

IN THE SUPREME COURT OF THE STATE OF NEVADA

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KUPA'A KEA, aka,
PAUL, aka, KUPAA W. KEA, aka,
MIGUEL HERNANDEZ, aka, PAUL KEA,
aka KUPAA A A, aka, KUPA KE-A, aka,
KUPO KE-A, aka, KUPOA KEA, aka,
KUPOA KE-A, aka, KUPAA WIW-OLE-NAI KE-A,
aka, KUPAA KE-A, aka, KRUMS, aka,
KUPAA WIWIOLENA'I KE-A, aka,
KUPAA KE, KEA KUPA,
Appellant,

No. 61160

vs.

THE STATE OF NEVADA,

Respondent.

FAST TRACK APPEAL STATEMENT

1. Appellant, KUPA'A KEA, aka, PAUL, aka, KUPAA W. KEA, aka, MIGUEL
HERNANDEZ, aka, PAUL KEA, aka KUPAA A A, aka, KUPA KE-A, aka, KUPO KE-A, aka,
KUPOA KEA, aka, KUPOA KE-A, aka, KUPAA WIW-OLE-NAI KE-A, aka, KUPAA KE-A,
aka, KRUMS, aka, KUPAA WIWIOLENA'I KE-A, aka, KUPAA KE, KEA KUPA, by and
through his Attorney KATHRINE I. BERNING, ESQ., and hereby files this Fast Track Appeal
Statement;

1 2. Kathrine I. Berning, Fry & Berning, LLC, 195 Casazza Drive Reno, Nevada 89502,
2 telephone number (775) 329-8646, submits this fast track appeal;

3 3. This appeal is from a judgment of conviction entered in case CR12-0110, on June 1,
4 2012, by the Honorable Scott Freeman in the Second Judicial District Court, Department 9 ;

5 4. The parties below consisted of (a) THE STATE OF NEVADA, Plaintiff; and (b)
6 KUPA'A KEA, Defendant;

7 4. The parties herein consist of (a) KUPA'A KEA, Appellant; and (b) THE STATE
8 OF NEVADA, Respondent;

9 5. Counsel on Appeal are:

10 TERRANCE MCCARTHY, Esq., DDA RICHARD GAMMICK, Esq, DA
11 Appellate Division Washoe County District Attorney

12 KATHRINE I. BERNING, Esq.
13 Attorney for Appellant

14 6. Appellant, KUPA'A KEA, was represented by appointed counsel KATHRINE I.
15 BERNING, Esq., in District Court;

16 7. Appellant, KUPA'A KEA,, is represented by appointed counsel in this appeal;

17 8. Appellant was not granted leave to proceed in forma pauperis in the District
18 Court;

19 9. An Information was filed with the Second Judicial District Court on January 23,
20 2012, charging KUPA'A KEA, with Battery with a Deadly Weapon Causing Substantial Bodily
21 Harm, a felony, against CESAR ANTON, and Battery with a Deadly Weapon Causing
22 Substantial Bodily Harm, a felony, against OSCAR VALENCIA;

23 10. On February 2, 2012, KUPA'A KEA entered a guilty plea to the same charges;

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1 11. On June 1, 2012, the Court imposed the sentence against KUPA'A KEA where he
2 is to serve two (2) consecutive terms of a minimum thirty-five (35) months to one hundred fifty-
3 six (156) months for Counts I and II as described in the Information and defined as, Battery with
4 a Deadly Weapon causing substantial bodily harm, a violation of NRS 200.481(2)(e), a felony;

5 12. Pursuant to the Nevada Rules of Appellate Procedure (NRAP) Rule 4(b)(1)(A),
6 where it is stated that,

7 "Except as otherwise provided in NRS 34.560(2), 34.575(1) and 177.055 and
8 Rule 4(c), the notice of appeal by a defendant or petitioner in a criminal
9 case shall be filed with the district court clerk with in 30 days after the
10 entry of the judgment or order being appealed."

11 The judgement in the lower court imposing the sentence against Mr. KEA was entered on
12 June 1, 2012, and filed on June 5, 2012. A Notice of Appeal was filed by Mr. KEA on June 26,
13 2012 well within the thirty (30) day limit.

14 13. This is a criminal proceeding and the Appellant is appealing the Judgment of
15 Conviction entered on June 1, 2012, and filed with the Court on June 5, 2012;

16 14. The case has not been the subject of a previous appeal to the Supreme Court;

17 15. This case does not involve child custody or visitation;

18 16. This is not a civil case involving the possibility of a settlement.

19 17. This is a Fast Track Appeal.

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21 **AFFIRMATION PURSUANT TO NRS 239B.030**

22 The undersigned hereby affirms that this document does not contain a Social Security
23 Number. DATED this 15th day of August, 2012.


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KATHRINE I. BERNING, ESQ.
Attorney for Defendant

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2 VERIFICATION

3 I hereby certify that this fast track appeal statement complies with the formatting
4 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the typestyle
5 requirements of NRAP 32(a)(6) because:

- 6 1. This fast track appeal statement has been prepared in a proportionally spaced
7 typeface using Corel WordPerfect X3 word processing software and program in
8 size 12 font New Times Roman style;
- 9 2. I further certify that this fast track appeal statement complies with the page- or
10 type-volume limitations of NRAP 32(h)(2) because it does not exceed fifteen (15)
11 pages;
- 12 3. Finally, I recognize that pursuant to NRAP 3C, I am responsible for filing a timely
13 fast track appeal statement and that the Supreme Court of Nevada may sanction an
14 attorney for failing to file a timely fast track appeal statement , or failing to raise
15 material issues or arguments in the fast track appeal statement, or failing to
16 cooperate fully with appellate counsel during the course of an appeal. I therefore
17 certify that the information provided in this fast track appeal statement is true and
18 complete to the best of my knowledge, information and belief.

19
20 Dated this 15th day of August, 2012.

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22 
23 KATHRINE I. BERNING, ESQ.
24 Nevada State Bar #3678
25 Fry & Berning, LLC.
26 195 Casazza Drive
27 Reno, Nevada 89502
28 Telephone (775) 329-8646

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Pursuant to NRC 5(b) , I certify that I am an employee of the Law Offices of Fry & Berning, LLC, and that on this date I deposited in the United States mail, at Reno, Nevada, with postage thereon prepaid, a true and correct copy of the attached FAST TRACK APPEAL STATEMENT, addressed as follows:

Mr. Kupa'a Kea JID 1086980
P.O. Box 7000
Carson City, NV 897020


Mr. Terrance McCarthy, Esq., DDA
Appellate Division
P.O. Box 30083
Reno, Nevada 89520-3083

Catherine Cortez Masto
Attorney General for State of Nevada
100 N. Carson Ctreet
Carson City, NV 89701

Tracie K. Lindeman, Clerk of the Court
Supreme Court of Nevada
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

DATED this 15th day of August, 2012.

of August, 2012.


BARRY BLOUGH, Paralegal to
KATHRINE I. BERNING, ESQ.