

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

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3  
4 BENNETT GRIMES, )

5 Appellant, )

6 vs. )

7  
8 THE STATE OF NEVADA, )

9 Respondent. )

Electronically Filed  
Aug 28 2013 10:17 a.m.  
Tracie K. Lindeman  
Case No. 62805 Supreme Court  
Clerk

10  
11 **APPELLANT'S MOTION FOR TRANSMISSION**  
12 **OF ORIGINAL EXHIBITS**

13  
14 Comes Now Appellant BENNETT GRIMES, by and through Deputy Public  
15 Defender DEBORAH L. WESTBROOK, and moves for an order directing the  
16 District Court Clerk to transmit State's Exhibits 79 and 80 to this Honorable Court  
17 pursuant to NRAP 30(d) and 10(b)(2).

18  
19 This Motion is based upon the following Memorandum and all papers and  
20 pleadings on file herein.

21  
22 DATED this 28<sup>th</sup> day of August, 2013.

23 PHILIP J. KOHN  
24 CLARK COUNTY PUBLIC DEFENDER

25  
26 By           /s/ Deborah L. Westbrook  
27 DEBORAH L. WESTBROOK, #9285  
28 Deputy Public Defender

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Rule 30(d) of the Nevada Rules of Appellate Procedure allows an appellant  
3  
4 to include copies of relevant and necessary exhibits in the appendix. However, if  
5 an exhibit is not able to be reproduced,

6  
7 the parties may file a motion requesting the Supreme Court to direct  
8 the district court clerk to transmit the original exhibits. The Supreme  
9 Court will not permit the transmittal of original exhibits except upon  
10 a showing that the exhibits are relevant to the issues raised on appeal,  
11 and that the Supreme Court's review of the original exhibits is  
12 necessary to the determination of the issues.

13 NRAP 30(d).

14 Appellant asks that this Court direct the District Court Clerk's office to  
15 transmit State's Exhibits 79 and 80 to this Honorable Court. State's Exhibit 79  
16 (identified in Appellant's Appendix at V: 1087) is a recording of Metro Police's  
17 phone call to Stephanie Newman on July 22, 2011, made shortly before the  
18 incident in question. State's Exhibit 80 (identified in Appellant's Appendix at V:  
19 1088) is a recording of Aneka Grimes' 911 call to Metro Police, also made shortly  
20 before the incident in question. On the 911 tapes, Aneka and her mother can be  
21 heard yelling at Bennett Grimes, while he sobs and pleads for Aneka to take him  
22 back. (V: 1087-88). The content of these tapes are relevant to two of the issues  
23 raised in Appellant's Fast Track Statement: (1) whether there was sufficient  
24 evidence to support an inference of self defense to warrant a self defense  
25 instruction; and (2) whether Bennett possessed the necessary criminal intent for a  
26  
27  
28

1 burglary when he entered his wife's apartment, begging and pleading for her to  
2 take him back. Appellant cites to both Exhibits in his Fast Track Statement at pp.  
3  
4 8, 12, and 26 and, unless the District Court is directed to transmit both Exhibits to  
5 this Honorable Court, those citations will be unsupported.

6  
7 Therefore Appellant requests that this Honorable Court direct the Eighth  
8 Judicial District Court Clerk to transmit State's Exhibits 79 and 80 for this Court's  
9 review.

10  
11 DATED this 28<sup>th</sup> day of August, 2013.

12 PHILIP J. KOHN  
13 CLARK COUNTY PUBLIC DEFENDER

14  
15  
16 By /s/ Deborah L. Westbrook  
17 DEBORAH L. WESTBROOK, #9285  
18 Deputy Public Defender  
19 309 So. Third Street, Suite #226  
20 Las Vegas, Nevada 89155-2610  
21 (702) 455-4821  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that this document was filed electronically with the  
3 Nevada Supreme Court on the 28<sup>th</sup> day of August, 2013. Electronic Service of the  
4 foregoing document shall be made in accordance with the Master Service List as  
5 follows:  
6

7  
8 CATHERINE CORTEZ MASTO                      DEBORAH L. WESTBROOK  
9 STEVEN S. OWENS                                HOWARD S. BROOKS

10 I further certify that I served a copy of this document by mailing a  
11 true and correct copy thereof, postage pre-paid, addressed to:  
12

13 BENNETT GRIMES  
14 NDOC No. 1098810  
15 c/o High Desert State Prison  
16 P.O. Box 650  
Indian Springs, NV 89018

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18  
19 BY           /s/ Carrie M. Connolly            
20 Employee, Clark County Public  
21 Defender's Office  
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