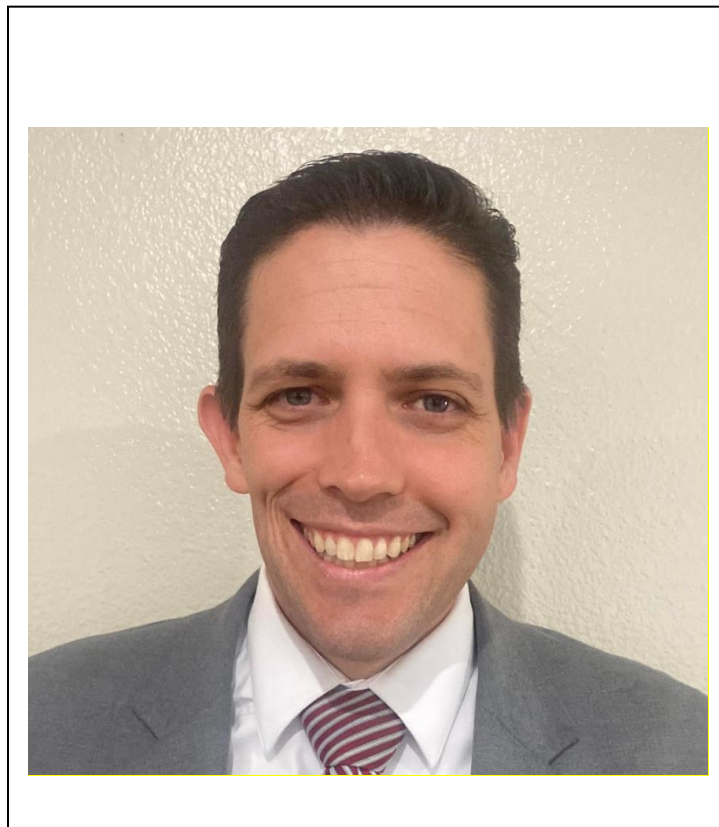


COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT XXVII

By

Robert Allen Stephens



Personal Information

1.	Full Name	Robert Allen Stephens
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	No
3.	How long have you been a continuous resident of Nevada?	Grew up in Las Vegas from the time I was 2 years old. Went away for college and a church mission. Returned for law school. Currently a resident from 2005-present.
4.	City and county of residence	Las Vegas, Clark County
5.	Age	43

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	Clark County District Attorney's Office
Phone	702-671-2695
Physical Address & Website	200 Lewis Avenue; Las Vegas, NV 89101 Clark County, NV (clarkcountynv.gov)
Date(s) of Employment	August 2008 – Present
Supervisor's Name and Title	Steve Wolfson Clark County District Attorney
Your Title	Chief Deputy District Attorney – Assistant Team Chief of SVU
Describe Your Key Duties	Within SVU (Special Victim's Unit), I currently prosecute cases from start to finish involving Sexual Assaults of adults and children, Child Abuse, Sex Trafficking, and Child Sexual Abuse Material As an Assistant Team Chief, I assist other members on the team (the largest team in the office) in evaluating cases, assessing evidentiary issues, and interacting with victims and other members of the public. I am a liaison with other community groups such as Signs of Hope and RISE.
Reason for Leaving	Currently employed.

Previous Employer	Westlaw
Phone	651-687-7000
Address & Website	4505 S. Maryland Pkwy Las Vegas, NV 89119 Legal.thomsonreuters.com
Date(s) of Employment	August 2006 – April 2008
Supervisor's Name and Title	Lorraine. She worked primarily in California. I would see her a couple times a semester Regional Account Manager
Your Title	Student Representative – part time while in law school
Describe Your Key Duties	Assist professors and students with legal research and conduct legal research trainings
Reason for Leaving	Graduated Law School

Previous Employer	Goldsmith & Guymon
Phone	702-873-9500
Address & Website	2055 Village Center Circle Las Vegas, NV 89134 Las Vegas Bankruptcy Lawyers Business Law and Family Law Attorneys (goldguylaw.com)
Date(s) of Employment	April 2007 – August 2007
Supervisor's Name and Title	Dara Goldsmith and Marjorie Guymon Founding Partners
Your Title	Law Clerk – full time while in law school
Describe Your Key Duties	Researched and briefed legal topics Drafted and edited memorandums Drafted a variety of client letters
Reason for Leaving	Summer Clerkship

Previous Employer	Stephens, Gourley & Bywater
Phone	702-656-2355
Address & Website	3636 North Rancho Dr Las Vegas, NV 89130 Stephens, Gourley & Bywater - Attorneys at Law - Las Vegas, NV (stephensbywater.com)
Date(s) of Employment	May 2006 – August 2006
Supervisor's Name and Title	David Stephens Founding Partner
Your Title	Law Clerk – full time while in law school
Describe Your Key Duties	Researched and briefed legal topics Drafted, edited and cited legal documents
Reason for Leaving	Summer Clerkship

Previous Employer	The Church of Jesus Christ of Latter-day Saints
Phone	801-422-2602
Address & Website	2005 North 900 East Provo, UT 84602 Provo.mtc.byu.edu
Date(s) of Employment	2002-2005
Supervisor's Name and Title	Changed all the time when students graduated Lead Teacher
Your Title	Teacher – part time
Describe Your Key Duties	Taught the gospel of Jesus Christ to new missionaries Taught Latvian language to new missionaries Taught Latvian culture to new missionaries
Reason for Leaving	Graduated from BYU and accepted into law school

Previous Employer	Brigham Young University
Phone	801-422-2518
Address & Website	1624 North 900 East Provo, UT 84602 Laundry.byu.edu
Date(s) of Employment	2002-2005
Supervisor's Name and Title	Nathan Roundy Laundry Director
Your Title	Pants Presser – part time Blinds Repairman – part time during the school semesters and full-time during the summer.
Describe Your Key Duties	I started as a pants presser. I pressed and laundered pants. I would also apply chemicals to help remove stains. I was then promoted to Blinds Repairman. I would install, repair, and maintain all the blinds on BYU's campus, including dorms and professors' offices.
Reason for Leaving	Graduated from BYU and accepted into law school

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Cimarron-Memorial High School – 1995-1999

2301 N. Tenaya Way, Las Vegas, NV 89128

Graduated with high school diploma

Brigham Young University – 1999-2005*Two-year gap for a church mission from 2000-2002*

BYU, Provo, UT 84602

Graduated in American Studies with a minor in Math

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

Cimarron-Memorial High School

Student Council

Men's Varsity Volleyball

National Honor Society

Salutatorian

Brigham Young University

Vice President of the American Studies Student Association 2004-05,

Member of the pre-law club

University Scholarship Recipient

William S. Boyd School of Law

Law Review: Symposium Editor, 2007-2008, Note published in Nevada Law Journal Vol 8.2 (2007-08) *Life or Liberty: Six Factors that will Better Evaluate Self Defense in Nevada's Common Law on Retreat*

J. Reuben Clark Society: Treasurer 2006-2008, Service Co-Chair 2005-2006

International Law Society: Secretary 2006-2008

Federalist Society: Member 2006-2008

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

William S. Boyd School of Law, UNLV – 2005-2008

4505 S. Maryland Parkway, Las Vegas, Nevada 89119

Graduated with Juris Doctorate – April 2008 – No ranking

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

See Employment #6 on previous page

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

Law Review: Nevada Law Journal, 2006-2008, Lead Symposium Editor, 2007-2008

Publication: Note published in Nevada Law Journal Vol. 8.2 (2007-08), *Life or Liberty: Six Factors that will Better Evaluate Self-defense in Nevada's Common Law on Retreat*

Activities:

J. Reuben Clark Society, Treasurer 2006-08, Service Co-chair 2005-06

International Law Society, Secretary 2006-08

Federalist Society, Member 2006-08,

Clinics: Education Clinic – Help ensure proper education modifications for students

Law Practice

12. State the year you were admitted to the Nevada Bar.

2008

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

I am not admitted to practice law in any other states

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

100%. As a Chief Deputy District Attorney, I am in court every single day arguing motions, recommending sentences, requesting bail conditions and presenting trials to jurors and judges. Over the last five years, I have participated and presented in some appellate courts, including the Nevada Supreme Court, but that is not a regular part of my responsibilities.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	0%
Juvenile matters	0%
Trial court civil	0%
Appellate civil	0%
Trial court criminal	95%
Appellate criminal	5%
Administrative litigation	0%
Other: Please describe	0%

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

Currently, and over the last 3 years, my entire caseload (100%) is cases either set for trial or heading to trial as I am only assigned felony cases on SVU. Prior to my current assignment on SVU, I handled a few misdemeanors that would not have been jury trials but would have been heading to bench trials. Over the past 5 years I have handled several hundreds of cases. My best estimate is that more than 95% of my cases in the last 5 years have been in anticipation of a jury trial. Less than 5% of my cases have been misdemeanors headed to a bench trial.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

My entire case load for more than a decade involves jury trials. In the past 5 years, I have done about 12 jury trials to verdict. I have probably had another 15 cases deal once trial commenced. In my career I have tried nearly 50 cases to verdict.

19. List courts and counties in any state where you have practiced in the past five years.

All Las Vegas Justice Courts and all other Justice Courts in Clark County
Eighth Judicial District Court – All criminal departments
Nevada Court of Appeals
Nevada Supreme Court

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1 –
Case name and date: State of Nevada v. War Machine, 2014-2017
Court and presiding judge and all counsel: DC 6 – Honorable Elissa Cadish, Attorneys: Jacqueline Bluth, Jay Liederman, Brandon Sua, Brian Watkins
Importance of the case to you and the case’s impact on you: While I had handled several media cases before, this case had constant media attention given the popularity of the persons involved. This case involved a popular mixed-martial artist who beat up his ex-girlfriend (a celebrity in the film industry) and another male. Defendant entered his ex-girlfriend’s home and surprise-attacked the male. Defendant then severely beat his ex-girlfriend and sexually assaulted her. Evidence of his prior abuse on her were also charged. ESPN and several other national news organizations covered this case very closely. In fact, this trial was nationally broadcast live. Court had a lot of theatrics, some surprising. At the conclusion of the trial, Defendant received a large life sentence. This case taught me to focus on pursuing justice and not the other tangential things occurring. Knowing that your skills and work were being nationally analyzed required me to maintain focus and control the things that I could. I also learned that each case and victim need a different approach.
Your role in the case: Co-counsel.

Case 2 –
Case name and date: State of Nevada v. Edmund Bobby Ho, 2013-2015
Court and presiding judge and all counsel: DC 3 – Honorable Doug Herndon Attorneys: Richard Scow, Roy Nelson, Travis Shetler, Ross Smillie
Importance of the case to you and the case’s impact on you: This was a case that I initially had to dismiss due to loss of contact with the victim. The case had serious injuries and serious charges. I had a hunch that the victim would struggle to testify against this defendant due to the familial connection they had. I kept in good contact with her up until the weekend before trial, when she disappeared and refused to contact our office. I had to dismiss this case on the morning of trial. Unfortunately, the next time I heard from the victim was when she was in the hospital with even more serious life-threatening injuries caused by the same defendant. I was sad she suffered these injuries and felt it could have been avoided had she kept in contact with me. I had to put aside my own frustrations from the previous case and assess just this case. I approached the victim from a different angle in hopes of encouraging further cooperation. When we went to trial on this second case the defendant received a hefty significant sentence because the victim appeared at the trial.
Your role in the case: Lead counsel

Case 3
Case name and date: State of Nevada v. Bryan Harmer, 2015-2017
Court and presiding judge and all counsel: DC 21 and 5 – Honorable Valerie Adair and Carolyn Ellsworth Attorneys: Bill Skupa
Importance of the case to you and the case's impact on you: Defendant in this case was abusing his young child. To prosecute this case, I needed mom to bring the child to court. About a week before trial, the mom and the victim disappeared from Las Vegas. Through wonderful investigation by the detective and my investigator, the mother and victim were located in Utah on the morning of trial. My request to continue the trial was denied due to an inability to sufficiently prove that it was the defendant that encouraged their flight. I had to dismiss this case but the court gave me permission to refile the case. I ended up refiling the case when additional evidence was presented as to the defendant's persuasion of the mother to flee to Utah. After charges were again filed, the victim fled again to another state. Again, my investigator and detective were able to locate them. I requested the assistance of the other state officials to help me serve subpoenas and speak to the witnesses which eventually resulted in a favorable resolution for the State. I learned the importance of a team prosecution in this case. This was a case where I was unable to pursue justice alone. I leaned heavily upon my investigator and the lead detective, and even another jurisdiction to ensure a just result. The concept of justice is more than the parties and the court. There are a lot of unseen people that help secure justice.
Your role in the case: Lead Counsel

Case 4
Case name and date: State of Nevada v. Kenneth Franks, 2015-2016
Court and presiding judge and all counsel: DC 5 - Honorable Carolyn Ellsworth Attorney: Jennifer Clemons, Benson Lee
Importance of the case to you and the case's impact on you: In 2015, the Nevada Legislature enacted NRS 48.045(3) which allows prior illicit sexual acts of a defendant to be admitted at trial to prove propensity. This was the first case to go to trial using that statute. After a conviction, it was appealed to the Nevada Supreme Court. The Nevada Supreme Court heard argument on the case and affirmed the conviction. This case impacted me because it caused me to think about appellate issues prior to trial. The new statute had recently been passed and certainly the State did not want to present a case or use evidence in such a way that could invalidate or minimize the impact of the evidentiary statute.
Your role in the case: Co-Counsel

Case 5
Case name and date: State of Nevada v. Brent Morris, 2010-2012
Court and presiding judge and all counsel: DC 10 – Honorable Jerry Tao Attorneys: Tom Carroll, Daniel Lippmann, Haylee Kolkoski
Importance of the case to you and the case's impact on you: The first trial always seems to be the most memorable. This case involved a notorious craps cheater. He had been black booked out of New Jersey and Nevada. He had numerous other gambling related offenses. This case involved a lot of effort learning the game of craps and then many more hours of watching surveillance video to identify the cheating. Defendant was convicted of a black-book offense which was one of the first ever convictions of such in Nevada. He was so prolific that the court imposed an habitual criminal sentence, which establishes enhanced penalties for repeat criminal offenders. This case taught me how to prepare a case. The preparation does not happen a week or so before the trial, but requires consistent preparation. Had I waited to really dig into this case until the week before trial, I would have never been able to be prepared for this case. Moreover, I found joy in learning new things, such as the game of craps. I also found value in requesting help and guidance from more experienced attorneys and from experts.
Your role in the case: Lead Counsel

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

N/A – I work as a government attorney

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

Nevada State Bar Association

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes. I am in compliance with CLE requirements.

2023

Pretrial Services
Using Phone and Social Media Evidence
The Game: The Psychology Behind Pimping
Victimless Proactive Trafficker Intervention
Five Search and Seizure Questions
Coping with Depression
What State Prosecutors Need to Know about US Attorney Cases
Prosecutor Community Outreach
Probation Post AB 236
2023 Legislative Update
Doggett Issues Post Inzunza
Search Warrants
Effective Legal Writing

2022

Updates on Batson and the Law of Jury Selection
Forensic Y-STR Testing
Intro to At Ease
Gangs in Clark County
LVMPD DNA Lab Updates & How to Explain DNA to a Jury
Prison Math
Updates from CCDC House Arrest & Electronic Monitoring
Understanding & Handling DNA Evidence

2021

SafeNest and the DA's Office: Partnerships & DV Community Supports
APA: Ethics in Child Abuse
APA: What Every Prosecutor Needs to Know About Forensic Interviewing
Qualified and Prosecutorial Immunity
Trauma Informed Approaches Working with DV Survivors in the Courtroom
Emerging Trends in Human Trafficking and Child Sexual Abuse
ABA: What the ABA Study on Substance Use and Mental Health Means
APA: Capital Litigation Webinar: Meeting with Victim Families
APA: Digital Evidence Primer for Prosecutors

2020

Mental Health Programs in the EJDC
Blunt Force Trauma, Stab Wounds, & Gunshot Wounds
Implicit Bias
ASU National Panel: Prosecuting in a Pandemic
Legislative Changes Going into Effect 7/1/20
Facial Recognition – Update from LVMPD

2019

Discrimination, Harassment and Bullying Awareness
 Sovereign Citizens: Updates & Current Trends in Clark County
 Batson
 Cyber Crime Workshop
 Legislative Update 2019
 Wellness Workshop I, Provided by UNLV Medical School
 Cops & Social Media: Tools Police Give the Defense to Attack Our Case
 Restorative Justice
 Brady, Giglio, Kyles and More

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I work for a governmental agency – Clark County District Attorney’s Office

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

Yes – I coached my son’s Club Volleyball team. I am currently the assistant coach
 Club Impact – October 2022-present – Coach 14U

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

- a. the nature of the business
- b. the nature of your duties
- c. the extent of your involvement in the administration or management of the business
- d. the terms of your service
- e. the percentage of your ownership

I have never been involved in or employed as a manager, officer or director of any business enterprise

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

N/A

Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Boy Scouts of America

Held a variety of leadership positions including Scoutmaster, Cubmaster and Unit Leader
– 2003-2019
Eagle Scout Recipient 1995

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

N/A

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

Educational –

Signs of Hope

I conduct a training with Signs of Hope every couple of months

District Attorney's Office

I am a member of the Evidence Board which allows me to conduct a handful of trainings every year to various groups, including law enforcement trainings

UNLV

I taught an undergraduate class about sexual assault, domestic violence and other related crimes

Church – The Church of Jesus Christ of Latter-day Saints

Bishop

April 2016 thru October 2021

Lead 500+ members to increase their faith and love of Jesus Christ. Plan weekly sacrament meetings. Keep the ward organized by inviting people to volunteer in various capacities within the church.

High Councilor

July 2022-Present

Participate in the leadership and guidance of several wards in the area. Lead a Self-Reliance Committee. Plan events to encourage people to become more self-reliant.

Youth Leader

2012-2016

Assist Young Men (ages 12-18) develop their talents, skills and character

Seminary Teacher – 2010-2011

Teach gospel classes to high-school kids at Centennial High School before school

Missionary

2000-2002

Taught the gospel of Jesus Christ in Latvia. Trained three new missionaries in the gospel and learning Latvian culture and the language

Community –**National Youth Sports**

2014-2021

Coach of various ages (5-13) for several seasons in volleyball.

Boy Scouts of America

2003-2019

Helped young men (10-18) learn life skills and develop leadership

Eagle Award Recipient

33. List honors, prizes, awards, or other forms of recognition.

Eagle Award Recipient – Boy Scouts of America

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

Publication: Note published in Nevada Law Journal Vol. 8.2 (2007-08), *Life or Liberty: Six Factors that will Better Evaluate Self-defense in Nevada's Common Law on Retreat*

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

Coach my son's volleyball team. Play basketball, volleyball and pickleball regularly. Love hiking and exploring the outdoors with my family. Enjoy a good board game.

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

I believe it would be appropriate and necessary to recuse myself from any case in which I have been involved as a prosecutor. I have a current caseload of about 70 cases.

I also believe it would be appropriate and necessary to recuse myself from any case in which my father is representing a party. My father, David Stephens, is an attorney in Las Vegas.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

N/A

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

Please see attached below

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

I have had the privilege of growing up in this community. I elected to return to raise my own family here. I chose the route of public service in hopes of continuing the great legacy of this community and State. Leadership is something that I have worked to develop and have helped others gain. I see goodness in people but understand the importance of laws and rules.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

Please see attached below

47 –What sets you apart from your peers

One thing that sets me apart from my peers is my love and appreciation for Clark County. I grew up in Clark County. I attended public school from Kindergarten at Paul Culley Elementary School through my high school graduation at Cimarron-Memorial High School. After getting married and graduating from BYU, my wife and I elected to return to Clark County to raise our children. I now have four children in the public school system. My children have been involved in community recreation sports and I have coached them and their friends.

My dedication to this community led me to choose a career in public service. Prior to graduating from William S. Boyd School of Law – UNLV, I accepted a position to work at the Clark County District Attorney’s Office. My entire career has been dedicated to keeping our community safe while ensuring justice for all. While at the District Attorney’s Office, I have received a variety of assignments that have helped me increase my legal knowledge and skills. As a new Deputy District Attorney, after a few weeks of training, I was trusted to go to the outlying jurisdictions without supervision. I was soon transferred to the Domestic Violence team where I learned how to deal with all varieties of victims and cooperation. Some victims had no interest in prosecuting their abuser. I had to master the rules of evidence to pursue justice for victims, even if the victims chose not to cooperate. While assigned to HIDTA, I pursued serious drug traffickers. On the Special Victims Unit, I have learned the nuance of examining some of the most vulnerable members of our community. Throughout my nearly 15-year career as a prosecutor I have had to use my discretion in determining what cases to pursue, what cases to resolve and what cases to dismiss. Having made those decisions while prosecuting, will be advantageous as a judge.

In addition to dedicating my career to this community, I have also dedicated a lot of my own personal time and energy to this community. For more than 15 years, including while I was

in law school, I was a scout leader for the Boy Scouts of America. I was involved with boys between the ages of 10 and 18. I taught them a variety of leadership skills and helped them advance in the scouting program. Some of my favorite classes to teach for the Boy Scouts were the Citizenship merit badge classes, where we discussed civic duties and responsibilities. Many of the boys with whom I worked eventually earned the highest rank, the Eagle award.

My time serving a two-year church mission in a foreign country was life changing. I saw how other governments enforce their laws. It was disheartening at times. It provided me deep respect and eternal gratitude for the United States and Nevada Constitutions. Those two years guided me into joining the legal community. The mission also taught me how to respect all people and cultures, which I also believe is necessary for a good judge.

I am still an active member of my religious community. I was asked to serve as a Bishop of the regional congregation consisting of more than 500 members. With no payment for my efforts, I planned sacrament services each week for more than 5 years. Additionally, I met with individuals to assist them with various challenges. I learned the importance of organization and dealing with a variety of personalities and desires. I had a responsibility to encourage service from other members of our community and faith. At times, I had to make decisions that I knew would be unpopular with the congregants. I believe these attributes will be invaluable as a judge.

As I have appeared in court almost every day for my entire legal career, there are four attributes that I believe are essential for judges to possess. First, judges must understand and enforce the procedural rules and rules of evidence. It can be frustrating to prepare for an argument or trial only to be thwarted by a misapplication of the rules of evidence. Enforcing these rules appropriately gives all parties confidence in the impartiality of the court and thus in the outcomes decided in court.

Second, judges should be respectful of the parties. All parties deserve respect during the judicial process. For most parties, their cases have significant impact on their lives. This may heighten the tension amongst the parties. A judge with a quick temper may only enhance the hostilities and emotions. When the parties are respected, regardless of the decision, both parties hopefully feel like their case was appropriately considered and decided on the merits. As a prosecutor I have never made decisions based upon race, wealth, or any other distinction. Facts and law determine the outcome. Nothing else. All people must be treated fairly.

Third, judges must be organized and efficient. While decisions should never be rushed, the parties' case should not be delayed simply due to a lack of preparation by the court. I have found that courts that are prepared can effectively manage their calendars which reduces costs for clients and our citizens. Spending unnecessary time in court can be one of the most frustrating elements of being an attorney. As I have handled a case load of more than 70 cases at any given time for several years now, I am confident that I can manage a judicial calendar in an effective and appropriate manner. I have appeared in every criminal court in the county. I have seen what works and what does not work.

Fourth, judges must continue to learn. With the somewhat recent creation of the appellate court in Nevada, additional case law continues to grow. Courts must stay apprised of these new cases and developments. Furthermore, some legal matters are obscure or nuanced. This may require additional research and effort to properly understand the issues. I love learning. I am confident that I can learn anything with time and effort. I learned to speak a foreign language (Latvian) almost entirely on my own. I continue to learn and apply common law. Having prosecuted more than 40 cases to verdict I am confident that I will be able to preside as a respected judge.

Defendant, SAMUEL PRIVADO-MARTINEZ, is charged by way of Criminal Information with the crimes of SOLICITING A CHILD FOR PROSTITUTION (Category D Felony – NRS 201.354) and LURING CHILDREN OR MENTALLY ILL PERSONS WITH USE OF TECHNOLOGY WITH INTENT TO ENGAGE IN SEXUAL CONDUCT (Category B Felony – NRS 201.560). The crime occurred on or about December 9, 2020.

On the week of December 7, 2020, several members of the Federal Bureau of Investigations (FBI) Special Agents, FBI Online Cover Employees (OCE) and members of the Child Exploitation Task Force (CETF) and Task Force Officers (TFO) conducted an undercover chat operation advertising as minors on several online social media chat platforms.

On December 9, 2020, FBI TFO Johnson conducted an operation targeting sex purchasers of the commercial sex trade, at 2601 E. Sunset Rd., Las Vegas NV "Sunset Dog Park". As part of this operation TFO Johnson **posed as a juvenile female, 14 years old. An escort advertisement was posted associated to this female identity on megapersonals.eu, which is a known escort website where sex purchasers and providers can arrange prostitution dates.**

On December 9, 2020, at 2:44 p.m., TFO Johnson was contacted by phone number 702-272-6473, stemming from the posted online advertisement. The phone number was later determined to be operated by Defendant. During the conversation, Defendant messaged the female he believed to be in the online ad stating that he was looking for "quickie fs 60" meaning; sexual intercourse for \$60.00. TFO Johnson came to the agreement that the defendant would pay \$60.00 in exchange for the sexual service.

The following is a transcript of the text conversation between Defendant and TFO Johnson, whom Defendant believed to be a 14-year-old girl:

Defendant: "Hello are you available?"
14-year-old child: "I am babe"

Defendant: "How much? Do you have some specials? Like, 60, 80?"
14-year-old child: "I can do a bj for 60"
Defendant: "Can you do me a quickie [for] 60?"
14-year-old child: "I can babe. If u can pick me up"
Defendant: "Ok where are you located?"
14-year-old child: "I am by the airport"
Defendant: "Can I see a full body pic of you please, I won't pick the wrong girl up."
Defendant: "I'll be driving a white sedan 4 doors car just in case."
14-year-old girl: are u affiliated with any law enforcement?
Defendant: "No baby I am not a cop how about you?"
14-year-old child: "I am not. Haha id be the youngest cop ever"
Defendant: "Yea lol"
Defendant: "Can I see your pic please?"
14-year-old child: "it would be funny to see a cop whose 14. smh"
Defendant: "Do you have 14 not kidding with me please"
14-year-old child: "im not kidding babe. I have a regular in reno but im not ther rn"
Defendant: "I will like to be your regular here in Vegas"
14-year-old child: "Sounds good to me babe."
Defendant: "Let me see your pic please baby."
14-year-old child: "will u send one after?"
Defendant: "Yes sure."
Defendant: "Send me your full body pic please."
14-year-old child: "Ok babe"
Defendant: "Damn are you sure you are 18 y/old or more I just won't no trouble."
Defendant: "You look so cute u looks like cute pie so yummy."
14-year-old child: "there wont be any problems babe."
14-year-old child: "promise."
Defendant: "Ok send me your address to pick up please."

The 14-year-old child directed him to the Sunset Dog Park. While driving to the meet location, Defendant texted that he was in a white vehicle. He asked her to "whait please I am on the freeway with a little traffic." A DMV search showed that a white Kia Forte was registered to him. Defendant was located and arrested driving the white Kia. Defendant also provided his phone number which matched the number that responded to the ad.

Law enforcement officers seized \$190.00 cash and Defendant's cell phone. Defendant chose not to speak to law enforcement, as is his legal right, after which he was booked into the Clark County Detention Center.

On August 16, 2022, Defendant filed a Motion to Dismiss. The State's Opposition follows.

LEGAL ARGUMENT

Defendant requests that this Honorable Court dismiss this case believing that the investigation involved outrageous government conduct. Outrageous government conduct did not occur during this investigation and thus Defendant's Motion to Dismiss must be denied.

Outrageous government conduct is not a defense, but rather a claim that government conduct in securing an indictment was so shocking to due process values that the indictment must be dismissed." United States v. Williams, 547 F.3d 1187, 1199 (9th Cir.2008). This is an "extremely high standard," and **must be "shocking to the universal sense of justice mandated by the Due Process clause of the Fifth Amendment."** United States v. Smith, 924 F.2d 889, 897 (9th Cir.1991) (emphasis added); Williams, 547 F.3d at 1199. "This standard is met when 'the government engineers and directs a criminal enterprise from start to finish,' but is not met 'when the government merely infiltrates an existing organization, approaches persons it believes to be already engaged in or planning to participate in the conspiracy, or provides valuable or necessary items to the venture.'" *See Williams*, 547 F.3d at 1199 (quoting United States v. Gurolla, 333 F.3d 944, 950 (9th Cir.2003)). Outrageous government conduct is not a question of fact for the jury, but a question of law for the Court. U.S. v. Citro, 842 F.2d 1149, 1152 (9th Cir.1988).

It is outrageous for government agents to (1) engineer and direct a criminal enterprise from start to finish; (2) to use excessive physical or mental coercion to convince an individual to commit a crime; or (3) to generate new crimes merely for the sake of pressing criminal charges." United States v. Pincombe, 2015 WL 8480079 (D. Nev. Nov. 3, 2015) (*citing United States v. Black*, 733 F.3d 294, 302 (9th Cir. 2013)). This is an 'extremely high standard.'" *Id.*, *quoting United States v. Garza-Juarez*, 992 F.2d 896, 904 (9th Cir.1993) (*quoting United States v. Smith*, 924 F.2d 889, 897 (9th Cir.1991)).

Black notes, as have other decisions, that there are ***only two reported decisions in which federal appellate courts have reversed convictions under this doctrine.*** *Id.* In fact, the courts have upheld all of the following: Use of false identities by undercover agents, Shaw v. Winters, 796 F.2d 1124, 1125 (9th Cir. 1986), and United States v. Marcello, 731 F.2d 1354, 1357 (9th Cir.1984); the supply of contraband at issue in the offense, Hampton v. United States, 425 U.S.

484, 489, 96 S.Ct. 1646, 1649–50, 48 L.Ed.2d 113 (1976); the commission of equally serious offenses by an undercover agent as part of the investigation, United States v. Stenberg, 803 F.2d 422, 430 (9th Cir.1986); the introduction of drugs into a prison to identify a distribution network, United States v. Wiley, 794 F.2d 514, 515 (9th Cir.1986); the assistance and encouragement of escape attempts, United States v. Williams, 791 F.2d 1383, 1386 (9th Cir.), *cert. denied*, 479 U.S. 869, 107 S.Ct. 233, 93 L.Ed.2d 159 (1986); use of a heroin-using prostitute informant whose own activities were under investigation and who engaged in regular intercourse with the defendant, United States v. Simpson, 813 F.2d 1462, 1465–71 (9th Cir.1987).

The Court may note that none of the aforementioned cases involve child sex predators who use their cell phones to solicit a child for prostitution and lure the child with the intent to engage in sexual conduct. Not one!! Defendant encourages this Court to rely upon an unpublished opinion, United State v. Lofsted, (US Nev. Dist. 2021), yet does not provide a copy of the decision for this Court or the State.

The facts of Lofsted are important to distinguish it from this case. First, Lofsted texted and spoke with the decoy juvenile for more than 3 hours. Lofsted asked for her ID and another photo not already posted on the website. They texted for another hour at which time Lofsted told her, “To be honest I’m worried you may not be 16.” He then stated that maybe he could just meet her and get high together. When the decoy juvenile stated she had a younger friend coming over, Lofsted made it clear that a year difference is a “big thing.” See Id.

The Lofsted Court identified six factors to determine whether the law enforcement conduct was sufficiently outrageous to warrant dismissing the case. The factors are as follows: (1) Known criminal characteristics of the defendant; (2) Individualized suspicion of the defendant; (3) the government’s role in creating the crime of conviction; (4) the government’s encouragement to commit the offense; (5) government participation in the offense; and (6) the nature of the crime being pursued and necessity for the actions taken in light of the nature of the criminal enterprise. Id. Courts have been silent on how to weigh these factors. Finding the Lofsted case close, the federal court dismissed the case.

Here, this case is distinguishable from Lofsted and should be decided by a jury. The State will analyze each of the six factors below.

FACTORS 1 - Defendant's criminal characteristics AND 2 - Individualized suspicion of Defendant

Here, Defendant's criminal characteristics were unknown. Further, there was no individualized suspicion of Defendant. These factors favor Defendant.

FACTOR 3 – Government's role in creating the crime of conviction.

While the Government created the ad on MegaPersonals, it was Defendant that responded to the ad. The ad itself was not criminal. Defendant certainly was hoping to break the law by paying money for sex as he perused the many ads on the site. When he decided to respond to this ad, Defendant then commenced the criminal activity by immediately asking about the sexual conduct and price. After the juvenile decoy told him she was fourteen, Defendant begged her to tell him she was not joking. Rather than looking for another ad, he elected to continue the conversation even stating that he would like to be her regular in Las Vegas. He even asks her to send another picture. He later tries to clarify her age by questioning again whether she is eighteen because he does not want any problems. The juvenile decoy assures him there will not be any problems. They proceed to discuss time and location to meet.

This factor seems to favor neither party. The government set up the ad. Defendant elected to respond to it. He immediately presented that he was willing to commit criminal conduct asking if she was available and also asking for a price. To that end, Defendant was responsible for the criminal conduct.

FACTOR 4 – Government's encouragement to commit the offense

This factor favors the State. Defendant initiates the discussion of sexual conduct for money. In the ad there is no discussion of such conduct. Defendant engages in this conversation immediately once they begin texting. Moreover, once Defendant learns the juvenile's age, he does not back away, but further engages with her. He asks to be her regular. He begs for another picture and then asks for her address. Defendant was intent on paying for sex that evening.

FACTOR 5 – Government’s participation in the event.

The Lofsted Court examined this factor at length, finding that Lofsted spent several hours communicating with the undercover agent wherein he eventually determined that he would prefer to just meet and get high. When pressured into coming, Lofsted said that he did not want to come. They conversed for more than three and a half hours. The Lofsted Court determined that these facts do not “portray a defendant who is ‘eager’ to commit the named crime.” Id. Lofsted focused in great detail on the hesitation and delay he had in ever meeting up with the decoy. He even spoke to her about the legal ramifications of her age and her friend’s age.

Here, Defendant commenced texting the agent at 3:34AM. At 4:24AM Defendant indicated that he was getting in his car to pick her up. Defendant was not hesitant. He was hopeful that he could be her regular. While law enforcement clearly participated in these events, Defendant was driving the conversation and intentions. He immediately proposed sexual conduct and price. After learning her age, he was not deterred. In fact, he became more interested after learning her age. This factor favors the State.

FACTOR 6 – Nature of the crime being pursued and the Necessity of Law Enforcement’s Actions

This factor weighs overwhelmingly in favor of the State. Soliciting a child almost exclusively begins online where parents, adults and guardians are unaware. These predators are pursuing our most vulnerable populations, preying upon desperation, despair and even naivety. There is virtually (pun intended) no other way to locate and apprehend these criminals. These crimes are largely unreported and of grave concern to our community. There is no other way in which to prevent these crimes or to deter such conduct. Dismissing this case would essentially preclude all prosecution of this criminal conduct.

Additionally at the end of the Joint Operation between the LVMPD and FBI, a press release went out to inform the public that 11 arrests had been made on December 8 and 9, 2020, in an operation targeting online predators who attempted to meet and have sex with someone they believed to be a 13-year-old girl. Without these operations, there would be many more victims.

CONCLUSION

This Defendant was not targeted by law enforcement. Law enforcement did not know who Defendant was until he began a text conversation with an individual he met on a website known for sex trade who was presumed to be 14 years old. Excited about the prospect of having a “quickestie” (sex) with a “yummy” 14-year-old child, Defendant practically begged the child to wait for him because he was stuck in traffic after he agreed to pay her \$60.00 for sex. This Defendant, being told that the 14-year-old child had a regular in Reno, jumped at the opportunity to be her “regular” here in Las Vegas. The fact that this Defendant has no prior criminal conduct is of absolutely no consequence in this case, as a sexual predator’s main goal is to engage in sex with at child and not get caught. This conduct was not outrageous or shocking. It does not defy the senses of reasonableness in enforcing a crime that is often conducted in secret and preys upon children. This conduct does not “shock the universal sense of justice.” Defendant failed to meet its high burden.

Based upon the above, Defendant’s motion fails to prove outrageous government conduct, thus the State respectfully requests Defendant’s Motion to Dismiss be DENIED.