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GUILLERMO RENTERIA-NOVOA
Case No. 61865

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

2
3 GUILLERMO RENTERIA-NOVOA,)

4 Petitioner,)

5 vi.)

6 THE EIGHTH JUDICIAL DISTRICT COURT)
7 OF THE STATE OF NEVADA, COUNTY OF)
8 CLARK, THE HONORABLE JEROME TAO,)
 DISTRICT JUDGE,)

9 Respondents,)

10 and)

11 THE STATE OF NEVADA,)
12 Real Party In Interest.)

No.

(District Court No. 610168215d)

May 21 2012 03:20 p.m.

Tracie K. Lindeman

Clerk of Supreme Court

13
14 **EMERGENCY PETITION FOR WRIT OF MANDAMUS**

15
16 PHILIP J. KOHN
17 Clark County Public Defender
18 309 South Third Street
19 Las Vegas, Nevada 89155-2610

20 Attorney for Petitioner

STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Fl.
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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THE STATE OF NEVADA,
Real Party In Interest.

No.
(District Ct. No. C-10-268285-1)

EMERGENCY PETITION FOR WRIT OF PROHIBITION/MANDAMUS

COMES NOW the Petitioner, GUILLERMO RENTERIA-NOVOA, by and through his counsel Deputy Public Defenders, MIKE FELICIANO and AMY A. FELICIANO, and respectfully petitions this Honorable Court for an Emergency Writ of Mandamus ordering that the trial currently in the jury selection phase be stayed for full briefing of the issue at hand.

This Petition is based upon the Memorandum of Points and Authorities and further briefing to be provided with the granting of the stay of proceedings.

DATED this 21st day of May, 2012.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By MIKE FELICIANO, #9312
Deputy Public Defender

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1 knew about this relationship and used it as leverage with her by threatening to tell Perez's
2 mother about her relationship.

3 7. That, Renteria-Novoa made the offer of proof that the fact that Perez was pregnant at
4 the time of the accusations was not going to be offered for an impermissible purpose under NRS
5 50.090, but instead, that it was Renteria-Novoa's theory of defense that Perez fabricated the
6 sexual abuse allegations against Renteria-Novoa in order to get herself out of trouble with her
7 mother for being pregnant.
8

9 8. That Renteria-Novoa's offer of proof included that: Perez told the lead detective in
10 the case that she was under a lot of pressure and stress because of her pregnancy, and so she
11 finally told her mom that she was pregnant, and at the same time told her mom that she was
12 having a consensual relationship with her cousin, and that Renteria-Novoa had been sexually
13 abusing her. Therefore, Renteria-Novoa's defense theory was that, because Perez's disclosure in
14 this case occurred when Perez was telling her mom about her pregnancy and the relationship
15 with her cousin, she fabricated the allegations against Renteria-Novoa to minimize or eradicate
16 any trouble that she would be in because she was sixteen years old and pregnant. Renteria-
17 Novoa's theory was that she lied about the sexual abuse because she was trying to get herself out
18 of trouble by playing the victim.
19
20

21 9. That Renteria-Novoa assured the Court that the only reference to the pregnancy
22 would be in the context of the theory—that Perez was scared about getting in trouble for being
23 pregnant and that is why she accused Renteria-Novoa of abusing her, and therefore, any
24 probative value would outweigh the prejudicial effect. Renteria-Novoa also cited to case law
25 dealing with exceptions to NRS 50.090, as well as his due process right to confrontation and to
26 present a theory of defense.
27
28

1 11. That Renteria-Novoa also made the offer of proof that this was his theory of defense
2 and that not being allowed to present a theory on Perez's motive to fabricate the allegations
3 against Renteria-Novoa would leave him without any defense and would render his counsel
4 ineffective.
5

6 12. That the District Court concluded that this was impermissible under NRS 50.090.

7 13. That Renteria-Novoa orally asked for a Stay of Proceedings before the District Court
8 to be able to file a Petition For Writ of Mandamus/Prohibition with this Court.
9

10 14. That the District Court denied Renteria-Novoa's request for a stay.

11 15. That Renteria-Novoa asked the District Court for a short continuance today, prior to
12 jury selection, to be able to prepare an Emergency Motion for Stay before this Court and the
13 Petition for Writ of Mandamus/Prohibition.

14 16. That the District Court denied Renteria-Novoa's request.

15 17. That Renteria-Novoa is currently in the middle of jury selection.

16 18. That Renteria-Novoa is preparing this Emergency Motion for Stay on the lunch hour
17 break.
18

19 19. That Renteria-Novoa asks this Court for an Emergency Stay of Proceedings.

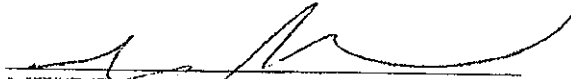
20 20. That, if the stay is granted, Renteria-Novoa will then be able to submit a complete
21 Petition for Writ of Mandamus/Prohibition briefing this issue to this Court.
22

23 21. That, while trial is going on, Renteria-Novoa is unable to prepare a Petition for Writ
24 of Mandamus/Prohibition.

25 22. That, Renteria-Novoa will suffer irreparable harm if forced to proceed to trial
26 without being able to present his defense, and which is denying him due process, confrontation,
27 fundamentally fair trial, and the effective assistance of counsel.
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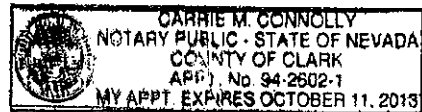
1 23. That any inconvenience and/or prejudice to the State is minimal when balanced
2 against Defendant's Due Process right to have this matter appropriately determined.

3 I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).
4

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7 
8 MIKE FELICIANO

9 SUBSCRIBED and SWORN to before me

10 This 21st day of May, 2012.



1 POINTS AND AUTHORITIES

2 I.

3 STATEMENT OF THE ISSUES

4
5 Petitioner asks that the trial currently in progress be stayed in order to fully brief the
6 issue.

7 STATEMENT OF FACTS

8 PROCEDURAL HISTORY

9
10 Guillermo Renteria-Novoa is charged with thirty-seven counts of Sexual Assault with a
11 Minor Under the Age of Fourteen, Sexual Assault with a Minor Under the Age of Sixteen,
12 Sexual Assault, Lewdness with a Child Under the Age of Fourteen, and Open and Gross
13 Lewdness, and consequently, is facing multiple life sentences.

14 Renteria-Novoa's trial began this morning at 9 a.m.

15
16 Counsel prepared the Emergency Motion for Stay of Proceedings on the lunch-hour
17 break, and had less than thirty minutes to prepare the Declaration and Emergency Motion for
18 Stay of Proceedings.

19
20 Prior to jury selection this morning, the State orally moved to preclude the defense from
21 referring to the fact that the alleged victim, 16-year-old Roxana Perez, was pregnant when she
22 disclosed the allegations against Renteria-Novoa to her mother. The State argued that NRS
23 50.090 precluded the defense from referring to Perez being pregnant. The State itself, however,
24 was going to introduce the fact that Perez had also been having a consensual relationship with
25 her cousin (not the father of her baby), and that Renteria-Novoa knew about this relationship and
26 used it as leverage with her by threatening to tell Perez's mother about her relationship.
27
28

1 Renteria-Novoa made the offer of proof that the fact that Perez was pregnant at the time
2 of the accusations was not going to be offered for an impermissible purpose under NRS 50.090,
3 but instead, that it was Renteria-Novoa's theory of defense that Perez fabricated the sexual abuse
4 allegations against Renteria-Novoa in order to get herself out of trouble with her mother for
5 being pregnant.
6

7 Renteria-Novoa's offer of proof included that: Perez told the lead detective in the case
8 that she was under a lot of pressure and stress because of her pregnancy, and so she finally told
9 her mom that she was pregnant, and at the same time told her mom that she was having a
10 consensual relationship with her cousin, and that Renteria-Novoa had been sexually abusing her.
11 Therefore, Renteria-Novoa's defense theory was that, because Perez's disclosure in this case
12 occurred when Perez was telling her mom about her pregnancy and the relationship with her
13 cousin, she fabricated the allegations against Renteria-Novoa to minimize or eradicate any
14 trouble that she would be in because she was sixteen years old and pregnant. Renteria-Novoa's
15 theory was that she lied about the sexual abuse because she was trying to get herself out of
16 trouble by playing the victim.
17
18

19 Renteria-Novoa assured the Court that the only reference to the pregnancy would be in
20 the context of the theory—that Perez was scared about getting in trouble for being pregnant and
21 that is why she accused Renteria-Novoa of abusing her, and therefore, any probative value
22 would outweigh the prejudicial effect. Renteria-Novoa also cited to case law dealing with
23 exceptions to NRS 50.090, as well as his due process right to confrontation and to present a
24 theory of defense.
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1 Renteria-Novoa also made the offer of proof that this was his theory of defense and that
2 not being allowed to present a theory on Perez's motive to fabricate the allegations against
3 Renteria-Novoa would leave him without any defense and would render his counsel ineffective.
4

5 The District Court concluded that this was impermissible under NRS 50.090.

6 Renteria-Novoa orally asked for a Stay of Proceedings before the District Court to be
7 able to file a Petition For Writ of Mandamus/Prohibition with this Court.

8 The District Court denied Renteria-Novoa's request for a stay.

9 Renteria-Novoa asked the District Court for a short continuance today, prior to jury
10 selection, to be able to prepare an Emergency Motion for Stay before this Court and the Petition
11 for Writ of Mandamus/Prohibition.
12

13 The District Court denied Renteria-Novoa's request.

14 Renteria-Novoa is currently in the middle of jury selection.

15 Renteria-Novoa prepared the Emergency Motion for Stay on the lunch hour break.
16

17 Renteria-Novoa asks this Court for an Emergency Stay of Proceedings to allow full
18 briefing of the issue.

19 If the stay is granted, Renteria-Novoa will then be able to submit a complete Petition for
20 Writ of Mandamus/Prohibition briefing this issue to this Court. Petitioner would ask for leave
21 of this Honorable Court to fully brief the issue.
22

23 Renteria-Novoa will suffer irreparable harm if forced to proceed to trial without being
24 able to present his defense, and which is denying him due process, confrontation, fundamentally
25 fair trial, and the effective assistance of counsel.

26 ///

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1 WHY WRIT OF MANDAMUS SHOULD ISSUE IN THIS CASE

2 A. IT IS THE PROPER REMEDY

3 Renteria-Novoa will suffer irreparable harm if forced to proceed to trial without being
4 able to present his defense, and which is denying him due process, confrontation, fundamentally
5 fair trial, and the effective assistance of counsel.
6

7 CONCLUSION

8 Based upon the foregoing, the defense respectfully requests that this court issue the writ
9 of mandamus ordering the lower court to stay the proceedings to allow the issue to be fully
10 briefed.
11

12 DATED this 21st day of May, 2012.


13 PHILIP J. KOHN
14 CLARK COUNTY PUBLIC DEFENDER

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17 By 
18 MIKE FELICIANO, #9312
19 DEPUTY PUBLIC DEFENDER
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CATHERINE CORTEZ MASTO
STEVEN S. OWENS

HONORABLE JEROME TAO,
District Court, Department XX
330 South Third Street, Courtroom 116
Las Vegas, NV 89101

BY 
Employee, Clark County Public
Defender's Office

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

2
3 GUILLERMO RENTERIA-NOVOA,)

4 Petitioner,)

5 v.)

6 THE EIGHTH JUDICIAL DISTRICT COURT)
7 OF THE STATE OF NEVADA, COUNTY OF)
8 CLARK, THE HONORABLE JEROME TAO,)
 DISTRICT JUDGE,)

9 Respondents,)

10 and)

11 THE STATE OF NEVADA,)
12 Real Party In Interest.)

No.

(District Electronically Filed)

May 21 2012 03:21 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

13
14 **EMERGENCY MOTION FOR STAY OF DISTRICT COURT PROCEEDINGS**

15 COMES NOW, the Petitioner, Guillermo Renteria-Novoa., by and through Clark
16 County Public Defenders Mike Feliciano and Amy A. Feliciano, and respectfully moves this
17 Honorable Court, pursuant to NRAP 8(a) and NRS 34.160, for an Order granting a stay of Trial,
18 which began at 9 a.m. this morning, May 21, 2012. Trial is presently in the jury-selection phase.

19 DATED this 21st day of May, 2012.

20 PHILIP J. KOHN

21 CLARK COUNTY PUBLIC DEFENDER

22 By _____

23 Mike Feliciano, #9312
24 Deputy Public Defender

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I, Mike Feliciano, being first duly sworn, deposes and says:

2. That Guillermo Renteria-Novoa authorized affiant to file the instant Petition for Writ of Prohibition/Mandamus.

4. That Renteria-Novoa's trial began this morning at 9 a.m.

6. That, prior to jury selection this morning, the State orally moved to preclude the defense from referring to the fact that the alleged victim, 16-year-old Roxana Perez, was pregnant when she disclosed the allegations against Renteria-Novoa to her mother. The State argued that NRS 50.090 precluded the defense from referring to Perez being pregnant. The State itself, however, was going to introduce the fact that Perez had also been having a consensual relationship with her cousin (not the father of her baby), and that Renteria-Novoa

1 knew about this relationship and used it as leverage with her by threatening to tell Perez's
2 mother about her relationship.

3 7. That, Renteria-Novoa made the offer of proof that the fact that Perez was pregnant at
4 the time of the accusations was not going to be offered for an impermissible purpose under NRS
5 50.090, but instead, that it was Renteria-Novoa's theory of defense that Perez fabricated the
6 sexual abuse allegations against Renteria-Novoa in order to get herself out of trouble with her
7 mother for being pregnant.
8

9 8. That Renteria-Novoa's offer of proof included that: Perez told the lead detective in
10 the case that she was under a lot of pressure and stress because of her pregnancy, and so she
11 finally told her mom that she was pregnant, and at the same time told her mom that she was
12 having a consensual relationship with her cousin, and that Renteria-Novoa had been sexually
13 abusing her. Therefore, Renteria-Novoa's defense theory was that, because Perez's disclosure in
14 this case occurred when Perez was telling her mom about her pregnancy and the relationship
15 with her cousin, she fabricated the allegations against Renteria-Novoa to minimize or eradicate
16 any trouble that she would be in because she was sixteen years old and pregnant. Renteria-
17 Novoa's theory was that she lied about the sexual abuse because she was trying to get herself out
18 of trouble by playing the victim.
19
20

21 9. That Renteria-Novoa assured the Court that the only reference to the pregnancy
22 would be in the context of the theory—that Perez was scared about getting in trouble for being
23 pregnant and that is why she accused Renteria-Novoa of abusing her, and therefore, any
24 probative value would outweigh the prejudicial effect. Renteria-Novoa also cited to case law
25 dealing with exceptions to NRS 50.090, as well as his due process right to confrontation and to
26 present a theory of defense.
27
28

1 11. That Renteria-Novoa also made the offer of proof that this was his theory of defense
2 and that not being allowed to present a theory on Perez's motive to fabricate the allegations
3 against Renteria-Novoa would leave him without any defense and would render his counsel
4 ineffective.
5

6 12. That the District Court concluded that this was impermissible under NRS 50.090.

7 13. That Renteria-Novoa orally asked for a Stay of Proceedings before the District Court
8 to be able to file a Petition For Writ of Mandamus/Prohibition with this Court.
9

10 14. That the District Court denied Renteria-Novoa's request for a stay.

11 15. That Renteria-Novoa asked the District Court for a short continuance today, prior to
12 jury selection, to be able to prepare an Emergency Motion for Stay before this Court and the
13 Petition for Writ of Mandamus/Prohibition.

14 16. That the District Court denied Renteria-Novoa's request.

15 17. That Renteria-Novoa is currently in the middle of jury selection.

16 18. That Renteria-Novoa is preparing this Emergency Motion for Stay on the lunch hour
17 break.
18

19 19. That Renteria-Novoa asks this Court for an Emergency Stay of Proceedings.

20 20. That, if the stay is granted, Renteria-Novoa will then be able to submit a complete
21 Petition for Writ of Mandamus/Prohibition briefing this issue to this Court.
22

23 21. That, while trial is going on, Renteria-Novoa is unable to prepare a Petition for Writ
24 of Manamus/Prohibition.

25 22. That, Renteria-Novoa will suffer irreparable harm if forced to proceed to trial
26 without being able to present his defense, and which is denying him due process, confrontation,
27 fundamentally fair trial, and the effective assistance of counsel.
28

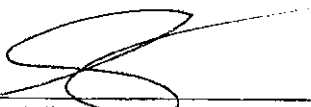
1 23. That any inconvenience and/or prejudice to the State is minimal when
2 balanced against Defendant's Due Process right to have this matter appropriately determined

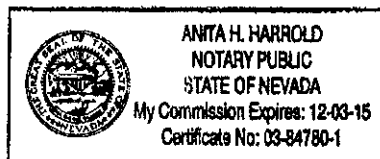
3 I declare under penalty of perjury that the foregoing is true and correct. (NRS
4 53.045).

5
6
7
8 
MIKE FELICIANO

9
10 SUBSCRIBED and SWORN to before me

11 This 21st day of May, 2012.

12 
13 _____
14 NOTARY PUBLIC in and for said
County and State



1 CERTIFICATE OF SERVICE

2 I hereby certify that this document was filed electronically with the Nevada
3 Supreme Court on the 21st day of May, 2012. Electronic Service of the foregoing document
4 shall be made in accordance with the Master Service List as follows:
5

6 CATHERINE CORTEZ MASTO MIKE FELICIANO
7 STEVEN S. OWENS HOWARD S. BROOKS

8 I further certify that I served a copy of this document by mailing a true and
9 correct copy thereof, postage pre-paid, addressed to:

10 HONORABLE JEROME TAO,
11 District Court, Department XX
12 330 South Third Street, Courtroom 116
Las Vegas, NV 89101

13 GUILLERMO RENTERIA-NOVOA
14 c/o Clark County Detention Center
15 330 South Casino Center Blvd.
Las Vegas, NV 89101

16
17 BY 

18 Employee, Clark County Public
19 Defender's Office
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IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO RENTERIA-NOVOA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JEROME T. TAO, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 60909

FILED

MAY 21 2012

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

ORDER DENYING PETITION

This original petition for a writ of mandamus or prohibition challenges a district court's evidentiary ruling in a criminal case. Petitioner has also filed an emergency motion to stay the trial in which jury selection commenced today. Having reviewed the petition and motion, we are not convinced that our intervention, or a stay to allow additional briefing, is warranted. In particular, petitioner has a plain, speedy, and adequate remedy in the ordinary course of law—he may raise the evidentiary issue on appeal in the event that he is convicted, NRS 177.015(3); NRS 177.045—and therefore a writ of mandamus or prohibition should not issue.¹ See NRS 34.170 (mandamus); NRS 34.330

¹We also note that the evidentiary issue does not implicate the district court's jurisdiction, and therefore a writ of prohibition would be inappropriate on that basis as well. See NRS 34.320 (providing that writ of prohibition may issue to arrest proceedings of district court exercising

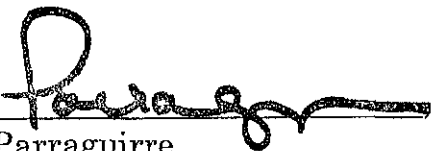
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(prohibition). Accordingly, we

ORDER the petition and motion DENIED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jerome T. Tao, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

... *continued*

its judicial functions, when such proceedings are in excess of district court's jurisdiction).

[illegible]

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