

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,)	NO. 71621
)	
Petitioner,)	Electronically Filed
)	Sep 28 2017 03:32 p.m.
)	Elizabeth A. Brown
vs.)	Clerk of Supreme Court
)	
THE EIGHTH JUDICIAL DISTRICT)	
COURT OF THE STATE OF NEVADA,)	
IN AND FOR THE COUNTY OF CLARK,)	
AND THE HONORABLE JENNIFER)	
TOGLIATTI, DISTRICT JUDGE,)	
)	
Respondents,)	
)	
and)	
JEFFREY LYNN BAKER,)	
Real Party in Interest.)	
)	
)	

RESPONDENT'S SUPPLEMENTAL AUTHORITY

COMES NOW Deputy Public Defender MIKE FELICIANO, on
behalf of the Respondent (Real Party In Interest) JEFFREY LYNN BAKER,
and pursuant to **NRAP 31(e)** files the supplemental authorities herein.

Dated this 28th day of September, 2017.

Respectfully submitted,

PHILIP J. KOHN,
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Mike Feliciano
MIKE FELICIANO, #9312
Attorney for Real Party In Interest

POINTS AND AUTHORITIES

NRAP 31(e) allows a party to file supplemental authorities and states:

(e) Supplemental Authorities. When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the Supreme Court or Court of Appeals by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues. Any response must be made promptly and must be similarly limited. If filed less than 10 days before oral argument, a notice of supplemental authorities shall not be assured of consideration by the court at oral argument; provided, however, that no notice of supplemental authorities shall be rejected for filing on the ground that it was filed less than 10 days before oral argument.

As such, **NRAP 31(e)** allows Appellant to directly file supplemental authorities without first seeking permission from the court under **NRAP 27**.

Jeffrey Lynn Baker directs this Court to the following supplemental authorities, to supplement Respondent's Answer to Petition For Writ of Prohibition or In the Alternative Mandamus at page 6:

See **Hernandez v. State**, 124 Nev. 639, 645, 188 P.3d 1126, 1130 (2008) ("Testimony given during a preliminary hearing on a criminal matter may be used at trial on that matter under NRS 171.198 and NRS 51.325 'if three preconditions exist: first, that the defendant was represented by counsel

at the preliminary hearing; second, that counsel cross-examined the witness; third, that the witness is shown to be actually unavailable at the time of trial.”)

See Brady v. United States, 397 U.S. 742, 748 (1970) (Waivers of “constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.”)

See Sheriff v. Witzenburg, 122 Nev. 1056, 1062, 145 P.3d 1002, 1006 (2006) (“We conclude that the Sixth Amendment Confrontation Clause and *Crawford* do not apply to a preliminary examination. We further conclude that the statutory right to cross-examination, under NRS 171.196(5), is a qualified right”)

See NRS 174.063 (requirements for a valid guilty plea agreement includes an express written waiver of “the constitutional right to confront and cross-examine any witnesses who would testify against” the defendant)

Respectfully submitted,

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Mike Feliciano
MIKE FELICIANO, #9312
Attorney for Real Party In Interest

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 28th day of September, 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
STEVEN S. OWENS

MIKE FELICIANO
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

JEFFREY LYNN BAKER
c/o Clark County Detention Center
330 South Casino Center Blvd.
Las Vegas, NV 89101

BY /s/ Carrie M. Connolly
Employee, Clark County Public
Defender's Office