

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 29 2020 01:13 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

THE STATE OF NEVADA,

No. 79792/80008/80009

Petitioner,

v.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
KATHLEEN DRAKULICH, DISTRICT JUDGE,

Respondents.

MOTION FOR ORDER FOR TRANSMISSION OF SEALED TRANSCRIPT

COMES NOW, the State of Nevada, by and through counsel, and seeks an order from this Court, directing the clerk of the district court to transmit to this Court, under seal, the transcript of proceedings for the sealing hearing that took place in Department 10 on December 19, 2019, at 9:00 a.m. in the matter of Mailyn Deposoy Kang, District Court Case No. CV19-01896.

At issue in this consolidated writ is the Second Judicial District Court's procedure regarding the resolution of petitions to seal criminal records. The State has referenced the proceedings in its Reply, and the transcripts are

necessary to illustrate that the judges of the Second Judicial District Court vary in their interpretation of prosecutorial obligations.

In its Order Denying Motions of March 19, 2020, this Court acknowledged that review of this transcript is warranted, but noted that the State had not demonstrated it could not be included in a Supplemental Appendix. Accordingly, the State offers the following information and attached exhibits in support of its Motion to Transmit the transcript of the Kang matter, Second Judicial District Court Case Number CV19-01896.

At the time of the sealing hearing in this matter, the State was required to appear, but not permitted to make a record. The State requested the transcript from the court reporter, but the court reporter refused based on instructions from the presiding judge. See Exhibit 1. The State is, thus, unable to procure the transcript and unable to include the transcript in its Third Supplemental Appendix. See Exhibit 2. Therefore, the State requests that this Court direct the district court clerk to transmit the

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transcript to this Court, in a sealed envelope, so that the Court may determine that the representations in the Reply are accurate.

DATED: May 29, 2020.

CHRISTOPHER J. HICKS
DISTRICT ATTORNEY

By: JENNIFER P. NOBLE
Chief Appellate Deputy

EXHIBIT 1

EXHIBIT 1

From: Peggy Hoogs <phoogs@litigationervices.com>
Sent: Tuesday, February 11, 2020 4:43:58 PM
To: Ford, Margaret "Margy" <mford@da.washoecounty.us>
Cc: Reno Reception <renoreception@litigationervices.com>
Subject: FW: Transcript for Sealing Hearing on Mailyn Kang CV19-01896

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hi Margy.

I thought I had sent Jennifer an email back in December.

After the hearing in December, Judge Sattler said I could not provide a copy of the transcript to Jennifer as the case is sealed.

If you have any questions, you should contact Judge Sattler or Sheila Mansfield, his Administrative Assistant.

Thank you.

Best regards,

Peggy Hoogs

Director of Business Development

NV CCR #160 * CA CSR #5958

151 Country Estates Cr.

Reno, NV 89511

Cell: 775-771-1563 | Office: 775-323-3411

litigationervices.com | 800-330-1112 | phoogs@litigationervices.com

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Please consider not printing this email.

From: Denise Matt <dmatt@litigationservices.com>
Sent: Tuesday, February 11, 2020 4:17 PM
To: Peggy Hoogs <phoogs@litigationservices.com>
Subject: FW: Transcript for Sealing Hearing on Mailyn Kang CV19-01896
Importance: High

Peggy, please see the message below.

Best regards,

Denise Matt

From: Ford, Margaret "Margy" <mford@da.washoecounty.us>
Sent: Tuesday, February 11, 2020 4:09 PM
To: Reno Reception <renoreception@litigationservices.com>
Subject: Transcript for Sealing Hearing on Mailyn Kang CV19-01896
Importance: High

Good afternoon,

A sealing hearing took place in the above case on 12/19/19 at 9am in Department 10. At the hearing, the attorney for the State, Jennifer Noble, asked that the transcript of that hearing be prepared. Our office never received the transcript. Would it be possible to check if the transcript for that hearing was ever prepared, and if so, could a copy be emailed to us? Ms. Noble needs that transcript in order to reply to an answer regarding sealing matters in the Supreme Court.

Thank you,

Margy Ford

Appellate Division | District Attorney

Legal Secretary

(775) 321-4364

One South Sierra Street

Reno, Nevada 89501

EXHIBIT 2

EXHIBIT 2

AFFIDAVIT OF COUNSEL

I, JENNIFER P. NOBLE, do hereby swear under penalty of perjury that the assertions of this affidavit are true.

1. That your affiant is a duly licensed attorney in the State of Nevada and is counsel of record for Petitioner.

2. That on December 19, 2019 I appeared on behalf the State in the Matter of Mailyn Deposoy Kang, CV19-01896 in Department 10 of the Second Judicial District Court.

3. Immediately following the hearing, I requested a copy of the hearing transcript from the court reporter.

4. On February 11, 2019, the Washoe County District Attorney's Office had yet to receive the requested transcript.

5. That the court reporter responded via email, indicating that the Honorable Elliott Sattler had instructed her not to provide the requested transcript to the State. *See Exhibit 1.*

6. That although the email from Ms. Hoogs referenced possibly sending me an email about Judge Sattler's instructions in December, I do not recall receiving such an email.

7. That because the court reporter declined to provide the State with a transcript of the Kang matter, it cannot be included in the Third Supplemental Appendix.

Further your affiant sayeth not.

DATED: May 29, 2020.

By: JENNIFER P. NOBLE
Chief Appellate Deputy
State Bar No. 9446

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on May 29, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Greg D. Ott, Chief Deputy Attorney General

Peter P. Handy, Deputy Attorney General

/s/ Tatyana Kazantseva
TATYANA KAZANTSEVA