

REC'D & FILED

2017 DEC 13 PM 2: 21

SUSAN MERRIWETHER
CLERK

Electronically Filed
BY *[Signature]* Dec 21 2017 10:08 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 Brent A. Coles
2 Warm Springs Correctional Center
3 P.O. Box 7007
4 Carson City, NV. 89702

6 In the First Judicial District Court of the State of Nevada
7
8 In and For the County of Carson

9 Brent A. Coles
10
11 Petitioner,
12
13 and
14 Connie S. Bisbee , Chairmen;
15 The Nevada Board of Parole Commissioner's;
16 The Nevada Department of Corrections;
17
18 and
19 The State of Nevada
20
21 (Real Party in interest)
22
23 Respondents

Case No.: 170C00051 1B
Dept No.: 2

Petitioner's Notice of Appeal to the
Nevada Supreme Court

24 Comes now, Petitioner Brent A. Coles, (Hereinafter "Petitioner"), and in His Proper
25 Person, and files this Notice of Appeal to the Nevada Supreme Court, from an Order of
26 Judgment, to wit:

27 This Notice of Appeal is timely filed pursuant to the provisions of and in accordance
28 with NRAP Rule 4(a).

Dated this 11 Day of December, 2017

By: *Brent A Coles*
Brent A. Coles, Petitioner
In Proper Person

Certification of Service by Mailing

I, Brent A. Coles, do hereby certify that pursuant to the provisions of NRCP rule 5(b) and on this date, I did serve the foregoing, "Notice of Appeal to the Nevada Supreme Court", upon Respondents counsel, by placing same in the United States Postal Service, postage being fully pre-paid and addressed as follows:

Ms. Kathleen Brady
Deputy Attorney General
Office of the Attorney General
535 Wright Way
Carson City, Nevada 89711

Dated this 11 day of December, 2017

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

Affirmation Pursuant to NRS 2398.030

The Undersigned does hereby affirm that the preceding document "Notice of Appeal to the Nevada Supreme Court", does not contain the Social Security number of any person.

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

REC'D & FILED

2017 DEC 13 PM 3:54

SUSAN HERRIWETHER
CLERK

BY *[Signature]*
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

BRENT ALLEN COLES,

Petitioner(s),

vs.

CONNIE S. BISBEE, CHAIRMAN; THE
NEVADA BOARD OF PAROLE
COMMISSIONERS; THE NEVADA
DEPARTMENT OF CORRECTIONS; AND
THE STATE OF NEVADA,

Respondent(s).

) Case No.: 17 OC 00051 1B

) Dept. No.: II

) **CASE APPEAL STATEMENT**

1. Name of appellant filing this case appeal statement:

- BRENT ALLEN COLES

2. Identify the judge issuing the decision, judgment, or order appealed from:

- HONORABLE JAMES E. WILSON, JR.

3. Identify each appellant and the name and address of counsel for each appellant:

- BRENT ALLEN COLES #49132 (PROPER PERSON)
P.O. BOX 7007
CARSON CITY, NV 89702

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

- CONNIE S. BISBEE, CHAIRMAN; THE NEVADA BOARD OF PAROLE
COMMISSIONERS; THE NEVADA DEPARTMENT OF CORRECTIONS;

1 AND THE STATE OF NEVADA (RESPONDENTS)
2 ADAM PAUL LAXALT, ATTORNEY GENERAL (COUNSEL FOR RESPS)
3 555 WRIGHT WAY
4 CARSON CITY, NV 89711

5 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
6 licensed to practice law in Nevada and, if so, whether the district court granted that
7 attorney permission to appear under SCR 42 (attach a copy of any district court order
8 granting such permission):

9 - NOT APPLICABLE

10 6. Indicate whether appellant was represented by appointed or retained counsel in the
11 district court:

12 - APPELLANT IN PROPER PERSON IN DISTRICT COURT

13 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

14 - APPELLANT IN PROPER PERSON ON APPEAL

15 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date
16 of entry of the district court order granting such leave:

17 - ORDER REGARDING WAIVER OF FEES AND COSTS FILED MAY 17,
18 2017

19 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
20 indictment, information, or petition was filed):

21 - PETITION FOR DECLARATORY JUDGMENT PURSUANT TO THE
22 UNIFORM DECLARATORY JUDGMENT'S ACT FILED MAY 17, 2017

23 10. Provide a brief description of the nature of the action and result in the district court,
24 including the type of judgment or order being appealed and the relief granted by the
25 district court:

26 - ORDER GRANTING MOTION TO DISMISS FILED NOV. 20, 2017

27 11. Indicate whether the case has previously been the subject of an appeal to or original writ
28 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket

1 number of the prior proceeding:

2 - NOT APPLICABLE

3 12. Indicate whether this appeal involves child custody or visitation:

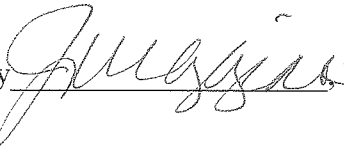
4 - NOT APPLICABLE

5 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

6 - NOT APPLICABLE.

7 Dated this 13th day of December, 2017.

8
9 SUSAN MERRIWETHER, Carson City Clerk
10 885 E. Musser St., #3031
11 Carson City, NV 89701

12 By  Deputy

REC'D & FILED

2017 DEC 13 PM 2:18

SUSAN MERRIWETHER
CLERK

BY  DEPUTY

1 Brent A. Coles
2 Warm Springs Correctional Center
3 P.O. Box 7007
4 Carson City, NV. 89702
5 In Proper Person

6 In the First Judicial District Court of the State of Nevada

7 In and For the County of Carson

9 Brent A. Coles

Case No.: 170C00051 1B
Dept No.: 2

10 Petitioner,

11 and

Petitioner's Case

12 Connie S. Bisbee , Chairmen;

Appeal Statement

13 The Nevada Board of Parole Commissioner's;

14 The Nevada Department of Corrections;

15 and

16 The State of Nevada

17 (Real Party in interest)

18 Respondents

19 Comes now, Petitioner Brent A. Coles, (Hereinafter "Petitioner"), and in his Proper
20 Person, and files this Case Appeal Statement in the above-entitled action.

21 This Case Appeal Statement is made pursuant to NRAP Rule 3 (A) (1).

22 1. Name of appellant filing this Case Appeal Statement: Brent A. Coles

23 2. Identify the Judge issuing the decision, judgment or order appealed from:

24 Honorable Judge James E. Wilson, Jr.

25 3. Identify all parties to the proceedings in the District Court (the use of et al.,
26 to denote parties is prohibited): Connie S. Bisbee, Chairman; The Nevada Board of
27

1 Parole Commissioners; The Nevada Department of Corrections; and the State of Nevada
2 (Real Party in Interest) all Respondents. Brent A. Coles, Petitioner.

3 4. Identify all parties involved in this appeal:

4 Connie S. Bisbee, Chairman; The Nevada Board of Parole Commissioners; The
5 Nevada Department of Corrections; and the State of Nevada (Real Party in Interest),
6 all Respondents. Brent A. Coles, Petitioner.

7 5. Set forth the name, Law firm, address, and telephone number of all counsel on
8 appeal and identify the Parties whom they represent:

9 Brent A. Coles, NDOC #49132 (Petitioner) (Telephone: N/A)

10 Warm Springs Correctional Center

11 P.O. Box 7007

12 Carson City, Nevada 89702 (In Proper Person)

13
14 Mr. Adam P. Laxalt, Attorney General (Attorney for Respondents)

15 Ms. Kathleen Brady

16 Deputy Attorney General

17 555 Wright Way

18 Carson City, Nevada 89711 (775-684-4605)

19
20 6. Indicate whether Appellant is represented by retained, appointed counsel on appeal.

21 Appellant, In Proper Person

22 7. Indicate whether appellant was represented in the District Court by retained,
23 appointed counsel:

24 Appellant, In Proper Person

25 8. Indicate whether appellant was granted leave to proceed In Forma Pauperis and the
26 date of entry of the District Courts under granted such leave:

27 Yes, April 3, 2017.

1 9. Indicate the date the proceedings commenced in the District Court:

2 April 3, 2017.

3

4 Dated this 11 Day of December, 2017

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By: *Brent A. Coles*
Brent A. Coles, Petitioner
In Proper Person

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Certification of Service by Mailing

I, Brent A. Coles, do hereby certify that pursuant to the provisions of NRCP rule 5(b) and on this date, I did serve the foregoing, "Case Appeal Statement", upon Respondents counsel, by placing same in the United States Postal Service, postage being fully pre-paid and addressed as follows:

Ms. Kathleen Brady
Deputy Attorney General
Office of the Attorney General
535 Wright Way
Carson City, Nevada 89711

Dated this 11 day of December, 2017

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

Affirmation Pursuant to NRS 2398.030

The Undersigned does hereby affirm that the preceding document "Case Appeal Statement", does not contain the Social Security number of any person.

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

Certification of Service by Mailing

I, Brent A. Coles, do hereby certify that pursuant to the provisions of NRCP rule 5(b) and on this date, I did serve the foregoing, "Case Appeal Statement", upon Respondents counsel, by placing same in the United States Postal Service, postage being fully pre-paid and addressed as follows:

Ms. Kathleen Brady
Deputy Attorney General
Office of the Attorney General
535 Wright Way
Carson City, Nevada 89711

Dated this 11 day of December, 2017

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

Affirmation Pursuant to NRS 2398.030

The Undersigned does hereby affirm that the preceding document "Case Appeal Statement", does not contain the Social Security number of any person.

By: Brent A. Coles
Brent A. Coles
Petitioner, In Proper Person

Judge: WILSON JR, JAMES E

Case No. 17 OC 00051 1B
Ticket No.
CTN:

COLES, BRENT A

By:

-vs-

BISBEE, CONNIE S

DRSPND

By:

Dob:
Lic:
NEVADA DEPARTMENT OF
CORRECTIONS

Sex:
Sid:
DRSPND

By:

Dob:
Lic:
NEVADA DEPARTMENT OF
PAROLE COMMISSIONERS

Sex:
Sid:
DRSPND

By:

Dob:
Lic:

Sex:
Sid:

Plate#:
Make:
Year: Accident:
Type:
Venue:
Location:

COLES, BRENT A

PLNTPET

Bond:
Type:

Set:
Posted:

Charges:

Ct.	Offense Dt:	Arrest Dt:	Comments:	Cvr:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	12/13/17	CASE APPEAL STATEMENT	1BJHIGGINS	0.00	0.00
2	12/13/17	PETITIONER'S CASE APPEAL STATEMENT	1BVANESSA	0.00	0.00
3	12/13/17	PETITIONER'S NOTICE OF APPEAL TO THE NEVADA SUPREME COURT	1BVANESSA	24.00	0.00
4	11/29/17	NOTICE OF ENTRY OF ORDER	1BJULIEH	0.00	0.00
5	11/20/17	SUMMARY JUDGMENT	1BCCOOPER	0.00	0.00
6	11/20/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
7	11/20/17	ORDER GRANTING MOTION TO DISMISS	1BCCOOPER	0.00	0.00
8	10/17/17	REQUEST FOR STATUS CHECK	1BVANESSA	0.00	0.00
9	09/15/17	REQUEST FOR SUBMISSION	1BCGRIBBLE	0.00	0.00
10	09/15/17	REPLY IN SUPPORT OF PETITIONER'S MOTION REQUESTING ORAL ARGUMENTS	1BCGRIBBLE	0.00	0.00
11	09/08/17	REQUEST FOR SUBMISSION	1BCGRIBBLE	0.00	0.00
12	09/08/17	REPLY IN SUPPORT OF RESPONDENTS' MOTION TO DISMISS PETITION FOR DECLARATORY JUDGMENT	1BCGRIBBLE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
13	09/08/17	OPPOSITION TO PETITIONER'S MOTION REQUESTING ORAL ARGUMENT	1BCGRIBBLE	0.00	0.00
14	09/05/17	MOTION REQUESTING ORAL ARGUMENTS HEARING FOR PENDING MOTION TO DISMISS	1BCCOOPER	0.00	0.00
15	08/29/17	PETITIONER'S OPPOSITION RESPONSE T RESPONDENT'S MOTION TO DISMISS PETITION FOR DECLARATORY JUDGMENT	1BVANESSA	0.00	0.00
16	08/07/17	MOTION FOR ENLARGEMENT OF TIME TO RESPOND TOI RESPONDENTS MOTION TO DISMISS (FIRST REQUEST)	1BCGRIBBLE	0.00	0.00
17	07/24/17	AFFIRMATION PURSUANT TO NRS 239.030	1BCGRIBBLE	0.00	0.00
18	07/24/17	PLAINTIFF'S/PETITIONER'S INITIAL APPEARANCE AFFIRMATION PURSUANT TO NRS 239.030	1BCCOOPER	0.00	0.00
19	07/24/17	MOTION TO DISMISS PETITION FOR DECLARATORY JUDGMENT	1BCCOOPER	0.00	0.00
20	06/29/17	NOTICE TO THE COURT COMPLETION OF SERVICE	1BCCOOPER	0.00	0.00
21	05/24/17	ISSUING SUMMONS & ADD'L SUMMONS (2)	1BCCOOPER	0.00	0.00
22	05/18/17	PETITION FOR DECLARATORY JUDGMENT PURSAUNT TO THE UNIFORM DECLARATORY JUDGMENTNS ACT JURY TRIAL DEMAND PURSAUNT TO NRCP RULE 38	1BCCOOPER	0.00	0.00
23	05/17/17	MOTION TO ACCEPT PRISON ACCOUNT SUMMARY STATEMENTS AS PROVIDED	1BCCOOPER	0.00	0.00
24	05/17/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
25	05/17/17	ORDER REGARDING WAIVER OF FEES AND COSTS - GRANTED (BRENT COLES)	1BCCOOPER	0.00	0.00
26	05/11/17	REQUEST FOR SUBMISSION	1BVANESSA	0.00	0.00
27	04/27/17	MOTION TO WAIVE THE REQUIREMENT TO PROVIDE SIX MONTHS OF COMPLETE INMATE ACCOUNT STATEMENTS	1BCGRIBBLE	0.00	0.00
28	04/03/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BVANESSA	0.00	0.00
29	04/03/17	ORDER ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS - (PROVIDE THE COURT WITH INMATE ACCOUNT STATEMENTS)	1BVANESSA	0.00	0.00
30	03/29/17	AFFIDAVIT ON SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS	1BCCOOPER	0.00	0.00
31	03/29/17	MOTION FOR LEAVE TO PROCEED INFORMA PAUPERIS	1BCCOOPER	0.00	0.00
Total:				24.00	0.00
Totals By: COST				24.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

REC'D & FILED

2017 NOV 20 AM 8:25

SUSAN HERRIWETHER
CLERK

BY  DEPUTY

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6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR CARSON CITY**
8

9 **BRENT A. COLES,**

CASE NO. 17 OC00051 1B

10 **Petitioner,**

DEPT. 2

11 **vs.**

12 **CONNIE S. BISBEE, CHAIRMAN; THE**
13 **NEVADA BOARD OF PAROLE**
14 **COMMISSIONER'S; THE NEVADA**
15 **DEPARTMENT OF CORRECTIONS; and**
16 **THE STATE OF NEVADA (REAL PARTY IN**
17 **INTEREST),**

Respondents.

18 **ORDER GRANTING MOTION TO DISMISS**
19

20 Brent Coles filed a petition for declaratory judgment. Respondents filed a motion
21 to dismiss under NRCP 12(b)(5) which included a copy of the Parole Board's (Board)
22 June 9, 2016 Order Denying Parole.

23 Coles' petition raised five issues. First, Coles argued that because the Static-99R
24 does not assess a specific individual's risk to reoffend, use of the Static-99R violates NRS
25 213.1214(1)'s requirement that NDOC assess a prisoner using a currently accepted
26 standard of assessment to determine the prisoner's level of risk to reoffend.

27 NRS 213.1214(1) does not preclude NDOC from using an assessment tool, like the
28 Static-99R, that compares a set of an offender's characteristics with a set of

1 characteristics identified and correlated with recidivism. Coles' petition fails to state a
2 claim on this issue.

3 Second, Coles argued the NRS 213.1214 assessment is only relevant when the
4 inmate is going to be paroled to the community. NRS 213.1214 was amended in 2011.
5 The Legislature changed the language from "The Board shall not release on parole ..." to
6 "The Board shall not grant parole" Coles' petition fails to state a claim on this issue.

7 Third, Coles argued that inmates should be provided a copy of the assessment
8 before the parole hearing so the assessment may be checked for accuracy. An inmate
9 does not have any protectable due process or liberty interest in release on parole, unless
10 that right is created by state statute. *Anselmo v. Bisbee*, 133 Nev. A.O. 45, 396 P.3d 848,
11 850 (2017), citing *Greenholtz v. Inmates of Neb. Penal & Corr. Complex*, 442 U.S. 1, 7,
12 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979). The Nevada Supreme Court has consistently
13 held that given its discretionary language, Nevada's parole statute creates no protectable
14 liberty interest sufficient to invoke the Due Process Clause. *Anselmo*, 850. Coles'
15 petition fails to state a claim on this issue.

16 Fourth, Coles argued statutory changes regarding the assessment violates the
17 Constitutional *ex post facto* prohibition. This argument lacks merit. Coles' petition fails
18 to state a claim on this issue.

19 Fifth, Coles argued any assessment should include certain current information.
20 This argument lacks merit. Coles' petition fails to state a claim on this issue.

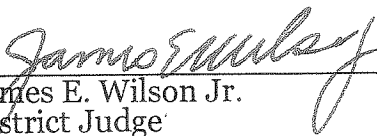
21 Coles has not demonstrated that any of his claims are a justiciable controversy or
22 that he has a legally protectible interest in the controversy and, therefore, declaratory
23 relief is not available to him.

24 IT IS ORDERED:

25 Respondents' Motion to Dismiss is granted. Coles' petition is dismissed.

26 Coles' Motion for Oral Argument is denied.

27 November 18, 2017.

28 
James E. Wilson Jr.
District Judge

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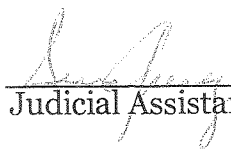
CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on the 20 day of November, 2017, I served a copy of this document by placing a true copy in an envelope addressed to:

Brent A. Coles, #49132
Warm Springs Correctional Center
P.O. Box 7007
Carson City, NV 89702

Kathleen Brady, DAG
Attorney General's Office
555 Wright Way
Carson City, NV 89711

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing.



Judicial Assistant

ORIGINAL

REC'D & FILED

2017 NOV 29 PM 3:36

SUSAN MERRIWETHER
CLERK
BY  DEPUTY

1 ADAM PAUL LAXALT
Attorney General
2 KATHLEEN BRADY (Bar No. 11525)
Deputy Attorney General
3 GERRI LYNN HARDCASTLE (Bar No. 13142)
Deputy Attorney General
4 State of Nevada
Office of the Attorney General
5 555 Wright Way
Carson City, NV 89711
6 (775) 684-4605 (phone)
(775) 684-4601 (fax)
7 kbrady@ag.nv.gov
Attorneys for Defendant
8

9 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10 IN AND FOR CARSON CITY

11 BRENT A. COLES,

CASE NO. 17 OC 00051 1B

12 Petitioner,

DEPT. NO. 2

13 vs.

14 CONNIE S. BISBEE, CHAIRMAN; THE
15 NEVADA BOARD OF PAROLE
COMMISSIONER'S; THE NEVADA
16 DEPARTMENT OF CORRECTIONS; AND
THE STATE OF NEVADA


17 Respondents.

18 **NOTICE OF ENTRY OF ORDER**

19 You are hereby given notice that an Order Granting Motion to Dismiss was entered in the
20 above-entitled matter on the 20th day of November, 2017. A copy of said Order is attached hereto as
21 Exhibit "1."

22 DATED this 28th day of November, 2017.

23 ADAM PAUL LAXALT
Attorney General

24 By: 
25 Kathleen Brady (Bar. No. 11525)
Deputy Attorney General

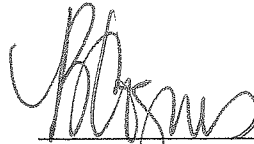
26 Gerri Lynn Hardcastle (Bar No. 13142)
27 Deputy Attorney General
28

CERTIFICATE OF SERVICE

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I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on November ^{28th} 27, 2017, I filed the foregoing document by depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Carson City, Nevada to the following:

Brent Allen Coles, #49132
Warm Springs Correctional Center
P.O. Box 7007
Carson City NV 89702



An employee of the office of the
Nevada Attorney General

INDEX OF EXHIBITS


EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Order Granting Motion to Dismiss	3

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REC'D & FILED

2017 NOV 20 AM 8:25

SUSAN HERRIWEATHER
CLERK

BY  DEPUTY

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6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
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11 850 (2017), citing *Greenholtz v. Inmates of Neb. Penal & Corr. Complex*, 442 U.S. 1, 7,
12 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979). The Nevada Supreme Court has consistently
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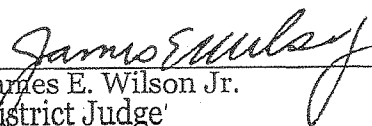
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26 Coles' Motion for Oral Argument is denied.

27 November 18, 2017.

28 
James E. Wilson Jr.
District Judge'

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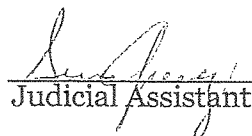
CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on the 20 day of November, 2017, I served a copy of this document by placing a true copy in an envelope addressed to:

Brent A. Coles, #49132
Warm Springs Correctional Center
P.O. Box 7007
Carson City, NV 89702

Kathleen Brady, DAG
Attorney General's Office
555 Wright Way
Carson City, NV 89711

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing.



Judicial Assistant