

1 prosecutor failed to identify the portion of that sentence where the *Barren* Court
2 noted that there were exceptions to this rule but found the exceptions not
3 applicable in the *Barren* case.
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5 If the *Barren* case holding applied to the case at bar, one of the exceptions
6 the *Barren* Court may have alluded to is the statute of limitations. The statute of
7 limitations exception, or issue, is applicable in Barber's case. Within Issue I,
8 Barber contends that NRS 62D.310 is akin to a statute of limitations with the
9 juvenile court losing jurisdiction after one year. Therefore, the *Barren* case may
10 support Barber's arguments within Issue I and/or Issue II because NRS 62D.310 is
11 a statute of limitations statute and falls within an exception to the *Barren* decision.
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15 The prosecutor further argues that there is no "home free" for juvenile
16 offense in the State of Nevada, citing to *Barren* and *Castillo v. State*, 110 Nev.
17 535, 542, 874 P.2d 1252, 1257 (1994) disapproved on other grounds in *Woods v.*
18 *State*, 111 Nev. 428, 892 P.2d 944 (1995). Reply p. 2-3. Thus, the prosecutor
19 seems to contend that even if the juvenile court acted without jurisdiction, the
20 adult district court would automatically obtain jurisdiction based on *Barren*. Reply
21 p. 3, lines 9-16.
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25 Again, the prosecutor is incorrect. The *Barren* Court found that the adult
26 district court had jurisdiction over the matter because of NRS 62B.330(3)(e)(2).
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1 The prosecutor cites to no statutes that would give the district court jurisdiction if
2 the juvenile court did not have jurisdiction.

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4 Additionally, the prosecutor fails to acknowledge that the juvenile court had
5 jurisdiction over Barber but lost it.

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7 The *Barren* Court held that the juvenile court's jurisdiction begins on the
8 date the State initiates proceedings against the juvenile. Here, the juvenile court
9 acquired jurisdiction on 05/12/09, the date the State filed the petition against
10 Barber. The State and the juvenile court did nothing on Barber's case until
11 08/16/10 when the State requested a certification hearing. NRS 62D.310 requires
12 a final disposition of a petition within one year of the filing of the petition. Thus,
13 NRS 62D.310 is a statute of limitations requirement that the juvenile court must
14 follow or lose jurisdiction.
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18 Because the juvenile court failed to follow the statutory limitations
19 addressed within NRS 62D.310, the juvenile court lost jurisdiction after one year.
20 The State points to no other statutes that would give the district court jurisdiction if
21 the juvenile court had jurisdiction but lost jurisdiction.
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23 In his Reply, the prosecutor cites no Nevada statutes, no Nevada Supreme
24 Court rules, and no case law as authority holding that a defendant in a criminal
25 case should be prohibited from raising any and all issues he or she may want to
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1 raise in an appellate brief.¹ His motion to strike issues within an Appellant's
2 Opening Brief is unprecedented.

3
4 "Due process requires a criminal appeals system to provide 'each defendant
5 a fair opportunity to obtain an adjudication on the merits of his appeal.'" *Hernandez v. State*, 117 Nev. 463, 467 (2001) citing *Evitts v. Lucey*, 469 U.S. 387,
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7 405 (1985). If the Court grants the State's motion to strike Issue I and Issue II,
8 Barber would be denied "a fair opportunity" to litigate his issues on the merits.
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11 The State also argues that the Motion to Seal is moot if the Court grants his
12 motion to strike. The argument is not developed sufficiently to allow for a
13 response. However, as noted in the Opposition, the documents within the Motion
14 to Seal are also needed for Issue III.
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16 DATED this 1st day of October, 2013.

17
18 PHILIP J. KOHN
19 CLARK COUNTY PUBLIC DEFENDER

20
21 By 
22 SHARON G. DICKINSON, #3710
23 Deputy Public Defender
24
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27 ¹ The prosecutor misunderstands Barber's reference to *Truesdell v. State*, 304
28 P.3d 396 (2013). Barber used it as an example to show that an issue may be raised
within a brief and the Nevada Supreme Court may decide not to address the issue.

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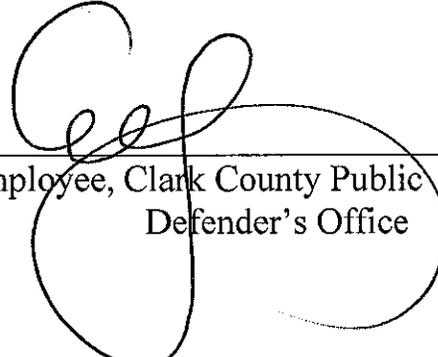
CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 3rd day of October, 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