#### IN THE SUPREME COURT OF THE STATE OF NEVADA 1 2 3 **Electronically Filed** 4 Jan 17 2013 05:13 p.m. Tracie K. Lindeman THE STATE OF NEVADA, 5 Clerk of Supreme Court Petitioner, 6 7 VS. Case No. 8 THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE JAMES BIXLER, (Dist. Ct. # 10C267068-1) 9 10 DISTRICT JUDGE Respondents, 11 12 and EDMOND PRICE, 13 Real Party in Interest. 14 EMERGENCY MOTION FOR STAY UNDER NRAP 27(e) (Action requested by January 18, 2013 at 5:00P.M.) 15 16 STEVEN B. WOLFSON Clark County District Attorney Nevada Bar #001565 17 CASEY LANDIS, ESQ. Coyer & Landis, LLC. Nevada Bar #009424 18 GREGORY COYER, ESQ. Coyer & Landis, LLC. Regional Justice Center 19 200 Lewis Avenue Nevada Bar #010013 601 South 10<sup>th</sup> Street, #104 Post Office Box 552212 Las Vegas, Nevada 89155-2212 (702) 671-2500 20 Las Vegas, Nevada 89101 (702) 885-9580 21 State of Nevada 22 CATHERINE CORTEZ MASTO Nevada Attorney General Nevada Bar #003926 23 100 North Carson Street Carson City, Nevada 89701-4717 (775) 684-1265 24 25 26 27 Counsel for Petitioner Counsel for Real Party in Interest 28

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1	IN THE SUPREME COURT OF THE	E STATE OF NEVADA
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5	THE STATE OF NEVADA,	
6	Petitioner,	
7	VS.	
8	THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE JAMES BIXLER,	Case No
9	THE HONORABLE JAMES BIXLER, DISTRICT JUDGE	Dist. Ct. # 10C267068-1
10	Respondents,	
11	and	
12	EDMOND PRICE,	
13	Real Party in Interest.	
14		,
15	EMERGENCY MOTION UNDER NRAP 27	FOR STAY
15 16	EMERGENCY MOTION UNDER NRAP 27 (Action requested by January 18,	FOR STAY 7(e) 2013 at 5:00 P.M.)
	EMERGENCY MOTION UNDER NRAP 27 (Action requested by January 18, Comes now the State of Nevada, Petiti	2013 at 5:00 P.M.)
16	(Action requested by January 18,	2013 at 5:00 P.M.) Soner herein, and moves for an
16 17	(Action requested by January 18, Comes now the State of Nevada, Petiti	district court case styled State of
16 17 18	Comes now the State of Nevada, Petiti immediate stay of district court proceedings in	2013 at 5:00 P.M.) Soner herein, and moves for an district court case styled State of option is based on NRAP 27(e), the
16 17 18 19	Comes now the State of Nevada, Petiti immediate stay of district court proceedings in Nevada v. Edmond Price, 10C267068-1. This mo	2013 at 5:00 P.M.) Soner herein, and moves for an district court case styled State of option is based on NRAP 27(e), the
16 17 18 19 20	(Action requested by January 18,  Comes now the State of Nevada, Petiti immediate stay of district court proceedings in Nevada v. Edmond Price, 10C267068-1. This most attached affidavit, and all papers and pleadings or Dated this 17 <sup>th</sup> day of January, 2013.	2013 at 5:00 P.M.) Soner herein, and moves for an district court case styled State of option is based on NRAP 27(e), the
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**EMERGENCY MOTION FOR STAY UNDER NRAP 27(e)** 

Pursuant to NRAP 8, the State hereby seeks a stay of the district court proceedings below in Case C281695 pending the resolution of an extraordinary writ petition filed contemporaneously herewith. In particular, the State seeks a stay of the district court's deadline of Friday, January 18, 2013, by 5:00 P.M. by which the State is to create and produce to the defense a summary of the codefendant's anticipated trial testimony as a "proffer" or be precluded from calling her as a witness at trial. Co-defendant Victoria Edelman has entered into a plea agreement with the State which includes her testifying against Edmond Price, but no written statement or discoverable summary of her testimony is in existence. Because the trial date is currently scheduled for January 28, 2013, the State seeks a stay of the trial as well so that this Court can entertain and resolve the issue raised in the accompanying extraordinary writ petition.

According to NRAP 8, a party must ordinarily move first in the district court for a stay pending appeal. If the stay is denied, then a motion for stay may be filed with this Court showing the reasons for granting relief. In this case, the State moved for a stay below, but the district court denied the motion. See Exhibit 1. It is Price who filed the motion for discovery and has sought a deposition and now a "proffer" of testimony which does not exist and for which there is no legal authority. There is no prejudice if the criminal case is stayed pending a final disposition from this Court on the issue that Price himself has raised. But the prejudice to the State is immense if it is forced to either proceed to trial without the co-defendant's testimony or be forced to create and produce a "proffer" of the witnesses' anticipated testimony which the defense will then attempt to use to impeach the witness. The State has no ability to appeal from such a decision postiudgment and will be without a remedy if the case proceeds.

Pursuant to NRAP 27(e), the movant certifies that to avoid irreparable harm relief is needed in less than 14 days as described above, specifically by tomorrow,

Friday, January 18, 2013, by 5:00 P.M. Before filing this motion, movant has made every practicable effort to notify the clerk of the Supreme Court and opposing counsel and to serve the motion at the earliest possible time. WHEREFORE, the State respectfully requests an emergency stay of the district court proceedings pending the resolution of its extraordinary writ petition. Dated this 17<sup>th</sup> day of January, 2013. Respectfully submitted, STEVEN B. WOLFSON Clark County District Attorney Nevada Bar #001565 BY /s/ Steven S. Owens STEVEN S. OWENS Chief Deputy District Attorney
Nevada Bar #004352
Office of the Clark County District Attorney
Regional Justice Center 200 Lewis Avenue Post Office Box 552212 Las Vegas, Nevada 89155-2212 (702) 671-2750 

1	NRAP 27(e) CERTIFICATE		
2 3 4 5	A. STEVEN S. OWENS Clark County District Attorney Nevada Bar #004352 Regional Justice Center 200 Lewis Avenue Post Office Box 552212 Las Vegas, Nevada 89155-2212 (702) 671-2750  CASEY LANDIS, ESQ. Coyer & Landis, LLC. Nevada Bar #009424 GREGORY COYER, ESQ. Nevada Bar #010013 601 South 10 <sup>th</sup> Street, #104 Las Vegas, Nevada 89101 (702) 885-9580		
6	(702) 071-2730 (702) 883-9380		
7 8	CATHERINE CORTEZ MASTO  Nevada Attorney General Nevada Bar #003926  JUDGE JAMES BIXLER Eighth Judicial District Court Department XXIV		
9	Nevada Bar #003926 100 North Carson Street Carson City, Nevada 89701-4717 (775) 684-1265 Department XXIV Regional Justice Center 200 Lewis Avenue Las Vegas, Nevada 89155 (702) 0591		
10 11	(702) 0591		
12	B. Facts showing the existence and nature of the claimed emergency are set		
13	forth in the preceding memorandum.		
14	C. I HEREBY CERTIFY AND AFFIRM that this Emergency Motion Under NRAP 27(e) and/or in the Alternative Motion for Stay Under NRAP 8 was filed electronically with the Nevada Supreme Court on January 17, 2013 in accordance with the Master Service List Below. Counsel for Price was telephonically notified January 17, 2013 at 1:57 P.M. that this emergency motion would be filed.		
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16 17			
18			
19	Respectfully submitted,		
20	STEVEN B. WOLFSON Clark County District Attorney		
21			
22	BY /s/ Steven S. Owens		
23	STEVEN S. OWENS		
24   25	Chief Deputy District Attorney Nevada Bar #004352 Office of the Clark County District Attorney		
$\begin{bmatrix} 25 \\ 26 \end{bmatrix}$	Office of the Clark County District Attorney Regional Justice Center 200 Lewis Avenue		
27	Post Office Box 552212 Las Vegas, Nevada 89155-2212		
28	(702) 671-2750		

### **CERTIFICATE OF SERVICE** I HEREBY CERTIFY AND AFFIRM that this document was filed electronically with the Nevada Supreme Court on January 17, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows: CATHERINE CORTEZ MASTO Nevada Attorney General CASEY LANDIS, ESQ. GREGORY COYER, ESQ. Counsels for Real Party In Interest STEVEN S. OWENS Chief Deputy District Attorney I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to: JUDGE JAMES BIXLER Eighth Judicial District Court, Dept. XXIV Regional Justice Center 200 Lewis Avenue Las Vegas, Nevada 89155 /s/ eileen davis Employee, Clark County District Attorney's Office SSO//ed

## EXHIBIT 1

## EXHIBIT 1

1	ORDR	FILED IN OPEN COURT STEVEN D. GRIERSON
2	STEVEN B. WOLFSON Clark County District Attorney Nevada Bar #001565 SHANON CLOWERS Chief Deputy District Attorney Nevada Bar #010008 200 Lewis Avenue Las Vegas, NV 89155-2212 (702) 671-2500 Attorney for Plaintiff	CLERK OF THE COURT
3		JAN - 8 2013
4		THERESA LEE
5		THERESA LEE, DEPUTY
6		
7		
8	DISTRICT COURT CLARK COUNTY, NEVADA	
9	CLARK COO	JINI I, NEVADA
10	THE STATE OF NEVADA,	
11	Plaintiff,	CASE NO: C-10-267068-1
12	-vs-	DEPT NO: XXIV
13	EDMOND PAUL PRICE, #2804829	DEPT NO. AXIV
14	Defendant.	
15	Dolondan.	
16	ORDER DENYING STATE'S MOTION TO STAY PROCEEDINGS TO APPEAL COURT'S ORDER	
17	*	
18	DATE OF HEARING: 01/08/13 TIME OF HEARING: 8:30 A.M.	
19	THIS MATTER having come on for hearing before the above entitled Court on the	
20	8th day of January, 2013, the Defendant being present, represented by GREGORY COYER	
21	ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through	
22	SHANON CLOWERS, Chief Deputy Dist	trict Attorney, and the Court having heard the
23	arguments of counsel and good cause appearing therefore,	
24	1//	
25	//	
26	//	
27	//	
28	//	
- 1	II.	

1	IT IS HEREBY ORDERED that the State's Motion to Stay Proceedings to Appeal		
2	Court's Order, shall be, and it is denied.		
3	DATED this day of January, 2013.		
4	JAMES W. BIXLER		
5			
6	DISTRICT JUDGE		
7			
8	STEVEN B. WOLFSON Clark County District Attorney Nevada Bar #001565		
9	Nevada Bai #001505		
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12	SHANON CLOWERS Chief Deputy District Attorney Nevada Bar #010008		
13	Nevada Bar #010008		
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