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*CITY OF HENDERSON*

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Tracie K. Lindeman  
Clerk of Supreme Court

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

LAWRENCE SPARKS,

Petitioner,

vs.

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

Respondents, and,

CITY OF HENDERSON.

Real Party in Interest.

CASE NO: 69073

**RESPONDENT CITY OF HENDERSON'S AMENDED ANSWER TO PRO SE  
PETITION FOR WRIT OF PROHIBITION / MANDAMUS / CERTIORARI**

**PETITIONER**

**ATTORNEY FOR RESPONDENT**

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c/o 817 Arrowhead Trail  
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**RESPONDENT CITY OF HENDERSON'S AMENDED ANSWER TO PRO SE  
PETITION FOR WRIT OF PROHIBITION / MANADAMUS / CERTIORARI**

COMES NOW, Respondent, CITY OF HENDERSON, by and through its attorneys  
JOSH M. REID, City Attorney, and LAURIE A. ISCAN, Assistant City Attorney, and submits  
its Amended Answer.

This Amended Answer is based upon the pleadings, papers and records on file herein and  
any evidence or oral argument presented to this Honorable Court at the time of the hearing.

DATED this 17<sup>th</sup> day of February, 2016.

JOSH M. REID, ESQ.  
CITY ATTORNEY

By: /s/ Laurie A. Iscan  
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CITY OF HENDERSON

**MEMORANDUM OF POINTS AND AUTHORITIES**

**STATEMENT OF THE ISSUES**

1. Whether N.R.S. § 189.030 requires an appellant to request transcripts so that they may be transmitted to the District Court.
2. Whether it is appropriate to dismiss an appeal for the failure to file a transcript.

**STATEMENT OF FACTS**

**Traffic Violation and Municipal Court Trial<sup>1, 2</sup>:**

On December 13, 2014, Petitioner Lawrence Sparks was cited by the Henderson Police Department for Failure to Yield from Stop or Yield Sign or Yield at Controlled Intersection. At the traffic arraignment hearing, Petitioner pleaded not guilty. Trial was conducted on April 1, 2015 in Henderson Municipal Court (hereinafter "Municipal Court") Department 1. During the trial, the City of Henderson (hereinafter "City") played the video recorded from the citing officer's "dash-cam" showing the traffic violation. The video clearly showed Petitioner drive through an intersection with a stop sign without stopping. The presiding judge, Municipal Court Judge Mark Stevens, had the opportunity to view the video. Judge Stevens commented that it was one of the clearest examples of

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<sup>1</sup> A complete copy of the Municipal Court Docket has been attached hereto as Exhibit "A."

<sup>2</sup> Respondent is unable to cite to the trial transcript as Petitioner has failed to confer with counsel regarding which transcripts are necessary on appeal, and has failed to ever request any of the transcripts necessary to support his own appeal. Even after being directed to request the necessary transcripts by the District Court, Appellant instead advised the District Court that he did not need to request the transcripts. This was the basis for dismissal of his appeal at the District Court level.

1 failing to stop at a stop sign that he had ever seen. Petitioner is recorded on video  
2 telling the officer who pulled him over that stop signs are merely suggestions and  
3 not a law he has to follow. After a full trial, Petitioner was convicted.  
4

5 **Appellate Proceedings - District Court<sup>3</sup>:**

6 April 8, 2015. Notice of Appeal. After conviction, Petitioner filed a Notice  
7 of Appeal with the Eighth Judicial District Court on April 8, 2015. On April 14,  
8 2015, the Municipal Court sent over the appeal documents it had to the District  
9 Court.  
10

11 April 22, 2015. Petitioner filed a Memorandum in Support of Appeal.

12 May 13, 2015. Initial Appeal Hearing. An initial appeal hearing was held  
13 on May 13, 2015. Petitioner had not requested any transcripts for his appeal.  
14 Petitioner was advised that he needed to order the necessary transcripts for appeal,  
15 and he was provided with the name and phone number of the current  
16 transcriptionist. The District Court did not set a briefing schedule or a hearing for  
17 argument. Instead, the District Court set status check regarding the transcripts for  
18 July 15, 2015. *See* Exhibit "C," Court Minutes, May 13, 2015.  
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22 June 1, 2015. Petitioner filed Notice of Perfect of Appeal.

23 Jun8, 2015. Petitioner filed an Amended Memorandum in Support of  
24 Appeal.  
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<sup>3</sup> A complete copy of the District Court Docket has been attached hereto as Exhibit "B."

1           June 11, 2015. City filed a response to Petitioner's Notice of Perfection of  
2 Appeal arguing that all miscellaneous pleadings filed by Petitioner should be  
3 stricken as they were not authorized by the court and Petitioner had not requested  
4 the necessary transcripts.

5  
6           June 22, 2015. Petitioner filed a Reply to City's response.

7           July 13, 2015. Petitioner filed a Motion to Grant Appeal.

8           July 22, 2015. Transcript Status Check. On July 22, 2015, Petitioner was  
9 present for the status check. He had not made any effort to request the necessary  
10 transcripts. Instead, he advised the court that he was aware of the statutes and  
11 process for appeals, but did not feel that he needed to obtain a copy of the  
12 transcript. The District Court advised Petitioner that he was required to obtain the  
13 transcripts. The District Court told Petitioner that the matter would be continued  
14 again so that Petitioner could obtain the transcript. Additionally, the District Court  
15 directed City to respond to Petitioner's Motion to Grant Appeal. The motion  
16 hearing and another transcript status check were set for August 19, 2015. *See*  
17 Exhibit "D," Court Minutes, July 22, 2015.  
18

19           July 30, 2015. City filed its Opposition to Motion to Grant Appeal, and also  
20 filed a Motion to Dismiss Appeal for failure to perfect the appeal.  
21

22           August 7, 2015. Petitioner filed a response to City's Opposition to Motion  
23 to Grant Appeal.  
24

25           August 28, 2015. Petitioner filed an opposition to City's Motion to Dismiss.  
26  
27  
28

September 9, 2015. Motion Hearing and Transcript Status Check.

Petitioner advised that he had still not requested the necessary transcripts. City then moved for dismissal. The District Court took matter under advisement. *See* Exhibit "E," Court Minutes, September 9, 2015.

September 11, 2015. Minute Order. Court denied Petitioner's Motion to Grant Appeal and granted City's motion to dismiss appeal finding that Petitioner had failed to request the necessary transcripts so that the appellate court could properly review the record regarding any errors Petitioner may have alleged. *See* Exhibit "F," Minute Order, September 11, 2015.

**Nevada Supreme Court Proceedings:**

It later came to City's attention that after the District Court dismissed Petitioner's appeal for failure to request the necessary transcripts, Petitioner filed a Petition for Writ of Prohibition/Mandamus/Certiorari with the Nevada Supreme Court. Respondent was neither served with this Petition nor listed as a party.

On January 15, 2016, the Nevada Supreme Court ordered the City of Henderson to be included as a real party in interest and ordered City to file an answer regarding two limited issues: (1) N.R.S. § 189.030 and whose duty it is to request transcripts so that they may be transmitted to the district court; and (2) whether it is appropriate to dismiss an appeal for the failure to file a transcript.

Respondent City submits the following Answer as directed by the Nevada Supreme Court on January 15, 2016.



**ARGUMENT**

**I. This Court lacks jurisdiction to entertain a writ of prohibition or mandamus in this case since it originated from municipal court proceedings.**

This case arose from a traffic trial in Municipal Court that was appealed to District Court. According to the NEVADA CONSTITUTION, the district court has “final appellate jurisdiction” over the case. NEV. CONST., ART 6, SEC. 6(1) states:

The District Courts in the several Judicial Districts of this State have original jurisdiction in all cases excluded by law from the original jurisdiction of justices’ courts. They also have final appellate jurisdiction in cases arising in Justices Courts and such other inferior tribunals as may be established by law.

(emphasis added.)

Nevada case law reflects and conforms to this constitutional mandate. *See City of Las Vegas v. Carver*, 92 Nev. 198, 547 P.2d 688 (1976) (holding “We have no jurisdiction for appellate review of a district court judgment, which has been entered on an appeal from a municipal court.”); *City of Reno v. Dixon*, 42 Nev. 67, 172 P. 367 (1918) (finding “We do not reach the merit, if any, of the appeal. We have no jurisdiction for appellate review of a district court judgment, which has been entered on an appeal from a municipal court.”); and *See also Amezcua v. Eighth Judicial Dist. Ct.*, 319 P.3d 602, 603 (2014) (stating “Just because the defendant did not like the decision of the lower courts (noting district court enjoys final appellate jurisdiction in justice court cases), he was not entitled to writ of

1 mandamus relief merely because he disagrees with the district court's  
2 determination."").

3 Further, N.R.S. Chapter 177 governs "Appeals and Remedies After  
4 Conviction." Nothing in N.R.S. § 177.015 permits a case that originates in a  
5 municipal court to be appealed to the Nevada Supreme Court.  
6

7 The City of Henderson asks that this Court find that it lacks jurisdiction to  
8 hear this matter and dismiss the Petition for Writ.  
9

10 **II. This Court lacks jurisdiction to entertain a writ of certiorari as neither**  
11 **the municipal court nor the District Court passed upon the**  
12 **constitutionality or validity of any statute or ordinance related to this**  
13 **case.**

14 N.R.S. § 34.020 describes when a writ of certiorari may be granted from a  
15 case originating in Municipal Court. N.R.S. § 34.020(3) provides in pertinent part:

16 **3. In any case prosecuted for the violation of a**  
17 **statute or municipal ordinance wherein an appeal has**  
18 **been taken from a Justice Court or from a municipal**  
19 **court, and wherein the district court has passed upon**  
20 **the constitutionality or validity of such statute or**  
21 **ordinance, the writ shall be granted by the appellate**  
22 **court of competent jurisdiction pursuant to the rules fixed**  
23 **by the Supreme Court pursuant to Section 4 of Article 6**  
24 **of the Nevada Constitution upon application of the State**  
**or municipality or defendant, for the purpose of**  
**reviewing the constitutionality or validity of such**  
**statute or ordinance, but in no case shall the defendant**  
**be tried again for the same offense.**

25 [emphasis added.]

26 In the instant case, the District Court never addressed or passed upon the  
27 constitutionality or validity of any statute or ordinance in relation to the case. The  
--

1 District Court never had a sufficient record before it to enable any appellate  
2 review. This was the reason the appeal was dismissed at the appellate level.

3 As the District Court never passed upon the constitutionality or validity of  
4 any statute or ordinance, there is no basis for jurisdiction for writ of certiorari. The  
5 City of Henderson asks that the Petition for Writ of Certiorari / Mandamus /  
6 Prohibition be denied as this Court does not have jurisdiction.  
7

8 Should this Court determine that it does have jurisdiction, the City offers the  
9 following Answer in response to this Court's Order Directing Answer filed on  
10 January 15, 2016.  
11

12 **III. It is an Appellant's Duty to Request the Transcripts Necessary to**  
13 **Enable District Court Review.**

14 Petitioner relies on N.R.S. § 189.030 in support of Petitioner's claim that the  
15 Municipal Court was responsible for requesting and paying for the transcripts he  
16 needed for his appeal. N.R.S. § 189.030, however, does not stand for that  
17 proposition. Nevada case law, N.R.A.P. 9, public policy, basic statutory  
18 construction, and logic do, however, address who is responsible for requesting a  
19 transcript on appeal. All legal authority in Nevada dictates that a non-indigent  
20 appellant is the responsible party.  
21  
22

23  
24 **A. Petitioner's reliance on N.R.S. § 189.030 is misplaced.**

25 N.R.S. § 189.030 provides:

- 26 1. The justice shall, within 10 days after the notice of  
27 appeal is filed, transmit to the clerk of the district court  
the transcript of the case, all other papers relating to the  
case and a certified copy of the docket.  
--

1                   2. The justice shall give notice to the appellant or the  
2                   appellant's attorney that the transcript and all other  
3                   papers relating to the case have been filed with the clerk  
4                   of the district court.

5                   3. If the district judge so requests, before or after  
6                   receiving the record, the justice of the peace shall  
7                   transmit to the district judge the sound recording of the  
8                   case.

9                   It is clear, N.R.S. § 189.030 provides **only** that the lower court is responsible  
10                  for transmitting the transcript to the district court within a certain timeframe. This  
11                  statute does not, however, say which transcripts are to be transmitted, who has to  
12                  request them, or who is responsible for paying for them. *See Braham v. District*  
13                  *Court*, 103 Nev. 644, 647, 747 P.2d 1390, 1392 (1987) (finding that "N.R.S. §  
14                  189.030(1) establishes the time frame for transmitting transcripts of appealed  
15                  cases. It says nothing about costs.") [Emphasis added.]

16  
17                  **B. Nevada case law squarely places the burden on an appellant to**  
18                  **provide the record essential to permit appellate review.**

19                  The Nevada Supreme Court has held on numerous occasions that it is the  
20                  appellant's burden to ensure that the appellate court has the appropriate record in  
21                  order to enable review of the lower court for error. *See Greene v. State*, 96 Nev.  
22                  555, 612 P.2d 686 (1980) (finding that the burden to make a proper appellate  
23                  record rests on the appellant. And, absent the presentation of such a record, the  
24                  appellate court cannot comment on any potential error.) *See also: Byford v. State*,  
25                  116 Nev. 215, 238, 994 P.2d 700, 715 (2000) (holding that it is the appellant's  
26                  responsibility to provide the materials necessary for the court's review); *Fields v.*  
27

1 State, 125 Nev. 785, 790, P.3d 709, 712 (2009) (finding that appellant has the  
2 ultimate responsibility to provide the court with the portions of the record essential  
3 to determination of issues raised in appellant's appeal).

4  
5 **C. The Nevada Supreme Court has addressed what is fair procedure  
6 concerning transcript designation and procurement in N.R.A.P. 9.**

7 The Nevada Rules of Appellate Procedure (N.R.A.P.) were adopted by the  
8 Nevada Supreme Court in 1973. These rules embody judicial administration and  
9 fairness concerns. N.R.A.P. 9 was adopted in 1996, and provides in pertinent part:

10 (B) Except as provided in Rule 3C(j)(2), the appellant  
11 shall file a transcript request form in accordance with  
12 Rule 9(a)(3) when a verbatim record was made of the  
13 district court proceedings and the necessary portions of  
14 the transcript were not prepared and filed in the district  
15 court before the appeal was docketed under Rule 12.

16 \*\*\*

17 **(3) Transcript Request Form.**

18 (B) **Service and Deposit.** The appellant shall serve a  
19 copy of the transcript request form on the court  
20 reporter or recorder who recorded the proceedings and  
21 on all parties to the appeal within the time provided in  
22 subparagraph (A). The appellant must pay an  
23 appropriate deposit to the court reporter or recorder at  
24 the time of service, unless appellant is proceeding in  
25 forma pauperis or is otherwise exempt from payment of  
26 the fees. Where several parties appeal from the same  
27 judgment or any part thereof, or there is a cross-appeal,  
the deposit shall be borne equally by the parties  
appealing, or as the parties may agree.

28 \*\*\*

29 **(4) Number of Copies of Transcript; Costs.**  
30 Appellant shall provide a copy of the certified  
31 transcript to counsel for each party appearing

1 separately. Unless otherwise ordered, the **appellant**  
2 **initially shall pay any costs associated with the**  
3 **preparation and delivery of the transcript.** Where  
4 several parties appeal from the same judgment or any  
5 part thereof, or there is a cross-appeal, the costs  
6 associated with the preparation and delivery of the  
7 transcript shall be borne equally by the parties appealing,  
8 or as the parties may agree.

9 \*\*\*

10 **(5) Supplemental Request.** If the parties cannot agree  
11 on the transcripts necessary to the Supreme Court's  
12 review, and appellant requests only part of the transcript,  
13 **appellant shall request any additional parts of the**  
14 **transcript that the respondent considers necessary.**  
15 Within 10 days from the date the initial transcript request  
16 is filed, respondent shall notify appellant in writing of the  
17 additional portions required. Appellant shall have 10  
18 days thereafter within which to file and serve a  
19 supplemental transcript request form and pay any  
20 additional deposit required.

21 **(6) Consequences of Failure to Comply.** A party's  
22 **failure to comply** with the provisions of this Rule **may**  
23 **result in** the imposition of **sanctions, including**  
24 **dismissal of the appeal.**

25 (emphasis added).

26 It is clear that at least since 1996, the Nevada Supreme Court has recognized  
27 that an appellant has the ultimate burden of identifying the relevant transcripts for  
28 appeal and for ordering them from the court reporter. The Municipal Court Clerk  
29 does not bear any related burden other than to file the completed transcript request  
30 form and to transmit the file they do have to the District Court.

31 ///

32 ///

**D. In jurisdictions with local rules, it is clear that appellants are responsible for ordering the necessary transcripts.**

Henderson Municipal Court does not have local court rules. While not controlling, it is certainly persuasive that the First Judicial District Court does have a rule that specifically addresses this issue. FJDCR 33(2) specifies:

2. At the time of filing of the Notice of Appeal, the appellant shall file a request with the Justice Court or Municipal Court that proceedings be transcribed.

**E. Requiring the lower court or respondent to request the transcripts would lead to illogical results and frivolous/malicious appellate practice.**

1. If the lower court or respondent are responsible for ordering the transcripts when a defendant files a notice of appeal, they will be required to guess which transcripts are necessary, or be forced to order every transcript for every hearing, resulting in either a waste of resources or an incomplete record for review.

On appeal, an appellant is in a unique position as they are the only one in a position to know if the matters to be reviewed on appeal pertain exclusively to pre-trial matters, trial matters, post-trial matters, or some combination thereof. What issues an appellant intends to raise will dictate what transcripts will be necessary. Every transcript of every hearing and of the complete trial will not be necessary in every appeal. *See Draper v. State of Washington*, 83 S.Ct. 774, 372 U.S. 487 (1963), (finding that all or part of the stenographic transcript in certain cases will not be germane to consideration of the issues on appeal, and in a case where an indigent defendant is requesting transcripts, a state will not be required to expend its funds to order every transcript unnecessarily in such circumstances... If the

1 assignments of error go only to the rulings of evidence or to its sufficiency, the  
2 transcript might well be limited to the portions relevant to such issues...**the "fact**  
3 **that an appellant with funds may choose to waste his money by unnecessarily**  
4 **including in the record all of the transcript does not mean the state must**  
5 **waste its funds by providing what is unnecessary for adequate appellate**  
6 **review.** Id. at 779, 496) (emphasis added).  
7

8  
9 Requiring the Henderson Municipal Court or Respondent to request the  
10 necessary transcripts would result in the court or respondent guessing at which  
11 transcripts should be ordered. This will necessarily lead to the Municipal Court  
12 either guessing at which issues an appellant intends to raise and likely ordering an  
13 incomplete record for review, or having to order every transcript for every hearing  
14 and the full trial, resulting in a waste of time, money, and staff resources in many  
15 cases.  
16

17  
18 Further, basic rules of statutory construction require that statutes are to be  
19 applied so as to avoid absurd results. State v. Stull, 112 Nev. 18, 909 P.2d 1180  
20 (1996) citing Moody v. Manny's Auto Repair, 110 Nev. 320, 325, 871 P.2d 935,  
21 938 (1994). As stated above, the appellant is in the only one to know which  
22 proceedings are the subject of possible litigation on appeal. It would be absurd to  
23 require the municipal court to order (i.e., identify and request) necessary transcripts  
24 for transmittal to the clerk of the district court. The appellant is the only person  
25 who can fairly distinguish between necessary and unnecessary transcripts.  
26  
27  
28



1                   2. Public policy weighs in favor of requiring an appellant to order any  
2                   necessary transcripts.

3                   Requiring an appellant to procure transcripts on appeal discourages  
4                   frivolous appeals. Additionally, requiring an appellant to order the necessary  
5                   transcripts prevents a malicious abuse of the appeals process. If a malicious person  
6                   knows that by appealing, the municipal court automatically bears the burden of  
7                   procuring and paying for transcripts, frivolous appeals are encouraged. Strong  
8                   public policy considerations, therefore, weigh in favor of the rule recognized in  
9                   State v. O'Donnell, 98 Nev. 305, 646 P.2d 1217 (1982), which requires an  
10                  appellant to perfect their appeal, and this necessarily includes ordering any relevant  
11                  transcripts.  
12

13                  Common sense and public policy dictate that it is Petitioner's  
14                  responsibility to identify and pay for the transcripts necessary for his appeal.  
15  
16

17                  **F. Petitioner in this case was specifically directed to request the**  
18                  **necessary transcripts by the District Court judge.**

19                  Judge Bare directed Petitioner to order the necessary transcripts on two  
20                  separate occasions and held three different hearings on that issue. Even with a  
21                  mandate from the court, Petitioner chose to ignore the court and instead of ordering  
22                  the necessary transcripts, filed numerous vague, rambling "motions." On July 22,  
23                  2015, Petitioner told the judge he was aware of the statutes and process for  
24                  appeals, and told the judge he did not need to obtain a copy of the transcript. Judge  
25                  Bare advised Petitioner again that he must request the necessary transcripts and  
26                  gave Petitioner another continuance to do so. *See* Exhibit "D." On September 11,  
27  
--

2015, after advising Petitioner numerous times to obtain the transcript, the District Court dismissed Petitioner's appeal for failure to order the transcripts. *See* Exhibit "E."

It is overwhelmingly clear that an appellant in general, and that this Petitioner in particular, is responsible for requesting the necessary transcripts. Nevada case law, the rules of appellate procedure, logic, public policy, and the specific court orders of the District Court all required Petitioner to order the necessary transcripts.

**IV. An Appellant is Responsible for Paying for the Transcripts Necessary to Enable District Court Review.**

**A. N.R.S. §189.030 does not shift the burden of payment of transcripts to the City of Henderson or to the Henderson Municipal Court.**

In Braham v. Dist. Ct., an appellant asked the Nevada Supreme Court to find that the District Court erroneously required him to pay for a transcript from a Justice Court proceeding pursuant to N.R.S. §189.030. Braham v. Dist. Ct., 103 Nev. 644, 647, 747 P.2d 1390 (1987). The Nevada Supreme Court considered the request and specifically held that N.R.S. §189.030 establishes the time frame for transmitting transcripts of appealed cases. This provision of the N.R.S. says nothing, however, about costs. Id.

**B. N.R.S. §4.410(2) specifies that the Appellant is responsible for the fees and costs of transcripts.**

The Nevada Supreme Court in Braham continued its analysis of who is responsible for paying for transcripts and pointed out that N.R.S. §4.410(2)

specifically addresses fees for transcripts. The statute provides that the “fees for transcripts and copies [of justice court proceedings] must be paid by the party ordering them.”

The Braham Court went on to hold that:

The lower court did not err by requiring [appellant] to pay for the justice's court trial transcript. N.R.S. 189.030(1) establishes the time frame for transmitting transcripts of appealed cases. It says nothing about costs. N.R.S. 4.410(2) establishes who pays for the transcript. Therefore, when a justice's court<sup>4</sup> decision is appealed, the justice of the peace sends the case to the district court within ten days and costs of transmission can properly be assessed to the non-indigent appellant.

Id.

Further N.R.S. § 4.410(2) specifically provides that “compensation for transcripts and copies must be paid by the party ordering them.” [Emphasis added.] This statute makes it abundantly clear that it is a party who is to order and pay for any transcript. The Henderson Municipal Court was not a party to the action below, and therefore, should not be responsible to order and/or pay for Petitioner’s transcript.

**V. Dismissing an Appeal for Failure to Request the Transcript is Appropriate.**

As was noted by the District Court<sup>5</sup>, although Nevada courts have a sound policy preference for deciding cases on the merits, that policy is not boundless and

<sup>4</sup> Municipal courts are subject to the same rules and regulations as justice courts for purposes of appeal to District Court. N.R.S. §5.073.

<sup>5</sup> Taken from the court minutes from the hearing conducted on September 11, 2015.

1 must be weighed against other policy considerations, including the public's interest  
2 in expeditious appellate resolution, which also coincides with the parties' interests  
3 in bringing litigation to a final and stable judgment; prejudice to the opposing  
4 party; and judicial administration concerns, such as the court's need to manage its  
5 large and growing docket. Huckabay Props v. NC Auto Parts, 130 Nev. Adv. Op.  
6 23, 322 P.3d 429, 433 (2014). A party cannot rely on the preference for deciding  
7 cases on the merits to the exclusion of all other policy considerations, and when an  
8 appellant fails to adhere to Nevada's appellate procedure rules, which embody  
9 judicial administration and fairness concerns, or fails to comply with court  
10 directives or orders, that appellant does so at the risk of forfeiting appellate relief.

11  
12 As was further noted by the District Court, inherent in Nevada courts is the  
13 power to dismiss a case for failure to prosecute or to comply with its court orders;  
14 to prevent undue delays and to control their calendars. Courts may exercise this  
15 power within the bounds of sound judicial discretion, independent of any authority  
16 granted under statutes or court rules. Moore v. Cherry, 90 Nev. 390, 393, 528 P.2d  
17 1018, 1020 (1974). Appellate courts in Nevada have a long history of dismissing  
18 appeals for the failure of an appellant to file the transcript on time. See Collins v.  
19 Nat C. Goodwin & Co., 32 Nev. 342, 108 P. 4 (1910) (An appeal dismissed on  
20 motion because of the failure of appellant to file the transcript in time). See  
21 Exhibit "F."

22  
23 Additionally, N.R.A.P. 9(a)(6) warns appellants that "A party's failure to  
24 comply with the provisions of this Rule may result in the imposition of  
25

1 sanctions, including dismissal of the appeal.” (emphasis added.)

2       Petitioner filed his Notice of Appeal on April 15, 2015. The transcripts were  
3 never requested, never filed, and a briefing schedule was never set. This prevented  
4 oral arguments from ever being heard. Numerous hearings were held where  
5 Petitioner was advised by the District Court to request the necessary transcripts.  
6 Petitioner disregarded orders of the District Court, he disregarded Nevada case  
7 law, and rules of procedure. The District Court ultimately dismissed Petitioner’s  
8 appeal for failure to timely prosecute his appeal on September 11, 2015 – 5 months  
9 after Petitioner filed his initial Notice of Appeal.  
10

11       In this case, the District Court did not dismiss Petitioner’s appeal arbitrarily  
12 or prematurely. There were several court dates set so that Petitioner could request  
13 the transcripts. The Petitioner was warned several times to request the necessary  
14 transcripts. Petitioner, instead, blatantly told the District Court he would not order  
15 the transcripts. The District Court made every effort to accommodate and be  
16 reasonable with Petitioner. It was only after five months had passed, several  
17 hearings had been held, and Petitioner blatantly disregarded the District Court’s  
18 directives that the District Court ultimately dismissed his appeal. It was absolutely  
19 appropriate for the District Court to do so.  
20  
21  
22  
23

24 ///

25 ///

26 ///

27 ///

## CONCLUSION

We ask this Honorable Court to find that it is an appellant's duty to request the necessary transcripts when they appeal a municipal court criminal case to the district court in order to ensure an appropriate record for review. Further, we ask that this Court find that dismissal is an appropriate remedy when an appellant fails to do so.

In this case, Petitioner filed his Notice of Appeal with the District Court on April 15, 2015. Multiple hearings were conducted at the District Court level where Petitioner was repeatedly advised to request the necessary transcript. The transcript was never filed and a briefing schedule was never set. This prevented oral argument and appellate review at the District Court level. As the District Court noted, "[Petitioner] acted with continued disregard for orders of the Court." After giving Petitioner numerous opportunities to provide the District Court with the record necessary for meaningful review, the District Court rightly dismissed Petitioner's appeal for failure to timely prosecute his appeal.

DATED this 17<sup>th</sup> day of February, 2016.

JOSH M. REID  
CITY ATTORNEY

By: /s/ LAURIE A. ISCAN  
LAURIE A. ISCAN  
Assistant City Attorney  
Nevada State Bar No. 9716  
243 Water Street - MSC 711  
P.O Box 95050  
Henderson, NV 89009-5050  
Attorney for Real Party in Interest  
CITY OF HENDERSON

**CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this amended answer complies with the formatting requirements of NRAP 32(c)(2), the reproduction requirements of NRAP 32(a)(1), the binding requirements of 32(a)(3), the paper size, line spacing, margins, and page number 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 Microsoft Word 2010 in font size 14 point Times New Roman.

DATED this 17<sup>th</sup> day of February, 2016.

/s/ Laurie A. Iscan  
LAURIE A. ISCAN  
Assistant City Attorney  
Nevada Bar No. 009716  
P.O. Box 95050, MSC 711  
Henderson NV 89009-5050  
Telephone: (702) 267-1379

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Henderson City Attorney's Office, and that on the 17<sup>th</sup> day of February, 2016. pursuant to NRCP 5(b) and EDCR 8.05(f), a true and correct copy of **RESPONDENT CITY OF HENDERSON'S AMENDED ANSWER TO PRO SE PETITION FOR WRIT OF PROHIBITION / MANADAMUS / CERTIORARI** was served to the following parties via E-Service through EJDC E-Filing and United States Mail; and that the date and time of the electronic service is in place of the date and place of deposit in the mail.

Lawrence Sparks, Pro Per  
c/o 817 Arrowhead Trail  
Henderson, Nevada 89002  
(714) 391-3766

/s/ Cheryl Boyd  
An Employee of the  
Henderson City Attorney's Office



# EXHIBIT “A”

Judge: STEVENS, MARK J

Case No. 14TR017118  
 Ticket No. H10106  
 CTN:

CITY OF HENDERSON VS

By:

SPARKS, LAWRENCE DEFNDT  
 817 ARROWHEAD TRI  
 HENDERSON, NV 89002  
 Dob: 11/22/1946 Sex: M  
 Lic: 0200782209 Sid:

By: PRO PER

Plate#: 667YKN  
 Make: HONDA  
 Year: 1990 Accident: No  
 Type: 4-DOOR  
 Venue:  
 Location: H

Bond:  
 Type: Set:  
 Posted:

Charges:

Ct.1	NRS 485.187.20OPERATOR - PROOF OF INSURANCE REQUIRED	DISMISSED WITH PREJUDICE (BEFORE TRIAL)
	Offense Dt: 12/13/2014 Cvr:	
	Arrest Dt:	
	Comments:	
Ct.2	NRS 484B.257 FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	FOUND GUILTY AT TRIAL
	Offense Dt: 12/13/2014 Cvr:	
	Arrest Dt:	
	Comments:	

Sentencing:

Ct.1	Sentence	Suspended	Credit
Jail (Days)			
Fines			
Costs			
Restitution			
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			
Ct.2	Sentence	Suspended	Credit
Jail (Days)			
Fines			
Costs			
Restitution			
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			

No.	Filed	Action	Operator	Fine/Cost	Due
1	12/23/14	COURT DATE SET: Event: ADULT TRAFFIC ARRAIGNMENT Date: 02/10/2015 Time: 8:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1  Result: NOT GUILTY PLEA / TRIAL SET	VP3	0.00	0.00
2	02/10/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED APPEARANCE REQUIRED Charge #1: OPERATOR - PROOF OF INSURANCE REQUIRED	AND2		0.00
3	02/10/15	NOT GUILTY PLEA ENTERED. TRIAL SET - SPEEDY TRIAL WAIVED APPEARANCE REQUIRED Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	AND2		0.00
4	02/10/15	COUNTER: 8.07.25	AND2		0.00

No.	Filed	Action	Operator	Fine/Cost	Due
5	02/10/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: AND2 - CLERK: Present KJ - CLERK: Present MATHER, ELAINE - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: SPARKS, LAWRENCE - DEFENDANT: Present	AND2		0.00
6	02/10/15	COURT DATE SET: Event: TRAFFIC TRIAL Date: 04/01/2015 Time: 8:00 am Judge: STEVENS, MARK J Location: DEPARTMENT 1 Result: TRIAL HELD	BNH		0.00
7	04/01/15	DISMISSED WITH PREJUDICE - VALID PROOF SHOWN Charge #1: OPERATOR - PROOF OF INSURANCE REQUIRED	RJR3	0.00	0.00
8	04/01/15	Trial Held See "FTR Gold Lognotes" for Details Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	RJR3	0.00	0.00
9	04/01/15	Found Guilty Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	RJR3	0.00	0.00
10	04/01/15	SENTENCED: \$195 FINE DUE IN FULL: 06/03/15 Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	RJR3	0.00	0.00
11	04/01/15	FINE/FORFEITURE: \$100 + 95 ADMINISTRATIVE ASSESSMENT Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	RJR3	195.00	0.00
12	04/01/15	COUNTER: 8.09.57 / 8.28.10	RJR3	0.00	0.00
13	04/01/15	EVENT PARTICIPANTS: Court Location: DEPARTMENT 1 Check In: Judge: STEVENS, MARK J Location: DEPARTMENT 1 Staff: BNB - CLERK: Present ISCAN, LAURIE A - DEPUTY CITY ATTORNEY: Present RJR - CLERK: Present Prosecutors: Parties: SPARKS, LAWRENCE - DEFENDANT: Present	RJR3	0.00	0.00
14	04/08/15	APPEAL FILED - FEE \$25 Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION Receipt: 611828 Date: 04/08/2015	MDD	25.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
15	04/08/15	PREPARATION AND TRANSMITTAL OF TRANSCRIPT - FEE \$25 Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION Receipt: 611838 Date: 04/08/2015	MDD	25.00	0.00
16	04/08/15	NOTICE OF APPEAL FILED Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	MDD	0.00	0.00
17	04/14/15	APPEAL SENT TO DISTRICT COURT APPEAL DOCUMENTS Sent on: 04/14/2015 13:53:47.65	KM	0.00	0.00
18	04/22/15	APPEAL CONFIRMATION/ REPLY RECEIVED: DIST COURT CASE # C159305849A	AMM2	0.00	0.00
19	05/15/15	APPEAL TRANSCRIPT ORDERED	SYR	0.00	0.00
20	06/08/15	CASH BOND POSTED BY: LAWRENCE SPARKS ADDRESS: 817 ARROWHEAD TRL #9015 AMOUNT: \$ 100.95 VIA: WINDOW Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION Receipt: 620390 Date: 06/08/2015	BNH	195.00	0.00
21	09/29/15	APPEAL REMANDED FROM DISTRICT COURT APPELLANT HAS FAILED TO TIMELY PROSECUTE HIS APPEAL AND HIS APPEAL IS DISMISSED Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	KM	0.00	0.00
22	09/29/15	FINE/FORFEITURE: \$100 + 95 ADMINISTRATIVE ASSESSMENT Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION Receipt: 635784 Date: 09/29/2015	KM	195.00	0.00
23	09/29/15	DMV CONVICTION SENT Charge #2: FAIL TO YIELD FROM STOP OR YIELD SIGN OR YIELD AT CONTROLLED INTERSECTION	KM	0.00	0.00
24	09/29/15	CASE CLOSED	KM	0.00	0.00
25	10/29/15	INFORMATION ONLY - COURT RECIEVED COPY OF PETITION FOR WRIT PROHIBITION, AND/OR, IN THE ALTERNATIVE WRIT OF MANDAMUS; AND/OR WRIT OF CERTIORARI FILED WITH CLERK OF SUPREME COURT. THIS AND ALL FUTURE COPIES OF DOCUMENTS PLACED IN CLOSED FILE.	AMM2	0.00	0.00
Total:				635.00	0.00
Totals By: COST				440.00	0.00
HOLDING				195.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					



# EXHIBIT “B”

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Civil/Criminal Search](#) [Refine Search](#) [Back](#) [Location](#) : District Court Civil/Criminal [Help](#)

**REGISTER OF ACTIONS**

CASE No. C-15-305849-A

Lawrence Sparks, Appellant(s) vs Henderson Municipal Court,  
Respondent(s)

§  
§  
§  
§  
§  
§  
§

Case Type **Criminal Appeal**  
Date Filed **04/15/2015**  
Location **Department 32**  
Cross-Reference Case Number **C305849**  
Lower Court Case Number **14TR017138-2**

**PARTY INFORMATION**

Appellant Sparks, Lawrence

Lead Attorneys  
Pro Se

Respondent Henderson Municipal Court

Josh M. Reid  
Retained  
702-267-1231(W)

**EVENTS & ORDERS OF THE COURT**

**OTHER EVENTS AND HEARINGS**

04/15/2015 **Receipt for Documents and Notice of Hearing**

04/15/2015 **Appeal from Lower Court (Criminal)**  
*Appeal From Lower Court (Criminal)*

04/22/2015 **Memorandum**  
*Memorandum in Support of Appeal*

05/13/2015 **Appeal From Lower Court (10:00 AM)** (Judicial Officer Bare, Rob)  
[Parties Present](#)  
[Minutes](#)  
Result: Continued

06/01/2015 **Notice**  
*Notice of Perfection of Appeal*

06/08/2015 **Amended**  
*Amended Memorandum in Support of Appeal from the Justice Court of the Henderson Township*

06/11/2015 **Response**  
*City of Henderson's Response to Defendant's Notice of Perfection of Appeal Filed on June 1, 2015*

06/22/2015 **Reply**  
*Reply: To City of Henderson's Response to Defendant's Notice of Perfection of Appeal Filed June 1, 2015*

07/02/2015 **Order**  
*Order Rescheduling Hearing*

07/13/2015 **Motion**  
*Motion to Grant Appeal*

07/22/2015 **Status Check (9:30 AM)** (Judicial Officer Bare, Rob)  
**07/22/2015, 09/09/2015**  
*Status Check Re: Transcript*  
[Parties Present](#)  
[Minutes](#)  
*05/13/2015 Reset by Court to 07/15/2015*  
*07/15/2015 Reset by Court to 07/22/2015*  
*08/19/2015 Reset by Court to 09/02/2015*  
*09/02/2015 Reset by Court to 09/09/2015*  
Result: Matter Continued

07/30/2015 **Opposition**  
*Opposition to Motion to Grant Appeal*

07/30/2015 **Motion to Dismiss**  
*City of Henderson's Motion to Dismiss for Failure to Prosecute Appeal*

07/30/2015 **Certificate of Mailing**  
*Certificate of Mailing of City of Henderson's Motion to Dismiss for Failure to Prosecute Appeal*

08/07/2015 **Order**  
*Order Rescheduling Hearing*

08/07/2015 **Response**  
*Response to Opposition to "Motion to Grant Appeal"*

08/24/2015 **Minute Order (10:00 AM)** (Judicial Officer Bare, Rob)  
**C305849**  
[Minutes](#)  
Result: Minute Order - No Hearing Held

08/28/2015 **Opposition to Motion to Dismiss**  
*Opposition to City of Henderson's Motion to Dismiss for Failure to Prosecute Appeal*

09/09/2015 **Motion (10:00 AM)** (Judicial Officer Bare, Rob)  
*Appellant's Motion to Grant Appeal*  
[Parties Present](#)

08/19/2015 *Reset by Court to 09/02/2015*  
 09/02/2015 *Reset by Court to 09/10/2015*  
 09/10/2015 *Reset by Court to 09/09/2015*  
 Result: Denied  
 09/09/2015 **Motion to Dismiss** (10:00 AM) (Judicial Officer Bare, Rob)  
*Respondent's City of Henderson's Motion to Dismiss for Failure of Prosecute Appeal*  
 08/24/2015 *Reset by Court to 09/09/2015*  
 09/10/2015 *Reset by Court to 08/24/2015*  
 Result: Granted  
 09/09/2015 **All Pending Motions** (10:00 AM) (Judicial Officer Bare, Rob)  
Parties Present  
Minutes  
 Result: Matter Heard  
 09/11/2015 **Minute Order** (11:00 AM) (Judicial Officer Bare, Rob)  
Minutes  
 Result: Minute Order - No Hearing Held  
 09/14/2015 **Recorders Transcript of Hearing**  
*Recorder's Transcript RE Appellant's Motion to Grant Appeal; Respondent's Motion to Dismiss for Failure to Prosecute Appeal; Status Check Regarding Transcript September 9, 2015*  
 10/21/2015 **Order**  
*Order Denying Appellant's Motion to Grant Appeal and Granting City of Henderson's Motion to Dismiss for Failure to Prosecute Appeal*  
 10/21/2015 **Notice of Entry of Order**  
*Notice of Entry of Order Denying Appellant's Motion to Grant Appeal and Granting City of Henderson's Motion to Dismiss for Failure to Prosecute Appeal*  
 11/02/2015 **Minute Order** (9:30 AM) (Judicial Officer Bare, Rob)  
*Minute Order: Striking Remittitur Filed 9/23/15 and Re- Issuing Said Remittitur*  
Minutes  
 Result: Minute Order - No Hearing Held  
 11/10/2015 **Remittitur to the Lower Court**

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**FINANCIAL INFORMATION**


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	<b>Appellant Sparks, Lawrence</b>		
	Total Financial Assessment		4.00
	Total Payments and Credits		4.00
	<b>Balance Due as of 02/03/2016</b>		<b>0.00</b>
06/26/2015	Transaction Assessment		4.00
06/26/2015	Payment (Window)	Receipt # 2015-67293-CCCLK Sparks, Lawrence	(4.00)



# EXHIBIT “C”

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Location : District Court Civil/Criminal [Help](#)

## REGISTER OF ACTIONS

CASE NO. C-15-305849-A

Lawrence Sparks, Appellant(s) vs Henderson Municipal Court,  
Respondent(s)

§  
§  
§  
§  
§  
§  
§  
§

Case Type: Criminal Appeal  
Date Filed: 04/15/2015  
Location: Department 32  
Cross-Reference Case Number: C305849  
Lower Court Case Number: 14TR017138-2

### PARTY INFORMATION

Appellant Sparks, Lawrence

Lead Attorneys  
Pro Se

Respondent Henderson Municipal Court

Josh M. Reid  
Retained  
702-267-1231(W)

### EVENTS & ORDERS OF THE COURT

05/13/2015 Appeal From Lower Court (10:00 AM) (Judicial Officer Bare, Rob)

#### Minutes

05/13/2015 10:00 AM

- Due to the passing of the transcriptionist for the City of Henderson, COURT ORDERED, matter CONTINUED; Status Check Re: Transcript SET. Mr. Sparks was given the name and number of the new transcriptionist. 7/15/15 10:00 AM - STATUS CHECK RE: TRANSCRIPT

[Parties Present](#)

[Return to Register of Actions](#)

# EXHIBIT “D”

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Location : District Court Civil/Criminal [Help](#)

## REGISTER OF ACTIONS

CASE NO. C-15-305849-A

Lawrence Sparks, Appellant(s) vs Henderson Municipal Court,  
Respondent(s)

§  
§  
§  
§  
§  
§  
§

Case Type: Criminal Appeal  
 Date Filed: 04/15/2015  
 Location: Department 32  
 Cross-Reference Case Number: C305849  
 Lower Court Case Number: 14TR017138-2

### PARTY INFORMATION

Appellant Sparks, Lawrence

Lead Attorneys  
Pro Se

Respondent Henderson Municipal Court

Josh M. Reid  
Retained  
702-267-1231(W)

### EVENTS & ORDERS OF THE COURT

07/22/2015 Status Check (9:30 AM) (Judicial Officer Bare, Rob)  
 07/22/2015, 09/09/2015  
 Status Check Re: Transcript

#### Minutes

05/13/2015 10:00 AM

07/15/2015 10:00 AM

07/22/2015 9:30 AM

- Upon Court's inquiry, Mr. Sparks advised he is aware of the statute/process for appeals and he does not need to obtain a copy of the transcript as he is entitled to an appeal on the record. Court stated he will continue the matter for the transcript as appellant is required to obtain a copy of the transcript and provide the City of Henderson with a copy. Ms. Gold agreed with Court and moved to dismiss the appeal based on the date of the appeal. Court instructed Ms. Gold to file the appropriate motion. Additionally, Ms. Gold advised appellant has filed a motion to grant the appeal and requested an answer to the motion not be filed. Court stated the motion shall be set for the same date as status check. COURT ORDERED, matter CONTINUED and Defendant's Motion to Grant Appeal SET. 8/19/2015 10:00 AM STATUS CHECK: TRANSCRIPT ... DEFENDANT'S MOTION TO GRANT APPEAL

08/19/2015 10:00 AM

09/02/2015 10:00 AM

09/09/2015 10:00 AM

[Parties Present](#)

[Return to Register of Actions](#)

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# EXHIBIT “E”

www.pearsoned.com

## PARTY INFORMATION

**Lead Attorneys**  
**Pro Se**

**Josh M. Reid**  
*Retained*  
702-267-1231(W)

## EVENTS & ORDERS OF THE COURT

## Minutes

- Court noted Appellant has yet to obtain and provide the transcript from the lower court proceeding nor has Appellant filed a motion as to the inability to pay the costs of the transcript. Ms. Iscan agreed with Court's representations that the transcript has not been filed. COURT ORDERED, matter UNDER ADVISEMENT and a written order shall issue.

### Parties Present

[Return to Register of Actions](#)

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# EXHIBIT “F”

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Criminal Appeal**

**COURT MINUTES**

**September 11, 2015**

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C-15-305849-A      Lawrence Sparks, Appellant(s)  
   vs  
   Henderson Municipal Court, Respondent(s)

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**September 11, 2015    11:00 AM      Minute Order**

**HEARD BY:**    Bare, Rob

**COURTROOM:**    RJC Courtroom 03C

**COURT CLERK:**    Lorna Shell

**PARTIES**      None

**PRESENT:**

**JOURNAL ENTRIES**

- This matter came on for hearing on September 9, 2015; before Department 32 of the Eighth Judicial District Court, in and for Clark County, Nevada, with Judge Rob Bare presiding; Respondent appeared by and through its attorney, Deputy City Attorney, Erica Gold, Esq.; Appellant appeared pro se. Parties presented their case and Court took matter under advisement. After carefully considering the papers submitted and hearing arguments, Court issued its Decision this 11th day of September, 2015. COURT ORDERED, Appellant Lawrence Sparks' Motion to Grant Appeal DENIED; Respondent's Motion to Dismiss GRANTED.

It is the appellant's responsibility to provide the materials necessary for this Court's review. Byford v. State, 116 Nev. 215, 238, 994 P.2d 700, 715 (2000). Appellant has the ultimate responsibility to provide this Court with portions of the record essential to determination of issues raised in appellant's appeal. Fields v. State, 125 Nev. 785, 790, 220 P.3d 709, 712 (2009). Although Nevada courts have a sound policy preference for deciding cases on the merits, that policy is not boundless and must be weighed against other policy considerations, including the public's interest in expeditious appellate resolution, which coincides with the parties' interests in bringing litigation to a final and stable judgment; prejudice to the opposing party; and judicial administration concerns, such as the court's need to manage its large and growing docket. Huckabay Props. v. NC Auto Parts, 130 Nev. Adv. Op. 23, 322 P.3d 429, 433 (2014). A party cannot rely on the preference for deciding cases on the merits to the exclusion of all other policy considerations, and when an appellant fails to adhere to Nevada's appellate procedure rules, which embody judicial administration and fairness concerns, or fails to comply with court directives or orders, that appellant does so at the risk of forfeiting

PRINT DATE:    09/11/2015

Page 1 of 2

Minutes Date:    September 11, 2015



appellate relief. *Id.* at 434. Inherent in Nevada courts is the power to dismiss a case for failure to prosecute or to comply with its orders; to prevent undue delays and to control their calendars, courts may exercise this power within the bounds of sound judicial discretion, independent of any authority granted under statutes or court rules. *Moore v. Cherry*, 90 Nev. 390, 393, 528 P.2d 1018, 1020 (1974). Appellate courts in Nevada have a long history of dismissing appeals for the failure of an appellant to file the transcript on time. See *Collins v. Nat C. Goodwin & Co.*, 32 Nev. 342, 108 P. 4 (1910) (An appeal dismissed on motion, because of the failure of appellant to file the transcript in time.).

In this case, Appellant filed his Notice of Appeal on April 15, 2015. The transcript has not been filed and a briefing schedule was never set, which prevents oral arguments in this matter to occur. Multiple hearings have occurred where Appellant was advised to obtain and file the transcript. Appellant has acted with continued disregard for the orders of this Court. COURT THEREFORE ORDERED, Appellant has failed to timely prosecute his appeal and his appeal is DISMISSED.

Counsel for Respondent is directed to submit a proposed Order consistent with the foregoing which sets forth the underpinnings of same in accordance herewith and with counsel's briefing and argument.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of: Josh Reid, Esq. (City of Henderson) and mailed to Lawrence Sparks, 817 Arrowhead Trail, Henderson, NV 89002./ls  
9-11-15