

IN THE SUPREME COURT OF THE STATE OF NEVADA

KODY HARLAN,
Appellant,
v.
THE STATE OF NEVADA,
Respondent.

Electronically Filed
Jul 15 2021 11:02 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
CASE NO: 80318

MOTION TO TRANSMIT EXHIBITS UNDER NRAP 30(d)

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, TALEEN PANDUKHT, and under Nevada Rules of Appellate Procedure 30(d) and 10(b)(1), respectfully requests this court to direct the district court to send the State's Exhibit 147 to this Court for reaching a decision on the issues on appeal.

This Motion is based upon the following Memorandum and all papers and pleadings on filed herein.

Dated this 15th day of July, 2021.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ Taleen Pandukht

TALEEN PANDUKHT
Chief Deputy District Attorney
Nevada Bar #005734
Office of the Clark County District Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 30(d) of the Nevada Rules of Appellate Procedure allows the inclusion of copies of relevant and necessary exhibits in an appendix. However, if an exhibit cannot be reproduced, a party may:

...file a motion requesting the Supreme Court to direct the district court clerk to transmit the original exhibits. The Supreme Court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the Supreme Court's review of the original exhibits is necessary to the determination of the issue.

NRAP 30(d).

Respondent asks that this Court direct the District Court Clerk's office to transmit State's Exhibit 147, which consists of videos taken by Caruso with Appellant after the murder and depict the victim's body lying on the floor.

In his Opening Brief, Appellant alleges that evidence of his guilty was minimal because he was not a participant in a conspiracy to rob the victim. Appellant further alleges that juror misconduct and improper testimony prejudiced Appellant to the point where the reliability of the verdict was called into question. The videos of Appellant are necessary to show the overwhelming evidence of Appellant's guilt which refutes any claim that Appellant was not a participant in a conspiracy that ended in a murder. The videos clearly establish that Appellant was present when Caurso shot and killed the victim, but that Appellant helped Caruso rob the victim

and showed no remorse for his actions.

Next, Exhibit 149 is surveillance footage from the Galleria Mall. It shows Appellant and Caruso entering shoe stores to purchase new footwear less than an hour after robbing and murdering the victim. This video is relevant to show Appellant's lack of remorse for his crimes and further supports that Appellant and Caruso conspired to rob the victim and that the victim was killed during the course of that conspiracy.

This Court would benefit from watching the videos to understand Appellant's actions and intent which the jury watched when coming to their verdict. Accordingly, this Court should direct the district court to transmit Exhibit 147 for this Court's review in solving the issues on appeal.

CONCLUSION

For the reasons above, the State respectfully requests the Court to order the District Court Clerk's Office to transmit State's Exhibit 147.

Dated this 15th day of July, 2021.

Respectfully submitted,

STEVEN B. WOLFSON

Clark County District Attorney

BY */s/ Taleen Pandukht*

TALEEN PANDUKHT

Chief Deputy District Attorney

Nevada Bar #005734

Office of the Clark County District Attorney

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 15th day of July, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

JEAN J. SCHWARTZER, ESQ.
Counsel for Appellant

TALEEN PANDUKHT
Chief Deputy District Attorney

/s/ J. Garcia

Employee, Clark County
District Attorney's Office

TP/Julia Barker/jg