

IN THE SUPREME COURT OF THE STATE OF NEVADA

SIAOSI VANISI,

No. 34771

Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
CONNIE J. STEINHEIMER,  
DISTRICT JUDGE

**FILED**

SEP 03 1999

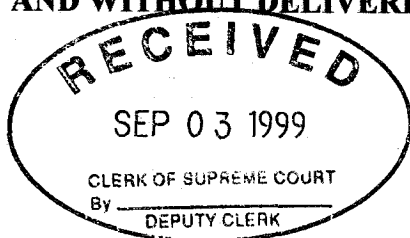
Respondents,

BY JANET M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

THE STATE OF NEVADA,

Real Party In Interest.


**MOTION FOR PERMISSION TO FILE POINTS AND AUTHORITIES IN SUPPORT  
OF THE WRIT IN THIS COURT UNDER SEAL; AND MOTION FOR AN ORDER  
FROM THIS COURT TO THE DISTRICT COURT ORDERING IT TO SEND,  
UNDER SEAL, THE ORDER UNDER SEAL FILED ON AUGUST 30, 1999, AS WELL  
AS THAT SEALED PORTION OF THE TRANSCRIPT OF THE HEARING HELD ON  
AUGUST 26, 1999; AND MOTION FOR AN ORDER FROM THIS COURT TO THE  
DISTRICT COURT DIRECTING IT TO DELIVER TO PETITIONER'S COUNSEL  
ONLY, THAT PORTION OF THE SEALED TRANSCRIPT OF THE HEARING HELD  
ON AUGUST 26, 1999; AND REQUEST FOR DIRECTION BY THIS COURT AS TO  
HOW TO FILE IN (OR DELIVER TO) THIS COURT THE ABOVE-MENTIONED  
POINTS AND AUTHORITIES WITHOUT SUBJECTING THEM TO PUBLIC VIEW  
AND WITHOUT DELIVERING THEM TO COUNSEL FOR THE REAL PARTY IN  
INTEREST**



99-08304

1 COMES NOW, Petitioner, Siasosi Vanisi, by and through his counsel of record, John  
2 Reese Petty, Chief Deputy Washoe County Public Defender, and moves for the relief  
3 requested in title heading of this Motion. The basis for this motion is set forth in the attached  
4 affidavit.  
5

6 DATED this 2 day of September, 1999.

7   
8 JOHN REESE PETTY  
9 Chief Deputy  
10 Nevada Bar No. 00010  
11 Washoe County Public Defender  
12 P.O. Box 30083  
13 Reno, Nevada 89502  
14 (775) 328-3475

15 AFFIDAVIT

16 STATE OF NEVADA )  
17 ) ss.  
18 COUNTY OF WASHOE )

19 I, JOHN REESE PETTY, do hereby swear under penalty of perjury that the assertions of  
20 this affidavit are true.

21 1. I am an attorney, duly licensed to practice law in the State of Nevada. As such, I am  
22 employed as a Chief Deputy in the appellate division of the Washoe County Public Defender's  
23 Office. In that capacity I represent Petitioner, Siasosi Vanisi, in an Original Petition for Writ of  
24 Certiorari or Mandamus and Request for Emergency Stay of Trial Pending Resolution of the  
25 Issues Herein, which is being filed together with the instant Motion;  
26

1           2. That the Original Petition filed herewith challenges a lower court's Order Under Seal  
2 denying Petitioner's counsels' motion to withdraw which was filed under seal in the Second  
3 Judicial District Court, case number CR98-0516, department 4;

4           3. That because the order the subject matter of the Petition is under seal, it was not  
5 attached to the Petition (or specifically discussed) because such acts would constitute a  
6 violation of the sealed order as noted in the concluding pages of the Petition;  
7

8           4. That similarly, the sealed portion of the transcript of the hearing held on August 26,  
9 1999, concerning the motion to withdraw was not included (nor cited to) in the Petition  
10 because such acts would constitute a violation of the order sealing the transcript (in fact  
11 Petitioner's counsel does not even have a copy of that portion of the transcript); and further  
12 Petitioner's counsel needs a copy of the sealed transcript to assist in preparation of points and  
13 authorities in support of the writ;  
14

15           5. That, accordingly, this Court should order the district court to deliver to Petitioner's  
16 counsel *only*, that sealed portion of the transcript of the hearing held on August 26, 1999;

17           6. That Petitioner's counsel seeks leave to file in-camera or under seal with this Court  
18 points and authorities in support of the Petition, and further seeks permission to file such  
19 points and authorities without having to deliver a copy to the counsel for the Real Party In  
20 Interest, and further seeks guidance from this Court on how to accomplish this task;  
21

22           7. That this Court needs both the Order Under Seal, filed on August 30, 1999, and the  
23 sealed portion of the transcript of the hearing held on August 26, 1999, to assist in its full and  
24 complete review of the proceedings below, and thus, this Court should order the district court  
25  
26

1 to send each document to this Court for its review (after first proving a copy of the sealed  
2 transcript to Petitioner's counsel);

3 8. That in order to fully review the proceedings below and consider the relief requested  
4 in the Petition this Court must enter an order staying the proceedings below;

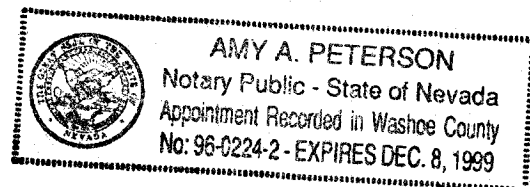
5 9. That Petitioner's trial counsel do not wish to be held in contempt by the district court  
6 if they cannot ethically follow the court's purported guidance on how to conduct the trial as set  
7 forth in the Order Under Seal;

8 10. That this motion is made in good faith and not solely for the purposes of delay  
9  
10

11  
12   
JOHN REESE PETTY

13  
14 Subscribed and sworn to before me this 2 day of September, 1999.

15  
16   
NOTARY PUBLIC



CERTIFICATE OF SERVICE

I certify that I am an employee of the Washoe County Public Defender and that on the 3<sup>rd</sup> day of September, 1999, I served a copy of the foregoing PETITION FOR WRIT OF CERTIORARI OR MANDAMUS AND EMERGENCY REQUEST FOR STAY OF TRIAL by mailing it by first class mail with sufficient postage prepaid to the following address:

FRANKIE SUE DEL PAPA  
Attorney General, State of Nevada  
100 No Carson Street  
Carson City, NV 89701

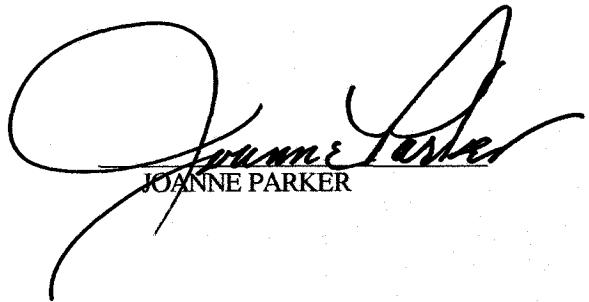
and served a copy by inter-office mail to:

THE HONORABLE CONNIE STEINHEIMER  
JUDGE OF THE SECOND JUDICIAL DISTRICT COURT  
Department Four

And

RICHARD A. GAMMICK  
WASHOE COUNTY DISTRICT ATTORNEY

Dated this 3<sup>rd</sup> day of September, 1999.

  
JOANNE PARKER