

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALFRED C. HARVEY,)	NO. 72829, 75911
)	
Appellant,)	Electronically Filed
)	May 19 2020 12:49 p.m.
vs.)	Elizabeth A. Brown
)	Clerk of Supreme Court
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	
)	

**APPELLANT’S MOTION SEEKING AN ORDER TO STRIKE
STATE’S 05/18/20 NOTICE OF SUPPLEMENTAL AUTHORITIES.**

Comes Now Appellant, ALFRED C. HARVEY, by and through Chief Deputy Public Defender, SHARON G. DICKINSON, and pursuant to NRAP 27 asks this Honorable Court to issue an order striking State’s Notice of Supplemental Authorities filed on 05/18/20 for the reasons discussed in the attached Points and Authorities.

DATED THIS 19th day of May, 2020.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Chief Deputy Public Defender
309 S. Third Street, Ste. 226
Las Vegas, Nevada 89155
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POINTS AND AUTHORITIES

NRAP 31(e) states in part:

When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the Supreme Court or Court of Appeals by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. **The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues...**

NRAP 31(e) (emphasis added).

There are several reasons why State's Notice should be stricken from the record. First, *State v. Jones*, 96 Nev. 71 (1980) has already been cited by the State in its Answer on page 5. Because it is not a new authority it does not qualify under NRAP 31(e).

Secondly, State did not follow the requirements of NRAP 31(e) which require the State to "concisely and without argument" cite "the legal proposition for which each supplemental authority is cited." The notice must be stricken because State did not follow the required mandates.

Third, in citing 6 new authorities and not indicating the proposition that State intends to use these authorities for during argument, State effectively is raising new points and issues. This is prohibited by NRAP 31(e).

Fourth, by not citing the arguments it intends to raise with these new authorities, State is violating the defendant's right to due process on appeal because the defendant is without notice as to State's argument.

Finally, by not following the mandates of NRAP 31(e), State makes it difficult to for the defendant to respond as he is allowed to do under NRAP 31(e).

Accordingly, Alfred Harvey asks this Court to strike the State's Notice.

DATED THIS 19 day of May, 2020.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER
By /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Chief Deputy Public Defender
309 So. Third Street, Suite #226
Las Vegas, Nevada 89155-2610

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 19th day of May, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
STEVEN S. OWENS

SHARON G. DICKINSON
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:

ALFRED C. HARVEY
NDOC No: 1174900
c/o Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070

BY /s/ Carrie M. Connolly
Employee, Clark County Public
Defender's Office