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Appellant,

VS.

Respondent.

Electronically Filed
Feb 23 2015 11:35 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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1 **DECLARATION OF DEBORAH L. WESTBROOK**

2 1. I am an attorney licensed to practice law in the State of Nevada; I
3
4 am the deputy public defender assigned to represent STEVEN DALE
5 FARMER in this appeal; I am familiar with the procedural history of this
6
7 case.

8 2. The record on appeal in the instant case is voluminous and the
9
10 Appendix consists of fifteen (15) volumes totaling 2,846 pages. Mr.
11 Farmer's case originated in May of 2008 and his Judgment of Conviction was
12
13 not filed until June of 2016. As a result, the Appendix contains **six (6) years'**
14
15 worth of legal filings, transcripts, court minutes, and other documents which
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17 gave rise to multiple discrete legal issues on appeal. The Appendix also
18
19 contains two consolidated district court cases (Case Nos. C245739 and
20
21 C249693), which had distinct procedural histories for two years until they
22
23 were consolidated in 2010. Mr. Farmer's jury trial was sixteen (16) days-
24
25 long, and involved testimony from five (5) alleged victims, each of whom
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27 had distinct complaints against Mr. Farmer. All told, twenty-five (25)
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witnesses testified during the trial, and the court made numerous evidentiary
rulings during the various witnesses' testimony, many of which are now
being challenged on appeal.

1 3. Mr. Farmer's Opening Brief raises the following nine (9) primary
2 issues and thirteen (13) sub-issues:
3

4 I. The trial court erred by granting the State's joinder motion and denying
5 Mr. Farmer's severance motion.

6 II. The trial court violated the Fifth, Sixth, and Fourteenth Amendments
7 and Nevada's constitution by unreasonably restricting cross-
8 examination.

9 a. Limitations on Cross Examination of Roxanne and Scott
10 Cagnina.

11 b. Limitations on Cross Examination of Marcia Petersen.

12 c. Limitations on Cross Examination of Margaret Wolfe.

13 d. The Court's Rulings were not Harmless beyond a Reasonable
14 Doubt.

15
16 III. The trial court violated the Fifth, Sixth, and Fourteenth Amendments
17 and Nevada's Constitution by admitting Marcia Petersen's deposition
18 at trial where Mr. Farmer had been denied an opportunity for effective
19 cross examination.

20 IV. The State violated the Fifth, Sixth, and Fourteenth Amendments and
21 Nevada's Constitution by committing repeated acts of misconduct
22 during the trial.

23 a. Vouching for Witnesses in Closing.

24 b. Disparaging the Defense.

25 c. Misstating the Evidence.

26 d. Burden Shifting.
27
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1 V. The trial court erred in admitting prejudicial and irrelevant evidence
2 without offering any curative instructions and excluding relevant
3 defense evidence.

4 a. Victim Impact Evidence Regarding Heather Shank.

5 b. Victim Impact Evidence Regarding Roxanne Cagnina.

6 c. Failure to offer any Curative Instruction.

7 d. Refusal to admit Marcia Petersen's diary.

8 e. Admission of Bad Act evidence.

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11 VI. The State's witnesses improperly vouched for one another.

12 VII. The trial court denied Mr. Farmer's constitutional right to a speedy
13 trial.

14 VIII. The sentence imposed amounts to cruel and unusual punishment.

15 IX. Cumulative error warrants reversal.

16
17 4. A constitutionally sufficient analysis of the above issues required
18 briefing in excess of that otherwise allowed by **NRAP 32(a)(7)(A)**. For
19 instance, in order to demonstrate that the five accusers' cases were
20 improperly joined, I undertook an in-depth analysis of the differences
21 between each accuser's claims and defenses, why they could not be joined
22 under the "common scheme or plan" exception, and how Mr. Farmer was
23 prejudiced by the joinder. In order to effectively demonstrate error from the
24 court's various mid-trial rulings (*e.g.*, limiting cross examination, allowing
25 prejudicial victim impact evidence, denying requests for mistrial and curative
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1 instructions, excluding evidence of a victim's dying declaration, and failing
2 to put a stop to prosecutorial misconduct in closing), I had to include
3 sufficient detail to put each error into context for this Court's review,
4 explaining why certain evidence was offered, why it was (or was not)
5 relevant or prejudicial, and how the evidence was argued used in closing.
6 This required substantial detail due to the complexity of the case and the
7 sheer number of witnesses, accusers, and accusations against Mr. Farmer.
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11 5. I believe that each issue raised is meritorious and raises a separate
12 ground upon which relief may be granted. Excluding any of these issues
13 would violate Mr. Farmer's constitutional rights to due process and effective
14 assistance of counsel, particularly where he is 62 years old, serving three
15 consecutive life sentences, and has no prior criminal history.
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6. Accordingly, I am requesting that this Honorable Court grant Mr. Farmer leave to submit the Opening Brief in excess of 14,000 words and 1,300 lines of text. Mr. Farmer's Opening Brief contains 17,327 words and 1,722 lines of text.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 23rd day of February, 2015.

/s/ Deborah L. Westbrook
DEBORAH L. WESTBROOK

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