

IN THE SUPREME COURT OF THE STATE OF NEVADA

RODERICK STEPHEN SKINNER,  
Appellant,

v.

THE STATE OF NEVADA,  
Respondent.

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RESPONDENT'S ANSWERING BRIEF

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RESPONDENT'S ANSWERING BRIEF

I. STATEMENT OF THE CASE

The procedural history presented by the appellant is adequate.

II. STATEMENT OF THE FACTS

The underlying facts involve sexual contact with children. The details have not been explored because appellant pleaded guilty.

III. ARGUMENT

The District Court Did Not Abuse its Discretion at Sentencing.

Appellant Skinner contends that this Court should substitute its judgment for that of the district court and determine that probation is appropriate instead of a prison sentence. The State notes at the outset that the entire argument is based on the proposition that the district court had the authority to order the defendant to return to his native Australia as a condition of probation. The court lacks that authority. *See United States v. Jalilian*, 896

F.2d 447 (10<sup>th</sup> Cir. 1990)(authority over deportation matters rests exclusively with the Attorney General of the United States). Thus, the entire alternative sentence, involving probation and returning to Australia, is ethereal.

When considering probation, the district court found that the plan was insufficiently punitive. JA 218. That is the role of the sentencing court and this Court should not intervene. This Court has ruled many times that it will not interfere with a sentence that is within the range allowed by the legislature unless the sentence is based solely on impalpable or highly suspect evidence. *Allred v. State*, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004). As the sentence is within that range and Skinner has not identified any inappropriate evidence, the judgment should be affirmed.

#### IV. CONCLUSION

The district court evaluated the options and elected a prison sentence. That sentence was within the range established by the legislature and so the judgment of the Second Judicial District Court should be affirmed.

DATED: March 11, 2015.

CHRISTOPHER J. HICKS  
DISTRICT ATTORNEY

By: TERRENCE P. McCARTHY  
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### CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Corel WordPerfect X3 in 14 Georgia font. However, WordPerfect's double-spacing is smaller than that of Word, so in an effort to comply with the formatting requirements, this WordPerfect document has a spacing of 2.45. I believe that this change in spacing matches the double spacing of a Word document.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it does not exceed 30 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada

Rules of Appellate Procedure.

DATED: March 11, 2015.

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### **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on March 11, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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