

Detached Amicus Brief and Returned
unfiled Per order 7/24/19.

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE VALDEZ-JIMENEZ,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MARK B.
BAILUS, DISTRICT JUDGE,
Respondent,

and
THE STATE OF NEVADA,
Real Party in Interest.

AARON WILLARD FRYE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE JERRY A.
WEISE, DISTRICT JUDGE,
Respondents,

and
THE STATE OF NEVADA,
Real Party in Interest.

NATHAN GRACE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MICHAEL
VILLANI, DISTRICT JUDGE,
Respondents,

and
THE STATE OF NEVADA,
Real Party in Interest.

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Case No. 76947

**NATIONAL ASSOCIATION OF PRETRIAL SERVICES AGENCIES, PRETRIAL
JUSTICE INSTITUTE, AND NATIONAL ASSOCIATION FOR PUBLIC DEFENSE'S
MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF**

Pursuant to Nevada Rule of Appellate Procedure 29(c), National Association of Pretrial Services Agencies (“NAPSA”), Pretrial Justice Institute (“PJI”), and National Association for Public Defense (“NAPD”) (“Prospective Amici”) hereby move this Court for an order allowing it to file the attached amicus curiae brief in support of Petitioners Jose Valdez-Jimenez, Aaron Willard Frye, and Nathan Grace. In support of this Motion, Prospective Amici State as follows:

The Prospective Amici's Interest

NAPSA. Founded in 1973, NAPSA is a membership association that maintains the Standards of Practice for the pretrial services profession. NAPSA's membership consists of national and international pretrial practitioners, judges, attorneys, prosecutors, and criminal-justice researchers. Its board contains elected representatives from federal, state, and local pretrial services agencies.

NAPSA's mission is to promote pretrial justice and public safety through rational pretrial decision-making and practices informed by evidence. NAPSA aims to promote the establishment of pretrial agencies nationwide, further research and development on pretrial issues, establish mechanisms for the exchange of information, and increase the field's professional competence through professional standards and education. NAPSA has exclusively hosted the premier annual pretrial-services training conference for the last 46 years. NAPSA published its first set of Standards on Pretrial Release in 1978. NAPSA revised these standards in 1995, 2004, and 2008 in light of emerging issues facing pretrial decision-makers and changes in practices, technology, case law, and program capabilities. The proposed revised standards call for the elimination of secured financial conditions of release.

PJI. PJI's mission is to advance safe, fair, and effective pretrial justice. Its staff are among the nation's foremost pretrial-justice experts. PJI's Board includes representatives from the judiciary, law enforcement, prosecutors, victim advocates, pretrial services, county commissioners, and academia. Founded in 1977, PJI is supported by grants from the United States Department of Justice ("DOJ") and private foundations. PJI is at the forefront of building stakeholder support for legal and evidence-based pretrial-justice practices. For example, PJI staff served on the task force that drafted the most recent American Bar Association Criminal Justice Standards on Pretrial Release. In 2011, PJI partnered with DOJ to hold a National Symposium on Pretrial Justice. That symposium issued dozens of recommendations for concrete reforms addressing serious deficiencies in the money-based bail system. Following the symposium, DOJ's Bureau of Justice Assistance assigned PJI to lead a Pretrial Justice Working Group comprised of over 90 justice-system-related organizations and associations, which was responsible for overseeing the implementation of the Symposium's recommendations.

NAPD. NAPD is an association of more than 14,000 professionals who deliver the right to counsel throughout all states and territories in the United States. NAPD's members include attorneys, investigators, social workers, administrators, and other support staff responsible for executing the constitutional right to effective assistance of counsel. NAPD's members are the defense advocates in jails, courtrooms, and communities. They are experts in both theoretical best practices and practical, day-to-day delivery of indigent-defense services. With respect to the constitutional right to bail, NAPD's members constitute the front-line defenders of the right to be released from custody pending trial, and they observe the collateral damage that occurs in the lives of defendants that remain incarcerated while they are presumed to be innocent. NAPD has an

interest in preserving its clients' constitutional right to release pending trial and reforming the bail system in the United States.

Desirability and Relevance of the Prospective Amici's Brief

Prospective Amici offer the attached amicus curiae brief to outline the empirical evidence demonstrating that unsecured bonds are a constitutionally sound alternative to the money-based bail system. Independent, appropriately controlled scholarship establishes that effective substitutes for money-based bail successfully achieve the three goals of constitutional bail, including (1) maximizing appearance rates at trial; (2) minimizing harm to the community from the small percentage of high-risk defendants who cannot be safely released; and (3) maximizing pretrial release of those not proven guilty. Many states have been able to effectively manage pretrial release and meet the three goals of constitutional bail by utilizing pretrial-supervision programs and evidence-based risk-screening tools.

The secured-bond system, monopolized by the profit-driven commercial-surety industry, runs counter to these core constitutional values by delaying or completely preventing the release of individuals who are bailable under the law, which increases costs and consequences for the innocent, the guilty, and the State. The practice of requiring a commercial surety to secure bail fails to advance the legitimate goals related to bail. Only flawed studies find any virtue in requiring low- and moderate-risk bailable defendant to pay for release from pretrial detention. The benefits of this system flow entirely to the bail-bond industry, making the costs of this system excessive and unconstitutional.

This information, along with supporting insights, facts, and data, will not be available through the parties' briefs alone. Such information is likely to aid the Court in its decisional process

by demonstrating through empirical research that unsecured bonds are a sound alternative to the existing money-based bail system.

Corporate Disclosure Statement

Under Nevada Rule of Appellate Procedure 26.1(a), the National Association of Pretrial Services Agencies declares that it is a not-for-profit membership association that has no parent corporation and does not issue publicly held stock. The Pretrial Justice Institute declares that it is a not-for-profit membership association that has no parent corporation and does not issue publicly held stock. And the National Association for Public Defense declares that it is a not-for-profit membership association that has no parent corporation and does not issue publicly held stock.

Conclusion

For the foregoing reasons, National Association of Pretrial Services Agencies, Pretrial Justice Institute, and National Association for Public Defense hereby request the Court grant leave to file an amicus curiae brief in support of Petitioners Jose Valdez-Jimenez, Aaron Willard Frye, and Nathan Grace.

Respectfully submitted,
/s/ David Hill Bashford
David Hill Bashford
James Bradley Robertson
(*Pro Hac Vice* Application Pending)
Candice L. Rucker
(*Pro Hac Vice* Application Pending)
Rachel A. Conry
(*Pro Hac Vice* Application Pending)
BRADLEY ARANT BOULT CUMMINGS LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203
T: (205) 521-8217
dbashford@bradley.com
brobertson@bradley.com
crucker@bradley.com
rconry@bradley.com

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 15th day of July, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master List as follows:

AARON D. FORD
Nevada Attorney General

NANCY M. LEMCKE
CHRISTY L. CRAIG
Deputy Public Defenders

STEVEN S. OWENS
Chief Deputy District Attorney

I further certify that I served a true and correct copy of this document by first-class mail, postage prepaid, to:

HONORABLE MARK B. BAILUS
Eighth Judicial District Court, Dept. 18
Phoenix Building
330 S. Third Street, CTRM 110
Las Vegas, Nevada 89101

HONORABLE JERRY A. WIESE
Eighth Judicial District Court, Dept. 30
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

HONORABLE MICHAEL P. VILLANI
Eighth Judicial District Court, Dept. XVII
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

CHARLES LEWIS GERSTEIN, ESQ.
Pro Hac Vice
Civil Rights Corps.
910 17th Street NW, Suite 200
Washington, D.C. 20006

Dated this 15th day of July, 2019.

/s/ Rachel Conry
Attorney for Amici Curiae