

**OPP**

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Elizabeth A. Brown  
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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

RAMON MURIC DORADO,	) Supreme Court Case No.: 79556
	) Dist. Ct. Case No.: C-17-323098-1
	)
Petitioner,	)
	)
vs.	)
	)
THE STATE OF NEVADA,	)
	)
Respondent.	)

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**OPPOSITION TO MOTION TO STRIKE PORTIONS OF  
APPELLANT'S AMENDED INDEX TO SUPPLEMENTAL APPENDIX**

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## MEMORANDUM

On the eve of oral argument and nine months after the filing of the Supplemental Appendix, Respondent complains about the record on appeal. Respondent is most “concerned”<sup>1</sup> about one page of the record, Exhibit B, the Medical History and Assault Information sheet completed by Nurse Adams on 4/24/99. Supplemental Appellant’s Appendix at 11. Respondent seeks to strike this page because Exhibit B was not admitted into evidence at the evidentiary hearing. Motion to Strike at 3. Respondent is both factually and legally wrong.

Undersigned counsel in fact provided Exhibits A, B, and C to the clerk of the District Court prior to the hearing. Supplemental Appellant’s Appendix at 100. It was out of appellant’s control whether the clerk file-stamped them.<sup>2</sup> Furthermore, the parties and witnesses

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<sup>1</sup> Respondent also complains that pages 21 – 39 of the Supplemental Appendix were never admitted or offered as exhibits at the evidentiary hearing. Motion to Strike at 3. Pages 21-39 are defense trial expert Robert Bub’s report concerning the weaknesses in Metro’s investigation in this case. Respondent is correct that this report was not part of the evidentiary hearing. Yet they were referred to at an in limine hearing at trial and thus are part of the record on appeal. 6 AA 591 et seq.; NRAP 10(a).

<sup>2</sup> Respondent complains about the District Court clerk’s failure to file-stamp Exhibits A and C. Motion to Strike at 3. This Court should be more concerned with the State’s failure to fulfill its continuing ethical duty to disclose *Brady* information (*Imbler v. Pachtman*, 424 U.S. 409, 427, fn. 25 (1976)), which is clearly contained in Exhibit B since it flatly contradicts the complaining witness’ testimony supporting at least one count of sexual assault.



referred to Exhibit B during the evidentiary hearing.<sup>3</sup> For instance, Detective Jensen looked at Exhibit B during his testimony.

Supplemental Appellant's Appendix at 82-83. Officer Virginia Griffin-Stanley did so as well (Supplemental Appellant's Appendix at 92), as did Detective Hnatuick (Supplemental Appellant's Appendix at 101-102). Finally, undersigned counsel moved to admit Exhibit B, yet the State successfully objected to its admission.<sup>4</sup> Supplemental Appellant's Appendix at 102.

NRAP 30 concerns Appellant's Appendix. Subsection (d) makes clear that Exhibit B is part of the Appendix: "Exhibits. Copies of relevant and necessary exhibits shall be clearly identified, and shall be included in the appendix as far as practicable." Given the amount of testimony concerning Exhibit B at the evidentiary hearing, it is a relevant and necessary part of the appendix under NRAP 30. On Respondent's interpretation of NRAP 30, an appellate court could never review for error any defense exhibit which was proffered yet erroneously denied admission by the District Court. This simply cannot be the law. In the

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<sup>3</sup> See, e.g., Supplemental Appellant's Appendix at 82, 84, 92, 101-102

<sup>4</sup> See, e.g., Supplemental Appellant's Appendix at 84-85, 102

end, nobody should be surprised that Exhibit B is part of the record on appeal.

DATED this 3rd day of December, 2021.



MICHAEL LASHER, ESQ.

## **CERTIFICATE OF SERVICE**

The undersigned hereby declares that on December 3, 2021 a copy of the foregoing

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was delivered to the following:

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