No. 76038

In the Nevada Supreme Court

Gibran Richardo Figueroa-Beltran,

Appellant,

v.

United States of America

Respondent.

Certified Questions under NRAP 5 from the
United States Court of Appeal for the Ninth Circuit

Appellant's Reply Brief

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Nevada Rule of Appellate Procedure 26.1 Disclosure

The undersigned counsel of record certifies the following are persons and entities as described in Nevada Rule of Appellate Procedure 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

Office of the Federal Public Defender, District of Nevada

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The Nevada Constitution has an express separation of powers doctrine, under which this Court holds an executive agency cannot establish the elements of a criminal offense. Because the pharmacy board creates the drug schedules, those schedules necessarily set forth alternative means of violating NRS 453.337, rather than setting forth alternative elements.

The government's reading of NRS 453.337 runs against Nevada's separation of powers doctrine because if the identity of the controlled substance is an element, then the pharmacy board is indeed setting forth NRS 453.337's elements. To support its construction, the government relies on other differently worded statutes and a general unfounded "uniformity" policy. The Court should reject the government's unsupported theories.

The dual canons of constitutional avoidance and lenity control the issue at hand. Under these canons, this Court should interpret NRS 453.337's ambiguous phrase "any controlled substance" in Appellant Figueroa-Beltran's favor and hold the identity of the controlled substance is a means, rather than an element.

I. *Luqman* instructs that the pharmacy board cannot determine the elements of an offense and therefore the controlled substances listed in the drug schedules are means of violating NRS 453.337.

In *Sheriff v. Luqman*, 101 Nev. 149, 153, 697 P.2d 107, 110 (1985), this Court upheld the Legislature's exclusive delegation of drug scheduling authority to the pharmacy board. This Court reasoned that because the Legislature may only "delegate the power to determine the facts or state of things upon which the law makes its own operations depend," the Legislature authorized the pharmacy board "to determine the facts which will make the statute effective." *Id.* at 153-54, 697 P.2d at 110. The pharmacy board thus became the delegated authority for making "findings as to the medical propriety of a drug and its potential for abuse." *Id.* at 111, 697 P.2d at 154. As such, this Court concluded it was the pharmacy board that was "delegated the duty to apply its findings to the legislative scheme." *Id.*

Because the pharmacy board was given the "role of a fact finder" when placing drugs into the administrative schedules—a role that did not involve "defin[ing] the elements of a crime"—this Court found the delegation constitutional under Nevada's strict separation of powers doctrine. *Id.* at 108, 110, 697 P.2d at 151, 154. *Luqman*'s holding

makes sense, however, only if the controlled substances in the administrative schedules constitute the various means or ways to violate NRS 453.337, not alternative elements creating hundreds of possible criminal offenses.

The government quarrels that *Luqman* concluded no unconstitutional delegation occurred because the Legislature set forth the penalties for violating Nevada's Uniform Controlled Substance Act's (UCSA). Answering Brief at 20. This was indeed part of the reasoning in *Luqman*, but not the deciding factor. 101 Nev. at 154, 697 P.2d at 110. Rather, the focus of the *Luqman* Court's reasoning is that no unconstitutional delegation occurred because the pharmacy board is only "placed into the role of a fact finder" and is "only authorized to determine the facts which will make the statute effective." *Id.* at 153-54, 697 P.2d at 110.

The government further argues that *Luqman*'s constitutional ruling is irrelevant and did not affect *Muller v. Sheriff*, 93 Nev. 686, 572 P.2d 1245 (1977)'s holding as to NRS 453.321's unit of prosecution because the pharmacy board "*always* had the power and duty to

administer the controlled substance laws." Answering Brief at 21. This misapprehends *Luqman*'s import.

Prior to the overhaul of Nevada's drug laws in 1981, no Nevada Supreme Court opinion addressed the pharmacy board's authority to "administer," "add," "delete," or "reschedule" controlled substances "by regulation." *See* Answering Brief at 21 n.6 (quoting the 1981 amendment to NRS 453.146). *Luqman* is, contrary to the government's claim, Nevada's watershed case concerning the delegation of drug scheduling authority to the pharmacy board and the first to define the parameters and constitutionality of that delegation.

Moreover, the *Muller* defendant had no occasion to challenge the delegation of authority to the pharmacy board. The *Muller* defendant was charged with selling heroin and cocaine, substances that in 1977 were scheduled in the Nevada Revised Statutes by the Nevada Legislature—not by a pharmacy board by regulation. *Muller*, 93 Nev. at 687, 572 P.2d at 1245. This Court in *Muller* was therefore not called upon to resolve the constitutional delegation question *Luqman* later addressed.

Furthermore, the government fails to acknowledge that *Muller* does not aid this Court in interpreting NRS 453.337 because *Muller* did not address this statute. Instead, *Muller* addressed NRS 453.321, a statute worded differently than NRS 453.337. The statute in *Muller*, NRS 453.321, uses the phrase "a controlled or counterfeit substance." Opening Brief at 41-42. Thus, NRS 453.321 does not contain the ambiguous language of "any controlled substance" present in NRS 453.337. Opening Brief at 41-42.

Muller's holding is limited to the interplay between NRS 453.321 and two abolished Nevada statutes (which previously contained schedules I and II). *Muller* does not address Nevada's current drug-scheduling system enacted in 1981—nor could it have, since *Muller* was published in 1977. The Court should therefore reject the government's position that *Muller* has a "broad holding . . . suggest[ing] that Nevada drug laws are meant to curb drug activities with respect to each forbidden substance, no matter the theory charged." Answering Brief at 19. The government's position is untenable at its core, as it improperly suggests an alleged policy concern can override the

constitutional separation of powers framework upon which *Luqman* stands. *See id.*

Finally, the government suggests that *Luqman* did not mean what it said because this Court: (1) has not expressly overruled *Muller*; and (2) subsequently issued *Andrews v. State*, 134 Nev. Adv. Op. 12, 412 P.3d 37 (2018). Answering Brief at 23. The government's claim that a case remains binding until expressly overruled is incorrect for several reasons.

First, a statutory amendment can overrule case law interpreting the prior version of the statute. *Rodriguez v. State*, 407 P.3d 771, 774 (Nev. 2017). Second, because *Luqman* was decided after *Muller*, it should be presumed *Luqman* "intended to implicitly overrule" any principles "inconsistent with" *Luqman*. *See Harris v. State,* 407 P.3d 348, 355 (Nev. App. 2017) (stating it "must presume" this Court "intended to implicitly overrule" its prior decisions "to the extent" those decisions were "inconsistent with" the Court's most recent case on the issue). Third, the *Andrews* litigants never raised or addressed *Luqman*'s constitutional separation of powers holding. Thus, the

Andrews Court had no occasion to address the issue.[1] Opening Brief at 47; *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues a party fails to cogently argue and support with relevant authority); *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (declining to address an issue not adequately briefed).

Luqman turned on whether the pharmacy board established the elements of an offense when scheduling drugs, i.e., acted as the Legislature. This Court held the pharmacy board did no such thing. It follows that the identity of the scheduled drugs, which the pharmacy board determines, are not elements of NRS 453.337.

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[1] Similarly, neither defendant in *Sheriff v. Shade*, 858 P.2d 840, 842 (Nev. 1993), or *Richard v. State*, 2014 WL 7107834, at *1 (Nev. Dec. 11, 2014), argued they could not be charged simultaneously with two separate counts based on separate controlled substances. Because neither *Shade* nor *Richard* addressed the means/element issue, they are not relevant here, contrary to the government's claim. Answering Brief at 23.

II. Nevada's strict separation of powers doctrine and delegation of drug scheduling authority to an executive agency distinguishes Nevada's drug scheme from the federal and California schemes.

The government fails to properly acknowledge Nevada's strict constitutionally-mandated separation of powers doctrine, as analyzed by this Court in *Luqman* and its progeny. *See* Opening Brief at 35-38. Instead, the government posits that the identity of the controlled substance should be considered an element in Nevada because the United States Congress has delegated authority to schedule drugs to the Drug Enforcement Agency. Answering Brief at 20-21, 36. The government fails to explain how the federal delegation scheme has any bearing on the elemental/means inquiry for NRS 453.337. The government's reliance on the federal drug delegation scheme is misplaced. The United States Constitution does not have the same express and strict separation of powers as the Nevada Constitution. Opening Brief at 35-36. The Nevada Constitution "embraces separation of powers to an even greater extent than the United States Constitution." *Berkson v. LePom*e, 126 Nev. 492, 501 n.5, 245 P.3d 560, 566 n.5 (2010).

The government alternatively suggests this Court follow California case law to interpret NRS 453.337. Specifically, the government claims the legislative history of NRS 453.337's 1977 enactment shows California law may be instructive to help interpret NRS 453.337. Answering Brief at 27-28. The government overstates the usefulness of this legislative history and fails to address that California does *not* delegate the authority to schedule drugs to an executive agency as Nevada has.

First, it is necessary to place the 1977 legislative history the government relies on in context. A police officer who "reviewed the bill, section by section, with the [Senate Judiciary] Committee" told the Legislature that NRS 453.337 "is based on the California statute." Compiled Legislative History for S.B. 268, p. 332 (referencing Section 2 of S.B. 268).[2] The history does not indicate, however, which California statute NRS 453.337 "is based on." The government merely presumes it is the current version of California Health & Safety Code § 11351. Answering Brief at 28.

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[2] *Available at* https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1977/SB268,1977.pdf.

Additionally, in response to a question about how the State can "prove the general intent of possession for the purpose of sale as opposed to ordinary possession," the same officer replied, "it would depend on the amount of the substance involved" and the "amount is based on the expertise of the individuals, surveillance, total investigative techniques and what you know about the individual and their connections. This is the same language as California's and they have good case law that backs it up." Compiled Legislative History for S.B. 268, p. 332.

The legislative history thus contains vague statements of a non-legislator police officer, an officer who it is not clear had any part in drafting the bill. This history is not instructive to the issue here, let alone conclusive.

Furthermore, this week the United States Supreme Court rejected the government's reading of the federal firearm statute's legislative history because it, too, "is at best inconclusive." *Rehaif v. United States*, 558 U.S. ___, 17-9560, Slip Op. at 11 (2019). This Court should do the same here.

In any event, the California drug scheme materially differs from Nevada. California does not delegate the power to set forth the drug schedules to the pharmacy board or another executive agency. Instead, the California Legislature sets the drug schedules. *See* Cal. Health & Safety Code §§ 11054-11058 (codified drug schedules I-V).

Conversely, in 1981 the Nevada Legislature delegated the exclusive authority to schedule drugs to the pharmacy board. *Luqman*, 101 Nev. at 152, 697 P.2d at 109. And, given Nevada's enumerated and strict separation of powers doctrine—under which it "is well settled" that "the power to define what conduct constitutes a crime lies exclusively within the power and authority of the legislature"—*Luqman* instructs that the pharmacy board is not setting forth the elements of the drug offenses when scheduling drugs. *Id.* at 154, 697 P.2d at 110. Therefore, the identity of the controlled substances listed in the pharmacy board schedules are not alternative elements established by the board, but, rather, are alternative means by which a defendant may violate NRS 453.337. Opening Brief at 32-38.

Given Nevada's strict separation of powers doctrine and the total delegation of the drug scheduling authority to the pharmacy board, the

government's proffered reading of NRS 453.337 violates the constitutional avoidance canon. "It is well settled" that this Court "should avoid considering the constitutionality of a statute unless it is absolutely necessary to do so." *Sheriff v. Andrews*, 128 Nev. 544, 546, 286 P.3d 262, 263 (2012). Thus, "[w]henever possible, [this Court] must interpret statutes so as to avoid conflicts with the federal or state constitutions." *Mangarella v. State*, 117 Nev. 130, 134–35, 17 P.3d 989, 992 (2001).

NRS 453.337's use of the phrase "any controlled substance" is ambiguous. Opening Brief at 48. As outlined above and supported by *Luqman*, the government's preferred reading of NRS 453.337 conflicts with the Nevada Constitution's strict separation of powers doctrine. To resolve the ambiguity and avoid the constitutional issues implicated, the Court should also apply the rule of lenity to hold the drugs listed in schedules I and II, as cross-referenced in NRS 453.337, are alternative means of violating NRS 453.337, not alternative elements. Opening Brief at 55-58; *see also Anglin v. State*, 90 Nev. 287, 293 n.10, 525 P.2d 34, 37 n.10 (1974) (rejecting the State's construction of a statute in lieu of "a statutory interpretation that avoids constitutional violation").

III. The government eschews the text of NRS 453.337 in favor of its preferred reading based on a general unsupported "uniformity" policy and the legislative history of a different statute.

The government argues that the *Andrews v. State*, 134 Nev. Adv. Op. 12, 412 P.3d 37 (2018) "analysis applies equally to NRS 453.337" based on a general unsupported "uniformity" policy. Answering Brief at 24-25 & n.8. Specifically, the government argues that "any" as used in NRS 453.337 should instead be interpreted to mean "a" to give NRS 453.337 a meaning "uniform" with the drug trafficking statute at issue in *Andrews*, NRS 453.3385. Answering Brief at 25, 31.

For support, the government cites the Nevada Uniform Controlled Substance Act's (UCSA) proclamation that it "shall be so applied and construed as to effectuate its general purpose and to make uniform the law with respect to the subject of such sections among those states which enact it." NRS 453.013; Answering Brief at 25 n.8, 31. But this proclamation does not mean what the government claims.

The goal of uniform laws, such as the model UCSA, is to make the law uniform *among the different states* that enact a given uniform law, not to establish uniformity among the different provisions of the given uniform law. *See* Unif. Controlled Substances Act 1970 § 603,

Uniformity of Interpretation (model UCSA). The model UCSA commentary can be informative when interpreting a state statute that mirrors the model uniform law. *Casey v. Wells Fargo Bank, N.A.*, 128 Nev. 713, 717, 290 P.3d 265, 268 (2012) ("Because the language in section 22 of the [Uniform Arbitration Act] is almost identical to that of NRS 38.239, comment 1 to section 22 is useful in interpreting our statute.").

But here, the Nevada Legislature did not adopt the model USCA's language that consistently used "a controlled substance." Opening Brief at 53-54. Instead, the Nevada Legislature purposefully used the phrase "any controlled substance" to draft NRS 453.337. The intentional use of a different phrase shows the Nevada Legislature did not intend the simultaneous possession of different drugs be parceled out into separate drug offenses under NRS 453.337. Rather, there is one single offense violation for simultaneous possession of different drugs.

Accordingly, the Court should reject the government's general "uniformity" argument as it is not based on the actual textual differences between the model USCA and NRS 453.337. *Watt v. Alaska*, 451 U.S. 259, 265 (1981) ("[T]he starting point in every case involving

construction of a statute is the language itself."). This is especially the case in the criminal law context where the rule of lenity mandates ambiguities be construed in favor of the criminal defendant, not in favor of a general "uniformity" policy argument. *See United States v. Wiltberger*, 18 U.S. 76, 95 (1820) (recognizing the rule of lenity, or the rule of statutory interpretation that penal laws are to be construed strictly, is "perhaps not much less old than construction itself").

In fact, the government acknowledges an Alabama appellate court resolved an ambiguity in one of its state's drug statutes in the defendant's favor precisely because the state broke with the model USCA:

> [B]ased on the plain language of the statute . . . Alabama's act differs from the USCA and must be interpreted as such because the act, referencing 'controlled substances' in the plural form and lumping together possession, sale, etc., 'does not impose different penalties based upon the schedules of the involved drugs.'"

Answering Brief at 32 (quoting *Vogel v. State*, 426 So. 2d 863, 881 (Ala. Crim. App. 1980), aff'd 426 So. 2d 882 (Ala. 1982)). The Court should similarly conclude here.

The lack of a textual hook in the model USCA or Nevada's UCSA to support the government's reading distinguishes this case from *Andrews*. In *Andrews*, the Court found it instructive that another statute (NRS 453.3383) cross-referenced the drug trafficking statute (NRS 453.3385) in such a way as to make the weight of a single controlled substance—"the controlled substance"—the controlling inquiry.[3] In contrast, Figueroa-Beltran's statute of conviction, NRS 453.337, does not contain this cross-reference. Thus, NRS 453.337 is missing the significant cross-referencing language at issue in *Andrews*.

The government posits that, in 1983, the Legislature amended NRS 453.337 when it enacted the drug trafficking statute, NRS 453.3385, so the two statutes could "work together." Answering Brief at 28-29. This is immaterial. That NRS 453.337 states that NRS 453.3385 controls if it provides a greater penalty sheds no light on the unit of prosecution for NRS 453.337. It also does not alter the fact that

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[3] NRS 453.3383 states: "For the purposes of NRS 453.3385, 453.339 and 453.3395, the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance."

in 1981, before the 1983 amendments when the drug trafficking statute was enacted, the Legislature delegated to the pharmacy board the power to set forth the drug schedules in Nevada.

In a footnote, the government stretches further, submitting that because NRS 453.337 also lists two enumerated substances and "any precursor" to those substances, the use of the phrase "any controlled substance" is somehow meant to denote a singular substance. Answering Brief at 29 n.13. It is unclear how the ambiguous term "any"—twice used in NRS 453.337—means either the singular or the plural in this statute, and the government provides no insight.

The government also argues NRS 453.337 is divisible because a statute instructs there must be a testable amount of a controlled substance to sustain a conviction. Answering Brief at 35. It is unclear how the requisite for a testable amount of a controlled substance sheds light as to whether the pharmacy board's list of schedule I and II drugs provides alternative elements or means, and the government again provides no insight.

Finally, the government asks this Court to import the general legislative purpose of the drug trafficking statute in *Andrews*, NRS

453.3385, to NRS 453.337. Answering Brief at 29. The government cites no authority holding the history of a different statute with a different penalty structure and mutually exclusive application is relevant, let alone instructive, as to the Legislature's elements for NRS 453.337.

The proper meaning of "any" as used in NRS 453.337 is ambiguous, and this ambiguity cannot be resolved by consulting legislative history or other statutes in Nevada's UCSA. Accordingly, this Court should apply the rule of lenity and hold the substance types in schedules I and II are not alternative elements, but rather the many factual means of violating NRS 453.337. Opening Brief at 55-58 (citing *Castaneda v. State*, 132 Nev. Adv. Op. 44, 373 P.3d 108 (2016)).

IV. By asking this Court to consider judicial records of state prosecutions, the government implicitly concedes federal divisibility is the inquiry at issue.

The government argues the Ninth Circuit certified a state question. Answering Brief at 10, 12-15. But the government then asks this Court to consider judicial records from other state drug prosecutions to determine if NRS 453.337 is divisible. Answering Brief at 36-42. The government cannot have it both ways.

Only the *federal* question of divisibility potentially involves state court document review. As set forth in Figueroa-Beltran's Opening Brief, the federal divisibility inquiry involves consulting the plain language of the statute and, if the plain language is not clear, perhaps "peeking" at judicial records of conviction. Answering Brief at 10, 12-15; *see also* Opening Brief at 16-17 (explaining the three-step federal divisibility inquiry provided in *Mathis v. United States*, 136 S. Ct. 2243 (2016)).

The United States Supreme Court's federal divisibility inquiry provided in *Mathis* is not the same inquiry this Court employs when construing a statute or Nevada's separation of powers doctrine. This Court does not consider the charging practices of state prosecutors to determine the Legislature's intent in crafting and passing a criminal statute. That the government submits judicial record documents are relevant to the questions certified to this Court supports Figueroa-Beltran's position that the Ninth Circuit improperly certified federal questions to this Court instead of conducting the federal divisibility test itself.

Furthermore, as to Figueroa-Beltran's state plea agreement (Motion for Judicial Notice, Exhibit A) Ninth Circuit precedent squarely requires the government to enter the federal defendant's state judicial documents into the record *at the time of sentencing*. *United States v. Gomez-Leon*, 545 F.3d 777, 785 (9th Cir. 2008) (noting it is the government's burden to prove a defendant's prior state conviction qualifies for a federal sentencing enhancement); *United States v. Kelly*, 422 F.3d 889, 895 (9th Cir. 2005) ("**The sentencing court** determines whether the government has fulfilled its burden by looking to 'documentation or judicially noticeable facts that clearly establish that the conviction is a predicate conviction for enhancement purposes.'") (emphasis added). The government provides no explanation for why it attempts to place Figueroa-Beltran's plea agreement into the record for the first time, before this Court, three years after Figueroa-Beltran was sentenced in federal court. Answering Brief at 37-38; Motion for Judicial Notice, Exhibit A.

The government's other selected judicial records merely show that the record documents in different cases conflict and, thus, are inconclusive as to the divisibility of NRS 453.337. For example, in *State*

v. Howard, CR14-1513, the Washoe County prosecutor charged different substances a single NRS 453.337 count for "willfully, unlawfully and knowingly hav[ing] in his possession and under his dominion and control a Schedule I controlled substance(s), to wit, *methamphetamine and/or marijuana* in a quantity greater than one ounce, for the purpose of and with the intent that said controlled substance(s) be sold." Appellant's Appendix, p. 0013 (emphasis added). However, the government's documents from other NRS 453.337 prosecutions do not charge different substances the same—revealing an inconsistent statewide charging practice. Answering Brief at 39-42. Under the federal divisibility analysis, the conflicting state judicial records prevent courts from finding with "certainty" that NRS 453.337 is divisible, mandating divisibility be resolved in the defendant's favor. *Mathis*, 136 S. Ct. at 2257.

To respond to Figueroa-Beltran's argument that the Ninth Circuit improperly certified federal questions in this case, the government posits that its current position in favor of certification is consistent with the Solicitor General's position against certification taken before the United States Supreme Court. Answering Brief at 14; *see* Opening

Brief at 20-21 (noting the Solicitor General's position in *Mathis* was against certification of divisibility questions to the state courts). The government argues that "the Ninth Circuit's request does not fit the hypothetical 'extraordinary intrusion' posited during the *Mathis* argument" of federal district courts pausing sentencing and certifying divisibility questions. Answering Brief at 14. But it is unclear how pausing a direct federal criminal appeal is any different than pausing a sentencing.

Divisibility for federal sentencing enhancement purposes is a federal question. The federal divisibility inquiry is legally distinct from this Court's constitutional construction of NRS 453.337. It is inappropriate for the Ninth Circuit to certify a federal question. Determining whether the nature of a controlled substance is an element will impact long-settled cases in the Nevada judicial system, as this Court would necessarily be deciding whether the "element" of drug type must have been pleaded, proved, and instructed on as an element. This will open the door to litigating collateral, post-conviction consequences for those improperly convicted without the required element. *See* Opening Brief at 59-60. Therefore, Figueroa-Beltran asks this Court to

reconsider whether the Ninth Circuit improperly certified a federal question to this Court.

Conclusion

Figueroa-Beltran requests this Court reconsider whether the Ninth Circuit actually certified questions of state law. Alternatively, Figueroa-Beltran requests this Court hold the various controlled substances scheduled by the pharmacy board are alternative factual means of violating NRS 453.337, and not alternative elements.

Dated: July 3, 2019.

Respectfully submitted,

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Certificate of Compliance

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook, 14-point font.

2. I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it is proportionately spaced and has a typeface of 14 points or more and contains 4,139 words.

3. Finally, I certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in

conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: July 3, 2019.

Respectfully submitted,

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Certificate of Service

I hereby certify that on July 3, 2019, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system. Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include: Elham Roohani and Nancy Olsen, Assistant United States Attorneys.

/s/Stephanie Young
An Employee of the
Federal Public Defender