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Appellant,

VS.

Respondent.

FILED

SEP 16 2009

THACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW, the Appellant, RICKIE LAMONT SLAUGHTER, by and through his attorney, SUSAN BUSH, ESQ., of the law firm of Bush & Levy, LLC. and hereby files the instant Response to the Order to Show Cause filed on August 25, 2009. This Response is made and based upon the Procedural History, Points and Authorities, Argument and Conclusion attached hereto.

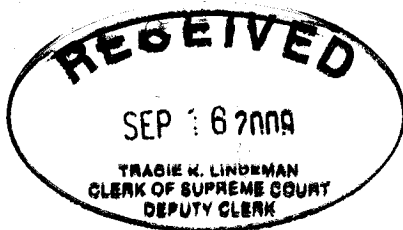
DATED this 14th day of September, 2009.

BUSH & LEVY, LLC.

By

Lester Bush

SUSAN BUSH, ESQ.
Nevada State Bar No. 008007
Attorney for Appellant
528 So. Casino Center Blvd. #202
Las Vegas, Nevada 89101



A-22429

PROCEDURAL HISTORY

On June 30, 2004 the Appellant had his First Appearance before the Honorable Steven Dahl in the North Las Vegas Justice Court. His bail was set at \$180,000.00. On July 8, 2004 at Appellant's initial arraignment the Honorable Natalie Tyrrell maintained the bail at \$180,000.00. On September 21, 2004 a Preliminary Hearing was held in the North Las Vegas Justice Court. At the conclusion of the Preliminary Hearing Judge Tyrrell held the Appellant to answer in the Eighth Judicial District Court. Judge Tyrrell remanded the Appellant to the Clark County Detention Center and reset his bail at \$255,000.000. Said bail remained at \$255,000.00 until Appellant's case was reversed and remanded back to the district court by this Honorable Court.

On August 31, 2005, the district court convicted appellant, pursuant to a guilty plea, of attempted murder with the use of a deadly weapon (count 1), robbery with the use of a deadly weapon (count 2), first-degree kidnaping with substantial bodily harm (count 3), and first-degree kidnaping with the use of a deadly weapon (count 4). The district court sentenced appellant to serve in the Nevada State Prison: (1) for count 1, two consecutive terms of 90 to 240 months; (2) for count 2, two consecutive terms of 72 to 180 months; (3) for count 3, life with the possibility of parole after 15 years; and (4) for count 4, two consecutive terms of life with the possibility of parole after 5 years. The district court imposed the terms between counts to run concurrently. No direct appeal was taken.

On August 7, 2006, appellant filed a proper person post-conviction petition for writ of habeas corpus in the district court. Appellant claimed that his guilty plea was not voluntarily entered because he was promised and led to believe that he would be eligible for parole/release to the streets after serving a minimum of 15 years. On January 29, 2007, the district court denied the petition. This Honorable Court reversed the denial of appellant's claim regarding the voluntariness of his plea and remanded the matter for an evidentiary

1 hearing. After conducting an evidentiary hearing, the district court denied appellant's claim
2 that his guilty plea was involuntarily entered.

3 On March 27, 2009 this Honorable Court entered an Order reversing the district
4 court's Order denying the Appellant's Motion to Withdraw Guilty Plea. The Order remanded
5 the case to the district court with instructions that the Appellant must be permitted an
6 opportunity to withdraw his guilty plea.

7 On May 14, 2009 the Honorable Douglas Herndon appointed Susan Bush, Esq., as
8 counsel of record for Appellant. Judge Herndon struck the fourth Amended Information and
9 reinstated the Third Amended Information. Judge Herndon further ordered that Appellant's
10 bail be set in the total amount of \$2,085,000.00.

11 On July 28, 2009 Counsel for Appellant brought before the district court a Motion for
12 Reasonable Bail. Said Motion was denied by the district court. Appellant's bail remains at
13 \$2,085,000.00. On August 5, 2009 Appellant filed a Notice of Appeal, proper person, with
14 the Clerk of the District Court to appeal the denial of the Motion for Reasonable Bail.
15

16 On August 25, 2009 this Honorable Court Ordered Appellant's Counsel to Show
17 Cause why the appeal should not be dismissed for lack of jurisdiction.

18 POINTS AND AUTHORITIES

19 Nevada revised Statute 177.015 (3) does state "the Defendant only may appeal from
20 a final judgement or verdict in a criminal case"

21 Title 28, Section 1291 of the United States Code states in part:

22 The courts of appeals (other than the United States Court of
23 Appeals for the Federal Circuit) shall have jurisdiction of
24 appeals from all final decisions of the District Courts of the
25 United States, the United States District Court for the District
26 of the Canal Zone, the District Court of Guam, and the District
27 Court of the Virgin Islands, except where a direct review may
28 be had in the Supreme Court.

1 In Stack ET AL. v. Boyle, 342 U.S.1 (1951) the United States Supreme Court said:

2 Petitioners' motion to reduce bail did not merely invoke the discretion
3 of the District Court setting bail within a zone of reasonableness,
4 but challenged the bail as violating statutory and constitutional standards.
5 As there is no discretion to refuse to reduce excessive bail, the order denying
6 the motion to reduce bail is appealable as a "final decision" of the District
7 Court under 28 U. S. C. (Supp. IV) Section 1291. Cohen v. Beneficial Loan
8 Corp., 337 U.S. 541, 545-547 (1949).

9 In Flanagan ET AL.v. United States, 465 U.S. 259 (1984) the Court said:

10 The importance of the final judgment rule has led the Court
11 to permit departures from the rule "only when observance
12 of it would practically defeat the right to any review at all."
13 Cobbledick v. United States, supra, at 324-325 (foot note omitted).
14 The Court has allowed a departure only for the "limited
15 category of cases falling within the 'collateral order' exception
16 delineated in Cohen "United States v. Hollywood Motor Car Co.,
17 supra, at 265 ³ **[**1055]** To come within this "narrow exception,
18 "Firestone Tire & Rubber Co. V. Risjord, supra, at 374, a trial court
19 order **[***295]** must, at minimum, meet three conditions. First, it
20 "must conclusively determine the dispute question" ; second, it must
21 "resolve an import issue completely separate from the merits of the
22 action" ; third, it must "be effectively unreviewable on appeal from
23 a final judgement. " Coppers & Lybrand v. Livesay, 437 U.S. 463,
24 468 (1978)(footnote omitted).

25 ARGUMENT

26 Appellant would respectfully request that this Honorable Court allow this appeal of
27 the denial of the Motion to Reduce Bail to be reviewed as a "collateral order" exception to
28 Nevada Revised State 177.015 (3)

The denial of the Motion for Reasonable Bail by the district court conclusively
determined the dispute in question. The Appellant's bail was not reset at a reasonable
amount, it remains set at \$2,085,000.00.


The issue of the amount of the bail is important to the Appellant. If the bail was to be
set at a reasonable amount, Appellant's family and friends could have the opportunity to
purchase a bail bond. Appellant would then be at liberty while his case is litigated. The issue
of the amount of bail required by the district court is completely separate from the allegations

1 contained in the third Amended Information, that was reinstated by the district court on May
2 14, 2009.

3 If this Honorable Court refuses to review this issue it will be unreviewable at the
4 conclusion of the proceedings in the district court. If the Appellant is acquitted of all the
5 criminal allegations then he will be released from custody and the issue of bail will be
6 unreviewable as there would be no appeal. However if the Appellant is convicted, of some
7 or all of the criminal allegations, then the issue of bail will be moot on appeal since the
8 Appellant would be in the custody of the Nevada Department of Corrections.

9 DATED this 14th day of September, 2009.
10

11 BUSH & LEVY
12

13 By 
14 SUSAN BUSH, ESQ.
15 Nevada State Bar No. 008007
16 Attorney for Appellant
17 528 So. Casino Center Blvd. #202
18 Las Vegas, Nevada 89101
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CERTIFICATE OF MAILING

The undersigned hereby declares that she is an employee of BUSH & LEVY that on the 14 day of September, 2009, she deposited a true and correct copy of the foregoing **RESPONSE TO ORDER TO SHOW CAUSE** in the United States Mail, postage fully prepaid, addressed to the following:

District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Attorney General
100 N. Carson Street
Carson City, Nevada 89701-4717


An Employee of BUSH & LEVY