

FILED  
IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

2020 APR 17 AM 9:57

BOBBIE R. WILLIAMS  
CLERK

BY ANNE DEPUTY

Supreme Court No. 77414

District Court Case No. 18-CR-0116

Douglas County  
District Court Clerk

FILED

APR 27 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
APR 27 2020 DEPUTY CLERK

Supreme Court No. 77415

District Court Case No. 18-CR-0084

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

REMITTITUR

TO: Bobbie W. Williams, Douglas County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: April 13, 2020

Elizabeth A. Brown, Clerk of Court

By: Danielle Friend  
Chief Assistant Clerk

cc (without enclosures):

Hon. Thomas W. Gregory, District Judge  
John E. Malone  
Douglas County District Attorney/Minden  
Bobbie W. Williams, Douglas County Clerk

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on April 17, 2020.

APR 20 2020

CLERK OF COURT

  
District Court Clerk

20-13869

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 77414**  
District Court Case No. 18-CR-0116

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 77415**  
District Court Case No. 18-CR-0084

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 19 day of March, 2020.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this April 13, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Danielle Friend  
Chief Assistant Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77414-COA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77415-COA

**FILED**

MAR 19 2010

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]* DEPUTY CLERK

*ORDER OF AFFIRMANCE*

These are Michael Luis Cota's consolidated appeals from two judgments of conviction. Cota was convicted pursuant to guilty pleas of battery by a prisoner in custody in district court case number 18-CR-0116 (Docket No. 77414-COA) and principal to grand larceny of a firearm in district court case number 18-CR-0084 (Docket No. 77415-COA). Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Cota claims the district court abused its discretion by admitting and considering his juvenile record at sentencing for both of his cases. He argues the State violated the law governing the confidentiality of juvenile records by obtaining his juvenile record without a juvenile court order. And

he asserts his juvenile record consists of impalpable and highly suspect information.

We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). The district court may "consider a wide, largely unlimited variety of information to insure that the punishment fits not only the crime, but also the individual defendant." *Martinez v. State*, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998); *see also* NRS 176.015(6). This includes a defendant's juvenile record, *see Thomas v. State*, 88 Nev. 382, 385, 498 P.2d 1314, 1316 (1972), *see also* NRS 62H.030(3)(b); NRS 62H.170(3), and even hearsay, *see* NRS 47.020(3)(c). However, we "will reverse a sentence if it is supported solely by impalpable and highly suspect evidence." *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

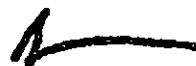
Prior to sentencing, the district court made specific findings that the State's exhibits could lawfully be disseminated to a court for sentencing purposes, they were relevant to the court's sentencing determination, they were not unfairly prejudicial, and they did not contain impalpable or highly suspect information. And during sentencing, the district court did not just consider Cota's juvenile record, it considered the facts and circumstances surrounding his offenses, the comments and arguments of defense counsel, and all of the evidence that was presented during the hearing.

We conclude the district court properly considered Cota's juvenile record at sentencing, Cota's juvenile record was relevant and did not constitute impalpable and highly suspect information, and the district

court did not rely solely on Cota's juvenile record in reaching its sentencing decision. Accordingly, the district court did not abuse its discretion at sentencing, and we

ORDER the judgments of conviction AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_  
Tao J.

  
\_\_\_\_\_  
Bulla J.

cc: Hon. Thomas W. Gregory, District Judge  
John E. Malone  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

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<sup>1</sup>The Honorable Michael Gibbons did not participate in the decision in this matter.

## Nevada Supreme Court Docket Sheet

Docket: 77414

COTA (MICHAEL) VS. STATE C/W 77415

Page 1

MICHAEL LUIS COTA,  
Appellant,  
vs.

Case No. 77414

Consolidated with: 77415

THE STATE OF NEVADA,  
Respondent.

## Counsel

John E. Malone, Minden, NV, as counsel for Appellant, Michael Luis Cota

Attorney General/Carson City, Carson City, NV \ Aaron D. Ford, as counsel for Respondent, The State of Nevada

Douglas County District Attorney/Minden, Minden, NV \ Mark B. Jackson, Matthew S. Johnson, as counsel for Respondent, The State of Nevada

## Case Information

Panel: Panel

Panel Members: Unassigned

## Disqualifications:

Case Status: Remittitur Issued/Case Closed

Category: Criminal Appeal Type: Other

Subtype: Direct

## Submitted:

Date Submitted:

## Oral Argument:

Sett. Notice Issued:

Sett. Judge:

77414-COA, 77415-COA

Sett. Status:

Related Court Cases:

155083 13-19

## District Court Case Information

Case Number: 18-CR-0116

Case Title: STATE V. MICHAEL LUIS COTA

Judicial District: Ninth

Division:

County: Douglas Co.

Sitting Judge: Thomas W. Gregory

## Replaced By:

Notice of Appeal Filed: 11/06/18 Appeal

Judgment Appealed From Filed: 10/10/18

## Docket Entries

## Date Docket Entries

11/15/18 Appeal Filing Fee Waived. Criminal. (SC)

11/15/18 Filed Notice of Appeal. Appeal docketed in the Supreme Court this day. (Docketing statement and Notice of Briefing Schedule mailed to counsel for appellant.) (SC) 18-904410

12/06/18 Filed Appellant's Motion for Extension of Time (Docketing Statement). (SC) 18-907381

12/07/18 Received Appellant's Docketing Statement Criminal Appeals. (Via Eflex) (FILED PER ORDER 12/17/18) (SC)

12/17/18 Filed Order Granting Motions. The clerk of this court shall file the docketing statements received via E-Flex on December 7, 2018. Nos. 77414/77415. (SC) 18-909034

12/17/18 Filed Docketing Statement. (SC) 18-909038

## Nevada Supreme Court Docket Sheet

Docket: 77414	COTA (MICHAEL) VS. STATE C/W 77415	Page 2
②	03/13/19 Filed Appellant's Motion to Consolidate Appeals and for an Extension of Time. Nos. 77414/77415. (SC)	19-011214
③	03/21/19 Filed Order Granting Motion. Appellant's Opening Brief and Appendix due: May 14, 2019. Nos. 77414/77415. (SC)	19-012547
④	05/14/19 Filed Appellant's Motion for Second Extension (Opening Brief). Nos. 77414/77415. (SC)	19-021183
⑤	05/21/19 Filed Order Granting Motion. Appellant's Opening Brief and Appendix due: May 28, 2019. Nos. 77414/77415. (SC).	19-022223
⑥	05/28/19 Filed Appellant's Motion for Third Extension of Time to File Opening Brief and Appendix. Nos. 77414/77415. (SC)	19-023031
⑦	05/30/19 Filed Order Granting Motion. Appellant's Opening Brief and Appendix due: June 4, 2019. Nos. 77414/77415. (SC)	19-023493
⑧	06/04/19 Filed Appellant's Opening Brief. Nos. 77414/77415. (SC)	19-024199
⑨	06/04/19 Filed Appellant's Motion to Seal a Portion of the Appendix and for Extension of Time to File the Appendix. Nos. 77414/77415. (SC)	19-024200
⑩	06/04/19 Filed Appellant's Motion to Transmit Presentence Investigation Reports Under Seal. Nos. 77414/77415. (SC)	19-024201
⑪	06/04/19 Filed Appellant's Motion to Transmit Sealed Documents. Nos. 77414/77415. (SC)	19-024202
⑫	06/17/19 Filed Respondent's Motion For Extension of Time (Answering Brief). Nos. 77414/77415. (SC)	19-026134
⑬	06/18/19 Filed Order. The district court clerk shall have 14 days from the date of this order to transmit to the clerk of this court a copy of the presentence investigation reports in a sealed envelope. Appellant has filed a motion for leave to file a portion of the appendix under seal and for an extension of time to file the appendix. The motion is denied at this time because it is not accompanied by a copy of the proposed appendix. Appellant shall have 7 days from the date of this order to submit the appendix. Respondent shall have 30 days from the date that appellant's appendix is filed to file and serve the answering brief. Nos. 77414/77415. (SC)	19-026326
⑭	06/24/19 Filed Appellant's Motion to Seal a Portion of the Appendix (REJECTED PER NOTICE ISSUED ON 06/25/19). Nos. 77414/77415. (SC)	
⑮	06/25/19 Filed Documents from District Court Clerk - Presentence Investigation Report (18CR0084). Nos. 77414/77415. (SC)	
⑯	06/25/19 Filed Documents from District Court Clerk - Presentence Investigation Report (18CR0116). Nos. 77414/77415. (SC)	
⑰	06/25/19 Issued Notice of Rejection of Filed Document (Motion to Seal a Portion of the Appendix). Nos. 77414/77415. (SC)	19-027246
⑱	06/27/19 Filed Appellant's Motion for Leave to File a Motion to Seal Portions of the Appendix Under Seal. Nos. 77414/77415. (SC)	19-027800
⑲	06/27/19 Filed Appellant's Motion to Seal a Portion of the Appendix. Nos. 77414/77415. (SC)	19-027801
⑳	06/27/19 Filed Appellant's Appendix Vol 1. Nos. 77414/77415. (SC)	19-027803
㉑	06/28/19 Received Sealed Portion of Appellant's Appendix Volume 1 (Pages 20-188). Nos. 77414/77415. (FILED UNDER SEAL PER ORDER 7/11/19). (SC)	
㉒	07/11/19 Filed Order Granting Motion. The clerk of this court shall file the portion of the appendix received on June 28, 2019, under seal. Respondent shall have 30 days from the date of this order to file and serve the answering brief. Nos. 77414/77415. (SC)	19-029493

## Nevada Supreme Court Docket Sheet

Docket: 77414

COTA (MICHAEL) VS. STATE C/W 77415

Page 3

07/11/19	Filed SEALED Portion of Appellant's Appendix Volume 1 (Pages 20-188). Nos. 77414/77415. (FILED UNDER SEAL PER ORDER 7/11/19). (SC)	
07/25/19	Filed Respondent's Answering Brief. Nos. 77414/77415. (SC)	19-031418
07/25/19	Filed Respondent's Appendix Volume 1. Nos. 77414/77415. (SC)	19-031422
07/25/19	Filed <del>Respondent's</del> Motion to Seal a Portion of Appendix. Nos. 77414/77415. (SC)	19-031423
07/25/19	Filed Respondent's Answering Brief, Respondent's Appendix, Respondent's Motion to Seal a Portion of Appendix (REJECTED PER NOTICE ISSUED ON 07/25/19). Nos. 77414/77415. (SC)	
07/25/19	Issued Notice of Rejection of Filed Documents (Respondent's Answering Brief, Respondent's Appendix, Motion to Seal a Portion of Respondent's Appendix). Nos. 77414/77415. (SC)	19-031474
07/30/19	Received Portions of Respondent's Appendix Pages 1-11 (SEALED). Nos. 77414/77415 (SC).	
08/07/19	Filed Order Granting Motion. The clerk of this court shall file the portion of the appendix received on July 30, 2019, under seal. Nos. 77414/77415. (SC)	19-033217
08/07/19	Filed Portions of Respondent's Appendix Pages 1-11 (SEALED). Nos. 77414/77415 (SC).	
09/10/19	Briefing Completed/To Screening. No reply brief filed. (SC)	
12/12/19	Issued Notice of Transfer Case to Court of Appeals. Nos. 77414/77415. (SC)	19-050483
12/12/19	Transferred to Court of Appeals. Nos. 77414/77415. (SC)	
03/19/20	Filed Order of Affirmance. "ORDER the judgment of conviction AFFIRMED." fn1 [The Honorable Michael Gibbons did not participate in the decision in this matter.] Court of Appeals-JT/BB. Nos. 77414/77415. (SC)	
04/13/20	Transferred from Court of Appeals. (SC)	
04/13/20	Issued Remittitur. (SC)	20-013869
04/13/20	Remittitur Issued/Case Closed. (SC)	
04/27/20	Filed Remittitur. Received by County Clerk on April 17, 2020. Nos. 77414/77415. (SC)	20-013869