

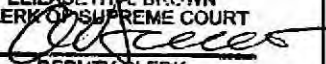
IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
JOHN JOSEPH SEKA,  
Respondent.

No. 80925

FILED

OCT 07 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING EN BANC RECONSIDERATION*

Having considered the petition on file herein, we have concluded that en banc reconsideration is not warranted. NRAP 40A. Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

  
Parraguirre

  
Stiglich

  
Silver

  
Herndon

<sup>1</sup>The motion for leave to file an amicus curiae brief in support of respondent's petition for en banc reconsideration filed by Nevada Attorneys for Criminal Justice is denied.

HARDESTY, C.J., CADISH, AND PICKERING, JJ., dissenting:

We dissent. The parties here both agreed that the standard set forth in *Sanborn v. State*, 107 Nev. 399, 812 P.2d 1279 (1991) applies to the motion for new trial herein, and the court's opinion appropriately applies that standard. However, further analysis of the statutory scheme at NRS 176.0918 through NRS 176.09187 and NRS 176.515 as well as the issues raised in the amicus brief is warranted to determine the correct legal standard for a motion for new trial based on DNA evidence. Therefore, we would grant the petition for en banc reconsideration and the motion for leave to file an amicus brief in support of the petition.

Hardesty, C. J.  
Hardesty

Cadish, J.  
Cadish

Pickering, J.  
Pickering

cc: Hon. Kathleen E. Delaney, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Jennifer Springer  
Clark Hill PLC  
Eighth District Court Clerk