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2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

3
4 SASHA WILLIAMS,
5 Appellant,
6

7 vs.

8 THE STATE OF NEVADA,
9 Respondent.
10
11

Docket No. 78769

District Court No. C287414

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Elizabeth A. Brown
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13 Appeal from Judgment of Conviction
14 of the Eighth Judicial District Court
15 in Clark County, Nevada

16 The HON. DOUGLAS HERNDON, presiding

17 **Appellant's Opening Brief**
18

19 LANCE J. HENDRON, ESQ.
20 Nevada Bar No. 11151
21 625 South Eighth Street
22 Las Vegas, Nevada 89101
23 702.758.5858
24 Lance@ghlawnv.com
25 *Attorneys for Appellant*
26 Sasha Williams

STEVEN B. WOLFSON
CLARK COUNTY DIST. ATTY.
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

AARON FORD
Attorney General
100 North Carson Street
Carson City, Nevada 89107-4717
Counsel for Respondent

1 **NRAP 26.1 DISCLOSURE**

- 2 1. Case Caption: In the Nevada Supreme Court, Sasha Williams, Appellant,
3 vs. The State of Nevada, Respondent; Docket No. 78769; District Court
4 No. C287414.
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6 2. The undersigned counsel of record certifies that there is no such
7 corporation, or any publicly held company, that owns 10% or more of any
8 party's stock.
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TABLE OF AUTHORITIES

Cases

1. Buschauer v. State, 804 P.2d 1046, 1048 (Nev. 1990). 5, 7
2. Dieudonne v. State, 245 P.3d 1202, 1208 (Nev. 2011). 6

Statutes

1. NRS 177.015(3) 3
2. NRS 176.015(3)(b) 5, 6

Other Authorities

1. Nevada Rules of Appellate Procedure (NRAP)
 - NRAP 4(b)(1)(A) 3
 - NRAP 17(a)(13) 3
 - NRAP 17(a)(14) 3

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Docket No. 78769

District Court No. C287414

11 **Appellant’s Opening Brief**

12 **JURISDICTIONAL STATEMENT**

13
14 This is an appeal of a final judgment in a criminal case before Eighth Judicial
15 District Court. The Supreme Court of Nevada has jurisdiction.¹ The judgment of
16 conviction was entered on April 10, 2019.² A notice of appeal was timely filed on
17 May 8, 2019 and docketed in the Supreme Court on May 13, 2019.³
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20 **ROUTING STATEMENT**

21 Under the Nevada Rules of Appellate Procedure, Rule 17(a)(13)-(14), this
22 matter is presumptively before the Court of Appeals.
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26 ¹ NRS 177.015(3).

27 ² Appellant’s Appendix (“AA”).

28 ³ Nevada Rules of Appellate Procedure, Rule 4(b)(1)(A).

1 **ISSUE PRESENTED FOR REVIEW**

- 2 I. Whether the District Court erred in failing to allow the Appellant to cross-
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4 examine victim speakers at her sentencing.

5 **STATEMENT OF THE CASE**

6 The Appellant herein challenges the District Court's error in failing to allow
7
8 her an opportunity to cross-examine victim speakers at the time of sentencing.

9 This is a post-conviction case. The Appellant was sentenced on April 4, 2019
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11 to an aggregate sentence of 120 months to 432 months with 1,499 days credit for
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13 time served. At the time of sentencing, the Appellant was not given the opportunity
14 to cross-examine victim speakers.

15 This Appeal follows.

16 **STATEMENT OF FACTS**

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18 At sentencing, three speakers provided a statement to the court: Evelyn
19 Anderson, Gwendolyn Tolbert, and Vennie Tolbert-Rodgers. Evelyn Anderson
20 provided facts about the case and discussed the Appellant's involvement and role in
21 the crime. Ms. Anderson stated that the Appellant "planned this" and "this was all
22 planned that day from her."⁴ Gwendolyn Tolbert directly addressed the Appellant
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28 ⁴ AA Vol 1 009 (lines 1 to 3).

1 while speaking and stated that she does not believe the Appellant has changed.⁵
2 Vennie Tolbert-Rodgers stated that the Appellant “is not innocent in this situation,”
3 “she had several conversations with City prior to,” “she did not stop the situation
4 from happening,” and “she was in there and didn’t stop the situation as it was
5 unfolding.”⁶
6
7

8 **SUMMARY OF THE ARGUMENT**

9 The District Court erred in failing to allow the Appellant to question victim
10 speakers at sentencing, resulting in a denial of due process. Under NRS 176.015,
11 the court must allow a victim to “reasonably express any views concerning the crime,
12 the person responsible, the impact of the crime on the victim, and the need for
13 restitution.”⁷ If a victim’s statement of the crime gives significant facts not
14 previously raised, then cross-examination and even a continuance may be required.⁸
15 At the Appellant’s sentencing, the victim speakers raised significant facts not
16 previously presented, and the opportunity for cross-examination or a continuance
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25 ⁵ AA Vol 1 013 (lines 13 to 14).

26 ⁶ AA Vol 1 015 (lines 7 to 10).

27 ⁷ NRS 176.015(3)(b).

28 ⁸ Buschauer v. State, 804 P.2d 1046, 1048 (Nev. 1990).

1 was not provided. Therefore, the Appellant’s sentence must be vacated, and her case
2 remanded for re-sentencing before a different judge.
3

4 ARGUMENT

5 Each speaker at the Appellant’s sentencing exceeded the bounds of the
6 Nevada Revised Statutes by providing significant facts not previously presented.
7 The District Court’s failure to give the Appellant the opportunity to cross-examine
8 the speakers constitutes a violation of due process principles. Because of this
9 violation, the Appellant’s sentence must be vacated, and her case remanded for re-
10 sentencing with an opportunity to cross-examine speakers who go beyond the
11 permissible boundaries provided in NRS 176.015(3)(b).
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15 *1. Legal Standard*

16 Victims are afforded the opportunity at a defendant’s sentencing to
17 “reasonably express any views concerning the crime, the person responsible, the
18 impact of the crime on the victim and the need for restitution.”⁹ The statute is broad
19 in the sense of what a victim is allowed to express; however, it is not without
20 limitations.¹⁰ The scope of due process protections afforded a defendant will depend
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27 ⁹ NRS 176.015(3)(b).

28 ¹⁰ Dieudonne v. State, 245 P.3d 1202, 1208 (Nev. 2011).

1 on the scope of the impact statement.¹¹ When a victim's statement of the crime
2 presents significant facts not previously raised, cross-examination and even a
3 continuance, if requested, may be required.¹²
4

5 2. *The Appellant's due process rights were violated, and she is entitled to*
6 *resentencing.*
7

8 The victim speakers' statements presented significant facts not previously
9 raised, yet the opportunity for cross-examination by the Appellant was not provided.
10 For example, the speakers indicated that the Appellant was responsible for the
11 murder in that she planned it, she allowed it to happen, and she did not stop it as she
12 watched the plan unfold.¹³ Despite these accusations, the Appellant was not afforded
13 the opportunity to cross-examine the speakers regarding the blame they assigned to
14 the Appellant.
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26 ¹¹ Buschauer, 804 P.2d at 1048 (Nev. 1990).

27 ¹² Id.

28 ¹³ AA Vol 1 009 (lines 1 to 3); 013 (lines 13 to 14); 015 (lines 7 to 10).

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Based on the facts and legal argument, the Appellant respectfully requests that this Honorable Court vacate her sentence and remand her case to the District Court for a new sentencing hearing with the opportunity to question any victim speakers.

/s/ L. Hendron
Lance J. Hendron, Esq.
Nevada Bar No. 011151
625 South Eighth Street
Las Vegas, Nevada 89101
702.758.5858
Lance@ghlawnv.com
*Attorney for Appellant,
Sasha Williams*

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11

1 accompanying brief is not in conformity with the requirements of the Nevada Rules
2 of Appellate Procedure.
3

4 Dated this 24th day of September, 2019.

5 /s/ L. Hendron

6 Lance J. Hendron, Esq.
7 Nevada Bar No. 011151
8 625 South Eighth Street
9 Las Vegas, Nevada 89101
10 702.758.5858
11 Lance@ghlawnv.com
12 Attorney for Appellant,
13 Sasha Williams
14
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3 I hereby certify that I electronically filed the foregoing with the Clerk of the
4 Supreme Court of Nevada eFiling system located at:
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3 correct copy thereof, postage pre-paid, addressed to

5 SASHA WILLIAMS, #1215035
Florence McClure Women's Correctional Center
6 4370 Smiley Road
Las Vegas, NV 89115

8 Dated this 24th day of September, 2019.

/s/ L. Hendron

Lance J. Hendron, Esq.
Nevada Bar No. 011151
625 South Eighth Street
Las Vegas, Nevada 89101
702.758.5858
Lance@ghlawnv.com
*Attorney for Appellant,
Sasha Williams*