

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

2
3
4
5 DAIMON MONROE,

6 Appellant,

7 v.

8 THE STATE OF NEVADA,

9 Respondent.

) Case No. 52788
)
)
)
)
)

Electronically Filed
Nov 05 2009 04:58 p.m.
Tracie K. Lindeman

10
11 **MOTION FOR LEAVE TO**
12 **FILE 43 PAGE ANSWERING BRIEF**

13 MARTIN HART, ESQ.
14 Law Offices of Martin Hart, LLC.
15 Nevada Bar #005984
16 229 Las Vegas Blvd. South, Ste. 200
17 Las Vegas, Nevada 89101
18 (702) 380-4278

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

CATHERINE CORTEZ MASTO
Nevada Attorney General
Nevada Bar #003926
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

21
22
23
24
25
26
27 Counsel for Appellant

Counsel for Respondent

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

2
3
4
5 DAIMON MONROE,) Case No. 52788
6 Appellant,)
7 v.)
8 THE STATE OF NEVADA,)
9 Respondent.)

10
11 **MOTION FOR LEAVE TO**
12 **FILE 43 PAGE ANSWERING BRIEF**

13 COMES NOW the State of Nevada, by DAVID ROGER, Clark County District
14 Attorney, through his Deputy, NANCY A. BECKER, and submits this Motion For Leave To
15 File 43 Page Answering Brief .

16 This motion is based on the following Memorandum and all papers and pleadings on
17 file herein.

18 Dated this 5th day of November, 2009.

19 Respectfully submitted,

20 DAVID ROGER
21 Clark County District Attorney
22 Nevada Bar # 002781

23 BY /s/ Nancy A. Becker
24 NANCY A. BECKER
25 Deputy District Attorney
26 Nevada Bar #000145
27 Attorney for Respondent
28

MEMORANDUM

I, NANCY BECKER, am a duly licensed attorney in the State of Nevada and am employed by the Clark County District Attorney's Office.

NRAP 28(g) provides that a brief may exceed the thirty-page limit with permission of the Court. The State seeks permission to file its forty-three page Answering Brief.

The Opening Brief did not exceed the thirty-page limit, but it was filed in 12 point typeface. The procedural history and factual section of the brief consisted of five pages and failed to cite substantial information necessary to the consideration of the two major issues Appellant raises in the Opening Brief: 1) the validity of the initial *Terry* stop of Appellant and suppression of the direct and derivative evidence seized as a result of that stop and 2) the sufficiency of the evidence with respect to the value of hundreds of items of stolen property referenced in Counts 2 – 27 of the Indictment. The testimony and record on these two issues is voluminous.

The instant case arises from stolen property recovered pursuant to several search warrants. Part of the probable cause for the warrants developed as a result of a *Terry* stop and arrest which occurred on September 24, 2006. Five premises were searched: 1504 Cutler, 7400 Pirates Cove #220, 5900 Smoke Ranch #174, 8100 W. Charleston #A138 and 8265 West Sahara, Unit B-106. Hundreds of items of stolen property were recovered. Charges arising out of the September 24, 2006 incident were filed under District Court case number C22787 (SC # 52234). In addition, there were other cases involving a co-defendant, Bryan Fergason (aka Ferguson) as well as other charges against the Defendant. The instant case involves allegations of conspiracy to commit possession of stolen property (the items recovered pursuant to the warrants) and/or burglary of the two business involved in the *Terry* stop (Count 1) as well as twenty-six counts of possession of stolen property relating to items recovered through execution of the warrants (Counts 2- 27).

In each of the five or six cases involving Appellant and Fergason, identical motions challenging the propriety of the *Terry* stop and requesting suppression of all evidence that arose from that stop and any derivative evidence obtained through the search warrants were

1 filed. The State's Opposition was also identical in each of the cases. The motions and
2 oppositions all relate back to documents and testimony involving the initial September 24,
3 2006 stop. Thus those facts are relevant to this appeal. Properly stating the record relating
4 to that incident, together with the testimony regarding the value of the multitude of stolen
5 property involved in Counts 2 – 26 required approximately twenty pages and is the reason
6 for the request to file a forty-three page Answering Brief.

7 Dated this 5th day of November, 2009.

8
9 BY */s/ Nancy A. Becker*

10 NANCY A. BECKER
11 Deputy District Attorney
12 Nevada Bar #000145
13 Office of the Clark County District Attorney
14 Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2750

15 Attorney for Respondent
16
17
18
19
20
21
22
23
24
25
26
27
28

- 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

CATHERINE CORTEZ MASTO
Nevada Attorney General

MARTIN HART, ESQ.
Law Offices of Martin Hart, LLC.

NANCY A. BECKER
Deputy District Attorney

BY /s/ eileen davis
Employee, District Attorney's Office

I:\APPELLATE\WPDOCS\SECRETARY\MOTIONS\30\MONROE, DAIMON, 52788, RESP'S XS PG. MTN..DOC 5