

SUPREME COURT OF THE STATE OF NEVADA

DANIEL JAMES RODRIGUEZ,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 71920

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NOTICE OF ERRORS IN APPELLANT’S REPLY BRIEF

Appellant, through undersigned counsel, notifies this Court and Respondent of the following errors in the Appellant’s Reply Brief.

On page 3, in the third sentence of the full paragraph, the subsection reference at the end of the sentence should be to “subsection (6)(b)”, not “(6)(c)”. Thus, the sentence should read: “Although the opinion said that the definitions in NRS 193.165(6) were “instructive”, it was actually addressing only subsection (6)(c), and not the inherently dangerous test in subsection (6)(a) or the functional test in subsection **(6)(b)**.”

On page 5, in the first sentence of the full paragraph beginning with “Fifth”, the underlining under the case name “Funderburk” was omitted. That sentence

should read: “Fifth, the prosecution fails to argue against another marked difference between Funderburk and the instant appeal: **Funderburk** concluded that, “Therefore, we determine that the district court did not err by instructing the jury that a BB gun is a deadly weapon as it constitutes a ‘firearm’ under NRS 202.265(5)(b), a statute referenced in NRS 193.165(6)(c)”, *id* at 265.”

On page 11, paragraphs #4 and #5 omitted the references to Appellant’s arguments in the Opening Brief on Appeal. The first sentence of paragraph #4 should read: “Mr. Rodriguez argued (**at p. 20-21**) that the negative consequences of applying the functional test to a battery offense are much more severe than applying them to the sentence enhancement statute: elevating a misdemeanor to a felony rather than simply increasing a sentence.”

The first sentence of paragraph #5 should read: “Mr. Rodriguez argued (**at p. 21**) that other negative consequences of applying the functional test to a battery offense are much more severe than applying them to the sentence enhancement statute: increasing the sentence by twenty times instead of possibly doubling a sentence.”

DATED: July 5, 2017.

/s/ Martin H. Wiener
MARTIN H. WIENER
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Office of Martin H. Wiener, and that on July 5, 2017, I electronically filed with the Nevada Supreme Court the foregoing document. Electronic Service of the foregoing document was made by email on:

Terrence P. McCarthy, for State of Nevada

Matthew Lee, for State of Nevada

Paul Young, for State of Nevada

/s/ Barbara Oltman