

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

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4 JONATHAN QUISANO,                                   )

5                                   Appellant,                                   )

6                                   vs.                                   )

7                                   THE STATE OF NEVADA,                                   )

8                                   Respondent.                                   )

Electronically Filed  
Mar 18 2016 01:35 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
Case No. 66816

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11                                   **MOTION TO STRIKE THE STATE'S PETITION FOR REVIEW**  
12                                   **BY THE NEVADA SUPREME COURT**

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14                                   COMES NOW Appellant, JONATHAN QUISANO, by and through  
15 his attorney, NORMAN J. REED, Deputy Public Defender, and moves this  
16 Honorable Court to Strike the State's Petition for Review by the Nevada Supreme  
17 Court in the above entitled case.

18  
19                                   This Motion is based upon the following declaration and all papers  
20 and pleadings on file herein.

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22                                   DATED this 18<sup>th</sup> day of March, 2016.

23                                   PHILIP J. KOHN  
24                                   CLARK COUNTY PUBLIC DEFENDER

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27                                   By /s/ Norman J. Reed  
28                                   NORMAN J. REED, #3795  
                                 Deputy Public Defender

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1 party aggrieved by a decision of the Court of Appeals may file a petition  
2 for review with the clerk of the Supreme Court. The petition must state  
3 the question(s) presented for review and the reason(s) review is  
4 warranted. Supreme Court review is not a matter of right but of judicial  
discretion.

5 In Kay v. Nunez, 122 Nev. 1100, 146 P.3d 801(2006), this Court discussed what  
6 constitutes an “aggrieved party” for the purposes of appeal.  
7

8 We now address a threshold issue raised by Nunez and the Board: whether  
9 Kay had standing to seek judicial review. The Board and Nunez argue that Kay  
10 lacked standing to challenge the Board's decision in district court because he was  
11 not “aggrieved” under NRS 278.3195(4). They assert that he was required to show  
12 either a “special or peculiar” injury not suffered by the public as a whole or an  
13 adversely and substantially affected property right and that he failed to do so.  
14 Although we have required a “special or peculiar injury” in the context of street  
15 vacations and have *defined* an “aggrieved party” for general appellate purposes  
16 as one whose personal or property right has been “adversely and substantially  
17 affected,”<sup>1</sup> the Legislature has substituted its own **definition** of “aggrieved” for  
18 purposes of local zoning and land use planning decisions (emphasis added) 146  
19 P.3d at 805-06. Respondent’s rights have not been adversely or substantially  
20 affected. The government won the appeal. Therefore, under NRAP40B(a) and  
21 Kay, the State is not a “party aggrieved” by the Appellate Court, so the State does  
22 not have standing to seek review.  
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**CONCLUSION**

Based on the foregoing, Respondent's Motion to Strike the State's Petition for Review by this court should be granted.

DATED this 18<sup>th</sup> day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By /s/ Norman J. Reed  
NORMAN J. REED, #3795  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 18<sup>th</sup> day of March, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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	HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

JONATHAN QUISANO  
NDOC No. 1128389  
c/o High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89018

BY /s/ Carrie M. Connolly  
Employee, Clark County Public  
Defender's Office