27 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Kevin Mentaberry was sworn and examined on direct by Defense counsel. Witness examined on cross by the State. No redirect.

The Court inquired if there were any jury questions.

There being no jury questions, the Witness was excused.

Defense counsel rested its case-in-chief at 2:22 p.m.

The Court advised that the evidentiary portion of the trial was closed and further advised that a recess would be taken in order for the Court and Counsel to finalize the Jury Instructions.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed at 2:23 p.m.

Court reconvened at 3:54 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

The Court advised the Jury and the Alternate regarding the timeline of the jury trial and advised that jury instructions still needed to be settled. The Court discussed possibly continuing the trial to Monday January 27, 2020.

Juror No. 10 Montana Robinson advised that she needed to confirm with her employer regarding returning Monday.

The Court advised Ms. Robinson to contact her employer and notify the Bailiff by the end today.

The remaining jurors indicated that they would be available to return on Monday.

The Court advised the Jury and Alternate to return Monday, January 27, 2020 at 8:30 a.m.

The Court admonished the Jury and the Alternate pursuant to NRS 175.121.

Court recessed for evening break at 4:01 p.m.

JURY TRIAL
Day Five – January 27, 2020

Court reconvened at 8:22 a.m. with Counsel and the Defendant present outside the presence of the Jury and the Alternate for the purpose of settling the Jury Instructions and Verdict Forms.

The Court noted it had a packet of Jury Instructions numbered 1 through 34.

Counsel advised that they had received and reviewed the jury instructions.

The Court inquired if Counsel had any objection to the jury instructions.

The State had no objection.

Defense counsel presented objection to Jury Instruction No. 16, No. 18 and No. 24.

The State presented argument.

The Court overruled Defense counsel's objection to Jury Instruction No. 16, No. 18, and No. 24.

The Court inquired if Counsel had any proposed forms of jury instructions.

The State had no proposed jury instructions.

Defense counsel had no proposed jury instruction.

The Court noted it had 1 Form of Verdict and inquired if Counsel had any proposed forms of verdict.

The State had no proposed forms of verdict.

Defense counsel had no proposed forms of verdict.

Court recessed at 8:29 a.m.

Court convened at 8:44 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

The Court advised that the Jury Instructions and Forms of Verdict had been settled in Open Court. The Court advised that it would not read Jury Instructions No. 1 and No. 2, as they had been previously read.

Counsel stipulated that the reading of the Instructions need not be reported.

The Court read Jury Instructions No. 3 through No. 34.

Mr. Thompson presented closing argument on behalf of the State.

Mr. Woodbury presented closing argument on behalf of the Defendant.

Mr. Thompson gave rebuttal argument.

The Bailiff was sworn.

The Court disclosed that Dane Miller was the Alternate Juror and instructed him to remain available via telephone and he was admonished pursuant to NRS 175.121.

The Jury was released to begin deliberation.

Court recessed at 10:38 a.m. subject to the call of the Jury.

A call was received at 1:40 p.m. that the Jury had reached a verdict.

Court reconvened at 1:55 p.m.

The Court noted the presence of the parties.

The Jury entered the courtroom at 1:57 p.m.

The Court noted the presence of the parties.

The Clerk called the roll of the Jury.

The Court asked the Jury if they had reached a verdict.

The foreperson, Stephen Garcia, advised that a verdict had been reached and provided the Form of Verdict for the Court's review.

The Court requested that the Clerk read the Verdict into the record.

The Clerk read the Verdict: **Guilty of COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY.**

Both the State and Defense counsel waived the polling of the jury.

The Court thanked and excused the Jury at 2:04 p.m.

The Court discussed the Defendant obtaining a psychosexual evaluation and advised the parties that they would be contacted by the Judicial Assistant to schedule a sentencing date.

The State advised that it expected some victim impact testimony at the time of sentencing.

The Court **ORDERED** the Defendant be continued released on his previously posted bail in the amount of \$100,000.00.

Court adjourned at 2:06 p.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 06/19/20

Case No.: CR-FP-18-5030

Dept: 2 – Commissioner's Room

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.

Defendant present, not in custody, and represented by

Gary D. Woodbury, Esq.

Division of Parole and Probation represented by Michelle Gavorsky.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

SENTENCING HEARING

Court convened at 9:45 a.m.

The Court noted the presence of the parties.

This was the date and time set for sentencing.

The Court noted the Defendant had been found guilty at trial on January 27, 2020 of Count 3 Lewdness with a 14 or 15 Year Old Child, a Category B Felony. The Court advised that the Presentence Investigation report had been received along with the hand written statement of the Defendant and the Nevada licensed psychologist report of Sheri Hixon-Brenenstall that indicates that the Defendant was a low risk to reoffend. The Court noted the State filed a Notice of Restitution Claim.

The State advised that restitution was in the total amount of \$1,470.00 and the matter had been discussed with Defense counsel.

Defense counsel had no objection to restitution.

All parties advised they were in receipt of the Presentence Investigation Report.

The State did not make any corrections to the report.

Defense counsel made a correction to the report.

The Court noted the correction to the report by interlineation.

The Court inquired if either party had evidence to present for sentencing.

The State advised that it had two witnesses to present for testimony and requested they present their testimony last.

Defense counsel had no objection to the witness testimony being presented last. Defense counsel advised that it did not have any evidence or witnesses to present.

The State presented its position for sentencing.

Defense counsel presented a recommendation on behalf of the Defendant.

The Court advised the Defendant of his right to make a statement on his own behalf.

The Defendant addressed the Court.

Shawna Eklund was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. No redirect. Witness excused.

Earl Chad Eklund was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. No redirect. Witness excused.

The Court noted that it had been provided the scoring sheet by the Division of Parole and Probation.

All parties advised that they received copies.

The Court advised that the Notification of Conviction and the Notification of Requirements of Registration for a sex offender had been provided to Defense counsel to review with the Defendant for signature. The Court advised that a recess would be taken before sentence was imposed.

Court recessed for break at 10:39 a.m.

Court reconvened at 11:35 a.m.

The Court noted the presence of the parties.

The Court presented a statement and noted it received the Notification of Conviction and Notice of Requirement for Registration which were signed by the Defendant.

The Court **ORDERED** a Judgment of Conviction be entered against the Defendant finding the Defendant guilty of COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336), by jury verdict entered January 27, 2020.

The matter being submitted;

The Court **ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, \$3.00 genetic administrative assessment fee, \$150.00 genetic testing fee, submit to testing to determine his genetic markers, pay restitution in the amount of \$1,470.00, and be sentenced to serve a maximum of 72 months in the Nevada Department of Corrections with minimum parole eligibility after 28 months. Said sentence was suspended and the Defendant was placed on probation for 60 months under the standard terms and conditions of probation with the following special conditions:

1. The Defendant to serve 180 days in the Elko County Jail with credit for 23 days previously served, to be taken into custody immediately.
2. The Defendant to obtain a substance abuse evaluation within 30 days from release from custody and if deemed necessary by the Division enter and complete a program at his own expense.
3. The Defendant to abstain from gambling or being present in any gaming establishment.
4. The Defendant to abstain from the use of alcohol or being present in any establishment that serves alcohol.
5. The Defendant to submit all digital media storage devices to the Division of Parole and Probation with or without a search warrant.
6. The Defendant to pay restitution at a monthly rate to be determined by the Division of Parole and Probation commencing upon his release from custody.
7. The Defendant to sign a Civil Confession of Judgment and pay the filing fee in the amount of \$28.00.
8. The Defendant to comply with the required terms and conditions of a sex offender pursuant to NRS 176a.410.
9. The Defendant to abstain from any contact with the victim and the victim's family.
10. The Defendant to abstain from the use of marijuana and marijuana products.

The Court and Counsel discussed if lifetime supervision as a sex offender was required. The Court advised that the matter would be researched further and if required it would be included in the Judgement of Conviction.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 12:09 p.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 09/10/21

Case No.: CRFP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.

Defendant present, not in custody, and represented by

John Malone, Esq.

Court Clerk, Darla Malotte, present.

Peggy Isom present as Court Reporter.

ORDER TO SHOW CAUSE

Court convened at 2:05 p.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a hearing on an Order to Show Cause.

The Court noted that the Defendant was found guilty by a jury on January 27, 2020 and a judgment of conviction was entered on June 19, 2020 to one count of Lewdness with a 14 or 15 Year Old Child, a category B felony and the Defendant was sentenced to serve a minimum term of 28 months in prison and a maximum term of 72 months and was placed on probation for 60 months.

The Court advised that after reviewing the statute it questioned the legality of the suspension of the execution of sentence and advised that it could correct any sentence. The Court discussed the matter further and inquired if there were any reasons not to correct the sentence.

The State advised that after researching the matter it agrees that probation was not an option. The State advised that the issue has been explained to the victim and family and requested to schedule a new sentencing hearing.

The Court noted that the victim's family were present.

The State presented further statement and advised that sentencing could proceed today since the victim's family was present.

Defense counsel advised that sentencing occurred over a year ago and the Defendant had served the ordered 6 months in custody and he was being supervised by parole and probation. Defense counsel advised that the Defendant submitted to an evaluation and was found not a high risk not to reoffend and further advised that a writ of habeas corpus had been filed due to the prior defense counsel informing the Defendant that he could not appeal. Defense requested that sentencing not proceed today and the Defendant remain under supervision of Parole and Probation until the details and errors were corrected.

Counsel approached the bench for a sidebar off the record.

Defense counsel presented further statement regarding continuing sentence and requested that if the writ was granted then the appeal would proceed and requested the Defendant remain released on bond.

The Court discussed correcting the sentencing in criminal matter, the appeal, and the habeas corpus. The Court further discussed the request for release on bond pending resolution of an appeal.

Defense counsel advised that it would research the matter further and requested two weeks to provide any pleadings regarding the issue.

The State presented further statement.

The Court advised that it needed to determine the criminal matter regarding execution of the sentence.

Defense counsel advised that he was hired to address the Writ of Habeas and inquired if he needed to advise his client to be prepared to post a bond at sentencing.

The Court advised that he could brief the matter.

The Court advised that sentencing would be scheduled in approximately 30 days.

The Court and Counsel discussed a possible sentencing date.

The Court advised the parties that would like to schedule sentencing the first week of November 2021.

Court recessed for break at 2:33 p.m.

Court reconvened at 2:48 p.m.

Court noted the presence of the parties.

Counsel advised that a possible sentencing date had been discussed and all parties including the victims agreed to a sentencing date on November 2, 2021.

The Court **ORDERED** sentencing be scheduled for November 2, 2021 at 2:00 p.m.

The Court advised that any further arguments regarding the legality of the sentence would be heard at the time of sentencing including any statement of the Defendant and the victims. The Court advised that it would reuse the Presentence Investigation Report that had previously been prepared and ask the parties to verify with the Division of Parole and Probation regarding credit time served.

Court adjourned at 2:52 p.m.

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 11/02/21

Case No.: CR-FP-18-5030

Dept: 2

KEVIN JOHN MENTABERRY,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, not in custody, and represented by
John Malone, Esq.
Court Clerk, Darla Malotte, present.
Peggy Isom present as Court Reporter.

SENTENCING HEARING

Court convened at 2:00 p.m.

The Court noted the presence of the parties.

This was the date and time set for re-sentencing.

The Court advised that this was scheduled for resentencing of the Defendant due to an error in the last sentence. The Court inquired if there were any victim impact testimony.

The State advised that testimony would not be presented since victim testimony had been presented at the last sentencing hearing.

The Court advised that it had re-reviewed the Presentence Investigation Report including attachments.

The Court inquired if either party had evidence to present for sentencing.

The State advised that the Defendant had credit for 116 days previously served.

Defense counsel agreed with credit time served of 116 days.

The State advised that restitution had been paid in full.

The Court advised that the amended judgment of conviction would reflect credit for \$1,470.00 paid towards restitution.

The Court advised that the State would present argument last including any possible victim testimony.

Defense counsel offered Defendant's Exhibit A, Letter from Life Quest; Defendant's Exhibit B, Payment for Quest Counseling; and Defendant's Exhibit C, Payment of Probation Supervision Fees and Restitution, for admission.

There being no objection, the Court **ORDERED** Defendant's Exhibit A, Letter from Life Quest; Defendant's Exhibit B, Payment for Quest Counseling; and Defendant's Exhibit C, Payment of Probation Supervision Fees and Restitution, admitted.

The State agreed that restitution had been paid in full and presented its position for sentencing.

The Court noted that probation had been granted illegally and presented a statement regarding correcting the sentence.

The State advised that it would not be asking the original sentence of a maximum of 72 months and a minimum sentence of 28 months be increased.

Defense counsel presented argument and advised that it did not receive a copy of the Presentence Investigation Report.

The Court advised that a copy of the Presentence Investigation Report would be made and a brief recess would be taken to allow Defense counsel to review with the Defendant.

Court recessed at 2:17 p.m.

Court reconvened at 2:34 p.m.

The Court noted the presence of the parties.

Defense counsel confirmed that it received a copy of the Presentence Investigation Report including attachments and had sufficient time to review the copies.

Defense counsel presented further argument opposing the sentence be increased and presented a recommendation of imposing a lower sentence. Defense counsel advised that it had two witnesses to call.

Tina Snow was sworn and examined on direct by Defense counsel. No cross examination by the State. Witness excused.

Heather Mentaberry was sworn and examined on direct Defense counsel. No cross examination by the State. Witness excused.

Defense counsel presented further recommendation on behalf of the Defendant.

The Court advised the Defendant of his right to make a statement on his own behalf.

The Defendant addressed the Court.

The Court noted that the victim's family was present and inquired if any wished to present testimony.

The State advised that the victim's family would rely upon their previous testimony.

The Court advised that it would enter a corrected Judgment of Conviction and noted that during the first sentence, the recommendation by the Division of Parole and Probation was for probation. The Court advised that pursuant to Nevada Statute, probation could not be granted and was entered in error and advised that it would be correcting an illegal sentence and presented further statement.

The Court advised that this was not a revocation of probation but a correction of the legality of probation.

The Court **ORDERED** a Judgment of Conviction be entered against the Defendant finding the Defendant guilty of COUNT 3: LEWDNESS WITH A 14 OR 15 YEAR OLD CHILD, A CATEGORY B FELONY AS DEFINED BY NRS 201.230. (NOC 60336), by jury verdict entered January 27, 2020.

The Court **ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, \$3.00 genetic administrative assessment fee, \$150.00 genetic testing fee, submit to testing to determine his genetic markers, and be sentenced to serve a maximum of 72 months in the Nevada Department of Corrections with minimum parole eligibility after 28 months with credit for 116 days previously served and be subject to lifetime supervision.

The Court **FURTHER ORDERED** the Defendant be given credit for restitution paid in full in the amount of \$1,470.00.

The Court noted the Defendant filed a post-conviction writ of appeal in case DC-CV-21-68.

Defense counsel advised that it had not reviewed the transcript of the trial and had not discussed the matter with trial counsel, Gary Woodbury. Defense counsel requested the Defendant be released on bail pending appeal and be equipped with an ankle monitor and requested bail be set at \$10,000.00.

The Court inquired regarding the writ of habeas corpus.

Defense counsel agreed to dismiss the habeas corpus case without prejudice and advised that it had a notice of appeal and case appeal statement which was ready to be filed.

The Court advised that an amended judgment of conviction would be entered so that the notice of appeal could be filed.

The State presented argument opposing the Defendant remaining out of custody pending an appeal.

Defense counsel presented further argument.

The State presented further argument.

The Court presented a statement and denied the Motion to remain out of custody on bond pending appeal.

The Court **ORDERED** the writ of habeas corpus case dismissed without prejudice.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 3:46 p.m.

PGM ID-EXEXIPS
DATE 1/28/2020

ELKO COUNTY COURT SYSTEM
EXHIBIT DATA FOR:

PAGE 1

NEVADA, STATE OF

CRFP180005030-001

EXHIBIT #	EXHIBIT DESCRIPTION	LOCATE	LOGGED	BY	DISP
1- HRG 07/20/18	CD	ENV V	7/24/18	AS	E
2- HRG 07/20/18	SUPPLEMENTAL REPORT FROM DETECTIVE MA	ENV V	7/24/18	AS	
3- HRG 07/20/18	ONE PAGE REPORT	ENV V	7/24/18	AS	
4- HRG 07/20/18	REPORT FROM DETECTIVE MORRELL	ENV V	7/24/18	AS	
5- HRG 07/20/18	WITNESS STATEMENT FROM AP	ENV V	7/24/18	AS	
6- HRG 07/20/18	INTIAL REPORT FROM OFFICER KYLE CRAIG	ENV V	7/24/18	AS	
7- HRG 07/20/18	CD	ENV V	7/24/18	AS	
1- TRL 01/21/20	COUCH DRAWING BY A.P.	ENV V	8/16/19	AS	E
2- TRL 01/21/20	A.P.'S STATEMENT	ENV V	8/16/19	AS	E
3- TRL 01/21/20	LESLIE RANGEL'S STATEMENT	ENV V	8/16/19	AS	E
4- TRL 01/21/20	KYLE CRAIG REPORTS	ENV V	8/16/19	AS	
5- TRL 01/21/20	MIKE MARSHOWSKY REPORT	ENV V	8/16/19	AS	
6- TRL 01/21/20	JOSH MORRELL REPORTS	ENV V	8/16/19	AS	
7- TRL 01/21/20	A.H. TRANSCRIPT	ENV V	8/16/19	AS	
8- TRL 01/21/20	DR. MELISSA PIASECKI REPORT	ENV V	8/16/19	AS	
9- TRL 01/21/20	PRELIMINARY HEARING TRANSCRIPT	ENV V	8/16/19	AS	
10- TRL 1/23/20	PHOTO	ENV V	1/23/20	AS	E
11- TRL 1/23/20	PHOTO	ENV V	1/23/20	DM	E
12- TRL 1/23/20	PHOTO	ENV V	1/23/20	DM	E
13- TRL 1/23/20	PHOTO	ENV V	1/23/20	DM	E
14- TRL 1/24/20	CD	ENV V	1/24/20	DM	E

ECDC-CRFP-18-5030 - STATE OF NEVADA VS. MENTABERRY, KEVIN
JOHN

CASE ID: 18-1586
JUDGE: ALVIN R KACIN

Number	Description	Location	Marked Dt	Admitted Dt
A	LETTER FROM LIFE QUEST	Elko County Clerk's Office	11/2/2021	11/2/2021
B	PAYMENT FOR LIFE QUEST COUNSELING	Elko County Clerk's Office	11/2/2021	11/2/2021
C	PAYMENT OF PROBATION SUPERVISION FEES AND RESTITUTION	Elko County Clerk's Office	11/2/2021	11/2/2021

FILED

Case No. ECDC-CRFP-18-5030

2024 APR -4 PM 2:46

Dept. No. 2

4th JUDICIAL DISTRICT COURT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT am
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

KEVIN JOHN MENTABERRY,
Appellant,

vs.

CLERK'S CERTIFICATION

THE STATE OF NEVADA,
Respondents,

I, REBECCA PLUNKETT, the duly elected, acting and qualified County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed are true, full and correct copies of certain documents in Case No. ECDC-CRFP-18-5030, Dept. 2, Kevin John Mentaberry vs. The State of Nevada, as appears on file and of record in my office.

WITNESS My Hand and Seal of said Court on April 4, 2024.

REBECCA PLUNKETT, ELKO COUNTY CLERK -

By 
Annette Marshall, DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. ECDC-CRFP-18-5030, Dept. 2, Kevin John Mentaberry vs. The State of Nevada, as appears on file and of record in this Court, to the following:

DATED this 4th day of April 2024.



Annette Marshall, Deputy Clerk

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