

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ERNESTO MANUEL GONZALEZ

Case No. 64249

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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**MOTION TO DIRECT THE DISTRICT COURT CLERK TO
TRANSMIT ORIGINAL EXHIBITS**

COMES NOW, Appellant, Ernesto Manuel Gonzalez, pursuant to NRAP 30(d), and moves this Honorable Court for an order to direct the District Court Clerk (the Second Judicial District of the State of Nevada) to transmit the following original exhibits: Exhibit 151 and Exhibits 1, 1A and 130 prior to September 2, 2015, or the date of the *en banc* oral argument herein.

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The within Motion is based upon the accompanying of Memorandum of Points and Authorities as well as the entire record and briefs filed herein.

DATED this 5 day of August, 2015.

Respectfully submitted,

LAW OFFICES OF RICHARD F. CORNELL
150 Ridge Street, Second Floor
Reno, NV 89501

By: 
Richard F. Cornell

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MEMORANDUM OF POINTS AND AUTHORITIES

This is a high profile case, involving a major skirmish between two motorcycle clubs on September 23, 2011, resulting in the shooting death of one and ultimate first degree murder conviction of the Appellant.

Two of the major issues in this case are numbers 2 and 3: Whether Appellant was entitled to a complete, accurate defense of others instruction, independently of the self-defense instruction given; and whether Appellant was entitled to an accomplice distrust instruction.

This case is unique in that it happened inside of a casino with a number of video cameras. Thus, the alleged first degree murder was caught on tape.

The State's second witness was a Bill Pritchard, the surveillance supervisor at John Ascuaga's Nugget. (AAv11: 26-28) He gave narrative testimony (to the extent that the trial prosecutor did not so - and Mr. Hall did a considerable amount of that throughout the trial!) by taking a video tape which was a composite from various casino cameras and placing it onto a "thumb drive." It appears that that video was marked and admitted as Exhibit 151 (Id. at 2645-46) The witness testified by referencing the video to Exhibit 1, an arial photograph of John Ascuaga's Nugget (Id. at 2635-36) and apparent demonstrative extension of that as Exhibit 1A (Id. at 2644-45) and another similar diagram, Exhibit 130 (Id. at

2659),

The State's position is based upon what is on those tapes, the trial court did not commit error - plain or otherwise - as to those two assignments. Appellant's contention, of course, is exactly to the contrary.

NRAP 30(d) allows the parties to file a motion to request the Supreme Court to direct the district court clerk to transmit original exhibits, where they are incapable being reproduced in the appendix. Obviously, a DVD compilation of film from 16 separate monitors fits that definition.

While Mr. Pritchard and other witnesses described what is on that video throughout the trial with reasonable specificity, the position of both parties makes review of the original exhibits necessary -or, at the least, very helpful- to the determination of the issues. Therefore, this Motion should be granted.

DATED this 5 day of August, 2015.

Respectfully submitted,

LAW OFFICES OF RICHARD F. CORNELL
150 Ridge Street, Second Floor
Reno, NV 89501

By: 
Richard F. Cornell


CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I certify that I am an employee of LAW
OFFICES OF RICHARD F. CORNELL, and that on this date I caused a true and
correct copy of the foregoing document to be delivered by Reno Carson

Messenger Service, addressed to:

Washoe County District Attorney's Office
Appellate Division
One S. Sierra St., 7th Floor
Reno, NV 89501

DATED this 5th day of August, 2015.


Marianne Tom-Kadlic
Legal Assistant