IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD RAY WOODS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 78816

RESPONDENT'S ANSWERING BRIEF

Appeal From Judgment of Conviction
Eighth Judicial District Court, Clark County

DEBORAH L. WESTBROOK
Nevada Bar #009285
Deputy Public Defender
309 South Third Street. Ste. 226
Las Vegas, Nevada 89155
(702) 455-4685

Counsel for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

AARON D. FORD
Nevada Attorney General
Nevada Bar #007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page Number:

Cases

Statutes

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD RAY WOODS, Appellant, v. THE STATE OF NEVADA, Respondent.	Case No. 78816

RESPONDENT'S ANSWERING BRIEF

Appeal from Judgment of Conviction
Eighth Judicial District Court, Clark County

ROUTING STATEMENT

This appeal is presumptively retained by the Supreme Court because it relates to a conviction for a Category A felony. NRAP 17(b)(3).

STATEMENT OF THE ISSUES

1. Whether the district court erred during voir dire.
2. Whether the district court erred in conducting Appellant's Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525 (1975), canvass.
3. Whether the district court violated Appellant's Sixth Amendment rights by denying his requests for substitute counsel.
4. Whether the State committed prosecutorial misconduct at trial.
5. Whether there the district court erred by failing to suppress the contents of Appellant's cellphone.
6. Whether there was any error during the weapons phase of trial, and even if there was error, whether that error was harmless.
7. Whether there was cumulative error.

STATEMENT OF THE CASE

On October 6, 2015, the State filed an Information charging Leonard Ray Woods (hereinafter "Appellant") with the following: Count 1 – Murder with Use of a Deadly Weapon (Category A Felony – NRS 200.010, 200.030, 193.165 – NOC 50001); Count 2 – Peeping or Spying Through a Window, Door or Other Opening of Dwelling of Another While in Possession of a Recording Device (Gross Misdemeanor – NRS 200.630 - NOC 50350); Count 3 – Capturing an Image of the Private Area of Another Person (Gross Misdemeanor – NRS 200.604 - NOC 54958); Count 4 – Peeping or Spying Through a Window, Door or Other Opening of Dwelling of Another While in Possession of a Recording Device (Gross Misdemeanor – NRS 200.630 - NOC 50350); Count 5 – Peeping or Spying Through a Window, Door or Other Opening of Dwelling of Another While in Possession of a Recording Device (Gross Misdemeanor – NRS 200.630 - NOC 50350); Count 6 – Capturing an Image of the Private Area of Another Person (Gross Misdemeanor – NRS 200.604 - NOC 54958); Count 7 – Peeping or Spying Through a Window, Door or Other Opening of Dwelling of Another While in Possession of a Recording Device (Gross Misdemeanor – NRS 200.630 - NOC 50350); Count 8 – Open or Gross Lewdness (NRS 201.210 - NOC 50971); Count 9 – Ownership or Possession of a Firearm by Prohibited Person (Category B Felony – NRS 202.360 - NOC

51460); and Count 10 – Ownership or Possession of a Firearm by Prohibited Person (Category B Felony – NRS 202.360 - NOC 51460). I AA 061-065.

On June 29, 2016, Appellant filed a Motion to Dismiss Counsel and Appointment of Alternate Counsel. I AA 238-243. Appellant filed another Motion to Dismiss Counsel and Appointment of Alternate Counsel on November 21, 2016. I AA 244-252. The same day, Appellant also filed a Petition for Writ of Mandamus. I AA 253-260. On December 13, 2016, Appellant indicated to the district court that he wished to represent himself pursuant to Faretta. III AA 698.

On December 20, 2016, Appellant informed the court he no longer wanted to represent himself. III AA 700-708. On the same date, defense counsel made another motion to continue the trial. III AA 709-710. The State once again opposed the motion arguing that the State still invoked its right to a speedy trial. III AA 710. The district court set a status check on January 17, 2017 to determine a trial date. III AA 719. On February 9, 2017, the district court set the trial date of January 22, 2018. III AA 721b-721f.

On October 25, 2017, Appellant filed his third Motion to Dismiss Counsel and Appointment of Alternate Counsel. I AA 261- 269. On November 15, 2017, the district court denied Appellant's Motion. IV AA 723-772.

On August 15, 2018, Appellant informed the district court that he was preparing to file a Motion regarding a Faretta canvass. On August 21, 2018,

Appellant filed a Proper Motion to Proceed Pro Se. I AA 283-289. On August 29, 2018, the district court conducted a thorough Faretta canvass of Appellant and granted his request to represent himself at trial. IV AA 817-861.

On September 26, 2018, Appellant filed a Motion to Suppress Contents of Search of Cell Phone, Motion to Dismiss the Charges of Ownership or Possession of Firearm by Prohibited Person, and Motion to Suppress Arrest. II AA 326-377. On October 1, 2018, the State filed its Opposition to Defendant's Motion to Suppress Arrest, Opposition to Defendant's Motion for Discovery, and Opposition to Defendant's Motion to Dismiss the Charges of Ownership or Possession of Firearm by Prohibited Person. II AA 378-398. On October 2, 2018, the State filed its Opposition to Defendant's Motion to Sever. II AA 399-409. On October 3, 2018, the State filed its Opposition to Defendant's Motion to Suppress Contents of Search of Cell Phone. II AA 409A-409E. On October 18, 2018, the district court denied Appellant's Motion to Suppress Contents of Search of Cell Phone. IV AA 940-958.

Appellant's eight-day jury trial commenced on March 18, 2019. V AA 1035-1237. On March 25, 2019, the State filed an Amended Information charging Appellant with the following: Count 1 – Murder with Use of a Deadly Weapon (Category A Felony – NRS 200.010, 200.030, 193.165 – NOC 50001); Count 2 – Capturing an Image of the Private Area of Another Person (Gross Misdemeanor – NRS 200.604 - NOC 54958); Count 3 – Capturing an Image of the Private Area of

Another Person (Gross Misdemeanor – NRS 200.604 - NOC 54958); Count 4 – Open or Gross Lewdness (NRS 201.210 - NOC 50971); Count 5 – Ownership or Possession of a Firearm by Prohibited Person (Category B Felony – NRS 202.360 - NOC 51460); and Count 6 – Ownership or Possession of a Firearm by Prohibited Person (Category B Felony – NRS 202.360 - NOC 51460). II AA 494-496.

On March 25, 2019, the jury returned a verdict finding Appellant guilty of Counts 1, 2, 3, and 4. II AA 492-493. On March 26, 2019, the jury returned a verdict finding Appellant guilty of both Count 5 and Count 6 – Ownership or Possession of Firearm by Prohibited Person. III AA 548.

The penalty phase of trial began on March 26, 2019. IX AA 2061. On March 27, 2019, the jury returned a verdict imposing a sentence of LIFE in the Nevada Department of Corrections Without the Possibility of Parole. III AA 549.

On May 15, 2019, the district court sentenced Appellant to the Nevada Department of Corrections (NDC) as follows: as to Count 1 – to LIFE without the possibility of parole, plus a consecutive sentence of a minimum of ninety six (96) months and a maximum of two hundred forty (240) months for the Deadly Weapon Enhancement; Count 2 – to three hundred sixty four (364) days in the Clark County Detention Center, concurrent with Count 1; Count 3 – to three hundred sixty four (364) days in the Clark County Detention Center, concurrent with Count 1; Count 4 – to three hundred sixty four (364) days in the Clark County Detention Center,

concurrent with Count 1; Count 5 – to a minimum of twenty-eight (28) months and a maximum of seventy two (72) months, concurrent with Count 1; and Count 6 – to a minimum of twenty-eight (28) months and a maximum of seventy two (72) months, concurrent with Count 1. X AA 2134-2135. Appellant was also ordered to pay $2,500 in restitution to Victims of Crime and was given one thousand three hundred seventy-nine (1,379) days credit for time served. X AA 2134-2135. The Judgment of Conviction was filed on May 17, 2019. III AA 564-565.

Appellant filed a Notice of Appeal on May 15, 2019. III AA 563. Appellant filed the instant Opening Brief on February 13, 2020.

STATEMENT OF THE FACTS

On August 5, 2015, fifteen-year-old D.L. witnessed her stepfather, Appellant, brutally stab and murder her mother, Josie. VII AA 1508-1510.

Before this, in the summer of 2015, D.L. lived in a house on Pinion Peak in Las Vegas with Josie and Appellant. VII AA 1485. D.L. called Appellant her stepfather, even though Josie and Appellant were not married. VII AA 1511, 1531. Josie and Appellant were in an on-again, off-again relationship for approximately eight (8) or nine (9) years. VII AA 1483-1484. Appellant and Josie would fight often, and when they would fight, Appellant would threaten to kill her if she ever left him. VII AA 1499. Appellant would also threaten to kill D.L. and D.L.'s brother if Josie ever left him. VII AA 1499.

On July 17, 2015, Josie went to work, and Appellant made D.L. stay home with him to clean the house. VII AA 1488. D.L. told Appellant that she wanted to get her cleaning over with, and he told her that was not why he kept her home. VII AA 1489. Appellant told D.L. that he saw her looking at herself through her bedroom window. VII AA 1489. Appellant threatened D.L. and told her that if she did not let him see her breasts, that he would tell her mom she was looking at herself or sending pictures. VII AA 1489. D.L. was confused and started to laugh because it did not make sense why Appellant was asking to see her breasts. VII AA 1489.

Appellant then grabbed D.L. from behind and grabbed her breasts with both of his hands. VII AA 1490. D.L. did not have a bra on, and Appellant lifted up her shirt and looked at her breasts. VII AA 1490. Appellant told her, "those are pretty titties" and that "you have pretty titties." VII AA 1490. D.L. did not stop him because she was standing there scared and in shock. VII AA 1490. D.L. did not want Appellant to know that he upset her because she did not know what he would do after. VII AA 1491. Appellant tried to bribe D.L. into not saying anything by offering her $20. VII AA 1491.

D.L. went back to her bedroom and decided to call her friend Devyn. VII AA 1492. D.L. asked Devyn if she could go over to her house. VII AA 1492. She was speaking loudly and left her bedroom door open so Appellant would not get suspicious. VII AA 1492. Appellant told her that she could go to Devyn's house, but

then Devyn's nana said that D.L. could not come over. VII AA 1492. D.L. then started texting Devyn telling her that Appellant had molested her and begging her to please help. VII AA 1492. D.L. took her dog into the backyard and called Devyn again. VII AA 1492-1493. She was speaking loudly so Appellant could hear her, but in between her loud sentences, she would whisper for help. VII AA 1493. Eventually, Devyn told D.L. that her and her nana, Dora, would come pick D.L. up. VII AA 1493.

D.L. started getting ready, packed a bag, and was trying to get out of the house as fast as she could. VII AA 1493. Before she left, Appellant stopped her and told her that she had to "send him a picture." VII AA 1493. D.L. told Appellant that Devyn was outside, and she did not have time to send him a picture. VII AA 1493. Appellant told her she could not leave the house unless she sent it to him. VII AA 1493. D.L. went to her room, closed her door, lifted up her shirt, and took a picture of her breasts. VII AA 1493-1494. D.L. sent Appellant the picture. VII AA 1494. She told Appellant she sent him the picture and that she was leaving. VII AA 1494.

D.L. got in the car with Devyn and Dora, and Appellant came running outside following her. VII AA 1494. D.L. thought it was unusual that he came outside because Devyn was her best friend at the time, but not once had Appellant ever spoken to Devyn, asked about Devyn, or asked to meet Dora. VII AA 1494-1495. Appellant began asking Dora questions about when D.L. would be home and offered

to pick D.L. up. VII AA 1494. Dora told Appellant that she would drop D.L. back off and that she had her mother's phone number. VII AA 1494.

As soon as D.L. got in the car and they started driving off, she broke down and started to cry. VII AA 1495. Dora was trying to console her, but D.L. told her she was nervous to tell her mom. VII AA 1496. D.L. did not want to tell her mom over the phone about what happened because she was scared her mom would call Appellant, and she was scared Appellant would hurt her mom. VII AA 1496, 1499. They went back to Devyn's house, and Dora called Josie and told her to come to the house. VII AA 1497. Josie asked to speak with D.L., and eventually, D.L. told her what Appellant did to her. VII AA 1497. Josie was hysterical and decided to contact the police. VII AA 1498. D.L. testified that by that point she had stopped crying and felt extremely shocked and numb. VII AA 1498.

Eventually, the police showed up at Devyn's house and they filled out police statements. VII AA 1500. While at Devyn's house, the police told Josie and D.L. that Appellant had been arrested and was being transported to jail. VII AA 1500. Josie gave officers consent to search the car Appellant was stopped in, because it was her car and registered in her name. VIII AA 1710. Officers searched the car and recovered Appellant's cellphone. VIII AA 1710-1711. Josie and D.L. immediately went back to their house and packed up as much of their belongings as possible and went to stay at D.L.'s cousin Dorion's house. VII AA 1500.

Detective Jason Darr with the Crimes Against Children Task Force was assigned to use digital forensics to extract information from Appellant's cellphone that was recovered in the vehicle search. VIII AA 1808-1810. Detective Darr found evidence a multimedia message was sent to the cellphone on the morning of July 17, 2015. VIII AA 1815. It was sent from D.L. but was unable to be downloaded on Appellant's cellphone. VIII AA 1816. Detective Darr also retrieved the following photographs: a photograph of D.L. standing in her bathroom without a shirt on looking in the mirror, on March 9, 2015, at 8:59pm; a photograph of D.L. with her pants off and buttocks exposed in her bathroom, on March 23, 2015, at 6:57pm; and a photograph of D.L. with her back to the camera, on April 21, 2015, at 9:14pm. VII AA 1819-1821.

D.L. and Josie stayed at Dorion's for about one (1) week, and then ultimately got their own place near Hacienda and Decatur, across town from the house they lived in with Appellant. VII AA 1502. On August 5, 2015, around 6:00pm, Josie drove D.L. to her cheer practice at Desert Pines High School. VII AA 1505. Josie sat and watched D.L.'s cheer practice until around 8:00pm when it ended. VII AA 1506. After practice, Josie drove herself and D.L. to the Walgreens on Flamingo and Decatur. VII AA 1506-1507. Josie parked in front of the Walgreens, and they both went inside to shop. VII AA 1507-1508. Josie and D.L. were inside the Walgreens for about five (5) minutes buying juice and makeup. VII AA 1508.

When Josie and D.L. exited the store, they split ways as Josie walked to the driver's side door, and D.L. walked to the passenger's side door. VII AA 1508. When Josie was at the front of the car, D.L. saw a man run out and it looked like he was shaking Josie. VII AA 1508. The man kept yelling "I told you I would find you bitch" multiple times. VII AA 1508. D.L. did not understand what was going on and thought somebody was trying to rob her mom. VII AA 1508. Then, the man attacking her mom did a "side glance" and looked at D.L. VII AA 1510. This is when D.L. realized that Appellant was the man attacking her mom. VII AA 1510.

Garland Calhoun and his girlfriend, Yesenia Rivas, had just arrived at the Walgreens when Appellant was attacking Josie. VII AA 1575-1578. Mr. Calhoun saw Appellant attacking Josie and yelling repeatedly "I told you I'd find you bitch, I told you I'd get you." VII AA 1579-1580. Mr. Calhoun identified Appellant in open court as Josie's attacker, and said he had no doubt that Appellant was the man who he watched stab the woman at the Walgreens. VII AA 1581, 1590.

Mr. Calhoun testified that he did not see anything in Appellant's hands, but that he was making a "slashing and stabbing" motion. VII AA 1582. Mr. Calhoun saw Appellant stab Josie in the hand and neck. VII AA 1582. Appellant then looked up, froze, and locked eyes with Mr. Calhoun. VII AA 1582. Appellant let Josie go, and she fell under the 24-hour sign outside the Walgreens. VII AA 1582. Mr.

Calhoun watched Appellant drive off in a beige Ford Taurus or Tempo, with an older body style. VII AA 1583.

D.L. ran inside the Walgreens and was screaming asking for help, saying that her stepfather was trying to kill her mom. VII AA 1508, 1603. She could still hear her mom screaming from outside the store. VII AA 1508. When D.L. ran back outside she found her mom collapsed on the sidewalk, no longer near her car. VII AA 1508. Josie's body was curled up in a ball, and D.L. testified that it looked like her body was "broken." VII AA 1509. D.L. testified that her mom's light purple shirt was turning dark purple from all the blood. VII AA 1509. D.L. kept telling her mom to look at her, but Josie was unable to look up at her. VII AA 1509. Josie was making a hiccupping sound, like she was choking and trying to breathe. VII AA 1509.

D.L. was crying and begging her mom not to leave her. VII AA 1509. D.L. was also begging other people for a phone and begging people to help her save her mom. VII AA 1509. Mr. Calhoun took his shirt off and tried to stop the blood flow. VII AA 1582-1583. Eventually, police and paramedics arrived and put Josie on a stretcher. VII AA 1509. This was the last time D.L. ever saw her mom. VII AA 1509-1510.

Approximately four (4) hours later, LVMPD Officer Vincent Haynes was patrolling in the Downtown Area Command with his partner, Officer Swartz. VII AA 1454-1455. The two officers were wearing their bike uniforms, which is a bright

yellow top with Metro patches on the side and a badge on the front. VII AA 1455. They were in their standard police vehicle with their bikes on the back of the vehicle. VII AA 1455. While conducting a vehicle stop at 6th and Ogden, a black male approached Office Haynes. VII AA 1455. The man identified himself as Leonard Woods—Appellant. VII AA 1456.

Appellant told Officer Haynes that he was involved in an incident and thought he might be wanted. VII AA 1456. Appellant told him that the incident was in a Walgreens parking lot at Tropicana and Decatur. VII AA 1456. Officer Haynes and Officer Swartz handcuffed Appellant and contacted the detectives who were investigating the incident at the Walgreens. VII AA 1457. Eventually, Officer Haynes and Officer Swartz transported Appellant to LVMPD headquarters. VII AA 1457.

On August 6, 2015, Dr. Jennifer Corneal performed an autopsy of Josie. VII AA 1635. In total, Dr. Corneal determined there were eighteen (18) sharp force injuries on Josie. VII AA 1638. Sixteen (16) of the injuries were stab and incise wounds, and two (2) of the injuries were exiting wounds. VII AA 1638. Josie had one (1) stab wound to the right side of her neck involving her right ear lobe and exiting in the back of her neck. VII AA 1639. Dr. Corneal also found stab wounds to Josie's right breast area and mid-chest area. VII AA 1641-1642. The stab wound to her mid-chest area, just below her neck, was determined to be four (4) and a half

inches deep. VII AA 1642-1643. This stab wound hit the right side of Josie's heart, causing approximately three hundred fifty (350) milliliters of blood to exit her right chest cavity. VII AA 1643. Dr. Corneal explained that, because the blood was expelled from the heart into the chest cavity, it caused her lung to collapse. VII AA 1643.

Dr. Corneal also found stab wounds to the nipple area of Josie's right breast and her mid-upper abdomen, both about one (1) inch deep. VII AA 1644. Josie also had a stab wound to her lower left breast, approximately three (3) and a half inches deep. VII AA 1646. This stab wound punctured her left lung and caused it to collapse. VII AA 1646. Dr. Corneal found another stab wound to her left, lateral breast, approximately five (5) inches deep. VII AA 1646. This stab wound hit the left side of her heart, causing three hundred (300) milliliters of blood to her left chest cavity. VII AA 1646-1647. The stab wounds to both sides of her heart ultimately caused both of Josie's lungs to collapse. VII AA 1647. Dr. Corneal testified that Josie had two (2) stab wounds to her right forearm. VII AA 1648. She also had a stab wound on the left wrist/hand area of her left hand, that goes in her forearm and out the front of her wrist. VII AA 1649.

Dr. Corneal testified that three (3) of the stab wounds were fatal. VII AA 1649. The stab wound to the mid chest that hit the right side of the heart, the stab wound to the lower left breast that hit the lung, and the stab wound to the lateral left breast

that hit the left side of her heart were all determined to be fatal. VII AA 1649-1650. Dr. Corneal concluded the cause of death was multiple sharp force injuries, and the manner of death was homicide. VII AA 1650.

SUMMARY OF THE ARGUMENT

This Court should affirm Appellant's Judgment of Conviction. First, Appellant alleges that the court erred during voir dire because it failed to ask Appellant's questions and Appellant was unable to question the jury himself. However, the court used its proper discretion to modify Appellant's questions and both sides were required to submit questions in writing. Thus, this claim is without merit.

Second, Appellant alleges that his Faretta canvass was invalid because he believed he was personally able to conduct voir dire. However, Appellant cannot prove his Faretta canvass was invalid because the district court properly illustrated the dangers and difficulties involved in self-representation and thoroughly questioned Appellant regarding his right to self-representation. Thus, this claim is without merit.

Third, Appellant alleges that the district court abused its discretion by denying his requests for substitution of counsel after there was a significant breakdown in his attorney-client relationship. However, when Appellant informed the district court he wanted to represent himself, he stated that he was on good terms with his counsel.

And while there may have been conflict between Appellant and counsel, there was no reason to grant his request for substitution of counsel. Thus, this claim is without merit.

Fourth, Appellant alleges that the State committed prosecutorial misconduct by undermining his presumption of innocence, asking improper leading questions, misleading the jury with facts not in evidence, and by making the golden rule argument. However, Appellant cannot demonstrate that any of these claims caused an actual prejudice or a miscarriage of justice. As such, these claims are without merit.

Fifth, Appellant alleges that the district court erred by failing to suppress the contents of his cellphone. However, the district court properly denied the Motion because there was a valid search warrant and Appellant never took a possessory interest in the cellphone. Thus, this claim is without merit.

Sixth, Appellant alleges that there were two (2) errors during the possession of firearm portion of trial: (1) eliciting improper legal conclusions from a lay witness, and (2) failing to instruct the jury on an essential element. The first argument is without merit because Sergeant Reyes had sufficient knowledge to answer the question, based on his training and experience, and his answer did not tell the jury what result to reach. Moreover, the second argument is without merit because knowledge that one belongs to the relevant category of persons barred from

possessing a firearm is not an essential element of a violation of NRS 202.360. Thus, Appellant's sixth claim is without merit.

Finally, there is not one meritorious claim of error amid Appellant's many assertions. Without any error to cumulate, and with overwhelming evidence to convict Appellant on each count, his argument is meritless. Thus, this Court should affirm Appellant's Judgment of Conviction.

ARGUMENT

I. THE DISTRICT COURT DID NOT COMMIT STRUCTURAL ERROR DURING VOIR DIRE

Appellant's claim that the district court violated his due process and self-representation rights by preventing Appellant from directly questioning potential jurors during voir dire is without merit. AOB ("Appellant's Opening Brief"), at 22. The district court's decision to conduct voir dire was an appropriate exercise of its discretion, as was its decision to modify some of the voir dire questions submitted by Appellant.

The scope and procedure of voir dire are within the discretion of the district court. Stephans v. State, 127 Nev. 712, 722, 262 P.3d 727, 734-35 (2011); Johnson v. State, 122 Nev. 1344, 1354-55, 148 P.3d 767, 774 (2006) (stating that "the method by which voir dire is conducted rests within the sound discretion of the district court, whose decision will be given considerable deference by this court."). "[O]n review such discretion is accorded considerable latitude." Cunningham v. State, 94 Nev.

128, 130, 575 P.2d 936, 937-38 (1978) (quoting Oliver v. State, 85 Nev. 418, 424, 456 P.2d 431, 435 (1969)).

Appellant's contention that NRS 175.031 confers a substantive right to directly question prospective jurors during voir dire is flatly wrong. NRS 175.031 states that "the court shall conduct the initial examination of prospective jurors, and defendant or the defendant's attorney and the district attorney are entitled to supplement the examination by such further inquiry *as the court deems proper*. Any supplemental examination must not be unreasonably restricted." (emphasis added).

Here, the voir dire procedure complied with NRS 175.031 and did not violate Appellant's due process or self-representation rights. Even though Appellant was not allowed to question the jurors personally, he was allowed to participate in voir dire by providing his own questions to the court. V AA 1043-1044; X AA 2160. Further, NRS 175.031 explicitly states that questioning by counsel or defendant is not an unqualified right, but is subject to what the court deems proper. The district court recognized that Appellant would be disadvantaged during voir dire while the State was well prefaced in the process, and thus, neither side was permitted to directly ask questions. The district court asked all questions submitted in writing, and both sides had to adhere to the same rules of the court.

Appellant fails to cite a single case establishing a due process or self-representation right to personally question the members of a jury venire. Appellant

cites to Whitlock v. Salmon, 104 Nev. 24, 752 P.2d 210 (1988), in a failed attempt to support this claim. AOB, at 23-25. However, in Whitlock this Court was interpreting NRS 16.030, which governs voir dire in civil cases. Whitlock, 104 Nev. at 26, 752 P.2d at 211-212. Whitlock did not address rights of self-representation or due process. Rather, this Court held that, in light of NRS 16.030, the district court's denial of attorney-conducted voir dire was unreasonable. Id. at 28, 752 P.2d at 213. This Court emphasized that "the scope of voir dire and the method by which voir dire is pursued remain within the discretion of the district court." Id.

Even if the voir dire procedure did not comply with NRS 175.031, a point the State does not concede, such error would not amount to a due process violation. "[E]rrors of state law do not automatically become violations of due process." Rivera v. Illinois, 556 U.S. 148, 160, 129 S. Ct. 1446, 1455 (2009).

Regarding Appellant's complaint that the district court altered the wording of some of his questions, the district court appropriately exercise its discretion to ensure that only appropriate questions were asked. EDCR 7.70 provides:

> The judge must conduct the voir dire of the jurors. Except as required by Rule 2.68, proposed voir dire questions by the parties or their attorneys must be submitted to the court in chambers not later than 4:00 p.m. on the judicial day before the day the trial begins. Upon request of counsel, the trial judge may permit counsel to supplement the judge's examination by oral and direct questioning of any of the prospective jurors. The scope of such additional questions or supplemental examination must be within reasonable limits prescribed by the trial judge in the judge's sound discretion.
>
> The following areas of inquiry are not properly within the scope of voir dire examination by counsel:

(a) Questions already asked and answered.
(b) Questions touching on anticipated instructions on the law.
(c) Questions touching on the verdict a juror would return when based upon hypothetical facts.
(d) Questions that are in substance arguments of the case.

As Appellant acknowledges, he submitted eleven (11) questions to the district court. X AA 2160. On the first day of trial, the court evaluated Appellant's questions:

> THE COURT: So in regard to the questions, I don't have any problem with pretty much any of the questions that people are proposing, other than, Mr. Woods, on your No.8, what are your views on the State having no physical evidence for a conviction? That's not an appropriate question.
>
> I mean, it's – whatever the evidence is is whatever the evidence will be at trial. Asking the jury what their views is on the State's evidence right now is not an appropriate question.
>
> Number 9, do you believe someone who falsely accuses another person should also be punished? I can find a way to revise that, about do you – you know, 9, 10, and 11 all deal with false accusations. Do you believe police officer are always right? Do you believe those police officers could tamper with evidence or lie? Things like that. Okay.
>
> The idea should they be punished isn't really relevant to the jury deciding things. I agree that you're entitled to have the jury answer questions about, Do they believe that police officers could lie about things? Do you believe they're always right? Do you believe a police officer could tamper with evidence? Anything like that. But whether they should be punished, that aspect of it I don't think is relevant.
>
> THE DEFENDANT: Okay.
>
> THE COURT: But I will ask the questions about, Are you going to believe a police officer? Or do you believe that a police officer could be wrong about those things? They could lie about things? I'll ask those. Okay.
>
> THE DEFENDANT: So you don't want me to revise it, you're going to revise it on your own with the question?
>
> THE COURT: Yeah.
>
> THE DEFENDANT: Okay.

THE COURT: I'm asking all the questions –

THE DEFENDANT: No, that's fine.

THE COURT: -- that are provided by both sides. Okay?

THE DEFENDANT: All right.

V AA 1045-1046. As such, the district court properly restricted Appellant's handwritten questions to make them more appropriate for jury selection by revising them, so that they did not violate EDCR 7.70.

Appellant complains that the court did not ask each modified panel all of his proffered questions. AOB, at 16-22. This claim is belied by the record. First, Appellant states that, after it modified the panel multiple times, the court failed to ask the next thirty-two (32) jurors, eight (8) jurors, and five (5) jurors Appellant's Question 8. As discussed *supra*, the court determined Question 8 (what the jurors views are on the State having no physical evidence), was not appropriate because it required the jury to form an opinion on the State's evidence that was yet to be introduced at trial. V AA 1045-1046.

Second, Appellant argues the same group of modified jurors were also not asked Appellant's Question 9. As discussed *supra*, the court determined Question 8 (whether the jury believes someone who falsely accuses another should also be punished), was not appropriate because "the idea should they be punished isn't really relevant to the jury deciding things." V AA 1045-1046. However, as Appellant concedes, while the court did not ask this exact question, it asked many modified

versions: "[a]nybody disagree with the statement that witnesses can falsely accuse people of things?" (VI AA 1273-1274; AOB, at 19); "[a]nybody have any disagreement with the statement that witnesses sometimes could lie or not be honest or falsely accuse people of things?" (VI AA 1304; AOB, at 20); and "[w]ith regard to witnesses themselves, whether it's a lay witness or a police officer, anybody disagree with the statement that witnesses could lie about things or falsely accuse people of things?" (VI AA 1344; AOB, at 21). Therefore, while the district court did not specifically ask the jury, "Do you believe someone who falsely accuses another should also be punished?", the court asked a much more appropriate question that was tailored to the relevant to the case. X AA 2160.

Finally, as Appellant did not object to the voir dire procedure at the time, the plain error standard applies. Dermody v. City of Reno, 113 Nev. 207, 210-11, 931 P.2d 1354, 1357 (1997); Guy v. State, 108 Nev. 770, 780, 839 P.2d 578, 58 (1992), cert. denied, 507 U.S. 1009, 113 S. Ct. 1656 (1993). "[A]ll unpreserved errors are to be reviewed for plain error without regard as to whether they are of constitutional dimension." Martinorellan v. State, 131 Nev. 43, 48, 343 P.3d 590, 593 (2015). This voir dire procedure complied with NRS 175.031 and EDCR 7.70, and therefore did not amount to plain error. As such, this claim is without merit.

/ / /

/ / /

II. THE DISTRICT COURT DID NOT ERR IN CONDUCTING APPELLANT'S FARETTA CANVASS

Appellant alleges that his Faretta canvass was invalid because the district court gave Appellant the impression that he would personally conduct voir dire. AOB, at 28-32. However, as discussed *supra*, Section I., there is no "statutory and constitutional right to directly question prospective jurors during voir dire." AOB, at 33.

"A criminal defendant has the right to self-representation under the Sixth Amendment of the United States Constitution and Nevada Constitution. However, an accused who chooses self-representation must satisfy the court that his waiver of the right to counsel is knowing and voluntary. Such a choice can be competent and intelligent even though the accused lacks the skill and experience of a lawyer, but the record should establish that the accused was 'made aware of the dangers and disadvantages of self-representation.'" Vanisi v. State, 117 Nev. 330, 337-338, 22 P.3d 1164, 1169-1170 (2001) (quoting Faretta, 422 U.S. at 835, 95 S. Ct. at 2525).

An accused may insist upon representing themselves, "however counterproductive that course may be." Faretta, 422 U.S. at 835, 95 S. Ct. at 2525. The United States Supreme Court has explained that, "'[t]he right to defend is personal,' and a defendant's choice in exercising that right 'must be honored out of that respect for the individual which is the lifeblood of the law." McCoy v. Louisiana, 138 S. Ct. 1500, 1507, 200 L.Ed.2d 821 (2018) (quoting Illinois v. Allen,

397 U.S. 337, 350-35, 90 S. Ct. 1057, 25 L.Ed.2d 353 (1970)). Indeed, the test is not whether a defendant is capable to defend themselves, it is error for the district court to deny an accused the opportunity to represent themselves as long as the waiver is knowing and voluntary. Vanisi, 117 Nev. at 337-338, 22 P.3d at 1169-1170.

In the instant case, Appellant only alleges that the district court repeatedly assured him he would have the right to "personally question" potential jurors himself, not that he did not waive his right to counsel knowingly and voluntarily. AOB, at 30. On August 29, 2018, the district court conducted a thorough Faretta canvass of Appellant, where it explained the jury selection process:

> THE COURT: You said you've sat through some trials, did that involve watching the jury selection process?
>
> THE DEFENDANT: No.
>
> THE COURT: Okay. Have you had conversations with your attorneys about that aspect of things –
>
> THE DEFENDANT: Yes.
>
> THE COURT: -- how to go about selecting a jury and?
>
> THE DEFENDANT: Yes. And I've read several of – jury instructions. One that I think – one also came from your court.
>
> …
>
> THE COURT: Well, jury instructions, we'll get there in a minute, that's what we talk to the jury about at the end of the case.
>
> Jury selection, in the beginning of the case, is when we bring a 100 people or so in here and the attorneys choose the 12 that are going to hear our trial. So they get an opportunity to ask some questions. You can't talk about the facts of the case. You can't argue your case. You just get to ask some questions to find out if anybody has any kind of bias or prejudice that might make 'em a bad juror.

Not jury instructions. This is just talking to people to figure out who you think might be a good juror to hear your case, which can be kind of a very -- there's a lot of nuances to that, a lot of, you know, trying to read people's body language and read into answers that they give and figure out if you think they're being completely honest with you, are they open minded, do you think they'll be fair. There's a lot of kind of skill that goes into that that's borne out over time when the attorneys repeatedly pick juries. So that can be very difficult for somebody that's never done that before.

You kind of understand that you're taking on a big load in that as well?

THE DEFENDANT: Yes, sir.

Do the jury -- do the questions, are they pertained to just, like, certain questions that you can ask or are these questions –

THE COURT: So when we bring the people in I have a number of general questions that I ask 'em, which is just generally do they have any bias or prejudice related to certain things. I ask 'em questions about what kind of work do they do, you know, are they married, do they have kids, have they ever been jurors before, have they ever been a victim of a crime, have they ever been accused of a crime. We go through a whole series of questions. And then the attorneys get an opportunity to take over.

You can follow-up asking them things about answers they may have given to my questions and sometimes there may be areas that you want to ask about as well.

An attorney may want to ask jurors whether anybody's ever had a family member that's had a substance abuse problem because maybe the case has something to do with drugs. Are there jurors who have concerns about possession of weapons because there's a gun involved in a case. Things like that.

But you can't, you know, tell the jury, here's what happened in the case –

THE DEFENDANT: Yeah.

THE COURT: -- what do you think about that? I mean, that's -- that's what they do in their deliberations.

So you're limited in how you can ask questions. And, again, I can't kind of help you with that. I mean, you'll be able to get assistance from your standby counsel but you're kind of on your own.

> Do you understand?
>
> THE DEFENDANT: Yeah.
>
> THE COURT: Yes.
>
> THE DEFENDANT: What if I ask the question that's, like I don't know it's over the line, you will say, like, can I ask the –
>
> THE COURT: Well, if you ask a bad question, assumedly the State's going to object.
>
> THE DEFENDANT: Okay, yeah, okay.
>
> THE COURT: And then I'll decide whether it's a good question or not.
>
> THE DEFENDANT: That's what I was asking.
>
> THE COURT: Yeah.
>
> THE DEFENDANT: Okay.
>
> THE COURT: Same thing with if they ask a question that you believe is improper and maybe you ask your standby counsel or whatever, you object and then I'll rule on that as well; okay.
>
> THE DEFENDANT: Okay.

IV AA 828-829, 844-847. Thus, Appellant's claim that the district court gave him "lengthy assurances that he could personally voir dire the jury panel if he elected to proceed pro se," is unsupported by the record. AOB, at 32. The district court assured Appellant that he would be able to ask his own questions to the potential jurors, which as discussed *supra*, Section I., Appellant was able to do. X AA 2160. Clearly, during the Faretta canvass the district court discussed jury selection procedures, not to guarantee the specific procedure to be followed, but to illustrate the difficulties and dangers involved in self-representation, as required by Faretta. 422 U.S. at 835,

95 S. Ct. at 2525. The district court was not bound by the procedure described during the Faretta canvass.

Thus, Appellant's second claim is without merit because the district court conducted a proper Faretta canvass. Appellant fails to cite to any case law that provides he had the right to question the jurors "personally." As such, the district court conducted a proper Faretta canvass and voir dire process, and this claim must be denied.

III. THE DISTRICT COURT DID NOT VIOLATE APPELLANT'S SIXTH AMENDEMENT RIGHTS BY DENYING HIS REQUESTS FOR SUBSTITUTION OF COUNSEL

Appellant alleges that the district court abused its discretion by denying his repeated requests for substitute counsel. AOB, at 17.

The United States Supreme Court has held that in evaluating Sixth Amendment Claims, "the appropriate inquiry focuses on the adversarial process, not on the accused's relationship with his lawyer as such." Wheat v. United States, 486 U.S. 153, 159, 108 S. Ct. 1692, 1697 (1988) (quoting United States v. Cronic, 466 U.S, 648, 657 n.21, 104 S. Ct. 2052, 2065 (1984)). "[W]hile the right to select and be represented by one's preferred attorney is comprehended by the Sixth Amendment, the essential aim of the Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers." Id.; see Morris v. Slappy,

461 U.S. 1, 13-14, 103 S. Ct. 1610, 1617-1618 (1983); see also Jones v. Barnes, 463 U.S. 745, 103 S. Ct. 3308 (1983). The "essential aim of the [Sixth] Amendment is to guarantee an effective advocate," not an attorney preferred by a defendant. United States v. Moore, 159 F.3d 1154, 1158-59 (9th Cir. 1998); Young v. State, 120 Nev. 963, 102 P.3d 572 (2004); Gallego v. State, 117 Nev. 348, 362, 23 P.3d 227, 237 (2001).

Appellant relies on Young to establish a "significant breakdown" in his attorney-client relationship. AOB, at 34-44. This Court has held that there are three factors to consider when reviewing a district court's denial of a motion for substitution of counsel: "(1) the extent of the conflict; (2) the adequacy of the inquiry; and (3) the timeliness of the motion." Young, 120 Nev. at 968, 102 P.2d at 576. On October 25, 2017, Appellant filed his third Motion to Dismiss Counsel and Appointment of Alternate Counsel. I AA 261- 269. The district court held a Young hearing on November 15, 2017, where Appellant told the court:

> THE DEFENDANT: Okay. Your Honor, I fired Murray as counsel back in December of 2015, in effect that she still being forced upon me as counsel is a violation of my constitutional rights. Especially since through my motions have I shown incompetence, ineffective assistance, conflict of interest, and a serious lack of trust, communication, understanding of what she says and does that have made this attorney-client relationship deteriorate beyond repair.
>
> I have written to the Nevada State Bar my issues and concerns, to which counsel not only told me she didn't appreciate me writing to the bar about her, she then retaliated against me on my next court date by saying in front of Judge Leavitt that she didn't think I wanted a white woman defending me, which was obvious an attempt to

prejudice the judge, the Court, against me, especially since race had never been a topic of any of our previous discussions.

Now, she just wrote me a letter basically saying that if I brought these issues up in this court, she would say that I've said before that, excuse me, white people smell and that somehow this case is rigged against me because the victim was white, which is absurd especially since I have biracial children.

Your Honor, I have never heard statements come from a public defender like this before. So how can I possibly get a fair or thorough defense from someone with this mindset? As a matter of fact, that should be the epitome of conflict of interest.

I also have a lawsuit pending in the George Lloyd -- George Lloyd Courthouse right know, which I have the paperwork with me, against the Public Defender's Office and Murray, which it also constitute a conflict of interest.

I have asked over and over for motions to be filed on my behalf but she refuses. One motion filed in these two years. I have asked for her to subpoena evidence which she also refuses. I can count on one hand the many times she came to see me in the last two years. And I haven't seen an investigator since March of 2016. All which can be verified by the CCDC records.

She states that I didn't want to see the investigator when I have been asking him and her for certain evidence for two years.

And speaking of an investigation, my case has been so poorly investigated it's pathetic. And it's frightening to think that I'm being pushed toward a trial with really no defense at all. I have bogus gun charges against me from a house I didn't live in, the police actually took my Nevada driver's license, which is on my property right now, with my address on it. And no one, not the police, the DA, the detectives, investigators, or the public defender ever went to this house -- to my house to verify my residence. Again, no investigation as to why.

These guns had no DNA, no fingerprints, constructive possession, dominion or control, they were not on my person or in the car I was driving. Again, no investigation or motion to dismiss or suppress this.

The police report even said I was a transient. So how could I live in this house if I was even homeless by their own account? The person whose house this belonged to on this particular date had a felony fugitive warrant out of San

Diego. Again, no investigation of the homeowner or the failure to arrest her.

Supposedly a warrant was issued for these guns and my cell phone, a warrant that still hasn't been seen by me or the public defender, even though she tried to pass me the paper -- some papers that said they were the warrant but they obviously weren't.

Pictures that was supposed to be taken by my cell phone that the DA is trying to use against me, even though they are unlawfully and illegally obtain, inadmissible and fruit of poison -- the poisonous tree evidence. Because, one, I had no cell phone service on that particular date, which can still be verified through Metro PCS right now. Again, no investigation.

And, two, no warrant has yet to be shown for a search, seizure, or scope of my phone. A case of double jeopardy, not investigated.

When I was being charged in Judge Goodman's court, Case Number PFC10603; and Judge Leavitt's court, Case Number, the number that I'm on right now, C-15-309820-1; at the same time between October 2015 and June 2016 for the exact same charges.

When I pointed this out to counsel she never appeared to any of Judge Goodman's court dates. I have the paperwork with me, again, right now to show this.

And isn't the DA supposed to wait for a case to be over in one courtroom before he or she can try you for the exact same charges in another court?

The victim on this case has records from the San Diego Police Department of her husband trying to kill her twice in the same manner that she was eventually killed. Evidence that I found through my family and brought to the counsel that has never been brought to the Court's attention.

The victim also has cell phone record that show death threats from her kid's father and a co-worker from the You Dirty Dog she used to work at. And, again, none of these people have been investigated nor has my cell phone ever been -- nor has her cell phone ever been subpoenaed.

When I saw my face that night on TV I didn't run and hide. I didn't try to leave the state. I went to the police and told them, you're looking for the wrong man, thinking I was doing the right thing. I asked for a lawyer and the right not to say anything further. Instead I was told I wasn't under arrest but handcuffed for my safety. Never was I ever

> Mirandized, a fact that is still somehow being neglected, before taken to the detective's interrogation.
>
> And, by the way, Judge Leavitt ordered the dash and body cams from this night, the video of the detective interview, and the warrant to be provided by the next court date, which still hasn't been provided.
>
> Every test known to man was done on my nude body and clothing, no blood, DNA, hair, fibers, nothing to indicate I ever did anything to anyone has been found then or since. Just the witness who says she thinks it was me but stated that night she couldn't actually see who she believed was a robber at the time. Again, a witness never interviewed or investigated.
>
> Your Honor, I have went about these motions, as the law state I should have, to dismiss counsel. Yet I still endured this hardship when there's an obvious, serious problem here. I don't want any special privileges or favors, only the rights to defend my life fairly and justly, which I'm not getting from this counsel.
>
> Why should I have to go to the penitentiary because of unfair and unlawful tactics used by the DA and public defender to come back years later on an appeal to get the justice I deserve right now?
>
> I know I can prove my innocence beyond a reasonable doubt but with this counsel that's not going to happen and that's not justice.
>
> Thank you.

IV AA 725-729. Appellant's public defender, Ms. Murray, then responded to Appellant's claims and listed all of the witnesses his public defenders had spoken to, the visit's they had made with Appellant, the subpoenas they had filed, the discovery they had gone through, and all of the extensive discovery and suppression motions they had filed on Appellant's behalf. IV AA 732-745, 747-49.

Finally, after listening to both Appellant and his public defenders, the district court thoroughly explained why Appellant's motion was denied:

THE COURT: -- there are people in there that don't like their attorneys and so they decide they're just not going to work with them. And they come to court and they complain all the time. And the problem is they're just refusing to work with them because they disagree with certain things.

There's going to be disagreements. You could have -- you could be a millionaire and have all the money available to you and hire the most expensive attorney you want and I would guarantee you two things, number one, you're still going to have disagreements because human beings have disagreements over things.

…

It's just the -- my sense is that for some reason, way back when, you got in your mind that your attorneys weren't doing what you wanted 'em to do and that you wanted new attorneys. It's not anything to do with what they've done that have caused that. They have been working on your behalf. I am satisfied about that.

So I kind of view this as, if you had any attorneys sitting over there that didn't do exactly what you wanted them to do in terms of filing motions and pursuing the things you wanted, when you wanted, you were going to be displeased with them and want new attorneys. It isn't a Ms. Murray and a Mr. Savage thing.

And I'm satisfied from -- from everything that I've read and reviewed, going back in this case, that they are working on your behalf.

…

And I understand your frustration on a bunch of things but you need to be able to understand that they're doing their job because of what they know in their training, experience, and schooling that leads them to understand when to do certain things and how to do certain things.

The fact that they haven't filed a motion to suppress yet, when they don't know the issue of the search warrant being decided yet that's a wise thing to do. You don't want to play your cards on that until you know about that.

If they go and visit people that won't talk to them, they won't talk to them. There's not a lot they can do in that regard. Often times witnesses that are going to be called by the State do not want to talk to your attorneys or investigators. And often times when the defense files an alibi notice, those witnesses do not want to talk to the prosecutors or their investigators. That's how it happens.

> If there is an alibi to be had here, because I know there was some reference to that, they don't have to file that notice yet and they don't want to file that notice yet. There's a certain time period before the trial when they have to file that and there are -- there are really specific reasons why they may want to wait until the very end to do that and still be within the guidelines and timelines of doing it but not kind of disclose to the other side what a potential defense may be yet.
>
> So there's a lot of reasons why there are things that they haven't done yet. I guarantee you. And it can be frustrating for me as a judge, I'll be honest with you. But it's not like they're not going to do anything. It's not like they're not going to file motions. When they have the information they need to file motions, they will.
>
> And a lot of times it's frustrating because we're like, wow, we're just getting these motions late. But it's because they just got discovery late or there's a reason to file it late. And we deal with it and we rule on it and we get ready for trial. That's the best thing that anybody can do.
>
> …
>
> It would also not be the first time that a comment has been made, not by Ms. Murray, but other people, of that same kind of ilk, in terms of somebody not wanting somebody to represent them because of a certain thing about them, whether it's solely because they're a woman or solely because they're a man or solely because they're white, black, Hispanic, whatever it is.
>
> If there's a belief that a defendant has some idea, and you admitted a moment ago that you did tell her that you thought that she was going to be unable to talk to certain witnesses, if an attorney has an idea that a defendant feels that way about a certain thing, they're going to articulate that to the Court. It doesn't mean it's a racist comment, doesn't mean it's racially disrespectful to you. It's just she perceived that you thought that she wasn't going to be able to get information from witnesses that you wanted her to get information from because she was a white woman and may be other people –
>
> …
>
> So at this point in time I'm not going to remove them as counsel. You obviously continue to have that ability to raise issues with me.

IV AA 761-762, 764-768.

Appellant contends that the first prong of Young, extent of conflict, is met because there was a "complete breakdown." AOB, at 36. In Young, the defendant complained to the district court about his attorney's lack of communication and failure to properly investigate and prepare for trial. Young, 120 Nev. at 969, 102 P.3d at 576-577. The district court ordered defense counsel to visit the defendant weekly, however, his defense counsel did not comply and only visited him once. Id. Thus, the Court found based on the defendant's "representations to the court, combined with his attorney's flagrant violation of the district court's order to visit [defendant] on a weekly basis constitute strong evidence of irreconcilable conflict." Id.

Here, there is no evidence that Appellant's attorneys were not visiting Appellant or not preparing for trial. While Appellant and counsel did have differences and "trust issues," the record clearly demonstrates that counsel was working diligently for Appellant and preparing for trial. Appellant even told the district court during his Faretta canvass about his relationship with Ms. Murray:

> THE DEFENDANT: Yes.
>
> And I want, for the record, I want to state the fact that even though me and Ms. Murray started off shaky, the last time you told me to talk to see if you guys can work it out. We talked in – it's – it's more professional. 'Cause on a personal level I'm okay, we're okay, you know.

IV AA 853. Attorney-client relationships are difficult at times, and there are often disagreements. However, at the end of the day, Appellant and Ms. Murray were on

good terms. The record clearly belies Appellant's claim that he was "left with no choice but to proceed *pro se*." AOB, at 42. Thus, this case is unlike Young, because there was not a complete breakdown in the attorney-client relationship.

Moreover, Appellant claims that the second prong of Young, adequacy of inquiry, is also met because the district court did not listen to Appellant's concerns. AOB, at 44. However, in Young, this Court found that the district court failed to examine the severity of the attorney-client relationship discord, when it "failed to inquire in any depth about Young's complaints regarding a lack of communication, [defense attorney]'s failure to file any pretrial motions, [defense attorney]'s failure to contact any witnesses, and more importantly, why [defense attorney] had violated the district court's order to visit Young weekly. Id. at 971, 102 P.3d at 577. This Court also found that the "district court did not explore the degree to which the lack of communication and animosity between Young and his counsel had prevented his counsel from adequately preparing for trial." Id.

Here, the district court's inquiry was more than adequate. The district court spent over an hour listening to Appellant's complaints about his counsel and counsel's discussion about the thorough investigations and ways they had prepared for trial. IV AA 723-772.

Lastly, Appellant alleges that the third prong of Young, timeliness of motion, is also met because Appellant filed many motions, and all were timely except the

one on the eve of trial. AOB, at 35-36. The Court evaluates the timeliness of a motion to substitute counsel "by balancing a defendant's constitutional right to counsel against the inconvenience and delay that would result from the substitution of counsel." Young, 120 Nev. at 969-970, 102 P.3d at 577. In Young, the Court found his repeated motions as timely when they ranged from three (3) and a half years before trial, to one (1) month before trial. Id. Here, while Appellant filed multiple motions, including on the eve of trial and three (3) months before trial, even if they were timely, the first and second factor are not met. Thus, this factor is irrelevant.

Therefore, applying all three (3) Young factors to the instant case, Appellant cannot demonstrate the extent of conflict was great enough for substitution of counsel. In fact, Appellant even asked for Ms. Murray as his standby counsel while deciding to represent himself after telling the court he considered her a "friend." IV AA 853-855. Thus, this claim is without merit.

IV. THE STATE DID NOT COMMIT PROSECUTORIAL MISCONDUCT

Appellant alleges that the State committed prosecutorial misconduct and violated his "state and federal constitutional rights to a fair trial and due process of the law." AOB, at 45.

Prosecutorial misconduct justifies reversing a conviction only where it "so infected the trial with unfairness as to make the resulting conviction a denial of due process." Darden v. Wainwright, 477 U.S. 168, 181, 106 S. Ct. 2464, 2471 (1986)

(quoting Donnelly v. DeChristoforo, 416 U.S. 637, 643, 94 S. Ct. 1868, 1871 (1974)). See also United States v. Young, 470 U.S. 1, 11-12, 105 S. Ct. 1038, 1044 (1985) ("a criminal conviction is not to be lightly overturned on the basis of a prosecutor's comments standing alone, for the statements or conduct must be viewed in context; only by doing so can it be determined whether the prosecutor's conduct affected the fairness of the trial."). "[T]o preserve a claim of prosecutorial misconduct, the defendant must object to the misconduct at trial because this 'allow[s] the district court to rule upon the objection, admonish the prosecutor, and instruct the jury.' When an error has not been preserved, this court employs plain-error review. Under that standard, an error that is plain from a review of the record does not require reversal unless the defendant demonstrates that the error affected his or her substantial rights, by causing 'actual prejudice or a miscarriage of justice.'" Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (internal citations omitted).

A. The State did not undermine Appellant's presumption of innocence.

Appellant alleges that the State "repeatedly undermined [Appellant]'s presumption of innocence during the initial guilt phase of [Appellant]'s bifurcated trial." AOB, at 45.

/ / /

/ / /

1. "Guilty" PowerPoint slide in the State's opening statement

During the State's opening statement, the State included a PowerPoint presentation that included a slide with only the word "GUILTY." XI Supp. AA 2167. The PowerPoint slide was used in conjunction with the State asking the jury, "at the end of this trial, Mr. Rogan and I, on behalf of the State of Nevada, will ask that you return a verdict of first-degree, along with the other charges in this case." VII AA 1439.

"A prosecutor may use PowerPoint slides to support his or her opening statement so long as the slides' content is consistent with the scope and purpose of opening statements and does not put inadmissible evidence or improper argument before the jury." Watters v. State, 129 Nev. 886, 890, 312 P.3d 243, 247 (2013). In Watters, the prosecutor orally declared the State would be asking the jurors to find the defendant guilty, accompanied by a PowerPoint slide that displayed the defendant's booking photograph with the label "GUILTY." Id. "The prosecution could not *orally* declare the defendant guilty in opening statement … allowing prosecutors to use booking photos with "guilty" written across them during opening statement does not serve an essential state interest." Id. at 891, 312 P.3d at 248. Thus, using a PowerPoint slide with the defendant's booking photo and the word "guilty" undermines the presumption of innocence. Id.

In the instant case, the State was very clear about abiding by this Court's holding in Watters, by not using Appellant's booking photo with the word "GUILTY." Instead, it simply stated the word "guilty" in conjunction with asking the jury to return a verdict of guilty. XI Supp. Appx. 2167; VII AA 1439. That makes the instant PowerPoint slide unlike the PowerPoint slide in Watters. The slide in Watters "directly declared [the defendant] guilty" because the word "GUILTY" was written directly across the defendant's booking photo. Id. at 891, 312 P.3d at 248. Here, the slide did not directly declare Appellant guilty, because it simply illustrated what the State indicated it would be requesting from the jury after the presentation of evidence—a guilty verdict. VII AA 1439. Thus, the instant case is extremely different than Watters, and the State did not commit reversible error.

Regardless, any alleged error was harmless. Appellant cannot demonstrate that the PowerPoint slide so infected the trial with unfairness that his due process rights were denied. Id. at 1189, 196 P.3d 476–77. Thus, the correct analysis is whether "the error substantially affect[ed] the jury's verdict." Id. Appellant has not demonstrated that this was so, and this claim is without merit.

2. References to Appellant's custody status and criminal history

Appellant alleges that the State "repeatedly informed the jury that [Appellant] had been arrested, apprehended, handcuffed, placed in custody, and booked in the Clark County Detention Center in July 2015." AOB, at 47. Appellant concedes that

he did not object to these references, and thus, the standard is plain error. Dermody, 113 Nev. at 210-11, 931 P.2d at 1357.

While a defendant has a right to prevent the jury from being informed of his current custody status, he does not have a right to keep the jury from being informed as to whether he was ever in custody in the past. See Haywood v. State, 107 Nev. 285, 288, 809 P.2d 1272, 1273 (1991) ("informing the jury that a defendant *is* in jail raises an inference of guilt." (emphasis added)). However, any error is harmless when there is substantial evidence of a defendant's guilt. Id.

At trial, multiple witnesses testified that Appellant was arrested for the open and gross lewdness (VII AA 1433-1435; VIII AA 1663, 1732; IX AA 1955), that he was transported and booked at the Clark County Detention Center (VII AA 1500; VIII AA 1664), that D.L. told officers Appellant molested her (VIII AA 1662), Appellant's statements to the officers (IX AA 1913); and that the officers searched Appellant's car (VIII AA 1744-45). The officers' testimony that Appellant cites merely discussed how Appellant was arrested for the crime of open and gross lewdness and then later released. This is different than Haywood, where the State discussed how the defendant was *in* custody between the time of his arrest and trial. Haywood, at 288, 809 P.2d at 1273.

Moreover, Appellant cites to testimony from Dora Del Prado, referring to Appellant as being afraid about going "back to jail." AOB, at 48; VIII AA 1772. The

State did not elicit this testimony; thus, it cannot be prosecutorial misconduct. The district court struck the statement and told the "jury to disregard that." AOB, at 48; VIII AA 1772. "[T]his court generally presumes that juries follow district court orders and instructions." Summers v. State, 122 Nev. 1326, 1333, 148 P.3d 778, 783 (2006). By telling the jury to disregard the witness's statement, any error must be harmless. As such, this prosecutorial misconduct claim is without merit.

B. Leading Questions

Appellant alleges that the "vast majority of the State's leading questions to Detective Buddy Embry were leading." AOB, at 50. Appellant concedes that he did not object to these references, and thus, the standard is plain error. Dermody, 113 Nev. at 210-11, 931 P.2d at 1357.

Whether leading questions should be allowed is a matter mostly within the discretion of the trial court, and any abuse of the rules regarding them is not ordinarily a ground for reversal. Leonard v. State, 117 Nev. 53, 70, 17 P.3d 397, 408 (2001). Additionally, Appellant has failed to cite a single case establishing that the use of leading questions can be construed as prosecutorial misconduct. Given the weight of the evidence against him, Appellant cannot demonstrate that the alleged error violated his substantial rights. Valdez, at 1190, 196 P.3d at 477. As such, this claim is without merit.

/ / /

C. Misleading Jury

Appellant alleges that the State misled the jury in three (3) ways: (1) by claiming Appellant was the "only person" who knew he drove a Ford Taurus; (2) by claiming Appellant admitted he watched D.L. outside the bathroom; and (3) by claiming Josie told D.L., Dora, and Devyn that he will find and kill her. AOB, at 51-55.

These arguments made by the State were permissible argument and did not misstate the evidence. See Taylor v. State, 132 Nev. 309, 371 P.3d 1036 (2016); see also Domingues v. State, 112 Nev. 683, 696, 917 P.2d 1364, 1373 (1996). Statements that are "completely irrelevant to the issues in [the case], and could only have impermissibly served to inflame the emotions of the jury … clearly consitut[e] misconduct." McGuire v. State, 100 N3v. 153, 156-158, 677 P.2d 1060, 1063 (1984) (finding that the statements questioning "defense counsel's ability to carry out the required functions of an attorney" and "improper expressions of his personal belief in [the defendant's] guilt" constitute prosecutorial misconduct). "It is improper for the State to refer to facts not in evidence. Further, it is also improper for the State to infer that a defendant has a prior criminal history." Rose v. State, 123 Nev. 194, 209, 163 P.3d 408, 418 (2007).

First, the State asked Detective Embrey:

> Q [MS. FLECK]: Did you get information from people at the scene as to the **make and model that they guessed this was?**

> A [DETECTIVE EMBREY]: Yes, we did.
>
> …
>
> Q: Mr. Woods talked to you about a Ford Taurus and said, was there any connection to a Ford Taurus? And that there was nothing connecting him to a Ford Taurus.
>
> Not one person, except for Mr. Woods, has specifically said that that car is a Ford Taurus. Would you agree with me?
>
> A: I agree

VIII AA 1842, 1863 (emphasis added). The State was simply following up with Detective Embrey's investigation and when he interviewed Appellant. At that point in his investigation, there was nothing *connecting* Appellant to a Ford Taurus. While witnesses at the scene mentioned the possibility the getaway car was a Ford Taurus, the State did not misstate evidence, by stating that the only person who said with certainty the car was a Ford Taurus was Appellant.

Second, in closing argument, the State argued that Appellant was watching her through the bathroom window. IX AA 1951-1952. Appellant objected to the State characterizing the photographs as being taken through the "bathroom window" because D.L.'s testimony was that they were through the "bedroom window." IX AA 1951-1952. The court told overruled the objection because "the jury will rely on what they remember the exact testimony to be." IX AA 1952. And while Appellant argues that the prosecutor falsely claimed it was the "bathroom window," in fact, D.L.'s testimony was that the photographs were taken through the bathroom window:

> Q [MS. FLECK]: Okay. I'm going to show you State's Exhibit 57. Do you recognize what's depicted here?
>
> A [D.L.]: Yes. That is the bathroom, through the window above the shower.
>
> Q: Okay. So that's kind of looking down?
>
> A: Yup.

VII AA 1512.

Finally, the State did not make a false claim that Josie told multiple people "he will find me, and he will kill me" did not misstate the evidence and was not unduly prejudicial. Three (3) eyewitnesses all heard Appellant saying "I told you I'd find you, I told you I'd kill you" while stabbing Josie. AOB, at 54. Thus, this statement does not misstate evidence. Moreover, Appellant's only argument for why the statement was unduly prejudicial is that he "contended that the three eyewitnesses were mistaken about his identity and all three eyewitnesses heard the assailant repeat that phrase." AOB, at 55. This does not make the statement prejudicial, and in fact, the statement is highly relevant. Therefore, Appellant's claims that the State misled the jury are without merit.

D. Golden Rule

Appellant alleges that the State violated the golden rule argument in its closing argument. AOB, at 55.

"Golden rule" arguments are prohibited in Nevada. Lioce v. Cohen, 124 Nev. 1, 20–23, 174 P.3d 970, 982–84 (2008). "[A]ttorneys violate the 'golden rule' by

[(1)] asking the jurors to place themselves in the plaintiff's position or [(2)] nullify the jury's role by asking it to 'send a message' to the defendant instead of evaluating the evidence." Id. "Golden rule arguments are improper because they infect the jury's objectivity." Id. at 22, 174 P.3d at 984.

In the instant case, the State was not actually asking the jury to put themselves in D.L.'s position. Lioce, 124 Nev. at 20–23, 174 P.3d at 982–84. Rather, the prosecutor asked the jury to use their common sense that is it undeniably tragic to watch a parent get murdered, by stating watching the events that unfolded "is life changing in and of itself." X AA 2116.[1] Additionally, the State used the "yellow light" example as a demonstration, which did not violate the golden rule because it did not have the jury put themselves in the Appellant's position. It was an illustration of how quickly a person can make a decision, not that Appellant was actually running a yellow light. IX AA 1918. Thus, there was no improper comment. Valdez, 124 Nev. at 1188, 196 P.3d at 476.

Regardless, Appellant cannot meet the second Valdez prong because any error was harmless. Appellant has not alleged that the so-called golden rule arguments so infected the trial with unfairness that his due process rights were denied. Id. at 1189, 196 P.3d 476–77. Thus, the correct analysis is whether "the error substantially

[1] Moreover, it is important to note that this comment was made during the penalty phase, after the jury already found Appellant guilty of First-Degree Murder.

affect[ed] the jury's verdict." Id. Appellant has not demonstrated that this was so, and this claim is without merit.

V. THE DISTRICT COURT DID NOT ERR BY FAILING TO SUPPRESS THE CONTENTS OF APPELLANT'S CELLPHONE

Prior to trial, Appellant filed a Motion to Suppress Contents of Search of Cell Phone. II AA 326-363. On October 18, 2018, the district court denied the Motion because there was a valid search warrant and thus, there was no basis to suppress the contents of the cell phone search. IV AA 949. Appellant alleges that the district court erred by not suppressing the contents of his cellphone based on the State's "unreasonable delay in obtaining a search warrant" after seizing his cellphone. AOB, at 55-56.

"[W]e review various issues regarding the admissibility of evidence that implicate constitutional rights as mixed questions of law and fact subject to de novo review." Hernandez v. State, 124 Nev. 639, 646, 188 P.3d 1126, 1131 (2008). This Court has noted that review of a district court's decision as a mixed question of law and fact is appropriate where the determination, although based on factual conclusions, requires distinctively legal analysis. Rosky v. State, 121 Nev. 184, 190, 111 P.3d 690, 694 (2005).

Appellant does not address the validity of the search warrant and instead argues that the delay in obtaining the search warrant was unreasonable pursuant to United States v. Mitchell, 565 F.3d 1347 (11th Cir. 2009). In Mitchell, the Special

Agent waited twenty-one (21) days to obtain a search warrant for the defendant's hard drive once it was in the government's possession. 565 F.3d at 1351. The Court held the defendant had a "reasonable expectation of privacy" in the hard drive and "it did constitute an interference with his possessory interest." Id. at 1350. The only reason for the delay was because the Special Agent, "'didn't see any urgency of the fact that there needed to be a search warrant during the two weeks that [he] was gone,' and that he 'felt there was no need to get a search warrant for the content of the hard drive until [he] returned back from training.'" Id. at 1351. "There may be occasions where the resources of law enforcement are simply overwhelmed by the nature of a particular investigation, so that a delay that might otherwise be unduly long would be regarded as reasonable." Id. at 1353.

In the instant case, Appellant's cell phone was seized on July 17, 2015, and the detectives obtained the search warrant on August 6, 2015. II 342-349. However, at a hearing discussing the search of the cell phone on November 5, 2018, Appellant admitted he never had a possessory interest of the cellphone:

> MR. ROGAN: You Honor, I have nothing further to add, other than what – based upon the argument today where Mr. Woods is arguing that, look, it's not even his phone, it's not been proven his phone. If it's not his phone, he doesn't have standing to bring anything with regard to the privacy or possessory interest under the Fourth Amendment. And so that would be a further reason to deny the motion.
>
> THE COURT: So is that correct, Mr. Woods, are you denying any possessory interest in the phone that's in – at issue here?

> THE DEFENDANT: yes, the phone wasn't never proven to be Woods' phone.
>
> THE COURT: Okay. Because –
>
> THE DEFENDANT: I never acknowledged that the phone –
>
> THE COURT: -- Mr. Rogan's right. If you don't have a possessory interest in the item that was – that the item was originally searched, which was the vehicle belonging to the young lady, and you're denying any possessory interest in the property that was seized, the phone, then you don't have standing to object to any of the searches related to the phone, which means all of this stuff about the warrants and everything else are irrelevant. If you're denying an interest in the item seized and the search that was conducted on the items seized, you don't have standing to object to any of that.
>
> So, I mean, that -- and that's a little different. You didn't put in any of these motions that you were denying that it was your phone. You were objecting to the searches and now it sounds like you're denying that you have any possessory interest in the phone.
>
> So that -- if that's true, if that's the position you're taking, then the motions dismissed in part because you have no standing to object to an item that isn't -- that isn't yours and that you maintain no possessory interest in or claim of ownership to. That's the first thing.
>
> Secondarily, I would also say that a lot of the arguments about who did it, and who took the photos, and did they use a camera and then them to this phone, or did they use the phone, all those are questions of fact for a jury to decide.

VII AA 982-983. The district court found that the delay was reasonable, and noted that Appellant never requested return of the cellphone. VII AA 984. Therefore, because Appellant never took a possessory interest in the cellphone, and the district court found that there was a reasonable delay in the search warrant, the district court did not err by denying the motion to suppress contents of the cellphone.

Moreover, Appellant's claim that the related charges should have been dismissed because of the delay is without merit. AOB, at 55-56. An unlawful search or seizure neither precludes prosecution nor invalidates a subsequent conviction. Gerstein v. Pugh, 420 U.S. 103, 118-19, 95 S. Ct. 854, 865-66 (1975). The remedy for a fourth amendment violation is not dismissal of charges, but the suppression of the illegally seized evidence. Weeks v. United States, 232 U.S. 383, 398, 34 S. Ct. 341, 346 (1914), overruled on other grounds by Mapp v. Ohio, 367 U.S. 643, 81 S. Ct. 1684 (1961). Thus, the claim that the related charges should have been dismissed is without merit because dismissing the charges is not the remedy for a Fourth Amendment violation. As such, this claim must be dismissed.

VI. THERE WAS NO ERROR DURING THE WEAPONS PHASE OF TRIAL

Appellant alleges that there were two (2) errors during the portion of trial on the possession of firearm by prohibited person charges: (1) eliciting improper legal conclusions from a lay witness, and (2) failing to instruct the jury on an essential element. AOB, at 62-65.

A. Legal conclusions from lay witnesses

This Court reviews the admissibility and competency of opinion testimony is reviewed for abuse of discretion. Watson v. State, 94 Nev. 261, 264, 578 P.2d 753, 756 (1978) ("The admissibility and competency of opinion testimony, either expert

or non-expert, is largely discretionary with the trial court, as is the determination of what evidentiary areas mandate the use of experts." (citations omitted)).

Appellant alleges that Sergeant Reyes's testimony that it is "illegal for someone who is a felon to possess firearms" was an improper legal conclusion. AOB, at 62-63; IX AA 2025. At the time, Appellant only objected to the prosecutor's statement that he had asked Sergeant Reyes about the illegality of the firearm on cross-examination, and not that the prosecutor's question called for a legal conclusion. IX AA 2025-2026. Therefore, it is only reviewable under a plain error standard. The question about the legality of felons possessing firearms did not inappropriately call for a legal conclusion, because Sergeant Reyes had sufficient knowledge to answer the question, based on his training and experience, and his answer did not impermissibly tell the jury what result to reach. United States v. Duncan, 42 F.3d 97, 101 (2d Cir. 1994). Therefore, this claim is without merit.

B. Failure to instruct on essential element

Appellant alleges that "the court failed to instruct the jury that the State was required to prove [Appellant], 'knew he belonged to the relevant category of persons barred from possessing a firearm.'" AOB, at 64; quoting III AA 532-546. Appellant cites Hager v. State, 135 Nev. 246, 447 P.3d 1063 (2019), and Rehaif v. United States, 588 U.S. __, __, 139 S. Ct. 2191, 2195-96 (2019) to support this assertion. AOB, at 63-65.

Appellant misstates the elements of NRS 202.360. Knowledge that one belongs to the relevant category of persons barred from possessing a firearm is not an essential element of a violation of NRS 202.360. Hager, 135 Nev. at 249-250, 447 P.3d at 1066-1067. Instead, this Court actually stated as follows: "Similar to its federal counterpart, illegal firearm possession under NRS 202.360 has three main elements: (1) a status element (the defendant falls within one of the categories of person the statute prohibits from possessing a firearm); (2) a possession element ("[a] person shall n o t ... have in his or her possession"); and (3) a firearms element ("any firearm"). Id. at 249, 447 P.3d at 1066; (*citing* Rehaif, 588 U.S. at __, 139 S. Ct. at 2195-96). Therefore, this claim is without merit, and must be dismissed.

VII. THERE WAS NO CUMULATIVE ERROR

Appellant alleges that the cumulative effect of error requires a new trial because his fundamental rights were violated. AOB, at 65-66. This Court considers the following factors in addressing a claim of cumulative error: (1) whether the issue of guilt is close; (2) the quantity and character of the error; and (3) the gravity of the crime charged. Mulder, 116 Nev. at 17, 992 P.2d at 854-55. Appellant needs to present all three (3) elements to be successful on appeal. Id. Moreover, a defendant "is not entitled to a perfect trial, but only a fair trial…" Ennis v. State, 91 Nev. 530, 533, 539 P.2d 114, 115 (1975) (*citing* Michigan v. Tucker, 417 U.S. 433, 94 S. Ct. 2357 (1974).

First, Appellant has not asserted any meritorious claims of error, and, thus, there is no error to cumulate. United States v. Rivera, 900 F.2d 1462, 1471 (10th Cir. 1990) ("…cumulative-error analysis should evaluate only the effect of matters determined to be error, not the cumulative effect of non-errors."). Second, while Appellant alleges that "these errors derived [Appellant] of fundamental fairness and resulted in a constitutionally unreliable verdict," as discussed *supra*, Section I.-VI., the jury convicted Appellant of first-degree murder and the other crimes after the jury listened and considered all the evidence. Thus, though the crimes charged were grave indeed, the third Mulder factor is the only one that remotely applies to Appellant's cumulative error argument. However, without any error to cumulate, and with overwhelming evidence to convict Appellant on each count, his argument is meritless. Therefore, Appellant's claim of cumulative error has no merit and his conviction should be affirmed.

CONCLUSION

Wherefore, the State respectfully requests that Appellant's Judgment of Conviction be AFFIRMED.

/ / /

/ / /

/ / /

/ / /

Dated this 15th day of April, 2020.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Karen Mishler*
KAREN MISHLER
Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

CERTIFICATE OF COMPLIANCE

1. **I hereby certify** that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in 14 point font of the Times New Roman style.
2. **I further certify** that this brief complies with the type-volume limitations of NRAP 32(a)(8)(B) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains 13,973 words.
3. **Finally, I hereby certify** that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 15th day of April, 2020.

Respectfully submitted

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Karen Mishler*
KAREN MISHLER
Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on April 15, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

DEBORAH L. WESTBROOK
Deputy Public Defender

KAREN MISHLER
Deputy District Attorney

/s/ E. Davis
Employee, Clark County
District Attorney's Office

KM/Brianna Stutz/ed