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1	IN THE SUPREME COURT OF THE STATE OF NEVADA
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3	LAQUEZ DELLAN BARRER Electronically Filed
4	Sep 17 2013 04:22 plm.
5	Appellant,) Tracie K. Lindeman Clerk of Supreme Court
6) Case No. 62649
7	VS.
8	THE STATE OF NEVADA,
9	Donate donat
10	Respondent.)
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12	APPELLANT'S MOTION TO FILE
13	JUVENILE COURT DOCUMENTS UNDER SEAL IN THE APPENDIX
14	
15	Comes Now Appellant JAQUEZ DEJUAN BARBER, by and
16	through Deputy Public Defender SHARON G. DICKINSON, and moves to file
17	under seal the Appellant's Appendix Volume IV:652-710. This Motion is based
18	upon the etteched points and outhouities at 141 D. 1 41 C. 1
19	upon the attached points and authorities and the Declaration of counsel.
20	DATED this 17 th day of September, 2013.
21	PHILIP J. KOHN
22	CLARK COUNTY PUBLIC DEFENDER
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25	By Sharon Dickenson
26	SHARON G. DICKINSON, #3710 Deputy Public Defender
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POINTS AND AUTHORITIES

Barber attempted to file juvenile court documents under seal when he prepared and sent his appendix for his appeal. See IV: 652-710.¹

All juvenile records are confidential. NRS 62H.030. Under NRS 62H.030, the public is denied access to inspect, copy, or review juvenile records <u>unless</u> the juvenile court issues an order allowing the information be made open to inspection. NRS 62H.030(2).² Thus, the Nevada Legislature enacted NRS 62H.030 with an acute awareness that public policy favors the confidentially of all juvenile court records.

Contrary to the mandates of NRS 62H.030, in *Howard v. State*, 128 Nev. Adv. Op. No. 67, 291 P.3d 137 (2012), this Court held that there is a presumption in favor of allowing the public access to all documents filed within the Nevada Supreme Court. *Id.* at 142. In accord with this reasoning, the *Howard* Court held that all documents "filed in this court are presumptively open to the public unless we exercise our inherent authority and grant a motion to file specific documents under seal based on a showing that such action is required by law or an identified significant competing interest." *Id.* at 139. Hence, the *Howard* ruling contradicts the Legislature's mandates within NRS 62H.030.

In Volume IV, pages 711-721 are justice court records that were accidently attached to the juvenile records.

There are some limited exceptions to this rule but none of the exceptions apply in this case.

The *Howard* sealing rules are based on federal court and civil cases, not juvenile law. *Id.* 143. The *Howard* Court made no exceptions for juvenile court documents filed in a criminal case thereby making juvenile court documents available to the public UNLESS a party to the cause of action files a motion with the Court and requests permission to seal the documents. But even if a party requests permission to file a document under seal, the *Howard* Court will make the ultimate decision.

Despite the fact that NRS 62H.030 prohibits Barber and his attorneys from making his juvenile records open to the public, under *Howard*, this Court may do just this unless Barber convinces the Court otherwise.

Because of the *Howard* requirements, Barber sets forth reasons that this Court should seal his juvenile court records.

- 1. The documents Barber is attempting to seal are juvenile court records within Volume IV at pages 652-710.
- 2. The reason the sealing is necessary is because NRS 62H.030 identifies all juvenile court documents and records as confidential, sealed documents, not open to public inspection.
- 3. The duration of the Order Sealing Documents: forever or until the legislature changes the juvenile statutes.

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1	Based on the above requirements of Howard, Barber asks this Court to issue as	1
2	order sealing the above mentioned juvenile court document.	
3	DATED this 17 th day of September, 2013.	
4	DATED tills 17 day of September, 2013.	
5 6	PHILIP J. KOHN CLARY COUNTY PUBLIC DESERVING	
7	CLARK COUNTY PUBLIC DEFENDER	
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9	By Sharin Duxinom	
10	SHARON G. DICKINSON, #3710 Deputy Public Defender	
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DECLARATION OF SHARON G. DICKINSON

- 1. I am an attorney licensed to practice law in the State of Nevada; I am a deputy public defender assigned to handle the appeal of this matter; I am familiar with the procedural history of this case.
- 2. The documents within Volume IV at pages 652-710 are juvenile court records involving Barber's district court case before the case was certified to the adult court system. Because they are juvenile records, under NRS 62H.030 they must be kept confidential.
- 3. Pages 711 to 721 within Volume IV are not juvenile court records and therefore do not need to be sealed. They were placed on the back of the juvenile court records by mistake. We are sending up a second Volume IV appendix with pages 711 to 721 as public documents.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 17th day of September, 2013.

SHARON G. DICKINSON

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 17th day of September, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO STEVEN S. OWENS

SHARON G. DICKINSON HOWARD S. BROOKS

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

BARBER, NDOC No: 1039024, c/o High Desert State Prison, P.O. Box 650,

Indian Springs, NV 89070.

BY

Employee, Clark County Public Defender's Office