

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

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SAMMIE NUNN,

#1226304,

Appellant,

v.

STATE OF NEVADA,

Respondent.

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**CASE NO.: 80121**

**E-FILE**

D.C. Case: C-18-336184-1

Dept.: XVIII

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**APPELLANT'S OPENING BRIEF**

**Appeal from a Denial of a Motion to Withdraw a Guilty Plea  
Eighth Judicial District Court, Clark County**

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#1226304,	)	<b>CASE NO.: 80121</b>
Appellant,	)	<b>E-FILE</b>
v.	)	D.C. Case: C-18-336184-1
STATE OF NEVADA,	)	Dept.: XVIII
	)	
Respondent.	)	
_____	)	

**NRAP 26.1 DISCLOSURE**

The undersigned counsel of record for SAMMIE NUNN, hereby certifies pursuant to NRAP 26.1(a) that there are no persons nor entities associated within my law practice and that I am a sole practitioner. Furthermore, there are no persons nor entities that have any interest or financial interest in Law Office of Terrence M. Jackson. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

DATED this 26th day of June, 2020.

//s// Terrence M. Jackson

TERRENCE M. JACKSON, ESQ.

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STATE OF NEVADA,	)	
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<u>Respondent.</u>	)	

**APPELLANT'S OPENING BRIEF**

**Appeal from a denial of a Motion to Withdraw a Guilty Plea  
Eighth Judicial District Court, Clark County**

**NATURE OF THE ACTION**

This is an Appeal from a Defendant's claim he was wrongly denied Withdrawal of his Guilty Plea and the Subsequent Revocation of Probation.

**SPECIFICATION OF ERROR**

1. The District Court committed reversible error when it denied Defendant's Motion to Withdraw Guilty Plea, which was invalid based upon the totality of

circumstances. The Court should have found his conviction was manifestly unjust and that his claim of 'factual innocence' was credible;

2. The District Court abused its Discretion when it accepted the Defendant's Stipulation to Revocation of Probation as the revocation was without adequate grounds. It was an abuse of discretion to revoke the Defendant without any consideration of the mitigating evidence;

3. The accumulation of error in this case requires reversal of Defendant's conviction and setting aside the Order of revocation of probation.

### **SUMMARY OF THE ARGUMENT**

The Defendant's Motion to Withdraw His Guilty Plea was wrongly denied. (A.A.76) The Court had rejected Defendant's Supplemental Motion for an Evidentiary Hearing on his Motion to Withdraw his Plea. (A.A. 108-112) Under the totality of circumstances it is clear however his plea was not a knowing and voluntary waiver of his rights. *See, Schneckloth v. Bustamonte*, 412 U.S. 218 (1973). Defendant therefore submits it was manifestly unjust to deny his Motion alleging his guilty plea was invalid. *See, Meyers v. State*, 95 Nev. 885, 663 P.2d 1066 (1979). The Defendant had been through extensive and sustained conflict with his court appointed counsel,

which eventually resulted in Defendant demanding alternate counsel be appointed to represent him on post conviction and then on appeal. (A.A. 38-49), (A.A. 50-52), (A.A. 54), (A.A. 88-90)

The Court, attempting to resolve counsel's unhappiness with counsel, reluctantly appointed alternate counsel to assist Defendant solely with the issue of the withdrawal of his guilty plea. (A.A. 55)

Soon after the Court denied that motion the Defendant attempted to withdraw his guilty plea. That Motion was denied. (A.A. 76) The Probation Department then proceeded immediately by filing a Motion for Revocation in District Court case no.: C-18-336184-1. On November 14, 2019, the Defendant was revoked after he agreed to stipulate to revocation. (A.A. 77) Defendant, having just lost several key motions felt he had no other choice. Defendant submits the District Court, under the totality of circumstances, abused its discretion when it accepted Defendant's stipulation for revocation in this case. (A.A. 77)

### **JURISDICTIONAL STATEMENT**

Defendant/Appellant claims jurisdiction pursuant to NRS 177.015(3). Defendant filed a timely *pro per* Notice of Appeal pursuant to statute on November

21, 2019, within the thirty day time limit established by Nevada Rules of Appellate Procedure 4(b). (A.A. 86-87) This is an appeal from the denial of the Defendant's Motion to Withdraw His Guilty Plea and the resulting Order for Revocation of Probation. (A.A. 78-79)

### **ROUTING STATEMENT**

This is an appeal from a Judgment of Conviction resulting from a guilty plea. Pursuant to NRAP17(b)(1). This case is therefore presumptively assigned to the Nevada Court of Appeals.

### **STATEMENT OF LEGAL ISSUES PRESENTED FOR REVIEW**

**I. THE DISTRICT COURT COMMITTED REVERSIBLE ERROR WHEN IT DENIED DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA. DENIAL OF THIS MOTION WAS MANIFESTLY UNJUST;**

A. There was insufficient pretrial investigation and preparation by counsel preplea as well as inadequate attorney client counseling concerning possible defenses;

B. Under the totality of circumstances, the Defendant's Plea of Guilty was involuntary;

C. Denial of the Defendant's Motion to Withdraw Guilty Plea was manifestly unjust. There was credible evidence he was 'factually innocent;'

D. Substantial doubt existed as to Defendant's competency at the time of his plea. This was an important factor supporting the withdrawal of his plea;

**II. THE DISTRICT COURT ABUSED ITS DISCRETION WHEN IT REVOKED THE DEFENDANT'S PROBATION WITHOUT CONSIDERING THE VALIDITY OF HIS CONVICTION AND THE EXTENSIVE MITIGATION WHICH EXISTED;**

**III. THE ACCUMULATION OF ERROR REQUIRES REVERSAL OF DEFENDANT'S JUDGMENT OF CONVICTION AND ORDER OF PROBATION AND REVOCATION.**

### **STATEMENT OF THE CASE**

The Clark County Grand Jury returned an Indictment on November 14, 2018, for Battery with a Deadly Weapon with Substantial Bodily Harm, NRS 200.481.2(b) and Battery with use of a Deadly Weapon, NRS 200.481.201.2(a) (A.A.01-03) An Indictment warrant was issued on November 14, 2018. (A.A.04) Defendant was initially arraigned on November 20, 2018. (A.A. 05) On December 13, 2018, the case

was referred to Competency Court. (A.A. 07)

A competency hearing occurred on January 18, 2019, and the Defendant was found not competent. (A.A. 08) An Order of Commitment pursuant to NRS 178.425 was then filed January 24, 2019, committing Defendant to Southern Nevada Adult Health Rawson Neal Psychiatric Hospital on January 24, 2019. (A.A. 09-11)

On April 12, 2019, the Court reversed the previous finding of incompetency, finding Defendant then competent. (A.A.12-13) On April 16, 2019, Defendant again entered a not guilty plea. (A.A.14) Two weeks later on April 29, 2019, Defendant filed an Emergency Motion to Dismiss Counsel. (A.A. 15-20) After the case was reassigned to a different department on May 6, 2019, it was then continued several times until June 6, 2019, at which time Defendant pled guilty (A.A. 23) and a Guilty Plea Memo was filed on June 6, 2019. (A.A. 24-31)

On June 11, 2019, the Defendant was sentenced to a term of 12 to 48 months. (A.A.32-33), (A.A. 164-177) On June 20, 2019, the Judgment of Conviction was filed. (A.A. 34-37) On July 15, 2019, Defendant filed a Motion to Dismiss Counsel and Appoint Alternate Counsel. (A.A. 38-49) On July 16, 2019, Defendant filed Notice of Appeal. (A.A. 50-52) Three days later, on July 19, 2019, the State of

Nevada filed a Probation Violation Report. On October 7, 2019, the Nevada Supreme Court dismissed Defendant's appeal in Case no.:79219 (A.A. 60-62) The Court issued Remittitur on October 7, 2019. (A.A. 63) On October 10, 2019, Defendant filed a Petition for Post Conviction Relief. (A.A. 64-70)

On October 16, 2019, the State filed a Return to the Defendant's Post Conviction Petition for Writ of Habeas Corpus. (A.A. 71-75) On November 5, 2019, the Court denied the Defendant's Post Conviction Petition and Motion to Withdraw Guilty Plea. (A.A. 76) On November 14, 2019, Defendant's probation was revoked by stipulation without any evidentiary hearing. (A.A.77)

An Amended Judgment of Conviction was filed on November 18, 2019. (A.A.78-79) On November 20, 2019, the Court filed Findings of Fact, Conclusions of Law and Order. (A.A. 80-84) Notice of Entry was filed November 21, 2019. (A.A. 85)

On November 21, 2019, Defendant filed Notice of Appeal *Pro Per* in case 80121. (A.A. 86-87) On November 21, 2019, Defendant filed Motion to Withdraw Counsel and Appoint Appellant Counsel. (A.A. 88-91) The District Court granted the Motion for Appellant Counsel on February 18, 2020.

## **FACTUAL STATEMENT**

The Defendant pled guilty without the advice and assistance of a well prepared counsel. Defendant's counsel did an inadequate investigation preplea and he inadequately counseled Nunn during the preplea process. Defense counsel and Nunn had a very poor relationship and Nunn therefore tried to get the Court to appoint another defense counsel during the pretrial proceedings. (A.A. 15-20), (A.A. 38-49), (A.A. 50-52) The Court however initially denied Nunn's Motions for Alternate Counsel and did not grant Nunn another counsel until after he had already pled guilty and then it was too late. (A.A. 55), (A.A. 185)

Even though there had been a complete breakdown of communication between the Defendant and counsel, the Court did not grant his Motion for Alternate Counsel until after he plead guilty. The newly appointed counsel filed a Writ of Habeas Corpus alleging Defendant's plea was invalid, but the Writ was denied. (A.A. 76)

It is respectfully submitted the Court erred in denying the Petition and Motion to Withdraw Guilty Plea. Defendant had entered a hasty, unknowing and virtually uncounselled plea of guilty. Soon after the Defendant pled guilty, he tried to withdraw his plea by filing a Motion to Withdraw that plea of guilty. On November

5, 2019, the Court denied the Motion, finding that his plea was not invalid. (A.A. 218-222) The Court in its Findings of Facts stated there was no manifest injustice and the Court also disagreed with the Defendant's assertion of 'factually innocence.' (A.A. 221-222)

It is respectfully submitted however the record establishes Defendant's affidavit provided sufficient evidence or grounds for the guilty plea to be withdrawn. Defendant submits therefore his plea was involuntary and was not knowingly or intelligently made.

Soon after Defendant's Motion to Withdraw his guilty plea was denied, the State moved to revoke the Defendant's probation. (A.A. 226-232)

At the revocation hearing on November 14, 2018, the Defendant was not adequately prepared because of the lengthy conflict he had with his counsels. He therefore stipulated to revocation, feeling he had no choice. (A.A. 228) The Court revoked Defendant's probation without considering any mitigating evidence. Even though an abundance of mitigation existed, the Court never considered the factors which mitigated his conduct. It should be noted that in the Findings of Fact, Conclusions of Law and Order, the Court when revoking the Defendant noted the

Defendant had no further arrests. The Court actually modified Defendant's probation to 36 to 120 months. (A.A. 230)

Defendant submits, nevertheless, that the Court wrongly abused its discretion when it accepted the Defendant's stipulation and revoked his probation. It is respectfully submitted the Court should have considered the totality of the mitigating circumstances which existed including the Defendant's recent Motion to withdraw his plea which alleged his 'factual innocence.' The Court should have recognized the effect of the sustained conflict with his counsels as well as the other extensive mitigating circumstances in the record such as his mental problems. The Court therefore should have rejected the proposed Stipulated Revocation of Probation. Under all the facts and circumstances the revocation was not just and it is therefore respectfully submitted the Court abused its discretion when it revoked the Defendant. After revoking the Defendant's probation, Defendant was sentenced to 36 to 120 months. (A.A. 230)

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## ARGUMENT

### **I. THE DISTRICT COURT COMMITTED REVERSIBLE ERROR WHEN IT DENIED DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA. DENIAL OF THIS MOTION WAS MANIFESTLY UNJUST.**

The District Court denied Defendant's Motion to Withdraw Plea after argument on November 5, 2019, issuing an Order finding that the plea was valid. (A.A. 76) He submits the District Court Order incorrectly denied Defendant's Motion to Withdraw His Plea because Defendant's plea was not a knowing, voluntary and intelligent waiver and under the totality of circumstances the plea was manifestly unjust. Defendant in his pleading had made a credible assertion of his factual innocence and he was entitled to an evidentiary hearing on those claims.

#### **A. There Was Insufficient Pretrial Investigation and Preparation Preplea and Inadequate Attorney Client Counseling Concerning Possible Defenses.**

In this case, it is respectfully submitted defense counsel was ineffective investigating the facts and preparing preplea. *Strickland* requires at least minimal investigation. *Strickland v. Washington*, 466 U.S. 668 (1984), *Id.* 691. Defendant also directs the court to such cases as *Bustos v. White*, 521 F.3d 321 (4th Cir.2018); *Premo*

*v. Moore*, 562 U.S. 115 (2011); *Raysor v. United States*, 647 F.3d 491 (2d Cir.2011); *Smith v. Mahoney*, 611 F.3d 978 (9th Cir.2010); *United States v. Mooney*, 497 F.3d 397 (4th Cir.2007); *Dando v. Yukins*, 461 F.3d 791 (6th Cir.2006); *United States v. Keller*, 902 F.2d 1391 (9th Cir.1990); *Iaea v. Sunn*, 800 F.2d 861 (9th Cir.1986); and *Fields v. Gibson*, 277 F.3d 1203 (10th Cir. 2002). Each of these cases held guilty pleas should be overturned because of counsel's failure to prepare adequately before the plea. Defendant submits the facts in this case are also compelling for setting aside the Defendant's guilty plea and the Defendant therefore urges this Honorable Court to find that the District Court erred when it denied the Defendant's Motion to Withdraw his plea.

In this case Defendant Sammie Nunn also submits that he never adequately consulted with his counsel before the plea. He never received an adequate explanation of all the rights of a defendant. He never received informed advice on the strength of the prosecution's case, as well as any possible defenses the Defendant may have had. *See, Von Moltke v. Gillies*, 332 U.S. 708 (1948); *Libretti v. United States*, 516 U.S. 29 (1995).

Because of defense counsel's failure to adequately assist Defendant with

necessary investigation preplea, his plea in this case must be considered to have been both unknowing and unintelligent and therefore invalid. Defendant argued in his Motion to Withdraw, filed immediately after his sentencing, that his attorney never adequately counseled him about possible defenses. Defendant felt he had no choice but to plead guilty. If counsel had competently investigated potential or even adequately discussed viable defenses with Defendant, Defendant would not have felt compelled to plead guilty.

**B. Under the Totality of Circumstances Defendant's Plea of Guilty Was Involuntary.**

In order to be constitutionally valid, a guilty plea must be knowingly and voluntarily entered. *Love v. State*, 99 Nev. 147, 659 P.2d 876 (1983). *See also, Bryant v. State*, 102 Nev. 268 (1986); *Baal v. State*, 106 Nev. 69, 787 P.3d 391 (1990).

Even though a plea of guilty is considered to be presumptively valid, *Wynn v. State*, 96 Nev. 673, 615 P.2d 946 (1980), Defendant submits in this case that he easily met his burden of proof and shows that the instant plea is not valid for numerous reasons. The Defendant has had a lengthy history of mental problems. He was committed to Rawson-Neal Psychiatric Hospital in January of 2019 and not discharged until April of 2019. (A.A. 09-11), (A.A. 122-125) The Defendant

unfortunately did not ever have a good relationship with his counsel. He attempted to express his concerns to the Court many times. (A.A. 15-20), (A.A. 38-49), (A.A. 50-52), (A.A. 88-90) It is respectfully submitted that counsel's failure to effectively investigate and prepare with his client before the plea aggravated Defendant's concerns. Defendant's waiver of his right to trial must be strictly construed because the totality of circumstances suggest his plea was neither intelligent or voluntary.

**C. Denial of the Defendant's Motion to Withdraw Guilty Plea Was Manifestly Unjust Because the Defendant Made a Credible Assertion of Factual Innocence.**

The assertion that Defendant has a 'credible factual innocence' claim combined with his allegations of involuntariness and lack of full understanding at his plea make this a strong case for reversal. NRS 176.165 allows a guilty plea to be set aside to correct a manifest injustice. A fundamental miscarriage of justice occurs when the defendant can assert that he has been harmed in such a way that it is unfair to bind him to his plea.

**D. Substantial Doubt as to Defendant's Competency at Time of the Plea Is an Important Factor Supporting Withdrawal of Defendant's Plea of Guilty.**

Defendant submits a significant factor in the totality of circumstances

surrounding his plea of guilty was his reduced mental capacity. It is respectfully submitted even though he was adjudged competent on April 12, 2019, (A.A. 12-13) Defendant had just been released from Rawson-Neal Psychiatric Hospital after he had a previous competency evaluation on January 18, 2019, where it had been determined Defendant was not competent to stand trial under NRS 178.425. (A.A. 08)

Despite the subsequent finding of competency on April 12, 2019, Defendant submits there were still many red flags suggesting his competency was still a serious issue when he pled guilty a few days after being released from the mental hospital in April of 2019. (A.A. 14)

Because it was such a short time interval since he had been released from a psychiatric facility, it is respectfully submitted counsel should have been extremely cautious about pushing a reluctant, mentally fragile, Defendant to take a deal. Because of Defendant's antagonistic behavior, counsel should have considered filing another Motion for Competency and asked for another short continuance before Defendant pled guilty. The Court should have delayed his plea *sua sponte* without a motion from counsel. Mr. Nunn's actions just before his decision to plead could be considered at best equivocal. His actions suggested he was in a state of borderline

competency, if not in a highly irregular or irrational state of mind.

Again, considering the totality of the circumstances, it is apparent Defendant Nunn entered a hasty, ill advised plea which occurred after he just got out of a mental hospital, and while he was greatly dissatisfied with his appointed counsel. Not surprisingly, just a few days after he entered that plea and was sentenced, he sought to withdraw the plea. (A.A. 217-226)

In *Melchor-Gloria v. State*, 99 Nev.174, 660 P.2d 109 (1983), the Nevada Supreme Court held that issue of whether a defendant was competent to enter a plea is governed by a reasonable doubt standard. Defendant respectfully submits there was clearly a reasonable doubt as to Defendant's competency to plead guilty in this case and therefore he should have been able to withdraw that plea.

**II. THE DISTRICT COURT ABUSED ITS DISCRETION WHEN IT  
REVOKED THE DEFENDANT'S PROBATION, WRONGLY  
ACCEPTING DEFENDANT'S STIPULATION WITHOUT FULLY  
CONSIDERING MITIGATING EVIDENCE AVAILABLE IN THE  
RECORD.**

Defendant concedes that revocation of probation must be reviewed under a

discretionary standard. The Nevada Supreme Court noted in *Lewis v. State*, 90 Nev. 436, 529 P.2d 796 (1974):

“In considering the standard to be applied in revoking probation, the law is well established that revocation of probation is within the exercise of the trial court’s broad discretionary power and such an action will not be disturbed in the absence of a clear showing of abuse of that discretion. *Pickens v. State of Texas*, 497 F.2d 981, 982 (5th Cir. 1974); *United States v. Lara*, 472 F.2d 128, 129 (9th Cir. 1972); 18 U.S.C.A. 3651 (the equivalent federal statute to NRS 176.215).

Evidence beyond a reasonable doubt is not required to support a court’s discretionary order revoking probation. The evidence and facts must reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation.” *Pickens v. State of Texas*, *supra*; *Bernal-Zazueta v. United States*, 225 F.2d 64, 68 (9th Cir. 1955). *Id.* 438 (Emphasis added)

The Defendant, acting without adequate understanding of his rights regarding his conviction, or his rights to challenge the revocation, chose to stipulate to the facts of the revocation. (A.A. 227-232) The Court wrongly accepted the Stipulation of the Defendant and revoked him. The Defendant was then sentenced to 12 to 36 months. (A.A. 230)

Defendant now argues that the conviction in this case, no.: C-18-336184-1, should have been found to be invalid, because the plea was invalid. (See, Argument 1) Therefore the Defendant should not have been revoked and then incarcerated.

The Court having erred in proceeding on the revocation then erred by not having a meaningful hearing where witnesses could present evidence. There was abundant evidence of mitigation available to the Court and counsel. It is therefore respectfully submitted the Court abused its discretion when it revoked the Defendant by Stipulation. The revocation Order should therefore be reversed. (A.A. 78-79)

**III. THE ACCUMULATION OF ERROR IN THIS CASE REQUIRES REVERSING DEFENDANT'S CONVICTION AND SETTING ASIDE HIS UNLAWFUL CONVICTION AND REVERSING THE WRONGFUL REVOCATION OF PROBATION.**

The multiple errors in this case led to Defendant's conviction being wrongly sustained despite his attempt to withdraw his invalid plea. That then led to the wrongful revocation of probation.

The accumulation of errors in this case require reversal of the Judgment of Conviction and his unlawful incarceration following the revocation of his probation.

It can be argued that even considered separately, the errors which occurred were of such a magnitude that they each require reversal. But it is clear, when viewed cumulatively, the case for reversal is overwhelming. *Daniel v. State*, 119 Nev. 498, 78 P.3d 890 (2003). *See also, Sipsas v. State*, 102 Nev. at 123, 216 P.2d at 235 (1986), stating: “The accumulation of error is more serious than either isolated breach, and resulted in the denial of a fair trial.”

The substantive issues in this appeal are related. The denial of the Motion to Withdraw the Guilty Plea led to the revocation. This led to a substantial sentence. The Defendant has suffered a serious punishment of imprisonment. Defendant was denied a zealous, competent defense at each critical stage of the case, that is, the preplea investigation and preparation and at the revocation hearing when his liberty was at stake.

Prejudice may result from the cumulative impact of multiple errors. *Cooper v. Fitzharris*, 586 F.2d 1325, 1333 (9th Cir. 1978) (*en banc*), cert. denied, 440 U.S. 970; *Harris by and through Ramseyer v. Wood*, 61 F.3d 1432 (9th Cir. 1995).

It has been held that relevant factors to consider in evaluating a claim of cumulative error are [1] whether the issue of guilt is close, [2] the quantity and

character of the error, and [3] the gravity of the crime charged. *Mulder v. State*, 116 Nev. 1, 17, 992 P.2d 845, 854-55 (2000), citing *Leonard v. State*, 114 Nev. 1196, 1216, 969 P.2d 288, 301 (1998). *See also, Big Pond v. State*, 101 Nev. 1, 692 P.2d 1228 (1985).

Considering all these factors Defendant therefore urges the Court to reverse his conviction and the Order revoking probation based upon cumulative error.

### **CONCLUSION**

The Defendant, Sammie Nunn, respectfully submits for all the reasons stated that the Order denying his Motion to Withdraw His Guilty Plea should be reversed. The Order revoking the Defendant's probation must also be reversed and this case should be remanded for such other relief as proper.

DATED this 26th day of June, 2020.

Respectfully submitted,

//s// Terrence M. Jackson

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## CERTIFICATE OF COMPLIANCE

1. I hereby certify that this Opening Brief complies with the formatting requirements of NRAP 32(a)(4), the type-face requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because:

[X] This brief has been prepared in a proportionally spaced typeface using WordPerfect X7 in Times New Roman style and in size 14 font with 3.0 spacing for the Brief and 2.0 spacing for the citations.

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:

[ X ] Proportionately spaced, has a typeface of 14 points or more and contains 3,607 words, which is within the word limit.

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 26th day of June, 2020.

Respectfully submitted,

/s/ Terrence M. Jackson

TERRENCE M. JACKSON, ESQ.

*Counsel for Appellant, Sammie Nunn*

## CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esq., am a person competent to serve papers and not a party to the above-entitled action and on the 26th day of June, 2020, I served a copy of the foregoing: Appellant's, Opening Brief as well as Volume 1 of the Appendix and Index, as follows:

[X] Via Electronic Service (*eFlex*) to the Nevada Supreme Court and to the Eighth Judicial District Court, and by U.S. mail with first class postage affixed to the Nevada Attorney General and Petitioner/Appellant as follows:

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