

Original

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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

SEP 12 2016

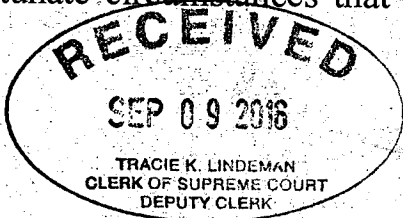
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

JOINT PETITION FOR REHEARING EN BANC BY PETITIONER AND

AMICUS CURIAE KIM BLANDINO OF THE ORDER DENYING RELIEF

FILED ON JUNE 16, 2016

COMES NOW LAWRENCE SPARKS, hereinafter, Larry and Kim Blandino,
hereinafter Kim, both appearing pro se to file this submission. It is only due to
unfortunate circumstances that the petition for extraordinary relief filed was not a



1 joint one with Kim and Don Clausen and Steven Dempsey. The issues were and are
2 linked. Kim did file a petition, Case number 68761 (still pending) and a joint petition
3 with Donald Clausen number 69302 (disposition filed). Kim is a active pro se
4 litigator in his own cases and is an investigative journalist investigating close up,
5 corruption in the judicial branch of the state of Nevada and the various administrative
6 offices of various courts. Kim is operating under the god given right to freedom of
7 the press that is **RECOGNIZED** in the U.S. Constitution. Please note that a god-
8 given right that is recognized by corporeal entities in any type of physical
9 manifestation such as a parchment, paper book or electronic device does not mean
10 that it originated from corporeal beings *i.e* "humans". That as such Kim has
11 obtained a great amount of incriminating information and evidence that is important
12 to this petition for rehearing en banc. Larry recognizes and appreciates Kim research
13 and work that should be and is of assistance in bringing clarity to the issues in this
14 case.
15

16 Both Larry and Kim exhaustively investigated the transcript issue by
17 interviewing the Henderson Court administator and contract transcriptionist
18 identified by the city court. Kim, further has collected supporting information from
19 the First Jud Dist. Ct. which Justice Saitta took judicial notice of in the Order
20 directing Answer filed Jan. 15, 2016. Kim obtained important exhibits that would
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1 have been presented in a reply had this court not wrongfully denied the motion to
2 file a reply.

3
4 This request is based on all of the papers on file in this matter and the cases
5 below and any exhibits attached to this request and made pursuant to NRAP 40A.

6 **JUSTICE MICHAEL DOUGLAS AND THE EN BANC PETITION AND**
7
8 **TO ALL THE OTHER JUSTICES**

9 As stated in the Nevada Supreme court's website Justice Douglas, Hereinafter,
10 "Douglas" is the "first African American justice in Nevada's history". Larry and Kim
11 believe like Martin Luther King that "a man [or woman] [or a judge] should be
12 judged by the content of their character not by the color of their skin". Nor should
13 one be judged other than by their character or accident of birth. In point of fact all of
14 us are decendents of Noah who himself is a decendant of Adam.
15

16
17 Since Larry and Kim are asking for En Banc review Douglas will be one of the
18 justices hearing this petition.

19
20 Douglas showed such good character when in 2003, in case, 03C191537 Douglas
21 ruled that the "10-day rule applies and it is the obligation of the lower Court of
22 record to provide a transcript within 10 days." See Exhibit 3 of **MOTION TO**
23 **FILE A REPLY TO "RESPONDENT CITY OF HENDERSON'S ANSWER TO**
24 **PRO SE PETITION FOR WRIT OF**
25

1 **PROHIBITION/MANDAMUS/CERTIORARI**". This is attached as Exhibit 1
2 PEB (petition en banc) for the court's convenience. Judges Pavlikowski and Loehrer
3 also had such character and ruled the same as Douglas in 1998 and 2000 respectively.
4 See Exhibits 1 and 2 of Exhibit 1 PEB. That the 10 day rule of NRS 189.030 was
5 clear and must be followed!
6

7
8 Douglas and this entire court must recognize that the very nature of "judging" is
9 rooted in biblical history and God will judge all according to their works ultimately
10 and is the supreme court in the truest sense. Douglas knew in 2003 the correct
11 decision as to this issue. The law has not changed since Douglas, Judges
12 Pavlikowski and Loehrer have ruled correctly about the "10 day rule" pursuant to
13 NRS 189.030.
14

15
16 Should Douglas now join the panel that wrongly and hypocritically denied relief
17 and the petition for rehearing Larry and Kim are convinced that the "Judge of all
18 things will not be merciful".
19

20 **DENIAL OF RIGHT TO FILE A REPLY AFTER MOTION FOR THE SAME**
21 **AND HYPOCRISY OF CLAIMING ISSUE WAS RAISED FOR FIRST TIME**

22 **ON APPEAL**
23

24 In the order denying rehearing a panel of this court complained that "This
25 argument is improper because it is raised for the first time in this court on rehearing."
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1 This is laughable since the filing of a reply was denied. This court has essentially
2 shown that neglecting to file a reply can be fatal to an appeal. In Colton v. Murphy
3 71 Nev. 71 (1955) 279 P.2d 1036. This court dismissed an appeal ruling that the
4 failure to file a reply constituted a "clear concession by appellants that there is merit
5 in respondents' position" Colton at 1036. Larry and Kim believe that the denial by
6 this court to file a reply especially when a published opinion is anticipated by issuing
7 an advanced opinion makes worthy of a complaint to the commission on judicial
8 discipline "NCJD" for violating more than one canon and rule as well as the
9 preamble.
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12

13 In deciding to issue a published opinion this court by its own rules can only do so
14 if it:

- 15
16 "(A) Presents an issue of first impression;
17 (B) Alters, modifies, or significantly clarifies a rule of law previously
18 announced by the court; or
19 (C) Involves an issue of public importance that has application beyond
20 the parties." NRAP 36 (c)(1)

21 This issue in this case was not brought to the court by licensed attorneys yet the
22 panel decided under NRAP 36 the decision was worthy of publishing. There cannot
23 be much doubt that the panel would have granted licensed attorneys to file a reply
24 upon a motion for the same. Thus canon 1 rule 1.1 and 1.2 and canon 2 rule 2.2 and
25 2.3 are clearly violated by denying Larry the right to file a reply.
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1 Based on Larry and Kim's extensive review of this court's historical docket it is
2 beyond any doubt that had Larry been a licensed attorney that a reply would have
3 been allowed. The panel in denying a reply substantially said : "A licensed
4 attorney's reply could be of benefit to this court in making a decision however,
5 as a pro se, absolutely nothing you can present in a reply that could be of any
6 assistance to us in making our decision." This position violates more than one rule
7 of the Nevada Code of Judicial Conduct "Code" as well as the preamble. The panel
8 should therefore impose informal, self discipline and apologize publicly for refusing
9 to allow a reply to be filed, in addition to the reversal of the published opinion.
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13 Additionally, the entire scheme where the lower courts, and now this court
14 disobeys the total statutory language for transcripts being transmitted from lower
15 courts of record to the district court on an appeal is properly a part of the argument
16 originally presented. This court and the Supreme Court's own precedent requires that:
17
18

19 "No part of a statute should be rendered meaningless, and that this court
20 will not read statutory language in a manner that produces absurd or
21 unreasonable results" Bank of Nevada v Petersen , Nev. adv. Opinion
22 66568 see also Griffin v. Oceanic Contractors, Inc. 468 U.S. 564
23 (1982), 102 S.Ct. 3245
24
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23 The panel's explanation in the decision and order denying rehearing is ridiculous
24 and the court is required to look at the statutory scheme as a whole and not in a
25 restricted or isolated fashion. Larry and Kim had every right and responsibility to
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1 show the court that the decision was and is inconsistent with the statutory scheme as
2 a whole and renders other parts meaningless and absurd!

3
4 For the above same reasons this petition for En Banc review is entirely and
5 thoroughly warranted.

6 Nothing that Larry and Kim did was improper. Showing the court the absurd
7 position of the Henderson court by showing the supporting statutes that the court
8 overlooked and reiterating the record below, especially when the respondent
9 deliberately withheld parts of the record from the court!

10
11 It was this court that stated in its Order Directing Answer that Braham v. District
12 Court, 103 Nev. 644, 747 P.2d 1390 (1987) was legal authority:

13
14 (holding that “when a justice's court decision is appealed, the justice of
15 the peace sends the case to the district court within ten days and the
16 costs of transmission can properly be assessed to the non-indigent
17 appellant”) Order directing Answer page 2 footnote 3 (emphasis added)

18 It was this court that brought up the FJDCR for the first time in the case in footnote
19 4 showing that the First Judicial District Court had a rule that paralleled NRS 189.
20 which **screams** the respondent, and the petitioner should address this!!

21
22 This court itself stated “If after review of the answer a reply is deemed necessary,
23 this court will provide Sparks an opportunity to file a reply.” See footnote 5 of Order
24 directing Answer. Yet Larry made a specific request to file an answer submitting
25 concrete evidence that Larry's reply and the information contained therein could
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1 assist the court in making a just and sensible decision consistent with the law. The
2 panel did not even have the decency to allow a reply.

3
4 The panel itself ordered the real party in interest to among other things to submit
5 **“docket entries”**. See Order directing Answer page 2 lines 7-8. Yet they did not! It
6 was Larry and Kim that submitted the docket in the petition for rehearing. See
7 Exhibit 1 PR. This would have been presented in a reply as well.

8
9 The panel decision makes 189.030 and NRS 4.060(1)(j) meaningless in its
10 entirety as well as other parts of the statutory scheme. Kim and Larry cannot use
11 strong enough terms to decry the injustice of what the panel ruled and forcing the
12 filing of this submission for an issue that is so clear cut. Larry and Kim and others
13 are subject to criminal sanctions for violations of law far less clear than the statutory
14 scheme here. Three district court Judges that ruled consistent with Larry and Kim's
15 position as well as the FJD **rule and practice** of preparing and transmitting
16 transcripts on misdemeanor appeals are proof of the clarity of Larry and Kim's
17 position!!
18
19
20

21 **THE PANEL RULING LEAVES A PATCHWORK STATUTORY SCHEME**
22 **AND CASE LAW BASED ON LEGISLATING FROM THE BENCH THAT**
23 **INVITES AND DEMANDS FUTURE JUDICIAL LEGISLATING UNLESS**
24 **THE COURT REVERSES THE PANEL DECISION AND LEAVES**
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1 **LEGISLATING TO THE LEGISLATURE**

2 Larry and Kim have already presented to the court the fee schedule that the justice
3 courts and municipal courts are required to post that shows that the fee for
4 preparation and transcript on appeal is \$25. See NRS 4.060(1)(j) and that the fee
5 schedule must be posted in a conspicuous place. See NRS 4.130. Larry and Kim
6 supplied a copy of the First Judicial District Court fee schedule. See Exhibit 6PR of
7 the Joint Petition for Rehearingfiled Jul 25, 2016.
8

9 This court's convoluted theory appears to be the court can charge the \$25 and
10 then send the appellant to a private transcriptionist too pay an additional hundred or
11 more dollars. If this is the case this would mean that the Municipal Courts or Justice
12 courts could take NRS 4.060(1)(m) "For preparing any copy of any record,
13 proceeding or paper, for each page \$.50" and say to an appellant: **"YES, PAY US 50**
14
15

16 **CENTS FOR EACH PAGE FOR COPIES BUT WE WILL GIVE YOU THE**
17 **NUMBER FOR KINKOS COPIES CALL THEM AND YOU WILL PAY**
18 **ANOTHER 10 CENTS PER PAGE TO KINKOS"**
19
20

21 This would be an absolute absurd result. The obvious purpose of the fee schedule
22 and the posting of the same is so that an appellant or someone paying for copies or
23 some othe fee knows that that is the **MAXIMUM** that can be charged in total!! Yet
24 the panel's position is that the Henderson court can charge the \$25 and the municipal
25
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1 court or the DISTRCT COURT can order an appellant to pay even more. This is
2 absurd! The court is required by precedent and COMMON SENSE not to interpret
3 statutes in a way that would make parts of the statute meaningless or create an absurd
4 result.
5

6 Additionally, in the Joint Petition for Rehearing Larry and Kim proved that
7 the FJD in fact is following NRS 189 and patterned their rule 33 after NRS 189:
8

9 **“Rule 33. Appeals to District Court in criminal matters from**
10 **Justice Court and Municipal Court.**

11 1. Pursuant to NRS 189.010 for appeals from proceedings in the
12 Justice Court and pursuant to NRS 266.595 and NRS 5.073 for appeals
13 from proceedings in the Carson City Municipal Court, a Notice of Appeal
14 in a criminal action tried before a Justice of the Peace or the Municipal
15 Court Judge must be filed within 10 days from the entry of the judgment.

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

19 3. Pursuant to NRS 189.065 or NRS 5.073, the Justice Court or
20 Municipal Court shall transmit to the Clerk of the District Court the
21 transcript of the case, all other papers relating to the case and a certified
22 copy of its docket of the case within 10 days after the Notice of Appeal is
23 filed.

24 4. Pursuant to NRS 189.065 or NRS 5.073, the appellant must
25 perfect his or her appeal by having the appeal set for hearing by the
26 District Court within 60 days after the Notice of Appeal is filed.

27 5. The appellant shall file his or her brief within 30 days after the
28 matter is set for hearing, provided the written transcript of the
proceedings has been prepared and filed with the District Court and
provided to the parties. The respondent shall file his or her opposing brief
within 20 days thereafter, and any reply brief by the appellant shall be
filed within 10 days thereafter.

[Added; effective October 5, 2009.]”

1 Please note however that Rulle 33(3) mistakenly cites NRS 189.065 when it should
2 be NRS 189.030! Larry and Kim submitted authenticated emails back and forth
3 between Max Cortes the FJDC administrator and Kim that proves that NRS 189 and
4 their Rule 33 is being regularly followed by the FJDC as a matter of routine.
5

6 In the Order denying rehearing the panel says:
7

8 “Sparks reading of these statutes ignores the interplay between NRS
9 4.410(setting forth the guidelines for compensation for preparation of
10 transcripts) and NRS 4.060(1)(j) setting forth the fee for preparation and
11 transmittal of transcripts on appeal), and ignores the holding in *Braham*
12 *v. Fourth Judicial Dist. Court*, 103 Nev. 644, 647, 747 P.2d 1390, 1392
13 (1987 **holding that a non-indigent misdemeanor appellant may be**
14 **required to pay for the costs of transcripts**)” (emphasis added)
15

16 First notice how the panel changes what the court held in Braham from the order
17 directing answer and the denial of the petition for rehearing where Braham was
18 stated as (holding that “when a justice's court decision is appealed, the justice of the
19 peace sends the case to the district court within ten days and the costs of
20 transmission can properly be assessed to the non-indigent appellant”). This first stated
21 holding of Braham means that according to the fee schedule the Justice could only
22 assess \$25 required by the fee schedule. Please notice how the holding language was
23 changed by the panel to attempt to change the reality of the holding.
24

25 Assessing any more than \$25 would mean sanctions and possible removal of the
26 justice for trying to charge more than the fee schedule. See NRS 4.080 (**Justice of the**
27
28

1 peace to charge only fees authorized by law. A justice of the peace shall not
2 charge any fee that is not authorized by law.) and **NRS 4.120 Punishment for**
3 **taking excessive fees.** If any justice of the peace shall take more or greater fees
4 than are allowed by law, the justice of the peace shall be liable to indictment, and on
5 conviction shall be removed from office and fined in any sum not exceeding \$1,000.
6

7
8 To claim that "Sparks ... ignores the interplay between NRS 4.410.....and NRS
9 4.060(1)(j) is just not true. When Larry and Kim presented NRS 4.410 and cited it
10 verbatim. Larry and Kim were showing that the fact that an employee was not
11 entitled to anything more than the already received salary, for preparing a transcript.
12 Yet the fact that the employee gets no "extra", than salary **"DOES NOT MEAN**
13 **THAT THE JUSTICE CANNOT STILL COLLECT THE \$25"** Therefore the
14 compensation that whoever the **JUSTICE PICKS** to do the transcript has no
15 connection to what fees to charge!! So, if an appellant is indigent the Justice can
16 either have an employee prepare the transcript at no additional cost than salary or
17 hire a compensated transcriptionist. How is that for not ignoring the interplay?
18
19
20

21 If an appellant wants to stand on the statute and demand to pay no more than the
22 \$25 he or she must be allowed to! And a district court judge nor this court should
23 judicially legislate. If those of the supreme court wish it otherwise, than ask the
24 legislature to CHANGE THE LAW!!
25
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1 So what was said up above the court is already doing. Misstating case law to
2 patchwork the twisted interpretation of statute and case law. The FJDC and Max
3 Cortes, the court administrator states what that court does :

4
5 “The court does not charge defendants for transcripts for criminal cases
6 on appeal where the court has appointed an attorney or when the
7 defendant is in pro se. The court **contacts a certified court reporter and**
8 **coordinates the transcript, pays for the transcript, disburses copies**
9 **and forwards to the District Court.**

10 A transcript for civil or small claims cases are paid for by the parties in
11 the case.” (emphasis added)

12 For convenience Larry and Kim attach this email as exhibit 2 PEB.

13 The court can see that the FJDC uses a certified court reporter and does not charge
14 indigents or pro se litigants. This further means that even before an appellant gets to
15 the district court level an appellant at the FJDC **KNOWS WHAT FEES MUST BE**
16 **PAID FOR THE APPEAL!!**

17 In the courts order denial of the writ the panel said:

18
19 “...the district court may require a nonindigent misdemeanor appellant to
20 obtain and pay for transcripts for a misdemeanor appeal,”

21
22 Here the panel is saying that the appellant cannot rely on clear statutory language
23 as to the \$25 and may have to wait after other fees are already paid to have a district
24 court judge order an appellant to pay unknown fees when the fee schedule is clear
25 what fees are the maximum that can be charged for preparation and transmittal of a
26
27
28

1 transcript.
2
3

4 CONCLUSION

5 The panel of this court takes a statutory scheme that places a clear burden on the
6 lower court to prepare and transmit a transcript to the district court and then put the
7 burden on the appellant. And to say that "It would be difficult if not impossible, for
8 the municipal court.... within ten days....." is total nonsense when the FJDC
9 ROUTINELY BY STATUTE AND RULE DOES THIS!
10

11 The underpinning of State v. O'Donnell, 98 Nev. 305, 646 P.2d 1217 (1982) is that
12 it is the burden of the court to prepare and file the transcript with the District Court.
13

14 This court's decision is contrary to clear law and the due process clause of the
15 Federal constitution NRS 189 and the supporting statutory scheme creates this
16 federally protected liberty interest. The full court must rehear the issue en banc recall
17 the panel opinion and issue an opinion that is consistent with the law.
18

19 This issue is so clear cut that Larry and Kim will file complaints with the NCJD
20 unless the panel decision is reversed. Unlike the U.S. Supreme Court this courts
21 justices are subject to discipline up to even removal from the NCJD for violating the
22 code which includes violations of law for which violation is a violation of the code.
23 Because "Judge" Douglas and Pavlikowski and Loehrer have previously ruled the
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1 law so clear. "Justice" Douglas and all other Justices that "stick with" the panel
2 would clearly be violating rules and subject to NCJD sanctions for doing so. Larry
3 and Kim call specifically on you Justice Douglas to hold to that same truth you held
4 to in the district court many years ago. To further, act as a champion for that truth and
5 obvious decision and to convince all the other Justices that the panel decision is
6 unfair, unjust and contrary to clear law . To further tell the justices that if they do not
7 rule consistent with how you previously ruled in the district court that you yourself
8 will refer them to the NCJD! See Del Papa v Steffen 915 P.2d 215 (Nev. 1996)
9 (Justices can refer others to the NCJD.)
10
11
12

13 Justice Douglas and all you other Justices for your conscience sake do the right
14 thing here or you will be judged by God himself for doing that which is clearly
15 unjust.
16

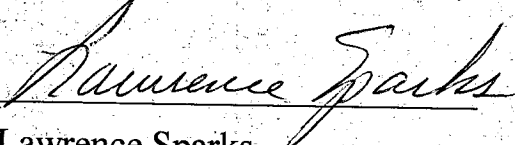
17 Consider that the Sanhedrin opted to deliver one man for condemnation with the
18 excuse, better one man should die rather than a whole nation perish. You have no
19 authority to change the law and the NCJD has an independent right to determine
20 what is willful misconduct and is established by the Nevada Constitution. Surely
21 disobeying a clear law and issuing a decision that encourages other Judges to render
22 parts of the statutes meaningless or absurd would be willful misconduct. Rule 1.1
23 Compliance with the law "A judge shall comply with the law, including the Code of
24
25
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1 Judicial Conduct

2 Therefore it is clear that NCJD has an independent constitutional authority to
3 determine what the law is. Otherwise the Nevada Supreme Court Justices can never
4 be disciplined for violations of law. For the Justices could overrule the commission
5 and say what the law is and be bound by the Nevada Supreme Court
6 pronouncements. Thereby nullifying an important check and balance Judges are not
7 above the law. NRS 189.030 provision of 10 days and the panel has said this 10 days
8 is meaningless in addition to the other provisions including the burden being on the
9 justice and Braham clearly puts the burden on the justice!!
10
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13 The FJDC can clearly comply with the law as written. This court has no
14 reasonable excuse to not reverse the panel decision and to do the right thing and
15 reverse in the alternative to grant such other relief as is proper and just and speedy.
16
17
18

19 DATED this 7th day of September, 2016.

20 

21 Lawrence Sparks

22 817 Arrowhead Trail

23 Henderson, Nevada 89002

24 (714) 391-3766

20 

21 Kim Blandino

22 C/O 441 N 16th St.

23 Las Vegas Nv 89101

24 (702) 219-5657

STATEMENT UNDER PENALTY OF PERJURY BY LAWRENCE SPARKS
IN SUPPORT OF THE PETITION AND CERTIFICATE OF SERVICE

I, Lawrence Sparks do hereby state under penalty of perjury the following:

That I am the Petitioner in this matter, that I have have read the foregoing and the same is true and correct except as to those matters of belief and as to those matters I believe them to be true.

That this petition is not meant to vex, harass or for any other improper purpose but to acknowledge the rule of law as written.

That the attached exhibits were obtained by Kim and I am relying on his authentication of those documents and that Kim has shown to be reliable in obtaining documentary evidence in my dealings with him.

That I believe that Kim is being a true friend of the court to supply this necessary evidence and expending time trouble and effort to make this petition better.

That the signature below serves as signature for this statement and for the certificate of service that one signature is used for purposes of conservation of effort and judicial economy for this document.

That **CERTIFICATE OF SERVICE** was accomplished by electronic means or by mailing a copy to the following:

Dated and signed this 7th day of September, 2016.

1 Respectfully Submitted under penalty of perjury and certificate of service to the
2 following:

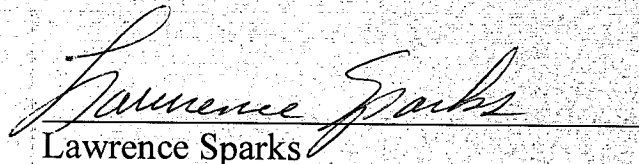
3
4 Steven Grierson, CEO/Clerk
5 8th Judicial Dist. Ct.
6 200 S. Third St.
7 Las Vegas, Nv. 89115

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

8 The Henderson Municipal Court Clerk
9 243 Water St.
10 Henderson, Nv. 89015

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

11
12
13 Dated and signed this 7th day of September, 2016.

14
15 
16 Lawrence Sparks

17
18 **STATEMENT UNDER PENALTY OF PERJURY BY AMICUS CURIAE IN**
19 **SUPPORT OF THE PETITION**

20 I, Kim Blandino do hereby state under penalty of perjury the following:

21
22 That I am Amicus Curiae in this matter, that I have have read the foregoing
23 petition and the same is true and correct except as to those matters of belief and as to
24 those matters I believe them to be true.
25
26
27
28

1 That this entry into this case is not meant to vex harass or for any other improper
2 purpose.

3
4 That only due to emergency circumstances Kim was not able to join and be a joint
5 petitioner in this matter originally as Larry and I were jointly trying to resolve the
6 issues in the lower courts together and did speak with the court administrators and
7 private transcriptionist company.
8

9 That the position of the clerk of the henderson is that they can take \$25 (twenty
10 five dollars) allowed for by statute for preparation of and transmission of the
11 transcript and then send appellants to the private transcriptionist who will collect
12 another almost \$4 (four dollars) a page .
13
14

15 That the attached exhibits are true and correct originals or copies of the originals
16 and are authentic and are hereby authenticated by this statement under penalty of
17 perjury .
18

19 Dated and signed this 7th day of September, 2016.
20

21 
22 _____
23 Kim Blandino
24
25
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27
28

EXHIBIT 1PEB

EXHIBIT 1PEB

RECEIVED
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2016 FEB 10 PM 12:40

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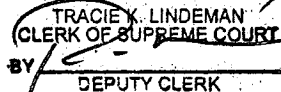
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S.C. Docket No. 69073

FILED

FEB 11 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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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

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

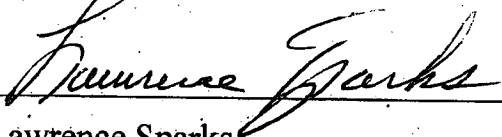
23 As to Argument II. Braham is a case the City also cites and in Braham Certiorari
24 was granted and Braham was not decided not on constitutionality but just on the
25 language and statutory construction of NRS 189.030 and supporting statutory
26 scheme.
27
28

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 24 day of February
26
27
28

1 2016 as follows:

2 Steven Grierson, CEO/Clerk
3 8th 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., 3rd Floor
Henderson, Nv. 89015

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

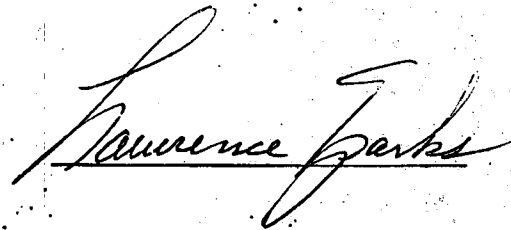
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EXHIBIT 1

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) 383-6110

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

9
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 DATED and DONE this 10 day of February, 1998.

13
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

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ORDER

ORIGINAL

FILED

Mar 23 3 17 PM '00

Sally L. Lochrer
CLERK

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

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

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

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

DATED this 22nd day of March 2000.

Sally L. Lochrer
Honorable Sally Lochrer
DISTRICT COURT JUDGE

Submitted by *Edward G. Poleski*

Edward G. Poleski
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

Robert J. Williams
CLERK OF THE COURT

NOV 30 2015

COUNTY CLERK

RECEIVED
MAR 3 2000

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

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search Refine](#)
[Search Close](#)

[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](#)



100-111111

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

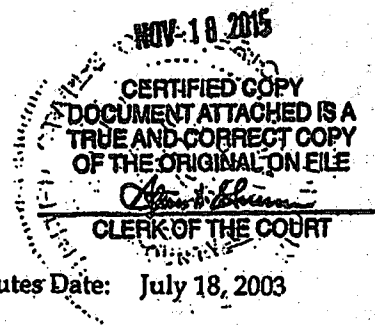
JOURNAL ENTRIES

- 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



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 Lawrence Sparks
14

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

19 CERTIFICATE OF SERVICE

20 I, the undersigned, hereby certify that service of the foregoing:
21

22 MOTION TO FILE A REPLY TO "RESPONDENT CITY OF
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

EXHIBIT 2PEB

EXHIBIT 2PEB

RE: Info from Kim Blandino

From: Maxine Cortes <MCortes@carson.org>
To: 'Kim Blandino'
Subject: RE: Info from Kim Blandino
Date: Dec 11, 2015 4:37 PM

Hello Mr. Blandino,

Jolie advised that you spoke to her today. I received your phone message. To answer your question about the Carson City Justice Court process:

- 1) The court does not charge defendants for transcripts for criminal cases on appeal where the court has appointed an attorney or when the defendant is in pro se. The court contacts a certified court reporter and coordinates the transcript, pays for the transcript, disburses copies and forwards to the District Court.
- 2) A transcript for civil or small claims cases are paid for by the parties in the case.

I hope this information assists you.

Sincerely,

Max Cortes
Court Administrator
First Judicial District Court
Carson City Justice/Municipal Court
(775) 283-7249

From: Kim Blandino [mailto:kim43792@earthlink.net]
Sent: Monday, November 23, 2015 2:48 PM
To: Maxine Cortes
Subject: Info from Kim Blandino

Maxine here is that info I said I would send