

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JONATHAN QUISANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66816

**FILED**

**MAY 26 2015**

TRACIE K. LINDEMAN,  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER FOR SUPPLEMENTAL BRIEFING*

This is an appeal from a judgment of conviction. On appeal, appellant appears to argue the prosecutor violated *Brady*<sup>1</sup> by failing to disclose an affidavit, which was signed by a victim witness and submitted in a different court proceeding, and the district court erred by allowing the State to impeach the victim witness with the affidavit. Appellant contends he is entitled to a new sentencing hearing as a result of the discovery violation. We conclude that supplemental briefing of this issue is warranted.

Specifically, the parties shall address whether a prosecutor has a continuing duty to provide the defense with discovery through sentencing. *Compare Furbay v. State*, 116 Nev. 481, 487, 998 P.2d 553, 557 (2000) ("The prosecutor is under no general duty to provide inculpatory, as opposed to exculpatory, evidence to the defense."), *with McKee v. State*, 112 Nev. 642, 648, 917 P.2d 940, 944 (1996) (holding that a prosecutor has an ethical duty to provide inculpatory evidence to the defense if he professes to have an open file policy). When briefing this

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<sup>1</sup>*Brady v. Maryland*, 373 U.S. 83 (1963).

issue, the parties shall inform this court whether a discovery request was made or if there is an open file policy for discovery. The parties shall further inform this court of the terms of any discovery request or open file policy. Any documents relating to a discovery request or open file policy shall be provided to this court in a supplemental appendix.

Appellant shall have 20 days from the date of this order to file and serve a supplemental fast track statement that does not exceed 10 pages or 4,667 words and, if necessary, a supplemental appendix. Respondent shall have 20 days from the filing of the supplemental fast track statement to file and serve a supplemental fast track response that does not exceed 10 pages or 4,667 words. If deemed warranted, appellant shall have 10 days from the filing of the supplemental fast track response to file and serve a supplemental fast track reply that does not exceed 5 pages or 2,334 words. We caution appellant that the failure to timely file a supplemental fast track statement will result in this appeal being resolved on the record currently before this court.

It is so ORDERED.

  
\_\_\_\_\_, C.J.

cc: Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney