

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

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**RALPH SIMON JEREMIAS**

Appellant,

vs.

**THE STATE OF NEVADA**

Respondent.

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**Docket No. 67228**

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Direct Appeal From A Judgment of Conviction  
Eighth Judicial District Court  
The Honorable Valerie Adair, District Judge  
District Court No. C256769

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**MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF**

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JoNell Thomas  
State Bar #4771  
Chief Deputy Special Public Defender  
David M. Schieck  
State Bar #0824  
Special Public Defender  
330 South 3<sup>rd</sup> Street  
Las Vegas, NV 89155  
(702) 455-6265  
Attorneys for Ralph Jeremias

Comes now the Appellant Ralph Jeremias and requests that this Court allow him to file a supplemental brief addressing Hurst v. Florida, 136 S.Ct. 616 (2016), and the jury instructions at the penalty phase of this capital case as they concern the State's burden of proof regarding the weighing of aggravating and mitigating circumstances.

At the time of Jeremias's trial, the controlling law in this jurisdiction on this issue was Nunnery v. State, 127 Nev. 749, 263 P.3d 235 (2011). Based upon Nunnery, Jeremias's trial counsel did not object to the relevant jury instruction and an issue concerning the burden of proof for the weighing of aggravating and mitigating circumstances was not presented in the Opening Brief, which was filed on October 1, 2015. After the filing of the Opening Brief, the United States Supreme Court issued its decision in Hurst. As set forth in the attached declaration, upon a thorough review of the Hurst decision, undersigned counsel determined that the issue was relevant to Jeremias's death sentences and that by application of the rule announced in Griffith v. Kentucky, 479 U.S. 314, 322 (1987), in which the United States Supreme Court held that its decisions on issues of constitutional law must be applied to cases on direct appeal in state courts, this issue should be presented to this Court for its consideration.

Appellant Jeremias therefore respectfully requests that the Supplemental Brief which is submitted contemporaneously herewith be filed.

Dated: November 17, 2016

Respectfully submitted,

*/s/ JONELL THOMAS*

By: \_\_\_\_\_

JONELL THOMAS

State Bar No. 4771

**DECLARATION OF JONELL THOMAS**

1. At the time of Jeremias's trial, the controlling law in this jurisdiction on the issue of the burden of proof for the weighing determination in capital cases was Nunnery v. State, 127 Nev. 749, 263 P.3d 235 (2011). I was appellate counsel for Mr. Nunnery and was familiar with its holding. Based upon Nunnery, Jeremias's trial counsel did not object to the relevant jury instruction during Mr. Jeremias's penalty trial. I also did not raise this issue on direct appeal based upon the Nunnery decision.

2. After the filing of the Opening Brief, the United States Supreme Court issued its decision in Hurst v. Florida. I was aware of the general holding but did not thoroughly examine the opinion until recently. Upon a thorough review of the Hurst decision, I determined that the issue was relevant to Jeremias's death sentences and

that by application of the rule announced in Griffith v. Kentucky, 479 U.S. 314, 322 (1987), this issue should be presented to this Court for its consideration.

DATED this 17th day of November, 2016

*/s/ JONELL THOMAS*

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JoNell Thomas  
Nevada Bar No. 4771

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on the 17<sup>th</sup> day of November, 2016, a copy of the Appellant's Motion for Leave to File Supplemental Brief was served as follows:

**BY ELECTRONIC FILING TO**

District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas, NV 89155

Nevada Attorney General  
100 N. Carson St.  
Carson City NV 89701

*/s/ JONELL THOMAS*

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JONELL THOMAS