

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
LACY L. THOMAS,
Respondent.

No. 58833

FILED

APR 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

ORDER DIRECTING FULL BRIEFING

We have concluded that full briefing of this appeal is warranted. Accordingly, counsel for the parties shall fully brief the issues as provided in NRAP 28, 28.2, 30, 31 and 32.¹ In addition to any other issues appellant wishes to raise, the parties shall specifically address: (1) whether the motion to dismiss challenged (a) the sufficiency of the evidence to sustain the indictment and/or (b) the district court's jurisdiction to try the case, see Smith v. District Court, 75 Nev. 526, 527, 347 P.2d 526, 527 (1959) (holding that the district court lacks jurisdiction "where the act charged in the information is not within the statutory definition of the felony"); Houser v. Dist. Ct., 75 Nev. 465, 469, 345 P.2d 766, 769 (1959) (an assertion that the information does not charge a crime is a challenge to the district court's jurisdiction); (2) whether the motion

¹Counsel need not file a new appendix and may utilize the fast track appendices previously filed in this court. Counsel should note, however, that every reference in the briefs to matters of record must be supported by a citation to the page of the appendix where the matter is found. See NRAP 28(e). Further, if a party's brief will cite to documents not previously filed in this court, the party must file and serve an appropriately documented supplemental appendix with the brief. See NRAP 3C(k)(3).

should have been construed as a pretrial petition for a writ of habeas corpus, see NRS 34.500 (identifying issues that may be raised in a petition for a writ of habeas corpus); NRS 172.155(2); NRS 174.075; NRS 174.105; and (3) whether the district court was precluded from adjudicating the motion/petition, see NRS 34.700(1)(a), (3); NRS 34.710(1)(a); NRS 174.105; Sheriff v. Jensen, 95 Nev. 595, 596, 600 P.2d 222, 223 (1979) (holding that an untimely pretrial petition for a writ of habeas corpus was not cognizable in the district court).

Appellant shall have 30 days from the date of this order to file and serve the opening brief.² Thereafter, briefing shall proceed in accordance with the schedule set forth in NRAP 31(a)(1).

It is so ORDERED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

²Neither party has objected to the sufficiency of the rough draft transcripts. See NRAP 3C(d)(5). Accordingly, counsel need not file certified transcripts in this appeal as ordinarily required by NRAP 9. But should either counsel object to the sufficiency of the rough draft transcripts or cite to transcripts not previously prepared, counsel shall file and serve a request for the necessary transcripts pursuant to NRAP 9(a). See NRAP 3C(k)(3). If the necessary transcripts have already been prepared and are on file in the district court, the parties may include such transcripts in the appendix without filing a transcript request form. See NRAP 30(b)(1).

cc: Attorney General/Carson City
Clark County District Attorney
Daniel J. Albregts, Ltd.
Federal Public Defender/Las Vegas