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CLERK OF SUPREME COURT

2016 FEB 10 PM 12:40

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE SPARKS,

Petitioner.

vs.

ROB BARE DISTRICT JUDGE, EIGHTH JUDICIAL  
DISTRICT COURT; STEVEN GRIERSON,  
CLERK OF THE EIGHTH JUDICIAL DISTRICT  
COURT; HENDERSON CLERK OF THE MUNICIPAL  
; AND THE HONORABLE MARK STEVENS

Respondents,

and

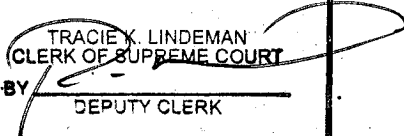
CITY OF HENDERSON,

Real Party in Interest.

S.C. Docket No. 69073

**FILED**

FEB 11 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

MOTION TO FILE A REPLY TO "RESPONDENT CITY OF HENDERSON'S

ANSWER TO PRO SE PETITION FOR WRIT OF

PROHIBITION/MANDAMUS/CERTIORARI"

COMES NOW LAWRENCE SPARKS Petitioner to file this MOTION TO FILE A

REPLY TO "RESPONDENT CITY OF HENDERSON'S ANSWER TO PRO SE

PETITION FOR WRIT OF PROHIBITION/MANDAMUS/CERTIORARI".

**RECEIVED**

FEB 11 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

16-04628

1 This court in the order directing an Answer anticipated the possibility of  
2 Petitioner filing a reply in footnote 5 page 2. Petitioner now having seen the Answer,  
3 makes this specific request to file a Reply based on good reasons.  
4

5 First, only after Petitioner's petition was deposited in the "drop box" at the Las  
6 Vegas Regional Justice Center on Oct 27, 2015 and after the supplement deposited in  
7 the "drop box" on November 9, 2015 did certain important documents just recently  
8 come into petitioner's hands that are very relevant to a proper determination to the  
9 issue at hand.  
10

11 Exhibit 1 attached is a copy of a certified copy of a Decision and Order by then  
12 district court Judge Pavlikowski ("Pavlikowski") hearing a misdemeanor appeal,  
13 case # C145221 cites in his Order two of the cases that the City of Henderson  
14 ("City") cites in their Answer, Braham v. District Court, 103 Nev. 644, 747 P.2d  
15 1390 (1987) pages 9,15,16 of Answer and State v. O'Donnell, 98 Nev. 305,646 P.2d  
16 1217 (1982) Page 14 of Answer, both exactly on point to this very transcript issue.  
17 Pavlikowski cites the cases with the correct context unlike the City does in their  
18 Answer.  
19

20 Pavlikowski put the proper burden on the Muni. Court to transmit the transcript  
21 pursuant to NRS 189.030. and reserved ruling on NRS 19.013(4) as to whether the  
22 appellant even had to pay for a transcript at all.  
23

24 Exhibit 2 attached is a copy of a certified copy of an Order To Provide Transcript  
25  
26  
27  
28

1 signed by then Judge Loehrer ("Loehrer") hearing a misdemeanor appeal case #  
2 C164390 and the corresponding minutes. Although Loehrer does not state the basis  
3 of the order in the order, the minutes state clearly that:  
4

5 " Mr. Watkins advised believes the City has to provide the transcript and  
6 referred to Nevada revised statute, 189.030. Court reviewed statute and  
7 advised the City has to provide the transcript, however, cost can be  
8 assessed at the end of the proceedings."

9 Loehrer subsequently ordered the transcript to be provided by the City of Las  
10 Vegas."

11 Exhibit 3 attached is a copy of a certified copy of minutes in another  
12 misdemeanor appeal Case #03C191537 by then district Judge Michael Douglas  
13 ("Douglas"). The minutes are quite clear:  
14

15 "Court stated its findings, and ORDERED, the 10-day rule applies and it  
16 is the obligation of the lower Court of record to provide a transcript  
17 within 10 days." (emphasis added)

18 Then district Judge Douglas is now a Supreme Court Justice made the foregoing  
19 ruling in 2003 the law has not changed in any regard from Pavlikowski's ruling in  
20 1998 through 2003 and even to the present. Most interestingly the Respondent in the  
21 case in which Douglas was sitting was the CITY OF HENDERSON itself!  
22

23 The City did not ask for reconsideration of Judge Douglas' decision nor seek relief  
24 with this court. The law was and is clear as to who's burden it is to supply the  
25 transcript, on misdemeanor appeals, therefore the City had no argument.  
26  
27  
28

1 Petitioner requests that this court take judicial notice of the foregoing exhibits and  
2 the cases presented.

3  
4 Petitioner should be allowed to file a reply and submit case law and the  
5 appropriate support so that this court can make a full and informed decision of this  
6 very important issue that affects hundreds of misdemeanor appellants in the state of  
7 Nevada every year. Except, that Petitioner requests that this court state in its order  
8 allowing a reply that petitioner does not need to respond to Argument I. (This Court  
9 lacks jurisdiction to entertain a writ of prohibition or mandamus in this case  
10 since it originated from municipal court proceedings) Or II. (This Court lacks  
11 jurisdiction to entertain a writ of certiorari as neither the municipal court nor  
12 the District Court passed upon the Constitutionality or validity of any statute or  
13 ordinance related to this case.) As both are frivolous on their face.

14  
15  
16  
17 As to Argument I. State v. O'Donnell above is a mandamus, where mandamus  
18 was granted in an issue directly involving NRS 189.030 and this court addressed the  
19 merits even though an Answer was not filed. The case law has not changed and  
20 O'Donnell is still good law and a case the City actually cites in their Answer.

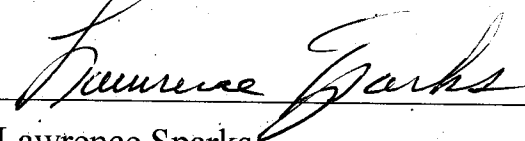
21  
22 As to Argument II. Braham is a case the City also cites and in Braham Certiorari  
23 was granted and Braham was not decided not on constitutionality but just on the  
24 language and statutory construction of NRS 189.030 and supporting statutory  
25 scheme.  
26  
27  
28

1 So both arguments are frivolous  
2

3  
4 **CONCLUSION**  
5

6 For the foregoing reasons Petitioner respectfully requests that he be allowed to  
7  
8 file a reply to the Answer except that Petitioner not need to respond to Argument I. or  
9 Argument II. Or in the alternative to grant such other relief as is proper and just.  
10

11  
12 DATED this day of February, 2016.

13   
14 Lawrence Sparks

15 817 Arrowhead Trail  
16 Henderson, Nevada 89002  
17 (714) 391-3766  
18

19 **CERTIFICATE OF SERVICE**

20 I, the undersigned, hereby certify that service of the foregoing:

21 **MOTION TO FILE A REPLY TO "RESPONDENT CITY OF**  
22  
23 **HENDERSON'S ANSWER TO PRO SE PETITION FOR WRIT OF**  
24 **PROHIBITION/MANDAMUS/CERTIORARI** was accomplished by depositing  
25 a copy first-class postage prepaid in the U.S. Mail on the 9th day of February  
26  
27  
28

1 2016 as follows:

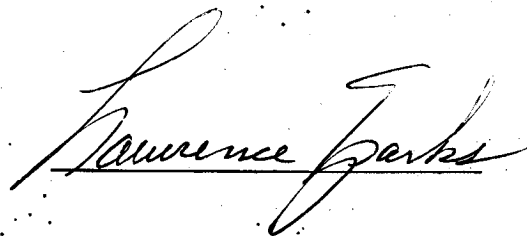
2 Steveen Grierson, CEO/Clerk  
3 8<sup>th</sup> Judicial Dist. Ct.  
4 200 S. Third St.  
5 Las Vegas, Nv. 89115

6 The Henderson Municipal Court Clerk  
7 243 Water St.  
8 Henderson, Nv. 89015

The Henderson Municipal Court  
The Honorable Mark J. Stevens  
243 Water St., 3<sup>rd</sup> Floor  
Henderson, Nv. 89015

The Honorable, Rob Bare  
8<sup>th</sup> Judicial Dist. Ct. Dept 32  
200 Lewis Ave. 3<sup>rd</sup> Floor, Rm 3C  
Las Vegas, Nv. 89155

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# EXHIBIT 1

EXHIBIT 1

ORIGINAL

ORD

JOHN GLENN WATKINS, ESQ.  
Nevada Bar No. 01574  
804 S. Sixth Street  
Las Vegas, Nevada 89101  
(702) 383-1006

FILED

1998 FEB 11 A 10:49

DISTRICT COURT

CLERK

CLARK COUNTY, NEVADA

-oOo-

HUNG BACK,

Appellant-Defendant,

vs.

CITY OF LAS VEGAS, NEVADA,

Respondent-Plaintiff.

CASE NO: C145221

DEPT. NO: III

DOCKET NO: "E"

DECISION AND ORDER

THIS MATTER having come on for hearing January 30, 1998 at the hour of 9:00 o'clock A.M., the parties being represented by respective counsel and having reviewed the file and read the submitted briefs, good cause appearing, it is

**HELD:** That the trial court must transmit to the clerk of the district court the transcript of the case within 10 days after the notice of appeal is filed regardless of whether or not payment for the transcript has been made. See NRS 189.030; *Braham v. District Court*, 103 Nev. 644, 747 P.2d 1390 (1987). It is further,

**HELD:** That NRS 189.030 has been violated in the instant case. However, this Court declines to grant the appeal and dismiss the case. See *State v. O'Donnell*, 98 Nev. 305, 646

John G. Watkins  
Attorney at Law

John G. Watkins, Esq.  
804 S. 6th St.  
Las Vegas, NV 89101  
(702) 383-1006  
Fax (702) 383-8118



1 P.2d 1217 (1982). It is further,

2 **HELD:** That the Appellant/Defendant herein is not the party ordering the transcript  
3 of the trial proceedings. See NRS 4.410(2). It is further,

4 **HELD:** That this Court presently withholds a decision regarding NRS 19.013(4).  
5 It is further,

6  
7 **HELD:** That this Court is exercising its discretion to hear the instant appeal before  
8 determining who should be assessed the cost for preparation of the trial transcript. Therefore, it  
9 is,

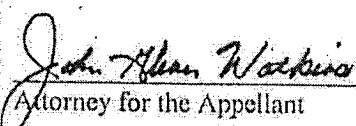
10 **ORDERED:** That the Municipal Court of the City of Las Vegas has 30 days from the date  
11 of this "Decision and Order" to transmit the trial transcript to the clerk of the district court.

12  
13 DATED and DONE this 10 day of February, 1998.

14  
15  
16  
17   
DISTRICT COURT JUDGE

18 Submitted by:

19 JOHN GLENN WATKINS, ESQ.  
20

21   
22 Attorney for the Appellant  
23

24  
25  
26  
27  
28 John G. Watkins  
Attorney at Law

John G. Watkins, Esq.  
804 S. 6th St.  
Las Vegas, NV 89101  
(702) 383-1000  
Fax (702) 383-8118

NOV 25 2015

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

  
CLERK OF THE COURT

# EXHIBIT 2

EXHIBIT 2

1 ORDER

2 ORIGINAL

FILED

3 BRADFORD R. JERBIC  
4 City Attorney  
5 Edward G. Poleski (Bar No. 6455)  
6 Deputy City Attorney  
7 400 East Stewart Avenue, Ninth Floor  
8 Las Vegas, Nevada 89101  
9 (702) 229-6201

MAR 23 3 17 PM '00

*Sally L. Loehrer*  
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

MILAN SELAKOVIC,

Appellant-Defendant,

Case No. C164390

Dept. No. XV

vs.

CITY OF LAS VEGAS, NEVADA,  
Respondent-Plaintiff.

**ORDER TO PROVIDE TRANSCRIPT**

13 This matter having come before the Eighth Judicial District Court by way of appeal from the  
14 conviction of Appellant-Defendant, MILAN SELAKOVIC, in the Municipal Court of the City of Las Vegas,  
15 the case having been set for Initial Appearance on the 17th day of March 2000, the Appellant-Defendant not  
16 being present and being represented by John Watkins, Esq., Respondent-Plaintiff being represented by  
17 Patrick Ferguson, Deputy City Attorney, the Court having considered Appellant-Defendant's oral motion to  
18 require the Las Vegas Municipal Court to provide the trial transcript;

19 IT IS HEREBY ORDERED that the Las Vegas Municipal Court shall order and initially pay for the  
20 trial transcript in this matter without prejudice to this Court's exercise of further jurisdiction as to ultimate  
21 responsibility for the payment of said trial transcript upon resolution of this appeal.

22 DATED this 23rd day of March 2000.

23  
24  
25 *Sally L. Loehrer*  
Honorable Sally Loehrer  
DISTRICT COURT JUDGE

26 Submitted by *Edward G. Poleski*  
27 Edward G. Poleski  
28 400 E. Stewart Ave., 9th Floor  
Las Vegas, Nevada 89101

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

*Shirley L. Ferguson*  
CLERK OF THE COURT

NOV 30 2015

COUNTY CLERK

MAR 3 2000

RECEIVED

Las Vegas City Attorney  
400 E. Stewart Ave., 9th Floor  
Las Vegas, Nevada 89101  
702-229-6201

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Location : District Courts Images Help

## REGISTER OF ACTIONS

**CASE No. 00C164390**

Las Vegas City Of , Plaintiff(s) vs Milan Selakovic, Defendant(s)

Case Type: Criminal Appeal -  
Misdemeanor  
Date Filed: 01/20/2000  
Location: Department Unassigned  
Cross-Reference Case Number: C164390  
Defendant's Scope ID #: 354027  
Lower Court Case Number: C-377034-A

### PARTY INFORMATION

**Defendant** Selakovic, Milan  
Other Agency Numbers  
354027 Scope ID Subject Identifier

**Lead Attorneys**  
John G. Watkins  
Retained  
7023831006(W)

**Plaintiff** Las Vegas City Of  
Other Agency Numbers  
Scope ID Subject Identifier

**Bradford R. Jerbic**  
Retained  
7022286201(W)

### EVENTS & ORDERS OF THE COURT

03/17/2000 Initial Appearance (10:00 AM) ()  
INITIAL APPEARANCE Court Clerk: CINDY HORTON Heard By: Loehrer, Sally

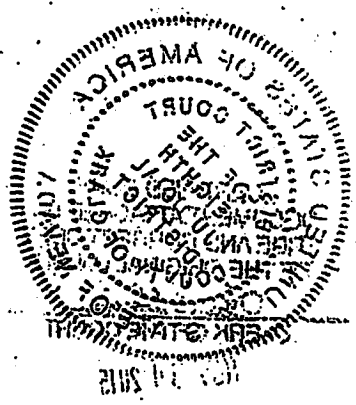
#### Minutes

03/17/2000 10:00 AM

- Mr. Watkins advised believes the City has to provide the transcript and referred to Nevada revised statute, 189.030. Court reviewed statute and advised the City has to provide the transcript, however, cost can be assessed at the end of the proceedings. Mr. Watkins requested a two week continuance to make sure the transcript is prepared. Mr. Ferguson requested thirty days. COURT ORDERED, MATTER CONTINUED THIRTY DAYS.

Parties Present

Return to Register of Actions



# EXHIBIT 3

EXHIBIT 3

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Criminal Appeal -  
Misdemeanor****COURT MINUTES****July 18, 2003**

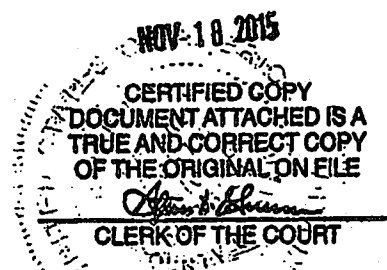
03C191537

**Henderson City Of  
, Plaintiff(s) vs  
Kurt Milana, Defendant(s)****July 18, 2003****10:00 AM****All Pending Motions****ALL PENDING MOTIONS FOR 7/18/03 Court Clerk: Billie Jo Craig  
Reporter/Recorder: Kit MacDonald Heard By: Michael Douglas****PARTIES****PRESENT:**      **Henderson City Of**      **Plaintiff**  
                     **Ng, Lin T.**                      **Attorney**  
                     **Watkins, John G.**                  **Attorney****JOURNAL ENTRIES****- HENDERSON CITY OF ARGUMENT RE: TRANSCRIPT...HENDERSON CITY  
OF STATUS CHECK: SET NEW BRIEFING SCHEDULE**

Ms. Ng appearing for the City of Henderson. Court noted matter set for argument of transcript, fees, and applicable statutes. Mr. Watkins argued the City of Henderson should order the transcript and pay for it. Ms. Ng argued defendant did not make a showing of indigency. Court stated its findings, and ORDERED, the 10-day rule applies and it is the obligation of the lower Court of record to provide a transcript within 10 days. The City must transmit the transcript to District Court. Then the Court can apply costs to the appropriate party. The City to order the entire Trial transcript. The Court will determine who pays for it. COURT ORDERED, matter CONTINUED to determine when the transcript will be ready and to set a Briefing Schedule. Court directed counsel to talk Thursday to determine a timeframe for a date the transcript will be completed in order to set a Briefing Schedule.

**CONTINUED TO: 7/25/03 10:00 AM STATUS CHECK: BRIEFING SCHEDULE**

03C191537

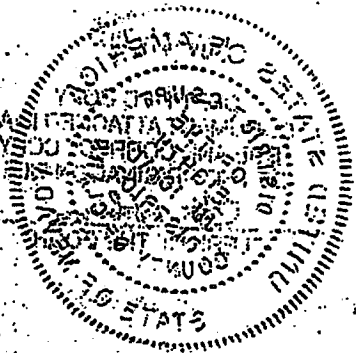


PRINT DATE: 11/18/2015

Page 2 of 2

Minutes Date: July 18, 2003



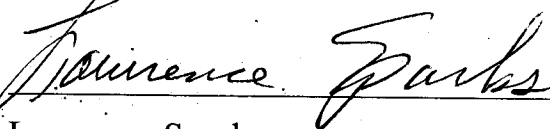


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11  
12 DATED this day of February, 2016.

13   
14

15 Lawrence Sparks

16 817 Arrowhead Trail

17 Henderson, Nevada 89002

18 (714) 391-3766

19 **CERTIFICATE OF SERVICE**

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