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

6 JAMES MONTELL CHAPPELL,
7 Appellant,
8 v.
9 STATE OF NEVADA,
Respondent.

Docket No. 49478
Electronically Filed
Dec 17 2009 02:07 p.m.
Tracie K. Lindeman

11 **MOTION TO STAY REMITTITUR**

12 Comes now Appellant James Montell Chappell, by and through his counsel JoNell
13 Thomas, and respectfully requests this Court stay issuance of the Remittitur pending
14 application to the United States Supreme Court for a Petition for Writ of Certiorari.

15 The Order Denying Rehearing and Amended Order was filed December 16, 2009 and
16 pursuant to the rules of the United States Supreme Court, the petition for writ of certiorari
17 must be filed within 90 days from said date, up to and including March 16, 2009.

18 NRAP 41(a) states the Remittitur will issue twenty-five (25) days after entry of the
19 order denying the petition unless the time is enlarged by order. Counsel requests that the
20 time to issue the Remittitur be enlarged and respectfully requests this Court enter an Order
21 to Stay Issuance of the Remittitur pending the filing of the Writ of Certiorari by Appellant.

22 Dated this 17 day of December, 2009.

23 /s/ JONELL THOMAS

24 By: _____

25 JONELL THOMAS

26 **POINTS AND AUTHORITIES**

27 Nevada Rules of Appellate Procedure Rule 41 provides in pertinent part:

28 “(b) *Stay of remittitur pending application for certiorari.* A stay of the

1 remittitur pending application to the Supreme Court of the United States for a
2 writ of certiorari may be granted upon motion, reasonable notice of which shall
3 be given to all parties. The stay shall not exceed sixty (60) days unless the period
4 is extended for cause shown. If during the period of the stay there is filed with
5 the clerk of the Supreme Court of Nevada a notice from the clerk of the Supreme
6 Court of the United States that the party who has obtained the stay has filed a
7 petition for the writ in that court, the stay shall continue until final disposition by
8 the Supreme Court of the United States. Upon the filing of a copy of an order of
9 the Supreme Court of the United States denying the petition for writ of certiorari
10 the remittitur shall issue immediately.....”

11 Good cause exists for stay of Remittitur in this case due to the nature of the issues
12 intended to be raised. As such the propriety of the decision should be scrutinized by the
13 highest Court in the land.

14 A stay of ninety (90) days in issuance of the remittitur is therefore respectfully
15 requested.

16 DATED this 17 day of December, 2009.

17 /s/ JONELL THOMAS

18 BY

19 JONELL THOMAS, ESQ.
20 Nevada Bar No. 4771
21 330 S. Third St., Ste. 800
22 Las Vegas, Nevada 89155
23 (702)455-6265

24 CERTIFICATE OF SERVICE

25 The undersigned does hereby certify that on the 17 day of December, 2009 a copy of
26 the foregoing Motion to Stay Remittitur was served as follows:

27 **BY ELECTRONIC FILING TO**

28 District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

/s/ JONELL THOMAS

JONELL THOMAS