
IN THE SUPREME COURT OF THE STATE OF NEVADA

ROMAN HILDT,
Petitioner,

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Elizabeth A. Brown
Clerk of Supreme Court

v.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE
HONORABLE RICHARD F. SCOTTI, DISTRICT JUDGE,

Respondents,

And

Real Party in Interest,
CITY OF HENDERSON.

ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT
CASE No. C-19-339750-A
HENDERSON MUNICIPAL COURT CASE NO. 17CR012574

**AMICUS BRIEF OF THE CITY OF NORTH LAS VEGAS
IN SUPPORT OF REAL PARTY OF INTEREST CITY OF
HENDERSON**

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I. INTRODUCTION AND INTERESTS OF AMICUS CURIAE

The two questions addressed in the City of Henderson's Answering Brief are 1) whether the *Andersen* decision should be applied retroactively and what the scope of that retroactivity should be and 2) whether municipal courts may lawfully conduct jury trials. As to the first question, the City of North Las Vegas does not take a position specifically as it applies to Mr. Hildt, but does agree with City of Henderson's position on the limited scope of retroactivity. As to the second question, City of North Las Vegas joins in City of Henderson's assessment of the authority of municipal courts to conduct jury trials.

II. ARGUMENT

A. **The *Andersen* decision created a new rule of criminal procedure, and therefore cannot apply retroactively to closed cases**

The City of Henderson correctly argues that a new constitutional rule of criminal procedure is not retroactively applied to final convictions. Answering Brief at 4-5, *citing Ennis v. State*, 122 Nev. 694, 700, 137 P.3d 1095, 1099 (2006). This is an important distinction in determining what cases the jury trial requirement in *Andersen* applies to.

Since the statutory change that was implemented October 1, 2015 through Senate Bill 175, the City of North Las Vegas has filed hundreds of cases of battery constituting domestic violence. A majority of those are closed cases, and very few of those were still open as of September 12, 2019, the date of the *Andersen* decision. It is clear that this Court's determination regarding the retroactivity of the *Andersen* decision will have a considerable impact on City of North Las Vegas' municipal court resources.

The City of North Las Vegas concurs with the City of Henderson's argument that a new procedural rule is not applied retroactively once a conviction is final. Therefore, the *Andersen* requirement of a jury trial in battery domestic violence cases should not apply to any case that had a final conviction on or before September 12, 2019.

B. This Court should clarify whether municipalities have authority to conduct jury trials in compliance with *Andersen*

While it is clear that NRS 266.550 expressly forbids municipal courts from conducting criminal jury trials, it is also clear that this Court issued a directive in the *Andersen* decision that a criminal defendant has

a right to trial by jury in a case where he is charged with battery constituting domestic violence. In *Blanton v. N. Las Vegas Mun. Court*, this Court held that NRS 266.550 does not apply to incorporated cities such as North Las Vegas. 103 Nev. 623, 628, 748 P.2d 494, 497 (1987). However, there have been subsequent cases that call that holding into question, and the statutory language has never been updated to adequately clarify municipal court authority to conduct jury trials.

Therefore, the City of North Las Vegas joins in the City of Henderson's request for clarification as to whether municipal courts constitutionally and statutorily possess the authority to conduct jury trials for misdemeanor domestic violence offenses.

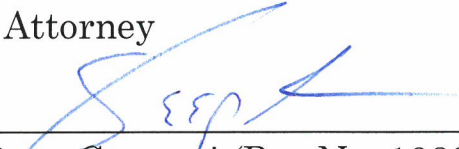
III. CONCLUSION

The City of North Las Vegas joins in Real Party in Interest's City of Henderson's Answering Brief. This Court should not reopen closed cases with final convictions that were closed prior to this Court's decision in *Andersen*. Furthermore, the City of North Las Vegas requests clarification from this Court as to the authority of municipal courts to

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conduct jury trials in battery domestic violence cases, in compliance with the requirements of *Andersen*.

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By: 
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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:

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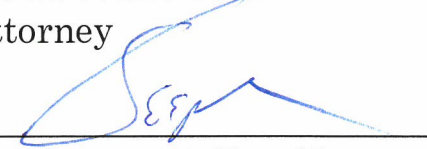
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3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or

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 10th day of December, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on December 10, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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By: /s/ Monica Metoyer
An employee of the City of North Las Vegas