

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVIER RIGHETTI.

Appellant,

VS.

THE STATE OF NEVADA,

Respondent.

NO. 73015 Electronically Filed
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APPELLANT'S REPLY BRIEF

(Appeal from Judgment of Conviction)

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APPELLANT’S REPLY BRIEF

I. THE STATE INTENTIONALLY CHARGED ALTERNATIVE THEORIES OF LIABILITY FOR FIRST DEGREE MURDER; THE STATE DOES NOT DENY THAT A JURY CAN FIND GUILT BASED ON ANY ONE OF THE ALTERNATIVE THEORIES OF LIABILITY; BUT THE STATE CONTENDS A DEFENDANT CHARGED WITH MURDER CANNOT PLEAD GUILTY PURSUANT TO ONE THEORY; THE STATE’S POSITION, AND THE DISTRICT COURT’S ADOPTION OF THAT POSITION, VIOLATES CONSTITUTIONAL DUE PROCESS GUARANTEES.

The State’s Answering Brief does not contest the fact that the State charged alternative theories of liability for the crime of murder in this case.

The State’s Answering Brief does not contest the fact that a jury can find guilt for the charged crime by agreeing that one alleged theory of liability has been proven beyond a reasonable doubt.

The State's Answering Brief does not contest that a jury can return a guilty theory, based on one alleged theory, even if the jury rejects liability based on a different alleged theory of liability.

Yet the State continues to insist that this simple procedure, which applies to a factfinder, does not apply to a defendant entering a plea to the alternative theories alleged by the State. The State continues to insist that a Defendant cannot plead guilty to a particular theory of liability alleged by the State, even though it is undisputed that a plea of guilty to one theory establishes guilt beyond a reasonable doubt.

II. THE REMAINING ARGUMENTS ARE SUBMITTED BASED ON THE ARGUMENTS PRESENTED IN THE OPENING BRIEF.

The Appellant submits the remaining issues in this case based on the arguments submitted in the Opening Brief.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

This brief has been prepared in a proportionally spaced typeface using Times New Roman in 14 size font.

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

Proportionately spaced, has a typeface of 14 points or more and contains 2 pages which does not exceed the 40 page limit.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in

the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 18 day of October, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 18 day of October, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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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:

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