

IN THE SUPREME COURT OF THE STATE OF NEVADA

GATHRITE, DEANDRE

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA; THE HONORABLE
DOUGLAS HERNDON,

Respondents.

No.: 77529

(District Court Case No. C-18-354155-1)
1)

Electronically Filed
Jul 03 2019 04:29 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DEANDRE GATHRITE'S NOTICE OF SUPPLEMENTAL AUTHORITIES

COMES NOW, the Petitioner DEANDRE GATHRITE aka DEANDRE TERELLE GATHRITE, by and through his counsel of record Adrian M. Lobo, Esq. of Lobo Law, and hereby files this NOTICE OF SUPPLEMENTAL AUTHORITIES. Pursuant to Nevada Rules of Appellate Procedure, Rule 31(e), Petitioner represents that the following significant authorities have come to Petitioner's attention and hereby promptly advises the Court as to their applicability as follows.

1. NRS 174.085(6):

If a prosecuting attorney files a subsequent complaint after a complaint concerning the same matter has been filed and dismissed against the defendant:

(a) The case must be assigned to the same judge to whom the initial complaint was assigned; and

(b) A court shall not issue a warrant for the arrest of a defendant who was released from custody pursuant to subsection 5 or require a defendant whose bail has been exonerated pursuant to subsection 5 to give bail unless the defendant does not appear in court in response to a properly issued summons in connection with the complaint.

This citation supplements the Petitioner's brief at 32-39, arguing that the justice court order is durable. The statute would have required a subsequent complaint to be heard before the same justice court that had previously suppressed the statement. This citation also supplements the Petitioner's brief at 57-63, arguing prosecutorial misconduct. This statute requires that a previously arrested defendant not be subsequently re-arrested on the filing of a subsequent complaint following a dismissal by the State.

2. NRS 174.085(7):

The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss an indictment or information before the actual arrest or incarceration of the defendant without prejudice to the right to bring another indictment or information. After the arrest or incarceration of the defendant, the prosecuting attorney may voluntarily dismiss an indictment or information without prejudice to the right to bring another indictment or information only upon good cause shown to the court and upon written findings and a court order to that effect.

This citation supplements Petitioner's brief at 63-69. This statute indicates that where an information or indictment previously has been dismissed after a

defendant has already been arrested, the case may only be re-initiated upon good cause shown and written findings entered by the court. This citation is relevant to the court's consideration regarding the district court's sua sponte order for an evidentiary hearing.

3. *State v. Brown*, 134 Nev. Adv. Op. 102 (Dec. 20, 2018).

This citation supplements Petitioner's brief at 63-69 as well. The *Brown* case defined the "good cause" showing that a State must make under NRS 177.015(2) with regard to any appeal of an order to suppress evidence. NRS 174.085 also requires a showing of "good cause," but similar to NRS 177.015(2) this term is not defined further.

DATED this 3rd day of July, 2019.

By: /s/ Adrian M. Lobo

Adrian M. Lobo, Esq. (#10919)

LOBO LAW PLLC

400 S. 4th St., Ste. 500

Las Vegas, NV 89101

Phone: 702.290.8998

Fax: 702.442.2626

Email: AdrianLobo@LVCriminalLawFirm.com

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the **3rd of July, 2019**. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Aaron Ford

Sarah Hawkins

Adrian Lobo

Steven Owens

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

**Honorable Douglas Herndon
District Court, Department III
Regional Justice Center
200 Lewis Ave. ,
Las Vegas, NV 89155**

DATED this 3rd day of July, 2019.

By: /s/ Alejandra Romero
Legal Assistant to Adrian M. Lobo, Esq.
Lobo Law PLLC
400 S. Fourth Street, Suite 500
Las Vegas, NV 89101
Phone: 702-290-8998
Fax: 702-442-2626