

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

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**MICHAEL MCNAIR**

Appellant,

vs.

**THE STATE OF NEVADA**

Respondent.

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**Docket No. 78871**

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Direct Appeal From A Judgment of Conviction  
Eighth Judicial District Court  
The Honorable Douglas Herndon, District Judge  
District Court No. C-17-327395-1

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**STATUS REPORT AND MOTION FOR EXTENSION OF TIME  
TO COMPLY WITH PROCEDURES SET FORTH IN NRAP 12A**

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Navid Afshar  
State Bar #14465  
Deputy Special Public Defender  
JoNell Thomas  
State Bar #4771  
Special Public Defender  
330 South 3<sup>rd</sup> Street  
Las Vegas, NV 89155  
(702) 455-6265  
Attorney for McNair

COMES NOW, Appellant Michael McNair, by and through his attorneys JoNell Thomas, Special Public Defender and Navid Afshar, Deputy Special Public Defender, and submits the following Status Report pursuant to the Orders of this Court filed March 5, 2020 and March 26, 2020.

Appellant McNair requests an extension of time to comply with the procedures set forth in NRAP 12A.

### **PROCEDURAL HISTORY**

Appellant Michael McNair filed a stipulation with the Respondent, the State of Nevada, and moved this Court to suspend briefing in this matter and remand the matter to the district court for an entry of plea and amended judgment of conviction. On March 5, 2020, this Court denied the request for remand, finding:

This court declines to remand this matter at this time. If the district court is inclined to grant the relief requested, then it may certify its intent to do so, and appellant may file a motion in this court, with the district court's certification attached, seeking a remand to the district court to grant the requested relief. See NRAP 12A.....proper method for relief under NRAP 12(A), and obtain certification from the district court if it is inclined to grant the requested relief.

Based on this Court's order, the parties presented an oral argument in front of the district court on March 12, 2020. See Exhibit A. The district court indicated that it was inclined to grant the requested relief and requested that Appellant prepare the proposed order to comply with NRAP 12. Id.

On March 16, 2020, Appellant prepared and forwarded the proposed order to the State for review and approval.

On March 26, 2020, this Court entered an Order, noting in part that by June 2, 2020, Appellant must "inform this court that the district court has denied the requested relief, inform this court of the status of the district court proceedings, or to file a motion or stipulation to voluntarily withdraw this appeal."

### **STATUS REPORT**

Appellant has not received approval by the State but submitted the proposed order to the district court on June 2, 2020, and copied the State on the communication to the district court. Appellant is waiting to obtain the signed certified order from the district court, after which Appellant

will promptly submit to this Court a motion with the referenced order for relief under NRAP 12A.

### **POINTS AND AUTHORITIES**

NRAP 12A sets forth the procedure if a motion is made in the district court for relief that the court lacks authority to grant because an appeal has been docketed.

### **CONCLUSION**

Based on the Declaration attached hereto, Appellant respectfully requests that the briefing in this matter remain suspended for another 30 days from the date of this filing in order to obtain the district court's written order and file the motion with this Court to request remand.

Dated: June 2, 2020.

SUBMITTED BY:

/s/ NAVID AFSHAR

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NAVID AFSHAR  
Deputy Special Public Defender  
330 S. Third St., Ste. 800  
Las Vegas, Nevada 89155  
702-455-6265  
Attorney for Appellant McNair

## **DECLARATION OF NAVID AFSHAR**

NAVID AFSHAR, hereby declares as follows:

1. That I am an attorney duly licensed to practice law in the State of Nevada, and the deputy with the Clark County Special Public Defender's office assigned to represent Mr. McNair on his direct appeal from a Judgment of Conviction (Verdict From Jury Trial).

2. I was not the trial attorney in this case but assisted trial counsel at certain points.

3. This matter has been resolved pursuant to negotiation with Respondent, the State of Nevada.

4. The district court is inclined to grant the requested relief and have this matter remanded for entry of plea and enter an amended judgment of conviction.

5. I prepared the proposed order and forwarded a copy to the State for review. There has been no response as of this morning.

6. Therefore, on June 2, 2020, I emailed the district court with the proposed order and included the Respondent on the email.

I declare that I make this request in good faith and not for purposes of delay.

Dated: 6/2/2020

/s/ NAVID AFSHAR

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NAVID AFSHAR  
Attorney for McNair

### **CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on June 2, 2020, a copy of the foregoing document was served as follows:

#### **BY ELECTRONIC FILING TO**

District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas, NV 89155

Nevada Attorney General  
100 N. Carson St.  
Carson City NV 89701

/s/ *NAVID AFSHAR*

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NAVID AFSHAR

## EXHIBIT A

Felony/Gross Misdemeanor

COURT MINUTES

March 12, 2020

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C-17-327395-1      State of Nevada  
                                 vs  
                                 Michael McNair

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March 12, 2020      09:00 AM      Status Check: Supreme Court Order

HEARD BY:      Herndon, Douglas W.      COURTROOM: RJC Courtroom 16C

COURT CLERK: Schlitz, Kory

RECORDER:      Ray, Stacey

REPORTER:

PARTIES PRESENT:

Alexander G. Chen

Attorney for Plaintiff

Navid Afshar

Attorney for Defendant

State of Nevada

Plaintiff

**JOURNAL ENTRIES**

Defendant not present and in custody in the Nevada Department of Corrections.

COURT ADVISED they were inclined to grant the relief requested in terms of allowing parties to stay the appeal, pull the case back to District Court, to vacated the jury verdict, and enter into a re-negotiation, and the Court would grant the relief in following the terms of the stipulated sentence. COURT ORDERED, relief requested GRANTED; and DIRECTED Mr. Afshar to prepare and submit an order. '

NDC