

IN THE SUPREME COURT OF THE STATE OF NEVADA

GABRIEL IBARRA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69617

FILED

FEB 28 2017

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER GRANTING PETITION FOR REVIEW

We grant review and, pursuant to NRAP 40B(g), direct supplemental briefing on NRS 205.270, specifically, whether Ibarra's deceit in asking to borrow the cellular phone while intending to steal it rendered the taking "without the other person's consent," as NRS 205.270 requires for conviction. The supplemental briefs should also address whether *Terral v. State*, 84 Nev. 412, 442 P.2d 465 (1968), imposes an invasion-of-privacy element contrary to the plain language of NRS 205.270.

Briefing on these and any other relevant issues shall comply with NRAP 28 to 32. Respondent, as petitioner, shall have 20 days from the date of this order to file and serve its supplemental brief. Appellant

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shall file and serve his supplemental brief within 20 days after the respondent's supplemental brief is served.

It is so ORDERED.¹

Douglas, J.
Douglas

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

CHERRY, C.J., with whom STIGLICH, J., agrees, dissenting:

I dissent because the facts as presented by the State do not constitute larceny from the person, NRS 205.270, and thus NRAP 40B review is not warranted.

Cherry, C.J.
Cherry

I concur:

Stiglich, J.
Stiglich

cc: Hon. Michael Villani, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The Honorable Mark Gibbons, Justice, did not participate in the decision of this matter.