

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONNEKA ANN GUIDRY,)
)
Appellant,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
_____)

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Elizabeth A. Brown
Clerk of Supreme Court
Case No. 80156

APPELLANT’S MOTION FOR LEAVE TO FILE
OPENING BRIEF IN EXCESS OF
TYPE-VOLUME LIMITATION

Comes Now Appellant, RONNEKA ANN GUIDRY, by and through
Chief Deputy Public Defender, SHARON G. DICKINSON, and moves this
Honorable Court for leave to file an Opening Brief in excess of type-volume
limitations. This Motion is based upon the attached Declaration of Counsel.

DATED THIS 23rd day of March, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Chief Deputy Public Defender

DECLARATION OF SHARON G. DICKINSON

1. I am an attorney licensed to practice law in the State of Nevada; I am a chief deputy public defender assigned to represent RONNEKA ANN GUIDRY in this appeal; I am familiar with the procedural history of this case.

2. The instant Opening Brief raises 11 issues involving several areas of statutory construction requiring extensive briefing. It also includes issues of first impression.

3. Although Issue I involves jury instructions, there are several sub-issues and issues of first impression within this section totaling 23 pages. One of the jury instructions in the case, Instruction #23, told the jury that the defense of property was superior to self-defense. An understanding of this issue involved an assessment of the plain meaning of the words in NRS 193.240(2), public policy, how other jurisdictions apply the defense of property, and a discussion on excessive force.

4. Issue I also addresses the jury instructions Ronneka offered on necessity/self-defense and assault that were rejected by the court. To better explain why the rejection of these instructions was error, I included cases from Nevada and other jurisdictions on necessity applying to failure to stop and murder/manslaughter charges.

5. Issue I further addressed the reasons why the court should have given a defense of an occupied vehicle jury instruction. Because this portion of NRS 200.120 on the defense of an occupied vehicle has yet to be analyzed by this Court, I used 4 pages and discussed statutory construction and a case from another jurisdiction. I further addressed inadequacies in the self-defense jury instructions given to the jury in this case and the omission of the rebuttable presumptions. `

6. Issue I also addresses the lesser included jury instruction the court rejected which is further analyzed in Issue III. The argument in support of this jury instruction is found in Issue III – Double Jeopardy. In Issue III I include a statutory construction analysis of the larceny section of the NRS and ask this Court to re-evaluate the unpublished *Hodges v. State*, 439 P.2d 957, *2 (unpublished Nev. 2019) and issue a published decision that larceny is a lesser included of robbery. In this section I explain how “value” is a sentencing factor. I also included cases from other jurisdictions to support the argument. To make this argument I needed 6 pages.

7. Issue I also addresses how the omission of the word “intentionally” in the grand jury instruction could have allowed the jury to return a verdict of guilty even if the missing watch was left in Defendant’s car.

8. Issue I also addresses the numerous errors in the robbery and second-degree murder jury instructions and the changes the Legislature made in 1993. I discuss statutory construction analysis involving the robbery statute and how and when force changes a theft to a robbery, using approximately 3 pages. Also, the second-degree murder instructions contained numerous errors which took approximately 3 pages to explain.

9. Finally, Issue I discusses the errors involving the duty to stop instruction given to the jury, based on NRS 484E.010. Additional discussion on NRS 484E.030 is found within Issue II (D). As a matter of first impression, Court must decide the meaning of the words “any vehicle involved in a crash.” In Issue II, I used approximately 4 pages to present a statutory construction argument explain how the words should be interpreted and included cases from Florida Courts that have already examined this wording.

10. Issue II is insufficiency of the evidence and I used 8 pages to address the inadequacy in the evidence and incorporated many of the legal arguments from Issue I in an attempt to make argument shorter.

11. Issue IV involves the court limiting questions during voir dire on prostitution even though these cases involved alleged prostitution. I

sued almost 5 pages to discuss how Ronneka's right to a fair jury selection process was denied.

12. Issue V and Issue VII discuss prosecutorial misconduct in opening statement and closing. For the opening, I needed approximately 5 pages to explain the harm that occurred when prosecutor argued and acted in bad faith when telling the jury the victim made comments that were never made. This is an important issue and an issue that may be of first impression. In closing, I only needed 2 pages.

13. Issue VI discusses prejudicial error occurring by allowing the jury to see a gruesome photo that was not relevant and was more prejudicial than probative.

14. Issue VIII is rather short, only about 4 pages. It discusses problems with State's expert not being properly noticed, unqualified, and discovery not being given to the Defense Attorney until after the expert testified.

15. Issue IX is a discussion about several search and seizure issues in this case. Because search and seizure issues are factual based I need almost 9 pages to briefly layout the facts and cite to cases. Prior to trial, Defense filed 3 motions to suppress.

16. Issue X is short because I ran out of words. It involves cumulative error.

17. Issue XI is also relatively short but discusses an important issue at sentencing involving the prosecutor giving the court jail tapes to listen to before deciding the defendant's sentence.

18. This is a case that was originally charged as first-degree felony-murder with a deadly weapon, robbery with a deadly weapon, grand larceny, and duty to stop. It was a 6 day trial. Prior to trial the Defense filed 3 motions to suppress. The jury returned a verdict for second-degree murder, robbery, grand larceny, and duty to stop. The appendix consists of 10 volumes with 2166 pages. Accordingly, there was a lot to discuss in the brief.

19. Additionally, there were an unusual large amount of errors that I found in the jury instructions which took up a lot of time and pages to discuss.

20. I have tried to keep the brief within the 14, 000 and omitted several issues I would have included but for the fact that I was already past the word limit. I am asking the Court to grant this motion to allow for the filing of a brief with 16,634.

21. Effective analysis of the issues required briefing in excess of that otherwise allowed by NRAP 32(a)(7).

22. Accordingly, I am requesting that this Honorable Court grant Appellant leave to submit the Opening Brief in excess of 14,000 words and 1,300 lines of text. The instant Opening Brief contains 16,634 words.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 23rd day of March, 2021.

/s/ Sharon G. Dickinson
SHARON G. DICKINSON

CERTIFICATE OF COMPLIANCE

1. I hereby certify that the OPENING 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:

The Opening Brief has been prepared in a proportionally spaced typeface using Times New Roman in 14 size font.

2. I further certify that the Opening Brief is proportionately spaced, has a typeface of 14 points or more and contains 16,643 words and which exceeds the limitations of 14,000 words set forth in NRAP 32(a)(7).

DATED this 23rd day of March, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 23rd day of March, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
ALEXANDER CHEN

SHARON G. DICKINSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

RONNEKA ANN GUIDRY
NDOC NO: 1138388
c/o Florence McClure Womens Correctional Center
4370 Smiley Road
Las Vegas, NV 89115

BY /s/ Carrie M. Connolly
Employee, Clark County Public
Defender's Office