No. 90236

IN THE SUPREME COURT
OF THE STATE OF NEVADA

Electronically Filed
May 29 2025 04:01 PM
Elizabeth A. Brown
Clerk of Supreme Court

Ahuner Yanes,

Appellant,

v.

State of Nevada,

Respondent.

Direct Appeal from a Judgment of Conviction (Guilty Plea)
Eighth Judicial District Court
The Honorable Michelle Leavitt, District Court Judge
District Court Case No. C-23-372856-1

APPELLANT'S APPENDIX VOL. 1 OF 1

F. Virginia Eichacker, #4977
Special Public Defender
Amy Yonesawa, #12528
Chief Deputy Special Public Defender
Robert Arroyo, #11512
Chief Deputy Special Public Defender
330 S. 3rd Street, Suite 800
Las Vegas, Nevada 89155
(702) 455-6265
(702) 455-6273 (fax)
Amy.Yonesawa@ClarkCountyNV.gov
Counsel for Ahuner Yanes

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 29th day of May, 2025, a copy of the foregoing Appellant's Appendix was served as follows:

BY ELECTRONIC FILING TO

Clark County District Attorney's Office
motions@clarkcountydanv.gov

Nevada Attorney General
aginfo@ag.nv.gov

BY MAIL TO

Ahuner Yanes, #1293867
High Desert State Prison
PO Box 650
Indian Springs, NV 89070

/s/ J. McCall

An employee of the Clark County
Special Public Defender's Office

Electronically Filed
04/04/2023
CLERK OF THE COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant	District Court Case No.: C-23-372856-1 Dept.: XV Justice Court Case No.: 23-CR-004950

CERTIFICATE

I hereby certify the foregoing to be a full, true and correct copy of the proceedings as the same appear in the above case.

Dated this 4th day of April, 2023

Diana L. Sullivan

Justice of the Peace, Las Vegas Township

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff, vs. AHUNER YANES Defendant	District Court Case No.: C-23-372856-1 Justice Court Case No.: 23-CR-004950

BINDOVER and ORDER TO APPEAR

An Order having been made this day by me that **AHUNER YANES** be held to answer before the Eighth Judicial District Court, upon the charge(s) of **Lewdness with child under age 14, first offense [50975]; Lewdness with child under age 14, first offense [50975]; Lewdness with child under age 14, first offense [50975]; Lewdness with child under age 14, first offense [50975]; Kidnapping, first degree [50051]; Sexual assault against child under 14 [50105]; Sexual assault against child under 14 [50105]; Prevent/dissuade pers from testifying [52983]** committed in said Township and County, on February 25, 2022.

IT IS FURTHER ORDERED that said defendant is commanded to appear in the Eighth Judicial District Court, Regional Justice Center, Department 15 - Courtroom 11D In Custody, Las Vegas, Nevada on April 06, 2023 at 8:30 AM for arraignment and further proceedings on the within charge(s).

IT IS FURTHER ORDERED that the Sheriff of the County of Clark is hereby commanded to receive the above named defendant(s) into custody, and detain said defendant(s) until he/she can be legally discharged, and be committed to the custody of the Sheriff of said County, until bail is given in the sum of $100,000 and High Level Electronic Monitoring.

Dated this 4th day of April, 2023

Diana L. Sullivan

Justice of the Peace, Las Vegas Township

23-CR-004950
ACRM
Amended Criminal Complaint
15736565

ORIGINAL

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

MAR 02 2023

BY

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES #7124357,

Defendant.

JC CASE NO. 23CR004950

DA CASE NO: 202304335C

AMENDED CRIMINAL COMPLAINT

The Defendant above named having committed the crime of **LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051), and PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE (Gross Misdemeanor - NRS 199.230 - NOC 52983),** in the manner following, to wit: That the said Defendant, on or between February 25, 2022 and January 1, 2023, at and within the County of Clark, State of Nevada

COUNT 1 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by placing and/or rubbing his penis on F.P.'s body with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by allowing F.P. to

place her hand on Defendant's penis with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by touching F.P.'s breasts with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

Defendant did on or about between July 1, 2022, and September 1, 2022, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

COUNT 5 - FIRST DEGREE KIDNAPPING

did on or about between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away F.P., a human being, with the intent to hold or detain F.P. against her will, and without her consent, for the purpose of committing sexual assault upon F.P.

COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or about between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

COUNT 7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or about between December 1, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

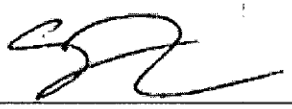
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COUNT 8 - PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

did on or about between January 10, 2023, and January 28, 2023, then and there willfully, and unlawfully, with the intent thereby to obstruct the course of justice, prevent, or attempt to prevent F.P. from appearing before any Court, or person authorized to subpoena witnesses, as a witness in any action, investigation or other official proceeding, or did cause or induce F.P. to absent herself from such a proceeding or evade the process which requires her to appear as a witness to testify or produce a record, document or other object, by telling F.P. to report that it was a person other than Defendant who impregnated her.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.



03/02/2023

23CR004950/SK/mlb/SVU
LVMPD EV# 230100112447
(TK12)

FILED
Jan 30 2023 2:30PM
Justice Court
Las Vegas, Nevada

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES #7124357,

Defendant.

JC CASE NO: 23-CR-004950
JC DEPT NO: 12
DA CASE NO: 202304335C

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), in the manner following, to wit: That the said Defendant, on or between February 25, 2022 and January 1, 2023, at and within the County of Clark, State of Nevada, did willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse, by inserting his penis into the genital opening of the said F.P.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

/s/Aaron M. Nance
01/30/23

/mr
LVMPD EV# 230100112447
(TK12) - CRD: 01-31-2023

Justice Court, Las Vegas Township
Clark County, Nevada

Department: PC

Court Minutes

L015634420

23-PC-004950 **State of Nevada vs. YANES, AHUNER**

1/29/2023 1:30:00 PM Initial Appearance Justice Court (PC Review) Result: Matter Heard

PARTIES PRESENT:	State Of Nevada	Jobe, Michelle
	Defendant	YANES, AHUNER
Judge:	Ferreira, Amy	
Court Reporter:	Ott, Shawn	
Court Clerk:	Rhone, Taylor	

PROCEEDINGS

Hearings: 1/31/2023 7:30:00 AM: Status Check on Filing of Criminal Complaint — Added

Events:

Probable Cause Found

72-Hour Hearing Completed

Counsel Provisionally Appointed

J. Bayudan, Esq. provisionally appointed for limited purposes of first appearance hearing.

Individualized Custody Status Hearing Held

The Court conducted an individualized determination regarding the defendant's custody status. Both the State and the Defendant's provisionally appointed counsel had the opportunity to present evidence and argument regarding the Defendant's custody status. The Court has also considered factors set forth in NRS 178.4853 and NRS 178.498 and has considered the Defendant's financial resources when a financial affidavit was available and/or when the defendant was present in court.

Monetary Bail Set

The State has provided clear and convincing evidence that no less restrictive alternative to monetary bail will satisfy its interests in ensuring the defendant's presence and community safety.

Bail Reset - Cash or Surety

Counts: 001 - $100,000.00/$100,000.00 Total Bail

Release Order - Bail AND Electronic Monitoring - High Level

Bail Condition

No contact with any minors under 18.

No Contact Order

Filed and provided to defendant in open court. Order expires on 4/24/23.

Bail Condition - Stay Out of Trouble

Continued for Status Check on filing of Criminal Complaint

Interpreter Present in Court

Spanish.

Justice Court, Las Vegas Township
Clark County, Nevada

Department: 12

Court Minutes

L015641744

23-CR-004950 **State of Nevada vs. YANES, AHUNER** Lead Atty: Public Defender

1/31/2023 7:30:00 AM Initial Appearance (In Custody) Result: Matter Heard

PARTIES PRESENT:	State Of Nevada	Rorhus, Suzanne
	Attorney	Medina, Layla A.
	Defendant	YANES, AHUNER

Judge: Sullivan, Diana L.
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

Attorneys: **Medina, Layla A.** YANES, AHUNER Added
Public Defender YANES, AHUNER Added

Hearings: 3/2/2023 1:15:00 PM: Preliminary Hearing Added

Events:

Interpreter Present in Court

Spanish

Initial Appearance Completed

Defendant Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint

Defendant Not Identified as a Veteran

After Court inquiry, the defendant represented that they are not a Veteran and not a member of the Military.

Defendant Identified as Indigent

Defendant and the Court discussed the appointment of counsel and defendant requested appointment of counsel.

Public Defender Appointed

Defense waives the 15 day rule

Bail Stands - Cash or Surety *Amount: $100,000.00*

Counts: 001 - $100,000.00/$100,000.00 Total Bail

Release Order - Bail AND Electronic Monitoring - High Level

No Contact with Victim

Order continues and expires on 4/24/23.

Bail Condition

No contact with any minors under 18

Bail Condition - Stay Out of Trouble

Justice Court, Las Vegas Township
Clark County, Nevada

Department: 12

Court Minutes

L015737195

23-CR-004950 **State of Nevada vs. YANES, AHUNER** Lead Atty: Public Defender

3/2/2023 9:00:00 AM Preliminary Hearing (In custody) Result: Matter Continued

PARTIES PRESENT:	State Of Nevada	Kern, Samuel R
	Attorney	Speed, Kevin C.
	Defendant	YANES, AHUNER

Judge: Sullivan, Diana L.
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

Attorneys: **Speed, Kevin C.** YANES, AHUNER — Added

Hearings: 4/4/2023 1:15:00 PM: Preliminary Hearing — Added

Events:

Interpreter Present in Court

Spanish

Oral Motion

State's motion to amend criminal complaint.
Granted with no objection by Defense.

Amended Criminal Complaint

Filed in Open Court

Motion to Continue - Defense

Grranted with no objection by the State and the Defendant

Preliminary Hearing Date Reset

Bail Stands - Cash or Surety *Amount: $100,000.00*

Counts: 006 - $100,000.00/$100,000.00 Total Bail

Release Order - Bail AND Electronic Monitoring - High Level

Not in custody

Counts: 001; 002; 003; 004; 005; 007; 008

No Contact with Victim

Order continues and expires on 4/24/23.

Bail Condition

No contacct with any minors under 18

Justice Court, Las Vegas Township
Clark County, Nevada

Charges:	**Amended: 006: Sexual assault against child under 14**	Amended Complaint Filed
	001: Lewdness with child under age 14, first offense	
	002: Lewdness with child under age 14, first offense	
	003: Lewdness with child under age 14, first offense	
	004: Lewdness with child under age 14, first offense	
	005: Kidnapping, first degree	
	007: Sexual assault against child under 14	
	008: Prevent, dissuade, or attempt to prevent or dissuade person from testifying or producing evidence	

Justice Court, Las Vegas Township
Clark County, Nevada

Department: 12

Court Minutes



23-CR-004950 **State of Nevada vs. YANES, AHUNER** Lead Atty: Public Defender

4/4/2023 9:00:00 AM Preliminary Hearing (In custody) Result: Bound Over

PARTIES PRESENT:	State Of Nevada	Kern, Samuel R
	Attorney	Speed, Kevin C.
	Defendant	YANES, AHUNER

Judge: Sullivan, Diana L.

Court Clerk: Westbay, Stephanie

PROCEEDINGS

Events:

Interpreter Present in Court

Spanish

Unconditional Bind Over to District Court Review Date: 4/5/2023

Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in District Court for Arraignment.

District Court Appearance Date Set (T12)

Apr 6 2023 8:30AM: Department 15 - Courtroom 11D In Custody

Bail Stands - Cash or Surety *Amount: $100,000.00*

Counts: 006 - $100,000.00/$100,000.00 Total Bail

Not in custody

Counts: 001; 002; 003; 004; 005; 007; 008

Release Order - Bail AND Electronic Monitoring - High Level

No Contact with Victim

Order continues and expires on 4/24/23.

Bail Condition

No contact with any minors under 18

Case Closed - Bound Over

Plea/Disp:

001: Lewdness with child under age 14, first offense [50975]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

002: Lewdness with child under age 14, first offense [50975]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

003: Lewdness with child under age 14, first offense [50975]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

004: Lewdness with child under age 14, first offense [50975]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

Justice Court, Las Vegas Township
Clark County, Nevada

005: Kidnapping, first degree [50051]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

006: Sexual assault against child under 14 [50105]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

007: Sexual assault against child under 14 [50105]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

008: Prevent/dissuade pers from testifying [52983]
Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

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FILED
Jan 30 2023 2:30PM
Justice Court
Las Vegas, Nevada

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES #7124357,

Defendant.

JC CASE NO: 23-CR-004950
JC DEPT NO: 12
DA CASE NO: 202304335C

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), in the manner following, to wit: That the said Defendant, on or between February 25, 2022 and January 1, 2023, at and within the County of Clark, State of Nevada, did willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse, by inserting his penis into the genital opening of the said F.P.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

/s/Aaron M. Nance
01/30/23

/mr
LVMPD EV# 230100112447
(TK12) - CRD: 01-31-2023

TRIBUNAL DE JUSTICIA, MUNICIPIO DE LAS VEGAS
CONDADO CLARK, NEVADA

ESTADO DE NEVADA, **Denunciante,** **vs.** **AHUNER YANES,** **Acusado.** **ID# 7124357**	**CASO NO.: 23-PC-004950** **DEPTO. NO.: PreComplaint** **ORDEN DE "NO CONTACTO"**

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT
JAN 29 2023
BY: TJR

Como condición de su libertad en espera de juicio, se le ordena al Acusado antes mencionado lo siguiente:

1. Se le ORDENA no tener contacto con la(s) siguiente(s) persona(s):
   F.P-P. (minor)

Se le prohíbe ponerse en contacto o intentar ponerse en contacto con la(s) persona(s) antes mencionadas ya sea directamente, a través de otra persona, o a través de cualquier medio electrónico o redes sociales.

2. **SE LE ORDENA ADEMÁS:**

_____

_____

3. Excepciones: _____

Se notifica al Demandado que una infracción de esta Orden puede dar lugar a:

- Que se le acuse de un delito menor;
- La modificación o adición de cualquier condición de libertad;
- La revocación de su libertad bajo fianza y su reingreso en detención; o
- La imposición de cualquier otra sanción prevista por ley.

Esta Orden permanecerá vigente hasta 04/24/2023 (no más de 120 días hábiles), salvo rescisión o renovación por el Juez.

FECHADO ESTE 29th day of January, 2023

JUEZ DE PAZ/OFICIAL JUDICIAL

23 – PC – 004950
NOCO
No Contact Order
15634393

000015

Electronically Filed
4/4/2023 4:13 PM
Steven D. Grierson
CLERK OF THE COURT

INFM

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 4/6/2023
8:30 AM
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO: C-23-372856-1

DEPT NO: XV

I N F O R M A T I O N

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366 - NOC 50095)**, on or between February 6, 2022, and January 10, 2023, within the County of Clark, State of Nevada, contrary to the form, force, and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

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COUNT 1 - SEXUAL ASSAULT

did on or between July 1, 2022, and September 1, 2022, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 2 - SEXUAL ASSAULT

did on or between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: by inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 3 - SEXUAL ASSAULT

did on or between December 1, 2022, and January 10, 2023, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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

BY */s/Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

23CR004950/kf/SVU
LVMPD EV#230100112447
(TK12)

Electronically Filed
4/30/2025 4:07 PM
Steven D. Grierson
CLERK OF THE COURT

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, #7124357 Defendant.	CASE NO.: C-23-372856-1 DEPT. NO.: XV

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

THURSDAY, APRIL 06, 2023

RECORDER'S TRANSCRIPT RE:
ARRAIGNMENT

APPEARANCES:

For the State: BRITTNI GRIFFITH, ESQ.

For the Defendant: KEVIN C. SPEED, ESQ.

ALSO PRESENT: RICARDO PICO
Court Certified Spanish Interpreter

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, APRIL 06, 2023, 9:29 A.M.

* * * * *

THE COURT CLERK: Calling case number C372856, State of Nevada versus Ahuner Yanes.

THE MARSHAL: It's an interpreter case, Your Honor.

THE COURT: Okay. What page was that?

THE COURT CLERK: Twenty-two

THE COURT: Okay, thanks. Go ahead and state your appearances.

MR. SPEED: Kevin Speed, for Mr. Yanes, Your Honor, and my Bar Number is 8895.

MS. GRIFFITH: Good morning, Your Honor. Brittni Griffith, on behalf of the State.

THE COURT: Good morning. And Mr. Interpreter.

THE SPANISH INTERPRETER: Ricardo Pico, Spanish Interpreter.

THE COURT: Thank you. How do you say your last name?

MR. YANES: Yanes.

THE COURT: Yanes. Mr. Yanes, with the assistance of the Interpreter, can you hear and understand us?

MR. YANES: Yes.

THE COURT: Okay. Not guilty plea, guilty plea?

MR. SPEED: This was the time set for entry of guilty plea, Your Honor. But while we're - - while the Court was discussing problems with language barriers, Mr. Yanes, has requested that we take an additional week to prepare him for his for his guilty plea arraignment. I did submit a copy to my client in Spanish, but he is asking for a little bit more help in understanding some of

the finer points. - -

THE COURT: - - Okay.- -

MR. SPEED: - - So, we are asking the Court to continue it for another week.

THE COURT: Thank you. Any objections?

MS. GRIFFITH: No, Your Honor.

THE COURT: So, next week.

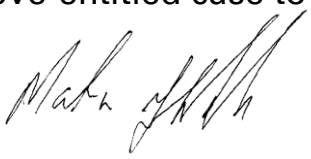
THE COURT CLERK: April 13, at 8:30 a.m.

THE COURT: Thank you, sir.

MR. YANES: Thank you.

[Proceedings concluded, 9:30 a.m.]

* * * * *ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



MATTHEW YARBROUGH
Court Recorder/Transcriber

Electronically Filed
4/30/2025 4:07 PM
Steven D. Grierson
CLERK OF THE COURT

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, #7124357 Defendant.	CASE NO.: C-23-372856-1 DEPT. NO.: XV

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

THURSDAY, APRIL 13, 2023

RECORDER'S TRANSCRIPT RE:
CONTINUED ARRAIGNMENT

APPEARANCES:

For the State:	MARICELA LEON, ESQ.
For the Defendant:	KEVIN C. SPEED, ESQ.
ALSO PRESENT:	LORENA RESNICK Court Certified Spanish Interpreter

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, APRIL 13, 2023, 9:42 A.M.

* * * * *

THE COURT CLERK: Calling case number C372856, State of Nevada versus Ahuner Yanes.

MS. LEON: Maricela Leon, for the State.

THE COURT: Good morning.

MR. SPEED: Good morning, Your Honor. Kevin Speed for Mr. Yanes who is present and in custody. This is the time set for entry of guilty plea. Mr. Yanes is signing the English version of his Guilty Plea Agreement as we speak.

THE COURT: Okay.

MR. SPEED: We do have a Spanish version that I will include as an additional Exhibit.

THE COURT: Okay. And go ahead and state your appearance, Ms. Interpreter.

THE INTERPRETER: Lorena Resnick.

THE COURT: And Mr. Yanes, with the assistance of the Interpreter, can you hear and understand us?

MR. YANES: Yes.

THE COURT: Okay.

MR. SPEED: Your Honor, this morning Mr. Yanes is - - I am sorry. - -

THE COURT: - - That's okay.

MR. SPEED: This morning, Mr. Yanes is pleading guilty to three counts of Sexual Assault. The State will retain the full right to argue on all counts, including for consecutive sentences. All remaining counts contained in the Criminal Complaint, which were bound over to the District Court, shall be

dismissed when he is adjudged guilty and sentenced.

MS. LEON: That's correct, Your Honor.

THE COURT: And, Mr. Yanes, is that also your understanding of the negotiations?

MR. YANES: Yes.

THE COURT: Do you waive formal reading of the charges?

MR. YANES: Yes.

THE COURT: What's your full name?

MR. YANES: Ahuner Yanes.

THE COURT: Thank you. Say that again, I'm sorry.

MR. YANES: Ahuner Yanes Sanchez.

THE COURT: Thank you. So, you know, if that's not your true name, you must declare your true name to me, or all proceedings in this case will be under the name set forth in the Information, which is simply Ahuner Yanes. Do you understand that?

MR. YANES: Yes.

THE COURT: Do you waive formal reading of the charges?

MR. YANES: Yes.

THE COURT: How old are you?

MR. YANES: Thirty-six.

THE COURT: How far did you go in school?

MR. YANES: In my Country, seven.

THE COURT: Are you able to understand what's happening this morning?

MR. YANES: Yes, I understand.

THE COURT: Do you have any sort of learning disability?

MR. YANES: No.

THE COURT: What is your primary language?

MR. YANES: Spanish.

THE COURT: Do you read, write, and understand the Spanish language?

MR. YANES: Yes.

THE COURT: With the assistance of the Interpreter, do you understand the proceedings here today?

MR. YANES: Yes.

THE COURT: Was the Information read to you in the Spanish language?

MR. YANES: Yes.

THE COURT: Have you been treated recently for any mental illness or addiction of any kind?

MR. YANES: No.

THE COURT: Has anyone ever suggested that you should be treated for a mental health or emotional condition?

MR. YANES: No.

THE COURT: Are you currently under the influence of any drug, medication, or alcoholic beverage?

MR. YANES: No.

THE COURT: Have you been on any medications during your time in custody?

MR. YANES: Just for high blood pressure.

THE COURT: Did you take any mental health medications prior to being in custody?

MR. YANES: No.

THE COURT: Do you understand what's happening this morning?

MR. YANES: Yes.

THE COURT: Do you feel comfortable going forward with the Guilty Plea Agreement this morning?

MR. YANES: Yes.

THE COURT: Thank you, and turning back to you, Mr. Speed. Have you observed any cognitive difficulties with Mr. Yanes?

MR. SPEED: I have not, Your Honor.

THE COURT: Thank you. If you could come up with a copy for me and, I will go over that.

MR. SPEED: May I approach?

THE COURT: Yeah, thank you. Going back to you, sir. Have you received a copy of the Information wherein you've been charged with three separate counts of Sexual Assault, Category A Felony?

MR. YANES: Yes.

THE COURT: Was the Information read to you in the Spanish language?

MR. YANES: Yes.

THE COURT: Do you understand the charges contained in the Information?

MR. YANES: Yes.

THE COURT: Have you discussed this case with your attorney?

MR. YANES: Yes.

THE COURT: Are you satisfied with the representation and advice given to you by your attorney?

MR. YANES: Yes.

THE COURT: As to the charges set forth in the Information, three counts of Sexual Assault, Category A Felonies, how do you plead?

MR. YANES: Guilty.

THE COURT: Are you making these pleas both freely and voluntarily?

MR. YANES: Yes.

THE COURT: Has your attorney or anyone else put any pressure on you or forced or threatened you or anyone close to you in order to get you to enter this plea?

MR. YANES: No.

THE COURT: Has your attorney or anyone made you any promises, other than what's in the Guilty Plea Agreement, in order to get you to enter this plea?

MR. YANES: No.

THE COURT: Did you understand that question?

MR. YANES: Yes.

THE COURT: And your answer is no. Is that correct?

MR. YANES: Yes.

THE COURT: Okay. I have before me a written Guilty Plea Agreement. Did you sign the Guilty Plea Agreement?

MR. YANES: Yes.

THE COURT: Before you signed it, was it read to you in the Spanish language?

MR. YANES: Yes.

THE COURT: Before you signed it, did you discuss it with your attorney

in Spanish?

MR. YANES: Yes.

THE COURT: Do you understand everything contained in the Guilty Plea Agreement?

MR. YANES: Yes.

THE COURT: Do you understand the Constitutional rights you are giving up by entering a plea of guilty?

MR. YANES: Yes.

THE COURT: Do you understand the appellate rights you are giving up by entering a plea of guilty?

MR. YANES: Yes.

THE COURT: Do you understand that if you are not a United States citizen that, entering a plea of guilty may have immigration consequences, including deportation?

MR. YANES: Yes, I understand.

THE COURT: Do you understand that the ranges of punishment are as follows: as a consequence of your pleas of guilty, the Court must sentence you to a term of life with the possibility of parole with parole eligibility beginning at ten years for each separate Count. The minimum term of imprisonment may not exceed forty percent of the maximum term. The law does require you to pay an Administrative Assessment Fee and other fees.

Also, if appropriate, you'll be ordered to make restitution to the victims and reimburse the State of Nevada for extradition expenses, if any. You are not eligible for parole on any of the offenses for which you are pleading guilty. Additionally, before you are eligible for parole, a panel with the Nevada

Department of Corrections in other individuals, including psychologists or psychiatrists licensed to practice in the state. Must certify that you do not represent a high risk to reoffend.

Also, pursuant to Statute, a special sentence of lifetime supervision commencing any period of probation or term of imprisonment and a period of release upon parole will be assessed. Also, in addition to any other penalties provided by law, you must register as a sex offender within forty-eight hours of release from custody onto probation or parole.

Finally, you must submit to DNA testing. Do you understand all of that?

MR. YANES: Yes.

THE COURT: Do you understand that sentencing is up to the sentencing judge, including whether the counts will run consecutive or concurrent?

MR. YANES: Yes.

THE COURT: Do you understand you are not guaranteed to have me as your sentencing judge; it can be any constitutionally seated district court judge and a senior judge assigned by the Supreme Court?

MR. YANES: Yes.

THE COURT: Do you understand that no one is in a position to promise you probation, leniency, or special treatment?

MR. YANES: Yes.

THE COURT: In the Information, it says that you, Ahuner Yanes, on or between February 6, 2022, and January 10, 2023, within the County of Clark, State of Nevada, against the law and the peace and dignity of the State of Nevada. You did as follows: Count 1 – on or between July 1, 2022, and September 1, 2022, you did willfully, unlawfully, and feloniously sexually

assault and subject F.P., a female person, to sexual penetration, by inserting your penis into the genital opening of F.P., against her will, or under conditions in which you knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of your conduct.

Count 2 - on or between February 6, 2022, and January 10, 2023, you did willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, by inserting your penis into the genital opening of F.P., against her will, or under conditions in which you knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of your conduct.

Count 3 - on or between December 1, 2022, and January 10, 2023, you did willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, by inserting your penis into the genital opening of F.P., against her will, or under conditions in which you knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of your conduct.

Is that indeed what happened and what you did?

MR. YANES: Yes.

THE COURT: And is that why you're pleading guilty this morning?

MR. YANES: Yes.

THE COURT: Do you have any questions you would like to ask me or your attorney before I accept this plea?

MR. YANES: No.

THE COURT: Thank you. State satisfied with the canvass?

MS. LEON: Yes, Your Honor.

THE COURT: Thank you. So, the Court finds that the defendant Yanes's pleas of guilty are freely and voluntarily made and that defendant Yanes understands the nature of the offenses and the consequences of his plea, and therefore the Court accepts his pleas of guilty.

The matter referred to the Department of Parole and Probation for a pre-sentencing investigation report and set in custody sentencing date.

THE COURT CLERK: May 25th, at 8:30 a.m.

THE COURT: And Mr. Speed, I will give you the GPA back to file electronically.

MR. SPEED: Thank you, sir.

THE COURT: Thank you.

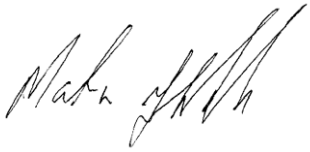
MR. SPEED: Can we file in the chambers hallway?

THE MARSHAL: No.

MR. SPEED: There was a place back there during the pandemic.

[Proceedings concluded, 9:54 a.m.]

* * * * *ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



_____

MATTHEW YARBROUGH
Court Recorder/Transcriber

Electronically Filed
4/13/2023 10:12 AM
Steven D. Grierson
CLERK OF THE COURT

GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
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Nevada Bar #010638
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO: C-23-372856-1

DEPT NO: XV

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **COUNTS 1 through 3 - SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366 - NOC 50095),** as more fully alleged in the charging document attached hereto as Exhibit "1".

My decision to plead guilty is based upon the plea agreement in this case which is as follows:

The State will retain the full right to argue on all counts, including for consecutive sentences. All remaining counts contained in the Criminal Complaint which were bound over to District Court shall be dismissed when I am adjudged guilty and sentenced.

I agree to the forfeiture of any and all electronic storage devices, computers, and/or related equipment and/or weapons or any interest in any electronic storage devices, computers and/or related equipment and/or weapons seized and/or impounded in connection with the instant case and/or any other case negotiated in whole or in part in conjunction with this plea agreement.

I understand and agree that, if I fail to interview with the Department of Parole and Probation (P&P), fail to appear at any subsequent hearings in this case, or an independent magistrate, by affidavit review, confirms probable cause against me for new criminal charges including reckless driving or DUI, but excluding minor traffic violations, the State will have the unqualified right to argue for any legal sentence and term of confinement allowable for the crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the possibility of parole after ten (10) years.

Otherwise, I am entitled to receive the benefits of these negotiations as stated in this plea agreement.

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty I admit the facts which support all the elements of the offense(s) to which I now plead as set forth in Exhibit "1".

I understand that as a consequence of my plea of guilty, the Court must sentence me to a term of LIFE with the possibility of parole with parole eligibility beginning at ten (10) years for each Count. The minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I understand that the law requires me to pay an Administrative Assessment Fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offense(s) to which I am pleading guilty and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for any expenses related to my extradition, if any.

I understand that I am not eligible for probation for the offense to which I am pleading guilty.

I understand that, before I am eligible for parole a panel consisting of the Administrator of the Mental Health and Developmental Services of the Department of Human Resources or his designee; the Director of the Department of Corrections or his designee; and a psychologist

licensed to practice in this state or a psychiatrist licensed to practice medicine in this state certifies that I was under observation while confined in an institution of the department of corrections and that I do not represent a high risk to reoffend based upon a currently accepted standard of assessment.

I understand that pursuant to NRS 176.0931, the Court must include as part of my sentence, in addition to any other penalties provided by law, a special sentence of lifetime supervision commencing after any period of probation or any term of imprisonment and period of release upon parole.

I understand that the Court will include as part of my sentence, in addition to any other penalties provided by law, pursuant to NRS 179D.441 to 179D.550, inclusive, I must register as a sex offender within forty-eight (48) hours of release from custody onto probation or parole.

I understand that I must submit to blood and/or saliva tests under the direction of P&P to determine genetic markers and/or secretor status.

I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively.

I understand that information regarding charges not filed, dismissed charges, or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

I have not been promised or guaranteed any particular sentence by anyone. I know that my sentence is to be determined by the Court within the limits prescribed by statute.

I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not obligated to accept the recommendation.

I understand that if the State of Nevada has agreed to recommend or stipulate a particular sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose a particular sentence, such agreement is contingent upon my appearance in court on the initial sentencing date (and any subsequent dates if the sentencing is continued). I understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to sentencing the State of Nevada would regain the full right to argue for any

lawful sentence.

I understand if the offense(s) to which I am pleading guilty to was committed while I was incarcerated on another charge or while I was on probation or parole that I am not eligible for credit for time served toward the instant offense(s).

I understand that if I am not a United States citizen, any criminal conviction will likely result in serious negative immigration consequences including but not limited to:

1. The removal from the United States through deportation;
2. An inability to reenter the United States;
3. The inability to gain United States citizenship or legal residency;
4. An inability to renew and/or retain any legal residency status; and/or
5. An indeterminate term of confinement, with the United States Federal Government based on my conviction and immigration status.

Regardless of what I have been told by any attorney, no one can promise me that this conviction will not result in negative immigration consequences and/or impact my ability to become a United States citizen and/or a legal resident.

I understand that P&P will prepare a report for the sentencing judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. This report may contain hearsay information regarding my background and criminal history. My attorney and I will each have the opportunity to comment on the information contained in the report at the time of sentencing. Unless the District Attorney has specifically agreed otherwise, then the District Attorney may also comment on this report.

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond

a reasonable doubt each element of the offense(s) charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

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My attorney has answered all my questions regarding this guilty plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

DATED this 13th day of April, 2023.

AHUNER YANES
Defendant

AGREED TO BY:

/s/Samuel Kern

SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

CERTIFICATE OF COUNSEL:

I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the Defendant the allegations contained in the charge(s) to which guilty pleas are being entered.

2. I have advised the Defendant of the penalties for each charge and the restitution that the Defendant may be ordered to pay.

3. I have inquired of Defendant facts concerning Defendant's immigration status and explained to Defendant that if Defendant is not a United States citizen any criminal conviction will most likely result in serious negative immigration consequences including but not limited to:

   a. The removal from the United States through deportation;

   b. An inability to reenter the United States;

   c. The inability to gain United States citizenship or legal residency;

   d. An inability to renew and/or retain any legal residency status; and/or

   e. An indeterminate term of confinement, by with United States Federal Government based on the conviction and immigration status.

   Moreover, I have explained that regardless of what Defendant may have been told by any attorney, no one can promise Defendant that this conviction will not result in negative immigration consequences and/or impact Defendant's ability to become a United States citizen and/or legal resident.

4. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent with the facts known to me and are made with my advice to the Defendant.

5. To the best of my knowledge and belief, the Defendant:

   a. Is competent and understands the charges and the consequences of pleading guilty as provided in this agreement,

   b. Executed this agreement and will enter all guilty pleas pursuant hereto voluntarily, and

   c. Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time I consulted with the Defendant as certified in paragraphs 1 and 2 above.

Dated: This 18 day of April, 2023

DEPUTY PUBLIC DEFENDER

kf/SVU

Electronically Filed
4/4/2023 4:13 PM
Steven D. Grierson
CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
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Chief Deputy District Attorney
Nevada Bar #010638
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 4/6/2023
8:30 AM
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO: C-23-372856-1

DEPT NO: XV

INFORMATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366 - NOC 50095)**, on or between February 6, 2022, and January 10, 2023, within the County of Clark, State of Nevada, contrary to the form, force, and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

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Exhibit "1"

\\CLARKCOUNTYDA.NET\CRMCASE2\2023\043\35\202304335C-INFM-(AHUNER YANES)-001.DOCX

COUNT 1 - SEXUAL ASSAULT

did on or between July 1, 2022, and September 1, 2022, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 2 - SEXUAL ASSAULT

did on or between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: by inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 3 - SEXUAL ASSAULT

did on or between December 1, 2022, and January 10, 2023, willfully, unlawfully, and feloniously sexually assault and subject F.P., a female person, to sexual penetration, to wit: inserting his penis into the genital opening of the said F.P., against her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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

BY */s/Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

23CR004950/kf/SVU
LVMPD EV#230100112447
(TK12)

GPA
STEVEN B. WOLFSON
DISTRICT ATTORNEY
NEVADA STATE BAR N0.001565
SAMUEL KERN
Deputy District Attorney
Nevada Bar No. 010638
200 Lewis Avenue
Las Vegas, Nevada 89155.2212
702 671 2500
Abogado de la parte demandante

TRIBUNAL DE DISTRITO
CONDADO DE CLARK, NEVADA

ESTADO DE NEVADA

Demandante,

-vs-

AHUNER YANES,
#7124357

Inculpado.

NÚMERO DE CAUSA: **C-23-372856-1**

DEPT.: **XV**

ACUERDO DECLARATORIO DE CULPABILIDAD

Por la presente estoy de acuerdo en declararme culpable de: **CARGOS 1 a 3 - AGRESIÓN SEXUAL (Delito grave tipificado letra A - NRS 200.364, 200.366 - NOC 50095),** como se alega más plenamente en el documento acusatorio adjunto y señalado como Anexo "1".

Mi decisión de declararme culpable se basa en el acuerdo de declaración de culpabilidad en este proceso, que es el siguiente:

El Estado conservará el pleno derecho a argumentar sobre todos los cargos, incluso por sentencias consecutivas. Todos los cargos restantes contenidos en la Demanda Penal consignados al Tribunal de Distrito serán desestimados cuando se me declare culpable y se me condene.

Acepto la confiscación de todos y cada uno de los dispositivos de almacenamiento electrónico, computadoras y/o equipo relacionado y/o armas o cualquier interés e injerencia a todo dispositivo de almacenamiento electrónico, computadora y/o equipo relacionado y/o armas incautadas y/o decomisadas en relación con el presente proceso

EXHIBIT A

y/o cualquier otra causa negociada en su totalidad o en parte en relación con este acuerdo de declaración de culpabilidad.

Entiendo y acepto que, si no me entrevisto con el Departamento de Libertad Condicional y Libertad Preparatoria, o no me presento a las audiencias posteriores en este caso, frente a un magistrado independiente, mediante la revisión de la declaración jurada, confirma la causa probable en mi contra por nuevos cargos penales, incluidos los de manejar de manera imprudencial o conducir bajo la influencia del alcohol o drogas DUI, pero excluyendo infracciones de tránsito menores, El Estado tendrá el derecho incondicional de argumentar a favor de cualquier sentencia legal y período de reclusión permisible para el delito (s) de los que me declaro culpable, incluido el uso de cualquier condena previa que pueda tener para aumentar mi condena como criminal reincidente de cinco (5) a veinte (20) años, a cadena perpetua sin posibilidad de libertad condicional, cadena perpetua con posibilidad de libertad condicional después de diez (10) años, o un término definido de veinticinco (25) años con posibilidad de libertad condicional después de diez (10) años.

De lo contrario, tengo derecho a recibir los beneficios de estas negociaciones como se establece en este acuerdo de culpabilidad.

CONSECUENCIAS DE LA DECLARACIÓN

Entiendo que al declararme culpable convengo a los hechos que amparan todos los elementos de los delitos a los que ahora me declaro como se expone y menciona en el Anexo señalado como elemento de prueba "1".

Entiendo que como consecuencia de mi declaración de culpabilidad, el Tribunal debe sentenciarme a un término de CADENA PERPETUA con la posibilidad de libertad condicional a partir de los diez (10) años por cada uno de los cargos. La pena mínima de prisión no podrá exceder del cuarenta por ciento (40%) de la pena máxima de prisión. Entiendo que la ley me obliga a pagar una tasa de evaluación administrativa.

Entiendo que, si corresponde, se me ordenará resarcir a la víctima de los delitos de los que me declaro culpable y a la víctima de cualquier otro delito relacionado que se desestime o no se procese conforme a este acuerdo. También se me ordenará reembolsar al Estado de Nevada por cualquier gasto relacionado con mi extradición, si

corresponde. Entiendo que la ley me obliga a pagar una tasa de evaluación administrativa.

Entiendo que no soy candidato para recibir la libertad condicional por el delito al que hoy me declaro culpable.

Entiendo que antes de ser elegible para la libertad condicional, un panel compuesto por el Administrador de Servicios de Desarrollo y Psiquiatría del Departamento de Recursos Humanos o su designado; el Director del Departamento Correccional o su designado; y un psicólogo con licencia para ejercer en este Estado o un psiquiatra con licencia para ejercer la medicina en este Estado certifica que estuve bajo observación mientras confinado en un Centro de Adaptación Social y que no represento alto riesgo de reincidir en base a un estado actual estándar de evaluación conocido.

Entiendo que de conformidad con NRS 176.0931, el Tribunal debe incluir como parte de mi sentencia, además de cualquier otra sanción prevista de ley, una sentencia especial de supervisión de por vida que comience después de cualquier período de libertad condicional o cualquier período de prisión y período de liberación a la libertad condicional.

Entiendo que el Tribunal incluirá como parte de mi sentencia, además de cualquier otra sanción prevista de ley, de conformidad con NRS 179D.441 a 179D.550, inclusive, debo registrarme como delincuente de carácter sexual dentro de cuarenta y ocho (48) horas de liberación de la custodia a libertad condicional o libertad preparatoria.

Entiendo que debo someterme a un análisis de sangre y/o saliva bajo la dirección de P&P para determinar marcadores genéticos y/o estado secretor.

Entiendo que información sobre los cargos no presentados, cargos desestimados o cargos que se desestimarán de conformidad con este acuerdo pueden ser considerados por el juez al dictar sentencia.

Nadie me ha prometido ni garantizado ninguna sentencia en particular. Sé que mi sentencia será determinada por el Tribunal dentro de los límites prescritos de ley.

Entiendo que si mi abogado o el Estado de Nevada o ambos recomiendan algún castigo específico al Tribunal, el Tribunal no está obligado a aceptar ninguna recomendación de las partes.

Entiendo que si el Estado de Nevada acordó recomendar o estipular una sentencia en particular o acordó no presentar argumento con respecto a la sentencia, o acordó no oponerse a una sentencia en particular, dicho acuerdo está supeditado a mi comparecencia ante el tribunal en la sentencia inicial (y cualquier fecha subsiguiente si la sentencia continúa). Entiendo que si no me presento a la fecha programada para la sentencia o si cometo un nuevo delito antes de la sentencia, el Estado de Nevada recuperará todo el derecho a resguardar toda sanción legal.

Entiendo que si los delitos de los que me declaro culpable se cometieron mientras estaba encarcelado por otro cargo o mientras estaba bajo libertad condicional o libertad preparatoria, no soy candidato para recibir crédito por plazo cumplido para los delitos en cuestión.

Entiendo que si no soy ciudadano de los Estados Unidos, cualquier condena penal probablemente tendrá consecuencias migratorias negativas graves que incluyen, entre otras, las siguientes:

1. La exclusión de los Estados Unidos a través de la deportación;
2. Incapacidad para retornar o ingresar a los Estados Unidos;
3. La incapacidad de obtener la ciudadanía estadounidense o la residencia legal;
4. Incapacidad para renovar y/o retener cualquier estatus de residencia legal; y/o
5. Un término indeterminado de reclusión, a disposición del Gobierno Federal de los Estados Unidos basado en mi sanción y estatus migratorio.

Independientemente de lo que me haya dicho cualquier abogado, nadie puede prometerme que esta condena no tendrá consecuencias migratorias negativas y/o afectará mi capacidad para obtener la ciudadanía estadounidense y/o residencia legal.

Entiendo que P&P preparará un informe para el Tribunal previo a la condena. Este informe incluirá asuntos relevantes para el tema de la sentencia, incluidos mis antecedentes penales. Este informe puede contener información de oídas sobre mis antecedentes y antecedentes penales. Mi abogado y yo tendremos la oportunidad de comentar sobre la información contenida en dicho informe en el momento de la sentencia. A menos que el Fiscal de Distrito haya acordado específicamente lo contrario, entonces el Fiscal de Distrito también puede comentar sobre este informe.

RENUNCIA DE DERECHOS

Al presentar mi declaración de culpabilidad, entiendo que estoy renunciando y dimitiendo para siempre a los siguientes derechos y privilegios:

1. El privilegio constitucional contra la autoinculpación, incluido el derecho a negarse a atestiguar en el juicio, en cuyo caso la fiscalía no podría comentar al jurado sobre mi negativa a declarar.

2. El derecho constitucional a un juicio rápido y público por un jurado imparcial, libre de publicidad previa al juicio que sea perjudicial para la defensa, en dicho juicio tendría derecho a la asistencia de un abogado, ya sea nombrado o contratado. Durante ese juicio, el Estado sobrellevaría la carga de probar más allá de toda duda razonable cada elemento del delito (s) imputado.

3. El derecho constitucional de enfrentar e interrogar a cualquier testigo que declare en mi contra.

4. El derecho constitucional a citar testigos para que declaren en mi nombre.

5. El derecho constitucional de declarar en mi propia defensa.

6. El derecho de apelar la condena con la asistencia de un abogado, ya sea nombrado o contratado, a menos que se reserve específicamente por escrito y se acuerde según lo dispuesto en conformidad con NRS 174.035 (3). Entiendo que esto significa que estoy renunciando incondicionalmente a mi derecho a una apelación directa de esta condena, incluyendo cualquier impugnación basada en motivos constitucionales, jurisdiccionales u otros razonables que impugnen la legalidad de los procedimientos como se establece en NRS 177.015 (4). Sin embargo, sigo siendo libre de impugnar mi condena a través de otros recursos posteriores a la condena, incluida una petición de hábeas corpus en conformidad con el Capítulo 34 del NRS.

DECLARACIÓN VOLUNTARIA

He discutido los elementos de todos los cargos originarios en mi contra con mi abogado y entiendo el carácter de los mismos.

Entiendo que el Estado tendría que probar cada elemento de los cargos en mi contra durante un juicio.

He discutido con mi abogado toda defensa posible, estrategias de defensa y circunstancias que puedan estar a mi favor.

Todos los elementos anteriores, consecuencias, derechos y renuncia de derechos me han sido explicados en detalle por mi abogado.

Creo que declararme culpable y aceptar este acuerdo de culpabilidad es lo mejor para mí, y que un juicio sería contrario a mi interés superior.

Firmo este acuerdo voluntariamente, después de consultar con mi abogado, y no estoy actuando bajo coacción o coerción o en virtud de ninguna promesa de clemencia, excepto las establecidas en este acuerdo.

No estoy bajo la influencia de ningún licor embriagante, sustancia controlada u otra droga que de alguna manera perjudique mi capacidad de comprender o entender este acuerdo o los procedimientos que rodearon mi prestación a la declaración.

Mi abogado ha respondido a todas mis preguntas con respecto a este acuerdo declaratorio de culpabilidad y sus consecuencias a mi entera satisfacción y estoy muy satisfecho con los servicios prestados por mi abogado.

FECHADO este día _____ de abril, 2022.

_____
AHUNER YANES
Inculpado

ACORDADO POR:

/s/Samuel Kern

_____
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, #7124357 Defendant.	CASE NO.: C-23-372856-1 DEPT. NO.: XV

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

TUESDAY, JUNE 06, 2023

RECORDER'S TRANSCRIPT RE:
SENTENCING

APPEARANCES:

For the State: SAM KERN, ESQ.

For the Defendant: KEVIN C. SPEED, ESQ.

ALSO PRESENT: CARLOS CALVO
Court Certified Spanish Interpreter

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

LAS VEGAS, NEVADA, TUESDAY, JUNE 06, 2023, 11:48 A.M.

* * * * *

THE COURT CLERK: Calling case number C372856, State of Nevada versus Ahuner Yanes.

MR. KERN: Good morning, Your Honor. Sam Kern for the State, Bar Number 10638.

MR. SPEED: Kevin Speed for Mr. Yanes, Your Honor. Good afternoon, Bar Number 8895.

THE COURT: Good morning. Mr. Interpreter, could you state your appearance?

SPANISH INTERPRETER: Yes, Your Honor. Carlos Calvo.

THE COURT: And, Mr. Yanes, with the assistance of the Interpreter, can you hear and understand us?

MR. YANES: Yes.

THE COURT: Thank you. And counsels, are we ready for sentencing?

MR. KERN: The State is ready.

MR. SPEED: Defense is ready, Your Honor.

THE COURT: Okay.

MR. SPEED: Mr. Yanes has an opportunity to review the Pre-Sentence Investigation Report. I do think that it is appropriate at this time, however, to advise the Court that Mr. Yanes indicated earlier that he wishes to withdraw his plea now. My understanding is procedurally; this wouldn't be the - - the correct forum for him to do that in the correct proceeding, in which he can do that. It would probably be more appropriate for a P.C.R. Petition. But if that is his wish at the time, I did indicate that I would let the Court know that he

desires to withdraw his plea before proceeding to sentencing. And I will turn over the floor to him if he has anything to say.

THE COURT: So, let's see, Mr. Yanes, um, you understand that you are here today to be sentenced because you pleaded guilty Count 1, Count 2, and Count 3 to Sexual Assault as a Category A Felony?

MR. YANES: Yes.

THE COURT: Have you had an opportunity to review and go over the P.S.I. with your attorney?

MR. YANES: Yes.

THE COURT: Do you have any issues, questions, or concerns with any of the information contained within the P.S.I.?

MR. YANES: Yes, I have a question.

THE COURT: Okay.

MR. YANES: When the deal was conveyed to me, I read it, but I did not understand it very well. The three counts that are filed against me, I can't understand all of them one hundred percent. I don't know. I don't understand the three charges are going to come up only under one sentence. Or is it going to be one entry for each one of the cases, that's all.

THE COURT: So, let me ask you. Do you - - are you wanting to move the Court to withdraw your plea of guilty?

MR. YANES: Yes.

THE COURT: Thank you. Anything from the State?

MR. KERN: Well, Your Honor, obviously, we are going to oppose that motion, but I do think that it needs to be done on motion, and we need to have this matter heard. So, if we could just get a hearing date.

THE COURT: Okay. So, Mr. Yanes, you will need to prepare and file a motion. We'll give you time to do that. - -

MR. SPEED: - - I am sorry, Your Honor, look - - I apologize for interrupting the Court. The only problem that I perceive with that order of operations is going to be, and I anticipated this when I made the Court aware of Mr. Yanes's intentions. It seems that one of his arguments is going to be that he did not understand the terms or the ramifications of his guilty plea. And that lack of comprehension might very well be due to ineffective assistance on my part. If that is the case, then a public defender cannot represent him in his Motion to Withdraw. That's why - - I thought that the proper vehicle for his redress here would be in a Petition for Habeas Corpus, at post-convention relief.

But I am totally willing to abide by whatever the Court wants to do.

THE COURT: Yeah - - no - - I mean fair point. I think because sentencing has not happened, and I think the State was kind of saying the something. But correct me if I am wrong. That it can be done by - - I mean - - the request, okay. Not the ruling; obviously, we need to wait. But - - by motion so, I think that's the avenue. But I think you're also right in terms of, you know, if the basis is what he is saying that he did not understand or was not fully explained, perhaps. Then there would be a conflict. So, - -

MR. SPEED: - - Can I ask that, Your Honor, before we - - is that what you are inserting, now that I did not explain it clearly enough?

MR. YANES: Yes.

THE COURT: Okay. Yeah, and so, if that's - - I will call it alleged basis, I guess. Then, there is a conflict, and we need to appoint alternate counsel. In

this is kind of asking both you attorneys. Maybe more you, Mr. Speed, I don't know. You know, normally, I would just appoint one of our three track attorneys. But I don't know given, you know, it's with Special P.D.'s Office.

MR. SPEED: That's right.

THE COURT: Do we have special track attorneys? I just don't know. Do either of you know?

MR. SPEED: There are no special track attorneys for these, but - - and I don't want to influence the Court's decision or the selection process in any way. But, most of the attorneys who are contract attorneys who are conflict attorneys in the different district courts are qualified to handle these category A offenses. So, I believe that Mr. Yanes would be safe with whomever the Court selects.

THE COURT: Okay. And none of the track attorneys are here right now. So, - -

MR. SPEED: - - Can the Court tell me - -

THE COURT: - - Yeah, who the - - yes - -

MR. SPEED: - - Yes, who are the three?

THE COURT: So, I have - - so, probably not Mr. Hill because I think I gave him two in a row. But the other two are Mr. Matsuda or Mr. Nadig.

MR. SPEED: Yes, all three of those, they have handled cases from our office before. I believe that - -

THE COURT: - - Okay. - -

MR. SPEED: - - The Special Victims Unit and the D.A.'s Office have turned cases with both of those attorneys. - -

MR. KERN: - - Yep.

THE COURT: Okay. So, I'll provisionally appoint, and we'll need to - - you'll have to come into Mr. Speed to, you know, one of these two can represent him. And, you know, convey the file or whatever. Let's see, I think it's probably Mr. Nadig's turn. So, you know, Mr. Yanes, I am provisionally appointing Mr. Nadig to represent you. And he'll need to make sure he can do that. And so, let's bring you back. And again, if this date works especially for you, Mr. Speed. Like in two weeks?

MR. SPEED: That's fine, Your Honor. And I will provide discovery at that status check made to Mr. Nadig.

THE COURT CLERK: June 20th, at 8:30 a.m.

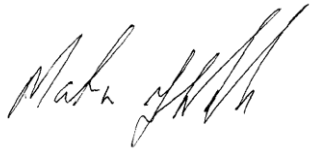
THE COURT: Okay. Thank you.

MR. KERN: Thank you, Your Honor.

MR. SPEED: Thank you, Your Honor.

[Proceedings concluded, 11:59 a.m.]

* * * * *ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



_____

MATTHEW YARBROUGH
Court Recorder/Transcriber

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BEN NADIG
LAW OFFICE OF BENJAMIN NADIG, CHTD.
Nevada State Bar No. 9876
228 South 4th Street, 3rd Floor
Las Vegas, NV 89101
P: (702) 545-7592
F: (702) 825-2683
Attorney for Ahuner Yanes

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, #7124357 Defendant.	Case No.: C-23-372856-1 Dept. No.: XV **MOTION TO WITHDRAW GUILTY PLEA** **Hearing Date:** **Hearing Time:**

Defendant AHUNER YANES, by and through her attorney, BEN NADIG, and, pursuant to NRS 176.165 and the United States and Nevada Constitutions, moves this Honorable Court to withdraw his guilty plea entered on April 13, 2023, on the following grounds:

(1) AHUNER YANES' plea was not knowingly and intelligently entered;

(2) AHUNER YANES is factually innocent of the charge and

(3) Allowing the plea to stand would be fundamentally unfair.

This Motion is made and based upon the papers and pleadings on file herein, the Points and Authorities which follow, and arguments of counsel.

DATED this 20th day of September, 2023.

Respectfully submitted,

BEN NADIG
228 South 4th Street, 3rd Floor
Las Vegas, NV 89101
P: (702) 545-7592
F: (702) 825-2683

Case Number: C-23-372856-1

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

On January 28, 2023, Ahuner Yanes was arrested by police for his alleged involvement in impregnating a twelve year old. Approximately a year prior, Mr. Yanes and his wife brought his stepdaughter to the hospital because they believed the stepdaughter had an irregular menstrual cycle. During the course of the examination doctors determined that the stepdaughter was twenty-six weeks pregnant. While they stepdaughter initially said she was the victim of random violence, it was determined that Mr. Yanes was the likely perpetrator. Mr. Yanes does not deny that he had improper contact with this stepdaughter, but believes he was coerced into the present agreement through his attorney Mr. Kevin Speed.

II. LAW

The question of a defendant's guilt or innocence is not put in issue with a motion to withdraw a plea of guilty. State v. District Court, 85 Nev. 381, 385 (1969); Hargrove v. State, 100 Nev. 498, 502 (1984); Kercheval v. United States, 274 U.S. 220, 224 (1927). The validity of a defendant's guilty plea must be challenged in the first instance in the sentencing court by way of a motion to withdraw the plea or by way of a petition for post conviction relief. Bryant v. State, 102 Nev. 268, 272 (1986). "[T]he test is essentially factual in nature, and is thus best suited to trial court review in the first instance." Bryant v. State, 102 Nev. at 272. "[T]he burden [is] on the defendant to establish that his plea was not entered knowingly and intelligently" or that it was the product of coercion. Bryant v. State, 102 Nev. at 272; Gardner v. State, 91 Nev. 443, 446-47 (1975). The decision of the trial court to allow a defendant to withdraw his guilty plea "is discretionary and will not be reversed unless there has been a clear abuse of that discretion." State v. District Court, 85 Nev. at 385; State v. Adams, 94 Nev. 503, 505 (1978); Bryant v. State, 102 Nev. at 272.

III. ARGUMENT

A. ALLOWING MR. YANES TO WITHDRAW HER PLEA IS FAIR AND JUST.

"A motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea." NRS 176.165. Thus, "A district court may, in its discretion, grant a defendant's motion to withdraw a guilty plea for any 'substantial reason' if it is 'fair and just.'" Molina v. State, 87 P.3d 533, 537 (Nev 2004). A court must examine the totality of the circumstances to determine whether a defendant entered his plea voluntarily, knowingly, and intelligently. Molina, 87 P.3d at 537. "In reviewing an attack on a guilty plea a court must consider whether the plea was voluntarily entered as well as whether, considered as a whole, the process by which the plea was obtained was fundamentally fair." Taylor v. Warden, 96 Nev. at 274.

More recently, the Nevada Supreme Court also opined that whether a plea was entered voluntarily, knowingly, and intelligently is not the only consideration in whether the withdrawal of the plea is "fair and just," and held that the Court must consider *the totality of the circumstances* in determining whether withdrawal of the plea is fair and just. Stevenson v. State, 131 Nev. Adv. 61, 2015.

A reviewing court need not look only to the technical sufficiency of a plea canvass to determine whether a plea has been entered with a true understanding of the nature of the offense charged. Bryant v. State, 102 Nev. at 271. The court may "review the entire record, and look to the totality of the facts and circumstances of a defendant's case, to determine whether a defendant entered his plea with an actual understanding of the nature of the charges against him." Bryant v. State, 102 Nev. at 271; Stocks v. Warden, 86 Nev. at 761 ("The voluntariness of [a defendant's] plea is to be determined by considering all relevant circumstances surrounding it").

Additionally, one of the purposes of the application of the "fair and just" analysis is to allow a defendant to withdraw his plea where it is made with "unsure heart and confused mind." Stevenson, 131 Nev. Adv. 61, quoting U.S. v. Alexander, 948 F.2d 1002, 1004 (6th Cir. 1991). Moreover, the circumstances surrounding the defendant's entry of plea, the inducements to plead guilty including strength of evidence and judicial rulings, and the amount of time passing between the entry of plea and the indication that the defendant wishes to withdraw are all important considerations. Id.

Here, the totality of circumstances shows that Mr. Yanes wishes to withdraw his plea for a fair and just reason. Mr. Yanes was not in the right frame of mind when he accepted his initial plea deal. His attorney at the time, Kevin Speed, suggested that he needed to accept the plea deal and he would be out in ten years. Mr. Speed never explained to Mr.Yanes, who is a Spanish speaker, the concept of consecutive time. When Mr. Yanes signed the deal, he was not aware he could potentially face thirty years as the minimum sentence. When Mr. Yanes became aware of the potential for a minimum of thirty years in prison before eligibility of parole, something he learned from other inmates in Clark County Detention Center, he immediately requested to withdraw his plea. Mr. Yanes would not have ultimately taken a deal that exposed him to thirty years minimum had he been of a sounder mind. It is clear that Mr. Yanes was of a confused mind when the plea was entered, felt that the representations of his attorney were truthful and he would be subject to potentially thirty years in custody in custody prior to trial and, therefore, it would be both unfair and unjust to tether him to that testimony.

IV. CONCLUSION

Based upon the foregoing, Defendant Ahuner Yanes respectfully requests that this Court allow him to withdraw his guilty plea and set this matter for trial at a date convenient to this Court.

DATED this 20th day of September, 2023.

Respectfully submitted,

BEN NADIG
228 South 4th St., 3rd Floor
Las Vegas, NV 89101
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on the 20th day of September,2023, I served the forgoing document on:

Clark County District Attorney's Office Via E-Mail: motions@clarkcountyda.com

An Employee of

LAW OFFICE OF BENJAMIN NADIG, CHTD

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, #7124357 Defendant.	CASE NO.: C-23-372856-1 DEPT. NO.: XV

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

THURSDAY, SEPTEMBER 21, 2023

RECORDER'S TRANSCRIPT RE:
CONTINUED MOTION TO WITHDRAW PLEA

APPEARANCES:

For the State:	SAM KERN, ESQ.
For the Defendant:	BEN NADIG, ESQ.
ALSO PRESENT:	JEANNETTE ENCINAS Court Certified Spanish Interpreter

TRANSCRIBED BY: MATTHEW YARBROUGH, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 21, 2023, 8:57 A.M.

* * * * *

THE COURT CLERK: Calling case number C372856, State of Nevada versus Ahuner Yanes.

MR. NADIG: Your Honor, can we approach on this one?

THE COURT: Sure. Hold on, wait. Go ahead and state your appearance, Ms. Interpreter.

MR. NADIG: I am sorry.

THE SPANISH INTERPRETER: Jeannette Encinas, Court Certified Interpreter, NVEJ519.

THE COURT: Thank you. Mr. Yanes, with the assistance of the Interpreter, can you understand us?

MR. YANES: Yes.

THE COURT: Okay. And the attorneys have asked to approach. So, bear with us for a moment.

[Bench conference started at 8:57]

MR. NADIG: So, the reason I filed it last night is because I knew what Mr. Kern was going to do which is not oppose it. I did not really want to file it on behalf of this guy. But he asked, so we are just going to be setting this for trial.

THE COURT: So, I haven't even seen what you filed.

MR. NADIG: I wrote it in crayon. But essentially, he was not advised of the fact that the charges could be run consecutively. And so the State is agreeing with me.

MR. KERN: I am not agreeing as to the reasons, but I am agreeing to the outcome.

THE COURT: So, we're - -

MR. NADIG: - - Going to trial - -

THE COURT: - - Granting the Motion and setting it for trial?

MR. NADIG: Yep.

THE COURT: Okay.

MR. NADIG: Just wanted to give you a heads up.

THE COURT: Thank you.

[Bench conference ended at 8:58]

THE COURT: Let me login, hold on. Okay. So, I've had the opportunity now to review Defense Motion to Withdraw the Guilty Plea. Anything to add, Mr. Nadig?

MR. NADIG: No, Your Honor, I submit on the motion.

THE COURT: Anything from the State?

MR. KERN: Sam Kern for the State, Your Honor. I did review Defendant's Motion to Withdraw his Guilty Plea. Well, I dispute the reasons for the withdrawal. I am not going to oppose the outcome.

THE COURT: Okay. So, the - - based on the representation in the Motion, the Court grants the Motion to Withdraw the Guilty Plea. Let's see - -

MR. KERN: Your Honor, given the facts of the case, I would just ask that the Court sets it at its earliest convenience.

THE COURT: Mr. Nadig, anything?

MR. NADIG: I'll submit.

THE COURT: Can I see our trial schedule?

THE MARSHAL: Page eleven.

MR. NADIG: We're not done. We're setting the trial.

THE COURT: Yeah. Bear with me. Let's see, is it one that would be within a week long?

MR. NADIG: Yeah, I don't - - how many witnesses are you going to call? Less than ten, right?

MR. KERN: Yeah, I think we could get it done in a week.

THE COURT: Okay.

MR. NADIG: Yeah.

THE COURT: Let's see any preference on our end between December 4 and December 1 or any preference with the attorneys?

MR. NADIG: None from me, Your Honor. What is ever easiest for you?

THE COURT CLERK: We have the same amount of trials scheduled.

THE COURT: Okay.

MR. KERN: Yeah, that works.

THE COURT: Okay. Let's go ahead and do December 4th.

MR. SPEED: Good morning, Your Honor. This is Kevin Speed with the Public Defenders Office. We had been counsel of record for Mr. Yanes. If the Court allows him to withdraw his plea, then the Public Defender will have to withdraw.

MR. NADIG: And for the record, Your Honor, I was attending to keep the case. And Mr. Speed, I apologize for not letting you know that.

THE COURT: I assumed that too. So, Mr. Nadig, you are now counsel of record.

MR. NADIG: Thank you, Your Honor.

THE COURT: Thank you.

MR. SPEED: Thank you, Your Honor.

THE COURT: Thank you.

THE COURT CLERK: So, trial will be December 4th, at 10:30 a.m. Calendar call will be November 28th, at 8:30 a.m. And status check trial readiness will be October 31st, at 8:30 a.m.

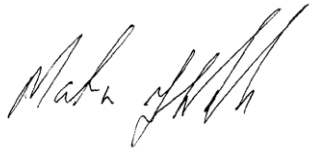
THE COURT: Thank you. Thank you, sir.

MR. KERN: Thank you, Your Honor.

THE COURT: Thank you.

[Proceedings concluded, 9:02 a.m.]

* * * * *ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



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MATTHEW YARBROUGH
Court Recorder/Transcriber

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AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638
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-

AHUNER YANES,
#7124357

Defendant.

CASE NO: **C-23-372856-1**

DEPT NO: **XV**

A M E N D E D

I N F O R M A T I O N

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051), and PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE (Gross Misdemeanor - NRS 199.230 - NOC 52983),** in the manner following, to wit: That the said Defendant, on or between February 25, 2022 and January 1, 2023, at and within the County of Clark, State of Nevada.

//

COUNT 1 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by placing and/or rubbing his penis on F.P.'s body with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by allowing F.P. to place her hand on Defendant's penis with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by touching F.P.'s breasts with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

Defendant did on or about between July 1, 2022, and September 1, 2022, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

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COUNT 5 - FIRST DEGREE KIDNAPPING

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away F.P., a human being, with the intent to hold or detain F.P. against her will, and without her consent, for the purpose of committing sexual assault upon F.P.

COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

COUNT 7 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Defendant did on or about between December 1, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

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COUNT 8 - PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

Defendant did on or about between January 10, 2023, and January 28, 2023, then and there willfully, and unlawfully, with the intent thereby to obstruct the course of justice, prevent, or attempt to prevent F.P. from appearing before any Court, or person authorized to subpoena witnesses, as a witness in any action, investigation or other official proceeding, or did cause or induce F.P. to absent herself from such a proceeding or evade the process which requires her to appear as a witness to testify or produce a record, document or other object, by telling F.P. to report that it was a person other than Defendant who impregnated her.

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

BY */s/Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

CARNELL, CRISTEN or Designee; CCDA INVESTIGATOR

CHAVEZ, J.; LVMPD #17237

COR or Designee; CCDC

COR or Designee; LVMPD COMMUNICATIONS

COR or Designee; LVMPD RECORDS

F.P.; c/o CCDA VWAC

LEE, N.; LVMPD #17269

PEREZ, CONCEPCION; c/o CCDA VWAC

RAMIREZ-OCAMPO, ROBERTO; c/o CCDA VWAC

RATSDAKHOM-HOAG, K.; LVMPD #15961

SANTOS, DENIA; c/o CCDA VWAC

TERRY, N.; LVMPD #18868

VILLASENOR, F.; LVMPD #16249

WENTZ, KATHLEEN; CCDA VWAC

WOOD, DAWN; CCDA VWAC

23CR004950/sar/SVU
LVMPD EV#230100112447
(TK12)

Electronically Filed
3/31/2025 10:41 AM
Steven D. Grierson
CLERK OF THE COURT

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. 10

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 14, 2024
RECORDER'S TRANSCRIPT RE:
CENTRAL CALENDAR CALL

APPEARANCES:

For the State: SAMUEL KERN, Esq.
Chief Deputy District Attorney

For Defendant: BEN NADIG, Esq.

Also Present: DEBORAH SILVERA, Spanish Interpreter

RECORDED BY: VICTORIA BOYD, COURT RECORDER

Las Vegas, Nevada, Wednesday, February 14, 2024 at 2:24 p.m.

THE COURT: *State of Nevada v. Ahuner Yanes*. May the record reflect that he is present in custody being assisted by the court interpreter.

Madam Interpreter, could we have your name for the record.

THE INTERPRETER: Deborah Silvera, Your Honor.

THE COURT: Okay. Mr. Nadig is here on his behalf. Mr. Kern is here on behalf of the State.

MR. NADIG: And, Your Honor, just for the record we received an offer from the State. He previously agreed to a 25-life. He then withdrew his plea which was unopposed and he is now offered 35-life.

THE COURT: Okay.

MR. NADIG: For the record this is a sex assault minor under the age of 14. We have a child born of the act who has genetically been determined to be Mr. Yanes' child. Mr. Kern provided photos of both the mother and the child yesterday. I have tried to explain to Mr. Yanes that this is essentially {inaudible} State evidence of guilt.

THE COURT: Mr. Yanes, did you and Mr. Nadig have a discussion about your defenses in this case?

THE DEFENDANT: Yes, well - - well, yeah, there is the proof that the baby is there but there is a lot of accusations that are not true there.

THE COURT: Right but the proof that the baby is there is something that the State is going to be able to prove and is a very serious crime that can put you in prison for an extended period of time. Do you understand that?

THE DEFENDANT: Yes.

MR. NADIG: And I also explained to him it's a mandatory minimum on this type of charge is 35 years to life.

THE COURT: And you understand that the child alone could get you that 35 years to life?

THE DEFENDANT: Yes.

THE COURT: And you understand that what the State is offering you is to basically plead guilty to exactly that and nothing else?

THE DEFENDANT: Yes.

THE COURT: And do you understand that if the jury believes the State and doesn't believe your defense these counts could run consecutive?

THE DEFENDANT: Yes, I understand.

THE COURT: And you have three counts that have a minimum of 35 years so if those ran consecutive that's 105 years. Do you understand that?

THE DEFENDANT: Yes, I do understand.

THE COURT: And knowing all of that is it still your desire to reject the State's offer and go to trial?

THE DEFENDANT: Yes, because it's an offer that is not the one that I was expecting.

THE COURT: Well, I understand that and sometimes the offers aren't what you're expecting, but if that was the best that they are going to offer you and that spares you about 70 years are you willing to not consider that?

THE DEFENDANT: Yes.

THE COURT: Okay. So you understand that you are rejecting that and going to trial and not prevailing is going to get you something way worse?

THE DEFENDANT: Yes, I do understand.

THE COURT: And you still want to reject the State's offer and go to trial?

THE DEFENDANT: Yes because I want to explain a little.

THE COURT: Well, I don't want you to talk about the case. I'm just asking you about the offer.

THE DEFENDANT: No, I'm not going to talk about the case.

THE COURT: Here's the thing. We're only going to talk about the offer. Do you want to reject the State's offer and go to trial?

THE DEFENDANT: Yes.

THE COURT: All right. Are you guys ready?

MR. KERN: State is ready.

THE COURT: All right. Jury trial will begin Tuesday, February 20th at 1:00 o'clock in Department 22.

Mr. Nadig, you have until the close of business tomorrow to get clothing over to the jail for your client. Thank you.

MR. KERN: Thank you.

(Proceedings concluded at 2:29 p.m.)

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

3-27-2025

Victoria W. Boyd
Court Recorder/Transcriber

Date

Electronically Filed
9/9/2024 3:25 PM
Steven D. Grierson
CLERK OF THE COURT

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638
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-

AHUNER YANES,
#7124357

Defendant.

CASE NO: **C-23-372856-1**

DEPT NO: **XXII**

SECOND A M E N D E D

I N F O R M A T I O N

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105),** committed at and within and/or originating in the County of Clark, State of Nevada on or between February 6, 2022 and January 28, 2023, as follows:

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COUNT 1 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by placing and/or rubbing his penis on F.P.'s body with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by allowing F.P. to place her hand on Defendant's penis with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: F.P., a child under the age of fourteen years, by touching F.P.'s breasts with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or F.P.

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

Defendant did on or about between July 1, 2022, and September 1, 2022, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

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COUNT 5 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Defendant did on or about between February 6, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

Defendant did on or about between December 1, 2022, and January 10, 2023, willfully, unlawfully, and feloniously commit a sexual penetration upon F.P., a child under the age of 14 years, to wit: sexual intercourse by inserting his penis into the genital opening of the said F.P.

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

BY */s/ Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

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LVMPD EV#230100112447
(TRK12)

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

TUESDAY, SEPTEMBER 10, 2024

RECORDER'S TRANSCRIPT OF PROCEEDINGS
PETROCELLI HEARING AND JURY TRIAL - DAY 1

APPEARANCES:

For the State: SAMUEL R. KERN
JOHN TORRE
Deputy District Attorneys

For the Defendant: BEN NADIG, ESQ.

SPANISH INTERPRETERS: YUL HAASMAN AND DEBORAH SILVERA

RECORDED BY: SARA RICHARDSON, COURT RECORDER

LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 10, 2024, 11:42 A.M.

* * * * *

[Outside the presence of the prospective jury panel]

THE COURT: We don't have the second interpreter yet?

THE INTERPRETER: She's coming.

THE COURT: Okay.

THE INTERPRETER: Yeah.

THE COURT: Are you okay if we --

THE INTERPRETER: I hope -- yeah, well, hopefully she will be here, yeah. Let's hope.

THE COURT: How long can you go without --

THE INTERPRETER: Half an hour.

THE COURT: Okay. State versus Yanes, Mr. Yanes is present. He's in custody and the attorneys can start making their appearances.

MR. KERN: Good morning, Your Honor, Sam Kern for the State.

MR. TORRE: John Torre for the State.

MR. NADIG: And good morning, Your Honor, Ben Nadig on behalf of Mr. Yanes.

THE COURT: Okay. And Mr. Yanes will be using the services of the interpreter. Will the interpreter state his name for the record?

THE INTERPRETER: Yes. Yul Haasman, court interpreter, certification, NVHY638.

THE COURT: Okay. And then we're going to have a second interpreter that's going to come in and help you, right?

THE INTERPRETER: Yes, Your Honor.

THE COURT: Okay. But you're okay if we start, I mean, I won't let -- I won't go more than 30 minutes if she -- he or she doesn't get here. Okay?

So are we ready to --

MR. NADIG: I was going to say, there's some things we need to say outside the presence.

THE COURT: Right. I know you said that the Petrocelli hearing did not have to go forward.

MR. NADIG: Correct, Your Honor.

THE COURT: Okay. You want to --

MR. KERN: Correct. So I think we've -- we've discussed the State's motion and I think we're in agreement as to matters that are able to come in. The State's motion was made out of kind of an abundance of caution. There's several statements within defendant's voluntary where he's talking about this being ongoing activity. The State does intend to bring those in. But after discussing that fact with Mr. Nadig, my understanding is that it doesn't affect their defense and it actually probably go along with their defense and so I don't believe he has any objection to those statements coming in.

THE COURT: Okay. Is that correct?

MR. NADIG: That was a correct statement. And, Your Honor, just for the record, there is going to be a lot of concessions on my part. Factually, there's not a lot of work to work with and so and I've been upfront with the State that the defense is going to be based on the idea that all of this happened in another country. But it's things that have to come out through the witnesses in order to prove that up.

MR. KERN: And --

THE COURT: So this isn't the proper venue? Is it the State doesn't have

jurisdiction?

MR. NADIG: That's it. And I know it's a question of law but it has to come in through the facts of the witnesses. But literally, Your Honor, this is one of those situations where that's what I've got.

THE COURT: Did the State make an offer?

MR. NADIG: The State --

MR. KERN: The State has made an offer, Your Honor.

MR. NADIG: Your Honor, for the record, I inherited this case from the --

Is Kevin --

MR. KERN: Public Defender's Office.

MR. NADIG: Okay. From The Public Defender's Office, Kevin Speed had the case. Mr. Yanes agreed to plead to three counts of --

MR. KERN: It's 10-to-lifes. I can't remember how they were arranged.

MR. NADIG: Yeah. He was pleading to three counts. Both sides were going to stipulate to 25 to life. Mr. Yanes decided he did not want that plea. So I was --

THE COURT: I'm sorry, he was going to plead to two counts?

MR. KERN: And so, Your Honor, if I may, I think I've got the G.P.A. somewhere here. My recollection of the plea that -- here we go.

THE COURT: I just want to ask him before we bring this jury in, make sure this is what he wants to do.

MR. KERN: And so the -- the State's most recent offer on the case was to plead to a stipulated term of 30-to-life.

MR. NADIG: Yes. I was going to say, I filed a motion to withdraw guilty plea, the State didn't oppose, so that's why we're here.

THE COURT: You filed a motion for what?

MR. NADIG: I filed a motion to withdraw his guilty plea.

THE COURT: Okay.

MR. NADIG: Because he pled with Mr. Speed, they appointed me to do the motion, the State didn't oppose it. Originally he had a 25-to-life with Mr. Speed.

MR. KERN: And --

MR. NADIG: The State has offered --

MR. KERN: 30-to-life. And I apologize, Mr. Nadig, it wasn't part of those original negotiations but I do have the -- the P.S.I. from that negation here. The State's original offer was three counts of sex assault, full right to argue including for consecutive sentences, which would have been a potential aggregate term of 30-to-life. But he had the right to argue, obviously, for concurrent time on those which would have been a 10-to-life. As Mr. Nadig said, that plea was withdrawn, and the State's most recent offer was a stipulated 30-to-life.

THE COURT: And he's rejected that offer as well?

MR. NADIG: He did. He requested that I counter today with 20-to-life. I brought that to the State and they have declined to accept it.

MR. KERN: The State is not accepting it.

THE COURT: Okay. So, sir, I mean, you've been -- you've been listening to the back-and-forth between the district attorney and your lawyer?

THE DEFENDANT: No.

THE COURT: No? Okay. Well, the district attorney has indicated to the Court that the last offer that the D.A. made to you was for a stipulated sentence of 30-to-life and that you have rejected that offer; is that correct?

THE DEFENDANT: Yes.

THE COURT: And it was plead to three counts of sexual assault?

MR. KERN: We hadn't discussed specifically what the counts would be, but that would be --

THE COURT: Okay. All right. But you've indicated you don't want to accept the State's offer of a stipulated sentence of 30-to-life; is that correct?

THE DEFENDANT: Right.

THE COURT: And you want to reject that offer and you want to proceed and go to trial; is that correct?

THE DEFENDANT: Yes, because my offer of 20 was not accepted.

THE COURT: Okay. And I was going to -- I was going to discuss that with you as well. Your attorney conveyed an offer of a stipulated sentence of 20-to-life with the State and the State has rejected that offer as well.

All right. And, Mr. Nadig, you saw the --

THE DEFENDANT: I am -- I am willing to sign 20 -- 20-to-life, I sign it.

THE COURT: The State is not offering you that.

MR. NADIG: And, Your Honor, just for the record, additionally, I have explained to him that if he is convicted of one count of sex assault, minor under the age of 14, the mandatory minimum sentence is 35 years to life.

THE COURT: And you've seen the second amended information that was filed?

MR. NADIG: Was that the one you sent?

MR. KERN: Yes, it was.

MR. NADIG: Okay. Yes, I have reviewed it, Your Honor.

THE COURT: Okay. Sir, I just want to make sure you understand the charges that you're going forward on. There is one, two, three counts of lewdness with a child under the age of 14 and then there's three counts of sexual assault with

a minor under 14 years of age and I just want to make sure you understand that if you're convicted of even one of the sex assault counts with a minor under 14 years of age, it's a mandatory sentence of 35-to-life in the Nevada Department of Corrections. The Court has no discretion. The Court must impose a term of life with parole eligibility beginning after a minimum of 35 years has been served. Do you understand that?

THE DEFENDANT: I understand.

THE COURT: And you understand you're facing three of those counts?

THE DEFENDANT: Yes.

THE COURT: What's the range of punishment for the lewdness under 14?

MR. KERN: Those are 10-to-lifes, Your Honor.

THE COURT: Okay. And the other three counts, the lewdness with a child under the age of 14, those also carry a life term with parole eligibility beginning after a minimum of 10 years has been served. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: And you understand the Court would have discretion to run those counts consecutive?

THE DEFENDANT: I understand.

THE COURT: Okay. Or concurrent.

THE DEFENDANT: Yes.

THE COURT: Okay. So I just want to make sure you understand that even if you're convicted of only one of those counts, that's a significant sentence that the Court cannot -- I can't modify it, I have no discretion, it's 35-to-life.

THE DEFENDANT: Yes.

THE COURT: Okay. All right. Looks like he understands. Can we bring the

panel in?

MR. KERN: Thank you. If you -- Your Honor, if we may, I just had a couple more things to put on the record. Mr. Nadig and I have discussed the State -- McNamara versus State with respect to how jurisdiction is determined and the standard for jurisdiction. I think we're both on the same page as far as what the requirements are. I anticipate there will be further arguments on that. But I just wanted to put on the record that we have talked about that and I anticipate we'll have -- we'll have further conversations about that.

THE COURT: Can I have the citation to that?

MR. KERN: Yes. Actually, I did print a copy for the Court if you'd like.

THE COURT: Perfect.

MR. KERN: Thank you.

MR. NADIG: You gave it to me, brother.

THE COURT: Thank you.

MR. KERN: Thank you.

THE COURT: Anything else?

MR. KERN: And then -- yes, sorry, just one other -- we do have a couple stipulations to put on the record, Your Honor.

MR. NADIG: And, Your Honor, just -- some of the stipulations are based on -- we're not shortening the trial because we're being pressured to shorten the trial, but what we are agreeing to is chain --

THE COURT: Well, yeah, who would be pressuring you?

MR. NADIG: No. No. No. I'm just putting it on the record because sometimes that comes up.

THE COURT: Okay.

MR. NADIG: But as a matter of efficiency because chain is not a question, we have agreed that the detective who took the buccals can testify about --

MR. KERN: So I think our -- our two stipulations is, one, with respect to the buccal swabs, the State intends to have a detective testifying about buccal swabs that may have been taken by other individuals or D.N.A. swabs that may have been taken by individuals, that's just to establish that they were taken. But we discussed that those -- that testimony wouldn't be subject to any hearsay or Sixth Amendment objections.

THE COURT: Okay.

MR. KERN: And those objections are waived. And then with respect to the D.N.A., the D.N.A. person who did the comparison would be allowed to testify with respect to the processing step of the D.N.A., all done within the same lab. And then that testimony would also not be subject to any hearsay or Sixth Amendment objections and those objections are waived.

THE COURT: Okay. So the D.N.A. person's going to testify about the processing to which the D.N.A. person didn't do?

MR. KERN: Correct.

THE COURT: And the comparison?

MR. KERN: Correct.

THE COURT: Okay.

MR. KERN: Yeah.

THE COURT: And, Mr. Nadig, that's all correct?

MR. NADIG: That is correct, Your Honor..

THE COURT: Okay.

MR. KERN: And that's all for me, Your Honor.

THE COURT: All right. So I just wanted to make sure I got this straight, you're not going to contend it didn't happen?

MR. NADIG: Correct.

THE COURT: You're just going to contend it happened in another venue or another country and therefore this court has no jurisdiction?

MR. NADIG: That -- if the testimony turns out to be that way, yes. That is the intent is, you know, with the age of the victim --

THE COURT: I mean, is there any discovery that indicates that?

MR. NADIG: Yeah, I mean, the -- the way that the initial interviews went down would suggest that it potentially did not happen here. Additionally, during the investigation, they determined that she was 28 weeks pregnant but then they incorrectly backdated when they believed conception happened in the report. So there are a number of things that suggest that. But until they testify, I can't necessarily get into it.

MR. KERN: And so with the -- with respect to the jurisdiction issues, there was -- there was a motion by the State that was granted by Judge Johnson to have us obtain jurisdiction over events that would have happened in Arizona. There was a trip outside of Nevada that probably corresponds with some of the events. So we have been -- we brought that up on motion, that motion was granted.

With respect to things that happened in Mexico, the State isn't, at this point, aware of anything that was within the timeframe that would have -- or that was charged that would have happened in Mexico. Obviously, you know, we'll learn more as testimony comes in.

My belief based on McNamara is that remains a defense but it's not a defense that would necessarily be submitted to the jury. It's a matter for the Court to

determine.

THE COURT: Right.

MR. KERN: And so -- and I'm sure we'll figure all this out as things go. But my thought on it was that at the close of the evidence we'll be able to submit that question to the Court in order to determine if we do indeed have jurisdiction over these charges. And so I'm not aware of anything within the timeframe that is charged that would have happened in Arizona instead of within either Nevada or Arizona.

THE COURT: Okay. Do you have the order from that motion that was granted?

MR. KERN: I do.

THE COURT: That would be helpful.

THE DEFENDANT: I have a question.

THE COURT: Oh, it's probably this one right here. Was it the one -- was it ruled on in February or March?

MR. KERN: That sounds like the correct timeframe, Your Honor. May I approach?

THE COURT: Yeah, of course.

MR. KERN: Yeah. It's March 5th, 2024.

THE COURT: Okay. Because it says, "Court stated its findings, granted," but it doesn't say what its findings are.

MR. KERN: I do have a copy of the State's motion as well if that would help to give context.

THE COURT: Yeah, because this one just says --

MR. KERN: Yeah, it's pretty --

THE COURT: -- to determine jurisdiction shall be and it is granted, so that's okay. I can get a copy of your motion in Odyssey.

MR. KERN: Okay.

THE COURT: Okay. Anything else before we bring the jury panel in?

MR. KERN: I don't believe so, Your Honor.

THE COURT: Mr. Nadig?

MR. NADIG: Nothing, Your Honor.

THE COURT: Okay. All right. You can --

THE MARSHAL: Your Honor, Juror --

THE DEFENDANT: I do have something.

THE COURT: Okay. Go ahead.

THE MARSHAL: Juror 31 got a little lost. He is here.

THE COURT: You're kidding me. Okay. Well, I'm glad he found the 14th floor. Thank you.

THE MARSHAL: Well, he got -- said he got turned around downstairs. That new check-in system and stuff.

THE COURT: I know I see all those stanchions down there when I leave at night.

MR. NADIG: Your Honor, if I may --

THE COURT: Oh, I'm sorry.

MR. NADIG: -- can I have five minutes in the back with my client?

THE COURT: Yeah. Of course.

MR. NADIG: Thank you.

THE COURT: Where are we at now, 30-to-life?

MR. KERN: Huh?

MR. NADIG: Yes.

THE COURT: Okay. I just want to make sure he knew where you guys were at.

[Recess at 11:58 a.m.; proceedings resumed at 12:14 p.m.]

[Outside the presence of the prospective jury panel]

THE COURT: What are we doing?

MR. NADIG: He wants to make a record about he's not prepared for trial. I told him he would -- we could do this and then we're going to start trial.

THE COURT: Okay.

THE DEFENDANT: Madam Judge, with all due respect, I don't -- I don't know -- I don't understand why I was never prepared to trial. The deals were offered at the end before we were ready to -- to trial. I was never -- I was never visited, I was never told the consequences to reach to this point with orders from two different judges to have somebody go to visit me in jail. And the lawyer he said that the representatives they were scared for my case. I don't understand it.

THE COURT: What do you mean "scared for your case"? Scared that you'd get convicted?

MR. NADIG: And, Your Honor, for the record, what I said, just for the purposes of this, it's not, you know, I was accused of not visiting him, however, it is my practice to use the interpreter's office, typically, when I go to the jail to meet with people. For whatever reason, I took one of my staff who is fluent and what I had said to him is that my staff was somewhat appalled after learning the facts of the case.

MR. KERN: Your Honor, if I may interject, should the State step out?

MR. NADIG: It's up to Your Honor. I don't think this is --

THE COURT: Well, I don't think you need to even go into this.

MR. NADIG: Yeah, agreed. I just said he could put it on the record and then we go to trial.

THE COURT: Yeah, I don't even think you need to go into this.

MR. NADIG: Yeah.

THE COURT: But you did go visit him and you have a staff member that speaks Spanish?

MR. NADIG: Correct, and that's it. That's it.

MR. KERN: And, Your Honor, just for the record, I've been in court several times where I know this specific offer was discussed, conveyed, and rejected. And so this has been an offer for a long time now. It's been the offer through several calendar calls where it's been discussed by Mr. Nadig, it's been discussed actually by the judge that is being offer. And so there's no surprise here as to what the current offer is. This has been -- I have seen this being discussed previously.

MR. NADIG: And for the record, this is the first time this has been raised. I know that you're surprised by that.

THE COURT: Okay. So --

THE DEFENDANT: Because I was not asked.

THE COURT: Not asked what?

THE DEFENDANT: He will -- he will just -- he will just tell me secretly but I was never told that there was an offer. I was never --

MR. NADIG: And, Your Honor, for the record, Tierra Jones in Central -- Judge Jones in Central Trial Readiness, we reviewed the offer, we spoke about the offer, we did all these things on the record.

THE COURT: Okay.

MR. NADIG: And he chose, he said the words, "I want to go to trial." There was no mention of any of this.

THE COURT: Okay. And you just told me about 10 minutes ago you wanted to reject the State's offer and go to trial.

THE DEFENDANT: I had requested a negotiation.

THE COURT: Right. And the negotiation is 30-to-life, that's what the State's willing to offer, 30-to-life. That's the negotiation. They rejected your offer of 20-to-life. They want 30-to-life. You don't have to accept that though, you have the right to go to trial.

MR. NADIG: What would you like to do?

THE DEFENDANT: The way I told the lawyer if 25 was possible.

THE COURT: Okay. They're not going to accept that. They don't -- they don't want 20 or 25, they want 30 and so it's, you know, you don't want to do that, that's fine. Let's go to trial. I mean, you don't have to accept the offer. That's your decision and I don't have a problem. If you want to go to trial, let's go to trial.

MR. NADIG: I told you what I recommend. It's always your choice.

THE DEFENDANT: It's just one sentence consecutive?

MR. NADIG: It's just -- how would we structure it?

MR. KERN: Let's see, it'd be probably two S.A.s and a lewdness under. I can just pull that up.

MR. NADIG: Two S.A.s under 16?

MR. KERN: Yeah, and then a --

THE COURT: So --

MR. KERN: So -- sorry, Court's brief indulgence.

MR. NADIG: So, or actually it'd probably be a S.A. under 16 because that's

20, right, 20-to-life and then one lewdness, 10-to-life?

MR. KERN: Under 16, lewdness; under 14, 10-to-life. Yeah. That's the one.

MR. NADIG: So that's what we'd do?

MR. KERN: Yeah.

[Counsel confers with defendant]

THE COURT: You know what, Officer Hawkes, we don't have the second interpreter here yet, so we're not going to be able to go forward regardless. Why you don't you send the jury to lunch and then -- I mean, I don't want you to spend the whole lunch hour talking to him, but it will give you additional time. We can leave the courtroom.

MR. NADIG: Thank you.

THE COURT: You can have privacy with your client.

MR. NADIG: Yeah.

THE COURT: And if he wants to take the offer, we can write up a G.P.A. Otherwise, tell them 1:30.

MR. NADIG: Perfect.

THE COURT: It's, like, 12:20 right now, 1:30.

[Lunch recess at 12:21 p.m.; proceedings resumed at 2:35 p.m.]

[Outside the presence of the prospective jury panel]

THE COURT: All right. The record will reflect that the defendant is present and in custody. He's using the services of the interpreter. Will the interpreter state her name for the record?

THE INTERPRETER: Deborah Silvera, Your Honor.

THE COURT: Thank you very much.

THE INTERPRETER: Thank you.

THE COURT: Has the matter been resolved, Mr. Nadig?

MR. NADIG: It has, Your Honor. You should have a guilty plea agreement in front of you. He will be pleading to one count of sexual assault with a minor under the age of 16 and he will plead to a -- one count of first degree kidnapping. The State retains the right to argue consecutive time between counts and both parties will stipulate to a sentence of 5-to-life for the first degree kidnapping.

Am I leaving anything out?

MR. KERN: I don't believe so.

MR. NADIG: And all other charges will be dismissed at the time of sentencing.

THE COURT: Okay. So the only issue would be that the State can argue for a consecutive and you can argue for concurrent?

MR. NADIG: Correct.

THE COURT: Okay, sir, is that what you want to do today?

THE DEFENDANT: Yes.

THE COURT: And that's your understanding of the negotiations?

THE DEFENDANT: Yes.

THE COURT: Your true and full name for the record?

THE DEFENDANT: Ahuner Abidael Yanes Sanchez.

THE COURT: How old are you?

THE DEFENDANT: 38.

THE COURT: How far did you go in school?

THE DEFENDANT: Middle school.

THE COURT: Okay. And the third amended information, was it interpreted into Spanish for you?

THE DEFENDANT: Yes.

THE COURT: And you understand in Count 1 you're being charged with sexual assault with a minor under 16 years of age and Count 2, first degree kidnapping?

THE DEFENDANT: Yes.

THE COURT: You understand these charges against you?

THE DEFENDANT: Yes.

THE COURT: And you've discussed them with your lawyer?

THE DEFENDANT: Yes.

THE COURT: How do you plead to the charges in the third amended information?

THE DEFENDANT: Guilty.

THE COURT: Are you entering into this plea today freely and voluntarily?

THE DEFENDANT: Yes.

THE COURT: Did anyone threaten or coerce you into entering into this plea?

THE DEFENDANT: No.

THE COURT: Other than what's contained in the guilty plea agreement, did anyone make you any promises to get you to enter into this agreement?

THE DEFENDANT: No.

THE COURT: I have before me your guilty plea agreement, is that your signature on page 6?

THE DEFENDANT: Yes.

THE COURT: And was it interpreted into Spanish for you prior to you signing it?

THE DEFENDANT: Yes.

THE COURT: You had an opportunity to discuss it with your lawyer prior to signing it?

THE DEFENDANT: Yes.

THE COURT: Did he answer all your questions to your satisfaction?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions of the Court?

THE DEFENDANT: No.

THE COURT: Okay. And you understand as to Count 1, the sexual assault with a minor under 16 years of age, is a category A felony and that you are facing life in the Nevada Department of Corrections with parole eligibility beginning after a minimum of 25 years has been served?

THE DEFENDANT: Yes.

THE COURT: You understand as to Count 2, the first degree kidnapping, a category A felony, that you are facing life with the possibility of parole after 5 years or a term of years, 15 years, with parole eligibility beginning after a minimum of 5 years has been served?

THE DEFENDANT: Yes.

THE COURT: And you understand that you've agreed with the State of Nevada at the time of sentencing on Count 2 you're going to ask the Court to impose the 5-to-life term?

THE INTERPRETER: To impose what? I'm sorry.

THE COURT: You understand at the time of sentencing you've agreed with the State to ask the Court to impose the 5-to-life on Count 2?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about that?

THE DEFENDANT: No.

THE COURT: And you understand that the State has -- the State will have the full right to argue for any consecutive time between the counts?

THE DEFENDANT: Yes.

THE COURT: You understand your lawyer can argue that the counts run concurrent?

THE DEFENDANT: Yes.

THE COURT: And you understand, though, it's within the discretion of the Court as to how to sentence you?

THE DEFENDANT: Yes.

THE COURT: And you know that no one can make you any promises regarding what the Court will do at the time of sentencing?

THE DEFENDANT: Yes.

THE COURT: Anyone make you any promises?

THE DEFENDANT: No.

THE COURT: Okay. You also understand as part of your sentence you'll be required to register as a sex offender within 48 hours of being released from custody?

THE DEFENDANT: Yes.

THE COURT: You also understand that a part of your sentence you'll be subject to lifetime supervision?

THE DEFENDANT: Yes.

THE COURT: Your attorney explained all that to you?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions of the Court?

THE DEFENDANT: No.

THE COURT: And you understand that by entering into this plea today you are giving up all your trial rights, that you do have a right to a speedy and public trial, that is this matter went to trial the State of Nevada would be required to prove each of the elements as alleged in their charging document by proof beyond a reasonable doubt; did Mr. Nadig explain to you what the State would be required to prove if this matter went to trial?

THE DEFENDANT: Yes.

THE COURT: You had an opportunity to discuss any defenses you would have to these charges?

THE DEFENDANT: Yes.

THE COURT: And you understand at the time of trial you'd have the right to testify, to remain silent, to have others come in and testify for you, to be confronted by the witnesses against you and cross-examine them, to appeal any conviction, and to be represented by counsel throughout all critical stages of the proceedings?

THE DEFENDANT: Yes.

THE COURT: You understand all of these trial rights?

THE DEFENDANT: Yes.

THE COURT: You understand that be entering into this plea today you are giving up all of these trial rights?

THE DEFENDANT: Yes.

THE COURT: Any questions about the rights you're giving up?

THE DEFENDANT: Yeah. The rights, I didn't understand them so clearly.

THE COURT: Okay. So you understand that by entering into this plea today you're giving up your right to go to trial; do you understand that?

THE DEFENDANT: Oh, yes.

THE COURT: Okay. And you understand that if this matter went to trial today, the State of Nevada has the burden of proof, they would be required to prove each of the allegations that they've made in the charging document, so the information?

THE DEFENDANT: Yes.

THE COURT: And your attorney did explain to you what the State would be required to prove as to each count; is that correct?

THE DEFENDANT: Yes.

THE COURT: And you also had an opportunity to discuss whether you had any defenses to these charges?

THE DEFENDANT: Yes.

THE COURT: And you understand that if this matter went to trial you'd have the right to testify, to remain silent, to have others come in here and testify for you, to be confronted by the witnesses against you, so have the State bring in their witnesses; you'd have an opportunity to cross-examine them; you understand that?

THE DEFENDANT: Yes.

THE COURT: And you understand if you were convicted you'd also have the right to appeal any conviction?

THE DEFENDANT: Yes.

THE COURT: And you also understand you have the right to be represented by counsel throughout all these proceedings?

THE DEFENDANT: Yes.

THE COURT: Any questions about those rights?

THE DEFENDANT: No.

THE COURT: Any questions about your guilty plea agreement?

THE DEFENDANT: No.

THE COURT: Okay. Let's see, in Clark County, Nevada, on or between February 6th, 2022, and January 28th, 2023, as to Count 1, did you willfully, unlawfully, and feloniously sexually assault and subject F.P., a child who's under 16 years of age, to sexual penetration by inserting your penis into the genital opening of F.P. against his or her will or under conditions in which you knew or should have known that F.P. was mentally or physically incapable of resisting or understanding the nature of your conduct?

THE DEFENDANT: I don't feel -- I don't feel well. I don't feel well.

MR. NADIG: Do you need to sit?

THE COURT: Yeah, he can -- you want to sit down? You can sit down.

Did you do that, sir?

THE MARSHAL: Slide up.

THE DEFENDANT: Yes.

THE COURT: Okay. On or between February 6th, 2022, and January 28th, 2023, in Clark County, Nevada, as to Count 2, did you willfully, unlawfully, and feloniously seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away F.P., a human being, with the intent to hold or detain F.P. against her will without her consent for the purpose of committing sexual assault?

THE DEFENDANT: Yes.

THE COURT: Is the State satisfied with that?

MR. KERN: The State is satisfied, Your Honor.

THE COURT: Okay. At this time the Court --

MR. KERN: Your Honor, if I may, and I apologize, I probably just missed it,

but did we canvass him on the immigration consequences?

THE COURT: Oh, I -- thank you.

Sir, are you a citizen of the United States?

THE DEFENDANT: No.

THE COURT: Okay. So you understand that you could be subject to deportation pursuant to this conviction?

THE DEFENDANT: Yes.

THE COURT: And that you probably will be subject to deportation?

THE DEFENDANT: Yes.

THE COURT: And you had an opportunity to discuss those consequences with your attorney?

THE DEFENDANT: Yes.

THE COURT: And he advised you on the fact that you could be deported pursuant to this conviction?

THE DEFENDANT: Yes.

THE COURT: Which means you'd be sent back to your original country and you wouldn't be able to come back to the United States; do you understand that?

THE DEFENDANT: Yes.

THE COURT: Okay. Anything else before I --

MR. KERN: Nothing from the State. Thank you.

THE COURT: Okay. Any questions before I accept your plea, sir?

THE DEFENDANT: If something were to happen to me could my body be repatriated to Guatemala so my daughters could bury me?

MR. NADIG: I honestly don't know how that works.

THE COURT: So if something happened to you here in the United States,

you would want your body to be taken back to your country to be buried?

THE DEFENDANT: Yes.

THE COURT: Yeah, I don't see why not. You can speak to Mr. Nadig about how you can make sure that can -- that can happen. You probably have to speak to the embassy of his country. But Mr. Nadig can help you with that if you want that taken care of.

Anything else before I accept your plea?

THE DEFENDANT: No.

THE COURT: Okay. At this time the Court's going to accept your plea, make a finding you've entered into it freely and voluntarily, that you understand the nature of the charges and the consequences of your plea. It's referred to Parole and Probation. It'll be set for sentencing.

THE CLERK: Sentencing is going to be October 24th at 8:30 a.m.

MR. NADIG: Can I have any day but that day?

THE COURT: Yeah.

MR. NADIG: I'm in Mineral County that day.

THE COURT: Why are you going to be in Mineral County that day?

MR. NADIG: Drug trafficker.

THE COURT: Drug trafficker? Oh, a client?

MR. NADIG: Yes.

THE COURT: Okay.

THE CLERK: Sentencing is going to be October 31st at 8:30 a.m.

MR. NADIG: Thank you, Your Honor.

THE COURT: Halloween.

MR. KERN: All right. Thank you, Your Honor.

THE COURT: Thanks.

And you can let that jury panel go.

THE MARSHAL: Yes, ma'am.

MR. KERN: Have a good afternoon, everybody.

THE COURT: You bet. Way to get it done.

PROCEEDING CONCLUDED AT 2:48 P.M.

* * * * * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.

Sara Richardson

SARA RICHARDSON
Court Recorder/Transcriber

GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
SEP 10 2024
BY, _____
REINA VILLATORO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO: C-23-372856-1

DEPT NO: XII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50106)** and **COUNT 2 - FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

My decision to plead guilty is based upon the plea agreement in this case which is as follows:

The State retains the right to argue for consecutive terms. Parties stipulate to a term of five (5) years to LIFE for the First Degree Kidnapping charge. All remaining counts contained in the Criminal Complaint which were bound over to District Court shall be dismissed when I am adjudged guilty and sentenced.

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C-23-372856-1
GPA
Guilty Plea Agreement
5098533



I agree to the forfeiture of any and all electronic storage devices, computers, and/or related equipment and/or weapons or any interest in any electronic storage devices, computers and/or related equipment and/or weapons seized and/or impounded in connection with the instant case and/or any other case negotiated in whole or in part in conjunction with this plea agreement.

I understand and agree that, if I fail to interview with the Department of Parole and Probation (P&P), fail to appear at any subsequent hearings in this case, or an independent magistrate, by affidavit review, confirms probable cause against me for new criminal charges including reckless driving or DUI, but excluding minor traffic violations, the State will have the unqualified right to argue for any legal sentence and term of confinement allowable for the crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the possibility of parole after ten (10) years.

Otherwise, I am entitled to receive the benefits of these negotiations as stated in this plea agreement.

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty I admit the facts which support all the elements of the offense(s) to which I now plead as set forth in Exhibit "1".

I understand that as a consequence of my plea of guilty as to COUNT 1, the Court must sentence me to a term of LIFE with the possibility of parole with parole eligibility beginning at twenty-five (25) years.

As to COUNT 2, the Court must sentence me to a term of LIFE with the possibility of parole with parole eligibility beginning at five (5) years OR sentence me to imprisonment in the Nevada Department of Corrections for a minimum term of not less than five (5) years and a maximum term of not more than fifteen (15) years. The minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.

I understand that the law requires me to pay an Administrative Assessment Fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offense(s) to which I am pleading guilty and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for any expenses related to my extradition, if any.

I understand that I am not eligible for probation for the offense to which I am pleading guilty.

I understand that, before I am eligible for parole a panel consisting of the Administrator of the Mental Health and Developmental Services of the Department of Human Resources or his designee; the Director of the Department of Corrections or his designee; and a psychologist licensed to practice in this state or a psychiatrist licensed to practice medicine in this state certifies that I was under observation while confined in an institution of the department of corrections and that I do not represent a high risk to reoffend based upon a currently accepted standard of assessment.

I understand that, pursuant to NRS 176.0931, the Court must include as part of my sentence, in addition to any other penalties provided by law, a special sentence of lifetime supervision commencing after any period of probation or any term of imprisonment and period of release upon parole.

I understand that the Court will include as part of my sentence, in addition to any other penalties provided by law, pursuant to NRS 179D.441 to 179D.550, inclusive, I must register as a sex offender within forty-eight (48) hours of release from custody onto probation or parole.

I understand that I must submit to blood and/or saliva tests under the direction of P&P to determine genetic markers and/or secretor status.

I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively.

I understand that information regarding charges not filed, dismissed charges, or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

I have not been promised or guaranteed any particular sentence by anyone. I know that

my sentence is to be determined by the Court within the limits prescribed by statute.

I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not obligated to accept the recommendation.

I understand that if the State of Nevada has agreed to recommend or stipulate a particular sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose a particular sentence, such agreement is contingent upon my appearance in court on the initial sentencing date (and any subsequent dates if the sentencing is continued). I understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to sentencing the State of Nevada would regain the full right to argue for any lawful sentence.

I understand if the offense(s) to which I am pleading guilty to was committed while I was incarcerated on another charge or while I was on probation or parole that I am not eligible for credit for time served toward the instant offense(s).

I understand that if I am not a United States citizen, any criminal conviction will likely result in serious negative immigration consequences including but not limited to:

1. The removal from the United States through deportation;
2. An inability to reenter the United States;
3. The inability to gain United States citizenship or legal residency;
4. An inability to renew and/or retain any legal residency status; and/or
5. An indeterminate term of confinement, with the United States Federal Government based on my conviction and immigration status.

Regardless of what I have been told by any attorney, no one can promise me that this conviction will not result in negative immigration consequences and/or impact my ability to become a United States citizen and/or a legal resident.

I understand that P&P will prepare a report for the sentencing judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. This report may contain hearsay information regarding my background and criminal history. My attorney and I will each have the opportunity to comment on the information

contained in the report at the time of sentencing. Unless the District Attorney has specifically agreed otherwise, then the District Attorney may also comment on this report.

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction or resulting sentence with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this prosecution, conviction, or any aspect of the resulting sentence, including any challenge based upon reasonable constitutional, jurisdictional or other grounds. However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

My attorney has answered all my questions regarding this guilty plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

DATED this 10TH day of September, 2024.

AHUNER YANES
Defendant

AGREED TO BY:

SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

CERTIFICATE OF COUNSEL:

I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the Defendant the allegations contained in the charge(s) to which guilty pleas are being entered.

2. I have advised the Defendant of the penalties for each charge and the restitution that the Defendant may be ordered to pay.

3. I have inquired of Defendant facts concerning Defendant's immigration status and explained to Defendant that if Defendant is not a United States citizen any criminal conviction will most likely result in serious negative immigration consequences including but not limited to:

   a. The removal from the United States through deportation;

   b. An inability to reenter the United States;

   c. The inability to gain United States citizenship or legal residency;

   d. An inability to renew and/or retain any legal residency status; and/or

   e. An indeterminate term of confinement, by the United States Federal Government based on the conviction and immigration status.

   Moreover, I have explained that regardless of what Defendant may have been told by any attorney, no one can promise Defendant that this conviction will not result in negative immigration consequences and/or impact Defendant's ability to become a United States citizen and/or legal resident.

4. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent with the facts known to me and are made with my advice to the Defendant.

5. To the best of my knowledge and belief, the Defendant:

   a. Is competent and understands the charges and the consequences of pleading guilty as provided in this agreement,

   b. Executed this agreement and will enter all guilty pleas pursuant hereto voluntarily, and

   c. Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time I consulted with the Defendant as certified in paragraphs 1 and 2 above.

Dated: This 10TH day of September, 2024.

ATTORNEY FOR DEFENDANT

sar/SVU

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
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200 Lewis Avenue
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Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO: **C-23-372856-1**

DEPT NO: **XXII**

THIRD AMENDED INFORMATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50106)** and **FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051),** committed at and within and/or originating in the County of Clark, State of Nevada on or between February 6, 2022 and January 28, 2023, as follows:

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COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Defendant did willfully, unlawfully, and feloniously sexually assault and subject F.P., a child under sixteen years of age, to sexual penetration, to wit: by inserting his penis into the genital opening of the said F.P., against his or her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 2 - FIRST DEGREE KIDNAPPING

Defendant did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away F.P., a human being, with the intent to hold or detain F.P. against F.P.'s will, and without F.P.'s consent, for the purpose of committing sexual assault upon F.P..

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

BY */s/ Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

23CR004950/sk/sar/SVU
LVMPD EV#230100112447
(TRK12)

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

SEP 10 2024

BY, REINA VILLATORO, DEPUTY

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638
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-

AHUNER YANES,
#7124357

Defendant.

CASE NO: **C-23-372856-1**

DEPT NO: 12

THIRD AMENDED INFORMATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That AHUNER YANES, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50106)** and **FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051)**, committed at and within and/or originating in the County of Clark, State of Nevada on or between February 6, 2022 and January 28, 2023, as follows:

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C-23-372856-1
AINF
Amended Information
5098534

COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

Defendant did willfully, unlawfully, and feloniously sexually assault and subject F.P., a child under sixteen years of age, to sexual penetration, to wit: by inserting his penis into the genital opening of the said F.P., against his or her will, or under conditions in which Defendant knew, or should have known, that F.P. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 2 - FIRST DEGREE KIDNAPPING

Defendant did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away F.P., a human being, with the intent to hold or detain F.P. against F.P.'s will, and without F.P.'s consent, for the purpose of committing sexual assault upon F.P..

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

BY */s/ Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

23CR004950/sk/sar/SVU
LVMPD EV#230100112447
(TRK12)

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Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, OCTOBER 31, 2024

RECORDER'S TRANSCRIPT OF PROCEEDINGS
SENTENCING

APPEARANCES:

For the State: SAMUEL R. KERN
Deputy District Attorney

For the Defendant: BEN NADIG, ESQ.

ALSO PRESENT: YUL HAASMAN, SPANISH INTERPRETER

RECORDED BY: SARA RICHARDSON, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, OCTOBER 31, 2024, 10:10 A.M.

* * * * *

THE COURT: Okay. Do we have interpreters?

MR. KERN: I believe we have interpreters lined up.

THE COURT: I thought you had a victim speaker?

MR. KERN: We do have a victim speaker.

THE COURT: Okay. State of Nevada versus Yanes, C372856. He's present and in custody, using the interpreter.

Will the interpreter state his name for the record?

THE INTERPRETER: Yul Haasman, court interpreter.

THE COURT: Thank you.

You have everyone in that you want it?

MR. KERN: We do. Sam Kern for the State, Your Honor.

THE COURT: Okay. All right. Sir, you understand today is the date and time set for entry of judgment and imposition of sentencing?

THE DEFENDANT: Yes.

THE COURT: Do you know of any legal cause or reason why judgment should not be pronounced against you at this time?

THE DEFENDANT: Yes.

THE COURT: Are you ready to proceed with sentencing?

THE DEFENDANT: No.

THE COURT: No?

MR. NADIG: And, Your Honor, here is the situation, in reviewing the P.S.I. with Mr. Yanes --

THE COURT: Okay.

MR. NADIG: -- Mr. Yanes believes that he does not understand what first degree kidnapping is. He does not understand how he agreed to plead guilty to that charge and he is contesting his guilt under the first degree kidnapping. He did not challenge Count 1 in any way, shape, or form or suggest that Count 1 was incorrect. However, he says Count 2 he doesn't understand it, didn't understand it at the time of plea. That's his representation.

MR. KERN: And, Your Honor, this is ridiculous. It was explained very well what he was pleading to. This is now the second time that he's claimed not to understand a guilty plea agreement. He's playing games at this point. We've had this victim and the victim's mother in here multiple times for sentencing on his previous guilty plea agreement and for him to now say that he didn't understand what he was pleading to is a complete fabrication. And so I -- I'll submit it to the Court, but I -- at this point he's obviously intentionally delaying things and playing games.

THE COURT: So what do you want to do, sir? I mean, you don't want to proceed with sentencing?

THE DEFENDANT: No.

THE COURT: What do you want to do?

THE DEFENDANT: I'm not pleading guilty to that charge because I don't understand it.

THE COURT: You already did plead guilty to it. Is it just Count 2 that you're concerned about, the first degree kidnapping?

THE DEFENDANT: Yes.

THE COURT: Okay. You're not contesting the sexual assault with a minor under 16 years of age? I mean, you understand that charge, correct?

THE DEFENDANT: I understand.

THE COURT: Okay. It's just Count 2, the first degree kidnapping?

THE DEFENDANT: Yes.

THE COURT: Okay. And you're -- you know you entered into a guilty plea on that charge, you know that, right?

THE DEFENDANT: I didn't understand it.

THE COURT: Okay. And you know I took your plea, right?

THE DEFENDANT: Yes. But it was fast. I didn't understand.

THE COURT: At no time did you tell me you didn't understand it; is that correct?

THE DEFENDANT: You didn't do it. It was a different interpreter.

THE COURT: Oh, now it's the interpreter not -- it's the interpreter?

THE DEFENDANT: The deal was in English. I didn't have the time to analyze it. It was quick.

MR. NADIG: And, Your Honor, for the record, I believe the interpreter who did go through the deal is present in court.

THE COURT: Okay. So what -- did you -- you want to move to withdraw your plea to Count 2?

THE DEFENDANT: Yes.

THE COURT: But you don't want to withdraw your plea as to Count 1?

I mean, I don't know, the State want to proceed as to Count 1? I mean, I guess because he --

MR. KERN: I --

THE COURT: -- he wouldn't be withdrawing his plea -- well, I guess it depends on how you want to --

MR. KERN: Yeah.

MR. NADIG: There's -- also for the record, there's a couple of issues. You know, with his plea as to Count 1 -- with his plea as to all the counts, the other counts are supposed to be dismissed.

THE COURT: Oh, yeah.

MR. NADIG: So with his plea as to Count 1 does that raise issues as to the open counts?

MR. KERN: Yeah, I'm afraid the two are tied together, at least in the guilty plea agreement.

THE COURT: Okay. So you understand that by, you know, making this contention, you're jeopardizing the entire plea agreement?

THE DEFENDANT: I understand.

THE COURT: And you understand the State can reinstate the original charges?

THE DEFENDANT: I understand.

THE COURT: Okay. What were the original charges? Will you just state them for the record?

MR. KERN: And there were several, Your Honor. Court's brief indulgence. Here we go. There's lewdness with a child under 14, multiple counts of that; sexual assault with a minor under the age of 14, multi --

THE COURT: So 35-to-life?

MR. KERN: Correct.

THE COURT: Okay.

MR. KERN: -- multiple counts of that; first degree kidnap; and dissuading a witness from testifying. So I don't remember the total exposure that he had but it

was certainly within the realm of 100-plus years.

THE COURT: Okay. All right. So you understand if the Court allowed you to withdraw your plea, those original charges would be reinstated?

THE DEFENDANT: I understand.

THE COURT: Okay. And you want the Court to appoint counsel to represent you in filing a motion to withdraw as to Count 2?

THE DEFENDANT: Right.

THE COURT: Okay. I mean, I understand he hasn't made any allegations against you particular, but --

MR. NADIG: I haven't -- I haven't, for the record, stated them, Your Honor, but I think that it would be a prudent move to appoint a different counsel.

THE COURT: Okay. All right. So we will -- we will continue it a week for appointment of counsel to see if there's any legal basis to file a motion to withdraw his plea as to Count 2. He's not indicated he wants to withdraw his plea to Count 1.

THE CLERK: That appointment of counsel is going to be on November 7th at 8:30 a.m.

THE COURT: This is the second time this happened?

MR. KERN: This is the second time, Your Honor.

MR. NADIG: Second time.

THE COURT: Okay. Because I took his plea on the first day of trial, right?

MR. NADIG: You did.

MR. KERN: Yeah.

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THE COURT: Okay. All right. We'll see you on the 7th.

THE DEFENDANT: Okay.

PROCEEDING CONCLUDED AT 10:19 A.M.

* * * * * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.

Sara Richardson

SARA RICHARDSON
Court Recorder/Transcriber

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Steven D. Grierson
CLERK OF THE COURT

MOT

F. Virginia Eichacker, #4977
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Robert Arroyo, #11512
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Attorneys for Ahuner Yanes

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada,

Plaintiff,

v.

Ahuner Yanes, #7124357

Defendant.

Case No. C-23-372856-1

Dept. No. 12

Hearing Requested

Date: January 16, 2025

Time: 08:30am

MOTION TO WITHDRAW GUILTY PLEA

Defendant Ahuner Yanes, by and through his attorney Robert Arroyo, Esq. moves to withdraw his guilty plea entered on September 10, 2024.

This Motion is made and based upon the attached Points and Authorities, all papers and pleadings on file herein and on any oral argument this Honorable Court allows at the time of the hearing on this Motion.

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Case Number: C-23-372856-1

NOTICE OF MOTION

To: Clark County District Attorney, attorney for Plaintiff.

Samuel Kern, Esq., Chief Deputy District Attorney.

Notice that the Clark County Special Public Defender, counsel for Defendant, will bring the above and foregoing motion on for hearing before the Court on the 16th day of January, 2025 at 8:30a.m.

POINTS AND AUTHORITIES

I. Summary of the Case

Ahuner Yanes was charged via Amended Criminal Complaint on March 2, 2023. He was charged with three counts of Lewdness with a Minor Under 14; three counts of Sexual Assault of a Minor Under 14; one count of Kidnapping; and one count of Preventing or Dissuading Witness from Testifying or Producing Evidence. The charges were filed after it was discovery that Mr. Yanes twelve-year-old stepdaughter was pregnant. Mr. Yanes admitted to having a sexual relationship with his stepdaughter and a DNA test would confirm that Mr. Yanes was the father of the child.

The Clark County Public Defender's Office was appointed to represent Mr. Yanes. His preliminary hearing was set for April 4, 2023. Mr. Yanes unconditionally waived his right to a preliminary hearing and agreed in principle to plead guilty in district court. On April 13, 2023, Mr. Yanes pled guilty to three counts of sexual assault. Both parties retained the right to argue at the time of sentencing. Sentencing was set for May 25, 2023 but was ultimately continued until June 6, 2023 to give Mr. Yanes additional time to review the presentence investigation report. On June 6, 2023, Mr. Yanes' attorney advised the court that Mr. Yanes wanted to withdraw his plea.

The Court appointed Ben Nadig to represent Mr. Yanes on the Motion to Withdraw his Guilty Plea. Mr. Nadig filed a Motion to Withdraw Guilty Plea on

September 20, 2023. The State did not oppose the motion. On September 21, 2023, the Court allowed Mr. Yanes to withdraw his plea.

The State filed an Amended Information on September 21, 2023 which reinstated the original charges against Mr. Yanes. A Second Amended Information was filed on September 9 which charged Mr. Yanes with three counts of lewdness with a child under 14 and three counts of sexual assault with a child under 14.

The jury trial began on September 10, 2024 as scheduled. *See* Reporter's Transcript of Proceedings of September 10, 2024 attached hereto as Exhibit A. Mr. Yanes speaks Spanish and was being assisted by a court appointed interpreter. Exh. A, p. 2. A Petrocelli Hearing was originally scheduled to be conducted on the first day of trial but the parties determined it was not necessary due to Mr. Yanes' expected defense in which he planned to concede to having a sexual relationship with the victim and focus on challenging jurisdiction. Exh. A, pp. 3-4.

The Court asked the parties if an offer was ever made to Mr. Yanes. Exh. A, p. 4. Mr. Nadig and the State informed the Court about the terms of the original guilty plea that was previously withdrawn. Exh. A, p.5. The new offer from the State was for Mr. Yanes to plead guilty and stipulate to a sentence of thirty years to life in prison. Exh. A, p. 5. Mr. Yanes rejected that offer and submitted a counteroffer of twenty years to life in prison which was rejected by the State. Exh. A, p. 5.

Mr. Yanes confirmed that he did not want to agree to a sentence of thirty years to life in prison but was willing to accept twenty years to life in prison. Exh. A, p. 6. Mr. Nadig made a record that he explained to Mr. Yanes that a single conviction of sexual assault of a minor under the age of 14 carries a mandatory sentence of thirty-five years to life in prison. Exh. A, p. 6. The judge asked Mr. Yanes if he understood the charges against him and the potential penalty should he be convicted. Exh. A, pp. 6-7. Mr. Yanes confirmed that he understood the charges and the penalties for each charge. Exh. A, p. 7.

Right before jury selection was about to begin, Mr. Yanes made a record that he was not prepared to proceed to trial. Exh. A, p. 13. Mr. Yanes told the judge that Mr. Nadig never visited him at the jail to prepare for trial. Exh. A, p. 13. Mr. Nadig disputed Mr. Yanes contentions and stated that he visited Mr. Yanes at the jail with a Spanish speaking employee from his office. Exh. A, p. 14. Mr. Yanes told the Court he wanted Mr. Nadig to see if the State would accept a sentence of 25 years in prison. Exh. A, p. 15. The Court explained to Mr. Yanes that the State wanted a stipulated 30 years to life in prison. The Court told Mr. Yanes that he does not have to accept the offer and has a right to go to trial. Exh. A, p. 15. The State and Mr. Nadig discussed how the deal would likely be structured if Mr. Yanes wanted to agree to the thirty years to life in prison. Exh. A, p. 15. Mr. Yanes conferred with Mr. Nadig off the record. Exh A, p. 16.

The Court decided to send the venire panel to lunch and allow Mr. Yanes to confer with Mr. Nadig in private. The lunch break began at 12:21 p.m. Exh. A, p. 16. The proceedings resumed at 2:35 p.m. During the recess, the parties entered into a plea agreement. Exh. A, p. 17. Mr. Yanes agreed to plea guilty to one count of sexual assault with a minor under the age of 16 and one count of first-degree kidnapping. The parties agreed to stipulate to a sentence of 5 years to life in prison on the first-degree kidnapping. The parties retained the right to argue for concurrent or consecutive treatment between counts. Exh. A, p. 17. The Court conducted a full plea canvas before accepting the guilty plea in which Mr. Yanes stated he understood the rights he was giving up, the consequences of his plea, and that his plea was being entered into voluntarily. Exh. A, pp. 17-25. A signed Guilty Plea Agreement was filed on September 10, 2024. The agreement was written in English.

Sentencing was set for October 31, 2024. *See* Reporter's Transcript of Proceedings on October 31, 2024, attached hereto as Exhibit B. At the sentencing hearing, Mr. Yanes stated he was not ready to proceed. Exh. B, p. 2. Mr. Nadig

explained that Mr. Yanes was contending that he did not know what first degree kidnapping was at the time he entered into the guilty plea agreement. Exh. B, p. 3. Mr. Yanes asserted that he did not understand because the plea agreement was in English. Exh. B, p. 2. There was a Spanish interpreter present at the time Mr. Yanes entered into the agreement, however, Mr. Yanes explained he did not have time to analyze the deal because "it was quick." Exh. B, p. 4. Mr. Yanes stated he wanted to consult with a new attorney regarding withdrawing his plea as to count 2. Exh. B, p. 6. The State informed the Court that Count 1 and Count 2 were tied together in the guilty plea agreement and he could not withdraw his plea to only Count 2 without invalidating the entire plea agreement. Exh. B, p. 5. Mr. Yanes confirmed that he knew he was jeopardizing the entire deal. Exh. B, p. 5.

Present counsel's office was appointed on November 7, 2024, for the purpose of reviewing Mr. Yanes' plea and advising him on a motion to withdraw his plea. Mr. Yanes directed counsel to proceed with a motion to withdraw his plea. On December 5, 2024, the Court set a briefing schedule in which oral argument is scheduled for January 16, 2025. This Motion to Withdraw Guilty Plea follows.

II. Argument

A defendant may not plead guilty unless he does so "competently and intelligently." *Godinez v. Moran,* 509 U.S. 389, 396, 113 S.Ct. 2680, 2685, (1993) (*internal citations omitted).*

"A motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea." NRS 176.165. Thus, "a district court may, in its discretion, grant a defendant's [presentence] motion to withdraw a guilty plea for any 'substantial reason' if it is 'fair and just.'" *Molina v. State*, 120 Nev. 185, 191, 87 P.3d 533, 537 (2004), *emphasis added, quoting Woods v.*

State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998)). "A district court must examine the totality of the circumstances to determine whether a defendant entered his plea voluntarily, knowingly, and intelligently." *Molina*, 120 Nev. at 191, 87 P.3d at 537 (citing *Crawford v. State*, 117 Nev. 718, 722, 30 P.3d 1123, 1125–26 (2001)). Whether a plea was entered voluntarily, knowingly, and intelligently is not the only consideration in whether the withdrawal of the plea is "fair and just," and the court must consider the totality of the circumstances. *Stevenson v. State*, 131 Nev. 598, 603, 354 P.3d 1277, 1280–81 (2015). The question of a defendant's guilt or innocence is generally not at issue. *State v. Second Jud. Dist. Ct.*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969) (citing *Woodring v. United States*, 248 F.2d 166 (8th Cir. 1957)); *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 226 (1984) (citing *Kercheval v. United States*, 274 U.S. 220, 224 (1927)).

A reviewing court is not constrained to look only to the technical sufficiency of a plea canvass to determine whether a plea has been entered with a true understanding of the nature of the offense charged. *Bryant v. State*, 102 Nev. 268, 271, 721 P.2d 364, 367 (1986). Rather, the court may "review the entire record and look to the totality of the facts and circumstances of a defendant's case, to determine whether a defendant entered his plea with an actual understanding of the nature of the charges against him." *Id.* at 271, 721 P.2d at 367 (citing *Marshall v. Lonberger*, 459 U.S. 422 (1983) and *Henderson v. Morgan*, 426 U.S. 637 (1976)); *Stocks v. Warden*, 86 Nev. 758, 761, 476 P.2d 469, 471 (1970) ("The voluntariness of [a defendant's] plea is to be determined by considering all relevant circumstances surrounding it").

Mr. Yanes submits that he has a "fair and just reason" to withdraw his plea as he had an inadequate understanding of the plea agreement due to the lack of time, he had to analyze the offer. Additionally, Mr. Yanes is Spanish speaking, and the plea agreement was written in English. Furthermore, his lack of understanding was compounded by the extreme pressure of having to decide whether to accept the

proposed plea agreement while a jury was waiting in the hallway and his trial was about to begin. Therefore, Mr. Yanes respectfully requests this Court to allow him to withdraw his guilty plea and proceed to trial on the original charges.

CONCLUSION

For the foregoing reasons, Ahuner Yanes should be able to withdraw his plea and proceed forward to trial because he had an inadequate understanding of the guilty plea agreement. Accordingly, allowing him to withdraw his guilty plea would be fair and just under the totality of the circumstances.

DATE December 18, 2024.

Respectfully submitted,

F. Virginia Eichacker
Clark County Special Public Defender

/s/ Robert Arroyo
Robert Arroyo, #11512
Chief Deputy Special Public Defender

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Eighth Judicial District Court by using the Court's mandatory electronic filing system (EFS). The EFS will serve a file-stamped copy of this document on all participants to this matter who are registered users. EJDC Rule 8.04; NEFCR. The EFS will provide proof of service by email to all addresses listed in the service list for that particular case, including:

Party	Email
State of Nevada	motions@clarkcountyda.com
Samuel Kern, Esq.	samuel.kern@clarkcountyda.com

DATED December 18, 2024.

Signed,

/s/ J. McCall
An employee of the
Special Public Defender

Electronically Filed
1/6/2025 7:54 AM
Steven D. Grierson
CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
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Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

Ahuner Yanes,
#7124357

Defendant.

CASE NO: C-23-372856-1

DEPT NO: XII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

DATE OF HEARING: JANUARY 16, 2025
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through SAMUEL KERN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Withdraw Guilty Plea.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

Before pleading guilty, Defendant was charged with multiple offenses including Lewdness with a Child Under the age of 14, Sexual Assault with a Minor Under Fourteen, and First Degree Kidnapping. These charges arise from Defendant's sexual abuse of his "stepdaughter," 12-year-old F.P., between February 25, 2022 and January 1, 2023.

Defendant's crimes came to light when F.P.'s mother took her to the doctor on January 10, 2023, and discovered she was pregnant. Although F.P. initially tried to cover for her stepfather, F.P.'s neighbors realized that Defendant would have been the only plausible suspect during the time period when she became pregnant. When confronted with this fact F.P. admitted that Defendant had been sexually abusing her.

LVMPD Detective Ratsdakhom interviewed Defendant on January 29, 2023. A portion of the transcript of that interview is attached as Exhibit "1." Defendant admitted to sexually abusing F.P. in Las Vegas, stating that he "Seduced her" and they had "relations." When asked how often he had sex with F.P., Defendant replied "it was not frequent. Let's say like … one time a month." His confession contains many specifics of the sexual abuse, and he ultimately admitted to being the father of F.P.'s child.

On April 15, 2023, F.P. gave birth to Defendant's son. A buccal swab was taken from the child and compared to Defendant's DNA, which confirmed he is the father.

At preliminary hearing on April 4, 2023, Defendant waived up on negotiations. On April 13, 2023, with the assistance of a Spanish Interpreter, and after a full plea canvas by Judge Hardy, Defendant entered his first plea agreement in this case. Pursuant to that agreement, Defendant pled guilty to three counts of Sexual Assault and the written terms of the guilty plea specifically state that "the State will retain the full right to argue on all counts, including for consecutive sentences," which would have been a potential aggregate sentence of 30-life. At sentencing on May 25, 2023, the F.P. and her mother showed up to speak and Defendant told the Court he wanted to withdraw his plea. On September 20, 2023, Defendant filed a motion claiming that he did not understand that the charges could run consecutively, so it would not

be fair and just to hold him to his agreement. The State did not oppose Defendant's first Motion to Withdraw his guilty plea.

Subsequently, the parties prepared their cases and on September 10, 2024, we were set to begin the first day of trial. Defendant's rendition of facts regarding the statements made in court that morning is accurate, and so the State will not repeat them here. A copy of the transcript of those proceedings is attached as Exhibit "2." Instead, I will highlight a few things regarding Defendant's entry of plea that day as they relate to his claims that he did not have enough time to think about the negotiation because trial was about to begin and that he did not understand because he is Spanish speaking.

First, the State's offer before trial was a stipulated 30 to life sentence. Defendant was aware of that offer prior to trial and the Court confirmed that he knew of the offer and had rejected it. Reporter's Transcr. Proc. 6 (Sept. 10, 2024). On the morning of September 10, 2024, before he entered his plea, Defendant made two counter offers, first proposing a stipulated 20 to life sentence, and then a stipulated 25 to life sentence. Id. at 15. Each time, the State declined to lower the offer. After some back and forth, the State and Defense agreed on which charges Defendant would plead to under a stipulated 30 to life sentence and the Court took a break to allow Defendant and his counsel to discuss the offer. Id. at 15-16.

During the break, during which Defendant had an additional 2 hours to consider the negotiations, I made a concession despite my better judgement and agreed to allow him to plead to one count of Sexual Assault with a Minor Under 16, with a sentencing range of 25 to life, and one count of First Degree Kidnapping, with the parties to recommend a sentence of 5 to life, and each party retaining the right to argue as to concurrent or consecutive time. Essentially, I agreed to give Defendant a chance to argue for the 25 to life he had been asking for.

Second, Defendant had the services of a Spanish interpreter prior to and during his entry of plea. Id. 2, 16. The Court confirmed he understood the plea negotiations, and asked Defendant specifically if both the Amended Information and the Guilty Plea Agreement had been interpreted into Spanish for him prior to signing it. Id. at 17-18. He confirmed that they

had, and that he understood both the charges and the consequences of the plea agreement. The Court specifically asked him if he understood that the sexual assault with a minor under 16 years of age he would be pleading to carried a minimum term of 25-life and that he understood that the parties would be recommending 5-life on the first degree kidnapping charge. Id. at 19. Defendant confirmed that he had discussed the negotiation with his attorney, and that he had all of his questions answered. After a complete canvass, Defendant's plea was determined to have been entered freely and voluntarily and sentencing was set for October 31, 2024.

Again, at sentencing, F.P. and her mother showed up to speak. Again, Defendant decided that he wanted to withdraw his plea agreement and filed his motion to do so. Again, Defendant claims that he did not understand the negotiations. The State hereby opposes.

ARGUMENT

A motion to withdraw a plea of guilty may be made before sentence is imposed. NRS 176.165. In determining whether to allow a defendant to withdraw a guilty plea, the Court "must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just." Stevenson v. State, 131 Nev. 598, 603, 354 P.3d 1277, 1281 (2015). In this case, allowing Defendant to withdraw his plea would be neither fair nor just. "The guilty plea is not a placeholder that reserves [a defendant's] right to our criminal system's incentives for acceptance of responsibility unless or until a preferable alternative later arises. Rather, it is a grave and solemn act, which is accepted only with care and discernment." Id. at 605, citing United States v. Ensminger, 567 F.3d 587, 593 (9th Cir.2009). The Courts give deference to the District Court's factual findings if they are supported by the record. Id. at 604, 354 P.3d at 1281. A District Court's ruling on a presentence motion to withdraw guilty plea is "discretionary and will not be reversed unless there has been a clear abuse of that discretion." State v. Second Jud. Dist. Ct., 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). To warrant an evidentiary hearing, a defendant must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

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"One of the goals of the fair and just analysis is to allow a hastily entered plea made with unsure heart and confused mind to be undone, not to allow a defendant to make a tactical decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes that he made a bad choice in pleading guilty." Stevenson, citing United States v. Barker, 514 F.2d 208, 222 (D.C.Cir.1975). The situation here is the latter, as Defendant waited nearly a month and a half after entering his plea only to appear before the Court on the day of sentencing to ask to withdraw his plea. Furthermore, this is Defendant's second guilty plea agreement in this case. He cannot seriously contend that he did not understand the consequences of entering a plea.

Defendant's claimed misunderstanding of the terms of the guilty plea agreement is belied by the record. He was assisted throughout by a Spanish interpreter, who translated the Amended Information and the Guilty Plea Agreement for him. The Court thoroughly canvassed him on the nature of the charges, the consequences of the charges, and the facts contained within the allegations. Defendant indicated that he understood each of these things, and that any question he had was answered by his attorney, who he had been given time to speak to. The end plea agreement in this case was the result of the State's concession to Defendant's request for the opportunity to argue for a sentence of 25 to life. He was directly involved in reaching this result.

Additionally, while not necessarily salient to the issue of Defendant's understanding of the negotiations, this was a very strong case for the State. Any result less than convictions on all counts is beneficial to Defendant. In addition to being able to present DNA and a confession, the State was well prepared for any jurisdictional defense that Defendant may have put forth. Although there was some question as to whether Defendant got F.P. pregnant in Las Vegas or during a trip to Arizona, the State addressed that issue before trial by filing a motion pursuant to McNamara v. State for a finding that Nevada had jurisdiction over events that occurred in Arizona. 132 Nev. 606, 377 P.3d 106 (2016). The Court granted the State's motion, and so the State had jurisdiction over that sexual assault, as well as the multiple sexual assaults Defendant admitted occurred in Las Vegas.

Finally, the fact that Defendant entered his plea immediately before trial does not mean it was any less valid. "Although deadlines, mental anguish, depression, and stress are inevitable hallmarks of pretrial plea discussions, such factors considered individually or in aggregate do not establish that [a defendant's] plea was involuntary."). Stevenson v. State, 131 Nev. 598, 605, 354 P.3d 1277, 1281 (2015) citing Miles v. Dorsey, 61 F.3d 1459, 1470 (10th Cir.1995). "The guilty plea is not a placeholder that reserves [a defendant's] right to our criminal system's incentives for acceptance of responsibility unless or until a preferable alternative later arises. Rather, it is a grave and solemn act, which is accepted only with care and discernment." Id. at 605. If being close to trial and the associated stresses and inconveniences of being so were a basis upon which to withdraw a guilty plea every person who entered a plea while right before trial would have the same claim and it would therefore be impossible to accept such a plea.

Allowing Defendant to withdraw his plea would not be fair or just. As stated in Barker, the purpose of a guilty plea is not to allow a defendant to make a tactical decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes that he made a bad choice in pleading guilty 514 F.2d at 222. Defendant was given a favorable plea negotiation despite having no real defense. Also important here is the fact that F.P. has been waiting for closure in this case. F.P. and the State were ready to proceed to trial at the last setting and would have done so if Defendant had not himself asked to enter the plea negotiation. F.P. has had to relive her abuse again and again preparing to testify in this case, only to have the matter resolve prior to doing so. Then, on two occasions when she came to court to speak out against the man who admitted to sexually assaulting her, he moves to withdraw his plea. He should not be allowed to do so, especially when the basis for his request is so clearly controverted by the record.

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CONCLUSION

For the reasons discussed above, the State requests that this Honorable Court deny Defendant's Motion in its entirety.

DATED this 3rd day of January, 2025.

Respectfully submitted,

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

BY */s/ Samuel Kern*
SAMUEL KERN
Chief Deputy District Attorney
Nevada Bar #010638

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made on this 6th day of January, 2025, to:

ROBERT ARROYO, SPD.
Robert.Arroyo@clarkcountynv.gov

BY */s/ Selma Rodriguez*
Secretary for the District Attorney's Office
Special Victims Unit

sk/sar/SVU

Q2: Ahuner, but we need the details. We need to know, as detectives, what happened. Help us understand what happened. Okay?

A: Of course, that is what I am saying. I do not know how to explain it.

Q2: Explain, explain.

A: Yes, that is what... like I said... I let myself go, I don't know. It's that I do not understand. I don't, do not process it.

Q2: Okay.

A: How... because I swear uh... I went to the church, right? And well uh, I know... I am adult, right? And I, I did... at the moment well, I was with her... it, it was not me. Because I would then regret it, felt dirty. I would go the bathroom, to cry... what is going on ... what am I doing? And I don't know, I don't know... I can't explain anything more to you.

Q2: Okay.

A: That is what... yes, because... I cannot process it.

Q2: Uh, he says he can't explain. Says that uh, he (unintelligible) church, and that when it happened he wasn't being himself. He would go to the bathroom afterwards to cry.

Q: Okay. So, when things first started with Fatima, how did you start with her? Did you just showing her videos?

Q2: When things started with F[redacted] how did it start? Did you start showing her, showing her videos?

A: Uh, yes.

Q2: Okay.

A: With that, yes.

Q: Okay. Tell me about the videos that you'd show her.

Q2: Tell us about the videos you showed her.

A: Uh, more than anything else, it was purely accidental because I had a, a video, right? Like I opened a page. So then, well, like curiosity and... well, honestly, I lost my head. And...

Q2: ...okay.

A: And it happened...

Q2: ... and what, and what were the videos?

A: They were videos for adults. I didn't usually do that. Just that uh, a page came up... and I was watching it and because I got curious but no...

Q2: ...okay.

A: Yes.

Q2: So, he says the videos were adult videos.

Q: Okay.

Q2: They were adult videos. Uhm, that he had it and he didn't have the head to show her but uhm, but he did.

Q: Okay. When, when ... when do think you first starting showing F[redacted]the videos?

Q2: When was the first time you started showing those videos?

A: That was ... a year ago approximately.

Q2: Where?

A: Uh, we were... here, in Las Vegas.

Q2: Okay.

A: Yes.

Q2: Uh, it happened here in Las Vegas.

Q: Okay.

A: Yes, it was because... I... honestly, I did not...

Q2: ... actually...

A: ... use to...

Q2: ... a year ago.

Q: Okay. Uhm...

Q2: ...okay.

Q: The first time that you showed F[redacted] the videos uh, did you touch her the first time you showed her videos?

Q2: The first time you uh, showed her those videos, did you also touch her?

A: Yes.

Q2: He did.

A: Yes.

Q: Tell me about that.

Q2: Tell us about that.

A: Uh...

Q2: ... tell, tell me. Tell me, Ahuner.

A: Yes, of course. Well, I touched her and I don't know. Like I told you it's that I do not understand it. It was not me

Q2: Where did you touch her?

A: I don't know. Well, I only grabbed, grabbed her waist and I touched her and well, uh... I did not... not... she did not resist so then, but... no, I stopped.

Q2: Okay.

A: I stopped and well, we just watched it, and I took it off quickly, because I don't know.

Q2: And you grabbed her waist and you also touched her. Where did you touch her, Ahuner?

A: Her waist, here.

Q2: And where else?

A: Just there.

Q2: So, he says that he touched her uh, only on the waist. She did not resist.

Q: Okay. And... no, I'm sure when you touched F[redacted]on her waist, and she didn't resist you that you probably thought that you could do a little bit more.

Q2: And for sure, you thought when you touched her waist and she did not resist, you thought that maybe you could do more, right?

A: Yes.

Q2: Yes.

Q: Tell me about...

A: ... that.

Q: Tell me what happened next.

Q2: Okay. And tell us what happened next.

A: Well, uh... honestly... like... curiosity got into her young mind... curiosity went in and when I would shower, well, she would watch me. And in fact, she would open the door. And would watch me, so. I was showering, I always shower with boxers on.

Q2: Okay. So, he says he always showers with boxers. Uhm, and he thinks she became curious. And that he ... and that she would even go to watch him while he showered.

Q: Okay.

Q2: And stuff.

Q: So, I mean, I... I understand uhm, you know, you grabbing at F[redacted]s waist the first time. She doesn't resist you. And then, she becomes curious about you sexually. So, tell me what happens after that.

Q2: And what happened after that, Ahuner?

A: Yes, and well... honestly... I seduced her and well, uh... we had relations and like I told you, I felt so dirty. But it was like... she, she... like she liked it. It's very embarrassing for me to talk about that.

Q2: Do not worry. Do not worry, Ahuner.

A: And I don't know, like... and... and honestly, I couldn't resist. Because at that moment, it was not me. I swear. It was not me. It was not me.

Q2: Okay.

A: Yes, it was not me.

Q2: So, he goes on to say that uhm, after that he seduced her. And they had relations. He says he feels embarrassed about talking about it. Uhm, and that he felt dirty when it happened, but he could not resist.

Q: Tell me about the first time that you guys had relations. Where were you?

Q2: Tell us about the first time you had relations. Where, where were you guys?

A: Uh, we were in (unintelligible) and we were coming here, to Las Vegas.

Q2: Okay.

A: Uh-huh.

Q2: It happened in Las Vegas.

A: Like... well, here... well, we lived separate. And well... and that.

Q2: Okay. Ahuner... I don't know what happened.

A: Honestly... it's very embarrassing for me to talk about that.

Q2: Ahuner...

A: ... dirty... I don't know I feel very dirty.

Q2: Okay Ahuner, but...

A: ... with that situation.

Q2: But we need for you to tell us, okay?

A: Okay. And...

Q2: ... what happened?

A: Well, honestly... I... I don't know. I lost control. Like I told you. I don't know... (unintelligible) all that... so sad, right? But... like I said... I don't know how to explain it.

Q2: He says, he doesn't know how to explain it.

A: I don't know how to explain it.

Q2: Uh...

A: ... honestly.

Q2: He was out of control. Uhm...

Q: ... so, the first time you had sex with F[redacted] which room are you in?

Q2: The first time you had sex with F[redacted] in which room were you guys?

A: Uh, in, in the one we sleep in.

Q2: In the... in your bedroom...

A: ... yes.

Q2: Master? In the master bedroom.

Q: And the first time that you guys had sex were you on ... uh, her bed? Or are you guys on your bed?

Q2: And the first time you guys had sex, was that on your bed or hers?

A: Uh, we only had one bed, with the mattress.

Q2: So...

A: ... it was on our bed. On the one I slept with my wife.

Q2: Okay. So, he says that uh, at the beginning, they all shared a bed.

Q: Okay.

Q2: Uh, and it was on that bed right now.

Q: On the bed that they shared?

Q2: Yes, correct.

Q: Okay. Tell me uhm, like how your clothes came off. Did you take your clothes off? Did F[redacted] take your clothes off? Or something else?

Q2: How did the clothes... how did you get naked? How did that happen?

A: Uh, I usually sleep with no shirt on, just in boxers.

Q2: Okay. So then, you only had on boxers?

A: Yes.

Q2: And she?

A: Uh, changed. She slept with pajamas.

Q2: Okay. So, he says normally he only sleeps with boxers on, and that's what he was wearing when things happened. And she was wearing pajamas.

Q: Okay. Uhm, I know you mentioned earlier that like F[redacted] because sexually curious about you. So, how did F[redacted]s clothes come off.

Q2: You... we know you said F[redacted] did develop this sexual curiosity.

A: Yes.

Q2: How did she get naked?

A: Sorry?

Q2: How did her clothes... she did not have them on.

A: Because... I, I took off her shorts.

Q2: Because she took her shorts off.

A: Yes.

Q: Okay.

Q2: And, and what else?

A: And... it happened.

Q2: And it happened.

Q: Okay.

A: Yes, it happened.

Q: So, tell me how you're positioned on the bed.

Q2: How were you uh... posi-, positioned on the bed.

A: I was laying.

Q2: He was laying down.

A: And then me how F[redacted]s position.

Q2: And F[redacted]s position?

A: On top of me.

Q2: On top of me.

Q: Do you remember uhm, saying anything to F[redacted]?

Q2: Do you remember uh, saying something to F[redacted]ike that?

A: What do you mean like that?

Q2: Do you remember you saying something to F[redacted]?

A: No, I was silent.

Q2: He said ... and she to you?

A: Neither, nothing.

Q2: He says words were not exchanged between the two. So, silence.

Q: Okay. So, F[redacted]is on, on top of you. Tell me how's she positioned on top of you.

Q2: How is uh, her position on top of you?

A: Uh, like sitting.

Q2: Okay. She was sitting on top of him.

Q: Is she facing you? Facing away from you or something else?

Q2: Looking at you? Or...

A: ... face to face.

Q2: Face to face.

Q: Okay. Uh, tell me where your hands are when she's on top of you.

Q2: And where were your hands? When she was on top of you.

A: On her waist.

Q2: On her waist.

Q: Okay. Uhm, do you take your penis out of your boxers? Or did she touch your penis or something else?

Q2: Uh, did you take out your penis or did she touch your penis or something else?

A: Uh, she would touch me. I'd touch her

Q2: She would touch his penis and ...

A: ... it's so difficult..

Q2: ... I'm sorry.

A: Yes, very difficult.

Q2: She would touch his penis and he would touch her.

Q: Okay. Uhm, tell me how she touched your penis.

Q2: How did she touch your penis?

A: Uh... she usually would put her hand in because I was laying down, and she would put her hand in.

Q2: Okay.

A: Yes.

Q2: He said he normally he'd be laying down. And he put uh, his hand inside and touch him.

Q: That she would put ...

Q2: ... she would put her hand down his, his boxers.

Q: Okay. Tell me how you would touch her.

Q2: And how would you touch her?

A: Uh, usually just her waist, always.

Q2: He said normally it was always the waist.

Q: Okay. Uhm, at what point did you put your penis in her vagina?

Q2: At what point uh, did you put your penis in her vagina?

A: Uh... at first, I never penetrated her.

Q2: Oh so...

A: ... it was just like...rubbing because I knew it, it... at first, only... it was like just a brush over.

Q2: Okay. So, he says in the very beginning he never penetrated her. It was always just a touch.

A: Yes, because...

Q2: ... like a frisk.

Q: Okay.

Q2: With that.

Q: Okay. Uh, tell me about the first time, you know, I'm sure like her curiosity grew and so did yours. So, tell me about the first time that you remember where you inserted your penis in her vagina.

Q2: For sure uh, her curiosity grew.

A: Yes.

Q2: And yours, too, right?

A: Honestly... yes, like I told you... I don't know.

Q2: Okay. Talk to us about the first time you put your penis in her vagina.

A: Uh, it was... one time when... uh, uh, I don't remember honestly.

Q2: He says he can't remember.

A: I do not remember, honestly, because...

Q: ... how many times do you guys think that you guys ... I, I guess uh, maybe... can you help me understand like the first (mumbling - unintelligible) I guess, a little bit.

Q2: So, then you said one, that you touched her, right?

A: Uh-huh.

Q2: Uh, but wouldn't penetrate her? How did you touch her?

A: Uh...

Q2: ... explain to me how, how...

A: ... the, the waist.

Q2: Okay.

A: And touched... uh-huh.

Q2: And what else?

A: And... her thighs.

Q2: Her what?

A: Thighs... like legs.

Q2: And what else?

A: I would touch her.

Q2: And what else.

A: That is what I touched.

Q2: And what else, Ahu... Ahuner. I'm asking you. What else did you grab? What else...

A: ... and her breasts, too.

Q2: Okay. Thank you.

A: Yes, her breasts.

Q2: He said that he was grabbing onto her waist. Her legs, and he didn't want to tell me but also her, her breasts.

Q: Okay. And the first time, I know that you're saying like the first time that was just the first, where would your penis rub against her body?

Q2: And you said the first time you just touched her.

A: Yes, yes.

Q2: Where was your penis? What part of you, or her body was it touching? Your penis.

A: Uh, on the vagina.

Q2: When you touched her like that?

A: Yes.

Q2: Well, he saying when he touched her like that... was it inside of the vagina or ...

A: ... no, outside.

Q2: It was outside of the vagina.

Q: Okay. Uhm, where did your penis touch outside the vagina?

Q2: Where was your penis touching outside of the vagina?

A: Uh, it's that...

Q2: ... (mumbling - unintelligible)

A: Just brushing her. Just a brush.

Q2: Explain it to me.

A: A brush and...

Q2: ... all right. He, he says it was like a rub.

Q: Okay.

A: Just a brush.

Q2: (crosstalk - unintelligible)

Q: When she would be on top of you, would her body move? Or just stay still?

Q2: When she was on top of you, did her body move? Or...

A: ... yes.

Q2: Or was...

A: ... she would move it. Yes.

Q2: Okay.

A: Yes, I don't want to talk about that.

Q2: Okay. He said that...

A: ... and...

Q2: ... her body was moving.

A: She was moving it.

Q: Okay.

A: Which, which started the curiosity and I lost control.

Q2: And it's because of curiosity...

A: ... I lost...

Q2: ... he got out of control...

A: ... no, no, no, I shouldn't have...

Q: ... okay.

A: Done that.

Q: Would you be soft or erected at the time or something else?

Q2: Uh, was your penis hard or was it uh, soft?

A: Hard.

Q2: Hard.

Q: Okay. Tell me when uhm, when you uhm, guys started actually having intercourse.

Q2: Tell us about the first time when you ... or when did you guys started having sex.

A: Uh, we started... uh....

Q2: ... when?

A: April to May.

Q2: He says April to May.

Q: Okay.

Q2: That's when they actually started having full on sex.

Q: How many times do you think that you guys have like the first interactions uhm...

Q2: ... when...

Q: ... since, since they started, I guess.

Q2: When you guys started uh, having relations, how many times uh, did you only brushed it against her?

A: Like uh...

Q: ... or how often...

A: ... five, six times.

Q2: And how often?

A: No, not a lot. It was only...

Q2: ... he said it wasn't a lot..

A: ... curiosity and...

Q2: ... but five, six times.

Q: Okay. Uhm, when you guys would be together uhm, did you guys like have a... like a... code word or something and would you guys would meet up? Or would you guys just find each other alone?

Q2: How did you guys get together? Like did you guys have words... to, right? Or, or how did that happen?

A: Always in silence. Just curiosity.

Q2: Okay.

A: Hers and mine.

Q2: But how like... uh... did you and her know it was time to do those things?

A: Uh, usually... uh... more than anything else it was when my wife would fall asleep.

Q2: So, he said normally it would happened when his wife was asleep.

Q: Okay.

Q2: Uhm, and that it was all in silence.

Q: Okay. Tell me about the first time that you guys had sex.

Q2: Tell us about the first time you had sex.

A: The first time uh, it was... uh, that time was just one penetration because ... one penetration only... and... well, I saw she ... uh... she didn't say no at that time, but afterwards like... she bled a bit.

Q2: Okay.

A: She told me and... I... got very worried and...

Q2: ... okay.

A: I did not...

Q2: ... so, he says...

A: ... (crosstalk - unintelligible)...

Q2: ... not in the very moment. But he noticed later on that she was bleeding.

A: Uh-huh.

Q: Okay.

A: Yes.

Q2: Okay. And what else?

A: And ... well, then uh... uh... she... honestly... she would tell me... lend me the phone, because she plays Free Fire. And...

Q2: ... she did what?

A: She plays one game a lot.

Q2: Okay.

A: So then, we would (unintelligible) the phones so... she would not... would not get into a lot of things because there were a lot... many times... uh... it would be very late, she would be playing.

Q2: Okay.

A: And well, her mom did not like that. So then uh... I don't know if... it was like a blackmail. And I would take advantage of that. Because she would tell me if you give me the phone... she would have, she would have relations with me.

Q2: Okay. He says uhm, she would like to be on the phone all the time.

Q: Okay.

Q2: So, she used that as hey, if you allow me to be on the phone, then I'll have relations with you.

Q: Okay.

Q2: And (mumbling - unintelligible) use as leverage in order to get permission from him and mom to use the phone.

Q: Okay. Uhm, when, when you guys started having intercourse, did you use condoms?

Q2: When you guys uh, had... relations, when you guys started, did you guys use condoms?

A: No.

Q2: Okay.

Q: Okay. Uhm, I know that initially you had described uhm, like when the, the frisk, that uhm, Fatima was on top of you. Was there ever a time where you guys were positioned differently for intercourse?

Q2: I know you are saying when the, the brush happened, she was on top of you.

A: Yes.

Q2: Was there other instances when you guys had a different position?

A: No. Just that.

Q2: Even with penetration?

A: Yes.

Q2: He said it was always uhm, that same position. Even during penetration.

Q: Okay. Was there ever a time that uhm, relations between you and F[redacted] happened in a different room?

Q2: Uh, did it happen in other rooms?

A: Uh, just in that, in that bedroom.

Q2: Just in that bedroom?

A: Yes.

Q2: Okay. He said just in his bedroom.

Q: Okay. Uhm, was there ever a time when you found that experimented differently?

Q2: Was there another time when you guys experimented, experimented with something different? Or ...

A: ... no.

Q2: Or in a different way?

A: No.

Q2: Okay.

A: Just that.

Q: Okay.

Q2: Just that.

Q: So, tell me about F[redacted] getting pregnant.

Q2: So, tell us about F[redacted].. she's pregnant.

A: Well, uh... that... I was surprised because I... well, after a certain time, I did not have relations with her. That surprised me.

Q2: Okay.

A: I'm like how can that be. I know no, no... no...

Q2: ...okay.

A: Uh-huh. Because...

Q2: ... (crosstalk - unintelligible)...

A: ... I was a bit surprise because said no, it can't be that she is because we had not had relations. And her period kept coming. That surprised me.

Q2: Okay. Okay.

A: And I said oh, no...

Q2: ... well, he says he was surprised. Uhm, because he was trying to do the (unintelligible) math in his head.

Q: Uh-huh.

Q2: So, he was very confused uhm, also with the delay of her uh, period.

Q: Gotcha. Okay. Uhm, when you and F[redacted] would have sex, where would you ejaculate?

Q2: Uh, when you guys had sex where did you ejaculate?

A: Uh, the majority of time, outside.

Q2: And...

A: ...outside...

Q2: ... the other times.

A: Inside.

Q2: Okay. So, he says the majority of the time was...

A: ... (crosstalk - unintelligible)...

Q2: ... outside.

A: Yes.

Q2: And, and other occasions it was inside of her.

A: But the majority of the times was outside.

Q2: But majority of times it was...

A: ... it was outside...

Q2: ... outside.

Q: Okay.

Q2: Outside of her.

Q: I mean, so... I mean, I'm sure for you F[redacted] being pregnant was a surprise cause it's an accident.

Q2: So then, for sure you are surprised she is pregnant because it was an accident.

A: What do you mean?

Q2: Right?

A: I don't know still because... I don't know because, I still don't know.

Q2: So then, but why were you surprised?

A: Surprised because of the way... I had not had relations at the time they are saying.

Q2: So, he says...

A: ... uh-huh, that made me...

Q2: ... he was...

(CROSSTALK - UNINTELLIGIBLE)

Q2: ... be surprised... surprised him because the timeline doesn't add up in his head. And he's not sure it's his baby.

Q: Uhm, how often would you and F[redacted]have sex?

Q2: How often you and F[redacted]uh... the frequency of you having sex? How was it?

A: Uh...

Q2: ... every... every what?

A: Well, honestly... there were... it, it was not frequent.

Q2: Okay.

A: It was not frequent. Let's say like... one time a month.

Q2: He says it wasn't frequently. Maybe once a month.

A: Yes, because... like... I said...

Q: ...okay. Help me understand why the timeline of F[redacted]being pregnant doesn't make sense for you.

Q2: Help us understand why the time of her pregnancy, pregnancy... does not... you don't understand it.

A: I don't understand it because uh, like how... I was doing the dates, for her to be pregnant... and I mean, I did not, we did not have relations.

Q2: Okay. So, he says he is surprised because he did the math. And he's saying that uh, with the math that he did, he doesn't think she could have gotten pregnant.

A: And her period kept coming. That is what I do not understand.

Q2: Okay.

A: And, and... yes.

Q2: Okay.

A: That is what I did not understand. Because...

Q2: ... (crosstalk - unintelligible)...

A: ... her last period...

Q2: ... (crosstalk - unintelligible)...

A: ... was on the 5th of September.

Q2: Her last period was...

A: ... and...

Q2: ... the 5th of September, and that's what threw him off.

Q: Okay. Uhm...

A: ... and that confuses me with the date they gave us today. It confuses me a lot.

Q2: So, he...

A: ... it confuses me because...

Q2: ... is confused about the date.

A: She...

Q2: ... she has.

A: Uh-huh.

Q: So, I know that... you and M[redacted] confuse uhm, because you guys are under the impression that F[redacted]s most recent period was in September?

Q2: So then, for sure, you are confused, along with M[redacted] because you guys think her last period was on the 5th of September.

A: Yeah.

Q: But I spoke with F[redacted]

Q2: But we spoke to F[redacted]

Q: And she's very confident.

Q2: And she is very, very sure.

Q: About how she's pregnant.

Q2: How she got pregnant.

Q: And who the father is.\

Q2: And who is the father.

Q: What do you think F[redacted] said?

Q2: What do you think F[redacted] said?

A: Well, I don't know.

Q2: You what?

A: I don't know that.

Q2: What is F[redacted] saying about the father?

Q: What do you think F[redacted] said? F[redacted] was very confident about how she got pregnant. And who got her pregnant.

Q2: Do you understand that?

A: Yes, I understand that.

Q2: So then, what is F[redacted] saying?

A: That I am the father.

Q2: That, F[redacted] is saying that he's the dad.

Q: Okay. What do you think?

Q2: What do you think about that?

A: Well, that is what I am telling you. I am surprised, but.

Q: I don't...

A: ... I, I am surprised. Yes.

Q2: Do you understand she is twelve, right?

A: Yes.

Q2: And so then?

A: Yes, I understand very well.

Q2: He understands that she's only twelve years old.

Q: So, are acknowledging that I mean, I mean, I know that you became serious with F[redacted] Over the course of a year. And I, I think that you've been honest with me about a lot of things.

Q2: So then, uh, we understand your sexual curiosity with F[redacted]... (unintelligible)

A: Yes... (mumbling - unintelligible)...

Q: ... and that...

A: ... I lost control.

Q2: Uh-huh.

A: Honestly.

Q2: He says that his curiosity...

A: ... I lost control...

Q2: ... came out of control.

A: Yes.

Q2: And uh, we think ... and we know you have told us the truth up to this point.

A: Yes.

Q2: And saying...

A: ... I am saying...

Q: ... and...

A: ... everything and like I said... if you want to kill me, kill me. I deserve it.

Q2: He says...

A: ... because I have ...

Q2: ... (crosstalk - unintelligible)...

A: ... I have...

Q2: ... you can...

A: ... I have two daughters...

Q2: ... no.

A: I have two daughters in Guatemala.

Q2: He says...

Q: ... Ahuner... listen to me. I know that you've been honest with me and I really appreciate it. But I know that I haven't been honest with me about everything.

Q2: We know you have told the truth, but you have not told the truth one hundred percent.

Q: I can tell it from talking to you like this is a weight on your chest.

Q2: We know in your chest... in your...

A: ... I do feel it...

Q2: ... a weight on your chest...

A: ... a weight... that...

Q: ... but I know that talking about it and talking to us is important to get that off of your chest.

Q2: But talking to us is important to...

A: ... yes.

Q2: To get that weight off of you. You understand...

A: ... yes... I understand everything...

Q2: ... yeah, he understands...

A: ... because...

Q: ... Ahuner, I know that you know how F[redacted]got pregnant.

Q2: We know you know how she got pregnant.

Q: And I know that you know who the father is of F[redacted]s baby.

Q2: And we know you know who is the father of the baby.

Q: Ahuner, this is where it's important for you to tell me the truth.

Q2: Ahuner, it's important for you to tell the truth.

A: Yes. It's the truth.

Q2: He says...

A: ... I'm telling you yes.

Q2: That, that what is...

A: ... but...

Q2: ... the truth?

A: Yes, it's the truth.

Q2: What is the truth?

A: The mistake I made, and I am the father.

Q2: Okay. He said it's...

A: ...I am the father...

Q2: ... it's true, that he... he made the error and that he is the father of the baby (mumbling - unintelligible)

A: Yes.

Q: Ahuner, I really appreciate you being honest with me, and I think it's important for you and I think it's important for F[redacted] And just being able to move forward from this.

Q2: And we appreciate you told the truth because it's important for you to tell the truth and for F[redacted]as well.

A: Yes.

Q2: And, and that is going to help ... Ahuner, to move forward. Do you understand that?

A: Yes, I understand.

Q2: He understands.

A: What I want is just... for her to be happy.

Q2: What he wants is for her...

A: ... and no one else to do harm...

Q2: ... to be happy. And for no one else to... do harm.

A: And if I have the chance to talk to my wife, and ask her to forgive me.

Q2: And if he could have the opportunity to talk to his wife.

A: For the last time.

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

TUESDAY, SEPTEMBER 10, 2024

RECORDER'S TRANSCRIPT OF PROCEEDINGS
PETROCELLI HEARING AND JURY TRIAL - DAY 1

APPEARANCES:

For the State: SAMUEL R. KERN
JOHN TORRE
Deputy District Attorneys

For the Defendant: BEN NADIG, ESQ.

SPANISH INTERPRETERS: YUL HAASMAN AND DEBORAH SILVERA

RECORDED BY: SARA RICHARDSON, COURT RECORDER

LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 10, 2024, 11:42 A.M.

* * * * *

[Outside the presence of the prospective jury panel]

THE COURT: We don't have the second interpreter yet?

THE INTERPRETER: She's coming.

THE COURT: Okay.

THE INTERPRETER: Yeah.

THE COURT: Are you okay if we --

THE INTERPRETER: I hope -- yeah, well, hopefully she will be here, yeah. Let's hope.

THE COURT: How long can you go without --

THE INTERPRETER: Half an hour.

THE COURT: Okay. State versus Yanes, Mr. Yanes is present. He's in custody and the attorneys can start making their appearances.

MR. KERN: Good morning, Your Honor, Sam Kern for the State.

MR. TORRE: John Torre for the State.

MR. NADIG: And good morning, Your Honor, Ben Nadig on behalf of Mr. Yanes.

THE COURT: Okay. And Mr. Yanes will be using the services of the interpreter. Will the interpreter state his name for the record?

THE INTERPRETER: Yes. Yul Haasman, court interpreter, certification, NVHY638.

THE COURT: Okay. And then we're going to have a second interpreter that's going to come in and help you, right?

THE INTERPRETER: Yes, Your Honor.

THE COURT: Okay. But you're okay if we start, I mean, I won't let -- I won't go more than 30 minutes if she -- he or she doesn't get here. Okay?

So are we ready to --

MR. NADIG: I was going to say, there's some things we need to say outside the presence.

THE COURT: Right. I know you said that the Petrocelli hearing did not have to go forward.

MR. NADIG: Correct, Your Honor.

THE COURT: Okay. You want to --

MR. KERN: Correct. So I think we've -- we've discussed the State's motion and I think we're in agreement as to matters that are able to come in. The State's motion was made out of kind of an abundance of caution. There's several statements within defendant's voluntary where he's talking about this being ongoing activity. The State does intend to bring those in. But after discussing that fact with Mr. Nadig, my understanding is that it doesn't affect their defense and it actually probably go along with their defense and so I don't believe he has any objection to those statements coming in.

THE COURT: Okay. Is that correct?

MR. NADIG: That was a correct statement. And, Your Honor, just for the record, there is going to be a lot of concessions on my part. Factually, there's not a lot of work to work with and so and I've been upfront with the State that the defense is going to be based on the idea that all of this happened in another country. But it's things that have to come out through the witnesses in order to prove that up.

MR. KERN: And --

THE COURT: So this isn't the proper venue? Is it the State doesn't have

jurisdiction?

MR. NADIG: That's it. And I know it's a question of law but it has to come in through the facts of the witnesses. But literally, Your Honor, this is one of those situations where that's what I've got.

THE COURT: Did the State make an offer?

MR. NADIG: The State --

MR. KERN: The State has made an offer, Your Honor.

MR. NADIG: Your Honor, for the record, I inherited this case from the -- Is Kevin --

MR. KERN: Public Defender's Office.

MR. NADIG: Okay. From The Public Defender's Office, Kevin Speed had the case. Mr. Yanes agreed to plead to three counts of --

MR. KERN: It's 10-to-lifes. I can't remember how they were arranged.

MR. NADIG: Yeah. He was pleading to three counts. Both sides were going to stipulate to 25 to life. Mr. Yanes decided he did not want that plea. So I was --

THE COURT: I'm sorry, he was going to plead to two counts?

MR. KERN: And so, Your Honor, if I may, I think I've got the G.P.A. somewhere here. My recollection of the plea that -- here we go.

THE COURT: I just want to ask him before we bring this jury in, make sure this is what he wants to do.

MR. KERN: And so the -- the State's most recent offer on the case was to plead to a stipulated term of 30-to-life.

MR. NADIG: Yes. I was going to say, I filed a motion to withdraw guilty plea, the State didn't oppose, so that's why we're here.

THE COURT: You filed a motion for what?

MR. NADIG: I filed a motion to withdraw his guilty plea.

THE COURT: Okay.

MR. NADIG: Because he pled with Mr. Speed, they appointed me to do the motion, the State didn't oppose it. Originally he had a 25-to-life with Mr. Speed.

MR. KERN: And --

MR. NADIG: The State has offered --

MR. KERN: 30-to-life. And I apologize, Mr. Nadig, it wasn't part of those original negotiations but I do have the -- the P.S.I. from that negation here. The State's original offer was three counts of sex assault, full right to argue including for consecutive sentences, which would have been a potential aggregate term of 30-to-life. But he had the right to argue, obviously, for concurrent time on those which would have been a 10-to-life. As Mr. Nadig said, that plea was withdrawn, and the State's most recent offer was a stipulated 30-to-life.

THE COURT: And he's rejected that offer as well?

MR. NADIG: He did. He requested that I counter today with 20-to-life. I brought that to the State and they have declined to accept it.

MR. KERN: The State is not accepting it.

THE COURT: Okay. So, sir, I mean, you've been -- you've been listening to the back-and-forth between the district attorney and your lawyer?

THE DEFENDANT: No.

THE COURT: No? Okay. Well, the district attorney has indicated to the Court that the last offer that the D.A. made to you was for a stipulated sentence of 30-to-life and that you have rejected that offer; is that correct?

THE DEFENDANT: Yes.

THE COURT: And it was plead to three counts of sexual assault?

MR. KERN: We hadn't discussed specifically what the counts would be, but that would be --

THE COURT: Okay. All right. But you've indicated you don't want to accept the State's offer of a stipulated sentence of 30-to-life; is that correct?

THE DEFENDANT: Right.

THE COURT: And you want to reject that offer and you want to proceed and go to trial; is that correct?

THE DEFENDANT: Yes, because my offer of 20 was not accepted.

THE COURT: Okay. And I was going to -- I was going to discuss that with you as well. Your attorney conveyed an offer of a stipulated sentence of 20-to-life with the State and the State has rejected that offer as well.

All right. And, Mr. Nadig, you saw the --

THE DEFENDANT: I am -- I am willing to sign 20 -- 20-to-life, I sign it.

THE COURT: The State is not offering you that.

MR. NADIG: And, Your Honor, just for the record, additionally, I have explained to him that if he is convicted of one count of sex assault, minor under the age of 14, the mandatory minimum sentence is 35 years to life.

THE COURT: And you've seen the second amended information that was filed?

MR. NADIG: Was that the one you sent?

MR. KERN: Yes, it was.

MR. NADIG: Okay. Yes, I have reviewed it, Your Honor.

THE COURT: Okay. Sir, I just want to make sure you understand the charges that you're going forward on. There is one, two, three counts of lewdness with a child under the age of 14 and then there's three counts of sexual assault with

a minor under 14 years of age and I just want to make sure you understand that if you're convicted of even one of the sex assault counts with a minor under 14 years of age, it's a mandatory sentence of 35-to-life in the Nevada Department of Corrections. The Court has no discretion. The Court must impose a term of life with parole eligibility beginning after a minimum of 35 years has been served. Do you understand that?

THE DEFENDANT: I understand.

THE COURT: And you understand you're facing three of those counts?

THE DEFENDANT: Yes.

THE COURT: What's the range of punishment for the lewdness under 14?

MR. KERN: Those are 10-to-lifes, Your Honor.

THE COURT: Okay. And the other three counts, the lewdness with a child under the age of 14, those also carry a life term with parole eligibility beginning after a minimum of 10 years has been served. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: And you understand the Court would have discretion to run those counts consecutive?

THE DEFENDANT: I understand.

THE COURT: Okay. Or concurrent.

THE DEFENDANT: Yes.

THE COURT: Okay. So I just want to make sure you understand that even if you're convicted of only one of those counts, that's a significant sentence that the Court cannot -- I can't modify it, I have no discretion, it's 35-to-life.

THE DEFENDANT: Yes.

THE COURT: Okay. All right. Looks like he understands. Can we bring the

panel in?

MR. KERN: Thank you. If you -- Your Honor, if we may, I just had a couple more things to put on the record. Mr. Nadig and I have discussed the State -- McNamara versus State with respect to how jurisdiction is determined and the standard for jurisdiction. I think we're both on the same page as far as what the requirements are. I anticipate there will be further arguments on that. But I just wanted to put on the record that we have talked about that and I anticipate we'll have -- we'll have further conversations about that.

THE COURT: Can I have the citation to that?

MR. KERN: Yes. Actually, I did print a copy for the Court if you'd like.

THE COURT: Perfect.

MR. KERN: Thank you.

MR. NADIG: You gave it to me, brother.

THE COURT: Thank you.

MR. KERN: Thank you.

THE COURT: Anything else?

MR. KERN: And then -- yes, sorry, just one other -- we do have a couple stipulations to put on the record, Your Honor.

MR. NADIG: And, Your Honor, just -- some of the stipulations are based on -- we're not shortening the trial because we're being pressured to shorten the trial, but what we are agreeing to is chain --

THE COURT: Well, yeah, who would be pressuring you?

MR. NADIG: No. No. No. I'm just putting it on the record because sometimes that comes up.

THE COURT: Okay.

MR. NADIG: But as a matter of efficiency because chain is not a question, we have agreed that the detective who took the buccals can testify about --

MR. KERN: So I think our -- our two stipulations is, one, with respect to the buccal swabs, the State intends to have a detective testifying about buccal swabs that may have been taken by other individuals or D.N.A. swabs that may have been taken by individuals, that's just to establish that they were taken. But we discussed that those -- that testimony wouldn't be subject to any hearsay or Sixth Amendment objections.

THE COURT: Okay.

MR. KERN: And those objections are waived. And then with respect to the D.N.A., the D.N.A. person who did the comparison would be allowed to testify with respect to the processing step of the D.N.A., all done within the same lab. And then that testimony would also not be subject to any hearsay or Sixth Amendment objections and those objections are waived.

THE COURT: Okay. So the D.N.A. person's going to testify about the processing to which the D.N.A. person didn't do?

MR. KERN: Correct.

THE COURT: And the comparison?

MR. KERN: Correct.

THE COURT: Okay.

MR. KERN: Yeah.

THE COURT: And, Mr. Nadig, that's all correct?

MR. NADIG: That is correct, Your Honor..

THE COURT: Okay.

MR. KERN: And that's all for me, Your Honor.

THE COURT: All right. So I just wanted to make sure I got this straight, you're not going to contend it didn't happen?

MR. NADIG: Correct.

THE COURT: You're just going to contend it happened in another venue or another country and therefore this court has no jurisdiction?

MR. NADIG: That -- if the testimony turns out to be that way, yes. That is the intent is, you know, with the age of the victim --

THE COURT: I mean, is there any discovery that indicates that?

MR. NADIG: Yeah, I mean, the -- the way that the initial interviews went down would suggest that it potentially did not happen here. Additionally, during the investigation, they determined that she was 28 weeks pregnant but then they incorrectly backdated when they believed conception happened in the report. So there are a number of things that suggest that. But until they testify, I can't necessarily get into it.

MR. KERN: And so with the -- with respect to the jurisdiction issues, there was -- there was a motion by the State that was granted by Judge Johnson to have us obtain jurisdiction over events that would have happened in Arizona. There was a trip outside of Nevada that probably corresponds with some of the events. So we have been -- we brought that up on motion, that motion was granted.

With respect to things that happened in Mexico, the State isn't, at this point, aware of anything that was within the timeframe that would have -- or that was charged that would have happened in Mexico. Obviously, you know, we'll learn more as testimony comes in.

My belief based on McNamara is that remains a defense but it's not a defense that would necessarily be submitted to the jury. It's a matter for the Court to

determine.

THE COURT: Right.

MR. KERN: And so -- and I'm sure we'll figure all this out as things go. But my thought on it was that at the close of the evidence we'll be able to submit that question to the Court in order to determine if we do indeed have jurisdiction over these charges. And so I'm not aware of anything within the timeframe that is charged that would have happened in Arizona instead of within either Nevada or Arizona.

THE COURT: Okay. Do you have the order from that motion that was granted?

MR. KERN: I do.

THE COURT: That would be helpful.

THE DEFENDANT: I have a question.

THE COURT: Oh, it's probably this one right here. Was it the one -- was it ruled on in February or March?

MR. KERN: That sounds like the correct timeframe, Your Honor. May I approach?

THE COURT: Yeah, of course.

MR. KERN: Yeah. It's March 5th, 2024.

THE COURT: Okay. Because it says, "Court stated its findings, granted," but it doesn't say what its findings are.

MR. KERN: I do have a copy of the State's motion as well if that would help to give context.

THE COURT: Yeah, because this one just says --

MR. KERN: Yeah, it's pretty --

THE COURT: -- to determine jurisdiction shall be and it is granted, so that's okay. I can get a copy of your motion in Odyssey.

MR. KERN: Okay.

THE COURT: Okay. Anything else before we bring the jury panel in?

MR. KERN: I don't believe so, Your Honor.

THE COURT: Mr. Nadig?

MR. NADIG: Nothing, Your Honor.

THE COURT: Okay. All right. You can --

THE MARSHAL: Your Honor, Juror --

THE DEFENDANT: I do have something.

THE COURT: Okay. Go ahead.

THE MARSHAL: Juror 31 got a little lost. He is here.

THE COURT: You're kidding me. Okay. Well, I'm glad he found the 14th floor. Thank you.

THE MARSHAL: Well, he got -- said he got turned around downstairs. That new check-in system and stuff.

THE COURT: I know I see all those stanchions down there when I leave at night.

MR. NADIG: Your Honor, if I may --

THE COURT: Oh, I'm sorry.

MR. NADIG: -- can I have five minutes in the back with my client?

THE COURT: Yeah. Of course.

MR. NADIG: Thank you.

THE COURT: Where are we at now, 30-to-life?

MR. KERN: Huh?

MR. NADIG: Yes.

THE COURT: Okay. I just want to make sure he knew where you guys were at.

[Recess at 11:58 a.m.; proceedings resumed at 12:14 p.m.]

[Outside the presence of the prospective jury panel]

THE COURT: What are we doing?

MR. NADIG: He wants to make a record about he's not prepared for trial. I told him he would -- we could do this and then we're going to start trial.

THE COURT: Okay.

THE DEFENDANT: Madam Judge, with all due respect, I don't -- I don't know -- I don't understand why I was never prepared to trial. The deals were offered at the end before we were ready to -- to trial. I was never -- I was never visited, I was never told the consequences to reach to this point with orders from two different judges to have somebody go to visit me in jail. And the lawyer he said that the representatives they were scared for my case. I don't understand it.

THE COURT: What do you mean "scared for your case"? Scared that you'd get convicted?

MR. NADIG: And, Your Honor, for the record, what I said, just for the purposes of this, it's not, you know, I was accused of not visiting him, however, it is my practice to use the interpreter's office, typically, when I go to the jail to meet with people. For whatever reason, I took one of my staff who is fluent and what I had said to him is that my staff was somewhat appalled after learning the facts of the case.

MR. KERN: Your Honor, if I may interject, should the State step out?

MR. NADIG: It's up to Your Honor. I don't think this is --

THE COURT: Well, I don't think you need to even go into this.

MR. NADIG: Yeah, agreed. I just said he could put it on the record and then we go to trial.

THE COURT: Yeah, I don't even think you need to go into this.

MR. NADIG: Yeah.

THE COURT: But you did go visit him and you have a staff member that speaks Spanish?

MR. NADIG: Correct, and that's it. That's it.

MR. KERN: And, Your Honor, just for the record, I've been in court several times where I know this specific offer was discussed, conveyed, and rejected. And so this has been an offer for a long time now. It's been the offer through several calendar calls where it's been discussed by Mr. Nadig, it's been discussed actually by the judge that is being offer. And so there's no surprise here as to what the current offer is. This has been -- I have seen this being discussed previously.

MR. NADIG: And for the record, this is the first time this has been raised. I know that you're surprised by that.

THE COURT: Okay. So --

THE DEFENDANT: Because I was not asked.

THE COURT: Not asked what?

THE DEFENDANT: He will -- he will just -- he will just tell me secretly but I was never told that there was an offer. I was never --

MR. NADIG: And, Your Honor, for the record, Tierra Jones in Central -- Judge Jones in Central Trial Readiness, we reviewed the offer, we spoke about the offer, we did all these things on the record.

THE COURT: Okay.

MR. NADIG: And he chose, he said the words, "I want to go to trial." There was no mention of any of this.

THE COURT: Okay. And you just told me about 10 minutes ago you wanted to reject the State's offer and go to trial.

THE DEFENDANT: I had requested a negotiation.

THE COURT: Right. And the negotiation is 30-to-life, that's what the State's willing to offer, 30-to-life. That's the negotiation. They rejected your offer of 20-to-life. They want 30-to-life. You don't have to accept that though, you have the right to go to trial.

MR. NADIG: What would you like to do?

THE DEFENDANT: The way I told the lawyer if 25 was possible.

THE COURT: Okay. They're not going to accept that. They don't -- they don't want 20 or 25, they want 30 and so it's, you know, you don't want to do that, that's fine. Let's go to trial. I mean, you don't have to accept the offer. That's your decision and I don't have a problem. If you want to go to trial, let's go to trial.

MR. NADIG: I told you what I recommend. It's always your choice.

THE DEFENDANT: It's just one sentence consecutive?

MR. NADIG: It's just -- how would we structure it?

MR. KERN: Let's see, it'd be probably two S.A.s and a lewdness under. I can just pull that up.

MR. NADIG: Two S.A.s under 16?

MR. KERN: Yeah, and then a --

THE COURT: So --

MR. KERN: So -- sorry, Court's brief indulgence.

MR. NADIG: So, or actually it'd probably be a S.A. under 16 because that's

20, right, 20-to-life and then one lewdness, 10-to-life?

MR. KERN: Under 16, lewdness; under 14, 10-to-life. Yeah. That's the one.

MR. NADIG: So that's what we'd do?

MR. KERN: Yeah.

[Counsel confers with defendant]

THE COURT: You know what, Officer Hawkes, we don't have the second interpreter here yet, so we're not going to be able to go forward regardless. Why you don't you send the jury to lunch and then -- I mean, I don't want you to spend the whole lunch hour talking to him, but it will give you additional time. We can leave the courtroom.

MR. NADIG: Thank you.

THE COURT: You can have privacy with your client.

MR. NADIG: Yeah.

THE COURT: And if he wants to take the offer, we can write up a G.P.A. Otherwise, tell them 1:30.

MR. NADIG: Perfect.

THE COURT: It's, like, 12:20 right now, 1:30.

[Lunch recess at 12:21 p.m.; proceedings resumed at 2:35 p.m.]

[Outside the presence of the prospective jury panel]

THE COURT: All right. The record will reflect that the defendant is present and in custody. He's using the services of the interpreter. Will the interpreter state her name for the record?

THE INTERPRETER: Deborah Silvera, Your Honor.

THE COURT: Thank you very much.

THE INTERPRETER: Thank you.

THE COURT: Has the matter been resolved, Mr. Nadig?

MR. NADIG: It has, Your Honor. You should have a guilty plea agreement in front of you. He will be pleading to one count of sexual assault with a minor under the age of 16 and he will plead to a -- one count of first degree kidnapping. The State retains the right to argue consecutive time between counts and both parties will stipulate to a sentence of 5-to-life for the first degree kidnapping.

Am I leaving anything out?

MR. KERN: I don't believe so.

MR. NADIG: And all other charges will be dismissed at the time of sentencing.

THE COURT: Okay. So the only issue would be that the State can argue for a consecutive and you can argue for concurrent?

MR. NADIG: Correct.

THE COURT: Okay, sir, is that what you want to do today?

THE DEFENDANT: Yes.

THE COURT: And that's your understanding of the negotiations?

THE DEFENDANT: Yes.

THE COURT: Your true and full name for the record?

THE DEFENDANT: Ahuner Abidael Yanes Sanchez.

THE COURT: How old are you?

THE DEFENDANT: 38.

THE COURT: How far did you go in school?

THE DEFENDANT: Middle school.

THE COURT: Okay. And the third amended information, was it interpreted into Spanish for you?

Electronically Filed
3/7/2025 9:29 AM
Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, JANUARY 16, 2025

RECORDER'S TRANSCRIPT OF PROCEEDINGS
HEARING: MOTION TO WITHDRAW PLEA ON COUNT 2 AND MOTION TO WITHDRAW GUILTY PLEA

APPEARANCES:

For the State: MICHAEL ALLMON
Deputy District Attorney

For the Defendant: ROBERT ARROYO
Chief Deputy Special Public Defender

ALSO PRESENT: LORENA RESNICK, SPANISH INTERPRETER

RECORDED BY: SARA RICHARDSON, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, JANUARY 16, 2025, 10:24 A.M.

* * * * *

THE COURT: Counsel, do you want to --

MR. ARROYO: Yes, Your Honor. Mr. Yanes, page 14.

THE COURT: Okay. State versus Yanes, case C372856, he's present and in custody and using the services of the interpreter.

Will the interpreter state her name for the record?

THE INTERPRETER: Lorena Resnick, NLV515

THE COURT: Thank you very much.

And it's on for your motion to withdraw. I did have an opportunity to review the pleadings. I don't know if you wanted to add anything?

MR. ARROYO: Your Honor, I don't have much to add. I just wanted to summarize that Mr. Yanes is asserting that he was under pressure because he had a jury out in the hall waiting at the time he was given this offer and that he is a native Spanish speaker and the deal was written in English, which I don't -- I think we can see that there was a Spanish interpreter in the room, but given the fact that the pressure and the time constraints and it not being written in Spanish, he's asking to withdraw his plea.

THE COURT: I mean, because I try really hard to make sure there's not these time constraints and that's why we took a break and there was more than -- I believe there was more than two hours in between. I mean, it wasn't like I have a jury panel out there, I'm going to bring -- take the deal or I'm bringing them. I mean, I try really hard not to do that. I mean, do you think that happened in this case?

MR. ARROYO: Well, Your Honor, I was not present. I believe the transcript did say that there was about a two-hour break and I would just submit it on that.

THE COURT: Counsel.

MR. ALLMON: Your Honor, just in looking at the totality of the circumstances, this is -- the defendant already withdrew his plea. That has to be factored in. He had ample time, Your Honor. He just is between a rock and a hard place. He has no good options and this was his best of many worst options.

THE COURT: Okay. At this time I'm going to deny the motion to withdraw.

Are you going to represent him for sentencing?

MR. ARROYO: I think so, Your Honor.

THE COURT: Okay.

MR. ARROYO: I think given the allegations.

THE COURT: That's what I think is probably best.

How much time do you want before sentencing?

MR. ARROYO: Just two weeks.

THE COURT: Okay. Because there was a PSI and all that?

MR. ARROYO: Yeah, I have the PSI.

THE COURT: But -- and I know that there were speakers that have been present before.

Counsel, are you going to have speakers here for sentencing?

MR. ALLMON: Yes, Your Honor.

THE COURT: Two weeks enough time?

MR. ALLMON: Yes, Your Honor.

THE COURT: Okay. Two weeks.

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THE CLERK: Sentencing is going to be on January 30th at 8:30 a.m.

MR. ARROYO: Thank you, Your Honor.

THE COURT: You bet.

PROCEEDING CONCLUDED AT 10:26 A.M.

* * * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.

Sara Richardson

SARA RICHARDSON
Court Recorder/Transcriber

Electronically Filed
3/7/2025 9:29 AM
Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. AHUNER YANES, Defendant.	CASE NO. C-23-372856-1 DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, JANUARY 30, 2025

RECORDER'S TRANSCRIPT OF PROCEEDINGS
SENTENCING

APPEARANCES:

For the State: MICHAEL ALLMON
Deputy District Attorney

For the Defendant: ROBERT ARROYO
Chief Deputy Special Public Defender

ALSO PRESENT: JEANNETTE ENCINAS, SPANISH INTERPRETER

RECORDED BY: SARA RICHARDSON, COURT RECORDER

LAS VEGAS, NEVADA, THURSDAY, JANUARY 30, 2025, 11:23 A.M.

* * * * *

THE COURT: All right, page 20, State versus Yanes, C372856. He is present. He's in custody. He's using the services of the interpreter.

Will the interpreter please state her name for the record?

THE INTERPRETER: Jeannette Encinas, NVEJ519.

THE COURT: Thank you. All right.

MR. ALLMON: Michael Allmon for the State.

MR. ARROYO: And Robert Arroyo on behalf of Mr. Yanes.

THE COURT: Okay. Today is the date and time set for entry of judgment and imposition of sentencing. Mr. Yanes, do you know of any legal cause or reason why judgment should not be pronounced against you at this time?

THE DEFENDANT: Yes.

THE COURT: You've got to let her interpret.

THE DEFENDANT: Yes. What I mentioned previously that I felt obligated to sign in regard to the charges.

THE COURT: Okay. Anything other than that?

THE DEFENDANT: That is all.

THE COURT: Okay. By virtue of your plea entered in this matter I hereby adjudicate you guilty of Count 1, sexual assault with a minor under 16 years of age; and Count 2, first degree kidnapping.

Does the State wish to address the Court?

MR. ALLMON: Yes, Your Honor. So, Your Honor, based on the guilty plea agreement, the Court knows where the State's going to go with this, the State is going to be asking for that consecutive time. And the reason for that, and I think a

big thing that we're seeing right now is the defendant's failure to accept responsibility. He's pled guilty. He's pleaded guilty even though he's saying that he has his issues, he's tried to withdraw his plea, that to me is a big factor in whether or not the defendant has accepted responsibility. He has been playing games with the family in this case and the Court here. Everything's a last minute withdraw his plea, take his plea, it's all a game for him and everything for him is an angle. And so, Your Honor, the sentence for him is 30 years to life.

What he did is horrendous. He sexually abused a victim from potentially the age -- she was 10 until 12 on a prolonged sexual abuse that took place in Mexico, here in Las Vegas, a grooming period that he had put her through. And then when we look at his actions too, again, when we talk about the accepting responsibility, what he did is he made up a story. He made up a story about a -- an unknown man that came from behind and grabbed the victim and he made the victim say that story to people, potentially also wasting resources. I mean, had that actually been believed, we could have been looking at issues of, you know, pursuing the wrong person, the wrong person being charged with sexual assault, luckily, the evidence, he could not escape in this case.

He could not escape the fact that a child was born to a 12-year-old child with his DNA and when faced with that he did ultimately admit it. So all of his statements about how it's not him, it is him, he just has not accepted responsibility because the time has come for him to go to prison for 30 years to life and he's not ready to do that.

What I would ask too is the Court to -- to look at -- I know oftentimes when the victims are here it matters more, this victim and the mother of the victim who was in relations with the defendant previously has been here --

THE COURT: Every time.

MR. ALLMON: -- every court, every time. Unfortunately, again, the defendant's game playing has worn her out to where she can't keep taking off of work because, unfortunately, she has financial responsibilities of caring for her children and the children -- the child of the defendant who, the poor, innocent child who was born to those circumstance through no fault of his own, that is being raised now by the 12-year-old girl, a young girl that's going through school that's having to miss school.

That victim impact letter, if you look at that, they talk about how she has to miss school for child care, how the grandmother has to miss work. Again, this is an extreme burden. This family has been through so much. I cannot imagine. This is going to be with them for the rest of their lives. And so I would ask that you sentence the 30-to-life.

THE COURT: Okay. Sir.

MR. ALLMON: Thank you, Your Honor.

THE COURT: Do you want to say anything, Sir?

THE DEFENDANT: No.

THE COURT: Okay. Counsel.

MR. ARROYO: Yes, Your Honor. First, I'd just like to make a record that I did give Mr. Yanes a copy of the PSI report. It was translated into Spanish. I just gave the translated copy this morning. But previously my investigator who speaks Spanish, we did a visit and we read it to him and went over everything and we don't have any objections to it.

THE COURT: Okay. Thank you.

MR. ARROYO: So I just wanted to make sure that it was clear that he got

copy of it.

Your Honor, we are going to be asking to run the counts concurrent. Your Honor, he has absolutely no criminal history prior to this. He's 37 years old. There's no record. He did take responsibility for his actions in here. I wasn't present when he tried to withdraw the plea the second time, like, and I think there was a difference between whether he was saying he wasn't guilty of the sexual assault versus not guilty of the kidnapping. There -- it was unclear, but I think he did talk to police and admit to the sexual assault.

He wasn't trying to go to trial. I know there was some disagreements about the extra charge. But I think he has accepted responsibility. He didn't put the family through a trial and he is -- he is an -- I think the PSI report says that he is here illegally, so he is going to get deported when he comes up, if he's ever released. He has life tails, no saying if he'll ever get paroled, but if he does get paroled he'll be deported out of the country.

So, Your Honor, I am asking you to run the counts concurrent and, you know, do the 25 to life, Your Honor.

THE COURT: Okay. Thank you. And I did get a copy of the victim impact statement. I'm assuming both sides had an opportunity to review it as well.

MR. ARROYO: Yes, Your Honor. I did receive it and review prior to this.

THE COURT: Okay. All right. In accordance with the laws of the State of Nevada, this Court does now sentence you as follows, the administrative assessment, DNA fee and collection will be imposed. You'll be required to submit to genetic marker testing. As to Count 1, the Court is going to sentence you to life in the Nevada Department of Corrections with parole eligibility beginning after a minimum of 25 years has been served; as to Count 2, life in the Nevada Department

of Corrections with parole eligibility beginning after a minimum of 5 years has been served. Count 2 to run consecutive to Count 1. Order that upon being released from custody, within 48 hours, that you register as a sex offender. The Court's also going to impose lifetime supervision pursuant to statute as a condition of your release.

How much credit does he have?

MR. ALLMON: 733 today, Your Honor.

THE COURT: Do you agree with that, Counsel?

MR. ARROYO: I forgot to do the -- the calculation until today. Is that including today?

MR. ALLMON: That was including today.

MR. ARROYO: It sounds about right, Your Honor.

THE COURT: Okay. With 733 days credit for time served. Thank you.

THE DEFENDANT: Thank you.

THE COURT: Thank you very much.

PROCEEDING CONCLUDED AT 11:31 A.M.

* * * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.

Sara Richardson

SARA RICHARDSON
Court Recorder/Transcriber

Electronically Filed
02/05/2025 12:26 PM
CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

AHUNER YANES,
#7124357

Defendant.

CASE NO. C-23-372856-1

DEPT. NO. XII

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony) in violation of NRS 200.364, 200.366; and COUNT 2 – FIRST DEGREE KIDNAPPING (Category A Felony) in violation of NRS 200.310, 200.320; thereafter, on the 30th day of January, 2025, the Defendant was present in court for sentencing with counsel, ROBERT ARROYO, Deputy Special Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the $25.00 Administrative Assessment Fee, and $150.00 DNA Analysis Fee including testing to determine genetic markers, plus $3.00 DNA Collection Fee, the Defendant is

sentenced as follows: COUNT 1 - LIFE with a MINIMUM parole eligibility of TWENTY-FIVE (25) YEARS in the Nevada Department of Corrections (NDC); and COUNT 2 – LIFE with a MINIMUM parole eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 1; with SEVEN HUNDRED THIRTY-THREE (733) DAYS time served credits. The AGGREGATE TOTAL sentence is LIFE with a MINIMUM parole eligibility of THIRTY (30) YEARS.

FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is imposed to commence upon release from any term of imprisonment, probation or parole. In addition, before the Defendant is eligible for parole, a panel consisting of the Administrator of the Mental Health and Development Services of the Department of Human Resources or his designee; the Director of the Department of corrections or his designee; and a psychologist licensed to practice in this state; or a psychiatrist licensed to practice medicine in Nevada must certify that the Defendant does not represent a high risk to re-offend based on current accepted standards of assessment.

ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release from custody.

Dated this 5th day of February, 2025



rge
561 B2F 07FE D643
Michelle Leavitt
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada	CASE NO: C-23-372856-1
vs	DEPT. NO. Department 12
Ahuner Yanes	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Judgment of Conviction was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 2/5/2025

Robert Arroyo	robert.arroyo@clarkcountynv.gov
Dept 22 Law Clerk	dept22lc@clarkcountycourts.us
Benjamin Nadig	ben@lasvegasdefenselawfirm.com
SVU DA District Attorney's Office	DASVUTeam@clarkcountydanv.gov
Russell Joyner	Russell@lasVegasdefenselawfirm.com
Special PDdocs	SpecialPDdocs@clarkcountynv.gov
Sam Kern	samuel.kern@clarkcountyda.com
Julie McCall	Julie.McCall@clarkcountynv.gov

Electronically Filed
3/4/2025 11:09 AM
Steven D. Grierson
CLERK OF THE COURT

NOASC
F. Virginia Eichacker, #4977
Clark County Special Public Defender
Amy Yonesawa, #12528
Chief Deputy Special Public Defender
Robert Arroyo, #11512
Chief Deputy Special Public Defender
330 S. 3rd St., Suite 800
Las Vegas, Nevada 89155
(702) 455-6265
(702) 455-6273 (fax)
Amy.Yonesawa@ClarkCountyNV.gov
Robert.Arroyo@ClarkCountyNV.gov
Attorneys for Ahuner Yanes

DISTRICT COURT
CLARK COUNTY

State of Nevada, Plaintiff, v. Ahuner Yanes, #7124357, Defendant.	Case No. C-23-372856-1 Dept. No. 12 Hearing Not Requested

NOTICE OF APPEAL

TO: THE STATE OF NEVADA, PLAINTIFF;

TO: THE CLARK COUNTY DISTRICT ATTORNEY, ATTORNEY FOR PLAINTIFF; AND

TO: DEPARTMENT 12 OF THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK:

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NOTICE is hereby given that Ahuner Yanes hereby appeals to the Nevada Supreme Court from the Judgment of Conviction (Plea of Guilty) filed February 5, 2025.

Dated March 4, 2025.

Respectfully submitted,

F. Virginia Eichacker
Clark County Special Public Defender

/s/ Amy Yonesawa
Amy Yonesawa, #12528
Chief Deputy Special Public Defender
Attorneys for Ahuner Yanes

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically on March 4, 2025. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Clark County District Attorney's Office
motions@clarkcountydanv.gov;

Nevada Attorney General's Office
Aginfo@ag.nv.gov.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Ahuner Yanes, BAC#1293867
High Desert State Prison
PO Box 650
Indian Springs, NV 89070

Dated March 4, 2025.

Signed,

/s/ J. McCall
An employee of the
Special Public Defender

C-23-372856-1 State of Nevada
vs
Ahuner Yanes

April 06, 2023 08:30 AM Initial Arraignment

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Forte, Stephanie

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Brittni Griffith	**Attorney for Plaintiff**
Kevin C. Speed	**Attorney for Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter Ricardo Pico also present.

Upon the Court's inquiry, Mr. Speed indicated that the Defendant would like more time to go over a potential Guilty Plea Agreement and requested a continuance. Without objection from Ms. Griffith, COURT ORDERED, Matter CONTINUED.

CUSTODY

CONTINUED TO: 04/13/2023 08:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor | **COURT MINUTES** | **April 13, 2023**

C-23-372856-1 State of Nevada
vs
Ahuner Yanes

April 13, 2023 08:30 AM Arraignment Continued

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Maldonado, Nancy

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Kevin C. Speed	**Attorney for Defendant**
Maricela Leon	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Lorena Resnick, Spanish Interpreter, present for Defendant.

NEGOTIATIONS are as contained in the Guilty Plea Agreement electronically FILED on April 13, 2023. DEFENDANT YANES ARRAIGNED AND PLED GUILTY TO COUNTS 1, 2, and 3-SEXUAL ASSAULT (F). Court ACCEPTED pleas, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY

05/25/23 8:30 AM SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**May 25, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

May 25, 2023 08:30 AM Sentencing

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Maldonado, Nancy

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Jennifer M. Clemons	**Attorney for Plaintiff**
Kevin C. Speed	**Attorney for Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Jeannette Encinas, Spanish Interpreter, present for Defendant.

Upon Court's inquiry, Mr. Speed advised he was not ready, and requested the matter be continued two weeks. Mr. Speed noted he needed the matter continued to go over the lengthy PSI with the Defendant and to prepare the Defendant for the victim speakers the State intends to call. There being no objection from the State, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/06/23 8:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**June 06, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

June 06, 2023 **08:30 AM** **Sentencing**

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Forte, Stephanie

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Kevin C. Speed	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Carlos Calvo, Spanish Interpreter, present for Defendant.

Upon the Court's inquiry, Mr. Speed indicated that he had gone over the Pre-Sentence Investigation (PSI) Report with Defendant, and further advised that Defendant requests that his plea be withdrawn. Court colloquy with Defendant regarding the PSI and his intent to withdraw his plea. Mr. Kern presented arguments in opposition. COURT PROVISIONALLY APPOINTED Ben Nadig, Esq. to represent Defendant in his proposed Motion to Withdraw Plea. COURT SET matter for Status Check.

CUSTODY

06/20/2023 08:30 AM STATUS CHECK RE CONFIRMATION OF COUNSEL

CLERK S NOTE: This Minute Order was emailed by Courtroom Clerk, Stephanie Forte, to Ben Nadig, Esq.//sf

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**June 20, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

June 20, 2023 08:30 AM Confirmation of Counsel

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Maldonado, Nancy

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Jennifer M. Clemons	**Attorney for Plaintiff**
Kevin C. Speed	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Mariela Lopez, Spanish Interpreter, present for Defendant.

Mr. Speed advised he made a copy of the case file and noted he will be leaving it for Mr. Nadig who has been appointed as counsel for Defendant. Mr. Kern submitted. MATTER TRAILED for Mr. Nadig.

MATTER RECALLED. Ben Nadig, now present. William Rowles present for the State. Patricia Tejeda, Spanish Interpreter, present for Defendant.

Mr. Nadig requested two weeks, noting he can confirm as counsel today, but still needs to review the file that he received this morning. There being no objection from the State, COURT ORDERED, matter SET for Status Check.

CUSTODY

07/06/23 8:30 AM STATUS CHECK: MOTION TO WITHDRAW PLEA

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**July 06, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

July 06, 2023 **08:30 AM** **Motion to Withdraw Plea**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Forte, Stephanie

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Danielle Marie Maatouk	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter, Ricardo Pico, present for Defendant. Jess Matsuda, Esq. for Ben Nadig, Esq., counsel for Defendant. Conor Slife, Esq. also present from the Public Defender's office.

Upon the Court's inquiry, Mr. Matsuda indicated Mr. Nadig would request that a briefing schedule be set. COURT ORDERED, (1) Defendant's Motion due on or before 07/20/2023; (2) State's Opposition due on or before 08/03/2023; and (3) Defendant's Reply due on or before 08/17/2023. COURT FURTHER ORDERED, Matter SET for hearing on the briefs.

CUSTODY

08/24/2023 08:30 AM DEFENDANT'S MOTION TO WITHDRAW PLEA

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**August 24, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

August 24, 2023 **08:30 AM** **Motion to Withdraw Plea**

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Forte, Stephanie

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Kevin C. Speed	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter Lorena Resnick, present for Defendant.

Upon the Court's inquiry, Mr. Nadig indicated he has reviewed discovery and has the Motion drafted but has yet to file it. COURT ORDERED, the State has THIRTY (30) DAYS to file their response to the Motion and, FURTHER ORDERED, Matter CONTINUED.

CUSTODY

CONTINUED TO: 09/21/2023 08:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**September 21, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

September 21, 2023 **08:30 AM** **Motion to Withdraw Plea**

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Forte, Stephanie

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter, Jeannette Encinas, present for Defendant. Deputy Public Defender Kevin Speed also present.

CONFERENCE AT BENCH. COURT NOTED It had reviewed the Motion and welcomed arguments. Counsels submitted. COURT ORDERED, based on the representations contained in the Motion, Motion GRANTED and Defendant's guilty plea is WITHDRAWN. COURT FURTHER ORDERED, matter SET for trial. Mr. Nadig confirmed he will remain as counsel for Defendant.

CUSTODY

10/31/2023 08:30 AM STATUS CHECK: TRIAL READINESS

11/28/2023 08:30 AM CALENDAR CALL

12/04/2023 10:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**October 31, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

October 31, 2023 08:30 AM Status Check: Trial Readiness

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Maldonado, Nancy

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Mariela Lopez, Spanish Interpreter, present for Defendant.

Mr. Nadig advised they are waiting on DNA results and medical reports, noting otherwise they are on track and there are no outstanding discovery issues. COURT ORDERED, trial dates, STAND.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**November 28, 2023**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 15**

November 28, 2023 **08:30 AM** **Calendar Call**

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Castro-Sanders, Candice; Maldonado, Nancy

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Mariela Lopez, Spanish Interpreter, present for Defendant. Mr. Matsuda, Esq. present for Mr. Nadig on behalf of the Defendant.

Mr. Matsuda advised Mr. Nadig was requesting the trial be continued due to Mr. Nadig's wife having surgery next week. There being no objection from the State, COURT ORDERED, trial dates, VACATED and RESET.

CUSTODY

01/16/24 8:30 AM STATUS CHECK: TRIAL READINESS

02/13/24 8:30 AM CALENDAR CALL

02/20/24 10:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**January 16, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

January 16, 2024 **08:30 AM** **Status Check: Trial Readiness**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Cejas, Nicole

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Lorena Resnick, Spanish Interpreter, present.

Conference at the bench. Upon Court's inquiry, counsel announced ready. Following colloquy regarding trial schedule, State advised 5-6 days for trial; Mr. Nadig stated one week.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 13, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

February 13, 2024 **08:30 AM** **Calendar Call**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Cejas, Nicole

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Jennifer M. Clemons	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Lorena Resnic, Spanish Interpreter, present.

Mr. Nadig advised they are waiting for the Spanish Interpreter. MATTER TRAILED.

MATTER RECALLED. All parties present. Upon the Court's inquiry, parties announced ready for trial. State anticipated 4-5 days for trial. Mr. Nadig concurred. State advised Sam Kern, Esq. and Julia Watson, Esq. are the trial attorneys for the State. Mr. Nadig advised himself and Jacob Leavitt, Esq. are the trial attorneys for Defense. State anticipated 10-12 witnesses; Defense anticipated 1 witness. COURT ORDERED, matter SET.

IN CUSTODY

2/14/2024 2:00 PM CENTRAL CALENDAR CALL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 14, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

February 14, 2024 **02:00 PM** **State: Sam Kern, Julia Watson; Defense: Ben Nadig, Jacob Leavitt / 4-5 days for trial / State: 10-12 witnesses, Defense: 1 witness**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Schlitz, Kory

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter Deborah Silvera present on behalf of Defendant.

Mr. Nadig stated there was an original offer of 25 years to life, in which the Defendant wanted to withdraw his plea, and the State did no object, adding the new offer is 35 years to life, in which the Defendant does not want to accept. Upon Court's inquiry, Defendant confirmed he does not want to accept the negotiations. COURT ORDERED, trial date SET; and DIRECTED Defense to provide clothes to the Defendant by close of business tomorrow.

CUSTODY

2/20/2024 1:00 P.M. JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 16, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

February 16, 2024 **08:30 AM** **Hearing Re: Trial Continuance**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Cejas, Nicole

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Julia M. Watson	**Attorney for Plaintiff**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Ximena Fiene, Spanish Interpreter, present.

Court noted trial was to begin on Monday. Upon Court's inquiry, State advised there might be some initial acts that happened in Arizona. State further advised it was unaware of these events; notified Mr. Nadig regarding the issue and discussed about continuing the trial. State added it filed their motion regarding jurisdiction. Mr. Nadig advised State's motion regarding acts in Arizona could be prejudical to Deft; further advised he was not aware of the issue and could affect their defense. Mr. Nadig added researching the laws, State's motion, and investigation would take time; therefore, a trial continuance would be necessary. Colloquy regarding initial acts, jurisdiction, and Deft. waived right to a speedy trial. Court expressed its inclinations. Upon Court's inquiry, Mr. Nadig stated trial expected to be five days. State concurred. COURT ORDERED, trial VACATED and RESET. State noted its motion is set for February 29th. Mr. Nadig stated he would file his response to the State's motion by Wednesday.

IN CUSTODY

7/2/2024 8:30 AM PRETRIAL/CALENDAR CALL

7/8/2024 8:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**February 29, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

February 29, 2024 **08:30 AM** **State's Motion to Determine Jurisdiction**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Roberson, Krystle

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
JESS Y. MATSUDA	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Court Interpreter, Lorena Resnick, present.

Mr. Matsuda standing in for Mr. Nadig. Upon Court's inquiry, Mr. Matsuda advised Mr. Nadig intended to file an opposition and would file it by March 1, 2024. Mr. Matsuda further requested the instant matter be continued to the following Tuesday, March 5, 2024. COURT ORDERED, matter CONTINUED.

CUSTODY

03/05/24 8:30 AM CONTINUED: STATE'S MOTION TO DETERMINE JURISDICTION

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**March 05, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

March 05, 2024 **08:30 AM** **State's Motion to Determine Jurisdiction**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Chapa, Brittany

RECORDER: Scott, Deloris

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Karola Anderson, Spanish speaking interpreter also present.

Court noted having read the pleadings and its leaning. Colloquy regarding discovery. COURT STATED its FINDINGS and ORDERED, State's Motion to Determine Jurisdiction GRANTED.

CUSTODY

C-23-372856-1 State of Nevada
vs
Ahuner Yanes

Department 22

June 11, 2024 08:30 AM State's Notice of Motion and Motion To Allow Evidence of Other Bad Acts Pursuant to NRS 48.045(2), NRS 48.045(3), and the Doctrine of Res Gestae

HEARD BY: Johnson, Susan COURTROOM: RJC Courtroom 15D

COURT CLERK: Chapa, Brittany

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Colloquy regarding trial setting, and the need for a Petrocelli Hearing. CONFERENCE AT BENCH. COURT ORDERED, trial dates RESET; and hearing SET.

CUSTODY

09/03/2024 0830 AM CALENDAR CALL
09/09/2024 0830 AM PETROCELLI HEARING
09/09/2024 0100 PM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**September 03, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

September 03, 2024 **08:30 AM** **Calendar Call**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Schlitz, Kory

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter Jeanette Encinas present on behalf of Defendant.

Mr. Nadig announced ready. Mr. Kern announced ready with 5-6 days for trial, and 12-14 witnesses. COURT ORDERED, matter set for central calendar call. Mr. Nadig informed the Court there was a counter offer he needs to review with the Defendant.

CUSTODY

9/4/2024 2:00 P.M. CENTRAL CALENDAR CALL

9/9/2024 8:30 A.M. JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**September 04, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

September 04, 2024 **02:00 PM** **Central Calendar Call: DA Sam Kern / Defense Ben Nadig / 5-6 days / 12-14 witnesses**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Cardwell, Ryan

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
John T. Torre	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish Interpreter Maricella Lopez, present on behalf of the Defendant.

Upon Court s inquiry, Mr. Nadig announced ready for trial, however, requested to start trial on Tuesday. Mr. Torre announced ready. Exhibits presented (See Worksheets). CONFERENCE AT THE BENCH. Subsequent to discussions at the bench, COURT ORDERED, Petrocelli Hearing STANDS; trial date SET and DIRECTED the Defense to provide clothes to the jail by the close of business tomorrow.

CUSTODY

09/10/2024 11:00 AM JURY TRIAL (DEPT. 12)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**September 10, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 22**

September 10, 2024 **08:30 AM** **All Pending Motions**

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

COURT CLERK: Pannullo, Haly

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
John T. Torre	**Attorney for Plaintiff**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE JURY:

Spanish Interpreter, Yul Haasmann, also present.

Upon the Court's inquiry, counsel confirmed there being no need to proceed with Petrocelli Hearing. COURT SO NOTED. Mr. Kern noted there has been agreement as to matters that can come in. As to Defendant's voluntary statement Mr. Kern advised the State does not intend to bring that in. Mr. Nadig advised there will be a lot of factual concessions on his part and Defense will be based on that it occurred in another country. Court inquired as to offers given by the State. Mr. Nadig indicated Defendant had previously agreed to stipulate to twenty-five to life however; decided not to proceed. Mr. Kern noted State's recent offer was for Defendant to stipulate to thirty to life. Mr. Nadig confirmed Defendant rejected said offer and has countered at the request of the Defendant with twenty to life, which the State then rejected. Court canvassed Defendant as to offer rejected. Mr. Kern advised him and Mr. Nadig have discussed McNamara Vs. State in regards to how jurisdiction is determined and anticipates further argument on the matter. Additionally, Mr. Kern indicated there are stipulations to put on the record. As to buccal swabs and DNA testimony would not be subject to hearsay objections. COURT SO NOTED. Arguments by counsel regarding jurisdiction. Mr. Nadig noted Defendant wishes to make a record as to not being prepared for trial. Statements by Defendant regarding offers being given late and not being visited. Mr. Nadig stated he has visited defendant with spanish speaking staff member. Mr. Kern advised offer has been open for a long time and has previously been discussed with defendant. Colloquy regarding offer by the State. COURT STATED, matter TRAILED for Defendant to converse with counsel.

MATTER RECALLED. All parties present as before. Spanish Interpreter, Deborah Silvera, also present.

Amended Information FILED IN OPEN COURT.

Upon the Court's inquiry, Mr. Nadig confirmed matter has resolved. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. YANES ARRAIGNED AND PLED GUILTY TO SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F) and FIRST DEGREE KIDNAPPING (F). Court ACCEPTED plea, and, ORDERED, matter REFERRED to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY

10/31/24 8:30 A.M SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**October 31, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 12**

October 31, 2024 08:30 AM Sentencing

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

COURT CLERK: Villatoro, Reina

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Ben Nadig	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Yul Haasman, Spanish Interpreter also present.

Upon the Court's inquiry, Defendant stated they are not ready to proceed with Sentencing. Mr. Nadig indicated Defendant has stated he does not understand first degree kidnapping charge and how he plead guilty to that charge. Further, Mr. Nadig stated Defendant is contesting guilt as to first degree kidnapping and did not challenge count one. Mr. Kern argued Defendant is intentionally delaying and playing games. Upon the Court's further inquiry, Defendant stated he is not pleading guilty to count 2, confirmed count 2 is the concern and is not contesting count 1. Defendant stated plea was fast, deal was in english and did not have time to analyze it. Mr. Nadig noted he had interpreter review document with Defendant. Court inquired as to Defendant wishing to withdraw plea as to count 2. Defendant so confirmed. Mr. Kern indicated both counts are tied together per Guilty Plea Agreement. COURT ADVISED, by making contention entire Guilty Plea Agreement is being jeopardized and State can reinstate all charges. Defendant confirmed his understanding. Mr. Kern made record of all previous charges and potential time. Court inquired as to appointed counsel needing to be appointed. Defendant so confirmed. COURT NOTED an understanding of there not being any allegations made against Mr. Nadig. Mr. Nadig so confirmed. COURT ORDERED, matter CONTINUED for Appointment of Counsel and for legal basis as to withdrawal of plea on count 2.

CUSTODY

11/07/24 8:30 A.M APPOINTMENT OF COUNSEL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**November 07, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 12**

November 07, 2024 08:30 AM All Pending Motions

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

COURT CLERK: Villatoro, Reina

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Blake McKay	**Attorney for Plaintiff**
Robert Arroyo	**Attorney for Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Ricardo Pico, Spanish Interpreter also present.

Upon the Court's inquiry, Mr. Arroyo confirmed he can accept appointment. COURT NOTED, Defendant is disputing count 2. Mr. Arroyo advised he will reach out to Mr. Nadig to obtain discovery and speak with Defendant. COURT SO NOTED and ORDERED, matter SET for Status Check on Motion to Withdraw Plea.

CUSTODY

CONTINUED TO: 12/05/24 8:30 A.M

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**December 05, 2024**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 12**

December 05, 2024 **08:30 AM** **Status Check: Motion to Withdraw Plea on Count 2**

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

COURT CLERK: Villatoro, Reina

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Robert Arroyo	**Attorney for Defendant**
Samuel R. Kern	**Attorney for Plaintiff**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Mr. Arroyo indicated he just received prior counsel's file and Transcripts. Further, Mr. Arroyo advised he met with Defendant's prior counsel wishes to proceed with Motion and requested briefing schedule to file Motion. COURT ORDERED, Motion due 12/19, State's response due 01/02, Reply due 01/09; matter SET for Hearing.

CUSTODY

CONTINUED TO: 01/09/25 8:30 A.M

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**January 16, 2025**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 12**

January 16, 2025 08:30 AM All Pending Motions

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

COURT CLERK: Villatoro, Reina

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Michael Donovan Allmon	**Attorney for Plaintiff**
Robert Arroyo	**Attorney for Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

HEARING: MOTION TO WITHDRAW PLEA AS TO COUNT 2...MOTION TO WITHDRAW GUILTY PLEA.

Spanish interpreter, Lorena Resnick, also present.

Matter argued by Mr. Arroyo and Mr. Allmon. COURT ORDERED, Motion to Withdraw Guilty Plea DENIED; matter SET for Sentencing.

CUSTODY

01/30/25 8:30 A.M SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**January 30, 2025**
C-23-372856-1	State of Nevada vs Ahuner Yanes	**Department 12**

January 30, 2025 **08:30 AM** **Sentencing**

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

COURT CLERK: Villatoro, Reina

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Ahuner Yanes	**Defendant**
Michael Donovan Allmon	**Attorney for Plaintiff**
Peter I. Thunell	**Attorney for Plaintiff**
Robert Arroyo	**Attorney for Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Spanish interpreter, Jeanette Encinas, also present.

CONFERENCE AT BENCH. MATTER TRAILED. Mr. Allmon now present.

MATTER RECALLED. All parties present as before. Statement by Defendant. DEFT. YANES ADJUDGED GUILTY OF COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F) and COUNT 2 - FIRST DEGREE KIDNAPPING (F). Arguments by Mr. Allmon and Mr. Arroyo. COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, $3.00 DNA Collection Fee and $150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED on COUNT 1 to a MINIMUM of TWENTY-FIVE (25) YEARS and a MAXIMUM of LIFE in the Nevada Department of Corrections (NDC) and on COUNT 2 to a MINIMUM of FIVE (5) YEARS and a MAXIMUM of LIFE in the NDC, CONSECUTIVE TO COUNT 1, for an AGGREGATE SENTENCE of a MINIMUM PAROLE ELIGIBILITY after THIRTY (30) YEARS and a MAXIMUM of LIFE with SEVEN HUNDRED THIRTY THREE (733) DAYS credit for time served. COURT FURTHER ORDERED, a special SENTENCE OF LIFETIME SUPERVISION is imposed to commence upon release from any term of probation, parole or imprisonment and Defendant shall register as a sex offender in accordance with NRS 179D.460 within 48 hours upon release. BOND, if any, EXONERATED.

NDC