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Sep 13 2017 10:50 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH WARREN, JR.,

Petitioner,

vs.

**EIGHTH JUDICIAL DISTRICT
COURT JUDGE, THE
HONORABLE RICHARD SCOTTI,**

Respondents,

and

THE STATE OF NEVADA,

Real Parties in Interest.

Supreme Court No.

District Court No. C-17-323608-A

Dept. No. 2

**EMERGENCY MOTION UNDER
NRAP 27(e) FOR STAY OF
DISTRICT COURT'S ORDER
REMANDING CASE TO JUSTICE
COURT**

*Action requested immediately as
erroneous remand to justice court is
imminent.*

Comes now the Petitioner Joseph Warren, Jr., by and through his counsel, and moves this Court for an immediate stay of the district court's order remanding the

district court case captioned The State of Nevada v. Joseph Warren, C-17-323608-A to Justice Court. On September 7, 2017, the Honorable Richard Scotti ordered that the decision of the Justice of the Peace dismissing Case No. 17F03940X, was reversed and the matter remanded back to Justice Court. It is anticipated that the case will be remanded immediately. Petitioner Warren seeks to stay the reversal and remand pending resolution of the petition for a writ of certiorari, or in the alternative, petition for a writ prohibition or mandamus which is filed contemporaneously herewith. Action on the stay motion is requested immediately as remand to the justice court for further proceedings is imminent.

Dated this 13th day of September, 2017.

/s/ JONELL THOMAS

JoNell Thomas
Melinda Simpkins

EMERGENCY MOTION FOR STAY

Pursuant to NRAP 27(e), Petitioner Warren seeks an emergency stay of the district court's order reversing and remanding the Justice Court dismissal of Case No. 17F03940X pending the disposition of the extraordinary writ petition that is filed concurrently herewith. Further, Petitioner requests this motion be heard on an

expedited basis. Per NRAP 8(a)(1), Petitioner Warren requested a stay in district court in the first instance. The district court orally denied the motion.¹ See attached Declaration of Counsel. The district court concluded that Mr. Warren would not be harmed without the grant of a stay because the State had already agreed to dismiss the charges against him. This response was remarkable in light of the fact that Mr. Warren had argued that the State's appeal in this matter should be denied, in part, based upon the fact that it was moot because the State had already agreed to dismiss the charges against him. Id.

The merits of the writ petition are set out completely in the petition which is filed contemporaneously with this motion. In essence, it is Petitioner Warren's contention that (1) the district court lacked jurisdiction to hear the State's appeal from an order of the justice court finding a lack of probable cause to support felony charges; (2) the district court erred in failing to dismiss the State's appeal because it was filed in violation of district court and local rules which prohibit multiple applications for relief before different district court judges (the State had already sought relief before District Court Judge Cadish, in the form of a motion for leave to file Information by affidavit, and that motion was denied); (3) the district court erred

¹A transcript of this district court proceeding has been ordered and will be transmitted to this Court as soon as it is available.

in failing to dismiss the State's appeal because there was no case and controversy do to the State's agreement to dismiss the charges at issue here pursuant to a plea agreement that was entered in another case; and (4) the district court erred in granting relief to the State on the merits of an issue concerning statutory interpretation of a statute concerning hearsay evidence at a preliminary hearing.

This Court's rules mandate that this issue be heard in writ proceedings and prohibit review on direct appeal, thus warranting this Court's intervention at this time. Moreover, the district court's action of finding jurisdiction for an appeal from a justice court order finding a lack of probable cause to support felony charges appears to be an issue of first impression in this state. The public will not be harmed by a stay of the district court's order because the State has already agreed that the charges in this case will be dismissed. The harm, however, of allowing the district court to issue an advisory opinion to the justice court on a legal issue, despite the lack of jurisdiction and an actual case or controversy cannot be corrected in the ordinary course and may have an impact on other cases pending before the justice court. Under these circumstances, Petitioner Warren asserts that a brief stay of the district court's

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Order is appropriate so that this Court may consider this important matter.

Dated this 13th day of September, 2017.

/s/ JONELL THOMAS

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Melinda Simpkins

NRAP 27(e) CERTIFICATE

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Judge Richard Scotti
Eighth Judicial District Court Department 2
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B. Facts showing the existence and nature of the claimed emergency are set forth in the preceding memorandum.

C. I HEREBY CERTIFY AND AFFIRM that this Emergency Motion Under NRAP 27(e) was filed electronically with the Nevada Supreme Court on September 13, 2017 in accordance with the Master Service List Below. Jacob Villani, counsel for the State of were verbally notified on September 13, 2017 at approximately 9:07 a.m. and emailed the same on September 13, 2017 at 9:11 a.m. that this emergency motion would be filed. The Nevada Supreme Court Clerks were also notified on November 13, 2017 at 9:20 AM that this emergency motion would be filed.

Dated this 13th day of September, 2017.

/s/ JONELL THOMAS

JoNell Thomas
Melinda E. Simpkins

CERTIFICATE OF SERVICE

I hereby certify that on 9/13/17 a true and accurate copy of the foregoing Motion was served on the following,

BY ELECTRONIC FILING TO

Jacob Villani, Chief Deputy District Attorney
Genevieve Craggs
District Attorney's Office
200 Lewis Ave 3rd Floor
Las Vegas, NV 89101

BY HAND DELIVERY TO

The Honorable Judge Robert Scotti
200 Lewis Ave., 11th Floor, Dept. 2
Las Vegas NV 89101

Dated: 9/13/17

/s/ JONELL THOMAS

JoNell Thomas
Melinda E. Simpkins