



1 STATEMENT OF THE CASE

2 On February 18, 2016, the Court of Appeals issued a 2-1 split decision in  
3 favor of the State of Nevada. The Respondent’s judgment of conviction and  
4 sentence were affirmed. Petitioner wrongfully claims to be “aggrieved” by the  
5 portion of the majority opinion that mentions the Clark County District Attorney’s  
6 Office open-file policy. A plain reading of the governing Rule of this Honorable  
7 Court and case law make clear that the State is not an “aggrieved party,” and thus  
8 has no standing to seek discretionary review.  
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12 LAW

13 “People won't have time for you if you are always angry or complaining.”  
14 Stephen Hawking.  
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16 This Honorable Court should not make time for the State’s complaining and  
17 they won the appeal. As the State points, out, NRAP 40B allows a “party  
18 aggrieved” by a decision of the Court of Appeals to file a petition for review with  
19 the clerk of the Supreme Court writhing 18 days. Respondent does not question the  
20 timeliness of the petition, but that the State of Nevada is not aggrieved because the  
21 conviction and sentence of Quisano were affirmed. NRAP 40B(a) states, in  
22 relevant part, as follows:  
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- 26 **(a) Decisions of Court of Appeals Reviewable by Petition for Review.**  
27 A decision of the Court of Appeals is a final decision that is not  
28 reviewable by the Supreme Court except on petition for review. A

1 party aggrieved by a decision of the Court of Appeals may file a petition  
2 for review with the clerk of the Supreme Court. The petition must state  
3 the question(s) presented for review and the reason(s) review is  
4 warranted. Supreme Court review is not a matter of right but of judicial  
discretion.

5 In Kay v. Nunez, 122 Nev. 1100, 146 P.3d 801(2006), this Court discussed what  
6 constitutes an “aggrieved party” for the purposes of appeal.  
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8 We now address a threshold issue raised by Nunez and the Board: whether  
9 Kay had standing to seek judicial review. The Board and Nunez argue that Kay  
10 lacked standing to challenge the Board's decision in district court because he was  
11 not “aggrieved” under NRS 278.3195(4). They assert that he was required to show  
12 either a “special or peculiar” injury not suffered by the public as a whole or an  
13 adversely and substantially affected property right and that he failed to do so.  
14 Although we have required a “special or peculiar injury” in the context of street  
15 ~~vacations~~ and have *defined* an “aggrieved party” for general appellate purposes  
16 as one whose personal or property right has been “adversely and substantially  
17 affected,”<sup>1</sup> the Legislature has substituted its own **definition** of “aggrieved” for  
18 purposes of local zoning and land use planning decisions (emphasis added) 146  
19 P.3d at 805-06. Respondent’s rights have not been adversely or substantially  
20 affected. The government won the appeal. Therefore, under NRAP40B(a) and  
21 Kay, the State is not a “party aggrieved” by the Appellate Court, so the State does  
22 not have standing to seek review.  
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**CONCLUSION**

Based on the foregoing, Respondent's Motion to Strike the State's Petition for Review by this court should be granted.

DATED this 18<sup>th</sup> day of March, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By /s/ Norman J. Reed  
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Deputy Public Defender

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 18<sup>th</sup> day of March, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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