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IN THE SUPREME COURT OF THE STATE OF NEVADA

LACY L. THOMAS,)
)
Petitioner-Defendant,)
)
vs.)
)
EIGHTH JUDICIAL DISTRICT COURT)
of the State of Nevada, in and for Clark)
County; THE HONORABLE MICHAEL)
VILLANI, DISTRICT JUDGE, DEPT. 17,)
)
Respondents,)
)
and)
)
THE STATE OF NEVADA,)
)
Real Party in Interest.)

CASE NO. 69074
District Court Case Number:
C241569

**NOTICE OF
SUPPLEMENTAL
AUTHORITIES**

Oral Argument Scheduled:
December 6, 2016

Petitioner advises the court that on June 27, 2016, following the oral argument previously held in this case on June 16, 2016, the United States Supreme Court issued an opinion in McDonnell v. United States, 136 S.Ct. 3255 (2016).

McDonnell addresses the federal “honest services” statute. Governor McDonnell’s conviction under the statute was reversed on the ground that the conduct alleged did not constitute “bribery” for purposes of the statute. In particular, the court expressed its concern (drawing from the amicus briefs of former White House counsel for Presidents Reagan to Obama and 83 former State’s Attorney Generals-Republican and Democrat) about the expansiveness of the definition of the crime urged by the government. The high court condemned the “standardless sweep” of the government’s definition and declined to rely on “the Government’s discretion’ to protect against overzealous prosecution.” Id. at 2372-3.

The McDonnell opinion supports the arguments made at pp. 14-20 of the Petition that the prosecutor here was guilty of overreaching from the inception of the prosecution, the argument at pp. 22-3 and the argument at pp. 11-12 of the

Reply that because there were “no kickbacks, no influence peddling, no nepotism violations, and contracts that have been approved by the governing body” the unconstitutional vagueness of the Nevada “honest services” statute as applied to the allegations in this case should be decided. Additionally, the McDonnell opinion exemplifies the grave constitutional concerns raised in the original Motion to Dismiss which were not decided by this court in the previous appeal by the State. As this case is now set for en banc consideration, Petitioner urges the court to reconsider its previous ruling and to decide the unconstitutional vagueness issues, or in the alternative, to remand to the district court for a ruling on those issues.

Dated this 22nd day of November, 2016.

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/s/ Franny A. Forsman

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on November 22, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
Nevada Attorney General

STEVEN S. OWENS
Chief Deputy District Attorney