

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 THE LAS VEGAS REVIEW- )  
4 JOURNAL AND THE ASSOCIATED )  
5 PRESS, )

6 Petitioners, )

7 vs. )

8 THE EIGHTH JUDICIAL DISTRICT )  
9 COURT OF THE STATE OF )  
10 NEVADA, IN AND FOR THE )  
11 COUNTY OF CLARK, AND THE )  
12 HONORABLE RICHARD SCOTTI, )  
13 DISTRICT JUDGE, )

14 Respondent. )

15 VERONICA HARTFIELD, A )  
16 NEVADA RESIDENT AND THE )  
17 ESTATE OF CHARLESTON )  
18 HARTFIELD and OFFICE OF THE )  
19 CLARK COUNTY )  
20 CORONER/EXAMINER, )

21 Real Parties in )  
22 Interest, )

No. 75073

Electronically Filed  
Feb 14 2018 02:43 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

District Court No. A-18-768781-C

23 **CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER'S**  
24 **ANSWER AGAINST EMERGENCY PETITION FOR WRIT OF**  
25 **PROHIBITION OR IN THE ALTERNATIVE MANDAMUS**

26 STEVEN B. WOLFSON  
27 DISTRICT ATTORNEY  
28 LAURA C. REHFELDT  
Deputy District Attorney  
State Bar No. 005101  
500 South Grand Central Pkwy.  
Las Vegas, Nevada 89155-2215  
Attorney for Respondent, Clark County  
Coroner Medical Examiner

## STATEMENT OF FACTS

After the 1 October tragedy, the Coroner received numerous requests under Nevada Public Records Law for the 1 October autopsy reports from many media outlets, including the Las Vegas Review Journal ("LVRJ") and the Associated Press ("AP"). PA064;069. The LVRJ made its request on October 3, 2017 for the inspection of all autopsies from the 1 October tragedy, including the victims and the shooter. PA064-065, 129. On October 9, 2017, the Coroner responded against disclosure by asserting a legal analysis based on Donrey of Nev. v. Bradshaw, 106 Nev. 630, 798 P.2d 144 (1990), unwarranted invasion of privacy and AB 57, which in 2017 amended to NRS 259.045 and NRS 244.163. AP 130-133.

On November 7, 2018, the AP made its request for all of the autopsies from the 1 October shooting. PA069-070, 073-076. The Coroner denied access to the records and argued the balancing test and grounds set forth in Donrey of Nev. v. Bradshaw, 106 Nev. 630, 798 P.2d 144 (1990) and Reno Newspapers v. Gibbons, 127 Nev. 873, 266 P.3d 623 (2011), HIPAA, state laws relating to subject matter contained in the autopsy records, AB57/259.045 and privacy interests. PA 080.

On November 16, 2018, the LVRJ and the AP filed a Petition for Writ of Mandamus for Access to Autopsy Reports of 1 October Deaths in the Eighth Judicial District Court, Case No. A-17-764842 against the Coroner. The Coroner argued against disclosure based on law and policy set forth in NRS Chapter 239

1 and Nevada case law, including, AB 57/NRS 259.045, the basis articulated in  
2 Bradshaw, HIPAA, state laws relating to the subject matter of autopsy reports, as  
3 well as privacy interests.<sup>1</sup> PA 030-148.  
4

5 On January 30, 2018, the LVRJ and the AP's Petition was heard by Judge  
6 Timothy Williams. From the bench, Judge Williams' ruling, in part, directed the  
7 Coroner to immediately make autopsy reports of the victims with only the names  
8 and identifying information redacted. PA 187-191. This ruling was documented  
9 in a written order noticed on February 6, 2018. PA 205-217.  
10

11 On January 31, 2018, in compliance with the ruling of the District Court in  
12 Case No. A-17-76482, copies of the autopsy reports of all the 1 October victims  
13 were released, via email, to counsel for the LVRJ and AP. PA 219. Names and  
14 identifying information of the victims consisting of Coroner case number, age and  
15 race were redacted. PA 001, 219. Subsequently, the Clark County Office of  
16 Communications released the redacted autopsy reports to other media outlets. PA  
17 219.  
18  
19

20 On February 2, 2018, Veronica Hartfield and the Estate of Charleston  
21 Hartfield, filed a Complaint for Declaratory and Injunctive Relief and an  
22

---

23  
24 <sup>1</sup> The Coroner has made similar arguments in the case of *Las Vegas Review*  
25 *Journal v. Clark County Office of the Coroner/Medical Examiner*, Case No. A-17-  
26 758501-W. That case involves a public records request for autopsy records of  
27 juveniles from 2012-2017 and is currently on appeal before the Nevada Supreme  
28 Court, Case No. 74604.

1 Application for Temporary Restraining Order against the RJ and the AP. Mrs.  
2 Hartfield requested that the autopsy report of 1 October victim, Charleston  
3 Hartfield be retracted and that the RJ and the AP be prohibited from any further  
4 dissemination of that report. PA 008-023. The Coroner filed a Response in Non-  
5 Opposition to the Petition filed by Mrs. Hartfield. PA 029-219. After hearing the  
6 matter on February 9, 2018, Judge Scotti ruled that the autopsy report of Mr.  
7 Hartfield be returned and that the RJ and AP be precluded from publishing or  
8 reporting on it. PA 356-363.

### 11 CORONER'S STATEMENT

12 The Coroner objected to the RJ and the AP's request for autopsy reports  
13 under Nevada Public Records law in Case No. A-17-764842. The Coroner  
14 asserted arguments based on law and policy against public disclosure of autopsy  
15 reports. The Coroner's arguments against disclosure were based on the balancing  
16 test and grounds set forth in Donrey of Nev. v. Bradshaw, 106 Nev. 630, 798 P.2d  
17 144 (1990) and Reno Newspapers v. Gibbons, 127 Nev. 873, 266 P.3d 623 (2011),  
18 HIPAA, state laws relating to subject matter contained in the autopsy records,  
19 AB57/259.045 and privacy interests. These arguments are set forth in the  
20 Coroner's responding brief in that case and were addressed at oral argument. PA  
21 030-148; 150-203. The day after the hearing, the Coroner complied with District  
22  
23  
24  
25  
26  
27  
28

1 Court Judge Williams' ruling and provided the redacted autopsy reports of the 1  
2 October victims.

3  
4 The Coroner asserted similar arguments in support of non-disclosure of  
5 autopsy reports under Nevada Public Records Law in the case of *Las Vegas Review*  
6 *Journal v. Clark County Office of the Coroner/Medical Examiner*, Eighth Judicial  
7 District Court Case No. A-17-758501-W. In that case, the district court ordered  
8 the release of autopsy records of children from 2012-2017. That case is currently  
9 pending before the Nevada Supreme Court, Case No. 74604.

10  
11 In the present case, initially filed by Mrs. Hartfield in district court, the  
12 Coroner submitted a Response in Non-Opposition to Mrs. Hartfield's position. PA  
13 029-219. The Coroner does not oppose the arguments of Mrs. Hartfield. With  
14 respect to the District Court Judge Scotti's ruling, the Coroner does not challenge  
15 the court order.  
16  
17

18 / / /

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

26 / / /


1 **CONCLUSION**

2 Based on the foregoing, the Coroner respectfully submits its Answer Against  
3 the Emergency Petition for Writ of Prohibition or In the Alternative Mandamus.  
4

5 DATED this 14<sup>th</sup> day of February, 2018.

6 STEVEN B. WOLFSON  
7 DISTRICT ATTORNEY

8 By:

  
9 LAURA C. REHFELDT  
10 Deputy District Attorney  
11 State Bar No. 005101  
12 500 South Grand Central Pkwy.  
13 Las Vegas, Nevada 89155-2215  
14 Attorney for Clark County  
15 Coroner Medical Examiner  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

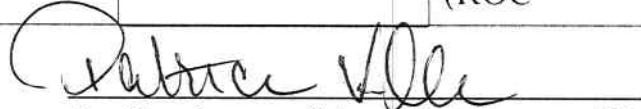
**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of February, 2018, I submitted the foregoing **CLARK COUNTY OFFICE OF THE CORONER/MEDICAL ANSWER AGAINST EMERGENCY PETITION FOR WRIT OF PROHIBITION OR IN THE ALTERNATIVE MANDAMUS** for filing via the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Anthony P. Sgro Sgro & Roger 720 S. Seventh Street, 3 <sup>rd</sup> Fl. Las Vegas, NV 89101 <a href="mailto:tsgro@sgroandroger.com">tsgro@sgroandroger.com</a>	<i>Counsel for Veronica Hartfield and the Estate of Charleston Hartfield</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)
David Roger Las Vegas Police Protective Association 9330 W. Lake Mead Blvd., Suite 200 Las Vegas, NV 89134 <a href="mailto:droger@lvppa.com">droger@lvppa.com</a>	<i>Counsel for Veronica Hartfield and the Estate of Charleston Hartfield</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)
Margaret A. McLetchie, Esq., Alina M. Shell, Esq. McLetchie Shell LLC 701 East Bridger Avenue #520 Las Vegas, NV 89101 <a href="mailto:alina@nvlitigation.com">alina@nvlitigation.com</a> <a href="mailto:maggie@nvlitigation.com">maggie@nvlitigation.com</a>	<i>Petitioner</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)

1 Honorable Judge Richard F. Scotti  
2 Eight Judicial District Court,  
3 Department II  
4 200 Lewis Avenue, Eleventh Fl.  
5 Las Vegas, NV 89101  
6 dept02lc@clarkcountycourts.us

☒ Electronic Service  
☐ Fax Service  
☐ Mail Service  
☐ Personal Service  
(ROC



An Employee of the Clark County District  
Attorney's Office – Civil Division