IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JOSEPH JEFFRIES, Defendant/Appellant, vs. THE STATE OF NEVADA, Plaintiff/Respondent.	CASE NO. 68338

Electronically Filed
Nov 21 2016 08:09 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT MICHAEL JOSEPH JEFFRIES' SECOND NOTICE OF SUPPLMENTAL AUTHORITIES

Pursuant to Rule 31(e) of the Nevada Rules of Appellate Procedure ("NRAP"), Michael Joseph Jeffries, Appellant in the above-entitled matter, by and through his attorney, Vincent Savarese III, Esq., of the law firm of Gentile Cristalli Miller Armeni Savarese, files this Second Notice of Supplemental Authorities in the above-entitled matter.

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Docket 68338 Document 2016-36177

NRAP 31(e) (Supplemental Authorities) provides:

> "When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the Supreme Court or Court of Appeals by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues. Any response must be made promptly and must be similarly limited. If filed less than 10 days before oral argument, a notice of supplemental authorities shall not be assured of consideration by the court at oral argument; provided, however, that no notice of supplemental authorities shall be rejected for filing on the ground that it was filed less than 10 days before oral argument."

Pursuant thereto, Appellant respectfully advises the Court of the pertinence in this appeal of the decision of the United States Court of Appeals for the Ninth Circuit in *Tarango v. McDaniel,* 837 F.3d 936 (9th Cir.) (Amended September 16, 2016) (holding pursuant to federal habeas corpus review that Nevada Supreme Court violated clearly established United States Supreme Court case law in affirming appellant's conviction in *Tarango v. State,* 123 Nev. 864, 210 P.3d 773 (2007)), which decision was rendered subsequent to the filing of all briefs in the instant case.

Appellant cites this decision for the legal proposition that "due process requires a trial judge to endeavor to 'determine the effect' of occurrences tending to prejudice the jury when they happen." 837 F.3d at 947. This citation supplements

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Appellant's Opening Brief at pp. 25-32, and Appellant's Reply Brief at pp. 7-16.

Dated this 18th day of November, 2016.

GENTILE CRISTALLI
MILLER ARMENI SAVARESE

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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On November 18th, 2016, I caused to be served a true and correct copy of the foregoing **APPELLANT MICHAEL JOSEPH JEFFRIES' SECOND NOTICE OF SUPPLEMENTAL AUTHORITIES**, by the method indicated:

☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).

☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐ **BY PERSONAL DELIVERY:** by causing personal delivery of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

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