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

10
11 AMMAR HARRIS aka AMMAR ASIM

12 FARUQ HARRIS,

13 Appellant,

14 vs.

15 THE STATE OF NEVADA,

16 Respondent.

CASE NO.: 69509

**APPELLANT'S MOTION TO
REMAND THIS MATTER TO
THE DISTRICT COURT FOR
ENTRY OF AN APPROPRIATE
ORDER**

Death Penalty

17 Appellant AMMAR HARRIS, by and through his counsel of record, Thomas A. Ericsson
18 and Robert L. Langford, hereby submits this Motion to Remand for Entry of an Appropriate
19 Order.

20 Pursuant to Nev. R. App. Pro. 27(a)(1) and 10(c) Counsel for Mr. Harris request that this
21 Court remand this matter to the District Court, to allow the District Court to enter a minute order,
22 for the District Attorney to prepare an order and enter it, thereby correcting the trial court record,
23 and for the matter to then be returned to this Court.

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1 **FACTUAL AND PROCEDURAL BACKGROUND**

2 On or about April 4, 2015, Mr. Harris brought a motion in the District Court, seeking an
3 order preventing the State from admitting certain prejudicial photographs at trial. 3 ROA 504 –
4 509. That motion was heard by the District Court on or about September 11, 2015, and at that
5 time was denied without prejudice. 4 ROA 726.

6 On or about October 14, 2015, the motion was renewed, and Mr. Harris moved the
7 District Court to exclude trial exhibits 65 – 77, and the District Court heard argument from the
8 parties before eventually reserving judgment. 7 ROA 1559 – 1578.

9 On or about October 15, 2015, the Court informed all counsel for both parties that it
10 would deny Mr. Harris’ motion. *See* E-mail from District Court Judge Kathleen E. Delaney, of
11 October 15, 2015, a true and correct copy of which is attached as Exhibit (“Ex.”) A. The District
12 Court indicated that it would enter a minute order and thereafter the State would be responsible
13 to file a formal order. Neither the order was entered.

14 **ARGUMENT**

15 While preparing the Opening Brief, the undersigned investigated a potential appellate
16 issue regarding the admission of certain prejudicial photographs into evidence during the trial.
17 Counsel believe this is a critical matter on appeal. Following examination of the record on
18 appeal, and research into their correspondence with opposing counsel and the Court, it appears to
19 the undersigned that although the District Court indicated that a minute order would be entered,
20 and that the State would thereafter be directed to draft an appropriate order reflecting the District
21 Court’s ruling, those events in fact never took place. Counsel have examined the District Court
22 docket, and it appears that no ruling on this matter was in fact entered, whether orally, by minute
23 order, or by signed order.
24

1 Therefore, pursuant to Nev. R. App. Pro. 10(c), Mr. Harris requests that the matter be
2 remanded to the District Court, so that an order may be entered into the trial court record, and
3 thereby included in the record on appeal. The admission of these extremely graphic and highly
4 prejudicial photographs is a critical aspect of the appeal, and was accordingly the subject of
5 multiple motions and motion hearings in the District Court. The failure to enter an order was
6 very likely simple oversight on the part of all involved, but nonetheless leaves Mr. Harris
7 without an order to appeal from.

8 Mr. Harris asks this Court to remand the matter to the District Court so that an
9 appropriate order may be entered which accurately delineates the District Court's ruling, such
10 that this critical aspect of the trial may be briefed in this Court.

11 CONCLUSION

12 Based on the foregoing, Mr. Harris respectfully that this matter be remanded to the
13 District Court for entry of an appropriate order reflecting the District Court's ruling on the
14 admission of trial exhibits 65 – 77.

15 DATED this 10th day of August, 2016.

16 Respectfully submitted,

17 By: /s/ Robert L. Langford
18 THOMAS A. ERICSSON, ESQ.
19 Nevada Bar No. 4982
20 ROBERT L. LANGFORD, ESQ.
21 Nevada Bar No. 3988
22 *Attorneys for Appellant*
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ADAM PAUL LAXALT
Nevada Attorney General

STEVEN S. OWENS
Chief Deputy District Attorney

THOMAS A. ERICSSON
ROBERT L. LANGFORD
Counsel for Appellant

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Exhibit A

Exhibit A



Robert Langford <robertlangford58@gmail.com>

State v. Harris--Decision on Oral Motion to Exclude Evidence

2 messages

Delaney, Kathleen <DelaneyK@clarkcountycourts.us>

Thu, Oct 15, 2015 at 11:35 AM

To: "david.stanton@clarkcountyda.com" <david.stanton@clarkcountyda.com>, "pamela.weckerly@clarkcountyda.com" <pamela.weckerly@clarkcountyda.com>, Thomas Ericsson <tom@oronozlawyers.com>, "Robert Langford (Robert@robertlangford.com)" <Robert@robertlangford.com>
Cc: "Becklean, Ryan" <Dept25LC@clarkcountycourts.us>, "Batiste, Dania" <batisted@clarkcountycourts.us>

Hi, Folks—

I wanted to follow up with you now informally, in the interest of time, to let you know the Defendant's request to exclude Exhibits 65-77 has been denied. I will issue a minute order today that will direct the District Attorney's office to prepare the formal order, but I wanted both sides to be aware of the decision in advance, since I'm not entirely sure what the timing of my completion of the minute order will be.

My review of the case law, including but not limited to *Doyle v. State*, 116 Nev. 148 (2000) and *Robins v. State*, 106 Nev. 111 (1990), results in the conclusion that Defendant's assertion that the autopsy and other photographs are no longer relevant and/or their limited relevancy is outweighed by substantial prejudice, as the Defendant is not disputing cause and manner of death, is without merit. As in the *Doyle* case, Mr. Harris' not guilty plea makes this evidence admissible to prove the State's case with essential facts relating the alleged murders. And, although gruesome, these photographs are relevant because they both assisted the medical examiner in reaching his conclusions regarding the cause of death and the manner in which the alleged victims received their injuries, and will assist the jury in understanding the medical examiner's testimony at the time of trial, and, although gruesome, the photographs are limited in number and not unfairly prejudicial. —KED

Kathleen E. Delaney

District Court Judge, Dept. XXV

Eighth Judicial District Court

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Tue, Aug 9, 2016 at 7:13 PM

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