

EXHIBIT 1

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF JOHN OHLSON, ESO.


STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

I, John Ohlson, being first duly sworn, do hereby affirm under penalty of perjury that the assertions of this affidavit are true, and that if called as a witness, I could competently testify to the matters contained herein.

Affiant knows of his own personal knowledge, or maintains opinions as follows:

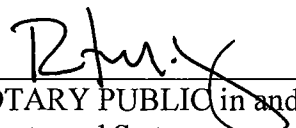
1. The factual assertions in the points and authorities submitted herewith are true of my own knowledge, except those matters stated upon information and belief. As to those matters, I believe them to be true.

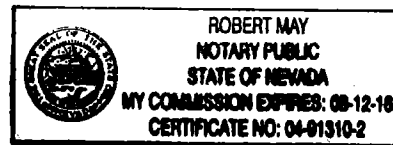
DATED this 14 day March, 2016.



JOHN OHLSON

SUBSCRIBED and SWORN to before me
this 14 day of March, 2016, by


NOTARY PUBLIC in and for said
County and State.



Initials _____

1 John Ohlson, Esq.
2 Bar Number 1672
3 6140 Plumas Street, Suite 200
4 Reno, Nevada 89519
5 Telephone: (775) 322-3223

Electronically Filed
Mar 14 2016 04:06 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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

7 **OFFICE OF THE CLERK**

8 * * * * *

9
10 MATTHEW FUGATE,

11 Appellant,

Case No.: 69925

12 vs.

13 STATE OF NEVADA,

14 Respondent.
15 _____/

16 **EX PARTE MOTION TO RELIEVE COUNSEL AND APPOINT COUNSEL ON**
17 **APPEAL IN DOCKET NUMBERS 69926 AND 69925**

18 Undersigned counsel moves this Court for its order relieving him as attorney on this
19 appeal, and appointing appellate counsel to represent Appellant. This motion is made and based
20 on the points and authorities and affidavit herein, and the entire record hereof.

21 **POINTS AND AUTHORITIES**

22 Counsel was appointed to represent Appellant in the District Court on two separate cases,
23 now designated in this Court as docket numbers 69926 and 69925.

24 In 69925, Appellant went to trial on a two count information allegation violation of his
25 lifetime supervision agreement. He was acquitted of one count and convicted of another. He was
26 sentenced to 28-72 months. He brings this appeal from his judgment of conviction and sentence.
27
28

1 In 69926, and pursuant to plea bargain, Appellant pled guilty to two counts of attempted
2 lewdness with a minor. The State agreed to recommend concurrent sentencing with whatever
3 sentence he received in case number 69925.

4 Appellant was sentenced to 96-240 months on 69926 to run consecutively to 28-72
5 months on 69925.

6 Counsel believes that Appellant may intend to assert on appeal that Counsel coerced him
7 to enter the plea bargain on 69926. The plea in that case influenced the Court to sentence him
8 more harshly (consecutively) on 69926. On various occasions Appellant has denied guilt on all
9 charges, but ultimately confirmed his guilty plea entered in his first canvas.

10 Counsel believes that he is prohibited from proceeding as Appellant's lawyer on appeal
11 due to NRPC 1.7 (Counsel may be required to testify in subsequent proceedings contrary to
12 Appellant's assertions); NRPC 3.1 (Counsel does not believe that Appellant has a meritorious
13 claim to assert on Appeal).

14 Counsel's relief and appointment of appellate counsel will not hinder or delay this appeal
15 as the appeal in the early stages. Counsel filed the notices of appeal on behalf of Appellant in
16 order to protect Appellant's appeal rights, and because there exists no mechanism to withdraw
17 and obtain appellate counsel in these circumstances.

18 Dated this 14th day of March, 2016.

19
20
21
22
23 By: /s/ John Ohlson
24 John Ohlson, Esq.
25 Bar Number 1672
26 6140 Plumas Street, Suite 200
27 Reno, Nevada 89519
28 Telephone: (775) 322-3223

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SCHEDULE OF EXHIBITS

EXHIBIT 1: Affidavit of John Ohlson