

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

DUSTIN BARRAL,  
Appellant,

v.

THE STATE OF NEVADA,  
Respondent.

Electronically Filed  
Dec 31 2015 02:34 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

CASE NO: 64135

**MOTION TO RECALL AND STAY ISSUANCE OF REMITTITUR**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, STEVEN S. OWENS, and submits this Motion to Recall and Stay Issuance of Remittitur.

This Motion is based on the following memorandum, declaration, and all papers and pleadings on file herein.

Dated this 31<sup>st</sup> day of December, 2015.

Respectfully submitted,

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY */s/ Steven S. Owens*

\_\_\_\_\_  
STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar #004352  
Office of the Clark County District Attorney

**MEMORANDUM**

On July 23, 2015, this Court issued an Opinion in this appeal reversing a criminal conviction for two counts of sexual assault on a minor due to structural error in the failure to administer a voir dire oath to prospective jurors. The State's petition for rehearing was denied on September 25, 2015. The State's petition for en banc reconsideration was denied on December 2, 2015. Remittitur issued on December 28, 2015.

Pursuant to NRAP 41(a), remittitur shall issue 25 days after entry of judgment or entry of an order denying a petition for rehearing or en banc reconsideration. However, NRAP 41(b) allows for a stay of the remittitur pending application to the Supreme Court of the United States for a writ of certiorari. Such stay shall not exceed 120 days, but once notice is received that a petition for writ of certiorari has been filed, the stay shall continue until final disposition by the Supreme Court of the United States. NRAP 41(b). Under Supreme Court rule, the State has 90 days from December 2, 2015, in which to file a petition for writ of certiorari. 28 U.S.C. §2101(c); U.S.C.S. Supreme Ct. R. 13.1.

WHEREFORE, the State respectfully requests that remitter be recalled and stayed pending the filing of a petition for writ of certiorari.

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Dated this 31<sup>st</sup> day of December, 2015.

Respectfully submitted,

**STEVEN B. WOLFSON**  
Clark County District Attorney

BY */s/ Steven S. Owens*

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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on December 31, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT  
Nevada Attorney General

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Counsel for Appellant

STEVEN S. OWENS  
Chief Deputy District Attorney

BY /s/ j.garcia  
Employee, District Attorney's Office

SSO//jg