

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES DAEVON MANNING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65856

FILED

NOV 04 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DIRECTING FULL BRIEFING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery with intent to commit a crime. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Having reviewed the briefs and the record on appeal, this court concludes that full briefing and oral argument are warranted. See NRAP 3C(k)(1). However, briefing and argument should be limited to the following issue:

- In *Lisby v. State*, this court discussed when a lesser included offense instruction is required sua sponte. 82 Nev. 183, 187, 414 P.2d 592, 595 (1966). Considering this precedent, the doctrine of *stare decisis*, and the fact that Nevada is in the minority of jurisdictions that require sua sponte instructions, discuss whether this court should reconsider *Lisby*, and if so, to what extent. For the purposes of this question, assume that *Lisby* requires a sua sponte lesser included offense instruction in this case.

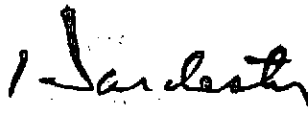
Counsel for the parties shall fully brief the issue as provided in NRAP 28, 28.2, 30, 31 and 32.¹ Appellant shall have 30 days from the

¹Counsel need not file a new appendix and may utilize the fast track appendix previously filed in this court. Counsel should note, however, that every reference in the briefs to matters of record must be supported

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date of this order to file and serve the opening brief.² Thereafter, briefing shall proceed in accordance with the schedule set forth in NRAP 31(a)(1). Upon the completion of briefing, the clerk of this court shall schedule this matter for oral argument before the en banc court on the next available calendar.

It is so ORDERED.


_____, C.J.
Hardesty

cc: Hon. Douglas W. Herndon, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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by a citation to the page of the appendix where the matter is found. See NRAP 28(e). Further, if a party's brief will cite to documents not previously filed in this court, the party must file and serve an appropriately documented supplemental appendix with the brief. See NRAP 3C(k)(3).

²In the absence of an objection to the sufficiency of the rough draft transcripts, see NRAP 3C(d)(5), counsel need not file a certified transcript in this appeal as ordinarily required under NRAP 9. See NRAP 3C(k)(3).