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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

MACK MASON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 10 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Case No. 37964

MOTION TO SUPPLEMENT APPELLANT'S APPENDIX

COMES NOW, Appellant, MACK MASON, by and through his attorney DAVID M. SCHIECK, ESQ., and respectfully moves this Honorable Court to be allowed to supplement Appellant's Appendix.

This Motion is made and based on NRAP 26(b) and NRAP 30, and the Affidavit of Counsel attached hereto.

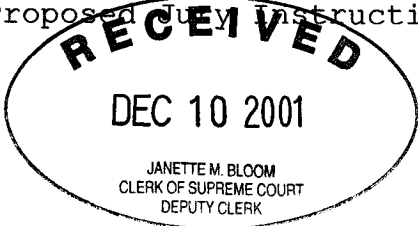
DATED this 5 day of December, 2001.

RESPECTFULLY SUBMITTED,

By *[Signature]*
DAVID M. SCHIECK, ESQ.
302 East Carson, Suite 600
Las Vegas, Nevada 89101
Attorney for Appellant

STATEMENT OF FACTS

Appellant's Opening Brief and Appendix were filed in this Court on November 30, 2001. When preparing the Appendix Attorney for Appellant was not able to find his copy of the Proposed Jury Instructions A and B from the guilt phase of the



1 trial. Instead of requesting another extension to the file the
2 brief and appendix, the Appendix was filed without the Proposed
3 Instructions and a copy was ordered from the Clerk's Office.

4 POINTS AND AUTHORITIES

5 Rule 30 of Nevada Rules of Appellate Procedure sets forth
6 the documents to be included in the Appendix which is to be
7 filed with the Opening Brief. Subsection (b)(2)(iv) states
8 "All jury instructions given to which exceptions were taken,
9 and excluded when offered".

10 In Appellant's Opening Brief, the fourth issue is THE
11 COURT ERRED IN DECLINING TO INSTRUCT THE JURY REGARDING
12 CONFLICTING EVIDENCE and cites to the transcript of the trial
13 wherein the Judge refused MASON'S Proposed Jury Instruction B.

14 NRAP Rule 26(b) discusses the requirements for request for
15 enlargement of time and states:

16 "...The court for good cause shown may upon motion
17 permit an act to be done after the expiration of such
18 time;..."

19 CONCLUSION

20 Appellant respectfully requests this Court permit

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1 Appellant to supplement the Appendix with Volume 8 to include
2 the Proposed Jury Instructions Not Used at Trial A and B.

3 DATED this 5 day of December, 2001.

4 Respectfully submitted,

5
6 By: 

7 DAVID M. SCHIECK, ESQ.
8 302 E. Carson Ave., #600
9 Las Vegas, Nevada 89101
Attorney for Appellant

10 AFFIDAVIT OF COUNSEL

11 STATE OF NEVADA)
12) ss:
13 COUNTY OF CLARK)

14 DAVID M. SCHIECK, being first duly sworn, deposes and
15 says:

16 That Affiant is an attorney duly licensed to practice law
17 in the State of Nevada, and court-appointed counsel for
18 Appellant MASON.

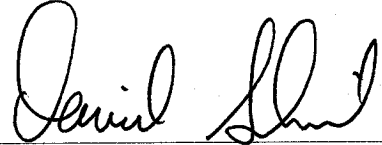
19 That Appellant's Opening Brief and Appendix were filed in
20 this Court on November 30, 2001. That at the time the Appendix
21 was prepared Affiant found the Proposed Jury Instructions Not
22 Used at Trial were missing from his file and requested a copy
23 from the Clerk's Office.

24 That Affiant believes the proposed jury instructions are
25 pertinent to issues raised in Appellant's Opening Brief.

26 That Affiant is sending simultaneously with this Motion
27 amended indexes to Volumes 1-7 and Volume 8 containing the
28 Proposed Jury Instructions A and B so that if this Court grants

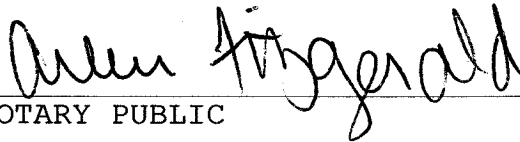
1 the instant Motion the clerk's office has all the documents to
2 correct the Appendix. That the State's Answering Brief is due
3 December 30, 2001 and therefore there will be no delay to the
4 briefing schedule by supplementing the Appendix.

5 Further Affiant sayeth naught.

6
7 

8 DAVID M. SCHIECK

9 SUBSCRIBED and SWORN to before me
10 this 5 day of December, 2001.

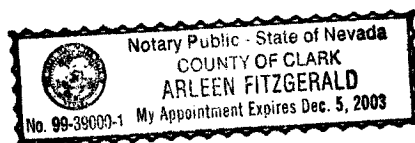
11 
12 NOTARY PUBLIC

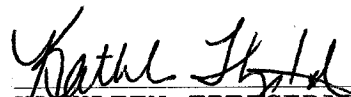
13 CERTIFICATE OF MAILING

14 The undersigned does hereby certify that on the 3rd day of
15 December, 2001, I did deposit in the United States Post Office
16 at Las Vegas, Nevada, a copy of the above and foregoing Motion,
17 enclosed in a sealed envelope upon which first class postage
18 was fully prepaid, addressed to the following:

19 District Attorney
20 Clark County Courthouse
200 South Third Street
21 Las Vegas, Nevada 89155

Attorney General
100 N. Carson St.
Carson City, NV 89701-4717




KATHLEEN FITZGERALD an employee
of David Schieck, Esq.