

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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**THOMAS RANDOLPH**

Appellant,

vs.

**THE STATE OF NEVADA**

Respondent.

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**Docket No. 73825**

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Direct Appeal From A Judgment of Conviction  
Eighth Judicial District Court  
The Honorable Stefany Miley, District Judge  
District Court No. 09C250966

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**MOTION TO SUPPLEMENT THE RECORD ON APPEAL  
AND NOTICE OF ERROR IN INDEX OF RECORD ON APPEAL**

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JoNell Thomas  
State Bar #4771  
Chief Deputy Special Public Defender  
Randall H. Pike  
State Bar #1940  
Asst. Special Public Defender  
330 South 3<sup>rd</sup> Street  
Las Vegas, NV 89155  
(702) 455-6265  
Attorneys for Appellant Randolph

COMES NOW, Appellant, Thomas Randolph, by and through his attorneys Randall H. Pike, Assistant Special Public Defender, and JoNell Thomas, Chief Deputy Special Public Defender, and respectfully moves this Honorable Court to direct the Clerk of the Eighth Judicial District Court (Clerk) to supplement the Record on Appeal with the transcript of the hearing from May 20, 2016.

Mr. Randolph also directs this Court's attention to the error in the index of the Record on Appeal submitted by the Clerk's office in that the Transcript of Hearing held on March 30, 2013 in Volume 10, pages 2190-2194, should be 2016 not 2013.

This Motion is made and based upon Nevada Supreme Court Rule 250(6)(c), the Points and Authorities contained herein, and Declaration attached hereto

#### STATEMENT OF FACTS

The jury in the underlying district court case returned a verdict of death and the capital appeal in the instant case was docketed on August 25, 2017. Appellant filed his Certificate of No Transcript Request on September 11, 2017. The Clerk submitted the Record on Appeal Volumes 1-40 on September 22, 2017. After review of the index, minutes, and transcripts contained in the 40 volumes, it was noted that there was no transcript included from the hearing on May 20, 2016. A Request for Transcript of Proceedings was filed with the Clerk and served on the Court Recorder. A Notice of Filing of Request for Transcript was filed with this Court on October 16,

2017. The Court Recorder filed the transcript on October 20, 2017.

Appellant respectfully requests that the record on appeal be supplemented with the transcript of the hearing on May 20, 2016.

While reviewing the Index and comparing same to the transcripts filed, it was noted that the entry of the hearing held on March 30, 2016 (in Volume 10, pages 2190-94) was erroneously entered in the Index as March 30, 2013.

### POINTS AND AUTHORITIES

SCR 250(6)(c) states in pertinent part as follows:

(c)...the clerk of the district court shall transmit as the record on appeal a certified copy of the complete record made and considered in the court below. The complete record shall include...transcripts of all lower court proceedings...All questions as to the filing, form and content of the record on appeal shall be presented to the supreme court.

Appellant is requesting this Court grant his motion to supplement the Record on Appeal with the transcript of May 20, 2016 so that the record will be “the complete record”. In addition, Appellant notifies this Court of the erroneous content of the Index to the Record on Appeal submitted by the Clerk, as to the transcript of March 30, 2016 (in the Index as 2013).

...

### CONCLUSION

Based on the Declaration attached hereto, Randolph requests the Court grant his motion to supplement the record on appeal.

DATED: October 23, 2017.

RESPECTFULLY SUBMITTED:

*/s/ JONELL THOMAS*

By \_\_\_\_\_  
JONELL THOMAS, NSB 4771  
CHIEF DEPUTY SPECIAL PUBLIC DEFENDER  
330 SOUTH THIRD STREET, STE. 800  
LAS VEGAS, NEVADA 89155-2316  
(702) 455-6265  
ATTORNEYS FOR APPELLANT RANDOLPH

### DECLARATION OF JONELL THOMAS

JONELL THOMAS, hereby declares as follows:

I am an attorney duly licensed to practice law in the State of Nevada, and the Chief Deputy Special Public Defender assigned to handle Mr. Randolph's capital appeal.

After review of the Record on Appeal submitted by the Eighth Judicial District Court Clerk's Office, it was noted that the hearing held on May 20, 2016 had not been prepared, and therefore was not contained in the Record on Appeal. Appellant served a Request for Transcript of Proceedings on the Court Recorder. The transcript was

filed on October 20, 2017.

It is respectfully requested that the Record on Appeal be supplemented to include the transcript from May 20, 2016. The transcript is necessary to provide for citation to the record for the procedural history of the case.

Additionally, while reviewing the index, it was noted that the transcript of the hearing held March 30, 2016 was erroneously entered as March 30, 2013.

I declare that I make this request in good faith and not for purposes of delay.

*/s/ JONELL THOMAS*

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JONELL THOMAS

#### CERTIFICATE OF SERVICE

The undersigned does hereby certify that on 10/23/2017, a copy of the foregoing Motion to Supplement the Record on Appeal and Notice of Error in Index of Record on Appeal was served as follows:

#### **BY ELECTRONIC FILING TO**

District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas, NV 89155

Nevada Attorney General  
100 N. Carson St.  
Carson City NV 89701

*/s/ JONELL THOMAS*

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JONELL THOMAS