

Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

NOASC  
TERRENCE M. JACKSON, ESQ.  
Nevada Bar No. 00854  
Law Office of Terrence M. Jackson  
624 South Ninth Street  
Las Vegas, NV 89101  
T: 702-386-0001 / F: 702-386-0085  
[Terry.jackson.esq@gmail.com](mailto:Terry.jackson.esq@gmail.com)

*Counsel for Frederick H. Harris*

IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
FREDERICK H. HARRIS JR., )  
#1149356, )  
Defendant. )

District Case No.: **A-18-784704-W**  
**C-13-291374-1**

Dept.: **XII**

**NOTICE OF APPEAL**

NOTICE is hereby given that the Defendant, FREDERICK H. HARRIS JR., by and through his attorney, TERRENCE M. JACKSON, ESQ., hereby appeals to the Nevada Supreme Court, from the Findings of Fact, Conclusions of Law and Order, file-stamped May 21, 2020, denying his Post-Conviction Petition for Writ of Habeas Corpus.

Defendant, FREDERICK H. HARRIS JR., further states he is indigent and requests that the filing fees be waived.

Respectfully submitted this 27th day of May, 2020.

/s/ Terrence M. Jackson  
Terrence M. Jackson, Esquire  
Nevada Bar No. 00854  
Law Office of Terrence M. Jackson  
624 South Ninth Street  
Las Vegas, NV 89101  
T: 702-386-0001 / F: 702-386-0085  
[Terry.jackson.esq@gmail.com](mailto:Terry.jackson.esq@gmail.com)

*Counsel for Defendant, Frederick H. Harris, Jr.*

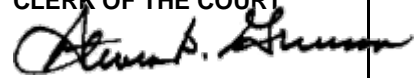
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- [X] Via Odyssey eFile and Serve to the Eighth Judicial District Court;
- [X] Via the NSC Drop Box on the 1st floor of the Nevada Court of Appeals, or U.S. mail to NSC, located at 408 E. Clark Avenue in Las Vegas, Nevada;
- [X] and by United States first class mail to the Nevada Attorney General and the Defendant as follows:

JAMES R. SWEETIN  
Chief Deputy District Attorney  
[james.sweetin@clarkcountynyda.com](mailto:james.sweetin@clarkcountynyda.com)

AARON D. FORD, ESQUIRE  
Nevada Attorney General  
100 North Carson Street  
Carson City, NV 89701

-2-



ASTA  
TERRENCE M. JACKSON, ESQ.  
Nevada Bar No. 00854  
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624 South Ninth Street  
Las Vegas, NV 89101  
T: 702-386-0001 / F: 702-386-0085  
Terry.jackson.esq@gmail.com

*Counsel for Frederick H. Harris*

IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
v. )  
 )  
FREDERICK H. HARRIS, JR., )  
#1149356, )  
Defendant. )

District Case No.: **A-18-784704-W**  
**C-13-291374-1**

Dept.: **XII**

**CASE APPEAL STATEMENT**

1. Appellant(s): FREDERICK HAROLD HARRIS, JR.

2. Judge: MICHELLE LEAVITT

3. Appellant(s): FREDERICK HAROLD HARRIS, JR.

Counsel:

Terrence M. Jackson  
624 South Ninth Street  
Las Vegas, NV 89101  
(702) 386-0001

4. Respondent: STATE OF NEVADA

Counsel:

Steven B. Wolfson, District Attorney  
200 Lewis Avenue  
Las Vegas, NV 89101  
(702) 671-2700

1 5. Appellant(s)'s Attorney Licensed in Nevada: YES  
2 Permission Granted: N/A  
3 Respondent(s)'s Attorney Licensed in Nevada: YES  
4 Permission Granted: N/A  
5 6. Appellant Represented by Appointed Counsel in District Court: YES  
6 7. Appellant Represented by Appointed Counsel on Appeal: YES  
7 8. Appellant Granted Leave to Proceed in Forma Pauperis: YES  
8 9. Date Commenced in District Court: July 30, 2013  
9 10. Brief Description of the Nature of the Action: Criminal  
10 Type of Judgment or Order Being Appealed:  
11 Denial of Writ of Habeas Corpus for Post-Conviction Relief.  
12 11. NO.  
13 Supreme Court Docket Number(s): N/A  
14 12. Child Custody or Visitation: N/A  
15  
16 **Dated** this 27th day of May, 2020.  
17  
18 /s/ Terrence M. Jackson  
19 Terrence M. Jackson, Esquire  
20 Nevada Bar No. 00854  
21 Law Office of Terrence M. Jackson  
22 624 South Ninth Street  
23 Las Vegas, NV 89101  
24 T: 702-386-0001 / F: 702-386-0085  
25 Terry.jackson.esq@gmail.com  
26 *Counsel for Frederick H. Harris, Jr.*  
27 ...  
28 ...

1 **CERTIFICATE OF SERVICE**

2 I hereby certify I am an assistant to Terrence M. Jackson, Esq., not a party to this action, and  
3 on the 27th day of May, 2020, I served a true, correct and e-filed stamped copy of the foregoing:  
4 Defendant, Frederick Harold Harris, Jr's., CASE APPEAL STATEMENT as follows:  
5

6 [X] Via Odyssey eFile and Serve to the Eighth Judicial District Court;

7 [X] Via the NSC Drop Box on the 1st floor of the Nevada Court of Appeals, located at 408 E.  
8 Clark Avenue in Las Vegas, Nevada;

9 [X] and by United States first class mail to the Nevada Attorney General and the Defendant as  
10 follows:  
11

12 STEVEN B. WOLFSON

13 Clark County District Attorney

14 steven.wolfson@clarkcountyda.com

JAMES R. SWEETIN

Chief Deputy District Attorney - Criminal

james.sweetin@clarkcountyda.com

16 FREDERICK H. HARRIS, JR.

17 #1149356

18 Lovelock Correctional Center

1200 Prison Road

19 Lovelock, NV 89149

AARON D. FORD, ESQUIRE

Nevada Attorney General

100 North Carson Street

Carson City, Nevada 89701

20  
21  
22  
23 By: /s/ Ila C. Wills

24 Assistant to T. M. Jackson, Esq.  
25  
26  
27  
28

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. C-13-291374-1**

**State of Nevada**  
**vs**  
**Frederick Harris Jr**

§ Location: **Department 12**  
 § Judicial Officer: **Leavitt, Michelle**  
 § Filed on: **07/23/2013**  
 § Cross-Reference Case **C291374**  
 § Number:  
 § Defendant's Scope ID #: **972945**  
 § ITAG Booking Number: **1300009686**  
 § ITAG Case ID: **1471427**  
 § Lower Court Case # Root: **13F02924**  
 § Lower Court Case Number: **13F02924X**  
 § Supreme Court No.: **69093**

**CASE INFORMATION**

<b>Offense</b>	<b>Statute</b>	<b>Deg</b>	<b>Date</b>	<b>Case Type:</b>	<b>Felony/Gross Misdemeanor</b>
1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT Arrest: 02/21/2013	200.508.1b1	F	08/01/2007	Case Status:	<b>10/29/2015 Closed</b>
2. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
3. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
4. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Arrest: 02/21/2013	201.230.2	F	10/01/2010		
5. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Arrest: 02/21/2013	201.230.2	F	10/01/2010		
6. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
7. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Arrest: 02/21/2013	201.230.2	F	10/01/2010		
8. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
9. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
10. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
11. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
12. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 Arrest: 02/21/2013	201.230.2	F	10/01/2010		
13. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
14. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE Arrest: 02/21/2013	200.366.3c	F	10/01/2010		
15. CHILD ABUSE, NEGLECT, OR ENDANGERMENT Arrest: 02/21/2013	200.508.1b1	F	08/01/2007		
16. CHILD ABUSE, NEGELCT, OR ENDANGERMENT	200.508.1b1	F	08/01/2007		

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

Arrest: 02/21/2013				
17. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	08/01/2007	
Arrest: 02/21/2013				
18. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	01/01/2005	
Arrest: 02/21/2013				
19. FIRST DEGREE KIDNAPPING	200.310.1	F	12/01/2004	
Arrest: 02/21/2013				
20. LEWDNESS WITH A CHILD UNDER THE AGE OF 14	201.230.2	F	12/01/2004	
Arrest: 02/21/2013				
21. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	200.366.3c	F	12/01/2004	
Arrest: 02/21/2013				
22. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE	200.366.3c	F	12/01/2004	
Arrest: 02/21/2013				
23. COERCION (SEXUALLY MOTIVATED)	207.190.2a	F	12/01/2004	
Arrest: 02/21/2013				
24. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME	200.405	F	08/01/2007	
Arrest: 02/21/2013				
25. FIRST DEGREE KIDNAPPING	200.310.1	F	08/01/2007	
Arrest: 02/21/2013				
26. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	08/01/2007	
Arrest: 02/21/2013				
27. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME	200.405	F	09/01/2007	
Arrest: 02/21/2013				
28. FIRST DEGREE KIDNAPPING	200.310.1	F	09/01/2007	
Arrest: 02/21/2013				
29. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
30. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
31. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
32. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
33. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
34. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
35. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE	200.366.3b	F	09/01/2007	
Arrest: 02/21/2013				
36. SEXUAL ASSAULT	200.366.2b	F	05/01/2009	
Arrest: 02/21/2013				
37. FIRST DEGREE KIDNAPPING	200.310.1	F	08/01/2010	
Arrest: 02/21/2013				
38. BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT	200.400.4b	F	08/01/2010	
Arrest: 02/21/2013				
39. SEXUAL ASSAULT	200.366.2b	F	08/01/2010	

## EIGHTH JUDICIAL DISTRICT COURT

# CASE SUMMARY

## CASE NO. C-13-291374-1

Arrest: 02/21/2013				
40. SEXUAL ASSAULT	200.366.2b	F	08/01/2010	
Arrest: 02/21/2013				
41. SEXUAL ASSAULT	200.366.2b	F	08/01/2011	
Arrest: 02/21/2013				
42. PANDERING	201.300.2a2	F	08/01/2007	
Arrest: 02/21/2013				
43. SEXUAL ASSAULT	200.366.2b	F	08/01/2007	
Arrest: 02/21/2013				
44. LIVING FROM THE EARNINGS OF A PROSTITUTE	201.320	F	08/01/2007	
Arrest: 02/21/2013				
45. BATTERY BY STRANGULATION	200.481.2b	F	08/01/2007	
Arrest: 02/21/2013				

**Related Cases**

A-18-784704-W (Writ Related Case)

**Statistical Closures**

10/29/2015 Jury Trial - Conviction - Criminal

DATE	CASE ASSIGNMENT
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**Current Case Assignment**






Case Number	C-13-291374-1
Court	Department 12
Date Assigned	07/23/2013
Judicial Officer	Leavitt, Michelle

**PARTY INFORMATION**

<b>Defendant</b>	<b>Harris Jr, Frederick Harold</b>	<i>Lead Attorneys</i> <b>Allen, Betsy</b> <i>Retained</i> 702-386-9700(W)
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)

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

07/23/2013	 Information <i>Information</i>	
07/23/2013	 Criminal Bindover <i>Criminal Bindover</i>	
07/31/2013	 Transcript of Proceedings <i>Volume I Reporter's Transcript of Preliminary Hearing 4/29/13</i>	
07/31/2013	 Transcript of Proceedings <i>Volume II Reporter's Transcript of Preliminary Hearing 5/7/13</i>	
07/31/2013	 Transcript of Proceedings <i>Volume III Reporter's Transcript of Preliminary Hearing 6/11/13</i>	



**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

07/31/2013	 Transcript of Proceedings <i>Volume IV Reporter's Transcript of Preliminary Hearing 6/13/13</i>
08/08/2013	 Transcript of Proceedings <i>Reporter's Transcript of Bindover 7/19/13</i>
02/21/2014	 Motion <i>Defendant's Motion to Preserve and Produce Evidence Including Potentially Exculpatory Evidence</i>
03/10/2014	 Notice of Witnesses and/or Expert Witnesses <i>Defendant's Notice of Witnesses</i>
03/12/2014	 Order to Release Medical Records <i>Order for Production of Medical Records</i>
03/12/2014	 Order to Release Medical Records <i>Order for Production of Medical Records</i>
03/14/2014	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses</i>
03/14/2014	 Order <i>Order Releasing Child Protective Services Records</i>
03/17/2014	 Notice <i>Defendant's Second Notice of Witnesses</i>
03/19/2014	 Notice <i>Defendant's Third Notice of Witnesses</i>
03/27/2014	 Amended Information <i>Amended Information</i>
03/28/2014	 Jury List Party: Plaintiff State of Nevada <i>Filed in Open Court</i>
03/31/2014	 Ex Parte Application <i>Ex Parte Application for Order Requiring Material Witness to Post Bail</i>
03/31/2014	 Request for Attendance of Out-Of-State Witness <i>Request for Attendance of Out-Of-State Witness Victoria Duke</i>
04/02/2014	 Stipulation and Order <i>Stipulation and Order Regarding Discovery of Child Pornographic Materials</i>
04/02/2014	 Ex Parte Motion <i>Ex Parte Motion and Order for Release of S.N.C.A.C. Records</i>
04/09/2014	 Amended Jury List <i>Amended Jury List</i>














**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

04/11/2014	 Jury List <i>Second Amended Jury List</i>
04/11/2014	 Jury Instructions <i>Jury Instructions</i>
04/15/2014	 Verdict <i>Verdict</i>
04/28/2014	 Motion for New Trial <i>Defendant's Motion for a New Trial</i>
06/13/2014	 Opposition <i>Opposition to Defendant's Motion for New Trial</i>
07/09/2014	 Reply <i>Defendant's Reply to State's Response to Motion for a New Trial and Supplement to Defendant's Motion for a New Trial</i>
07/22/2014	 Order <i>Order for Transcripts</i>
08/11/2014	 Recorders Transcript of Hearing <i>Tuesday, March 25, 2014 Recorder's Rough Draft Transcript of Proceedings Jury Trial, Day 1 - Voir Dire Only</i>
08/11/2014	 Recorders Transcript of Hearing <i>Wednesday, March 26, 2014 Recorder's Rough Draft Transcript of Proceedings Jury Trial, Day 2 - Voir Dire</i>
10/29/2014	 Opposition to Motion <i>State's Opposition to Defendant's Supplemental Motion for New Trial</i>
01/12/2015	 Order <i>Order for Production of Documents</i>
03/25/2015	 Order <i>Order for Production of Documents</i>
03/25/2015	 Order <i>Order for Production of Documents</i>
05/19/2015	 Notice of Rescheduling <i>Notice Of Rescheduling Of Hearings</i>
10/21/2015	 PSI
10/27/2015	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
10/27/2015	 Case Appeal Statement <i>Case Appeal Statement</i>

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

10/27/2015	 Motion <i>Defendant's Motion to Place on Calendar to Request Transcripts For Direct Appeal at State's Expense</i>
10/28/2015	 Order <i>Order for Preparation of Transcripts for Direct Appeal at State's Expense</i>
10/29/2015	 Criminal Order to Statistically Close Case <i>Criminal Order To Statistically Close Case</i>
11/02/2015	 Judgment of Conviction <i>JUDGMENT OF CONVICTION (JURY TRIAL)</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Jury Trial, Day 1, Voir Dire Tuesday, March 25, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Jury Trial, Day 2 - Voir Dire Wednesday, March 26, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 3 Thursday, March 27, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 4 Monday, March 31, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 5 Tuesday, April 1, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Portion of Jury Trial - Day 6 Wednesday, April 2, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 7 Thursday, April 3, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 8 Friday, April 4, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 9 Monday, April 7, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 10 Wednesday, April 9, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 11 Thursday, April 10, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 12 Friday, April 11, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Jury Trial - Day 14 Tuesday, April 15, 2014</i>

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Defendant's Motion for a New Trial Thursday, October 30, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Re: Evidentiary Hearing Defendant's Motion for a New Trial Monday, November 24, 2014</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Evidentiary Hearing Defendant's Motion for a New Trial Monday, January 5, 2015</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Evidentiary Hearing Defendant's Motion for a New Trial Tuesday, February 17, 2015</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Evidentiary Hearing Defendant's Motion for a New Trial June 30, 2015 Tuesday, June 30, 2015</i>
12/30/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Sentencing Tuesday, October 27, 2015</i>
12/30/2015	 Filed Under Seal <i>Transcript of Proceedings Portion of Jury Trial - Day 6 Wednesday, April 2, 2014</i>
11/14/2016	 Amended Judgment of Conviction <b>AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)</b>
11/28/2017	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed; Rehearing Denied; Review Denied</i>
05/21/2020	 Findings of Fact, Conclusions of Law and Order
05/27/2020	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
05/27/2020	 Case Appeal Statement
05/28/2020	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
<b><u>DISPOSITIONS</u></b>	
07/30/2013	<b>Plea</b> (Judicial Officer: Leavitt, Michelle) <ol style="list-style-type: none"> <li>2. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE                      Not Guilty                      PCN:   Sequence:</li> <li>3. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE                      Not Guilty                      PCN:   Sequence:</li> <li>4. LEWDNESS WITH A CHILD UNDER THE AGE OF 14                      Not Guilty                      PCN:   Sequence:</li> </ol>

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

5. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Not Guilty  
PCN: Sequence:
6. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
7. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Not Guilty  
PCN: Sequence:
8. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
9. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
10. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
11. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
12. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Not Guilty  
PCN: Sequence:
13. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
14. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
16. CHILD ABUSE, NEGLECT, OR ENDANGERMENT  
Not Guilty  
PCN: Sequence:
19. FIRST DEGREE KIDNAPPING  
Not Guilty  
PCN: Sequence:
20. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
Not Guilty  
PCN: Sequence:
21. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
22. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
Not Guilty  
PCN: Sequence:
23. COERCION (SEXUALLY MOTIVATED)

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

Not Guilty

PCN: Sequence:

24. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

Not Guilty

PCN: Sequence:

25. FIRST DEGREE KIDNAPPING

Not Guilty

PCN: Sequence:

26. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

28. FIRST DEGREE KIDNAPPING

Not Guilty

PCN: Sequence:

29. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

31. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

33. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

34. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

35. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

36. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

37. FIRST DEGREE KIDNAPPING

Not Guilty

PCN: Sequence:

38. BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

39. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

40. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

41. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

42. PANDERING

Not Guilty

PCN: Sequence:

44. LIVING FROM THE EARNINGS OF A PROSTITUTE

Not Guilty

PCN: Sequence:

04/16/2014 **Disposition** (Judicial Officer: Leavitt, Michelle)

1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Not Guilty

PCN: Sequence:

15. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Not Guilty

PCN: Sequence:

17. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Not Guilty

PCN: Sequence:

18. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Not Guilty

PCN: Sequence:

27. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

Not Guilty

PCN: Sequence:

30. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

32. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Not Guilty

PCN: Sequence:

43. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

45. BATTERY BY STRANGULATION

Not Guilty

PCN: Sequence:

10/27/2015 **Disposition** (Judicial Officer: Leavitt, Michelle)

2. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

3. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

4. LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Guilty

PCN: Sequence:

5. LEWDNESS WITH A CHILD UNDER THE AGE OF 14

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

Guilty

PCN: Sequence:

6. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

7. LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Guilty

PCN: Sequence:

8. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

9. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

10. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

11. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

12. LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Guilty

PCN: Sequence:

13. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

14. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

16. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

19. FIRST DEGREE KIDNAPPING

Guilty

PCN: Sequence:

20. LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Guilty

PCN: Sequence:

21. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

22. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Guilty

PCN: Sequence:

23. COERCION (SEXUALLY MOTIVATED)

Guilty

PCN: Sequence:



**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

24. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME  
Guilty  
PCN: Sequence:
25. FIRST DEGREE KIDNAPPING  
Guilty  
PCN: Sequence:
26. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
28. FIRST DEGREE KIDNAPPING  
Guilty  
PCN: Sequence:
29. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
31. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
33. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
34. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
35. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
Guilty  
PCN: Sequence:
36. SEXUAL ASSAULT  
Guilty  
PCN: Sequence:
37. FIRST DEGREE KIDNAPPING  
Guilty  
PCN: Sequence:
38. BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT  
Guilty  
PCN: Sequence:
39. SEXUAL ASSAULT  
Guilty  
PCN: Sequence:
40. SEXUAL ASSAULT  
Guilty  
PCN: Sequence:
41. SEXUAL ASSAULT  
Guilty  
PCN: Sequence:
42. PANDERING

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

	<p>Guilty PCN: Sequence:</p> <p>44. LIVING FROM THE EARNINGS OF A PROSTITUTE Guilty PCN: Sequence:</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 2. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 3. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 6. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 8. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 9. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 10. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE 10/01/2010 (F) 200.366.3c (DC50105) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:35 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p>

**CASE SUMMARY****CASE NO. C-13-291374-1**

11. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 10/01/2010 (F) 200.366.3c (DC50105)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:35 Years  
 Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 13. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 10/01/2010 (F) 200.366.3c (DC50105)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:35 Years  
 Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 14. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 10/01/2010 (F) 200.366.3c (DC50105)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:35 Years  
 Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 21. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 12/01/2004 (F) 200.366.3c (DC50105)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:20 Years

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 22. SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
 12/01/2004 (F) 200.366.3c (DC50105)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:20 Years  
 Consecutive: Charge 21

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 4. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
 10/01/2010 (F) 201.230.2 (DC50975)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:10 Years  
 Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)  
 5. LEWDNESS WITH A CHILD UNDER THE AGE OF 14  
 10/01/2010 (F) 201.230.2 (DC50975)  
 PCN: Sequence:

Sentenced to Nevada Dept. of Corrections  
 Term: Life with the possibility of parole after:10 Years  
 Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

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	<p>7. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 10/01/2010 (F) 201.230.2 (DC50975) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 12. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 10/01/2010 (F) 201.230.2 (DC50975) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 20. LEWDNESS WITH A CHILD UNDER THE AGE OF 14 12/01/2004 (F) 201.230.2 (DC50975) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 16. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 08/01/2007 (F) 200.508.1b1 (DC55226) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Minimum:28 Months, Maximum:72 Months Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 19. FIRST DEGREE KIDNAPPING 12/01/2004 (F) 200.310.1 (DC50051) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:5 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 25. FIRST DEGREE KIDNAPPING 08/01/2007 (F) 200.310.1 (DC50051) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:5 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle) 28. FIRST DEGREE KIDNAPPING 09/01/2007 (F) 200.310.1 (DC50051) PCN: Sequence:</p> <hr/>
	<p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:5 Years Concurrent: Charge with other counts</p>

# CASE SUMMARY

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10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            37. FIRST DEGREE KIDNAPPING            08/01/2010 (F) 200.310.1 (DC50051)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Life with the possibility of parole after:5 Years            Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            23. COERCION (SEXUALLY MOTIVATED)            12/01/2004 (F) 207.190.2a (DC55532)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Minimum:28 Months, Maximum:72 Months            Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            24. ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME            08/01/2007 (F) 200.405 (DC50170)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Minimum:24 Months, Maximum:60 Months            Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            26. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE            08/01/2007 (F) 200.366.3b (DC50106)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Life with the possibility of parole after:20 Years            Concurrent: Charge with other counts            Concurrent/Consecutive:            Consecutive            Count: with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            29. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE            09/01/2007 (F) 200.366.3b (DC50106)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Life with the possibility of parole after:20 Years            Concurrent: Charge with other counts            Concurrent/Consecutive:            Consecutive            Count: with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)            31. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE            09/01/2007 (F) 200.366.3b (DC50106)            PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections            Term: Life with the possibility of parole after:20 Years            Concurrent: Charge with other counts            Concurrent/Consecutive:            Consecutive            Count: with other counts</p>

# CASE SUMMARY

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10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>33. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE 09/01/2007 (F) 200.366.3b (DC50106) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:20 Years Concurrent: Charge with other counts Concurrent/Consecutive: Consecutive Count: with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>34. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE 09/01/2007 (F) 200.366.3b (DC50106) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:20 Years Concurrent: Charge with other counts Concurrent/Consecutive: Consecutive Count: with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>35. SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE 09/01/2007 (F) 200.366.3b (DC50106) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:20 Years Concurrent: Charge with other counts Concurrent/Consecutive: Consecutive Count: with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>36. SEXUAL ASSAULT 05/01/2009 (F) 200.366.2b (DC50095) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>39. SEXUAL ASSAULT 08/01/2010 (F) 200.366.2b (DC50095) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>
10/27/2015	<p><b>Adult Adjudication</b> (Judicial Officer: Leavitt, Michelle)</p> <p>40. SEXUAL ASSAULT 08/01/2010 (F) 200.366.2b (DC50095) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Concurrent: Charge with other counts</p>

# CASE SUMMARY

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10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

41. SEXUAL ASSAULT

08/01/2011 (F) 200.366.2b (DC50095)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:10 Years

Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

38. BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

08/01/2010 (F) 200.400.4b (DC50157)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:2 Years

Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

42. PANDERING

08/01/2007 (F) 201.300.2a2 (DC51001)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:24 Months, Maximum:60 Months

Concurrent: Charge with other counts

10/27/2015 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

44. LIVING FROM THE EARNINGS OF A PROSTITUTE

08/01/2007 (F) 201.320 (DC51006)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:18 Months, Maximum:48 Months

Consecutive: Charge 42

Credit for Time Served: 979 Days

Condition

1. Lifetime Supervision

2. Register As A Sex Offender

3. Sex Offender Conditions - (See Minutes)

Fee Totals:

Administrative

Assessment Fee

25.00

\$25

DNA Analysis Fee

150.00

\$150

Genetic Marker

Analysis AA Fee


3.00

\$3

Fee Totals \$

178.00

## HEARINGS

07/30/2013  **Initial Arraignment** (1:30 PM) (Judicial Officer: Martin, Eugene)

Plea Entered;

Journal Entry Details:

*DEFT. HARRIS JR. ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Upon inquiry by the court clerk Attorney Allen CONFIRMS the defendant WAIVES 2 weeks regarding the trial date set being outside of the 60 days. CUSTODY 10/8/13 8:30 A.M. CALENDAR CALL (DEPT. 12) 10/15/13 1:30 P.M. JURY TRIAL (DEPT. 12) ;*

10/08/2013  **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)


**CASE SUMMARY**  
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Vacated and Reset;

Journal Entry Details:


*Court TRAILED and RECALLED matter for all parties to appear. Ms. Allen advised defense does not have any CPS records. Ms. Luzaich advised State had requested the local CPS records, to be forwarded to Chambers for in-camera review, and nothing has been received yet. Court clarified it has not received these records. Ms. Luzaich advised she will send another request, and State will need a Court order to retrieve the records from Utah. Ms. Allen advised defense has an outstanding medical records request. At request of parties, COURT ORDERED, trial date VACATED AND RESET. Parties estimated 2 weeks for trial. SO NOTED. CUSTODY 3/18/14 8:30 A.M. CALENDAR CALL 3/25/14 1:30 P.M. TRIAL BY JURY ;*

10/15/2013 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)  
*Vacated - per Judge*

03/11/2014  **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)  
*Defendant's Motion to Preserve and Produce Evidence Including Potentially Exculpatory Evidence*  
Matter Resolved;  
Journal Entry Details:  
*Ms. Allen advised she reviewed State's file, and CPS records were already provided to the Court. Ms. Luzaich advised State did not file an Opposition to the Motion, as the parties are working everything out on the discovery. Ms. Allen advised State has provided police reports, and are ordering additional reports for defense; further noting defense has proposed orders for the Court, regarding medical records. Ms. Allen added there are records for the Co-Def't's case, and defense will be requesting medical records for her client's case. State made no objection. Ms. Allen informed the Court there are additional records that need to be reviewed by Court in-camera. State made no objection. CONFERENCE AT BENCH. Orders submitted by Ms. Allen regarding additional medical records SIGNED BY COURT. Trial date STANDS. CUSTODY 3/18/14 8:30 A.M. CALENDAR CALL 3/25/14 1:30 P.M. TRIAL BY JURY ;*

03/18/2014  **Calendar Call** (8:30 AM) (Judicial Officer: Brennan, James)  
Trial Date Set;  
Journal Entry Details:  
*Both parties announced ready for trial. Counsel estimated 7-10 witnesses, 2 witnesses from out-of-state, and 2 weeks for trial. COURT ORDERED, trial date SET. CUSTODY 3/24/14 1:00 P.M. TRIAL BY JURY ;*

03/24/2014 **CANCELED Jury Trial** (1:00 PM) (Judicial Officer: Leavitt, Michelle)  
*Vacated - per Judge*

03/25/2014  **Jury Trial** (10:30 AM) (Judicial Officer: Leavitt, Michelle)  
**03/25/2014-03/27/2014, 03/31/2014-04/04/2014, 04/07/2014, 04/09/2014-04/11/2014, 04/14/2014-04/15/2014**

**MINUTES**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*12:56 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS AS FOLLOWS: COUNT 1 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F); COUNT 2 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 3 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 4 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 5 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 6 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 7 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 8 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 9 - GUILTY*



**CASE SUMMARY****CASE NO. C-13-291374-1**

OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 10 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 11 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 12 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 13 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 14 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 15 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F); COUNT 16 - GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F); COUNT 17 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F); COUNT 18 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F); COUNT 19 - GUILTY OF FIRST DEGREE KIDNAPPING (F); COUNT 20 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 21 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 22 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 23 - GUILTY OF COERCION (SEXUALLY MOTIVATED) (F); COUNT 24 - GUILTY OF ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F); COUNT 25 - GUILTY OF FIRST DEGREE KIDNAPPING (F); COUNT 26 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 27 - NOT GUILTY OF ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F); COUNT 28 - GUILTY OF FIRST DEGREE KIDNAPPING (F); COUNT 29 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 30 - NOT GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 31 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 32 - NOT GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 33 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 34 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 35 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 36 - GUILTY OF SEXUAL ASSAULT (F); COUNT 37 - GUILTY OF FIRST DEGREE KIDNAPPING (F); COUNT 38 - GUILTY OF BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F); COUNT 39 - GUILTY OF SEXUAL ASSAULT (F); COUNT 40 - GUILTY OF SEXUAL ASSAULT (F); COUNT 41 - GUILTY OF SEXUAL ASSAULT (F); COUNT 42 - GUILTY OF PANDERING (F); COUNT 43 - NOT GUILTY OF SEXUAL ASSAULT (F); COUNT 44 - GUILTY OF LIVING FROM THE EARNINGS OF A PROSTITUTE (F); COUNT 45 - NOT GUILTY OF BATTERY BY STRANGULATION (F). Jury polled at request of defense. Court thanked and excused the Jury from trial proceedings. OUTSIDE PRESENCE OF JURY: COURT ORDERED, matter REFERRED to Division of Parole and Probation (P&P), and SET for sentencing. Ms. Luzaich requested Deft's bail setting be revoked, and for Deft. to be remanded into custody without bail, pending sentencing. Ms. Allen objected to revocation of bail; and argued Deft. has been in custody this whole time. COURT ORDERED, State's request GRANTED; Deft. REMANDED in this case WITHOUT BAIL PENDING SENTENCING; current bail setting REVOKED. Court adjourned. TRIAL ENDS. CUSTODY 7/17/14 8:30 A.M. SENTENCING (JURY VERDICT) / DISMISSAL OF COUNTS 1, 15, 17, 18, 27, 30, 32, 43 AND 45 ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

Jury deliberating. Court SWORE in the Clerk, to assist on taking charge of the Jury panel with the Matron and the Marshal. Jury is still deliberating. Evening recess. TRIAL CONTINUES. CUSTODY 4/15/14 9:00 A.M. TRIAL BY JURY ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

Jury Deliberating;  
Jury Deliberating;  
Verdict;

Journal Entry Details:

*OUTSIDE PRESENCE OF JURY: Deft. was admonished of his right not to testify. Upon Court's inquiry, Deft. acknowledged; and indicated he will not be testifying. SO NOTED. Court TRAILED matter for jury instructions to be finalized. CASE RECALLED. Jury Instructions SETTLED. Objections were made by parties. Court Exhibits presented (See Worksheets.). JURY PRESENT: Testimony presented (See Worksheets.). Defense rested. State had no rebuttal case; and rested. Court instructed Jury on the law. Closing arguments by Ms. Rhoades. Jury was admonished and excused for a lunch break. OUTSIDE PRESENCE OF JURY: Court stated Jury Instruction No. 10 and information on Count 35, from in the instructions had to be revised, due to grammatical errors. Parties acknowledged; and made no objections to the revisions, or Jury receiving corrected revisions. Lunch recess. JURY PRESENT: Closing arguments by Ms. Allen. Rebuttal arguments by Ms. Luzaich. Marshal and Matron sworn by Clerk to take charge of Jury. Alternate Juror was identified; and instructed by Court. At the hour of 3:50 P.M., the Jury retired to deliberate. Jury deliberating. Evening recess. TRIAL CONTINUES. CUSTODY 4/14/14 9:00 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State rested. Further testimony and Exhibits presented (See Worksheets.). Evening recess. TRIAL CONTINUES. CUSTODY 4/11/14 10:00 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*OUTSIDE PRESENCE OF JURY: Court NOTED for the record Juror No. 6 has been excused from trial and from reporting to Court this morning, due to health issues. Parties made no objections. COURT ORDERED, Alternate Juror No. 13 will now be part of the seated Jury panel. Colloquy regarding trial schedule for the week, witness line up for defense, and status of proposed jury instructions. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Parties made a record regarding redacted transcript of State's Proposed Exhibit No. 3. Court Exhibit presented (See Worksheets.). Colloquy regarding witness line up. Ms. Allen advised there was a redacted portion of Deft's statement to police, which indicated one of the alleged victims was engaging in sexual intercourse in Utah and had admitted to this. Additionally, this would be covered by rape shield; however, defense located case law from Johnson vs. State. Arguments by counsel as to admissibility and testimony from Deft. regarding the alleged victim. Counsel requested that Mr. MacArthur be allowed to ask about the Utah issue to the detective during cross examination; and argued defense believes the rape shield factor does not apply, as this would indicate the alleged victim had prior knowledge of sexual intercourse. Further, defense believes the question falls into completeness of Deft's statement. Court reviewed the case law provided by defense. Ms. Luzaich argued regarding NRS 50.090, and defense seeking to challenge credibility. Further arguments in opposition to defense' request and this having no basis of prior knowledge. Further arguments by defense. State provided the unredacted transcript from page 90, for Court to review. COURT ORDERED, Deft's Motion DENIED. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State's Exhibit No. 3 being an audio recording of Deft's statements to Metro, was*

**CASE SUMMARY**

**CASE NO. C-13-291374-1**

*PUBLISHED to the Jury. Evening recess. TRIAL CONTINUES. CUSTODY 4/10/14 10:30 A.M. TRIAL BY JURY;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Evening recess. TRIAL CONTINUES.*

*CUSTODY 4/09/14 10:00 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*OUTSIDE PRESENCE OF JURY: Ms. Allen advised the first witness for today is Deft's daughter, and State informed defense the daughter had pled guilty to two Misdemeanor battery charges. Additionally, the actual charges had occurred prior to an outburst in Justice Court during the Preliminary Hearing. Ms. Allen argued the battery charges should not be able to come in; however, State can impeach the witness if the door gets open. Ms. Luzaich advised during Preliminary Hearing, Deft's daughter charged at witness Victoria Duke, and threatened to kill her, further noting the daughter is emotionally violent and was held in contempt of Court due to the Courtroom incident. Ms. Allen argued the two battery charges have nothing to do with this case, and the information is precluded by statute. Ms. Allen argued the charges stem from when the daughter broke into her own home after being locked out by her boyfriend. Further arguments. Court GRANTED Deft's Motion to preclude witness from testifying about the battery charges, with exception that if the information becomes relevant during the examination, State can ask about the charges. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Evening recess. TRIAL CONTINUES. CUSTODY 4/07/14 10:00 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Defense made objections on Dr. Gondy testifying about Lealer Cooks' representation about one of the minor victims.*

*Arguments by State. Court OVERRULED objection by defense. JURY PRESENT: Testimony presented (See*

**CASE SUMMARY**

**CASE NO. C-13-291374-1**

*Worksheets.*). Evening recess. TRIAL CONTINUES. CUSTODY 4/04/14 9:00 A.M. TRIAL BY JURY ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*JURY PRESENT: Testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Order releasing records and Stipulation and Order regarding discovery SIGNED AND FILED IN OPEN COURT. Both parties made disclosures to the Court. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Evening recess. TRIAL CONTINUES. CUSTODY 4/03/14 10:00 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Jury Deliberating;

Verdict;

Journal Entry Details:

*JURY PRESENT: Testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: At request of defense, Voir Dire was conducted with State's witness Dr. Mehta. Following examination, Ms. Allen informed the Court there are lab reports regarding one of the alleged victims in Dr. Mehta's possession on the Stand, which were not provided to defense. Ms. Luzaich objected; and argued defense came and looked at State's file months ago. Court provided copies of the lab reports to defense. Voir Dire commenced further with Dr. Mehta regarding medical records and a doctor visit from one of the minor victims. Ms. Allen argued defense is not sure if Dr. Mehta is qualified to testify on records that Dr. Gondy did reports on; and requested Court to preclude Dr. Mehta on referring to Dr. Gondy's medical reports by during testimony. State cross examined Dr. Mehta during Voir Dire. Arguments by parties regarding hearsay, and opinions being given on the reports. Court OVERRULED objection made by defense, as State is not moving to admit the medical records in question. Ms. Allen argued this witness did not have records at the time frame in question; and requested a proffer from the State. Ms. Luzaich argued State has already provided this during testimony on Voir Dire. Further arguments by counsel. Court's ruling on the objection STANDS. JURY PRESENT: Testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Upon Court's inquiry, Dr. Mehta advised photographs taken during the medical examination are in possession of CAC, and she is not able to request such photographs. Court thanked and excused the witness from her subpoena. Dr. Mehta exited the Courtroom. Ms. Allen advised she does not have the photographs from the medical examination; and requested State to obtain them. Ms. Luzaich advised the Court needs to issue an order, and state findings under Epperson. Additionally, State sent an email to CAC, and received no response yet. Court directed State to prepare the order as to photographs. Colloquy regarding trial schedule for tomorrow. EXCLUSIONARY RULE INVOKED. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow morning at 10:30 a.m. OUTSIDE PRESENCE OF JURY: Court noted for the record one of the jurors wanted to ask a question to Deft, and the Court reminded the jury panel they can ask written questions to witnesses. Parties acknowledged. Evening recess. TRIAL CONTINUES. CUSTODY 4/02/14 10:30 A.M. TRIAL BY JURY ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

# CASE SUMMARY

## CASE NO. C-13-291374-1

Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Jury Deliberating;  
 Jury Deliberating;  
 Verdict;

### Journal Entry Details:

*OUTSIDE PRESENCE OF JURY: Prior to trial starting, both parties in the presence of the Clerk, opened an evidence envelope provided by Metro, for review of a proposed exhibit. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State's current witness on the Stand complained to the Court about not feeling well. Court EXCUSED the Jury for a break until 1:15 p.m. OUTSIDE PRESENCE OF JURY: State's witness Tina Duke, is present on the Stand. Court DIRECTED the Marshal to call Control and have emergency personnel come into the Courtroom, to medically examine the witness. MATTER TRAILED. Following examination of the witness, by paramedics, Court EXCUSED the trial attorneys to return at 1:15 p.m. Lunch recess. JURY PRESENT: Further testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: State made objections regarding inadmissibility on a question asked by Mr. MacArthur, during cross examination of State's witness Tina Duke. Arguments as to State having made an objection regarding rape shield during testimony. Arguments by Mr. MacArthur as to relevancy of his question. Court SUSTAINED State's objection. JURY PRESENT: Further testimony presented (See Worksheets.). Evening recess. TRIAL CONTINUES. CUSTODY 4/01/14 10:30 A.M. TRIAL BY JURY;*

Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Jury Deliberating;  
 Jury Deliberating;  
 Verdict;

### Journal Entry Details:

*OUTSIDE PRESENCE OF JURY: There being no objection by defense, COURT ORDERED, Amended Information FILED IN OPEN COURT to correct typographical errors on Count 43 and Count 45. JURY PRESENT: Jury SWORN by Clerk and instructed by Court. Clerk read the Amended Information. Further instructions were instructed by Court. Opening statements by Ms. Luzaich and Mr. MacArthur. Testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Ms. Allen advised she noticed during openings, State mentioned that Rose Smith was coming in for the trial, and defense has had no ability to contact her, as no contact information was provided by State in any way, which presents a problem. Additionally, defense has not had the opportunity to locate Ms. Smith at this point. Thereafter, Ms. Allen moved to exclude Ms. Smith from trial; and argued pursuant to Statute, the State needs to update their witness list. Further, defense never received Ms. Smith's address after the discovery Motion was filed. Ms. Luzaich argued defense has not said anything when parties spoke about the case, and if something was said, the State would have provided the contact information. Additionally, State will provide a telephone number. Ms. Allen advised she appreciates the information, however, the remedy would be to exclude the witness, and the witness list was not updated. COURT ORDERED, State to provide the telephone number of Ms. Smith to defense. Court advised counsel if they still did not get the opportunity to contact Ms. Smith, parties can revisit this Motion at a later date. Ms. Allen indicated there may be a different incident report regarding an argument that occurred on Blankenship Street. Following discussions, Ms. Allen advised parties stipulate that no testimony will be made on a conversation being heard by an officer at the Blankenship residence, and just a loud noise had occurred. State concurred. SO NOTED. Lunch recess. OUTSIDE PRESENCE OF JURY: Ms. Allen addressed on a proffer regarding a book written by the children's mother, and further noted defense does not intend on getting into the facts of the book, which was about rape shield. Ms. Allen advised defense believes the book gestures bias from the mother and the nature in this case, and defense will be asking about the book being written and set to be published, but not about the substance. Ms. Luzaich advised she does not know what the book is about, however, the story in the book is the mother claimed she was raped by somebody, had thought about revenge, and kills someone. Upon Court's inquiry, Ms. Luzaich advised the story is fictional. Following discussions, Ms. Luzaich objected to defense bringing information about the book, as it is inappropriate, it has nothing to do with this case, there was no hearing about this issue, and it is misleading. Arguments by counsel. COURT ORDERED, information regarding the book is EXCLUDED, unless the witness says something during testimony that makes the book become relevant. JURY PRESENT: Testimony presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: State provided contact information to defense regarding Rose Smith. Discussions as to limited stipulation that was made about the CPS records and testimony; and further discussions regarding witness line up, length of*

# CASE SUMMARY

CASE NO. C-13-291374-1

examination on witnesses, and trial schedule. Evening recess. TRIAL CONTINUES. CUSTODY 3/31/14 10:30 A.M. TRIAL BY JURY ;

Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Jury Deliberating;  
Jury Deliberating;  
Verdict;

Journal Entry Details:

*OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL:* Court stated Prospective Juror with Badge No. 0019, is currently on their way here, further noting the prospective juror was notified telephonically earlier, and had believed trial will be starting at 11:00 a.m. today, not at 10:00 a.m. Court further stated it would like to wait this morning, until this prospective juror arrives. Parties made no objections. Ms. Allen advised she provided an envelope of documents to Chambers for in-camera review, consisting of psych records that her investigator had given to her unsealed. Additionally, upon receipt, defense just forwarded these documents to the Court, and did not look at them. Court stated it believes the documents need to be turned over to both parties. Ms. Luzaich made no objections; and advised State has the right to challenge on whether or not the information provided in-camera is admissible. Court agreed. Thereafter, copies of the documents were provided to both State and defense by Court. Court Exhibit presented (See Worksheets.). Court TRAILED matter for the remaining Prospective Juror to arrive. CASE RECALLED. *PROSPECTIVE JURY PANEL PRESENT:* Voir Dire commenced. *OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL:* Prospective Juror with Badge No. 0023 is present in Court, and made statements regarding financial and employment hardship. Following further discussions, Court thanked and excused Badge No. 0023 for cause. *PROSPECTIVE JURY PANEL PRESENT:* Voir Dire commenced further. JURY SELECTED. Court thanked and excused the remaining jury panel members. Thereafter, Court admonished and excused the Jury to return tomorrow morning at 10:30 a.m. *OUTSIDE PRESENCE OF JURY:* Colloquy as to Deft's recorded statements to police to be presented by State during trial. Evening recess. TRIAL CONTINUES. CUSTODY 3/27/14 10:30 A.M. TRIAL BY JURY ;

Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Jury Deliberating;  
Jury Deliberating;  
Verdict;

Journal Entry Details:

*OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL:* Colloquy regarding trial schedule for tomorrow morning. *PROSPECTIVE JURY PANEL PRESENT:* Introductory statements by Court and by counsel. Clerk called roll and SWORE the entire Prospective Jury Panel. Voir Dire commenced. Evening recess. TRIAL CONTINUES. CUSTODY 3/26/14 10:00 A.M. TRIAL BY JURY ;

## SCHEDULED HEARINGS

**CANCELED Sentencing** (07/17/2014 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)

*Vacated - per Judge*

**SENTENCING (JURY VERDICT) / DISMISSAL OF COUNTS 1, 15, 17, 18, 27, 30, 32, 43 AND 45**

03/25/2014 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)

*Vacated - per Judge*

06/19/2014

**CASE SUMMARY**

**CASE NO. C-13-291374-1**



**Motion for New Trial (8:30 AM)** (Judicial Officer: Leavitt, Michelle)

**06/19/2014, 07/15/2014, 09/30/2014, 10/16/2014, 10/30/2014, 11/24/2014, 01/05/2015, 02/17/2015, 06/30/2015**

*Defendant's Motion for a New Trial*

Continued;

Continued;

Continued;

Continued;

Evidentiary Hearing;

Continued;

Continued;

Continued;

Denied;

Continued;

Continued;

Continued;

Continued;

Evidentiary Hearing;

Continued;

Continued;

Continued;

Denied;

Continued;

Continued;

Continued;

Continued;

Evidentiary Hearing;

Continued;

Continued;

Continued;

Denied;

Continued;

Continued;

Continued;

Continued;

Evidentiary Hearing;

Continued;

Continued;

Continued;

Denied;

Continued;

Continued;

Continued;

Continued;

Evidentiary Hearing;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

*Ms. Allen advised she did submit a supplement to Deft's Motion alleging juror misconduct; and requested an evidentiary hearing be set. Thereafter, counsel argued regarding the juror not wanting to sign an Affidavit due to future employment reasons, and discussions that were made between the jurors during deliberations. Further arguments in support of evidentiary hearing to be set, based on case law cited in the Motion. Ms. Luzaich opposed the request for evidentiary hearing; and argued State does not believe a hearing is appropriate, and defense failed to meet the burden. Additionally, the law is the jury cannot impeach their own verdict. Further arguments as to the Meyer case. Additional arguments by Ms. Allen as to case law cited in the Canada case, from Deft's supplemental Motion. COURT ORDERED, matter SET for evidentiary hearing; Motion CONTINUED. CUSTODY 11/24/14 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL ;*

Continued;

**CASE SUMMARY**  
**CASE NO. C-13-291374-1**

Continued;  
Continued;  
Continued;  
Evidentiary Hearing;  
Continued;  
Continued;  
Continued;

Denied;

Journal Entry Details:

*At the request of parties, COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 10/30/14 8:30 A.M. ;*

Continued;  
Continued;  
Continued;  
Continued;  
Continued;  
Evidentiary Hearing;  
Continued;  
Continued;  
Continued;

Denied;

Journal Entry Details:

*Ms. Luzaich apologized to the Court; and stated she was in trial last week, and did not have a chance to complete what she needed to do on this Motion. At request of State, and there being no objection by defense, COURT ORDERED, matter CONTINUED. Ms. Allen indicated there is no PSI Report. Ms. Luzaich advised State did not send the file to P&P yet, pending the result of this Motion. CUSTODY 10/16/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL ;*

Continued;  
Continued;  
Continued;  
Continued;  
Evidentiary Hearing;  
Continued;  
Continued;  
Continued;

Denied;

Journal Entry Details:

*Ms. Allen requested a continuance, to have this Court order a production of a copy of the Voir Dire transcript from trial, further noting State is seeking to file supplement to their response to Deft's Motion. Ms. Allen additionally requested that sentencing scheduled for this Thursday, July 17, 2014 be vacated, as defense does not have a PSI Report, yet. Court noted State needs to respond to the issues; and inquired if defense would want a recorded disc to be produced from Voir Dire. Ms. Allen requested the full Voir Dire addressing Juror No. 7. Following discussions, COURT ORDERED, written transcript of Voir Dire from trial to be done by August 11, 2014. Ms. Allen to submit an order. COURT FURTHER ORDERED, today's Motion is CONTINUED; sentencing is VACATED at this time. CUSTODY 9/16/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL ;*

Continued;  
Continued;  
Continued;  
Continued;  
Evidentiary Hearing;  
Continued;  
Continued;  
Continued;

Denied;

Journal Entry Details:

*Ms. Allen advised State filed an Opposition, which she received on Monday, and Ms. Luzaich had no objection with defense seeking to file a reply, or with defense appearing to make these representations today. At request of counsel, COURT ORDERED, matter CONTINUED for the reply to be filed. CUSTODY 7/15/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL ;*

07/17/2014 **CANCELED Sentencing (8:30 AM) (Judicial Officer: Leavitt, Michelle)**

*Vacated - per Judge*

**SENTENCING (JURY VERDICT) / DISMISSAL OF COUNTS 1, 15, 17, 18, 27, 30, 32, 43 AND 45**



# CASE SUMMARY

CASE NO. C-13-291374-1

11/24/2014 **Evidentiary Hearing (10:30 AM)** (Judicial Officer: Leavitt, Michelle)  
11/24/2014, 01/05/2015, 02/17/2015, 06/30/2015

Continued;

Continued;

Continued;

Matter Heard;

Continued;

Continued;

Continued;

Matter Heard;

## MINUTES

Continued;

Continued;

Continued;

Matter Heard;

Continued;

Continued;

Continued;

Matter Heard;

## SCHEDULED HEARINGS



**All Pending Motions (01/05/2015 at 10:30 AM)** (Judicial Officer: Leavitt, Michelle)

11/24/2014 **All Pending Motions (10:30 AM)** (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

*EVIDENTIARY HEARING...DEFT'S MOTION FOR NEW TRIAL Also present: Chris Oram, Esq. Exclusionary rule INVOKED, therefore, Ms. Harris was asked to leave the courtroom as she is a potential witness. Testimony and Exhibit presented (See Worksheet). Conference at the Bench. Ms. Allen requested matter be continued to allow the defense to subpoena additional witnesses. COURT SO ORDERED. CUSTODY MATTERS CONTINUED TO: 12/17/14 9:00 A.M. ;*

01/05/2015 **All Pending Motions (10:30 AM)** (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

*EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL Ms. Allen advised this matter was previously continued at her request; further noting she provided black and white copies of the Facebook posts, referenced by Juror No. 13 Robert Bell from his previous testimony, to the State this morning. Additionally, after this matter was continued, defense sent an email to Dept. 12's Law Clerk, which referenced Ms. Allen asking the State to continue the matter to have additional witnesses come in and testify today. Further, there are additional posts defense is seeking to obtain from Facebook to make a record on, which were allegedly made by two jurors, including Juror No. 7 Yvonne Lewis. Ms. Allen further advised State had agreed to issue subpoenas on the witnesses, however, a last minute decision was made by State to bring an offer of proof in, and to not have the witnesses subpoenaed to come to Court. Ms. Allen argued two jurors defied the Court's orders not to communicate about the trial with anyone, defense will be requesting to obtain additional records from Facebook, and defense had believed Ms. Lewis was going to be present today based on the State's response in the previous emails. Ms. Luzaich argued this matter was continued for the investigator to come testify, and parties had agreed to continue the case to allow the investigator to attend a funeral. Thereafter, State provided colored copies of the Facebook posts to the Court; and agreed to stipulate to this evidence. Thereafter, Ms. Luzaich argued these jurors did nothing wrong; and based on the Court's admonishments from March 27, 2014, the Court told the Jury they were permitted to let other people know they were jurors in a criminal case; and based on the Facebook posts, that is all what the jurors did, further noting the jurors did not make any comments about the case in the posts. Ms. Luzaich provided a one page copy of a drafted transcript from trial proceedings, addressing the Court's admonishment to the Jury. Ms. Luzaich further argued there is nothing inappropriate on these Facebook posts. Pursuant to stipulation made by parties, COURT ORDERED, State's Exhibits ADMITTED (See Worksheets.). Ms. Allen argued there are comments from the Facebook profile page that need to be made part of the record; and further argued defense was not trying to waste any time by communicating with the State through emails on the request for State to issue subpoenas on the two jurors that defense was seeking to call as witnesses today. Ms. Allen also argued the jurors were not permitted to discuss the matter on social media and there was clear misconduct. Ms. Luzaich added the jurors did not discuss about the case, the Court never told the jury panel they were not permitted to go on Facebook, and all these two jurors were doing were telling their friends that they were jurors. Court stated it has to be*

# CASE SUMMARY

## CASE NO. C-13-291374-1

more specific on these admonishments from now on. Ms. Allen requested a continuance to obtain more information from Facebook, including a Court order to obtain additional information, with regards to the picture submitted by State today, including the comment thread. State made no objections as to defense retrieving Facebook information from March 23, 2014, March 26, 2014 and March 27, 2014. COURT SO ORDERED. Ms. Allen advised she believed the issues would have been alleviated if Ms. Lewis appeared in Court today, due to the juror being unhappy and uncomfortable about being contacted by defense regarding this case. Additionally, the defense will not be calling their investigator in to testify, however, defense will be seeking to call Ms. Lewis in to have her testify again. State objected; and argued it is not necessary to have Ms. Lewis come back to testify. COURT ORDERED, matters are CONTINUED for defense to obtain additional information from Facebook, and to verify whether or not Ms. Lewis will be needed to testify, based on the additional information defense may receive. Ms. Luzaich advised a preservation letter to Facebook may be needed to be done by defense, in addition to the Court order. CUSTODY 2/17/15 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL ;

02/17/2015



**All Pending Motions (8:30 AM)** (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL Ms. Allen requested a continuance to issue subpoenas to the two jurors themselves, for the Facebook account information. Ms. Luzaich advised she does not know if the Court has authority to have them go out to retrieve information. Arguments by counsel. COURT ORDERED, matters are CONTINUED. CUSTODY 3/23/15 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL ;

06/30/2015



**All Pending Motions (8:30 AM)** (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING .... DEFENDANT'S MOTION FOR A NEW TRIAL Exhibits presented. (see worksheets). Ms. Allen argued in support of new trial stating although social media issues during trial is a new area the posts by jurors in this case on Facebook during the trial go directly against this Court's order not to discuss the case with anyone and is juror misconduct which she believes warrants a new trial. Ms. Luzaich argued in opposition stating this issue does not rise to the level of juror misconduct as there was no discussion about the case, no facts about the case disclosed, and nothing said as to what they thought about the case and requested the motion be denied. Further arguments. COURT ORDERED, Defendant's Motion for New Trial DENIED. Further discussion regarding the time frame of the post during the trial. Court stated ruling stands. Ms. Allen noted for the record Ms. Luzaich confirmed there were no additional witness fees paid. Court so noted. Ms. Luzaich requested matter be set for sentencing. COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. CUSTODY 9/01/2015 8:30 AM SENTENCING ;

10/27/2015



**Sentencing (8:30 AM)** (Judicial Officer: Leavitt, Michelle)

### MINUTES

At the request of the State of Nevada. No PSI is available.

Defendant Sentenced;

Journal Entry Details:

By virtue of Jury Verdict returned in this matter, DEFT. FREDERICK HAROLD HARRIS ADJUDGED GUILTY OF COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 13 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 16 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F); COUNT 19 - FIRST DEGREE KIDNAPPING (F); COUNT 20 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 22 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 23 - COERCION (SEXUALLY MOTIVATED) (F); COUNT 24 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F); COUNT 25 - FIRST DEGREE KIDNAPPING (F); COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 28 - FIRST DEGREE KIDNAPPING (F); COUNT 29 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 31 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 34 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN

# CASE SUMMARY

CASE NO. C-13-291374-1

YEARS OF AGE (F); COUNT 36 - SEXUAL ASSAULT (F); COUNT 37 - FIRST DEGREE KIDNAPPING (F); COUNT 38 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F); COUNT 39 - SEXUAL ASSAULT (F); COUNT 40 - SEXUAL ASSAULT (F); COUNT 41 - SEXUAL ASSAULT (F); COUNT 42 - PANDERING (F); AND, COUNT 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE (F); COUNTS 1, 15, 17, 18, 27, 30, 32, 43, AND 45 ARE DISMISSED. Ms. Luzaich indicated the Pre-Sentence Investigation (PSI) Report was incorrect on what the potential sentences are, as no legislature changes were reflected in this Report on Counts. Thereafter, Ms. Luzaich provided the potential sentences for the Counts; and argued imposition of sentencing. Arguments by Ms. Allen. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Deft. SENTENCED as follows: COUNT 2 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 3 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 4 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 5 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 6 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 7 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 8 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 9 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 10 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 11 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 12 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 13 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 14 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 16 - to a MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 19 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 20 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 21 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 22 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 23 - to a MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 24 - to a MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); COUNT 25 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 26 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 28 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 29 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 31 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 33 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 34 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 35 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 36 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 37 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 38 - LIFE with a MINIMUM Parole Eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC); COUNT 39 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 40 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 41 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 42 - to a MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); and COUNT 44 - to a MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of FORTY EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNTS 2, 3, 6, 8, 9, 10, 11, 13, and 14 are to run CONCURRENT with each other; COUNT 21 to run CONSECUTIVE to COUNT 22; COUNTS 4, 5, 7, 12, and 20 are to run CONCURRENT with each other and to the other Counts; COUNT 16 to run CONCURRENT to the other Counts; COUNTS 19, 25, 28, and 37 are to run CONCURRENT with each other and to the other Counts; COUNT 23 to run CONCURRENT to the other Counts; COUNT 24 to run CONCURRENT to the other Counts; COUNTS 26, 29, 31, 33, 34, and 35 are to run CONCURRENT with each other and CONSECUTIVE to the other Counts; COUNTS 36, 39, 40, and 41 are to run CONCURRENT with each other; COUNT 38 to run CONCURRENT to the other Counts; and, COUNT 42 to run CONSECUTIVE to COUNT 44, with NINE HUNDRED SEVENTY NINE (979) DAYS CREDIT FOR TIME SERVED. Deft's AGGREGATE TOTAL SENTENCE is LIFE with a MINIMUM sentence of SEVEN HUNDRED TWENTY (720) MONTHS. Pursuant to statute, Deft. is to register as a sex offender in accordance with NRS 179D.460 within 48 hours upon release from custody; and, a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment. Ms. Allen requested to file a Motion in open Court on behalf of Mr. Oram for purposes of appeal; and COURT SO ORDERED. Deft's Motion To Place On Calendar To Request Transcripts For Direct Appeal At The State's Expense FILED IN OPEN COURT. Court GRANTED the Motion. Mr. Oram, counsel for Deft. for appellate proceedings to submit an order. BOND, if any, EXONERATED. NDC CLERK'S NOTE: Minutes amended to reflect minimum aggregate sentence. /// 11/07/16 sj;

DATE

FINANCIAL INFORMATION

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-13-291374-1**

**Defendant** Harris Jr, Frederick Harold

Total Charges

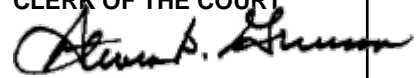
178.00

Total Payments and Credits

0.00

**Balance Due as of 5/28/2020**

**178.00**



**FFCO**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JAMES R. SWEETIN**  
Chief Deputy District Attorney  
Nevada Bar #005144  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

**FREDERICK HAROLD HARRIS JR.,  
#0972945**

Defendant.

CASE NO: **A-18-784704-W  
C-13-291374-1**

DEPT NO: **XII**

**FINDINGS OF FACT, CONCLUSIONS OF**

**LAW AND ORDER**

DATE OF HEARING: **APRIL 23, 2020**  
TIME OF HEARING: **12:00 PM**

THIS CAUSE having presented before the Honorable MICHELLE LEAVITT, District Judge, on the 23rd day of April, 2020; Defendant not present, represented by TERRENCE MICHAEL JACKSON, ESQ.; Plaintiff represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JAMES SWEETIN, Chief Deputy District Attorney; and having considered the matter, including briefs, transcripts, and documents on file herein, the Court makes the following Findings of Fact and Conclusions of Law:

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2 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

3 **PROCEDURAL HISTORY**

4 On July 23, 2013, Defendant Frederick Harris ("Petitioner") was charged by  
5 way of Information with the following: Counts 1, 15-18: Child Abuse, Neglect, or  
6 Endangerment (Category B Felony - NRS 200.508); Counts 2-3, 6, 8-11, 13-14, 21- 22:  
7 Sexual Assault With a Minor Under Fourteen Years of Age (Category A Felony - NRS  
8 200.364, 200.366); Counts 4-5, 7, 12, 20: Lewdness with a Child Under the Age of 14  
9 (Category A Felony - NRS 201.230); Counts 19, 25, 28, 37: First Degree Kidnapping  
10 (Category A Felony - NRS 200.310, 200.320); Count 23: Coercion (Sexually Motivated)  
11 (Category B Felony - NRS 207.190); Counts 24 and 27: Administration of a Drug to Aid in  
12 the Commission of a Crime (Category B Felony - NRS 200.405); Counts 26, 29-35: Sexual  
13 Assault With a Minor Under Sixteen Years of Age (Category A Felony - NRS 200.364,  
14 200.366); Counts 36, 39-41: Sexual Assault (Category A Felony - NRS 200.364, 200.366);  
15 Count 38: Battery with Intent to Commit Sexual Assault (Category A Felony - NRS  
16 200.400); Count 42: Pandering (Category C Felony - NRS 201.300); Count 44: Living from  
17 the Earnings of a Prostitute (Category D Felony - NRS 201.320); and Count 45: Battery by  
18 Strangulation (Category C Felony - NRS 200.481).

19 A jury trial commenced on March 25, 2014. 9 AA 999. On April 15, 2014, after  
20 hearing 12 days of evidence and after approximately two days of deliberation, the jury found  
21 Petitioner guilty of the following: eleven counts of Sexual Assault With a Minor Under  
22 Fourteen Years of Age; five counts of Lewdness With a Child Under the Age of 14; six  
23 counts of Sexual Assault With a Minor Under Sixteen Years of Age; four counts of Sexual  
24 Assault; four counts of First Degree Kidnapping; one count of Administration of a Drug to  
25 Aid in the Commission of a Crime; one count of Coercion (Sexually Motivated); one count  
26 of Battery With Intent to Commit Sexual Assault; one count of Child Abuse, Neglect or  
27 Endangerment; one count of Pandering; and one count of Living From the Earnings of a  
28 Prostitute. The jury found Defendant not guilty of the following: two counts of Sexual

1 Assault With a Minor Under Sixteen Years of Age; one count of Sexual Assault; one count  
2 of Administration of a Drug to Aid in the Commission of a Crime; four counts of Child  
3 Abuse, Neglect or Endangerment; and one count of Battery by Strangulation.

4 Petitioner filed a Motion for New Trial on April 28, 2014. The State filed an  
5 Opposition on June 13, 2014. Petitioner's Motion was denied on June 30, 2015.

6 On November 2, 2014, Petitioner was adjudged guilty of the following: OF COUNT 2  
7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);  
8 COUNT3-SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
9 (F); COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 5 –  
10 LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT6-SEXUAL  
11 ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 7 -  
12 LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 8 -SEXUAL  
13 ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 9 -  
14 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);  
15 COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF  
16 AGE (F); COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN  
17 YEARS OF AGE (F); COUNT 12- LEWDNESS WITH A CHILD UNDER THE AGE OF  
18 14 (F); COUNT 13- SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS  
19 OF AGE (F); COUNT 14 -SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN  
20 YEARS OF AGE (F); COUNT 16 - CHILD ABUSE, NEGLECT OR ENDANGERMENT  
21 (F); COUNT 19 - FIRST DEGREE KIDNAPPING (F); COUNT 20 - LEWDNESS WITH A  
22 CHILD UNDER THE AGE OF 14 (F); COUNT 21- SEXUAL ASSAULT WITH A  
23 MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 22- SEXUAL ASSAULT  
24 WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 23 -COEROON  
25 (SEXUALLY MOTIVATED) (F); COUNT 24- ADMINISTRATION OF A DRUG TO AID  
26 IN THE COMMISSION OF A CRIME (F); COUNT 25 - FIRST DEGREE KIDNAPPING  
27 (F); COUNT 26 -SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF  
28 AGE (F); COUNT 28 - FIRST DEGREE KIDNAPPING (F); COUNT 29 - SEXUAL



1 ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 31 -  
2 SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT  
3 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);  
4 COUNT 34- SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
5 (F); COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF  
6 AGE (F); COUNT 36 - SEXUAL ASSAULT (F); COUNT 37 - FIRST DEGREE  
7 KIDNAPPING (F); COUNT 38- BATTERY WITH INTENT TO COMMIT SEXUAL  
8 ASSAULT (F); COUNT 39- SEXUAL ASSAULT (F); COUNT 40- SEXUAL ASSAULT  
9 (F); COUNT 41 SEXUAL ASSAULT (F); COUNT 42 - PANDERING (F); AND, COUNT  
10 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE (F); COUNTS 1 , 15, 17, 18,  
11 27, 30, 32, 43, and 45 were dismissed.

12       Petitioner was sentenced as follows: COUNT 2 - LIFE with a MINIMUM Parole  
13 Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC);  
14 COUNT 3 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in  
15 the Nevada Department of Corrections (NDC); COUNT 4 - LIFE with a MINIMUM Parole  
16 Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 5  
17 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department  
18 of Corrections (NDC); COUNT 6 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
19 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 7 - LIFE with  
20 a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of  
21 Corrections (NDC); COUNT 8 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
22 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 9 - LIFE with  
23 a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
24 Corrections (NDC); COUNT 10 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
25 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 11 - LIFE with  
26 a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
27 Corrections (NDC); COUNT 12- LIFE with a MINIMUM Parole Eligibility of TEN (10)  
28 YEARS in the Nevada Department of Corrections (NDC); COUNT 13 - LIFE with a



1 MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
2 Corrections (NDC); COUNT 14 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
3 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 16 - to a  
4 MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO  
5 (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 19 – LIFE with a  
6 MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections  
7 (NDC); COUNT 20- LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the  
8 Nevada Department of Corrections (NDC); COUNT 21 - LIFE with a MINIMUM Parole  
9 Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC);  
10 COUNT 22- LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the  
11 Nevada Department of Corrections (NDC); COUNT 23 - to a MINIMUM of TWENTY  
12 EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the  
13 Nevada Department of Corrections (NDC); COUNT 24 - to a MINIMUM of TWENTY  
14 FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada  
15 Department of Corrections (NDC); COUNT 25 - LIFE with a MINIMUM Parole Eligibility  
16 of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 26 - LIFE  
17 with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department  
18 of Corrections (NDC); COUNT 28 - LIFE with a MINIMUM Parole Eligibility of FIVE (5)  
19 YEARS in the Nevada Department of Corrections (NDC); COUNT 29 - LIFE with a  
20 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
21 Corrections (NDC); COUNT 31 - LIFE with a MINIMUM Parole Eligibility of TWENTY  
22 (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 33 - LIFE with a  
23 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
24 Corrections (NDC); COUNT 34 - LIFE with a MINIMUM Parole Eligibility of TWENTY  
25 (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 35 - LIFE with a  
26 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
27 Corrections (NDC); COUNT 36 - LIFE with a MINIMUM Parole Eligibility of TEN (10)  
28 YEARS in the Nevada Department of Corrections (NDC); COUNT 37 - LIFE with a

1 MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections  
2 (NDC); COUNT 38 - LIFE with a MINIMUM Parole Eligibility of TWO (2) YEARS in the  
3 Nevada Department of Corrections (NDC); COUNT 39- LIFE with a MINIMUM Parole  
4 Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT  
5 40 - LIFE with a MIN MUM Parole Eligibility of TEN (10) YEARS in the Nevada  
6 Department of Corrections (NDC); COUNT 41 - LIFE with a MINIMUM Parole Eligibility  
7 of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 42- to a  
8 MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60)  
9 MONTHS in the Nevada Department of Corrections (NDC); and COUNT 44 - to a  
10 MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of FORTY EIGHT (48)  
11 MONTHS in the Nevada Department of Corrections (NDC); COUNTS 2, 3, 6, 8, 9, 10,  
12 11,13, and 14 are to run CONCURRENT with each other; COUNT 21 to run  
13 CONSECUTIVE to COUNT 22; COUNTS 4, 5, 7, 12, and 20 are to run CONCURRENT  
14 with each other and to the other Counts; COUNT 16 to run CONCURRENT to the other  
15 Counts; COUNTS 19, 25, 28, and 37 are to run CONCURRENT with each other and to the  
16 other Counts; COUNT 23 to run CONCURRENT to the other Counts; COUNT 24 to run  
17 CONCURRENT to the other Counts; COUNTS 26, 29, 31, 33, 34, and 35 are to run  
18 CONCURRENT with each other and CONSECUTIVE to the other Counts; COUNTS 36,  
19 39, 40, and 41 are to run CONCURRENT with each other; COUNT 38 to run  
20 CONCURRENT to the other Counts; and, COUNT 42 to run CONSECUTIVE to COUNT  
21 44, with NINE HUNDRED SEVENTY NINE (979) DAYS CREDIT FOR TIME SERVED.  
22 Petitioner's AGGREGATE TOTAL SENTENCE is LIFE with a MINIMUM sentence of  
23 SEVEN HUNDRED TWENTY (720) MONTHS.

24 On October 27, 2015, Petitioner filed a Notice of Appeal.

25 On November 2, 2015, the Court filed the Judgment of Conviction.

26 On November 14, 2016, the Court filed an Amended Judgment of Conviction.

27 On May 24, 2017, the Supreme Court of Nevada affirmed Petitioner's Judgment of  
28 Conviction. Remittitur issued on November 21, 2017.

1 On November 16, 2018, Petitioner filed a Petition for Writ of Habeas Corpus. On  
2 June 6, 2019, the Court appointed petitioner post-conviction counsel. On June 20, 2019, Mr.  
3 Jackson confirmed as counsel. On November 1, 2019, Petitioner filed his Supplemental  
4 Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction  
5 Relief ("Petition"). On April 6, 2020, the State filed its Response. On April 10, 2020,  
6 Petitioner filed his Reply. On April 23, 2020, this Court denied Petitioner's Petition.

### 7 **STATEMENT OF THE FACTS**

8 Petitioner physically and sexually assaulted T.D. and several of her children between  
9 2004 and 2012. T.D. and Petitioner first became acquainted in 2004 in Louisiana and T.D.  
10 moved to Las Vegas shortly thereafter. For several months between 2004 and 2005, T.D. and  
11 her five children (V.D., M.D., S.D., Tah. D., and Taq. D.) lived with Petitioner's girlfriend,  
12 who they came to call "Miss Ann."

13 At some point in 2005, T.D. and her children moved to Utah where they stayed for  
14 about two years. When they returned to Las Vegas in July of 2007, T.D. and her eldest  
15 child, V.D., moved into Petitioner's mother's house. The other four children went to live  
16 with Petitioner and Miss Ann on Blankenship Street. T.D. and V.D. moved several times  
17 over the next year before moving into the Blankenship house. From 2008 to 2010, Petitioner,  
18 Miss Ann, T.D. and T.D.'s five children lived at Blankenship. In 2010, T.D., V.D., M.D.,  
19 and S.D., moved out of the Blankenship house and into an apartment in Henderson, while  
20 Tah. D. and Taq. D. remained at Blankenship with Petitioner and Miss Ann. Tah. D. and  
21 Taq. D. joined their mom and siblings in Henderson for the summer of 2012, before  
22 returning to the house on Blankenship. Taq. D. and Tah. D. were removed from Petitioner  
23 and Miss Ann's home in the Fall of 2012 and lived with a foster family for about a year  
24 before being reunited with T.D., who they resided with at the time of trial.

25 T.D. was working as a cocktail waitress in Louisiana where she lived with her five  
26 children when she met Petitioner in 2004. T.D.'s children, who ranged in age from toddlers  
27 to twelve years old, were enrolled in school for the first time in 2004. Petitioner, a Las Vegas  
28 resident, was visiting Louisiana and met T.D. at the bar where she worked. Shortly

1 thereafter, T.D. left Louisiana for Las Vegas, while her children stayed behind. While  
2 neighbors periodically checked on the children, twelve-year-old V.D. was primarily  
3 responsible for the care of her younger siblings. A few days after T.D.'s arrival in Las Vegas,  
4 Petitioner's brother picked up T.D.'s children and moved them from Louisiana to Las Vegas.

5 In 2004, when T.D.'s children moved to Las Vegas, Petitioner's girlfriend, Miss Ann,  
6 was living at a house on Trish Lane while Petitioner lived in a separate apartment. The  
7 children and T.D. moved in with Miss Ann, where they lived for about six months. During  
8 the same period of time, Petitioner regularly hit V.D. and S.D. with both his hands and a belt.  
9 Petitioner also first sexually assaulted V.D. who was approximately twelve during this time,  
10 between December 2004 and May 2005, while she was living with Miss Ann and he was  
11 living in his own apartment.

12 One morning when V.D.'s siblings were ill, Petitioner took V.D. and her siblings to  
13 his apartment, where the children fell asleep. When V.D. woke up, her siblings were no  
14 longer in the house and Petitioner told V.D. that they were at the park. Petitioner entered the  
15 bedroom where V.D. was, took his penis out of his pants and placed her hand on it. He told  
16 her that he would beat her if she told anyone what happened, and proceeded to remove  
17 V.D.'s pants. He pushed his fingers into her vagina, and then his penis. He told her again that  
18 he would beat her if she told anyone what he had done.

19 About a week after this assault, V.D. told Miss Ann what Petitioner had done to her.  
20 Miss Ann informed Petitioner's mother, as well as T.D. Miss Ann, Petitioner, and  
21 Petitioner's mother confronted V.D., who they berated for reporting this assault and told her  
22 they did not believe her. At that time, no one reported the abuse or sexual assault to  
23 authorities. Subsequently, T.D. and her five children left Las Vegas and moved to Utah.  
24 They lived in Utah for approximately one-and-a half years, before T.D. returned to Las  
25 Vegas alone. While T.D. was in Las Vegas, her children were taken into state custody in  
26 Utah. T.D. returned to Utah and over the course of six months participated in parenting  
27 classes and was reunited with her children. Shortly after, she abruptly moved back to Las  
28 Vegas, this time taking her children with her.

1 When T.D. and her children moved back to Las Vegas in the summer of 2007, Miss  
2 Ann and Petitioner were living together in a house on Blankenship Street. T.D.'s four  
3 youngest children moved into that house, while T.D. and V.D. moved into the house of  
4 Petitioner's mother. 11 AA 1544-47. Petitioner committed another sexual assault on V.D.,  
5 who was 15 years old, during this time period. Leading up to this assault, Petitioner believed  
6 V.D. was a virgin and told her he wanted to "take her virginity" and made her pick a date for  
7 it to occur. On August 24, 2007, Petitioner, T.D., and V.D. sat in Petitioner's car outside his  
8 mother's house, where he taunted V.D., saying he would be taking her virginity later.  
9 Petitioner drove around town with V.D. and T.D. in the car during the day, picking up  
10 alcohol which all three consumed. That night, Petitioner drove the three of them up to the top  
11 of a hill where he parked the car. Initially, Petitioner and T.D. sat in the front seat, while  
12 V.D. sat in the back. Petitioner moved to the back seat where he began to rub V.D.'s breasts  
13 while her mother watched. T.D. seemed amused as Petitioner removed her daughter's pants.  
14 He raped V.D. in the backseat of the car by forcing his penis into her vagina and told her he  
15 would do the same to her again. Afterwards, Petitioner drove back to his mother's house  
16 where he dropped off V.D. and T.D.

17 In the next few months, T.D. and V.D. moved out of Petitioner's mother's house and  
18 into a long-term motel efficiency apartment. T.D.'s four youngest children continued to live  
19 with Petitioner and Miss Ann on Blankenship Drive. While T.D. and V.D. lived in the  
20 efficiency, Petitioner pressured T.D. to engage in sex work and give the money she earned to  
21 him, in addition to the wages she earned through her job at Bally's housekeeping. Petitioner  
22 and T.D. engaged in a consensual sexual relationship during this time. Petitioner also  
23 continued to sexually assault V.D., who was then 15, while she and T.D. lived in the  
24 efficiency. At times, Petitioner would come to the apartment while T.D. was at work, drink  
25 beer, and force V.D. to have sex with him. Other times he would rape V.D. while T.D. was  
26 home. On at least two occasions, T.D. engaged in sexual activities with V.D. at Petitioner's  
27 behest. Specifically, Petitioner insisted that T.D. insert one end of a sex toy into her vagina  
28 while the other end was inserted into V.D.'s vagina. He also forced T.D. to perform oral sex

1 on V.D. without V.D.'s consent and forced T.D. to hold a vibrator to V.D.'s genitals. On  
2 another occasion, Petitioner became enraged with T.D. who had not surrendered enough  
3 money to him, and in response he raped her by forcing his penis into her anus.

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6 After about six months, T.D. and V.D. moved from the efficiency apartment to an  
7 apartment on Walnut Street, where they lived for about six months. Petitioner continued to  
8 rape V.D., who was 15 years old, at the apartment on Walnut Street. In July of 2008, T.D.  
9 and V.D. moved into the Blankenship house. Petitioner, Miss Ann, Miss Ann's daughter,  
10 T.D., and all five of T.D.'s children were living in the house on Blankenship at that point.  
11 Petitioner raped V.D., aged 16, once while she lived at the Blankenship house, in the  
12 bathroom connected to his bedroom.

13 Petitioner was also physically abusive to T.D. and her children. Among other  
14 incidents, Petitioner struck the children with a belt, punched S.D. in the face and stomach,  
15 and strangled M.D. Petitioner similarly struck T.D. with a belt on at least one occasion. V.D.  
16 lived there for about two years before she and T.D. moved to Henderson with two of V.D.'s  
17 siblings. That left T.D.'s youngest two children (Tah. D. and Taq. D.) with Petitioner and  
18 Miss Ann at the Blankenship house, while T.D., V.D., M.D., and S.D. lived in an apartment  
19 called "St. Andrews."

20 Petitioner also raped V.D. once while she was living at the St. Andrew's apartment,  
21 and approximately 17 years old. In 2010, when V.D., her mom, and siblings were moving  
22 into the St. Andrew's apartment, V.D. met Rose Smith, who she came to call Miss Rose.  
23 Over the course of several months, V.D. spent time at Miss Rose's house, where she  
24 eventually lived for a period of time. Before V.D. moved in with Miss Rose, while she was  
25 visiting in December of 2011, V.D. told Miss Rose about the sexual abuse she had  
26 experienced. Miss Rose took V.D. to a police station in Henderson, where the desk officer  
27 called the special victims unit and Detective Aguiar was dispatched to the station to  
28 interview Miss Rose and V.D. After interviewing V.D. at the station, Detective Aguiar went

1 to V.D.'s home on Center Street where T.D. and two of V.D.'s siblings lived. Over the  
2 course of his interviews, Detective Aguiar learned that V.D. had been physically and  
3 sexually assaulted by Petitioner on multiple occasions and that V.D.'s younger sisters were  
4 currently living with Petitioner. Detective Aguiar then proceeded to Petitioner's home on  
5 Blankenship. After interviewing everyone in the home, the officers concluded that probable  
6 cause did not exist to make an arrest. The officers from Henderson Police Department made  
7 contact with CPS who began an investigation as well.

8 In the summer of 2012, two years after T.D., V.D., S.D., and M.D. moved out of the  
9 Blankenship house, and a few months after the police first questioned him, Petitioner began  
10 sexually assaulting Tah. D., who was twelve years old. On more than one occasion,  
11 Petitioner sexually assaulted Tah. D. in the bathroom attached to his bedroom by rubbing her  
12 breasts and the outside of her vagina with his hand, and putting his penis inside her vagina.  
13 At other times, he forced Tah. D. to put her hand on his penis, and put his penis in her mouth  
14 and vagina in her bedroom. He also sexually assaulted Tah. D. in the same manner in the  
15 garage. On one particular occasion, he woke Tah. D. and took her from her bedroom to the  
16 laundry room where he unbuckled his pants and forced his fingers in her vagina. When Taq.  
17 D. began to approach the laundry room, he stopped and told Tah. D. not to tell anyone what  
18 he had done. Taq. D. saw Petitioner through a crack in the laundry room door touching Tah.  
19 D.'s leg and asked Tah. D. what happened. Tah. D. subsequently told Taq. D. that Petitioner  
20 had molested her. Together, the two girls told Miss Ann. At that time, Miss Ann took both  
21 Tah. D. and Taq. D. to a gynecologist for pelvic exams. Miss Ann did not report the  
22 disclosure to the police and, although Tah. D. and Taq. D. briefly lived with their mother and  
23 siblings in Henderson during the summer of 2012, they returned to the Blankenship house in  
24 September.

25 In September of 2012, approximately nine months after the police first reported to the  
26 Blankenship house and two or three months after Tah. D. was sexually assaulted, Taq. D.  
27 called the CPS hotline to report Petitioner sexually assaulting Tah. D. CPS and the Las  
28 Vegas Metropolitan Police Department were assigned to the case and arranged for Tah. D.

1 and Taq. D. to be interviewed and undergo medical exams at the Children's Assessment  
2 Center. Miss Ann was also interviewed at that time. T.D. and her other children were  
3 subsequently interviewed. Petitioner was arrested early in 2013 and by the start of trial in  
4 2014, Tah. D. and Taq. D. had been reunited with their mother and lived in Henderson.

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### 7 ANALYSIS

8 Petitioner brings eight (8) grounds in his Petition. The first seven (7) grounds allege  
9 ineffective assistance of counsel. Pet. at 2. Ground eight (8) alleges that cumulative error by  
10 defense counsel requires reversal of this conviction. Pet. at 2.

11 The Sixth Amendment to the United States Constitution provides that, "[i]n all  
12 criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel  
13 for his defense." The United States Supreme Court has long recognized that "the right to  
14 counsel is the right to the effective assistance of counsel." Strickland v. Washington, 466  
15 U.S. 668, 686, 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138,  
16 865 P.2d 322, 323 (1993).

17 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
18 he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test  
19 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138,  
20 865 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
21 representation fell below an objective standard of reasonableness, and second, that but for  
22 counsel's errors, there is a reasonable probability that the result of the proceedings would  
23 have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada  
24 State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland  
25 two-part test). "[T]here is no reason for a court deciding an ineffective assistance claim to  
26 approach the inquiry in the same order or even to address both components of the inquiry if  
27 the defendant makes an insufficient showing on one." Strickland, 466 U.S. at 697, 104 S. Ct.  
28 at 2069.



1 The court begins with the presumption of effectiveness and then must determine  
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel  
3 was ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective  
4 counsel does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the  
5 range of competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev.  
6 430, 432, 537 P.2d 473, 474 (1975).

7 //

8 Counsel cannot be ineffective for failing to make futile objections or arguments. See  
9 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the  
10 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if  
11 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167  
12 (2002).

13 Based on the above law, the role of a court in considering allegations of ineffective  
14 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
15 whether, under the particular facts and circumstances of the case, trial counsel failed to  
16 render reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708,  
17 711 (1978). This analysis does not mean that the court should “second guess reasoned  
18 choices between trial tactics nor does it mean that defense counsel, to protect himself against  
19 allegations of inadequacy, must make every conceivable motion no matter how remote the  
20 possibilities are of success.” Id. To be effective, the constitution “does not require that  
21 counsel do what is impossible or unethical. If there is no bona fide defense to the charge,  
22 counsel cannot create one and may disserve the interests of his client by attempting a useless  
23 charade.” United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19  
24 (1984).

25 “There are countless ways to provide effective assistance in any given case. Even the  
26 best criminal defense attorneys would not defend a particular client in the same way.”  
27 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
28 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,

1 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
2 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel's  
3 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
4 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

5 Even if a defendant can demonstrate that his counsel's representation fell below an  
6 objective standard of reasonableness, he must still demonstrate prejudice and show a  
7 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
8 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
9 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
10 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
11 89, 694, 104 S. Ct. at 2064-65, 2068).

12 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
13 disputed factual allegations underlying his ineffective-assistance claim by a preponderance  
14 of the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
15 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief  
16 must be supported with specific factual allegations, which if true, would entitle the petitioner  
17 to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and  
18 “naked” allegations are not sufficient, nor are those belied and repelled by the record. Id.  
19 NRS 34.735(6) states in relevant part, “[Petitioner] must allege specific facts supporting the  
20 claims in the petition[.] . . . Failure to allege specific facts rather than just conclusions may  
21 cause your petition to be dismissed.” (emphasis added).

## 22 **I. COUNSEL’S PRETRIAL INVESTIGATION WAS NOT INEFFECTIVE**

23 In Ground One (1), Petitioner alleges that his trial counsel was ineffective in pretrial  
24 investigation. Specifically, Petitioner seems to allege that counsel was ineffective for not  
25 fully investigating how to attack the credibility of the State’s main witness. Pet. at 5-6.  
26 Petitioner also alleges that counsel was ineffective for not seeking the services of a credible  
27 expert witness to do a pretrial psychiatric examination of the victims and challenge the  
28 State’s expert witnesses. Pet. at 7.

1 A defendant who contends his attorney was ineffective because he did not adequately  
2 investigate must show how a better investigation would have rendered a more favorable  
3 outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). “Strickland  
4 does not enact Newton’s third law for the presentation of evidence, requiring for every  
5 prosecution expert an equal and opposite expert for the defense.” Harrington v. Richter, 562  
6 U.S. 86, 111, 131 S.Ct. a770, 791 (2011).

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8 //

9 First, the Court notes that Petitioner has not even alleged what a different  
10 investigation would have revealed. Petitioner merely asserts that the main witness’s  
11 credibility could potentially have been attacked and that a psychiatric examination could  
12 have been run. Petitioner does not allege what impeachment evidence a better investigation  
13 would have turned up. In fact, he does not even mention the name (or in the instant case  
14 identifying initials) of the “main witness” who trial counsel was allegedly obligated to  
15 investigate. Further, Petitioner does not allege what a psychiatric examination would have  
16 contributed to Petitioner’s defense at trial. As such, the Court finds that Petitioner’s claims  
17 must fail. Further, the Court finds that these claims are bare and naked assertions pursuant to  
18 Hargrove, and thereby suitable only for summary dismissal.

19 Second, the Court finds that Petitioner is incorrect in alleging that counsel was  
20 ineffective for failing to secure an expert witness to challenge the State’s expert witnesses.  
21 “Strickland does not enact Newton’s third law for the presentation of evidence, requiring for  
22 every prosecution expert an equal and opposite expert for the defense.” Harrington, 562 U.S.  
23 at 111, 131 S. Ct. at 791. Trial counsel has the “immediate and ultimate responsibility of  
24 deciding if and when to object, which witnesses, if any, to call, and what defenses to  
25 develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167. Once again, Petitioner has made no claims  
26 regarding why such an expert witness needed to be called. Petitioner merely alleges that an  
27 expert witness could have challenged the State’s child medical experts. Pet. at 7. However,  
28

Petitioner does not identify what grounds an expert would or even could have challenged the State's expert witnesses on.

Third, assuming that Petitioner means V.D. when he refers to the "main witness" (as V.D. was the victim of the majority of Petitioner's sexual assaults), the Court finds that the record shows that counsel's cross-examination evidenced a thorough understanding both of the case and the witness's history. Counsel began by reviewing previous statements and testimony V.D. had given in the case. Trial Transcript, Day 6, at 37. Counsel went on to demonstrate a thorough understanding of the factual allegations surrounds the case. See inter alia, Id. at 38-53. Counsel further attempted to impeach V.D. with her preliminary hearing transcripts. Id. at 58-72. None of these things would have been possible without a thorough investigation into the case. As such, it is clear that Petitioner's counsel conducted a reasonable pre-trial investigation.

As such, Petitioner has brought only bare and naked allegations that it was unreasonable for counsel not to undertake these actions in her investigation. Pursuant to Hargrove, these claims are denied.

## **II. TRIAL COUNSEL WAS NOT INEFFECTIVE DURING JURY SELECTION**

### **A. Counsel Was Not Ineffective For Not Requesting Sequestered Individual Voir Dire**

Petitioner first alleges that counsel was ineffective for failing to secure sequestered individual voir dire. Pet. at 8. According to Petitioner, such a failure resulted in an impartial jury because (1) jurors may have been unwilling to reveal that they had previously been victims of sexual assault, and (2) those jurors who had been victims of sexual assault may have been seen as more credible by other jurors, and therefore have been able to sway their minds during jury deliberation.

First, the Court finds that such a decision was not unreasonable. Petitioner has cited to no authority suggesting that not requesting sequestered individual voir dire constitutes ineffective assistance of counsel. Petitioner's entire premise underlying this claim is that

jurors who had been victims of sexual assault may not come forward if the voir dire was not sequestered. This claim is belied not only by the record, but Petitioner's own pleadings. The Court notes that Petitioner readily admits the numerous jurors admitted they had been the victims of sexual assault during voir dire. Pet. at 8. The record reflects that the court asked the jurors whether they or anyone close to them had been the victim of sexual crimes. (Trial Transcript, Day 1, at 111). It was further made clear to the jurors that they were free to approach the bench to discuss any sensitive answers they did not wish to vocalize to the public when the district court had one potential juror do just that when the juror became emotional while discussing her past. (Trial Transcript, Day 1, at 123). The jury was therefore aware that they could disclose any sensitive information out of the presence of the rest of the panel. Given that this option was available and made known to the jury, it is disingenuous to suggest that jurors would have responded differently to a sequestered voir dire.

The Court would further note that Petitioner does not actually allege in this section that a juror concealed their relevant history and subsequently had a disproportionate effect during deliberations. Petitioner merely asserts that this *could* have occurred. Pet. at 9.<sup>1</sup> Given that Petitioner has not identified any jurors that concealed bias, his entire argument is based on hypotheticals. As such, the Court finds that Petitioner has failed to establish that he was prejudiced as a result of his trial counsel's decision to not request sequestered individual voir dire.

Given that the voir dire strategy pursued by counsel was not unreasonable, and that Petitioner has failed to demonstrate he was prejudiced by failing to even allege that an impartial jury was empaneled as a result, counsel was not ineffective. This claim is denied.

#### **B. Trial Counsel Was Not Ineffective For Failing to Hire a Jury Selection Expert**

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<sup>1</sup> The Court does note however, that Petitioner claims under Ground Six that Yvonne Lewis (one of the jurors in the underlying case), discussed being sexually abused as a child during the jury deliberations. Pet. at 22. However, the record shows that Yvonne Lewis raised her hand during voir dire, indicating that she or someone close to her had been the victim of sexual crimes. Trial Transcript, Day 1, at 121-22. Specifically, Ms. Lewis indicated that her family had a history of domestic abuse that occurred while she young. However, she did not allege any sexual assault, and stood by that assertion at a later evidentiary hearing. Id.; Recorders Transcript of Proceedings RE: Evidentiary Hearing on Defendant's Motion for New Trial, at 31-32, November 24, 2014. When questioned, Ms. Lewis indicated that despite these circumstances, she could be fair and impartial during the trial. Id. Given that Ms. Lewis indicated both at voir dire and at an evidentiary hearing that she had not been sexually assaulted, her selection as a juror in this case does not support Petitioner's argument.

1 Appellant next argues that his trial counsel was ineffective for failing to hire a jury  
2 selection expert. Pet at 10. As an initial point, the Court notes that once again, Petitioner does  
3 not even allege that an impartial jury was empaneled as a result of this trial decision. As  
4 such, the Court finds that Petitioner has failed to reach his burden of even arguing that this  
5 decision prejudiced the outcome of his trial under Strickland's second prong.

6 In addition, the Court finds that Petitioner has failed to show that the decision not to  
7 hire a jury selection expert was an unreasonable one. First, Petitioner does not allege what a  
8 jury selection expert would have contributed to his case. Instead, Petitioner merely states that  
9 "[a] jury consultant, would have seen many things that counsel missed because they would  
10 have been trained to look for certain things." Pet. at 14. Petitioner does not state what  
11 "things" his trial counsel missed, and instead relies on the circular argument that trial counsel  
12 must have missed "things" because he did not hire a jury selection expert. Such bare and  
13 naked allegations cannot support a successful ineffective assistance of counsel claim.  
14 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

15 Second, Petitioner only points to the partial voir dire of two potential jurors as proof  
16 that a jury selection expert was needed. However, the Court notes that neither of these two  
17 jurors was ultimately selected to be on the jury, showing that no jury selection expert was  
18 necessary to distinguish which of the jurors displayed bias. Trial Transcript, Day 1, at  
19 111,123; Trial Transcript, Day 2, at 239. Given that neither of these jurors were selected,  
20 Petitioner has brought no actual evidence forward indicating that a biased jury was  
21 empaneled as a result of his counsel's decisions. As such, Petitioner has not demonstrated  
22 that he was prejudiced by counsel's decision not to hire a jury expert. Therefore, counsel  
23 cannot be deemed ineffective, and this claim is denied.

### 24 **III. COUNSEL'S DECISIONS REGARDING WHICH PRE-TRIAL MOTIONS** 25 **TO FILE WERE NOT INEFFECTIVE**

26 In Ground Three, Petitioner alleges that counsel was ineffective for failing to file  
27 various motions. Pet. at 2. "Strategic choices made by counsel after thoroughly investigating  
28 the plausible options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825

1 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).  
2 In essence, the court must “judge the reasonableness of counsel's challenged conduct on the  
3 facts of the particular case, viewed as of the time of counsel's conduct.” Strickland, 466 U.S.  
4 at 690, 104 S. Ct. at 2066. Counsel cannot be ineffective for failing to make futile objections  
5 or arguments. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).

6 **A. Counsel Had No Obligation to File a Motion For a Defense Psychiatric**  
7 **Examination**

8 Petitioner first alleges in this section that his counsel was ineffective for failing to file  
9 a Motion for Defense Psychiatric Examination. Pet. at 14. Petitioner alleges that there were  
10 indications that Tah. D. and M.D. may have had psychological problems that would have  
11 rendered their testimony inherently suspect or unreliable. Pet. at 15. Petitioner bases his  
12 argument off Tah.D. being diagnosed with “cognitive delay” and M.D. being diagnosed with  
13 “anxiety disorder.”

14 In Abbott v. State, 122 Nev. 715, 138 P.3d 462 (2006), the Nevada Supreme Court  
15 departed from a two year old precedent by overruling State v. District Court (Romano), 120  
16 Nev. 613, 97 P.3d 594 (2004). In doing so, the Court returned to the requirements it  
17 previously set forth in Koerschner v. State, 116 Nev. 111, 13 P.3d 451 (2000), reasserting  
18 that a trial judge should order an independent psychological or psychiatric examination of a  
19 child victim in a sexual assault case only if the defendant presents a compelling reason for  
20 such an examination. “Thus, compelling reasons to be weighed, not necessarily to be given  
21 equal weight, involve whether the State actually calls or obtains some benefit from an expert  
22 in psychology or psychiatry, whether the evidence of the offense is supported by little or no  
23 corroboration beyond the testimony of the victim, and whether there is a reasonable basis for  
24 believing that the victim's mental or emotional state may have affected his or her veracity.”  
25 Koerschner, 116 Nev. at 116-117, 13 P.3d at 455.

26 First, the Court notes that Petitioner does not even address that these factors exist,  
27 much less show that they would have weighed in favor of granting the Motion. As such,  
28

1 Petitioner's claim that this Motion would have been meritorious is a bare and naked  
2 allegation suitable only for summary dismissal.

3 Second, the Court finds that the factors articulated in Koerschner would not have  
4 weighed towards a finding that an independent psychological or psychiatric examination was  
5 required. First, there was significant corroborating evidence to these two victims' testimony.  
6 The State called a large number of witnesses, who testified to Petitioner's violent and  
7 sexually criminal behavior towards multiple members of the Duke family. See inter alia,  
8 Trial Transcript, Day 1, at 73, 105-117 (testimony of T.D.); Trial Transcript, Day 5, at 112,  
9 120-124 (testimony of V.D.); Trial Transcript, Day 8, at 85, 103-115, 118-120, 137-145  
10 (testimony of Taq. D.); Trial Transcript, Day 9, at 96, 104-107 (testimony of CPS employee  
11 Sholeh Nourbakhsh). Second, neither disorder suffered by either victim bears on their  
12 credibility. M.D. has a general anxiety disorder (Trial Transcript, Day 7, at 66-71), while  
13 Tah.D. has a learning disability (Trial Transcript, Day 9, at 92-94). Neither of these  
14 diagnoses affect one's ability to discern reality. Neither do these diagnoses make one  
15 inherently unreliable or likely to fabricate. In fact, both witnesses were able to respond  
16 articulately and clearly at trial. As such, the factors articulated in Koerschner would not have  
17 weighed towards finding that an independent psychological examination was required.

18 Finally, the Court notes that approximately one (1) year after the trial in the  
19 underlying case took place, the Nevada legislature codified NRS 50.700. NRS 50.700(1)  
20 forbids the Court from ordering a victim or witness to a sexual assault to undergo a  
21 psychological or psychiatric examination. NRS 50.700. While the date the statute become  
22 operable means that NRS 50.700 would not have been applicable at the time of the  
23 underlying trial, it's subsequent inclusion in this jurisdiction's statutory framework indicates  
24 that the Motion would have been disfavored (as the underlying offenses of this Petition  
25 include many charges of Sexual Assault). As such, any Motion filed to this effect would  
26 likely have been denied.

27 Since the Motion was not likely to succeed, filing it likely would have been a  
28 frivolous exercise. Counsel has no obligation to file frivolous motions. See Ennis v. State,



1 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). However even if the motion would not have  
2 been frivolous, its dubious chances for success would make whether to file such a motion a  
3 strategic decision. “Strategic choices made by counsel after thoroughly investigating the  
4 plausible options are almost unchallengeable.” Dawson v. State, 108 Nev. 112, 117, 825 P.2d  
5 593, 596 (1992). As such, the Court finds that counsel was not ineffective for not filing this  
6 motion, and this claim is denied.

7 **B. Defense Counsel Was not Ineffective For Not Filing a Motion in Limine**

8 Petitioner next argues that his counsel was ineffective for failing to oppose the State’s  
9 Motion in Limine “to restrict cross-examination for bias.” This pleading bare of facts and  
10 citations. Odyssey does not reflect any written Motion in Limine on file. If the alleged  
11 Motion was an oral motion, Petitioner has provided no citation to the record regarding where  
12 it occurred. Neither has Petitioner said what witness this Motion was in regards to, or on  
13 what day of this 14-day trial it occurred. Given that this claim is the epitome of a bare and  
14 naked allegation, it is denied pursuant to Hargrove.

15 **IV. COUNSEL WAS NOT INEFFECTIVE DURING TRIAL**

16 **A. Trial Counsel’s Impeachment Was Effective**

17 Petitioner next alleges that counsel was ineffective in their cross-examination of  
18 Tah.D. Pet. at 17. Specifically, Petitioner claims that the State’s objections kept any useful  
19 information from being elicited. Such a claim is belied by the record.

20 Petitioner’s complaint regarding counsel’s performance after the State objected to a  
21 line of questioning for “lack of foundation” is confusing. The Court notes that the objection  
22 was posed merely because the question was asked in a confusing manner. Trial Transcript,  
23 Day 9, at 161. Counsel clarified her question, and was able to proceed with the line of  
24 questioning. Id. The State further objected to a hearsay statement which was sustained. Id. at  
25 167. However, the failure to get a hearsay statement admitted into evidence is not a  
26 byproduct of counsel’s effectiveness, it is a byproduct of the fact that the statement was  
27 hearsay and not permitted under the rules of evidence.

1 Further, the Court finds that Petitioner's counsel was effective on cross-examination.  
2 Counsel elicited that Petitioner was the one who drove the children to well in school. Trial  
3 Transcript, Day 9, at 140-141. Counsel elicited that the witness had reported feeling  
4 "protected" while staying with Petitioner. Id. at 151. Counsel elicited that the witness had  
5 told detectives she had no problems with anybody in the house. Id. at 153. Counsel outlined  
6 the potential contradiction between witness saying she was raped for the first time at age 11,  
7 but saying during that same year she was not uncomfortable around Petitioner. Pet. at 153-  
8 54. Counsel elicited as much information that was helpful to Petitioner's case as was  
9 possible under the circumstances. Further, the scope of cross-examination is a strategic  
10 decision that is virtually unchallengeable. See Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163,  
11 167 (2002); Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992).

12 Here, the record demonstrates that counsel effectively elicited varying pieces of  
13 helpful information on cross-examination. Further, the record belies Petitioner's claim that  
14 his counsel was ineffective at dealing with the State's objections. Finally, Petitioner has  
15 failed to demonstrate how a different cross-examination would have made a more favorable  
16 outcome at trial probable. Therefore, the Court finds that counsel cannot be deemed  
17 ineffective and this claim is denied.

18 **B. There Was No Prosecutorial Misconduct For Petitioner's Counsel to Object**  
19 **To**

20 Petitioner next claims his counsel was ineffective for failing to object when the State  
21 committed prosecutorial misconduct by allegedly vouching for witnesses during closing  
22 argument. Pet. at 18. Specifically, Petitioner raises issue with the following excerpt from the  
23 States closing:

24 You heard from the Dukes. Do you really think that they could have  
25 concocted all of this, those people you heard on the stand? There is  
26 no way. Ladies and gentlemen, the State of Nevada cannot hold the  
27 Defendant accountable for his actions. Even the Court cannot hold  
the Defendant accountable for his actions. Only you can. The  
evidence shows that the Defendant is guilty of these charges, so  
please find him guilty. Thank you.

28 Pet. at 18.

1 Vouching occurs when the State “places ‘the prestige of the government behind the  
2 witness’ by providing ‘personal assurances of [the] witness's veracity.’” Browning v. State,  
3 120 Nev. 347, 359, 91 P.3d 39, 48 (2004) (citing U.S. v. Kerr, 981 F.2d 1050, 1053 (9th Cir.  
4 1992). This Court has held that it is not vouching where the State claims that a witness’  
5 identification was “as good as you could ask for” during closing argument. Id. Further,  
6 “when a case involves numerous material witnesses and the outcome depends on which  
7 witnesses are telling the truth, reasonable latitude should be given to the prosecutor to argue  
8 the credibility of the witness—even if this means occasionally stating in argument that a  
9 witness is lying.” Rowland v. State, 118 Nev. 31, 39, 39 P.3d 114, 119 (2002). However, the  
10 State may not go so far as to argue that a witness is a person of “integrity” or “honor.” Id.  
11 Finally, it is the province of counsel to determine what objections, if any, to make during a  
12 closing argument. See Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002) (stating that it  
13 is trial counsel that has the “immediate and ultimate responsibility of deciding if and when to  
14 object, which witnesses, if any, to call, and what defenses to develop”). Counsel cannot be  
15 ineffective for failing to make futile objections or arguments. See Ennis v. State, 122 Nev.  
16 694, 706, 137 P.3d 1095, 1103 (2006).

17 A review of the State’s closing argument shows that no vouching occurred during the  
18 State’s closing argument. Much like in Rowland, the instant case involved multiple material  
19 witnesses, and the outcome was dependent upon whether the jury believed these witnesses  
20 were telling the truth. As such, the State should be afforded reasonable latitude during  
21 closing argument. However, here, said latitude was not even necessary. The State did not  
22 make any personal assurances of the witness’ veracity. As the record plainly shows, the State  
23 was merely highlighting that it had presented extensive corroborating evidence. The State’s  
24 argument that evidence which is corroborated by other evidence should be considered more  
25 persuasive is not vouching, but a common legal principle that has been recognized by the  
26 Court in multiple contexts. See, inter alia, NRS175.291 (stating that the conviction of a  
27 defendant cannot be had on the testimony of an accomplice unless the accomplice is  
28 corroborated by other evidence); Sefton v. State, 72 Nev. 106, 110, 295 P.2d 385, 387 (1956)

1 (stating: “extrajudicial confession does not warrant a conviction unless it is corroborated by  
2 independent evidence”).

3 Given that the statement did not amount to “vouching,” the State did not commit  
4 prosecutorial misconduct. It therefore would have been futile for counsel to object. Counsel  
5 has no obligation to raise futile arguments pursuant to Ennis. Further, even if statements  
6 were to be considered vouching, the statements were not such that the failure to object would  
7 have rendered a more favorable outcome at trial probable. See Rowland, 118 Nev. at 31, 39  
8 P.3d at 167 (stating: “the level of misconduct necessary to reverse a conviction depends upon  
9 how strong and convincing is the evidence of guilt”). In the instant case, the evidence of guilt  
10 was strong. The State presented multiple witnesses, including the entire Duke Family,  
11 individuals close with the family, and investigating officers. Given the overwhelming  
12 evidence presented against Petitioner, even if the statements were considered vouching,  
13 Petitioner was not prejudiced by his counsel not objecting.

14 Therefore, Counsel cannot be held ineffective on this ground, and this claim is denied.  
15 //  
16 //

### 17 **C. Counsel’s Closing Argument Was Adequate**

18 Petitioner next argues that his counsel was ineffective during closing argument. Pet. at  
19 19. Petitioner does not articulate why, or what portions of the closing argument were  
20 ineffective. Petitioner does not allege what counsel should or even could have done  
21 differently in order to present a more compelling closing argument. As such, the Court finds  
22 that this claim is nothing more than a bare and naked allegation suitable only for summary  
23 dismissal pursuant to Hargrove.

24 Further, the court would note that what arguments to present during closing argument  
25 is a strategic decision left to counsel in most circumstances. See Rhyne v. State, 118 Nev. 1,  
26 8, 38 P.3d 163, 167 (2002) (stating that it is trial counsel that has the “immediate and  
27 ultimate responsibility of deciding if and when to object, which witnesses, if any, to call, and  
28 what defenses to develop”); but see also (Jones v. State, 110 Nev. 730, 877 P.2d 1052 (1994)

1 (holding that it is reversible error for an attorney to concede guilt during closing argument  
2 over his client's testimonial disavowal).

3 Given that Petitioner has not alleged any issue pursuant to Jones or other rule of law  
4 that confines the scope of counsel's arguments, the only question is whether counsel  
5 performed reasonably at closing. The record reveals this to be the case. Counsel began by  
6 challenging the veracity of the State's witness V.D. Trial Transcript, Day 12, at 70. Counsel  
7 went on to point out the V.D.'s mother T.D. had potential issues with Child Protective  
8 Services when living in Louisiana. Id. at 72. Counsel highlighted that it would have been odd  
9 for T.D. to bring her children back to the Petitioner after they suffered such abuse at his  
10 hands. Id. at 74. Counsel further went on to point out the timing of the reports versus the  
11 timing of the incidents. Id. at 74-75. Counsel went on to reiterate that the children's grades  
12 were the best they had ever been during this time. Id. at 77. The record clearly shows that  
13 counsel's closing argument was designed to discredit the witnesses and attempt to show that  
14 Petitioner had been a positive influence on the family. The Court finds that while this  
15 strategy was ultimately not successful, it was clearly not unreasonable. Therefore, counsel  
16 was not ineffective during closing argument and this claim is denied.

#### 17 **V. COUNSEL WAS EFFECTIVE AT SENTENCING**

18 While Petitioner makes to claims under Section five of his Petition, the Court breaks  
19 up its analysis here as they are two distinct issues.<sup>2</sup> Petitioner alleges that counsel performed  
20 ineffectively at sentencing. Specifically, Petitioner claims that it was ineffective for counsel  
21 to not file a sentencing memorandum, as well as to not present any witnesses to provide  
22 mitigation testimony. Pet. at 20.

23 As an initial point, the Court notes that Petitioner has not alleged what information  
24 should or could have been presented in a sentencing memorandum. Petitioner further has not  
25 alleged what witnesses could have been called to present mitigation testimony, or what these  
26 alleged witnesses would have even testified to. As such, the Court finds that Petitioner's  
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28

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<sup>2</sup> For analysis on why Petitioner's sentence was neither cruel nor unusual see section VI.

1 claims are bare and naked assertions suitable only for summary dismissal pursuant to  
2 Hargrove.

3 Further, the record demonstrates that Petitioner's counsel performed effectively at  
4 sentencing. Counsel began by noting the number of people who had been called as witnesses  
5 who testified that none of the State's witnesses had spoken up regarding the abuse.  
6 Recorders Transcript RE: Sentencing, at 7, October 27, 2015. To the extent Petitioner  
7 believes these are the witnesses who should have been called, such a decision was  
8 unnecessary. The sentencing judge was the same judge who had presided over the trial, and  
9 as such, had already heard this testimony. Id. at 5. Counsel further noted Petitioner's  
10 relatively old age. Id. at 7. The Court finds that counsel's inability to present a more  
11 sympathetic argument was due not to counsel's alleged ineffectiveness, but the nature of  
12 Appellant's actions. Therefore, this claim is denied.

#### 13 **VI. PETITIONER'S SENTENCE WAS NOT CRUEL AND UNUSUAL**

14 Petitioner also argues that his sentence was cruel and unusual. Pet. at 20-21.

15 The Eighth Amendment to the United States Constitution as well as Article 1, Section  
16 6 of the Nevada Constitution prohibits the imposition of cruel and unusual punishment. The  
17 Nevada Supreme Court has stated that "[a] sentence within the statutory limits is not 'cruel  
18 and unusual punishment unless the statute fixing punishment is unconstitutional or the  
19 sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" Allred v. State, 120 Nev. 410, 92 P.2d 1246, 1253 (2004) (quoting Blume v. State, 112 Nev.  
20 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435,  
21 596 P.2d 220, 221-22 (1979)).

23 Additionally, the Nevada Supreme Court has granted district courts "wide discretion"  
24 in sentencing decisions, and these are not to be disturbed "[s]o long as the record does not  
25 demonstrate prejudice resulting from consideration of information or accusations founded on  
26 facts supported only by impalpable or highly suspect evidence." Allred, 120 Nev. at 410, 92  
27 P.2d at 1253 (quoting Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976)). A  
28 sentencing judge is permitted broad discretion in imposing a sentence and absent an abuse of

1 discretion, the district court's determination will not be disturbed on appeal. Randell v. State,  
2 109 Nev. 5, 846 P.2d 278 (1993) (citing Deveroux v. State, 96 Nev. 388, 610 P.2d 722  
3 (1980)). As long as the sentence is within the limits set by the legislature, a sentence will  
4 normally not be considered cruel and unusual. Glegola v. State, 110 Nev. 344, 871 P.2d 950  
5 (1994).

6 The Court first notes that Petitioner concedes that his sentence was within the  
7 statutory limits. Pet. at 20-21. Further, Petitioner does not even allege that the Court relied on  
8 impalpable or highly suspect evidence. Instead Petitioner makes a proportionality argument,  
9 alleging that his sentence is simply too long given his crimes. The Court disagrees. Appellant  
10 was convicted for sexually assaulting multiple minors over many years. Appellant was  
11 further convicted of beating minors. Appellant was also convicted of sexually assaulting  
12 their mother and forcing her to work as a prostitute. See generally, Trial Transcript, Day 14.  
13 The sentence is therefore proportional to the crimes committed. As such, Petitioner's  
14 sentence is neither cruel nor unusual, and this claim is denied.

## 15 **VII. COUNSEL WAS NOT INEFFECTIVE IN ARGUING THE MOTION FOR** 16 **A NEW TRIAL**

17 Petitioner next argues that his counsel was ineffective in their preparation and  
18 arguments regarding Petitioner's Motion for a New Trial. Pet. at 21-22. While Petitioner  
19 dedicates multiple pages to trying to relitigate the issue of whether he should have been  
20 granted a new trial due to juror misconduct, his only real claim that counsel was ineffective  
21 is that counsel failed to secure Kathleen Smith's ("Smith") signature on her affidavit once it  
22 had been revised. Pet. a 22-25.

23 The affidavit Petitioner references Smith's allegations that a juror (Yvonne Lewis)  
24 spoke about being sexually assaulted during jury deliberations. Lewis did not indicate during  
25 voir dire that she had ever been sexually assaulted. As such, Petitioner claimed this was  
26 grounds for a new trial due to juror misconduct.

27 However, the Court finds that counsel's failure to get Smith to sign the affidavit does  
28 not constitute ineffective assistance of counsel. Counsel prepared the affidavit after her

1 investigator spoke to Smith. However, Smith requested that changes be made to the affidavit  
2 and refused to sign it, claiming “she did not want to get involved.” Reply to State’s Response  
3 to Motion for a New Trial and Supplement to Defendant’s Motion for a New Trial, at 9-10,  
4 Jul 9, 2014; Recorders Transcript of Proceedings RE: Evidentiary Hearing on Defendant’s  
5 Motion for New Trial, at 22, November 24, 2014. Petitioner’s counsel cannot force someone  
6 to sign a document, and any assertion that her failure to do so constitutes ineffective  
7 assistance of counsel is absurd.

8 Further, the Court finds that counsel’s conduct following Smith’s refusal to sign the  
9 affidavit was reasonable. Counsel requested and received an evidentiary hearing on the issue.  
10 Id.; Reply to State’s Response to Motion for a New Trial and Supplement to Defendant’s  
11 Motion for a New Trial, at 7, Jul 9, 2014. At the hearing, counsel called Smith as a witness,  
12 and asked her to explain her experience during deliberation. Recorders Transcript of  
13 Proceedings RE: Evidentiary Hearing on Defendant’s Motion for New Trial, at 4, 9-17,  
14 November 24, 2014. Counsel further received a hand written statement from Smith detailing  
15 what happened during the deliberation. Id. This statement was attached as Exhibit B to  
16 Petitioner’s Reply.

17 The Court finds that Petitioner’s Motion being denied has nothing to do with  
18 counsel’s alleged ineffectiveness. It has everything to do with the fact that multiple jurors  
19 (including Yvonne Lewis) testified that Lewis did not claim during deliberations that she had  
20 been sexually assaulted. Id. at 31-32, 55. These jurors also indicated that Ms. Smith had  
21 claimed she could not vote guilty based upon Petitioner’s race. Id. at 33, 41. As such, it is  
22 clear that counsel did everything she could have possibly done in investigating this claim.  
23 Counsel was not ineffective on this Ground, and this claim is denied.

24 Further, to the extent Petitioner is seeking to relitigate the fact that he should have  
25 been granted a new trial due to juror misconduct, the Court finds that such a claim is barred  
26 by law of the case doctrine. “The law of a first appeal is law of the case on all subsequent  
27 appeals in which the facts are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535  
28 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)).



1 “The doctrine of the law of the case cannot be avoided by a more detailed and precisely  
2 focused argument subsequently made after reflection upon the previous proceedings.” Id. at  
3 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously decided on direct  
4 appeal may not be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 879, 34  
5 P.3d 519, 532 (2001) (citing McNelton v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275  
6 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.  
7 Art. VI § 6.

8 On November 28, 2017, the Supreme Court of Nevada issued an Order of Affirmance  
9 finding that stated “the district court did not abuse its discretion in denying the motion for a  
10 new trial for juror misconduct, as any misconduct did not prejudice Petitioner.” Order of  
11 Affirmance, at 2, November 28. 2017. As such, the Court finds that any attempt Petitioner  
12 now makes to relitigate this issue is barred by law of the case and is denied.

### 13 **VIII. APPELLATE COUNSEL WAS NOT INEFFECTIVE**

14 Petitioner next argues that his appellate counsel was ineffective for not raising the  
15 following issues on appeal: (1) that Petitioner’s sentence was a cruel and unusual punishment  
16 in violation of the eighth amendment; (2) that the court erred by limiting cross-examination;  
17 and (3) that the court erred by not restraining excessive prosecutorial misconduct. Pet. at 27.

18 There is a strong presumption that appellate counsel's performance was reasonable  
19 and fell within “the wide range of reasonable professional assistance.” See United States v.  
20 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at  
21 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test  
22 set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In  
23 order to satisfy Strickland’s second prong, the defendant must show that the omitted issue  
24 would have had a reasonable probability of success on appeal. Id.

25 The professional diligence and competence required on appeal involves “winnowing  
26 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
27 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In  
28 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .

1 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
2 “For judges to second-guess reasonable professional judgments and impose on appointed  
3 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
4 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

5 The Court finds that Appellate counsel was not ineffective for not bringing the claims  
6 Petitioner now urges they should have. The claims Petitioner advocates for are either without  
7 merit, or so bare of factual underpinnings in this Petition that their merit is impossible to  
8 address. First, as the Court articulated in Section VI, Petitioner’s punishment was not cruel  
9 and unusual. Second, it is unclear what witnesses Petitioner was not entitled to fully cross-  
10 examine. The Court notes that appellate counsel did raise the issue on appeal of whether the  
11 district court erred in limiting his cross-examination regarding a book written by T.D. To the  
12 extent this is the issue Petitioner is alleging, his claim is belied by the record. Otherwise, the  
13 underlying claim Petitioner alleges counsel should have brought is nothing more than a bare  
14 and naked allegation. Finally, as the Court articulated in Section IV(B), the State did not  
15 engage in vouching, so any prosecutorial misconduct claim on these grounds would have  
16 been frivolous.

17 Further, the Court notes that Appellate counsel brought the following claims on  
18 appeal: (1) whether the district court erred in restricting the scope of cross examination  
19 regarding a book written by T.D.; (2) whether the court improperly allowed the State to  
20 introduce testimonial hearsay statements into evidence; (3) whether the district court  
21 improperly prevented Petitioner from inquiring into one of children’s past sexual history; (4)  
22 whether Petitioner’s kidnapping charges were incidental to other charges; (5) whether  
23 Petitioner was entitled to a new trial on the basis of juror misconduct; (6) whether there was  
24 insufficient evidence to support Petitioner’s convictions; and (7) whether cumulative error  
25 warranted reversal. Given the multitude of claims brought by appellate counsel, as well as  
26 the lack of merit regarding the claims Petitioner now alleges his counsel should have brought  
27 on appeal, the Court finds that appellate counsel was not ineffective. Therefore, this claim is  
28 denied.

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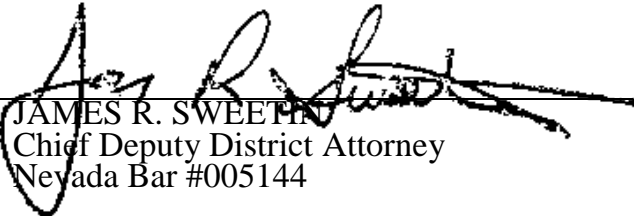
1           **THEREFORE, IT IS HEREBY ORDERED** that the Post-Conviction Petition for  
2 Writ of Habeas Corpus shall be and is DENIED.

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5           DATED this 21 day of May, 2020.

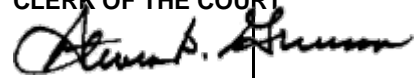
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8 **DISTRICT JUDGE**

9 **STEVEN B. WOLFSON**  
10 Clark County District Attorney  
11 Nevada Bar #001565

12 BY

13   
14 **JAMES R. SWEET**  
15 Chief Deputy District Attorney  
16 Nevada Bar #005144

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NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

FREDERICK HARRIS,,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-13-291374-1

Dept No: XII

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

**PLEASE TAKE NOTICE** that on May 21, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 28, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 28 day of May 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

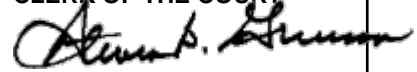
Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

**FREDERICK HAROLD HARRIS JR.,  
#0972945**

Defendant.

CASE NO: **A-18-784704-W  
C-13-291374-1**

DEPT NO: **XII**

**FINDINGS OF FACT, CONCLUSIONS OF**

**LAW AND ORDER**

DATE OF HEARING: **APRIL 23, 2020**  
TIME OF HEARING: **12:00 PM**

THIS CAUSE having presented before the Honorable MICHELLE LEAVITT, District Judge, on the 23rd day of April, 2020; Defendant not present, represented by TERRENCE MICHAEL JACKSON, ESQ.; Plaintiff represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JAMES SWEETIN, Chief Deputy District Attorney; and having considered the matter, including briefs, transcripts, and documents on file herein, the Court makes the following Findings of Fact and Conclusions of Law:

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## **FINDINGS OF FACT, CONCLUSIONS OF LAW**

### **PROCEDURAL HISTORY**

On July 23, 2013, Defendant Frederick Harris ("Petitioner") was charged by way of Information with the following: Counts 1, 15-18: Child Abuse, Neglect, or Endangerment (Category B Felony - NRS 200.508); Counts 2-3, 6, 8-11, 13-14, 21- 22: Sexual Assault With a Minor Under Fourteen Years of Age (Category A Felony - NRS 200.364, 200.366); Counts 4-5, 7, 12, 20: Lewdness with a Child Under the Age of 14 (Category A Felony - NRS 201.230); Counts 19, 25, 28, 37: First Degree Kidnapping (Category A Felony - NRS 200.310, 200.320); Count 23: Coercion (Sexually Motivated) (Category B Felony - NRS 207.190); Counts 24 and 27: Administration of a Drug to Aid in the Commission of a Crime (Category B Felony - NRS 200.405); Counts 26, 29-35: Sexual Assault With a Minor Under Sixteen Years of Age (Category A Felony - NRS 200.364, 200.366); Counts 36, 39-41: Sexual Assault (Category A Felony - NRS 200.364, 200.366); Count 38: Battery with Intent to Commit Sexual Assault (Category A Felony - NRS 200.400); Count 42: Pandering (Category C Felony - NRS 201.300); Count 44: Living from the Earnings of a Prostitute (Category D Felony - NRS 201.320); and Count 45: Battery by Strangulation (Category C Felony - NRS 200.481).

A jury trial commenced on March 25, 2014. 9 AA 999. On April 15, 2014, after hearing 12 days of evidence and after approximately two days of deliberation, the jury found Petitioner guilty of the following: eleven counts of Sexual Assault With a Minor Under Fourteen Years of Age; five counts of Lewdness With a Child Under the Age of 14; six counts of Sexual Assault With a Minor Under Sixteen Years of Age; four counts of Sexual Assault; four counts of First Degree Kidnapping; one count of Administration of a Drug to Aid in the Commission of a Crime; one count of Coercion (Sexually Motivated); one count of Battery With Intent to Commit Sexual Assault; one count of Child Abuse, Neglect or Endangerment; one count of Pandering; and one count of Living From the Earnings of a Prostitute. The jury found Defendant not guilty of the following: two counts of Sexual

1 Assault With a Minor Under Sixteen Years of Age; one count of Sexual Assault; one count  
2 of Administration of a Drug to Aid in the Commission of a Crime; four counts of Child  
3 Abuse, Neglect or Endangerment; and one count of Battery by Strangulation.

4 Petitioner filed a Motion for New Trial on April 28, 2014. The State filed an  
5 Opposition on June 13, 2014. Petitioner's Motion was denied on June 30, 2015.

6 On November 2, 2014, Petitioner was adjudged guilty of the following: OF COUNT 2  
7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);  
8 COUNT3-SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE  
9 (F); COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 5 –  
10 LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT6-SEXUAL  
11 ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 7 -  
12 LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 8 -SEXUAL  
13 ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 9 -  
14 SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);  
15 COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF  
16 AGE (F); COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN  
17 YEARS OF AGE (F); COUNT 12- LEWDNESS WITH A CHILD UNDER THE AGE OF  
18 14 (F); COUNT 13- SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS  
19 OF AGE (F); COUNT 14 -SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN  
20 YEARS OF AGE (F); COUNT 16 - CHILD ABUSE, NEGLECT OR ENDANGERMENT  
21 (F); COUNT 19 - FIRST DEGREE KIDNAPPING (F); COUNT 20 - LEWDNESS WITH A  
22 CHILD UNDER THE AGE OF 14 (F); COUNT 21- SEXUAL ASSAULT WITH A  
23 MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 22- SEXUAL ASSAULT  
24 WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 23 -COEROON  
25 (SEXUALLY MOTIVATED) (F); COUNT 24- ADMINISTRATION OF A DRUG TO AID  
26 IN THE COMMISSION OF A CRIME (F); COUNT 25 - FIRST DEGREE KIDNAPPING  
27 (F); COUNT 26 -SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF  
28 AGE (F); COUNT 28 - FIRST DEGREE KIDNAPPING (F); COUNT 29 - SEXUAL



1 ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 31 -  
2 SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT  
3 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);  
4 COUNT 34- SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE  
5 (F); COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF  
6 AGE (F); COUNT 36 - SEXUAL ASSAULT (F); COUNT 37 - FIRST DEGREE  
7 KIDNAPPING (F); COUNT 38- BATTERY WITH INTENT TO COMMIT SEXUAL  
8 ASSAULT (F); COUNT 39- SEXUAL ASSAULT (F); COUNT 40- SEXUAL ASSAULT  
9 (F); COUNT 41 SEXUAL ASSAULT (F); COUNT 42 - PANDERING (F); AND, COUNT  
10 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE (F); COUNTS 1, 15, 17, 18,  
11 27, 30, 32, 43, and 45 were dismissed.

12       Petitioner was sentenced as follows: COUNT 2 - LIFE with a MINIMUM Parole  
13 Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC);  
14 COUNT 3 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in  
15 the Nevada Department of Corrections (NDC); COUNT 4 - LIFE with a MINIMUM Parole  
16 Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 5  
17 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department  
18 of Corrections (NDC); COUNT 6 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
19 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 7 - LIFE with  
20 a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of  
21 Corrections (NDC); COUNT 8 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
22 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 9 - LIFE with  
23 a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
24 Corrections (NDC); COUNT 10 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
25 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 11 - LIFE with  
26 a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
27 Corrections (NDC); COUNT 12- LIFE with a MINIMUM Parole Eligibility of TEN (10)  
28 YEARS in the Nevada Department of Corrections (NDC); COUNT 13 - LIFE with a

1 MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of  
2 Corrections (NDC); COUNT 14 - LIFE with a MINIMUM Parole Eligibility of THIRTY  
3 FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 16 - to a  
4 MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO  
5 (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 19 – LIFE with a  
6 MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections  
7 (NDC); COUNT 20- LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the  
8 Nevada Department of Corrections (NDC); COUNT 21 - LIFE with a MINIMUM Parole  
9 Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC);  
10 COUNT 22- LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the  
11 Nevada Department of Corrections (NDC); COUNT 23 - to a MINIMUM of TWENTY  
12 EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the  
13 Nevada Department of Corrections (NDC); COUNT 24 - to a MINIMUM of TWENTY  
14 FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada  
15 Department of Corrections (NDC); COUNT 25 - LIFE with a MINIMUM Parole Eligibility  
16 of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 26 - LIFE  
17 with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department  
18 of Corrections (NDC); COUNT 28 - LIFE with a MINIMUM Parole Eligibility of FIVE (5)  
19 YEARS in the Nevada Department of Corrections (NDC); COUNT 29 - LIFE with a  
20 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
21 Corrections (NDC); COUNT 31 - LIFE with a MINIMUM Parole Eligibility of TWENTY  
22 (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 33 - LIFE with a  
23 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
24 Corrections (NDC); COUNT 34 - LIFE with a MINIMUM Parole Eligibility of TWENTY  
25 (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 35 - LIFE with a  
26 MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of  
27 Corrections (NDC); COUNT 36 - LIFE with a MINIMUM Parole Eligibility of TEN (10)  
28 YEARS in the Nevada Department of Corrections (NDC); COUNT 37 - LIFE with a

1 MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections  
2 (NDC); COUNT 38 - LIFE with a MINIMUM Parole Eligibility of TWO (2) YEARS in the  
3 Nevada Department of Corrections (NDC); COUNT 39- LIFE with a MINIMUM Parole  
4 Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT  
5 40 - LIFE with a MIN MUM Parole Eligibility of TEN (10) YEARS in the Nevada  
6 Department of Corrections (NDC); COUNT 41 - LIFE with a MINIMUM Parole Eligibility  
7 of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 42- to a  
8 MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60)  
9 MONTHS in the Nevada Department of Corrections (NDC); and COUNT 44 - to a  
10 MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of FORTY EIGHT (48)  
11 MONTHS in the Nevada Department of Corrections (NDC); COUNTS 2, 3, 6, 8, 9, 10,  
12 11,13, and 14 are to run CONCURRENT with each other; COUNT 21 to run  
13 CONSECUTIVE to COUNT 22; COUNTS 4, 5, 7, 12, and 20 are to run CONCURRENT  
14 with each other and to the other Counts; COUNT 16 to run CONCURRENT to the other  
15 Counts; COUNTS 19, 25, 28, and 37 are to run CONCURRENT with each other and to the  
16 other Counts; COUNT 23 to run CONCURRENT to the other Counts; COUNT 24 to run  
17 CONCURRENT to the other Counts; COUNTS 26, 29, 31, 33, 34, and 35 are to run  
18 CONCURRENT with each other and CONSECUTIVE to the other Counts; COUNTS 36,  
19 39, 40, and 41 are to run CONCURRENT with each other; COUNT 38 to run  
20 CONCURRENT to the other Counts; and, COUNT 42 to run CONSECUTIVE to COUNT  
21 44, with NINE HUNDRED SEVENTY NINE (979) DAYS CREDIT FOR TIME SERVED.  
22 Petitioner's AGGREGATE TOTAL SENTENCE is LIFE with a MINIMUM sentence of  
23 SEVEN HUNDRED TWENTY (720) MONTHS.

24 On October 27, 2015, Petitioner filed a Notice of Appeal.

25 On November 2, 2015, the Court filed the Judgment of Conviction.

26 On November 14, 2016, the Court filed an Amended Judgment of Conviction.

27 On May 24, 2017, the Supreme Court of Nevada affirmed Petitioner's Judgment of  
28 Conviction. Remittitur issued on November 21, 2017.

1 On November 16, 2018, Petitioner filed a Petition for Writ of Habeas Corpus. On  
2 June 6, 2019, the Court appointed petitioner post-conviction counsel. On June 20, 2019, Mr.  
3 Jackson confirmed as counsel. On November 1, 2019, Petitioner filed his Supplemental  
4 Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction  
5 Relief ("Petition"). On April 6, 2020, the State filed its Response. On April 10, 2020,  
6 Petitioner filed his Reply. On April 23, 2020, this Court denied Petitioner's Petition.

### 7 **STATEMENT OF THE FACTS**

8 Petitioner physically and sexually assaulted T.D. and several of her children between  
9 2004 and 2012. T.D. and Petitioner first became acquainted in 2004 in Louisiana and T.D.  
10 moved to Las Vegas shortly thereafter. For several months between 2004 and 2005, T.D. and  
11 her five children (V.D., M.D., S.D., Tah. D., and Taq. D.) lived with Petitioner's girlfriend,  
12 who they came to call "Miss Ann."

13 At some point in 2005, T.D. and her children moved to Utah where they stayed for  
14 about two years. When they returned to Las Vegas in July of 2007, T.D. and her eldest  
15 child, V.D., moved into Petitioner's mother's house. The other four children went to live  
16 with Petitioner and Miss Ann on Blankenship Street. T.D. and V.D. moved several times  
17 over the next year before moving into the Blankenship house. From 2008 to 2010, Petitioner,  
18 Miss Ann, T.D. and T.D.'s five children lived at Blankenship. In 2010, T.D., V.D., M.D.,  
19 and S.D., moved out of the Blankenship house and into an apartment in Henderson, while  
20 Tah. D. and Taq. D. remained at Blankenship with Petitioner and Miss Ann. Tah. D. and  
21 Taq. D. joined their mom and siblings in Henderson for the summer of 2012, before  
22 returning to the house on Blankenship. Taq. D. and Tah. D. were removed from Petitioner  
23 and Miss Ann's home in the Fall of 2012 and lived with a foster family for about a year  
24 before being reunited with T.D., who they resided with at the time of trial.

25 T.D. was working as a cocktail waitress in Louisiana where she lived with her five  
26 children when she met Petitioner in 2004. T.D.'s children, who ranged in age from toddlers  
27 to twelve years old, were enrolled in school for the first time in 2004. Petitioner, a Las Vegas  
28 resident, was visiting Louisiana and met T.D. at the bar where she worked. Shortly

1 thereafter, T.D. left Louisiana for Las Vegas, while her children stayed behind. While  
2 neighbors periodically checked on the children, twelve-year-old V.D. was primarily  
3 responsible for the care of her younger siblings. A few days after T.D.'s arrival in Las Vegas,  
4 Petitioner's brother picked up T.D.'s children and moved them from Louisiana to Las Vegas.

5 In 2004, when T.D.'s children moved to Las Vegas, Petitioner's girlfriend, Miss Ann,  
6 was living at a house on Trish Lane while Petitioner lived in a separate apartment. The  
7 children and T.D. moved in with Miss Ann, where they lived for about six months. During  
8 the same period of time, Petitioner regularly hit V.D. and S.D. with both his hands and a belt.  
9 Petitioner also first sexually assaulted V.D. who was approximately twelve during this time,  
10 between December 2004 and May 2005, while she was living with Miss Ann and he was  
11 living in his own apartment.

12 One morning when V.D.'s siblings were ill, Petitioner took V.D and her siblings to  
13 his apartment, where the children fell asleep. When V.D. woke up, her siblings were no  
14 longer in the house and Petitioner told V.D. that they were at the park. Petitioner entered the  
15 bedroom where V.D. was, took his penis out of his pants and placed her hand on it. He told  
16 her that he would beat her if she told anyone what happened, and proceeded to remove  
17 V.D.'s pants. He pushed his fingers into her vagina, and then his penis. He told her again that  
18 he would beat her if she told anyone what he had done.

19 About a week after this assault, V.D. told Miss Ann what Petitioner had done to her.  
20 Miss Ann informed Petitioner's mother, as well as T.D. Miss Ann, Petitioner, and  
21 Petitioner's mother confronted V.D., who they berated for reporting this assault and told her  
22 they did not believe her. At that time, no one reported the abuse or sexual assault to  
23 authorities. Subsequently, T.D. and her five children left Las Vegas and moved to Utah.  
24 They lived in Utah for approximately one-and-a half years, before T.D. returned to Las  
25 Vegas alone. While T.D. was in Las Vegas, her children were taken into state custody in  
26 Utah. T.D. returned to Utah and over the course of six months participated in parenting  
27 classes and was reunited with her children. Shortly after, she abruptly moved back to Las  
28 Vegas, this time taking her children with her.

1 When T.D. and her children moved back to Las Vegas in the summer of 2007, Miss  
2 Ann and Petitioner were living together in a house on Blankenship Street. T.D.'s four  
3 youngest children moved into that house, while T.D. and V.D. moved into the house of  
4 Petitioner's mother. 11 AA 1544-47. Petitioner committed another sexual assault on V.D.,  
5 who was 15 years old, during this time period. Leading up to this assault, Petitioner believed  
6 V.D. was a virgin and told her he wanted to "take her virginity" and made her pick a date for  
7 it to occur. On August 24, 2007, Petitioner, T.D., and V.D. sat in Petitioner's car outside his  
8 mother's house, where he taunted V.D., saying he would be taking her virginity later.  
9 Petitioner drove around town with V.D. and T.D. in the car during the day, picking up  
10 alcohol which all three consumed. That night, Petitioner drove the three of them up to the top  
11 of a hill where he parked the car. Initially, Petitioner and T.D. sat in the front seat, while  
12 V.D. sat in the back. Petitioner moved to the back seat where he began to rub V.D.'s breasts  
13 while her mother watched. T.D. seemed amused as Petitioner removed her daughter's pants.  
14 He raped V.D. in the backseat of the car by forcing his penis into her vagina and told her he  
15 would do the same to her again. Afterwards, Petitioner drove back to his mother's house  
16 where he dropped off V.D. and T.D.

17 In the next few months, T.D. and V.D. moved out of Petitioner's mother's house and  
18 into a long-term motel efficiency apartment. T.D.'s four youngest children continued to live  
19 with Petitioner and Miss Ann on Blankenship Drive. While T.D. and V.D. lived in the  
20 efficiency, Petitioner pressured T.D. to engage in sex work and give the money she earned to  
21 him, in addition to the wages she earned through her job at Bally's housekeeping. Petitioner  
22 and T.D. engaged in a consensual sexual relationship during this time. Petitioner also  
23 continued to sexually assault V.D., who was then 15, while she and T.D. lived in the  
24 efficiency. At times, Petitioner would come to the apartment while T.D. was at work, drink  
25 beer, and force V.D. to have sex with him. Other times he would rape V.D. while T.D. was  
26 home. On at least two occasions, T.D. engaged in sexual activities with V.D. at Petitioner's  
27 behest. Specifically, Petitioner insisted that T.D. insert one end of a sex toy into her vagina  
28 while the other end was inserted into V.D.'s vagina. He also forced T.D. to perform oral sex

1 on V.D. without V.D.'s consent and forced T.D. to hold a vibrator to V.D.'s genitals. On  
2 another occasion, Petitioner became enraged with T.D. who had not surrendered enough  
3 money to him, and in response he raped her by forcing his penis into her anus.

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6 After about six months, T.D. and V.D. moved from the efficiency apartment to an  
7 apartment on Walnut Street, where they lived for about six months. Petitioner continued to  
8 rape V.D., who was 15 years old, at the apartment on Walnut Street. In July of 2008, T.D.  
9 and V.D. moved into the Blankenship house. Petitioner, Miss Ann, Miss Ann's daughter,  
10 T.D., and all five of T.D.'s children were living in the house on Blankenship at that point.  
11 Petitioner raped V.D., aged 16, once while she lived at the Blankenship house, in the  
12 bathroom connected to his bedroom.

13 Petitioner was also physically abusive to T.D. and her children. Among other  
14 incidents, Petitioner struck the children with a belt, punched S.D. in the face and stomach,  
15 and strangled M.D. Petitioner similarly struck T.D. with a belt on at least one occasion. V.D.  
16 lived there for about two years before she and T.D. moved to Henderson with two of V.D.'s  
17 siblings. That left T.D.'s youngest two children (Tah. D. and Taq. D.) with Petitioner and  
18 Miss Ann at the Blankenship house, while T.D., V.D., M.D., and S.D. lived in an apartment  
19 called "St. Andrews."

20 Petitioner also raped V.D. once while she was living at the St. Andrew's apartment,  
21 and approximately 17 years old. In 2010, when V.D., her mom, and siblings were moving  
22 into the St. Andrew's apartment, V.D. met Rose Smith, who she came to call Miss Rose.  
23 Over the course of several months, V.D. spent time at Miss Rose's house, where she  
24 eventually lived for a period of time. Before V.D. moved in with Miss Rose, while she was  
25 visiting in December of 2011, V.D. told Miss Rose about the sexual abuse she had  
26 experienced. Miss Rose took V.D. to a police station in Henderson, where the desk officer  
27 called the special victims unit and Detective Aguiar was dispatched to the station to  
28 interview Miss Rose and V.D. After interviewing V.D. at the station, Detective Aguiar went

1 to V.D.'s home on Center Street where T.D. and two of V.D.'s siblings lived. Over the  
2 course of his interviews, Detective Aguiar learned that V.D. had been physically and  
3 sexually assaulted by Petitioner on multiple occasions and that V.D.'s younger sisters were  
4 currently living with Petitioner. Detective Aguiar then proceeded to Petitioner's home on  
5 Blankenship. After interviewing everyone in the home, the officers concluded that probable  
6 cause did not exist to make an arrest. The officers from Henderson Police Department made  
7 contact with CPS who began an investigation as well.

8 In the summer of 2012, two years after T.D., V.D., S.D., and M.D. moved out of the  
9 Blankenship house, and a few months after the police first questioned him, Petitioner began  
10 sexually assaulting Tah. D., who was twelve years old. On more than one occasion,  
11 Petitioner sexually assaulted Tah. D. in the bathroom attached to his bedroom by rubbing her  
12 breasts and the outside of her vagina with his hand, and putting his penis inside her vagina.  
13 At other times, he forced Tah. D. to put her hand on his penis, and put his penis in her mouth  
14 and vagina in her bedroom. He also sexually assaulted Tah. D. in the same manner in the  
15 garage. On one particular occasion, he woke Tah. D. and took her from her bedroom to the  
16 laundry room where he unbuckled his pants and forced his fingers in her vagina. When Taq.  
17 D. began to approach the laundry room, he stopped and told Tah. D. not to tell anyone what  
18 he had done. Taq. D. saw Petitioner through a crack in the laundry room door touching Tah.  
19 D.'s leg and asked Tah. D. what happened. Tah. D. subsequently told Taq. D. that Petitioner  
20 had molested her. Together, the two girls told Miss Ann. At that time, Miss Ann took both  
21 Tah. D. and Taq. D. to a gynecologist for pelvic exams. Miss Ann did not report the  
22 disclosure to the police and, although Tah. D. and Taq. D. briefly lived with their mother and  
23 siblings in Henderson during the summer of 2012, they returned to the Blankenship house in  
24 September.

25 In September of 2012, approximately nine months after the police first reported to the  
26 Blankenship house and two or three months after Tah. D. was sexually assaulted, Taq. D.  
27 called the CPS hotline to report Petitioner sexually assaulting Tah. D. CPS and the Las  
28 Vegas Metropolitan Police Department were assigned to the case and arranged for Tah. D.



1 and Taq. D. to be interviewed and undergo medical exams at the Children's Assessment  
2 Center. Miss Ann was also interviewed at that time. T.D. and her other children were  
3 subsequently interviewed. Petitioner was arrested early in 2013 and by the start of trial in  
4 2014, Tah. D. and Taq. D. had been reunited with their mother and lived in Henderson.

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### 7 ANALYSIS

8 Petitioner brings eight (8) grounds in his Petition. The first seven (7) grounds allege  
9 ineffective assistance of counsel. Pet. at 2. Ground eight (8) alleges that cumulative error by  
10 defense counsel requires reversal of this conviction. Pet. at 2.

11 The Sixth Amendment to the United States Constitution provides that, "[i]n all  
12 criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel  
13 for his defense." The United States Supreme Court has long recognized that "the right to  
14 counsel is the right to the effective assistance of counsel." Strickland v. Washington, 466  
15 U.S. 668, 686, 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138,  
16 865 P.2d 322, 323 (1993).

17 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
18 he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test  
19 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138,  
20 865 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
21 representation fell below an objective standard of reasonableness, and second, that but for  
22 counsel's errors, there is a reasonable probability that the result of the proceedings would  
23 have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada  
24 State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland  
25 two-part test). "[T]here is no reason for a court deciding an ineffective assistance claim to  
26 approach the inquiry in the same order or even to address both components of the inquiry if  
27 the defendant makes an insufficient showing on one." Strickland, 466 U.S. at 697, 104 S. Ct.  
28 at 2069.

1 The court begins with the presumption of effectiveness and then must determine  
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel  
3 was ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective  
4 counsel does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the  
5 range of competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev.  
6 430, 432, 537 P.2d 473, 474 (1975).

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8 Counsel cannot be ineffective for failing to make futile objections or arguments. See  
9 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the  
10 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if  
11 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167  
12 (2002).

13 Based on the above law, the role of a court in considering allegations of ineffective  
14 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
15 whether, under the particular facts and circumstances of the case, trial counsel failed to  
16 render reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708,  
17 711 (1978). This analysis does not mean that the court should “second guess reasoned  
18 choices between trial tactics nor does it mean that defense counsel, to protect himself against  
19 allegations of inadequacy, must make every conceivable motion no matter how remote the  
20 possibilities are of success.” Id. To be effective, the constitution “does not require that  
21 counsel do what is impossible or unethical. If there is no bona fide defense to the charge,  
22 counsel cannot create one and may disserve the interests of his client by attempting a useless  
23 charade.” United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19  
24 (1984).

25 “There are countless ways to provide effective assistance in any given case. Even the  
26 best criminal defense attorneys would not defend a particular client in the same way.”  
27 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
28 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,

1 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
2 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel's  
3 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
4 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

5 Even if a defendant can demonstrate that his counsel's representation fell below an  
6 objective standard of reasonableness, he must still demonstrate prejudice and show a  
7 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
8 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
9 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
10 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
11 89, 694, 104 S. Ct. at 2064-65, 2068).

12 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
13 disputed factual allegations underlying his ineffective-assistance claim by a preponderance  
14 of the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
15 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief  
16 must be supported with specific factual allegations, which if true, would entitle the petitioner  
17 to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and  
18 “naked” allegations are not sufficient, nor are those belied and repelled by the record. Id.  
19 NRS 34.735(6) states in relevant part, “[Petitioner] must allege specific facts supporting the  
20 claims in the petition[.] . . . Failure to allege specific facts rather than just conclusions may  
21 cause your petition to be dismissed.” (emphasis added).

## 22 **I. COUNSEL’S PRETRIAL INVESTIGATION WAS NOT INEFFECTIVE**

23 In Ground One (1), Petitioner alleges that his trial counsel was ineffective in pretrial  
24 investigation. Specifically, Petitioner seems to allege that counsel was ineffective for not  
25 fully investigating how to attack the credibility of the State’s main witness. Pet. at 5-6.  
26 Petitioner also alleges that counsel was ineffective for not seeking the services of a credible  
27 expert witness to do a pretrial psychiatric examination of the victims and challenge the  
28 State’s expert witnesses. Pet. at 7.

1 A defendant who contends his attorney was ineffective because he did not adequately  
2 investigate must show how a better investigation would have rendered a more favorable  
3 outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). “Strickland  
4 does not enact Newton’s third law for the presentation of evidence, requiring for every  
5 prosecution expert an equal and opposite expert for the defense.” Harrington v. Richter, 562  
6 U.S. 86, 111, 131 S.Ct. a770, 791 (2011).

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9 First, the Court notes that Petitioner has not even alleged what a different  
10 investigation would have revealed. Petitioner merely asserts that the main witness’s  
11 credibility could potentially have been attacked and that a psychiatric examination could  
12 have been run. Petitioner does not allege what impeachment evidence a better investigation  
13 would have turned up. In fact, he does not even mention the name (or in the instant case  
14 identifying initials) of the “main witness” who trial counsel was allegedly obligated to  
15 investigate. Further, Petitioner does not allege what a psychiatric examination would have  
16 contributed to Petitioner’s defense at trial. As such, the Court finds that Petitioner’s claims  
17 must fail. Further, the Court finds that these claims are bare and naked assertions pursuant to  
18 Hargrove, and thereby suitable only for summary dismissal.

19 Second, the Court finds that Petitioner is incorrect in alleging that counsel was  
20 ineffective for failing to secure an expert witness to challenge the State’s expert witnesses.  
21 “Strickland does not enact Newton’s third law for the presentation of evidence, requiring for  
22 every prosecution expert an equal and opposite expert for the defense.” Harrington, 562 U.S.  
23 at 111, 131 S. Ct. at 791. Trial counsel has the “immediate and ultimate responsibility of  
24 deciding if and when to object, which witnesses, if any, to call, and what defenses to  
25 develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167. Once again, Petitioner has made no claims  
26 regarding why such an expert witness needed to be called. Petitioner merely alleges that an  
27 expert witness could have challenged the State’s child medical experts. Pet. at 7. However,

Petitioner does not identify what grounds an expert would or even could have challenged the State's expert witnesses on.

Third, assuming that Petitioner means V.D. when he refers to the "main witness" (as V.D. was the victim of the majority of Petitioner's sexual assaults), the Court finds that the record shows that counsel's cross-examination evidenced a thorough understanding both of the case and the witness's history. Counsel began by reviewing previous statements and testimony V.D. had given in the case. Trial Transcript, Day 6, at 37. Counsel went on to demonstrate a thorough understanding of the factual allegations surrounds the case. See inter alia, Id. at 38-53. Counsel further attempted to impeach V.D. with her preliminary hearing transcripts. Id. at 58-72. None of these things would have been possible without a thorough investigation into the case. As such, it is clear that Petitioner's counsel conducted a reasonable pre-trial investigation.

As such, Petitioner has brought only bare and naked allegations that it was unreasonable for counsel not to undertake these actions in her investigation. Pursuant to Hargrove, these claims are denied.

## **II. TRIAL COUNSEL WAS NOT INEFFECTIVE DURING JURY SELECTION**

### **A. Counsel Was Not Ineffective For Not Requesting Sequestered Individual Voir Dire**

Petitioner first alleges that counsel was ineffective for failing to secure sequestered individual voir dire. Pet. at 8. According to Petitioner, such a failure resulted in an impartial jury because (1) jurors may have been unwilling to reveal that they had previously been victims of sexual assault, and (2) those jurors who had been victims of sexual assault may have been seen as more credible by other jurors, and therefore have been able to sway their minds during jury deliberation.

First, the Court finds that such a decision was not unreasonable. Petitioner has cited to no authority suggesting that not requesting sequestered individual voir dire constitutes ineffective assistance of counsel. Petitioner's entire premise underlying this claim is that

jurors who had been victims of sexual assault may not come forward if the voir dire was not sequestered. This claim is belied not only by the record, but Petitioner's own pleadings. The Court notes that Petitioner readily admits the numerous jurors admitted they had been the victims of sexual assault during voir dire. Pet. at 8. The record reflects that the court asked the jurors whether they or anyone close to them had been the victim of sexual crimes. (Trial Transcript, Day 1, at 111). It was further made clear to the jurors that they were free to approach the bench to discuss any sensitive answers they did not wish to vocalize to the public when the district court had one potential juror do just that when the juror became emotional while discussing her past. (Trial Transcript, Day 1, at 123). The jury was therefore aware that they could disclose any sensitive information out of the presence of the rest of the panel. Given that this option was available and made known to the jury, it is disingenuous to suggest that jurors would have responded differently to a sequestered voir dire.

The Court would further note that Petitioner does not actually allege in this section that a juror concealed their relevant history and subsequently had a disproportionate effect during deliberations. Petitioner merely asserts that this *could* have occurred. Pet. at 9.<sup>1</sup> Given that Petitioner has not identified any jurors that concealed bias, his entire argument is based on hypotheticals. As such, the Court finds that Petitioner has failed to establish that he was prejudiced as a result of his trial counsel's decision to not request sequestered individual voir dire.

Given that the voir dire strategy pursued by counsel was not unreasonable, and that Petitioner has failed to demonstrate he was prejudiced by failing to even allege that an impartial jury was empaneled as a result, counsel was not ineffective. This claim is denied.

### **B. Trial Counsel Was Not Ineffective For Failing to Hire a Jury Selection Expert**

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<sup>1</sup> The Court does note however, that Petitioner claims under Ground Six that Yvonne Lewis (one of the jurors in the underlying case), discussed being sexually abused as a child during the jury deliberations. Pet. at 22. However, the record shows that Yvonne Lewis raised her hand during voir dire, indicating that she or someone close to her had been the victim of sexual crimes. Trial Transcript, Day 1, at 121-22. Specifically, Ms. Lewis indicated that her family had a history of domestic abuse that occurred while she young. However, she did not allege any sexual assault, and stood by that assertion at a later evidentiary hearing. Id.; Recorders Transcript of Proceedings RE: Evidentiary Hearing on Defendant's Motion for New Trial, at 31-32, November 24, 2014. When questioned, Ms. Lewis indicated that despite these circumstances, she could be fair and impartial during the trial. Id. Given that Ms. Lewis indicated both at voir dire and at an evidentiary hearing that she had not been sexually assaulted, her selection as a juror in this case does not support Petitioner's argument.

1 Appellant next argues that his trial counsel was ineffective for failing to hire a jury  
2 selection expert. Pet at 10. As an initial point, the Court notes that once again, Petitioner does  
3 not even allege that an impartial jury was empaneled as a result of this trial decision. As  
4 such, the Court finds that Petitioner has failed to reach his burden of even arguing that this  
5 decision prejudiced the outcome of his trial under Strickland's second prong.

6 In addition, the Court finds that Petitioner has failed to show that the decision not to  
7 hire a jury selection expert was an unreasonable one. First, Petitioner does not allege what a  
8 jury selection expert would have contributed to his case. Instead, Petitioner merely states that  
9 "[a] jury consultant, would have seen many things that counsel missed because they would  
10 have been trained to look for certain things." Pet. at 14. Petitioner does not state what  
11 "things" his trial counsel missed, and instead relies on the circular argument that trial counsel  
12 must have missed "things" because he did not hire a jury selection expert. Such bare and  
13 naked allegations cannot support a successful ineffective assistance of counsel claim.  
14 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

15 Second, Petitioner only points to the partial voir dire of two potential jurors as proof  
16 that a jury selection expert was needed. However, the Court notes that neither of these two  
17 jurors was ultimately selected to be on the jury, showing that no jury selection expert was  
18 necessary to distinguish which of the jurors displayed bias. Trial Transcript, Day 1, at  
19 111,123; Trial Transcript, Day 2, at 239. Given that neither of these jurors were selected,  
20 Petitioner has brought no actual evidence forward indicating that a biased jury was  
21 empaneled as a result of his counsel's decisions. As such, Petitioner has not demonstrated  
22 that he was prejudiced by counsel's decision not to hire a jury expert. Therefore, counsel  
23 cannot be deemed ineffective, and this claim is denied.

### 24 **III. COUNSEL'S DECISIONS REGARDING WHICH PRE-TRIAL MOTIONS** 25 **TO FILE WERE NOT INEFFECTIVE**

26 In Ground Three, Petitioner alleges that counsel was ineffective for failing to file  
27 various motions. Pet. at 2. "Strategic choices made by counsel after thoroughly investigating  
28 the plausible options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825

1 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).  
2 In essence, the court must “judge the reasonableness of counsel's challenged conduct on the  
3 facts of the particular case, viewed as of the time of counsel's conduct.” Strickland, 466 U.S.  
4 at 690, 104 S. Ct. at 2066. Counsel cannot be ineffective for failing to make futile objections  
5 or arguments. See Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).

6 **A. Counsel Had No Obligation to File a Motion For a Defense Psychiatric**  
7 **Examination**

8 Petitioner first alleges in this section that his counsel was ineffective for failing to file  
9 a Motion for Defense Psychiatric Examination. Pet. at 14. Petitioner alleges that there were  
10 indications that Tah. D. and M.D. may have had psychological problems that would have  
11 rendered their testimony inherently suspect or unreliable. Pet. at 15. Petitioner bases his  
12 argument off Tah.D. being diagnosed with “cognitive delay” and M.D. being diagnosed with  
13 “anxiety disorder.”

14 In Abbott v. State, 122 Nev. 715, 138 P.3d 462 (2006), the Nevada Supreme Court  
15 departed from a two year old precedent by overruling State v. District Court (Romano), 120  
16 Nev. 613, 97 P.3d 594 (2004). In doing so, the Court returned to the requirements it  
17 previously set forth in Koerschner v. State, 116 Nev. 111, 13 P.3d 451 (2000), reasserting  
18 that a trial judge should order an independent psychological or psychiatric examination of a  
19 child victim in a sexual assault case only if the defendant presents a compelling reason for  
20 such an examination. “Thus, compelling reasons to be weighed, not necessarily to be given  
21 equal weight, involve whether the State actually calls or obtains some benefit from an expert  
22 in psychology or psychiatry, whether the evidence of the offense is supported by little or no  
23 corroboration beyond the testimony of the victim, and whether there is a reasonable basis for  
24 believing that the victim's mental or emotional state may have affected his or her veracity.”  
25 Koerschner, 116 Nev. at 116-117, 13 P.3d at 455.

26 First, the Court notes that Petitioner does not even address that these factors exist,  
27 much less show that they would have weighed in favor of granting the Motion. As such,  
28



1 Petitioner's claim that this Motion would have been meritorious is a bare and naked  
2 allegation suitable only for summary dismissal.

3 Second, the Court finds that the factors articulated in Koerschner would not have  
4 weighed towards a finding that an independent psychological or psychiatric examination was  
5 required. First, there was significant corroborating evidence to these two victims' testimony.  
6 The State called a large number of witnesses, who testified to Petitioner's violent and  
7 sexually criminal behavior towards multiple members of the Duke family. See inter alia,  
8 Trial Transcript, Day 1, at 73, 105-117 (testimony of T.D.); Trial Transcript, Day 5, at 112,  
9 120-124 (testimony of V.D.); Trial Transcript, Day 8, at 85, 103-115, 118-120, 137-145  
10 (testimony of Taq. D.); Trial Transcript, Day 9, at 96, 104-107 (testimony of CPS employee  
11 Sholeh Nourbakhsh). Second, neither disorder suffered by either victim bears on their  
12 credibility. M.D. has a general anxiety disorder (Trial Transcript, Day 7, at 66-71), while  
13 Tah.D. has a learning disability (Trial Transcript, Day 9, at 92-94). Neither of these  
14 diagnoses affect one's ability to discern reality. Neither do these diagnoses make one  
15 inherently unreliable or likely to fabricate. In fact, both witnesses were able to respond  
16 articulately and clearly at trial. As such, the factors articulated in Koerschner would not have  
17 weighed towards finding that an independent psychological examination was required.

18 Finally, the Court notes that approximately one (1) year after the trial in the  
19 underlying case took place, the Nevada legislature codified NRS 50.700. NRS 50.700(1)  
20 forbids the Court from ordering a victim or witness to a sexual assault to undergo a  
21 psychological or psychiatric examination. NRS 50.700. While the date the statute become  
22 operable means that NRS 50.700 would not have been applicable at the time of the  
23 underlying trial, it's subsequent inclusion in this jurisdiction's statutory framework indicates  
24 that the Motion would have been disfavored (as the underlying offenses of this Petition  
25 include many charges of Sexual Assault). As such, any Motion filed to this effect would  
26 likely have been denied.

27 Since the Motion was not likely to succeed, filing it likely would have been a  
28 frivolous exercise. Counsel has no obligation to file frivolous motions. See Ennis v. State,

1 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). However even if the motion would not have  
2 been frivolous, its dubious chances for success would make whether to file such a motion a  
3 strategic decision. “Strategic choices made by counsel after thoroughly investigating the  
4 plausible options are almost unchallengeable.” Dawson v. State, 108 Nev. 112, 117, 825 P.2d  
5 593, 596 (1992). As such, the Court finds that counsel was not ineffective for not filing this  
6 motion, and this claim is denied.

7 **B. Defense Counsel Was not Ineffective For Not Filing a Motion in Limine**

8 Petitioner next argues that his counsel was ineffective for failing to oppose the State’s  
9 Motion in Limine “to restrict cross-examination for bias.” This pleading bare of facts and  
10 citations. Odyssey does not reflect any written Motion in Limine on file. If the alleged  
11 Motion was an oral motion, Petitioner has provided no citation to the record regarding where  
12 it occurred. Neither has Petitioner said what witness this Motion was in regards to, or on  
13 what day of this 14-day trial it occurred. Given that this claim is the epitome of a bare and  
14 naked allegation, it is denied pursuant to Hargrove.

15 **IV. COUNSEL WAS NOT INEFFECTIVE DURING TRIAL**

16 **A. Trial Counsel’s Impeachment Was Effective**

17 Petitioner next alleges that counsel was ineffective in their cross-examination of  
18 Tah.D. Pet. at 17. Specifically, Petitioner claims that the State’s objections kept any useful  
19 information from being elicited. Such a claim is belied by the record.

20 Petitioner’s complaint regarding counsel’s performance after the State objected to a  
21 line of questioning for “lack of foundation” is confusing. The Court notes that the objection  
22 was posed merely because the question was asked in a confusing manner. Trial Transcript,  
23 Day 9, at 161. Counsel clarified her question, and was able to proceed with the line of  
24 questioning. Id. The State further objected to a hearsay statement which was sustained. Id. at  
25 167. However, the failure to get a hearsay statement admitted into evidence is not a  
26 byproduct of counsel’s effectiveness, it is a byproduct of the fact that the statement was  
27 hearsay and not permitted under the rules of evidence.

1 Further, the Court finds that Petitioner's counsel was effective on cross-examination.  
2 Counsel elicited that Petitioner was the one who drove the children to well in school. Trial  
3 Transcript, Day 9, at 140-141. Counsel elicited that the witness had reported feeling  
4 "protected" while staying with Petitioner. Id. at 151. Counsel elicited that the witness had  
5 told detectives she had no problems with anybody in the house. Id. at 153. Counsel outlined  
6 the potential contradiction between witness saying she was raped for the first time at age 11,  
7 but saying during that same year she was not uncomfortable around Petitioner. Pet. at 153-  
8 54. Counsel elicited as much information that was helpful to Petitioner's case as was  
9 possible under the circumstances. Further, the scope of cross-examination is a strategic  
10 decision that is virtually unchallengeable. See Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163,  
11 167 (2002); Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992).

12 Here, the record demonstrates that counsel effectively elicited varying pieces of  
13 helpful information on cross-examination. Further, the record belies Petitioner's claim that  
14 his counsel was ineffective at dealing with the State's objections. Finally, Petitioner has  
15 failed to demonstrate how a different cross-examination would have made a more favorable  
16 outcome at trial probable. Therefore, the Court finds that counsel cannot be deemed  
17 ineffective and this claim is denied.

18 **B. There Was No Prosecutorial Misconduct For Petitioner's Counsel to Object**  
19 **To**

20 Petitioner next claims his counsel was ineffective for failing to object when the State  
21 committed prosecutorial misconduct by allegedly vouching for witnesses during closing  
22 argument. Pet. at 18. Specifically, Petitioner raises issue with the following excerpt from the  
23 States closing:

24 You heard from the Dukes. Do you really think that they could have  
25 concocted all of this, those people you heard on the stand? There is  
26 no way. Ladies and gentlemen, the State of Nevada cannot hold the  
27 Defendant accountable for his actions. Even the Court cannot hold  
the Defendant accountable for his actions. Only you can. The  
evidence shows that the Defendant is guilty of these charges, so  
please find him guilty. Thank you.

28 Pet. at 18.

1 Vouching occurs when the State “places ‘the prestige of the government behind the  
2 witness’ by providing ‘personal assurances of [the] witness's veracity.’” Browning v. State,  
3 120 Nev. 347, 359, 91 P.3d 39, 48 (2004) (citing U.S. v. Kerr, 981 F.2d 1050, 1053 (9th Cir.  
4 1992). This Court has held that it is not vouching where the State claims that a witness’  
5 identification was “as good as you could ask for” during closing argument. Id. Further,  
6 “when a case involves numerous material witnesses and the outcome depends on which  
7 witnesses are telling the truth, reasonable latitude should be given to the prosecutor to argue  
8 the credibility of the witness—even if this means occasionally stating in argument that a  
9 witness is lying.” Rowland v. State, 118 Nev. 31, 39, 39 P.3d 114, 119 (2002). However, the  
10 State may not go so far as to argue that a witness is a person of “integrity” or “honor.” Id.  
11 Finally, it is the province of counsel to determine what objections, if any, to make during a  
12 closing argument. See Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002) (stating that it  
13 is trial counsel that has the “immediate and ultimate responsibility of deciding if and when to  
14 object, which witnesses, if any, to call, and what defenses to develop”). Counsel cannot be  
15 ineffective for failing to make futile objections or arguments. See Ennis v. State, 122 Nev.  
16 694, 706, 137 P.3d 1095, 1103 (2006).

17 A review of the State’s closing argument shows that no vouching occurred during the  
18 State’s closing argument. Much like in Rowland, the instant case involved multiple material  
19 witnesses, and the outcome was dependent upon whether the jury believed these witnesses  
20 were telling the truth. As such, the State should be afforded reasonable latitude during  
21 closing argument. However, here, said latitude was not even necessary. The State did not  
22 make any personal assurances of the witness’ veracity. As the record plainly shows, the State  
23 was merely highlighting that it had presented extensive corroborating evidence. The State’s  
24 argument that evidence which is corroborated by other evidence should be considered more  
25 persuasive is not vouching, but a common legal principle that has been recognized by the  
26 Court in multiple contexts. See, inter alia, NRS175.291 (stating that the conviction of a  
27 defendant cannot be had on the testimony of an accomplice unless the accomplice is  
28 corroborated by other evidence); Sefton v. State, 72 Nev. 106, 110, 295 P.2d 385, 387 (1956)

1 (stating: “extrajudicial confession does not warrant a conviction unless it is corroborated by  
2 independent evidence”).

3       Given that the statement did not amount to “vouching,” the State did not commit  
4 prosecutorial misconduct. It therefore would have been futile for counsel to object. Counsel  
5 has no obligation to raise futile arguments pursuant to Ennis. Further, even if statements  
6 were to be considered vouching, the statements were not such that the failure to object would  
7 have rendered a more favorable outcome at trial probable. See Rowland, 118 Nev. at 31, 39  
8 P.3d at 167 (stating: “the level of misconduct necessary to reverse a conviction depends upon  
9 how strong and convincing is the evidence of guilt”). In the instant case, the evidence of guilt  
10 was strong. The State presented multiple witnesses, including the entire Duke Family,  
11 individuals close with the family, and investigating officers. Given the overwhelming  
12 evidence presented against Petitioner, even if the statements were considered vouching,  
13 Petitioner was not prejudiced by his counsel not objecting.

14       Therefore, Counsel cannot be held ineffective on this ground, and this claim is denied.  
15       //  
16       //

### 17       **C. Counsel’s Closing Argument Was Adequate**

18       Petitioner next argues that his counsel was ineffective during closing argument. Pet. at  
19 19. Petitioner does not articulate why, or what portions of the closing argument were  
20 ineffective. Petitioner does not allege what counsel should or even could have done  
21 differently in order to present a more compelling closing argument. As such, the Court finds  
22 that this claim is nothing more than a bare and naked allegation suitable only for summary  
23 dismissal pursuant to Hargrove.

24       Further, the court would note that what arguments to present during closing argument  
25 is a strategic decision left to counsel in most circumstances. See Rhyne v. State, 118 Nev. 1,  
26 8, 38 P.3d 163, 167 (2002) (stating that it is trial counsel that has the “immediate and  
27 ultimate responsibility of deciding if and when to object, which witnesses, if any, to call, and  
28 what defenses to develop”); but see also (Jones v. State, 110 Nev. 730, 877 P.2d 1052 (1994)

1 (holding that it is reversible error for an attorney to concede guilt during closing argument  
2 over his client's testimonial disavowal).

3 Given that Petitioner has not alleged any issue pursuant to Jones or other rule of law  
4 that confines the scope of counsel's arguments, the only question is whether counsel  
5 performed reasonably at closing. The record reveals this to be the case. Counsel began by  
6 challenging the veracity of the State's witness V.D. Trial Transcript, Day 12, at 70. Counsel  
7 went on to point out the V.D.'s mother T.D. had potential issues with Child Protective  
8 Services when living in Louisiana. Id. at 72. Counsel highlighted that it would have been odd  
9 for T.D. to bring her children back to the Petitioner after they suffered such abuse at his  
10 hands. Id. at 74. Counsel further went on to point out the timing of the reports versus the  
11 timing of the incidents. Id. at 74-75. Counsel went on to reiterate that the children's grades  
12 were the best they had ever been during this time. Id. at 77. The record clearly shows that  
13 counsel's closing argument was designed to discredit the witnesses and attempt to show that  
14 Petitioner had been a positive influence on the family. The Court finds that while this  
15 strategy was ultimately not successful, it was clearly not unreasonable. Therefore, counsel  
16 was not ineffective during closing argument and this claim is denied.

#### 17 **V. COUNSEL WAS EFFECTIVE AT SENTENCING**

18 While Petitioner makes to claims under Section five of his Petition, the Court breaks  
19 up its analysis here as they are two distinct issues.<sup>2</sup> Petitioner alleges that counsel performed  
20 ineffectively at sentencing. Specifically, Petitioner claims that it was ineffective for counsel  
21 to not file a sentencing memorandum, as well as to not present any witnesses to provide  
22 mitigation testimony. Pet. at 20.

23 As an initial point, the Court notes that Petitioner has not alleged what information  
24 should or could have been presented in a sentencing memorandum. Petitioner further has not  
25 alleged what witnesses could have been called to present mitigation testimony, or what these  
26 alleged witnesses would have even testified to. As such, the Court finds that Petitioner's  
27  
28

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<sup>2</sup> For analysis on why Petitioner's sentence was neither cruel nor unusual see section VI.

1 claims are bare and naked assertions suitable only for summary dismissal pursuant to  
2 Hargrove.

3 Further, the record demonstrates that Petitioner's counsel performed effectively at  
4 sentencing. Counsel began by noting the number of people who had been called as witnesses  
5 who testified that none of the State's witnesses had spoken up regarding the abuse.  
6 Recorders Transcript RE: Sentencing, at 7, October 27, 2015. To the extent Petitioner  
7 believes these are the witnesses who should have been called, such a decision was  
8 unnecessary. The sentencing judge was the same judge who had presided over the trial, and  
9 as such, had already heard this testimony. Id. at 5. Counsel further noted Petitioner's  
10 relatively old age. Id. at 7. The Court finds that counsel's inability to present a more  
11 sympathetic argument was due not to counsel's alleged ineffectiveness, but the nature of  
12 Appellant's actions. Therefore, this claim is denied.

#### 13 **VI. PETITIONER'S SENTENCE WAS NOT CRUEL AND UNUSUAL**

14 Petitioner also argues that his sentence was cruel and unusual. Pet. at 20-21.

15 The Eighth Amendment to the United States Constitution as well as Article 1, Section  
16 6 of the Nevada Constitution prohibits the imposition of cruel and unusual punishment. The  
17 Nevada Supreme Court has stated that "[a] sentence within the statutory limits is not 'cruel  
18 and unusual punishment unless the statute fixing punishment is unconstitutional or the  
19 sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" Allred v. State, 120 Nev. 410, 92 P.2d 1246, 1253 (2004) (quoting Blume v. State, 112 Nev.  
20 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435,  
21 596 P.2d 220, 221-22 (1979)).

23 Additionally, the Nevada Supreme Court has granted district courts "wide discretion"  
24 in sentencing decisions, and these are not to be disturbed "[s]o long as the record does not  
25 demonstrate prejudice resulting from consideration of information or accusations founded on  
26 facts supported only by impalpable or highly suspect evidence." Allred, 120 Nev. at 410, 92  
27 P.2d at 1253 (quoting Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976)). A  
28 sentencing judge is permitted broad discretion in imposing a sentence and absent an abuse of

1 discretion, the district court's determination will not be disturbed on appeal. Randell v. State,  
2 109 Nev. 5, 846 P.2d 278 (1993) (citing Deveroux v. State, 96 Nev. 388, 610 P.2d 722  
3 (1980)). As long as the sentence is within the limits set by the legislature, a sentence will  
4 normally not be considered cruel and unusual. Glegola v. State, 110 Nev. 344, 871 P.2d 950  
5 (1994).

6 The Court first notes that Petitioner concedes that his sentence was within the  
7 statutory limits. Pet. at 20-21. Further, Petitioner does not even allege that the Court relied on  
8 impalpable or highly suspect evidence. Instead Petitioner makes a proportionality argument,  
9 alleging that his sentence is simply too long given his crimes. The Court disagrees. Appellant  
10 was convicted for sexually assaulting multiple minors over many years. Appellant was  
11 further convicted of beating minors. Appellant was also convicted of sexually assaulting  
12 their mother and forcing her to work as a prostitute. See generally, Trial Transcript, Day 14.  
13 The sentence is therefore proportional to the crimes committed. As such, Petitioner's  
14 sentence is neither cruel nor unusual, and this claim is denied.

## 15 **VII. COUNSEL WAS NOT INEFFECTIVE IN ARGUING THE MOTION FOR** 16 **A NEW TRIAL**

17 Petitioner next argues that his counsel was ineffective in their preparation and  
18 arguments regarding Petitioner's Motion for a New Trial. Pet. at 21-22. While Petitioner  
19 dedicates multiple pages to trying to relitigate the issue of whether he should have been  
20 granted a new trial due to juror misconduct, his only real claim that counsel was ineffective  
21 is that counsel failed to secure Kathleen Smith's ("Smith") signature on her affidavit once it  
22 had been revised. Pet. a 22-25.

23 The affidavit Petitioner references Smith's allegations that a juror (Yvonne Lewis)  
24 spoke about being sexually assaulted during jury deliberations. Lewis did not indicate during  
25 voir dire that she had ever been sexually assaulted. As such, Petitioner claimed this was  
26 grounds for a new trial due to juror misconduct.

27 However, the Court finds that counsel's failure to get Smith to sign the affidavit does  
28 not constitute ineffective assistance of counsel. Counsel prepared the affidavit after her



1 investigator spoke to Smith. However, Smith requested that changes be made to the affidavit  
2 and refused to sign it, claiming “she did not want to get involved.” Reply to State’s Response  
3 to Motion for a New Trial and Supplement to Defendant’s Motion for a New Trial, at 9-10,  
4 Jul 9, 2014; Recorders Transcript of Proceedings RE: Evidentiary Hearing on Defendant’s  
5 Motion for New Trial, at 22, November 24, 2014. Petitioner’s counsel cannot force someone  
6 to sign a document, and any assertion that her failure to do so constitutes ineffective  
7 assistance of counsel is absurd.

8 Further, the Court finds that counsel’s conduct following Smith’s refusal to sign the  
9 affidavit was reasonable. Counsel requested and received an evidentiary hearing on the issue.  
10 Id.; Reply to State’s Response to Motion for a New Trial and Supplement to Defendant’s  
11 Motion for a New Trial, at 7, Jul 9, 2014. At the hearing, counsel called Smith as a witness,  
12 and asked her to explain her experience during deliberation. Recorders Transcript of  
13 Proceedings RE: Evidentiary Hearing on Defendant’s Motion for New Trial, at 4, 9-17,  
14 November 24, 2014. Counsel further received a hand written statement from Smith detailing  
15 what happened during the deliberation. Id. This statement was attached as Exhibit B to  
16 Petitioner’s Reply.

17 The Court finds that Petitioner’s Motion being denied has nothing to do with  
18 counsel’s alleged ineffectiveness. It has everything to do with the fact that multiple jurors  
19 (including Yvonne Lewis) testified that Lewis did not claim during deliberations that she had  
20 been sexually assaulted. Id. at 31-32, 55. These jurors also indicated that Ms. Smith had  
21 claimed she could not vote guilty based upon Petitioner’s race. Id. at 33, 41. As such, it is  
22 clear that counsel did everything she could have possibly done in investigating this claim.  
23 Counsel was not ineffective on this Ground, and this claim is denied.

24 Further, to the extent Petitioner is seeking to relitigate the fact that he should have  
25 been granted a new trial due to juror misconduct, the Court finds that such a claim is barred  
26 by law of the case doctrine. “The law of a first appeal is law of the case on all subsequent  
27 appeals in which the facts are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535  
28 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)).

1 “The doctrine of the law of the case cannot be avoided by a more detailed and precisely  
2 focused argument subsequently made after reflection upon the previous proceedings.” Id. at  
3 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously decided on direct  
4 appeal may not be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 879, 34  
5 P.3d 519, 532 (2001) (citing McNelton v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275  
6 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.  
7 Art. VI § 6.

8 On November 28, 2017, the Supreme Court of Nevada issued an Order of Affirmance  
9 finding that stated “the district court did not abuse its discretion in denying the motion for a  
10 new trial for juror misconduct, as any misconduct did not prejudice Petitioner.” Order of  
11 Affirmance, at 2, November 28. 2017. As such, the Court finds that any attempt Petitioner  
12 now makes to relitigate this issue is barred by law of the case and is denied.

### 13 **VIII. APPELLATE COUNSEL WAS NOT INEFFECTIVE**

14 Petitioner next argues that his appellate counsel was ineffective for not raising the  
15 following issues on appeal: (1) that Petitioner’s sentence was a cruel and unusual punishment  
16 in violation of the eighth amendment; (2) that the court erred by limiting cross-examination;  
17 and (3) that the court erred by not restraining excessive prosecutorial misconduct. Pet. at 27.

18 There is a strong presumption that appellate counsel's performance was reasonable  
19 and fell within “the wide range of reasonable professional assistance.” See United States v.  
20 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at  
21 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test  
22 set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In  
23 order to satisfy Strickland’s second prong, the defendant must show that the omitted issue  
24 would have had a reasonable probability of success on appeal. Id.

25 The professional diligence and competence required on appeal involves “winnowing  
26 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
27 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In  
28 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .

1 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
2 “For judges to second-guess reasonable professional judgments and impose on appointed  
3 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
4 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

5 The Court finds that Appellate counsel was not ineffective for not bringing the claims  
6 Petitioner now urges they should have. The claims Petitioner advocates for are either without  
7 merit, or so bare of factual underpinnings in this Petition that their merit is impossible to  
8 address. First, as the Court articulated in Section VI, Petitioner’s punishment was not cruel  
9 and unusual. Second, it is unclear what witnesses Petitioner was not entitled to fully cross-  
10 examine. The Court notes that appellate counsel did raise the issue on appeal of whether the  
11 district court erred in limiting his cross-examination regarding a book written by T.D. To the  
12 extent this is the issue Petitioner is alleging, his claim is belied by the record. Otherwise, the  
13 underlying claim Petitioner alleges counsel should have brought is nothing more than a bare  
14 and naked allegation. Finally, as the Court articulated in Section IV(B), the State did not  
15 engage in vouching, so any prosecutorial misconduct claim on these grounds would have  
16 been frivolous.

17 Further, the Court notes that Appellate counsel brought the following claims on  
18 appeal: (1) whether the district court erred in restricting the scope of cross examination  
19 regarding a book written by T.D.; (2) whether the court improperly allowed the State to  
20 introduce testimonial hearsay statements into evidence; (3) whether the district court  
21 improperly prevented Petitioner from inquiring into one of children’s past sexual history; (4)  
22 whether Petitioner’s kidnapping charges were incidental to other charges; (5) whether  
23 Petitioner was entitled to a new trial on the basis of juror misconduct; (6) whether there was  
24 insufficient evidence to support Petitioner’s convictions; and (7) whether cumulative error  
25 warranted reversal. Given the multitude of claims brought by appellate counsel, as well as  
26 the lack of merit regarding the claims Petitioner now alleges his counsel should have brought  
27 on appeal, the Court finds that appellate counsel was not ineffective. Therefore, this claim is  
28 denied.

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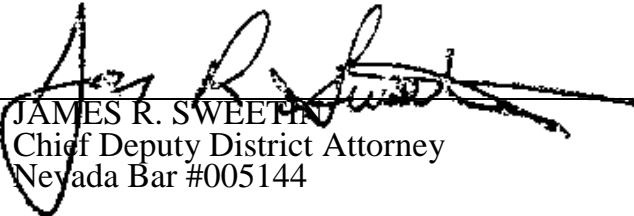
1           **THEREFORE, IT IS HEREBY ORDERED** that the Post-Conviction Petition for  
2 Writ of Habeas Corpus shall be and is DENIED.

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5           DATED this 21 day of May, 2020.

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7 \_\_\_\_\_  
8 **DISTRICT JUDGE**

9 **STEVEN B. WOLFSON**  
10 Clark County District Attorney  
11 Nevada Bar #001565

12 BY

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14 **JAMES R. SWEET**  
15 Chief Deputy District Attorney  
16 Nevada Bar #005144

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 30, 2013**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**July 30, 2013      1:30 PM      Initial Arraignment**

**HEARD BY:** Martin, Eugene      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Roshonda Mayfield

**RECORDER:** Kiara Schmidt

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Miller, James J.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFT. HARRIS JR. ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Upon inquiry by the court clerk Attorney Allen CONFIRMS the defendant WAIVES 2 weeks regarding the trial date set being outside of the 60 days.

**CUSTODY**

10/8/13 8:30 A.M. CALENDAR CALL (DEPT. 12)

10/15/13 1:30 P.M. JURY TRIAL (DEPT. 12)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 08, 2013**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**October 08, 2013      8:30 AM      Calendar Call**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Patti Slattery

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Keeler, Brett O.	Attorney
	Luzaich, Elissa	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Court TRAILED and RECALLED matter for all parties to appear. Ms. Allen advised defense does not have any CPS records. Ms. Luzaich advised State had requested the local CPS records, to be forwarded to Chambers for in-camera review, and nothing has been received yet. Court clarified it has not received these records. Ms. Luzaich advised she will send another request, and State will need a Court order to retrieve the records from Utah. Ms. Allen advised defense has an outstanding medical records request. At request of parties, COURT ORDERED, trial date VACATED AND RESET. Parties estimated 2 weeks for trial. SO NOTED.

CUSTODY

3/18/14 8:30 A.M. CALENDAR CALL

3/25/14 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 11, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**March 11, 2014      8:30 AM      Motion**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Ms. Allen advised she reviewed State's file, and CPS records were already provided to the Court. Ms. Luzaich advised State did not file an Opposition to the Motion, as the parties are working everything out on the discovery. Ms. Allen advised State has provided police reports, and are ordering additional reports for defense; further noting defense has proposed orders for the Court, regarding medical records. Ms. Allen added there are records for the Co-Deft's case, and defense will be requesting medical records for her client's case. State made no objection. Ms. Allen informed the Court there are additional records that need to be reviewed by Court in-camera. State made no objection. CONFERENCE AT BENCH. Orders submitted by Ms. Allen regarding additional medical records SIGNED BY COURT. Trial date STANDS.

**CUSTODY**

3/18/14 8:30 A.M. CALENDAR CALL



3/25/14 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 18, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**March 18, 2014      8:30 AM      Calendar Call**

**HEARD BY:** Brennan, James      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Allen, Betsy, ESQ      Attorney  
                                 Harris Jr, Frederick Harold      Defendant  
                                 Luzaich, Elissa      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Both parties announced ready for trial. Counsel estimated 7-10 witnesses, 2 witnesses from out-of-state, and 2 weeks for trial. COURT ORDERED, trial date SET.

CUSTODY

3/24/14 1:00 P.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 25, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**March 25, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Colloquy regarding trial schedule for tomorrow morning.

PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court and by counsel. Clerk called roll and SWORE the entire Prospective Jury Panel. Voir Dire commenced.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/26/14 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 26, 2014**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**March 26, 2014      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court stated Prospective Juror with Badge No. 0019, is currently on their way here, further noting the prospective juror was notified telephonically earlier, and had believed trial will be starting at 11:00 a.m. today, not at 10:00 a.m. Court further stated it would like to wait this morning, until this prospective juror arrives. Parties made no objections. Ms. Allen advised she provided an envelope of documents to Chambers for in-camera review, consisting of psych records that her investigator had given to her unsealed. Additionally, upon receipt, defense just forwarded these documents to the Court, and did not look at them. Court stated it believes the documents need to be turned over to both parties. Ms. Luzaich made no objections; and advised State has the right to challenge on whether or not the information provided in-camera is admissible. Court agreed. Thereafter, copies of the documents were provided to both State and defense by Court. Court Exhibit presented (See Worksheets.). Court TRAILED matter for the remaining Prospective Juror to arrive.

CASE RECALLED.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Prospective Juror with Badge No. 0023 is present in Court, and made statements regarding financial and employment hardship. Following further discussions, Court thanked and excused Badge No. 0023 for cause.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. JURY SELECTED. Court thanked and excused the remaining jury panel members. Thereafter, Court admonished and excused the Jury to return tomorrow morning at 10:30 a.m.

OUTSIDE PRESENCE OF JURY: Colloquy as to Deft's recorded statements to police to be presented by State during trial.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/27/14 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 27, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**March 27, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle

**COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: There being no objection by defense, COURT ORDERED, Amended Information FILED IN OPEN COURT to correct typographical errors on Count 43 and Count 45.

JURY PRESENT: Jury SWORN by Clerk and instructed by Court. Clerk read the Amended Information. Further instructions were instructed by Court. Opening statements by Ms. Luzaich and Mr. MacArthur. Testimony presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Ms. Allen advised she noticed during openings, State mentioned that Rose Smith was coming in for the trial, and defense has had no ability to contact her, as no contact information was provided by State in any way, which presents a problem. Additionally, defense has not had the opportunity to locate Ms. Smith at this point. Thereafter, Ms. Allen moved to exclude Ms. Smith from trial; and argued pursuant to Statute, the State needs to update their witness

list. Further, defense never received Ms. Smith's address after the discovery Motion was filed. Ms. Luzaich argued defense has not said anything when parties spoke about the case, and if something was said, the State would have provided the contact information. Additionally, State will provide a telephone number. Ms. Allen advised she appreciates the information, however, the remedy would be to exclude the witness, and the witness list was not updated. COURT ORDERED, State to provide the telephone number of Ms. Smith to defense. Court advised counsel if they still did not get the opportunity to contact Ms. Smith, parties can revisit this Motion at a later date. Ms. Allen indicated there may be a different incident report regarding an argument that occurred on Blankenship Street. Following discussions, Ms. Allen advised parties stipulate that no testimony will be made on a conversation being heard by an officer at the Blankenship residence, and just a loud noise had occurred. State concurred. SO NOTED.

Lunch recess.

OUTSIDE PRESENCE OF JURY: Ms. Allen addressed on a proffer regarding a book written by the children's mother, and further noted defense does not intend on getting into the facts of the book, which was about rape shield. Ms. Allen advised defense believes the book gestures bias from the mother and the nature in this case, and defense will be asking about the book being written and set to be published, but not about the substance. Ms. Luzaich advised she does not know what the book is about, however, the story in the book is the mother claimed she was raped by somebody, had thought about revenge, and kills someone. Upon Court's inquiry, Ms. Luzaich advised the story is fictional. Following discussions, Ms. Luzaich objected to defense bringing information about the book, as it is inappropriate, it has nothing to do with this case, there was no hearing about this issue, and it is misleading. Arguments by counsel. COURT ORDERED, information regarding the book is EXCLUDED, unless the witness says something during testimony that makes the book become relevant.

JURY PRESENT: Testimony presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: State provided contact information to defense regarding Rose Smith. Discussions as to limited stipulation that was made about the CPS records and testimony; and further discussions regarding witness line up, length of examination on witnesses, and trial schedule.

Evening recess. TRIAL CONTINUES.

CUSTODY

3/31/14 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 31, 2014**

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C-13-291374-1	State of Nevada
	vs
	Frederick Harris Jr

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**March 31, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle

**COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: Prior to trial starting, both parties in the presence of the Clerk, opened an evidence envelope provided by Metro, for review of a proposed exhibit.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State's current witness on the Stand complained to the Court about not feeling well. Court EXCUSED the Jury for a break until 1:15 p.m.

OUTSIDE PRESENCE OF JURY: State's witness Tina Duke, is present on the Stand. Court DIRECTED the Marshal to call Control and have emergency personnel come into the Courtroom, to medically examine the witness. MATTER TRAILED. Following examination of the witness, by paramedics, Court EXCUSED the trial attorneys to return at 1:15 p.m.

Lunch recess.



JURY PRESENT: Further testimony presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: State made objections regarding inadmissibility on a question asked by Mr. MacArthur, during cross examination of State's witness Tina Duke. Arguments as to State having made an objection regarding rape shield during testimony. Arguments by Mr. MacArthur as to relevancy of his question. Court SUSTAINED State's objection.

JURY PRESENT: Further testimony presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/01/14 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 01, 2014**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**April 01, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony presented (See Worksheets.).

**OUTSIDE PRESENCE OF JURY:** At request of defense, Voir Dire was conducted with State's witness Dr. Mehta. Following examination, Ms. Allen informed the Court there are lab reports regarding one of the alleged victims in Dr. Mehta's possession on the Stand, which were not provided to defense. Ms. Luzaich objected; and argued defense came and looked at State's file months ago. Court provided copies of the lab reports to defense. Voir Dire commenced further with Dr. Mehta regarding medical records and a doctor visit from one of the minor victims. Ms. Allen argued defense is not sure if Dr. Mehta is qualified to testify on records that Dr. Gondy did reports on; and requested Court to preclude Dr. Mehta on referring to Dr. Gondy's medical reports by during testimony. State cross examined Dr. Mehta during Voir Dire. Arguments by parties regarding hearsay, and opinions being given on the reports. Court **OVERRULED** objection made by defense, as State is not moving to admit the medical records in question. Ms. Allen argued this witness did

not have records at the time frame in question; and requested a proffer from the State. Ms. Luzaich argued State has already provided this during testimony on Voir Dire. Further arguments by counsel. Court's ruling on the objection STANDS.

JURY PRESENT: Testimony presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Upon Court's inquiry, Dr. Mehta advised photographs taken during the medical examination are in possession of CAC, and she is not able to request such photographs. Court thanked and excused the witness from her subpoena. Dr. Mehta exited the Courtroom. Ms. Allen advised she does not have the photographs from the medical examination; and requested State to obtain them. Ms. Luzaich advised the Court needs to issue an order, and state findings under Epperson. Additionally, State sent an email to CAC, and received no response yet. Court directed State to prepare the order as to photographs. Colloquy regarding trial schedule for tomorrow.

EXCLUSIONARY RULE INVOKED.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow morning at 10:30 a.m.

OUTSIDE PRESENCE OF JURY: Court noted for the record one of the jurors wanted to ask a question to Deft, and the Court reminded the jury panel they can ask written questions to witnesses. Parties acknowledged.

Evening recess. TRIAL CONTINUES.

CUSTODY

4/02/14 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 02, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**April 02, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Order releasing records and Stipulation and Order regarding discovery SIGNED AND FILED IN OPEN COURT. Both parties made disclosures to the Court.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/03/14 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 03, 2014**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**April 03, 2014      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Defense made objections on Dr. Gony testifying about Lealer Cooks' representation about one of the minor victims. Arguments by State. Court OVERRULED objection by defense.

JURY PRESENT: Testimony presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/04/14 9:00 A.M. TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 04, 2014**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**April 04, 2014****9:00 AM****Jury Trial****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: Ms. Allen advised the first witness for today is Deft's daughter, and State informed defense the daughter had pled guilty to two Misdemeanor battery charges. Additionally, the actual charges had occurred prior to an outburst in Justice Court during the Preliminary Hearing. Ms. Allen argued the battery charges should not be able to come in; however, State can impeach the witness if the door gets open. Ms. Luzaich advised during Preliminary Hearing, Deft's daughter charged at witness Victoria Duke, and threatened to kill her, further noting the daughter is emotionally violent and was held in contempt of Court due to the Courtroom incident. Ms. Allen argued the two battery charges have nothing to do with this case, and the information is precluded by statute. Ms. Allen argued the charges stem from when the daughter broke into her own home after being locked out by her boyfriend. Further arguments. Court GRANTED Deft's Motion to preclude witness from testifying about the battery charges, with exception that if the information becomes relevant during the examination, State can ask about the charges.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/07/14 10:00 A.M. TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 07, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**April 07, 2014      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/09/14 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 09, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**April 09, 2014      9:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle

**COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: Court NOTED for the record Juror No. 6 has been excused from trial and from reporting to Court this morning, due to health issues. Parties made no objections. COURT ORDERED, Alternate Juror No. 13 will now be part of the seated Jury panel. Colloquy regarding trial schedule for the week, witness line up for defense, and status of proposed jury instructions.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Parties made a record regarding redacted transcript of State's Proposed Exhibit No. 3. Court Exhibit presented (See Worksheets.). Colloquy regarding witness line up. Ms. Allen advised there was a redacted portion of Deft's statement to police, which indicated one of the alleged victims was engaging in sexual intercourse in Utah and had admitted to this. Additionally, this would be covered by rape shield; however, defense located case law from Johnson

vs. State. Arguments by counsel as to admissibility and testimony from Deft. regarding the alleged victim. Counsel requested that Mr. MacArthur be allowed to ask about the Utah issue to the detective during cross examination; and argued defense believes the rape shield factor does not apply, as this would indicate the alleged victim had prior knowledge of sexual intercourse. Further, defense believes the question falls into completeness of Deft's statement. Court reviewed the case law provided by defense. Ms. Luzaich argued regarding NRS 50.090, and defense seeking to challenge credibility. Further arguments in opposition to defense' request and this having no basis of prior knowledge. Further arguments by defense. State provided the unredacted transcript from page 90, for Court to review. COURT ORDERED, Deft's Motion DENIED.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State's Exhibit No. 3 being an audio recording of Deft's statements to Metro, was PUBLISHED to the Jury.

Evening recess. TRIAL CONTINUES.

CUSTODY

4/10/14 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 10, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**April 10, 2014      10:30 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). State rested. Further testimony and Exhibits presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

CUSTODY

4/11/14 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 11, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**April 11, 2014      10:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle

**COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE PRESENCE OF JURY: Deft. was admonished of his right not to testify. Upon Court's inquiry, Deft. acknowledged; and indicated he will not be testifying. SO NOTED. Court TRAILED matter for jury instructions to be finalized. CASE RECALLED. Jury Instructions SETTLED. Objections were made by parties. Court Exhibits presented (See Worksheets.).

JURY PRESENT: Testimony presented (See Worksheets.). Defense rested. State had no rebuttal case; and rested. Court instructed Jury on the law. Closing arguments by Ms. Rhoades. Jury was admonished and excused for a lunch break.

OUTSIDE PRESENCE OF JURY: Court stated Jury Instruction No. 10 and information on Count 35, from in the instructions had to be revised, due to grammatical errors. Parties acknowledged; and made no objections to the revisions, or Jury receiving corrected revisions.

Lunch recess.

JURY PRESENT: Closing arguments by Ms. Allen. Rebuttal arguments by Ms. Luzaich. Marshal and Matron sworn by Clerk to take charge of Jury. Alternate Juror was identified; and instructed by Court. At the hour of 3:50 P.M., the Jury retired to deliberate.

Jury deliberating.

Evening recess. TRIAL CONTINUES.

CUSTODY

4/14/14 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 14, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**April 14, 2014      9:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Jury deliberating.

Court SWORE in the Clerk, to assist on taking charge of the Jury panel with the Matron and the Marshal.

Jury is still deliberating. Evening recess. TRIAL CONTINUES.

CUSTODY

4/15/14 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 15, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**April 15, 2014      9:00 AM      Jury Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	MacArthur, Jonathan	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- 12:56 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS AS FOLLOWS:

COUNT 1 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F);

COUNT 2 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 3 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 4 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F);



COUNT 5 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F);

COUNT 6 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 7 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F);

COUNT 8 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 9 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 10 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 11 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 12 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F);

COUNT 13 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 14 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 15 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F);

COUNT 16 - GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F);

COUNT 17 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F);

COUNT 18 - NOT GUILTY OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F);

COUNT 19 - GUILTY OF FIRST DEGREE KIDNAPPING (F);

COUNT 20 - GUILTY OF LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F);

COUNT 21 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F);

COUNT 22 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF

AGE (F);

COUNT 23 - GUILTY OF COERCION (SEXUALLY MOTIVATED) (F);

COUNT 24 - GUILTY OF ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F);

COUNT 25 - GUILTY OF FIRST DEGREE KIDNAPPING (F);

COUNT 26 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 27 - NOT GUILTY OF ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F);

COUNT 28 - GUILTY OF FIRST DEGREE KIDNAPPING (F);

COUNT 29 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 30 - NOT GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 31 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 32 - NOT GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 33 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 34 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 35 - GUILTY OF SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F);

COUNT 36 - GUILTY OF SEXUAL ASSAULT (F);

COUNT 37 - GUILTY OF FIRST DEGREE KIDNAPPING (F);

COUNT 38 - GUILTY OF BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F);

COUNT 39 - GUILTY OF SEXUAL ASSAULT (F);

COUNT 40 - GUILTY OF SEXUAL ASSAULT (F);

COUNT 41 - GUILTY OF SEXUAL ASSAULT (F);

COUNT 42 - GUILTY OF PANDERING (F);

COUNT 43 - NOT GUILTY OF SEXUAL ASSAULT (F);

COUNT 44 - GUILTY OF LIVING FROM THE EARNINGS OF A PROSTITUTE (F);

COUNT 45 - NOT GUILTY OF BATTERY BY STRANGULATION (F).

Jury polled at request of defense. Court thanked and excused the Jury from trial proceedings.

OUTSIDE PRESENCE OF JURY: COURT ORDERED, matter REFERRED to Division of Parole and Probation (P&P), and SET for sentencing. Ms. Luzaich requested Deft's bail setting be revoked, and for Deft. to be remanded into custody without bail, pending sentencing. Ms. Allen objected to revocation of bail; and argued Deft. has been in custody this whole time. COURT ORDERED, State's request GRANTED; Deft. REMANDED in this case WITHOUT BAIL PENDING SENTENCING; current bail setting REVOKED.

Court adjourned. TRIAL ENDS.

CUSTODY

7/17/14 8:30 A.M. SENTENCING (JURY VERDICT) / DISMISSAL OF COUNTS 1, 15, 17, 18, 27, 30, 32, 43 AND 45

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 19, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**June 19, 2014      8:30 AM      Motion for New Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Allen, Betsy, ESQ      Attorney  
                                 Burton, Chris      Attorney  
                                 Harris Jr, Frederick Harold      Defendant  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Ms. Allen advised State filed an Opposition, which she received on Monday, and Ms. Luzaich had no objection with defense seeking to file a reply, or with defense appearing to make these representations today. At request of counsel, COURT ORDERED, matter CONTINUED for the reply to be filed.

CUSTODY

7/15/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 15, 2014

C-13-291374-1

State of Nevada

vs

Frederick Harris Jr

July 15, 2014

8:30 AM

Motion for New Trial

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

**PARTIES****PRESENT:**

Allen, Betsy, ESQ

Attorney

Harris Jr, Frederick Harold

Defendant

Luzaich, Elissa

Attorney

Rhoades, Kristina A.

Attorney

State of Nevada

Plaintiff

**JOURNAL ENTRIES**

- Ms. Allen requested a continuance, to have this Court order a production of a copy of the Voir Dire transcript from trial, further noting State is seeking to file supplement to their response to Deft's Motion. Ms. Allen additionally requested that sentencing scheduled for this Thursday, July 17, 2014 be vacated, as defense does not have a PSI Report, yet. Court noted State needs to respond to the issues; and inquired if defense would want a recorded disc to be produced from Voir Dire. Ms. Allen requested the full Voir Dire addressing Juror No. 7. Following discussions, COURT ORDERED, written transcript of Voir Dire from trial to be done by August 11, 2014. Ms. Allen to submit an order. COURT FURTHER ORDERED, today's Motion is CONTINUED; sentencing is VACATED at this time.

CUSTODY

9/16/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 30, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**September 30, 2014      8:30 AM      Motion for New Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Allen, Betsy, ESQ      Attorney  
                                 Harris Jr, Frederick Harold      Defendant  
                                 Luzaich, Elissa      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Ms. Luzaich apologized to the Court; and stated she was in trial last week, and did not have a chance to complete what she needed to do on this Motion. At request of State, and there being no objection by defense, COURT ORDERED, matter CONTINUED. Ms. Allen indicated there is no PSI Report. Ms. Luzaich advised State did not send the file to P&P yet, pending the result of this Motion.

CUSTODY

10/16/14 8:30 A.M. DEFT'S MOTION FOR A NEW TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 16, 2014**

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C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

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**October 16, 2014      8:30 AM      Motion for New Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart  
Deborah Miller

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Luzaich, Elissa	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- At the request of parties, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 10/30/14 8:30 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 30, 2014**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**October 30, 2014      8:30 AM      Motion for New Trial**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart  
Deborah Miller

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Ms. Allen advised she did submit a supplement to Deft's Motion alleging juror misconduct; and requested an evidentiary hearing be set. Thereafter, counsel argued regarding the juror not wanting to sign an Affidavit due to future employment reasons, and discussions that were made between the jurors during deliberations. Further arguments in support of evidentiary hearing to be set, based on case law cited in the Motion. Ms. Luzaich opposed the request for evidentiary hearing; and argued State does not believe a hearing is appropriate, and defense failed to meet the burden. Additionally, the law is the jury cannot impeach their own verdict. Further arguments as to the Meyer case. Additional arguments by Ms. Allen as to case law cited in the Canada case, from Deft's supplemental Motion. COURT ORDERED, matter SET for evidentiary hearing; Motion CONTINUED.

CUSTODY

11/24/14 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 24, 2014**

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C-13-291374-1      State of Nevada  
   vs  
   Frederick Harris Jr

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**November 24, 2014      10:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart  
Deborah Miller

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- EVIDENTIARY HEARING...DEFT'S MOTION FOR NEW TRIAL

Also present: Chris Oram, Esq.

Exclusionary rule INVOKED, therefore, Ms. Harris was asked to leave the courtroom as she is a potential witness. Testimony and Exhibit presented (See Worksheet). Conference at the Bench. Ms. Allen requested matter be continued to allow the defense to subpoena additional witnesses. COURT SO ORDERED.

CUSTODY

MATTERS CONTINUED TO: 12/17/14 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 05, 2015**

C-13-291374-1      State of Nevada  
vs  
Frederick Harris Jr

**January 05, 2015      10:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

<b>PRESENT:</b>	Allen, Betsy, ESQ	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES****- EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL**

Ms. Allen advised this matter was previously continued at her request; further noting she provided black and white copies of the Facebook posts, referenced by Juror No. 13 Robert Bell from his previous testimony, to the State this morning. Additionally, after this matter was continued, defense sent an email to Dept. 12's Law Clerk, which referenced Ms. Allen asking the State to continue the matter to have additional witnesses come in and testify today. Further, there are additional posts defense is seeking to obtain from Facebook to make a record on, which were allegedly made by two jurors, including Juror No. 7 Yvonne Lewis. Ms. Allen further advised State had agreed to issue subpoenas on the witnesses, however, a last minute decision was made by State to bring an offer of proof in, and to not have the witnesses subpoenaed to come to Court. Ms. Allen argued two jurors defied the Court's orders not to communicate about the trial with anyone, defense will be requesting to obtain additional records from Facebook, and defense had believed Ms. Lewis was going to be

present today based on the State's response in the previous emails.

Ms. Luzaich argued this matter was continued for the investigator to come testify, and parties had agreed to continue the case to allow the investigator to attend a funeral. Thereafter, State provided colored copies of the Facebook posts to the Court; and agreed to stipulate to this evidence. Thereafter, Ms. Luzaich argued these jurors did nothing wrong; and based on the Court's admonishments from March 27, 2014, the Court told the Jury they were permitted to let other people know they were jurors in a criminal case; and based on the Facebook posts, that is all what the jurors did, further noting the jurors did not make any comments about the case in the posts. Ms. Luzaich provided a one page copy of a drafted transcript from trial proceedings, addressing the Court's admonishment to the Jury. Ms. Luzaich further argued there is nothing inappropriate on these Facebook posts. Pursuant to stipulation made by parties, COURT ORDERED, State's Exhibits ADMITTED (See Worksheets.). Ms. Allen argued there are comments from the Facebook profile page that need to be made part of the record; and further argued defense was not trying to waste any time by communicating with the State through emails on the request for State to issue subpoenas on the two jurors that defense was seeking to call as witnesses today. Ms. Allen also argued the jurors were not permitted to discuss the matter on social media and there was clear misconduct. Ms. Luzaich added the jurors did not discuss about the case, the Court never told the jury panel they were not permitted to go on Facebook, and all these two jurors were doing were telling their friends that they were jurors. Court stated it has to be more specific on these admonishments from now on. Ms. Allen requested a continuance to obtain more information from Facebook, including a Court order to obtain additional information, with regards to the picture submitted by State today, including the comment thread. State made no objections as to defense retrieving Facebook information from March 23, 2014, March 26, 2014 and March 27, 2014. COURT SO ORDERED.

Ms. Allen advised she believed the issues would have been alleviated if Ms. Lewis appeared in Court today, due to the juror being unhappy and uncomfortable about being contacted by defense regarding this case. Additionally, the defense will not be calling their investigator in to testify, however, defense will be seeking to call Ms. Lewis in to have her testify again. State objected; and argued it is not necessary to have Ms. Lewis come back to testify. COURT ORDERED, matters are CONTINUED for defense to obtain additional information from Facebook, and to verify whether or not Ms. Lewis will be needed to testify, based on the additional information defense may receive. Ms. Luzaich advised a preservation letter to Facebook may be needed to be done by defense, in addition to the Court order.

CUSTODY

2/17/15 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 17, 2015**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**February 17, 2015      8:30 AM      All Pending Motions**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Allen, Betsy, ESQ      Attorney  
                                 Harris Jr, Frederick Harold      Defendant  
                                 Luzaich, Elissa      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL

Ms. Allen requested a continuance to issue subpoenas to the two jurors themselves, for the Facebook account information. Ms. Luzaich advised she does not know if the Court has authority to have them go out to retrieve information. Arguments by counsel. COURT ORDERED, matters are CONTINUED.

CUSTODY

3/23/15 10:30 A.M. EVIDENTIARY HEARING...DEFT'S MOTION FOR A NEW TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 30, 2015**

C-13-291374-1

State of Nevada

vs

Frederick Harris Jr

**June 30, 2015****8:30 AM****All Pending Motions****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Tia Everett**RECORDER:** Kristine Santi**REPORTER:****PARTIES****PRESENT:**

Allen, Betsy, ESQ

Attorney

Harris Jr, Frederick Harold

Defendant

Luzaich, Elissa

Attorney

State of Nevada

Plaintiff

**JOURNAL ENTRIES****- EVIDENTIARY HEARING .... DEFENDANT'S MOTION FOR A NEW TRIAL**

Exhibits presented. (see worksheets). Ms. Allen argued in support of new trial stating although social media issues during trial is a new area the posts by jurors in this case on Facebook during the trial go directly against this Court's order not to discuss the case with anyone and is juror misconduct which she believes warrants a new trial. Ms. Luzaich argued in opposition stating this issue does not rise to the level of juror misconduct as there was no discussion about the case, no facts about the case disclosed, and nothing said as to what they thought about the case and requested the motion be denied. Further arguments. COURT ORDERED, Defendant's Motion for New Trial DENIED. Further discussion regarding the time frame of the post during the trial. Court stated ruling stands. Ms. Allen noted for the record Ms. Luzaich confirmed there were no additional witness fees paid. Court so noted. Ms. Luzaich requested matter be set for sentencing. COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

**CUSTODY**

PRINT DATE: 05/28/2020

Page 40 of 45

Minutes Date: July 30, 2013

9/01/2015 8:30 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 27, 2015**

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C-13-291374-1      State of Nevada  
                                 vs  
                                 Frederick Harris Jr

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**October 27, 2015      8:30 AM      Sentencing**

**HEARD BY:** Leavitt, Michelle      **COURTROOM:** RJC Courtroom 14D

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Allen, Betsy	Attorney
	Harris Jr, Frederick Harold	Defendant
	Luzaich, Elissa	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- By virtue of Jury Verdict returned in this matter, DEFT. FREDERICK HAROLD HARRIS ADJUDGED GUILTY OF COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 13 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 16 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F); COUNT 19 - FIRST DEGREE KIDNAPPING (F); COUNT 20 -

LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 22 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (F); COUNT 23 - COERCION (SEXUALLY MOTIVATED) (F); COUNT 24 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (F); COUNT 25 - FIRST DEGREE KIDNAPPING (F); COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 28 - FIRST DEGREE KIDNAPPING (F); COUNT 29 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 31 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 34 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F); COUNT 36 - SEXUAL ASSAULT (F); COUNT 37 - FIRST DEGREE KIDNAPPING (F); COUNT 38 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (F); COUNT 39 - SEXUAL ASSAULT (F); COUNT 40 - SEXUAL ASSAULT (F); COUNT 41 - SEXUAL ASSAULT (F); COUNT 42 - PANDERING (F); AND, COUNT 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE (F); COUNTS 1, 15, 17, 18, 27, 30, 32, 43, AND 45 ARE DISMISSED.

Ms. Luzaich indicated the Pre-Sentence Investigation (PSI) Report was incorrect on what the potential sentences are, as no legislature changes were reflected in this Report on Counts. Thereafter, Ms. Luzaich provided the potential sentences for the Counts; and argued imposition of sentencing. Arguments by Ms. Allen. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Deft. SENTENCED as follows:

COUNT 2 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 3 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 4 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 5 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 6 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 7 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 8 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 9 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 10 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 11 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 12 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 13 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 14 - LIFE with a MINIMUM Parole Eligibility of THIRTY FIVE (35) YEARS in the Nevada Department of Corrections (NDC); COUNT 16 - to a MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 19 - LIFE



with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 20 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 21 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 22 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 23 - to a MINIMUM of TWENTY EIGHT (28) MONTHS and a MAXIMUM of SEVENTY TWO (72) MONTHS in the Nevada Department of Corrections (NDC); COUNT 24 - to a MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); COUNT 25 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 26 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 28 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 29 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 31 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 33 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 34 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 35 - LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 36 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 37 - LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC); COUNT 38 - LIFE with a MINIMUM Parole Eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC); COUNT 39 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 40 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 41 - LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 42 - to a MINIMUM of TWENTY FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); and COUNT 44 - to a MINIMUM of EIGHTEEN (18) MONTHS and a MAXIMUM of FORTY EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNTS 2, 3, 6, 8, 9, 10, 11, 13, and 14 are to run CONCURRENT with each other; COUNT 21 to run CONSECUTIVE to COUNT 22; COUNTS 4, 5, 7, 12, and 20 are to run CONCURRENT with each other and to the other Counts; COUNT 16 to run CONCURRENT to the other Counts; COUNTS 19, 25, 28, and 37 are to run CONCURRENT with each other and to the other Counts; COUNT 23 to run CONCURRENT to the other Counts; COUNT 24 to run CONCURRENT to the other Counts; COUNTS 26, 29, 31, 33, 34, and 35 are to run CONCURRENT with each other and CONSECUTIVE to the other Counts; COUNTS 36, 39, 40, and 41 are to run CONCURRENT with each other; COUNT 38 to run CONCURRENT to the other Counts; and, COUNT 42 to run CONSECUTIVE to COUNT 44, with NINE HUNDRED SEVENTY NINE (979) DAYS CREDIT FOR TIME SERVED.

Deft's AGGREGATE TOTAL SENTENCE is LIFE with a MINIMUM sentence of SEVEN HUNDRED TWENTY (720) MONTHS.

Pursuant to statute, Deft. is to register as a sex offender in accordance with NRS 179D.460 within 48 hours upon release from custody; and, a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment.

Ms. Allen requested to file a Motion in open Court on behalf of Mr. Oram for purposes of appeal; and COURT SO ORDERED.

Deft's Motion To Place On Calendar To Request Transcripts For Direct Appeal At The State's Expense FILED IN OPEN COURT. Court GRANTED the Motion. Mr. Oram, counsel for Deft. for appellate proceedings to submit an order.

BOND, if any, EXONERATED.

NDC

CLERK'S NOTE: Minutes amended to reflect minimum aggregate sentence. /// 11/07/16 sj

CASE NO. C291374-1

S:\State's Exhibit List.doc3/15/2011

DEFT'S EXHIBITSCASE NO. C291374-1

	Date Offered	Objection	Date Admitted
A. Letter written by victim	4-3-14	no	4-3-14
B. Typed letter by victim			
C. Written Statement			
D. photo	4-2-14	no	4-2-14
E. photo	↑	↑	↑
F. photo			
G. photo			
H. photo			
I. photo			
J. photo			
K. photo			
L. photo			
M. photo			
N. photo			
O. photo			
P. photo			
Q. photo	↓	↓	↓
R. Diagram	4-10-14	no	4-10-14
S. pill bottle in bag	4-2-14	no	4-2-14
T. Letter	4-2-14	no	4-2-14
U. Student Records	4-2-14	skip	4-2-14
V. Student Records	4-3-14	skip	4-3-14
W. Student Records	4-10-14	skip	4-10-14

CASE NO. C291374-1

U:\COURT CLERK\FORMS-Court Clerk\Exhibits\Court's Exhibit

STATE'S EXHIBITS

CASE NO. C291374-1

[illegible]

DEFT'S EXHIBITS

CASE NO. C291374-1

[illegible]

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

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

STATE OF NEVADA,

Plaintiff(s),

vs.

FREDERICK HAROLD HARRIS. JR.  
aka FREDRICK HAROLD HARRIS, JR.,

Defendant(s).

Case No: C-13-291374-1

Dept No: XII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 28 day of May 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk