

IN THE SUPREME COURT OF THE STATE OF NEVADA

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VERNON NEWSON, JR.,	)	Electronically Filed
	)	Jan 24 2020 09:52 a.m.
Appellant,	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
vs.	)	Case No. 75932
	)	<b>E-File</b>
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	

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**MOTION FOR LEAVE TO FILE REPLY TO STATE’S**  
**ANSWER TO**  
**PETITION FOR EN BANC CONSIDERATION**

Comes Now Appellant, VERNON NEWSON, JR., by  
and through Chief Deputy Public Defender, WILLIAM M. WATERS,  
and pursuant to NRAP 27 moves this Honorable Court for leave to file  
a Reply to State’s Answer to his NRAP 40A Petition for *En Banc*  
Reconsideration. This Motion is based upon the attached Declaration  
of Counsel.

DATED THIS 24<sup>th</sup> day of January, 2020.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ William M. Waters  
William M Waters, #9456  
Chief Deputy Public Defender

## **DECLARATION OF WILLIAM M. WATERS**

1. I am an attorney duly licensed to practice law in the State of Nevada and the Deputy Public Defender assigned to represent VERNON NEWSON, JR. in this appeal; I am familiar with the procedural history of this case.
2. On direct appeal a three-judge panel of this Court issued a published decision reversing Newson's murder conviction but affirming his Child Abuse, Neglect or Endangerment convictions. See Newson v. State, 135 Nev. Adv. Op. 50 (Nev. Sup. Ct. 2019).
3. On October 28, 2019, both Newson and the State filed Petitions for Rehearing of the Panel's decision. The State's petition focused on the panel's decision to reverse Newson's Murder conviction while Newson's petition focused on the panel's decision to affirm his Child Abuse, Neglect or Endangerment convictions.
4. On November 20, 2019, the panel filed an Order denying both Newson's and the State's respective Petitions.
5. On November 27, 2019, the State filed a Petition for *En Banc* Reconsideration of the panel decision regarding the Murder

conviction.

6. On December 2, 2019, Newson filed his own Petition for *En Banc* Reconsideration of the panel decision regarding the Child Abuse, Neglect or Endangerment convictions.
7. On January 8, 2020, this Court denied the State's Petition for *En Banc* Reconsideration and ordered the State to file an Answer to Newson's Petition for *En Banc* Reconsideration within 14 days from the date of the Court's order.
8. The State filed its Answer on January 22, 2020.
9. In addressing Newson's argument that the panel's decision to affirm Newson's convictions for Child Abuse, Neglect or Endangerment directly contradicted this Court's prior precedent in Clay v. Eighth Judicial Dist. Court, 129 Nev. 445 (2013), the State offers new arguments not raised in its original Respondent's Answering Brief.
10. Additionally, in its Answer to Newson's Petition the State makes certain factual representations regarding what the Panel concluded which is belied by the decision itself and the record below.

11. NRAP 40A prohibits submission of a Reply in Support of a Petition for *En Banc* Reconsideration without leave of this Honorable Court. Accordingly, Petitioner is submitting the instant Motion for Leave to file a Reply in Support of Petition for *En Banc* Reconsideration.

12. Effective prosecution of Newson's Petition for *En Banc* Reconsideration requires that Newson be allowed to reply to the State's critical factual and legal claims raised in its Answer.

13. Finally, undersigned counsel is mindful of the Court's desire for timely resolution of matters before the court. Therefore, Counsel asserts he can file any Reply brief, if granted by this Court, within 7 days.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 24 day of January, 2020.

/s/ William M. Waters  
WILLIAM M. WATERS

## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 24 day of January, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD  
ALEXANDER CHEN

WILLIAM M. WATERS  
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:

VERNON NEWSOM  
NDOC No. 1051868  
c/o Ely State Prison  
P.O. Box 1989  
Ely, NV 89301

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