

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON BOLDEN,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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Case No. 79715

RESPONDENT'S ANSWERING BRIEF

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

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ROUTING STATEMENT

Because this appeal from judgment of conviction involves a conviction for multiple category B felonies, the appeal is presumptively assigned to the Nevada Supreme Court. See NRAP 17(b)(2).

STATEMENT OF THE ISSUE

- I. Whether the district court correctly granted the State's Motion to File Information by Affidavit.
- II. Whether Bolen's convictions were supported by sufficient evidence.

STATEMENT OF THE CASE

On July 2, 2018, the State filed an Amended Criminal Complaint in Las Vegas justice court charging Jeremy Bolen ("Bolen") with four (4) counts of Attempt

Murder With Use of a Deadly Weapon (Category B Felony – NRS 200.010, 200.030, 193.330, 193.165 – NOC 50031); one (1) count of Ownership or Possession of a Firearm by a Prohibited Person (Category B Felony – NRS 202.360 – NOC 51460); seven (7) counts of Discharging a Firearm At or Into a Structure, Vehicle, Aircraft, or Watercraft (Category B Felony – NRS 202.285 – NOC 51442); and one (1) count of Battery With Use of a Deadly Weapon (NRS 200.481 – NOC 50223). I AA00064-66.

On August 22, 2018, a preliminary hearing was held. I AA0001. The justice court dismissed the case because it did not find the witnesses credible. I AA00020.

On September 5, 2018, the State filed a Motion for Leave to Amend Information by Affidavit. I AA00033. On September 18, 2018, the district court noted that Bolen had not yet filed an opposition to the Motion. Respondent's Appendix ("RA") 000001. The district court granted a continuance to give Bolen more time to file an opposition. Id. Bolen did not oppose the Motion. RA000002. On October 30, 2018, the district court granted the Motion. Id.

On December 6, 2018, the State filed an Information charging Bolen with four (4) counts of Attempt Murder With Use of a Deadly Weapon (Category B Felony – NRS 200.010, 200.030, 193.330, 193.165 – NOC 50031); one (1) count of Ownership or Possession of a Firearm by a Prohibited Person (Category B Felony – NRS 202.360 – NOC 51460); seven (7) counts of Discharging a Firearm At or Into

a Structure, Vehicle, Aircraft, or Watercraft (Category B Felony – NRS 202.285 – NOC 51442); and one (1) count of Battery With Use of a Deadly Weapon (NRS 200.481 – NOC 50223). I AA00064-66. (NRS 200.481 – NOC 50223).

On May 28, 2019, Bolen’s three (3) day jury trial commenced. I AA00078. On May 30, 2019, the jury found Bolen guilty of all counts. III AA00087-90.

On July 23, 2019, Bolen was sentenced as follows: as to Count 1 – a minimum of forty-eight (48) months and a maximum of two hundred forty months in the NDOC, with a consecutive sentence of a minimum of thirty-six (36) months and maximum of two hundred forty months for the deadly weapon enhancement; as to Count 2 - a minimum of forty-eight (48) months and a maximum of two hundred forty months in the NDOC, with a consecutive sentence of a minimum of thirty-six (36) months and maximum of two hundred forty months for the deadly weapon enhancement, to run consecutive to count 1; as to Count 3 - a minimum of forty-eight (48) months and a maximum of two hundred forty months in the NDOC, with a consecutive sentence of a minimum of thirty-six (36) months and maximum of two hundred forty months for the deadly weapon enhancement, to run consecutive to count 2; as to Count 4 - a minimum of forty-eight (48) months and a maximum of two hundred forty months in the NDOC, with a consecutive sentence of a minimum of thirty-six (36) months and maximum of two hundred forty months for the deadly weapon enhancement, to run consecutive to Count 3; as to Count 5 – a minimum of

twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 6 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 7 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 8 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 9 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC ; as to Count 10 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 11 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC; as to Count 12 – a minimum of thirty-six (36) months and a maximum of one hundred twenty (120) months in the NDOC; as to Count 13 – a minimum of twenty-four (24) months and a maximum of seventy-two (72) months in the NDOC. Counts 5 through 13 were all run concurrent. The aggregate sentence was a minimum of three hundred thirty-six (336) and a maximum of one thousand nine hundred and twenty (1,920) months in the NDOC, with eighty-seven (87) days credit for time served. III AA000137.

The Judgment of Conviction was filed on August 27, 2019.

On September 24, 2019, Bolen filed a Notice of Appeal. III AA000138.

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STATEMENT OF THE FACTS

Brenton Martinez was with his brother Bryson Martinez at Apartment 6 at 2883 Wheelwright Drive on July 1, 2018. II AA00100. The apartment belonged to Brandi Coleman, with whom Bryson was in a dating relationship. I AA00210, II AA00100-01. Also present at the apartment were Brandi Coleman, Brandi's daughter Sanyleh, and Brandi's cousin. I AA00210-11. While Brandi was dating Brenton, she was also involved in a romantic relationship with James Bolen. Bolen and Brandi also had a child together. II AA0101.

At some time between 8:00AM and 9:00 AM, Bryson and Brenton were outside the apartment. II AA00101. The two men had been drinking and smoking marijuana since approximately 6:00 AM. I AA00211, 217-18. While they were sitting outside, a man walked past them. II AA00102. Bryson said something to the man. II AA00102.

The man circled back, and had his hands behind his back. II AA00103. After a short discussion lasting approximately one minute and thirty seconds, the man pulled out a firearm from behind his back. II AA00103-04, 116. The firearm was a semi-automatic pistol. II AA00105. Brenton pushed Bryson out of the way. II AA00104. The firearm initially jammed, but the man cocked the firearm again and then opened fire. II AA00104. By the time the man fired his weapon, Bryson had gotten into the apartment, and Brenton had turned his back to the man to try and get

away. II AA00104-05. Brenton was shot in the upper right quadrant of his ribs while trying to make it back to the apartment. II AA00105, 107. Brenton testified that he heard at least three (3) shots, but stopped counting after he got shot. II AA00106-07.

Brenton made it back into the apartment and locked the door. II AA00108. At trial, Brenton identified Bolen as the man who had shot him. II AA00110-11. Brandi Coleman then called 9-1-1. II AA0139 During the 9-1-1 call Brandi stated that Brenton had been shot by Bolen. II AA0151.

At approximately 8:55 AM, Officer Shakafor was dispatched to 2883 Wheelwright in regards to the shooting. I AA00201. By the time Shakafor arrived at the scene, the shooter was gone. I AA00201.¹ When Shakafor arrived, a woman came out of the apartment screaming that Brenton had been shot. I AA00201. Officer Shakafor and other officers immediately began interviewing witnesses. I AA00201-02. Based upon Brandi's 9-1-1 call, Bolen was the main suspect. Brandi showed a picture of Bolen to Officer Shakafor. I AA00202-03, Shakafor passed this information on Detective Krmpotich. I AA00204, II AA00121.

Also present on the scene was Officer Jegge. II AA00074. Officer Jegge saw that Brenton had been shot in his abdomen. II AA00076. Brenton seemed to be in considerable pain, and was going in and out of consciousness. II AA00076. Brenton

¹ At trial, Joshua Knowlton testified that he had seen an African-American man run across the apartment complex and get into a gold Cadillac CTS shortly after the shooting. II AA00061-63

was initially reluctant to speak to Officer Jegge. II AA00080-81. After building a rapport with Brenton, Officer Jegge showed Brenton a picture of Bolen. II AA00081. Brenton identified Bolen as the man who had shot him. II AA00081. Officer Jegge and Detective Krmpotich both testified that while they would have preferred to have Brenton identify the killer through use of a six-person photograph lineup, they were concerned that there may not be time to get such a lineup together since they were informed that Brenton may not survive. II AA0094, II AA00135.

Bryson gave a taped statement to police officers describing the shooter. I AA0215-16. However, at the preliminary hearing, Bryson claimed that he lied when he described the shooter, and in fact had never seen the shooter because he was inside when the shooting occurred. I AA0212. Bryson claimed he lied because the police told him he could not go see his brother until after he gave a statement. I AA0215. Detective Krmpotich testified that no one told Bryson that, and that he had been free to leave at any point. II AA0154. The officers who spoke with Bryson and Brenton at the scene said that they appeared to be lucid and coherent. II AA00092-93, II AA0154-55. The only sign of intoxication was that Detective Krmpotich smelled alcohol on Bryson's breath. II AA0154-55. Brenton further testified at trial that he was lucid at the time he spoke with the police. II AA00118

At the scene, Detective Krmpotich found eight (8) spent shell casings, and two (2) unspent shell casings. Further, five (5) bullet strikes were found in or on

apartment 6 of 2883 Wheelwright Drive. II AA00131. No firearm was ever recovered in connection with this shooting. II AA00133.

The witnesses were uncooperative throughout the case. The State's investigator testified that he was never able to locate or serve a subpoena upon Brandi Coleman. II AA00072. While not introduced to the jury, it was discovered that Brandi and Bolen continued a relationship even after the shooting, and that she was in contact with him while he was incarcerated. Brandi had stated during a jail call with Bolen that she did not want to testify and would not go to a hearing. While Bryson Coleman was served with a subpoena and testified at the preliminary hearing, the State was unable to subpoena Bryson for the trial. II AA00069. At the preliminary hearing (as alluded to above), Bryson walked back many of the statements he had made during his taped statement. The only individual who had been at the apartment that day who the State was able to serve was Brenton. II AA00070. Brenton's testimony at trial differed from his testimony at the preliminary hearing. Specifically, Brenton testified at trial that, contrary to his preliminary hearing testimony, he could identify Bolen as the shooter. II AA00111. Brenton said that he lied during the preliminary hearing because of how he was raised, and that he wanted to just put the whole thing behind him. Id.

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SUMMARY OF THE ARGUMENT

Bolen brings two (2) claims on appeal. First, Bolen argues that the district court erred in granting the State's Motion to File an Information by Affidavit. However, Bolen never filed a written opposition to this Motion (or otherwise objected to it), and therefore this claim can not now be raised on appeal. Further, even when considered on the merits, the State was entitled to have this Motion granted. The magistrate committed egregious error when it invaded the province of the jury by determining the credibility of the witnesses.

Second, Bolen argues that his conviction was not supported by substantial evidence. However, Brenton testified that Bolen committed the crimes. So too did Brandi state during a 9-1-1 call that Bolen had committed the crimes. Finally, Bryson gave a description of the shooter that matched Bolen. As such, the conviction was supported by sufficient evidence.

ARGUMENT

I. THE DISTRICT COURT CORRECTLY GRANTED THE STATE'S MOTION TO FILE INFORMATION BY AFFIDAVIT

In the instant case, the magistrate dismissed the case following a preliminary hearing. I AA0020. The State then filed a Motion for Leave to Amend Information by Affidavit. I AA0033. Bolen had not opposed the Motion by the time the Motion was on calendar. RA000001. The district court continued the hearing to give Bolen

an opportunity to oppose the Motion. Id. Bolen never opposed the motion. RA000002. The district court then granted the Motion as unopposed. Id.

A defendant who does not oppose a motion is deemed to have consented to it. Bower v. Harrah's Laughlin, Inc., 125 Nev. 470, 479, 215 P.3d 709, 717 (2009), holding modified on other grounds by Garcia v. Prudential Ins. Co. of Am., 129 Nev. 15, 293 P.3d 869 (2013). A point not urged at trial court will not be considered on appeal unless it goes to the court's jurisdiction. Id. Further, EDCR 2.20(e) states that a failure to file a written opposition may be treated as an admission that the motion is meritorious. Since Bolen never filed a written opposition to this motion, he cannot now appeal the Court's ruling pursuant to Bower. While Bolen orally requested to preserve his right to file a Motion to Dismiss (approximately a month and a half after the Motion was granted), it does not seem from the record that any such Motion was ever filed, or that an actual oral objection to the State's Motion was ever made. RA000003-4. This claim should be denied.

Further, the Motion would have been granted on the merits even if Bolen had opposed it. This court "reviews the determination of egregious error de novo." Martin v. Sheriff, Clark Cnty., 88 Nev. 303, 306, 496 P.2d 754, 755 (1972) (applying de novo review to determine whether the magistrate committed egregious error). However, the Nevada Court of Appeals has also held that whether to grant a motion for leave to file charges by affidavit is within the discretion of the court. See Moultrie

v. State, 131 Nev. 924, 928, 364 P.3d 606, 611-12 (2015). Given that Appellant’s actual claim is that the district court erred in granting the State’s Motion to file the sexual assault charge by affidavit, the standard of review is abuse of discretion. AOB at 4. However, regardless of the standard of review, the record is clear that the district court correctly granted the State’s Motion.

“NRS 173.035(2) provides, in pertinent part, that if an accused has been discharged after the preliminary hearing, the district attorney may, by leave of the district court, file an information ‘upon affidavit of any person who has knowledge of the commission of an offense, and who is a competent witness to testify in the case.’” State v. Sixth Judicial Dist. Court In & For Cty. of Humboldt, 114 Nev. 739, 740, 964 P.2d 48, 48 (1998) (citing NRS 173.035). “The statute is designed to provide a safety valve against an arbitrary or mistaken decision of the magistrate in a prosecution initiated by the district attorney and erroneously dismissed.” Ryan v. Eighth Judicial Dist. Court In & For Clark Cty., 88 Nev. 638, 640, 503 P.2d 842, 843 (1972) (internal citations omitted). “However, this court has held that NRS 173.035(2) is ‘a safeguard against egregious error by a magistrate in determining probable cause, not a device to be used by a prosecutor to satisfy deficiencies in evidence at a preliminary examination, through affidavit.’” State v. Sixth Judicial Dist. Court In & For Cty. of Humboldt, 114 Nev. 739, 741–42, 964 P.2d 48, 49 (1998) (citing Cranford v. Smart, 92 Nev. 89, 91, 545 P.2d 1162, 1163 (1976)).

At a preliminary hearing, the State is only required to offer “slight or marginal” evidence because it does not involve a determination of guilt or innocence of the accused. Sheriff, Clark Cty. v. Crockett, 102 Nev. 359, 361, 724 P.2d 203, 204 (1986). The magistrate should leave issues of credibility to the jury at trial. See Miner v. Lamb, 86 Nev. 54, 58, 464 P.2d 451, 453 (1970); see also Bryant v. Sheriff, Clark Cty., 86 Nev. 622, 624, 472 P.2d 345, 346 (1970).

At the preliminary hearing, the magistrate dismissed the case. I AA0020. The magistrate dismissed the case because it did not find either Brenton or Bryson Martinez credible. I AA0019-20. However, in doing so, the magistrate removed the question of credibility from the province of the jury. See Miner v. Lamb, 86 Nev. 54, 58, 464 P.2d 451, 453 (1970); see also Bryant v. Sheriff, Clark Cty., 86 Nev. 622, 624, 472 P.2d 345, 346 (1970).

Officer Jegge testified that Brenton Martinez identified Bolen as the shooter at the scene of the crime. I AA0005-06. However, at the preliminary hearing, Brenton did not identify Bolen as the shooter. I AA0004-5. Similarly, Bryson Martinez gave Detective Krmpotich a description of the shooter that matched Bolen when he gave a statement. I AA0012. However, at the preliminary hearing, Bryson stated that he did not witness the shooting. I AA0008-9. As such, there was a question regarding which statements were more credible, what Bryson and Brenton had said at the scene of the crime, or what Bryson and Brenton said at the preliminary hearing.

Such a credibility determination should have been left to the jury pursuant to Miner v. Lamb, 86 Nev. 54, 58, 464 P.2d 451, 453 (1970). However, the magistrate failed to do this, and instead dismissed the case. As such, by invading the province of the jury, the magistrate made an egregious error.

Bolen submits that the case Wrenn v. Sheriff, 87 Nev. 85, 482 P.2d 289 (1971) stands for the proposition that the magistrate is left to determine the credibility of the witnesses. This is incorrect. What Wrenn states is:

When the evidence is in conflict at the preliminary examination it is the function of the magistrate to determine the weight to be accorded to the testimony of the witnesses, and if an inference of criminal agency can be drawn from the evidence it is proper for the magistrate to draw it, thereby leaving to the jury at the trial the ultimate determination of which of the witnesses are more credible

Wrenn v. Sheriff, Clark Cty., 87 Nev. 85, 87, 482 P.2d 289, 290 (1971). As such, Wrenn actually states that it is the magistrate's function to weigh evidence in determining whether an inference of criminal agency can be drawn. However, the question of credibility is ultimately left to the jury at trial. Id. Given that the State submitted sufficient evidence to draw an inference of criminal agency, the magistrate erred in dismissing the case after engaging in the prohibited exercise of weighing witness credibility.

Therefore, this claim should be denied for two reasons. First, Bolen never filed a written opposition, or objected to it on the record in any capacity. He cannot now

raise this issue on appeal. Second, even when considered on the merits, the State's motion was clearly meritorious because that magistrate committed an egregious error in dismissing the case.

To the extent the district court did err in granting the State's Motion, such an error was harmless. this Court has previously held that a conviction of guilty on a verdict cures any earlier error in the initial charging process. See Echavaria v. State, 108 Nev. 734, 745, 839 P.2d 589, 596 (1992); Detloff v. State, 120 Nev. 588, 596, 97 P.3d 586, 591 (2004); United States v. Mechanik, 475 U.S. 66, 70, 106 S.Ct. 938, 941-42 (1986). Bolen was convicted on all charges following his trial. III AA00008-90. As such, any error committed by the district court in granting the State leave to file the charges by affidavit was harmless, and this claim should be denied.

II. BOLEN'S CONVICTION WAS SUPPORTED BY SUFFICIENT EVIDENCE

Bolen next argues that his conviction was not supported by sufficient evidence. The standard of review for sufficiency of the evidence upon appeal is whether the jury, acting reasonably, could have been convinced of the defendant's guilt beyond a reasonable doubt. Edwards v. State, 90 Nev. 255, 258-259, 524 P.2d 328, 331 (1974). In reviewing a claim of insufficient evidence, the relevant inquiry is "whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Origel-Candid v. State, 114 Nev. 378, 381, 956

P.2d 1378, 1380 (1998), (quoting Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984)); See also Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789 (1979). “Where there is substantial evidence to support a jury verdict, it [the verdict] will not be disturbed on appeal.” Smith v. State, 112 Nev. 1269, 927 P.2d 14, 20 (1996); Kazalyn v. State, 108 Nev. 67, 71, 825 P.2d 578, 581 (1992); Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Moreover, “it is the jury’s function, not that of the court, to assess the weight of the evidence and determine the credibility of the witnesses.” Origel-Candido, 114 Nev. 378, 381, 956 P.2d 1378, 1380. (quoting McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992); see also Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979) (Court held it is the function of the jury to weigh the credibility of the identifying witnesses); Azbill v. Stet, 88 Nev. 240, 252, 495 P.2d 1064, 1072 (1972) (In all criminal proceedings, the weight and sufficiency of the evidence are questions for the jury; its verdict will not be disturbed if there is evidence to support it and the evidence will not be weighed by an Appellate Court), cert. denied, 429 U.S. 895, 97 S.Ct. 257 (1976). This does not require this Court to decide whether “it believes that the evidence at the trial established guilt beyond a reasonable doubt.” Jackson v. Virginia, 443 U.S. at 319-20, 99 S.Ct. at 2789 (quoting Woodby v. INS, 385 U.S. 895, 87 S.Ct. 483, 486 (1966)). This standard thus preserves the fact finder’s role and responsibility “[to fairly] resolve conflicts in the testimony, to

weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.” Id. at 319, 99 S.Ct. at 2789.

A jury is free to rely on both direct and circumstantial evidence in returning its verdict. Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980). Also, the Nevada Supreme Court has consistently held that circumstantial evidence alone may sustain a conviction. Deveroux v. State, 96 Nev. 388, 391, 610 P.2d 722, 724 (1980) (citing Crawford v. State, 92 Nev. 456, 552 P.2d 1378 (1976)).

Bolen does not argue that there was insufficient evidence to show that the crimes he was convicted of were committed, only that there was insufficient evidence to show he was the one who committed them.

Bolen is incorrect. Brenton (a victim and eyewitness) testified at the trial that Bolen was the individual who committed the crimes. II AA00110-11. Brenton also identified Bolen as the shooter at the scene of the crime. II AA0081. Further, the 9-1-1 call made by Brandi was played for the jury, where Brandi states that Bolen was the shooter. II AA0151. In addition, when Officer Shakaford initially arrived at the scene of the crime, Brandi told him that Bolen had been the shooter. I AA00202-04. Finally, Bryson gave a description of the shooter at the scene of the crime that matched Bolen. I AA0215-16.

Bolen attempts to argue that no reasonable jury would have believed Brenton because (1) he was under the influence at the time of the shooting and (2) because

his trial testimony was inconsistent with his preliminary hearing testimony.² AOB at 6-7. However, the determination of witness credibility is left to the jurors. Origel-Candido, 114 Nev. 378, 381, 956 P.2d 1378, 1380. Further, Brenton explained why his preliminary hearing testimony differed from his trial testimony. Specifically, Brenton testified that he had earlier been uncooperative because that's how he was raised, and he had been trying to put the incident behind him. II AA00111. Further, Brenton testified that he was lucid when he was speaking with LVMPD and identified Bolen as the shooter at the scene. II AA000118. In addition, both Officer Jegge and Detective Krmpotich testified that Brenton seemed coherent and lucid at the time he identified Bolen as the shooter. II AA00092-93, 154-55.

Further, Brenton's testimony was consistent with Brandi's statements during the 9-1-1 call that Bolen had committed the crimes. II AA0151. Bryson also gave a description of the individual who had committed the crimes. I AA00215. This description matched Bolen. While these witnesses later became uncooperative, the jury clearly found that the fact that all three individuals had identified the same man as the killer immediately after the shooting proved Brenton's testimony to be credible. It is not unreasonable for a jury to decide that corroborated evidence is credible.

² At his preliminary hearing, Bolen did not identify Bolen as the man who shot him. II AA0111.

As such, sufficient evidence established Bolen as the individual who committed the crimes for which he was convicted. This Court should decline Bolen's invitation to invade the province of the jury in assessing witness credibility, especially in a case such as this one where the jury reached a clearly reasonable decision. This claim should be denied.

CONCLUSION

For the foregoing reasons, the district court's judgment should be AFFIRMED.

Dated this 8th day of September, 2020.

Respectfully submitted,

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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 this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in 14 point font of the Times New Roman style.
2. **I further certify** that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either proportionately spaced, has a typeface of 14 points of more, contains 4,185 words and 18 pages.
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 8th day of September, 2020.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 8th day of September, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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