

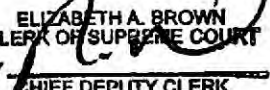
IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES TAYLOR; NEVADA GAMING
CONTROL BOARD; AND AMERICAN
GAMING ASSOCIATION,
Appellants,
vs.
DR. NICHOLAS G. COLON,
Respondent.

No. 78517

FILED

DEC 31 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER AMENDING OPINION

On July 30, 2020, this court issued an opinion reversing and remanding the district court's order denying an anti-SLAPP special motion to dismiss in this matter, *Taylor v. Colon*, 136 Nev., Adv. Op. 50, 468 P.3d 820 (2020). The opinion is amended as follows:

On page 6 of the filed opinion, 468 P.3d at 824, to change the second sentence of the second full paragraph to read: "Under prong one, the court must only decide whether the *defendant* met his burden to demonstrate that the relevant communications were made in good faith."

On page 9 of the filed opinion, 468 P.3d at 825, to insert the following sentence after the end of the first full paragraph: "The defendant's evidence, especially a declaration regarding the defendant's state of mind, is likewise entitled to be believed at this stage, at least 'absent contradictory evidence in the record.' *Stark v. Lackey*, 136 Nev. 38, 43, 458 P.3d 342, 347 (2020)."

On page 11 of the filed opinion, 468 P.3d at 826, to insert the following paragraph before the first full paragraph: "First, we note that the 'gist or sting' of the challenged portion of Taylor's presentation was undeniably that a player had been caught using a cheating device in violation of NRS 465.075(1). Taylor's presentation was entitled *Scams*,

Cheats, and Blacklists. It showed a video clip of a player holding the device underneath a blackjack table during a section of the presentation devoted specifically to cheating devices. Taylor's denial that he specifically called the individual in the video a 'cheater' invites the court to 'pars[e] individual words in the communications' to undermine a 'gist or sting' that is otherwise clear. *See id.* at 440, 453 P.3d at 1224."

On page 11 of the filed opinion, to change the first sentence of the first full paragraph to read: "However, we further hold that appellants demonstrated that Taylor's presentation was made in good faith."

On page 11 of the filed opinion, to insert the following sentence after the second sentence of the first full paragraph: "Taylor also stated that he was aware Colon had been arrested for cheating on that day and had later pleaded to a lesser offense as the result of negotiations."

On page 11 of the filed opinion, to replace the third sentence of the first full paragraph to read: "This declaration shows that the gist of Taylor's presentation—that the player in the video had been caught with a cheating device—was either truthful or made without knowledge of its falsehood."

On pages 11-12 of the filed opinion, to strike the final paragraph of the Discussion section, and to replace it with the following paragraph: "Although 'contradictory evidence in the record' may undermine a defendant's sworn declaration establishing good faith, *Stark*, 136 Nev. at 43, 458 P.3d at 347, Colon failed to contradict Taylor's claim of good faith. Colon points to declarations that, if believed, would establish that the specific counting device he was caught with cannot be used to cheat at blackjack. But these declarations did not address the correct issue at prong one, which is whether Taylor *believed* Colon had been caught with a cheating device, and not whether he was correct. Accordingly, because

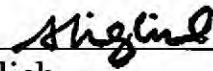
appellants demonstrated that Taylor's presentation was truthful or made without knowledge of its falsehood, the district court erred in denying appellants' anti-SLAPP motion to dismiss."

To insert the following footnote after the end of the second sentence of the new final paragraph of the Discussion section: "These declarations claim that, in order to be useful for card counting, a device must have the ability to both add low cards and subtract high cards. They further claim that a simple crowd counter such as the one depicted in Taylor's presentation can only add, not subtract. While the presentation used a stock photo, Colon stated in a declaration that the specific device he possessed was indeed a crowd counter."

The amended opinion, which replaces the opinion filed on July 30, is being filed concurrently with this order.

It is so ORDERED.

 J.
Gibbons

 J.
Stiglich

 J.
Silver

cc: Hon. Linda Marie Bell, Chief Judge
Attorney General/Carson City
Attorney General/Las Vegas
McDonald Carano LLP/Las Vegas
Nersesian & Sankiewicz
Eighth District Court Clerk