

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS WILLIAM RANDOLPH,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

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Jun 18 2019 02:05 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 73825

**MOTION TO TRANSMIT EXHIBIT
UNDER NRAP 30(d)**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, CHARLES THOMAN, and under Nevada Rules of Appellate Procedure 30(d) and 10(b)(1), respectfully requests this Court to direct the district court to send the State's Exhibit 203 and 213 to this Court for reaching a decision on the issues on appeal.

This Motion is based upon the following Memorandum and all papers and pleadings on filed herein.

Dated this 18th day of June, 2019.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ Charles Thoman

CHARLES THOMAN
Chief Deputy District Attorney
Nevada Bar #012649
Office of the Clark County District Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 30(d) of the Nevada Rules of Appellate Procedure allows the inclusion of copies of relevant and necessary exhibits in an appendix. However, if an exhibit cannot be reproduced, a party may:

...file a motion requesting the Supreme Court to direct the district court clerk to transmit the original exhibits. The Supreme Court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the Supreme Court's review of the original exhibits is necessary to the determination of the issue.

NRAP 30(d).

Respondent asks that this Court direct the District Court Clerk's office to transmit State's Exhibit 203, which is video recording of Appellant's interview with Detective Clifford Mogg after Sharon's murder. 5 Appellant's Appendix (AA) 3843. The interview was played to the jury. Id. In this interview, Defendant claimed that Michael Miller knew that he had to finish putting up the trim one the day of Sharon's murder because Appellant alleged that he needed to return to Utah to take care of his parents. Exhibit 203, (Video Timestamp: 1:45:03-1:45:47). Exhibit 203 is relevant and necessary because it is one of the evidence that supports the State's argument that Michael could have waited until Appellant leave to commit the burglary. It also shows that Appellant and Michael were together on the same day of Sharon's murder.

Exhibit 213 concerns the news clip Appellant alleged the State had utilized to “ask the jurors to put themselves in the victim’s place.” AOB at 79; Respondent’s Answering Brief at 84-85. Oddly, Appellant did not transmit the exhibit for this court’s review. Exhibit 213 is relevant and necessary to show that the district court properly allowed the news clip because the evidence was introduced at penalty phase to show Appellant’s untouchable and cavalier attitude. 22 AA 4806. The district court also allowed the evidence because its prejudicial effect was minimized by the fact that most of the information in the news clip was already admitted as evidence. Id.

CONCLUSION

Because Exhibit 203 and 213 are relevant and necessary to several issues on appeal, the State respectfully requests the Court to order the District Court Clerk’s Office to transmit the State’s Exhibit 203 and 213.

Dated this 18th day of June, 2019.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney

BY */s/ Charles Thoman*

CHARLES THOMAN
Chief Deputy District Attorney
Nevada Bar #012649
Office of the Clark County District Attorney

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on June 18, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

SANDRA L. STEWART, ESQ.
Counsel for Appellant

CHARLES THOMAN
Chief Deputy District Attorney

BY /s/ E. Davis

Employee,
Clark County District Attorney's Office

CT/Yu Meng/Joshua P. Prince/ed