

CRAIG THOMAS TIFFEE,  
Appellant,  
vs.  
EIGHTH JUDICIAL DISTRICT  
COURT,  
Respondent.

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Elizabeth A. Brown  
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TCM LAW GROUP  
THOMAS C. MICHAELIDES, ESQ  
NEVADA BAR NO. 5425  
2620 REGATTA DRIVE #219  
LAS VEGAS, NV 89128  
PHONE:702-462-6161  
FAX:702-413-6255

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The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable judges of the Panel to evaluate possible disqualification or recusal:

Dated this 1<sup>st</sup> day of April 2020.

Thomas C. Michaelides, Esq.  
Nevada Bar No. 5425

**TABLE OF CONTENTS**

<b>NRAP 26.1 DISCLOSURE STATEMENT.....</b>	<b>i</b>
<b>TABLE OF AUTHORITIES.....</b>	<b>iii</b>
<b>JURIDICTIONAL STATEMENT.....</b>	<b>1</b>
<b>STATEMENT OF ISSUES PRESENTED.....</b>	<b>1</b>
<b>STANDARD OF REVIEW.....</b>	<b>1</b>
<b>FACTUAL BACKGROUND.....</b>	<b>2</b>
<b>II.    LEGAL ARGUMENT.....</b>	<b>5</b>
A. The District Court abused its discretion by denying Appellant’s Motion to Seal Records by determining that the offense to which Petitioner pleaded guilty to and the offense which is now reflected in his amended judgment of convictions are related to sexual offenses and crimes against a child?	
<b>CONCLUSION.....</b>	<b>9</b>
<b>CERTIFICATE OF COMPLIANCE.....</b>	<b>10</b>
<b>CERTIFICATE OF SERVICE.....</b>	<b>11</b>

## TABLE OF AUTHORITIES

### CASES

<i>State v. Cavaricci</i> , 108 Nev. 411, 412, 834 P.2d 406, 407(1992).....	1
<i>State, Dept of Moto Vehicles &amp; Pub. Safety v. Frangul</i> , 110 Nev. 46, 48-51, 867 P.2d 397, 398-400 (1994).....	2
<i>Johnson v. State</i> , 123 Nev. 139, 141-143, 159 P.3d 1096, 1097-98 (2007)...	6

### STATUTES

NRS 201.560.....	2,6,7
NRS 207.260.....	3,8
NRS 174.245.....	5,6
NRS 174.2455(1).....	5
NRS 179.255.....	5
NRS 179.245(6)(a).....	6,7,8,9
NRS 179.245(8)(b).....	6
NRS 179.245(8)(b)(1-17).....	6,7

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## ROUTING STATEMENT

### STATEMENT OF ISSUES PRESENTED

- ## STANDARD OF APPELLATE REVIEW

1

1 interpretation of statutes *de novo*. *State, Dept of Moto Vehicles & Pub. Safety v.*  
2 *Frangul*, 110 Nev. 46, 48-51, 867 P.2d 397, 398-400 (1994) (interpreting criminal  
3 record sealing statutes).

#### 4 5 **FACTUAL BACKGROUND**

6  
7 Appellant was arrested on June 30, 2009, charging him with Using  
8 Technology to Lure Children, a violation of NRS 201.560. Appellant entered a  
9 not guilty plea, hired counsel and proceeded through the criminal process.

10 Pursuant to a guilty plea agreement, Appellant was convicted of Luring Children  
11 or Mentally Ill Persons with Use of Technology with the Intent to Engage in  
12 Sexual Conduct, a category B felony – NRS 201.560.

13  
14 Pursuant to negotiations, Appellant was sentenced to three years' probation  
15 with several conditions. His guilty Pleas agreement included the option to  
16 withdraw his felony plea and instead plead guilty to Unlawful Contact with a  
17 Child, a gross misdemeanor, if he successfully completed all the conditions of  
18 probation and received an Honorable Discharge.

19  
20 Appellant successfully completed his term of probation and was honorably  
21 discharged and as a result, his prior plea to the Category B felony offense was  
22 withdrawn. On July 23, 2012, he was subsequently adjudicated guilty of  
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1 Unlawful Contact with a Child, a violation of NRS 207.260, a gross misdemeanor  
2 offense.

3       The requirements that Appellant completed are not insignificant. They  
4 included a term of probation including being intensive counseling. ROA pg.27.  
5 This entailed meeting weekly for 22 months, both in group and individual  
6 sessions. Id. At pg. 30. He met in both large group and individual settings.  
7 Before moving on to the next step, he was required to undergo a polygraph  
8 examination to ensure he was being forthright with the counselor. Id.  
9

10       Since completing his requirements and entering a plea to the gross  
11 misdemeanor, Appellant has studied for his realtor license, passed that test,  
12 opened up his own realtor business and has grown that business to the point where  
13 he employs many others in the community. Id. While working full time as an office  
14 manager for TCM LAW, Appellant spent his evenings and weekends studying for  
15 the realtor test. Id. On or about February of 2015, Appellant successfully  
16 obtained his Nevada Realtor license. After ensuring that Appellant properly  
17 trained a replacement for his office manager job, he moved on to open his real  
18 estate business, known as team Tiffie Real estate. At that time, his business  
19 consisted of himself, working off his laptop and his living room. Through hard  
20 work, 18-hour days and persistence, that all changed quickly. Id.  
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1 Appellant is now responsible for employing approximately 22 individuals  
2 in Nevada under his leadership of owner of Team Tiffie. Id. At 30. Those  
3 individuals report directly to Appellant and receive paychecks and commissions as  
4 a result of his business. Id. Since opening, Appellant has twice been named to the  
5 top 100 Realtors Nevada according to the greater Las Vegas Association of  
6 Realtors. He built his business so quickly he was contacted by one of the largest  
7 real estate brokerages in Nevada, Keller Williams Real Estate Brokerage, and  
8 LLC. He was recruited by Keller Williams and asked to bring his entire team with  
9 him and join their offices. Id. Appellant accepted this invitation and moved his  
10 company, including all the employees, into the physical offices of Keller Williams  
11 in Las Vegas. Id. at pg. 31.

15 Not satisfied with resting on his personal success, Appellant has focused his  
16 efforts on charitable objectives and on taking caring of his family. Id. By way of  
17 example, Appellant and his business contributed \$6000.00 dollars in 2018 to  
18 Keller Williams Marketplace Care. This is an organization that helps agents and  
19 their families who have been displaced based on economic and medical setbacks.  
20 In 2017, Appellant and members of his team flew to Austin and Houston Texas to  
21 aid in the hurricane relief support. Id at 34.. This was done at their own expense.  
22 Also, Appellant was responsible for securing offices at his prior employer's law  
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1 firm to house the Colors of Lupus Nevada, a non-profit organization run by Hui-  
2 Lim Ang. This is the sole Las Vegas organization dedicated to helping those  
3 suffering from Lupus both emotionally and financially.  
4

5 On June 13, 2019, Appellant filed his Petition to Seal his Criminal record,  
6 following the procedures of NRS 174.245 for submitting his Petition. On July 24,  
7 2019, the State of Nevada filed an opposition to the petition to seal. Oral arguments  
8 on Appellant's motion were heard on July 30, 2019. Counsel for Appellant argued  
9 that because he plea to the original charge was withdrawn and replaced with a gross  
10 misdemeanor, Appellant met the statutory requirement for the sealing of his  
11 conviction and that the State is required to show by clear and convincing evidence  
12 why Appellant's record should not be sealed. The Court denied the petition to seal  
13 following oral arguments and submitted written findings of fact.  
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### 17 **LEGAL ARGUMENT**

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19 NRS 179.245(1) permits a person to petition the court for the sealing of all  
20 records for certain enumerated convictions after a specified period. NRS 179.255  
21 governs the sealing of a record of dismissal and allows for a petition requesting  
22 the sealing of records of a dismissed charge any time after the dismissal date so  
23 long as the statute of limitations has expired, eight years from the time of arrest  
24 has passed, or there is a stipulation to seal.  
25  
26

1 NRS 179.245(6)(a) provides that a person may not petition the court to seal  
2 records relating to the conviction of a crime against a child. Subsection (b) of the  
3 same statute provides that a person may not petition the court to seal records  
4 relating to a conviction of a sexual offense. The definition of “sexual offense” is  
5 defined in the same statute, NRS 179.245(8)(b)(1-17) The Court found that the  
6 luring of a child or person with a mental illness pursuant to NRS 201.560 is a  
7 sexual offense pursuant to *Johnson v. State*, 123 Nev. 139, 141-143, 159 P.3d  
8 1096, 1097-98 (2007).

11 There was an important legislative change to Nevada’s sealing of records  
12 laws in 2017. Legislation passed on June 2017 declared that it is the “public  
13 policy of this State...to favor the giving of second chances to offenders who are  
14 rehabilitated and the sealing of the records of such individuals. See NRS 174.245  
15 (legislative history AB-327 Sec. 4) Based on this, the statute was amended as  
16 follows; NRS 179.245 states that ...Upon the filing of a Petition for the sealing of  
17 records ...**there is a rebuttable presumption that the records should be sealed**  
18 **if the applicant satisfies all the statutory requirements for the sealing of records if**  
19 **the Petitioner is granted an honorable discharge from probation.”** 2017 Nev. Stat.,  
20 ch. 378, sec. 4, at 2411. (Emphasis added). The District Court found that “the  
21 offense to which Appellant plead guilty to and the offense which is now reflected  
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1 in his amended judgment of convictions are sexual offense and crimes against a  
2 child”. ROA p.9. This is not correct.

3 The Court reached this result after stating that NRS 179.245(6)(a) provides  
4 that a person may not petition the Court to seal records relating to the conviction  
5 of a crime against a child. ROA p. 8. The Court then pointed out that under  
6 section (b) of the same statute a person may not petition the Court to seal records  
7 relating to a conviction of a sexual offense. ROA pg. 8.

10 The Court then determined that the crime of Luring Children or Mentally Ill  
11 Persons with Use of Technology with the Intent to Engage in Sexual Conduct  
12 (Category B felony - NRS 201.560) which was the original plea Appellant  
13 accepted and thereafter was allowed to withdraw, was both a “sexual offense” as  
14 defined by NRS 179.245(8)(b)(16) and a crime related to a child.

17 Appellant agrees that NRS 201.560, Luring Children with Use of  
18 Technology with Intent to Engage in Sexual Conduct, is both a sexual crime and a  
19 crime against a child. However, the charge that Appellant accepted and plead to  
20 after he withdrew his plea to the felony charge was NRS 207.260, Unlawful  
21 Contact with a Child. This charge is a misdemeanor and is not listed in NRS  
22 179.245(8) (1 through 17) as a crime relating to sex. A review of the definition of  
23 “sexual offense” under subsection (b) does not contain any mention of NRS  
24

1 207.260. As such, it is respectfully maintained that the District Court erred in  
2 concluding that both of the charges that Appellant entered into before and after he  
3 was allowed to withdraw his plea are not crimes relating to a sexual offense or the  
4 legislature would have included that crime in the litany of crimes stated in (8)(1)  
5 through (17).  
6

7         The District Court made a similar error wherein it stated that “(A) person  
8 commits the offense of Unlawful Contact with a Child in violation of NRS  
9 201.560 when without lawful authority, he willfully and maliciously engages in a  
10 course of conduct with a child who is under 16 years of age and who is at least 5  
11 years younger than the person which would casue a reasonable child of like age to  
12 feel terrorized.....”. ROA pg. 8. NRS 201.560 is the felony count for unlawful  
13 luring a minor child, which was the original charge Appellant plead guilty to. The  
14 unlawful contact with a child count, the gross misdemeanor, is NRS 207.260. As  
15 such, it appears as if the Court was in error by concluding that both the felony  
16 charge and the gr0oss misdemeanor charge are “sexual offenses” per the Nevada  
17 Revised Statutes.  
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22         Based on this reasoning the District Court held that NRS 179.245(6)(a) and  
23 (b) prevented Appellant from sealing his record because both the felony Luring  
24 charge and the gross misdemeanor Unlawful contact charge relate to a sexual  
25

1 offense and are crimes against children. Based upon the above argument,  
2 Appellant respectfully disagrees.  
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### 5 **CONCLUSION**

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7 Wherefore, based on arguments contained herein, the points and authorities  
8 and the relevant statutes, the District Court erred in determining that NRS 207.260  
9 was a “sexual offense” as defined by NRS 179.245.the foregoing the Appellant  
10 should have his records sealed by the Court.  
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**CERTIFICATION PURSUANT TO NEV. R. APP. P. 28.2**

**1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:**

**☒ This brief has been prepared in a proportionally spaced typeface using Microsoft Word version 14 in Times New Roman with a font size of 14; or**

**☐ This brief has been prepared in a monospaced typeface using [state name and version of word-processing program] with [state number of characters per inch and name of type style].**

**2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:**

**☐ Proportionately spaced, has a typeface of 14 points or more, and contains \_\_\_\_\_ words; or**

**☐ Monospaced, has 10.5 or fewer characters per inch, and contains \_\_\_\_\_ words or \_\_\_\_\_ lines of text; or**

**☒ Does not exceed 30 pages.**

**3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for**

1 any improper purpose. I further certify that this brief complies with all applicable Nevada  
2 Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion  
3 in the brief regarding matters in the record to be supported by a reference to the page and  
4 volume number, if any, of the transcript or appendix where the matter relied on is to be  
5 found. I understand that I may be subject to sanctions in the event that the accompanying  
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1 **brief is not in conformity with the requirements of the Nevada Rules of Appellate**  
2 **Procedure.**

3  
4 **Dated this 2nd day of April 2020.**  
5

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7 \_\_\_\_\_  
8 **THOMAS C. MICHAELIDES, ESQ**

9 **NEVADA BAR NO. 5425**

10 **2620 REGATTA DRIVE #219**

11 **LAS VEGAS, NV 89128**

12 **PHONE:702-462-6161**

13 **FAX:702-413-6255**  
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6 **CERTIFICATE OF SERVICE**  
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8       Pursuant to NRAP 25(c)(1), I hereby certify that on this 2nd day of April,  
9  
10 2020, service of the foregoing **APPELLANTS' OPENING BRIEF** was made by  
11 submission to the electronic filing service for the Nevada Supreme Court upon the  
12 following registered users to the email addresses on file:  
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14   /s/ Eric Tucker            
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