

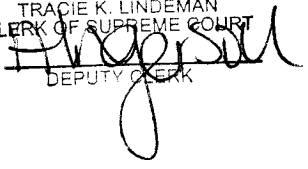
IN THE SUPREME COURT OF THE STATE OF NEVADA

JAQUEZ DEJUAN BARBER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62649

**FILED**

**OCT 29 2013**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*O R D E R*

This is an appeal from a judgment of conviction. There are multiple pending motions, most of which are opposed.

The spate of motions started with appellant's motion to file juvenile court documents under seal in the appendix. We recently held in *Howard v. State* "that documents filed in this court [in criminal cases] 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." 128 Nev. \_\_\_, \_\_\_, 291 P.3d 137, 138 (2012). Appellant argues that this holding "contradicts the Legislature's mandates within NRS 62H.030." It does not. NRS 62H.030 addresses the confidentiality of the records of cases brought before the juvenile court: with certain exceptions set forth in subsection 3, the statute provides that those records "may be opened to inspection only by court order to persons who have a legitimate interest in the records." NRS 62H.030(2). The statute does not expressly address the confidentiality of documents and records filed with this court. Even if NRS 62H.030 did address documents and records filed with this court, the statute would merely provide

grounds upon which a movant could argue, as recognized by *Howard*, that this court is required by law to file documents subject to the statute under seal. In other words, the presumption set forth in *Howard* is just that—a presumption that may be overcome by an appropriate “showing that [filing specific documents under seal] is required by law or an identified significant competing interest.” 128 Nev. at \_\_\_, 291 P.3d at 138.

In some circumstances, the policy underlying NRS 62H.030 will warrant the filing of documents in this court under seal. The underlying policy is to “severely restrict access to official information concerning a minor’s involvement in the juvenile justice system” in order to protect the child. *Hickey v. Eighth Judicial Dist. Court*, 105 Nev. 729, 735, 782 P.2d 1336, 1340 (1989) (Steffen, J., dissenting). For example, consistent with that policy, it would be appropriate for this court to maintain the confidentiality of juvenile records filed with this court in an appeal from an order adjudicating a child as a delinquent by allowing access to the records only by court order to persons who have a legitimate interest in the records. But here, appellant was certified for criminal proceedings as an adult and was convicted of two felonies as an adult. This appeal is from the judgment of conviction, not the order certifying appellant for criminal proceedings as an adult. Having decided to raise issues that may have been waived by his failure to appeal that order, appellant wants this court to file under seal documents that are part of the record in the juvenile court on which he was certified. The policy giving rise to NRS 62H.030(2) is not implicated in this situation. In particular, the incident giving rise to the case brought in juvenile court is part of the public record by virtue of the criminal proceedings. *Cf. Stamps v. State*, 107 Nev. 372, 812 P.2d 351 (1991) (explaining that interest in preserving

confidentiality of juvenile offender's records was not served by excluding testimony about victim's juvenile records where incident was made public by the trial). While there may be some interest in maintaining the confidentiality of those juvenile records when filed in this court on appeal from an order granting or denying certification for criminal proceedings as an adult, that situation is not presented here. We therefore deny the motion to file the juvenile court documents under seal.<sup>1</sup> The clerk of this court shall remove the appendix received on September 13, 2013, from the envelope marked "sealed," redact the two references to appellant's driver's license number on page 673, *see generally* NRS 239B.030, and file the appendix volume IV, pages 652-710.<sup>2</sup>

Related to the motion to file juvenile court documents under seal, the State has filed a motion to strike portions of the opening brief.<sup>3</sup> In particular, the State argues that this court lacks jurisdiction over two of the issues that challenge the juvenile court's order certifying appellant for criminal proceedings as an adult. The notice of appeal in this case designates the judgment of conviction entered by the district court, which

---

<sup>1</sup>Consistent with this decision, we also deny the motion to strike the exhibit attached to the State's motion to strike issues from appellant's opening brief (filed on October 2, 2013) and the motion to strike exhibits attached to the State's opposition to that motion (filed October 4, 2013).

<sup>2</sup>The volume that was submitted to be filed under seal also included pages 711-21. Those pages were filed separately on September 17, 2013.

<sup>3</sup>We grant appellant's motion for leave to file supplemental points and authorities in support of the opposition to the motion to strike portions of the opening brief. The clerk of this court shall file the supplemental points and authorities received via E-Flex on October 4, 2013.

is appealable by the defendant. NRS 177.015(3). This court therefore has jurisdiction over this appeal. *Id.* Appellant has not purported to be appealing from the certification order. Instead, appellant has asserted issues related to the certification order in this appeal from the judgment of conviction, arguing that those issues affect the district court's jurisdiction. The State's concerns expressed in its motion to strike go to whether those issues have been waived by appellant's failure to pursue a timely appeal from the certification order. *See Castillo v. State*, 106 Nev. 349, 792 P.2d 1133 (1990). Those concerns, however, do not implicate our jurisdiction over this appeal. They are appropriately addressed through the parties' briefs. *See* NRAP 28. Accordingly, the motion to strike portions of appellant's opening brief for lack of jurisdiction is denied, as are the State's related motions to hold briefing in abeyance pending resolution of the motion to strike.

Cause appearing, the motion for an extension of time to file the answering brief is granted. NRAP 31(b)(3)(B). Respondent shall have 30 days from the date of this order to file and serve the answering brief. Failure to timely file the answering brief may result in the imposition of sanctions. *See* NRAP 31(d).

It is so ORDERED.

Pickering, C.J.

cc: Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney