IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

ARTHUR SEWALL Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA in and for the County of Clark, and THE HONORABLE DAVID BARKER, District Court Judge, Respondents, and THE STATE OF NEVADA, Real party in Interest	S.C. CASE NO. ____ Dist. Ct. Case No. C-18-330650-1

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PETITION FOR WRIT OF MANDAMUS
(Challenging constitutionality of pre-trial bail order: relief requested as soon as practicable)

EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA

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NRAP 26.1 DISCLOSURE

The undersigned certifies that there are no interested entities or persons to list in this statement as defined in the Nevada Rules of Appellate Procedure, Rule 26.1.

Respectfully submitted by,

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Attorneys for Defendant
ARTHUR SEWALL

AFFIDAVIT OF CHRISTOPHER R. ORAM

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

CHRISTOPHER R. ORAM, being first duly sworn, deposes and says:

1. I am an attorney duly licensed to practice law in the State of Nevada and is currently appointed to represent Mr. Arthur Sewall in this matter.

2. Petitioner authorized the filing of the instant Petition for Writ of Mandamus.

3. Respondent, at all times mentioned herein, is District Court Department 21, (the Honorable Judge David Barker sitting in for the Honorable Judge Valerie Adair), of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark.

4. Mr. Arthur Sewall is subject to an unlawful pretrial detention order. Since issues regarding pretrial confinement necessarily dissipate upon conviction, Mr. Sewall does not have a plain, speedy, and adequate remedy at law for the statutory and constitutional violations occasioned by the order entered below.

5. The State's case against Mr. Sewall will not be prejudiced by the extraordinary intervention sought here as Mr. Sewall's Mandamus Petition challenges only the constitutional nature of the pretrial detention order entered

below.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

/s/ Christopher R. Oram, Esq.
CHRISTOPHER R. ORAM, ESQ.

SWORN and SUBSCRIBED before me
this 11th day of June, 2020.

/s/ Nancy Medina
NOTARY PUBLIC in and for
said County and State

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I. ISSUES PRESENTED FOR REVIEW

1. Whether Mr. Sewall's ongoing detention is the least restrictive means of assuring his return to court and ensuring community safety when such a determination is made without the finding of required facts, including the consideration of what bail amount and/or restrictions would accomplish this goal, thus violating his constitutional and statutory rights?

2. Whether the State is permitted to inform this Court in pleadings that the evidence against Mr. Sewall is insufficient to obtain a conviction in an effort to obtain relief from this Court, while simultaneously informing the district court there is substantial evidence of Petitioner's guilt in an effort to ensure continued detention?

II. RELIEF SOUGHT

Petitioner respectfully requests this Court issue a Writ of Mandamus directing the district court to establish a setting of reasonable bail and/or conditions necessary to ensure his return to court, finding ongoing detention, without bail, unconstitutional and unreasonable in light of the lack of evidence in this case.

III. ROUTING STATEMENT

NRAP 17 governs the division of cases between the Nevada Supreme Court and the Court of Appeals. NRAP 17(b) provides that certain cases shall presumptively be heard and decided by the court of appeals. "Pretrial writ proceedings challenging discovery orders or orders resolving motions in limine are

presumptively assigned to the court of appeals." NRAP 17(b)(14). However, the instant Petition for Writ of Mandamus involves an unlawful pretrial confinement order. As this claim does not implicate a discovery matter or involve a motion in limine, this case is not presumptively assigned to the Court of Appeals.

IV. RELEVANT PROCEDURAL HISTORY AND FACTS

The State charged Mr. Sewall by way of Indictment with one count of Murder with use of a deadly weapon on March 15, 2018.

Mr. Sewall moved for suppression of his statement in the district court on October 19, 2108. The district court suppressed the statement on August 20, 2019. The State appealed the district court's order granting suppression of the statement. Prior to briefing commencing, this Court ordered the State to explain the propriety of the appeal. After deciding to hear the State's appeal, on April 16, 2020, this Court affirmed the district court's decision granting suppression. *See State v. Sewall*, 2020 Nev. Unpub. LEXIS 426, No. 79437 (Apr. 16, 2020) (unpublished).

Only after suppression of the statement was affirmed, on April 24, 2020, Mr. Sewall sought a setting of bail given the State's admitted lack of evidence in the case as well as based upon this Court's guidance in *Valdez-Jimenez v. Eighth Jud. Dist. Ct.* and *Frye v. Eighth Jud. Dist. Ct.*, 136 Nev. Adv. Op. 20 (April 9, 2020). (App. p. 1-11). The State filed an Opposition on April 29, 2020 (App. p. 21-43).

Mr. Sewall filed a Reply on April 30, 2020 (App. p. 56-64). The motion was heard by the Honorable David Barker[1] on May 1, 2020 (App. p. 65). After hearing argument on the motion, the request for a setting of bail and/or release conditions was denied, with minimal factual findings and complete disregard for the State's opposing arguments before this Court and the district court (App. p. 77).

V. ARGUMENT SUMMARY

Mr. Sewall was denied due process of law when the district court failed to make findings and take into consideration what amount of bail and/or restrictions would ensure Mr. Sewall's return to court while ensuring the safety of the community. In failing to do so, the district court denied Mr. Sewall the opportunity for a meaningful hearing concerning bail as recently required by this Court in *Valdez-Jimenez v. Eighth Jud. Dist. Ct.* and *Frye v. Eighth Jud. Dist. Ct.*, 136 Nev. Adv. Op. 20 (April 9, 2020). Furthermore, the district court's acceptance of the State's arguments concerning abundant evidence and the likelihood of conviction permitted the State to use that position to deny Mr. Sewall an opportunity for bail when the State had already conceded to this Court that such evidence did not exist.

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[1] The Honorable David Barker sat in for the Honorable Valerie Adair in district court department 21.

VI. LEGAL ARGUMENT

A. THE STANDARD FOR EXTRAORDINARY WRITS

Pursuant to NRS 33.170, "a writ of mandamus shall issue in all case where there is not a plain, speedy and adequate remedy in the ordinary course of law." A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Round Hill Gen. Imp. Dist. V. Newman*, 97 Nev. 601, 637 P.2d 534 (1981).

Here, Mr. Sewall does not have a plain, speedy and adequate remedy in the ordinary course of law. Mr. Sewall is subject to an ongoing unlawful pretrial detention order. Since issues concerning pretrial detention necessarily dissipate upon conviction or acquittal, Mr. Sewall does not have a plain, speedy and adequate remedy at law for the statutory and constitutional violations occasioned by the order entered below.

Furthermore, should this Court not entertain the instant Petition, Mr. Sewall will remain subject to unlawful detention with no opportunity for bail.

B. THIS COURT SHOULD PERMIT A REASONABLE SETTING OF BAIL AND/OR RELEASE CONDITIONS.

Mr. Sewall can establish he is a prime candidate for release to the

community given his strong community ties, his lack of risk of flight, and his high probability of success at trial. Given these factors, Mr. Sewall requests this Court issue an Order requiring the district court to establish a reasonable setting of bail.

1. THE CHARGES IN THIS CASE DO NOT PRECLUDE A SETTING OF BAIL

This case does not fall within the very narrow range of cases where a court can constitutionally deny bail because the proof is not evident and the presumption is not great that Mr. Sewall committed murder. The State simply cannot meet its legal burden of showing that bail should not be granted. Not only is Mr. Sewall entitled to bail, he is entitled to a bail which is reasonable. Additionally, the district court could fashion release so that he is supervised by the house arrest program, should this Court remand for consideration of bail on the pending charges.

Article 1, Section 7, of the Nevada Constitution provides that "[a]ll persons shall be bailable by sufficient sureties; unless for Capital Offenses or murders punishable by life imprisonment without possibility of parole when the proof is evident or the presumption great." These words dictate that courts should almost always grant bail. The Nevada Constitutional requirement that bail be allowed except in rare cases is consistent with the long standing presumption in criminal law of innocent until proven guilty as demonstrated by *The Matter of Wheeler*, 81

Nev. 495, 499, 406 P.2d 713, 715 (1965). Thus, as a matter of right, all non-capital offenses are bailable. *Id.* Even capital offenses are also bailable as a matter of right unless "the proof is evident or the presumption great" that the defendant committed the charged capital offense. *Id.* The State holds the burden of showing that the proof against the defendant is evident or that the presumption is great and that, thus, bail should not be allowed. *Id.* at 500, 406 P.2d at 716.

The Nevada legislature has codified Article 1, Section 7 of the Nevada Constitution in NRS178.484(4):

> A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

This Court had held that, when a defendant is facing first degree murder charges, to overcome the presumption in favor of bail, the State must meet a high burden. *Hanley v. State*, 85 Nev. 154, 161 (1969). "[T]he quantum of proof necessary to establish the presumption of guilt mentioned in the constitution and the statute is considerably greater than that required to establish the probable cause necessary to hold a person answerable for an offense." *Id.* The standard "contemplates more than a mere inference of guilt of some crime which may suffice to hold one for trial in the district court." *Id.* at 162, 451 P.2d at 857 (citing

Beasley v. Lamb, 79 Nev. 78, 378 P.2d 524 (1963)).

In this case, the evidence is inadequate to overcome the presumption in favor of allowing bail. Here, the evidence against Mr. Sewall is extremely lacking and the allegations for which he is charged stems from over twenty-three years ago. Overall, this case does not fall within the very narrow range of cases where a court can constitutionally deny bail because the proof is not evident and the presumption is not great that Mr. Sewall committed murder. The State simply cannot meet its legal burden of showing that bail should not be granted. This is especially true when considered in conjunction with the fact that the State maintains the burden of demonstrating that bail should not be permitted.

In fact, the State's own admissions demonstrate the lack of evidence in this case and the high unlikelihood that the State could obtain a conviction against Mr. Sewall. Mr. Sewall moved for suppression of his statement on October 19, 2108. After briefing, the district court suppressed the statement on August 20, 2019. The State appealed the district court's order granting suppression of the statement. Ultimately, on April 16, 2020, this Court affirmed the district court's decision granting suppression. *State v. Sewall*, 2020 Nev. Unpub. LEXIS 426, No. 79437 (Apr. 16, 2020)(unpublished). Prior to permitting the appeal to proceed, this Court ordered the State to explain the propriety of the appeal.

The state of the evidence is best illustrated by the first few lines of the State's response to this Court: **'There is good cause to permit the appeal to go forward because without Sewall's confession the State has little or no case."** (emphasis added) (App p. 16).[2] The State continued, **"[t]he prosecution's case rests almost entirely upon Sewall's confession."** (emphasis added) (App p. 17). In fact, the State went so far as to describe the suppressed statement as **"the sole evidence sufficient to support a finding of guilt beyond a reasonable doubt."**(emphasis added) (App p. 18). As eloquently as the State described it to this Court, the suppressed statement "amounts to the death knell of the State's case." (App p. 18).

a) This Court should not permit the State to present diametrically opposed facts to this Court and the district court simultaneously, allowing the State to benefit from their newfound position.

In convincing the district court that no bail should be entertained in this case pending trial, the State informed the district court that the proof is evident and the

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[2] The State's Points and Authorities in Support of Propriety of Appeal, which was filed with this Court on October 4, 2019, in case number 79437, was submitted to the district court for consideration and is contained within the Appendix to this Petition at App. p. 13-20.

presumption great concerning Mr. Sewall's guilt (App. p. 32, 34). The entire premise of the argument the State presented to the district court, and that the district court accepted, is fatally flawed and disengenous as the State informed this Court to the contrary – **"without Sewall's confession the State has little or no case."** (App p. 16). The State should not be permitted to inform this Court that the prosecution has no case without Mr. Sewall's statement while informing the district court that the proof is evident and the presumption great that they can prove their case against Mr. Sewall. This is especially true when the State has already admitted to this Court that the statement was **"the sole evidence sufficient to support a finding of guilt beyond a reasonable doubt."** (emphasis added) (App p. 17-18).

Here, the Court should intervene because basic notions of fundamental fairness dictate the State should not be permitted to argue conflicting theories in this manner. "Judicial estoppel, sometimes also known as the doctrine of preclusion of inconsistent positions, precludes a party from gaining an advantage by taking one position, and then seeking a second advantage by taking an incompatible position. *Rissetto v. Plumbers and Steamfitters Local 343*, 94 F. 3d 597, 600 (9th Cir. 1996) (citing 18 Charles A Wright, Arthur Miller & Edward H. Cooper, Fed. Practice and Proc. 4477 (1981 & Supp. 1995)). "The policies underlying preclusion of inconsistent positions are general considerations of the orderly administration of

justice and regard for the dignity of judicial proceedings... Judicial estoppel is intended to protect against a litigant playing fast and loose with the court." *Id.* at 601 (quoting *Russell v. Rolfs*, 893 F. 2d 1033, 1037 (9th Cir. 1990)). *See also United States v. McCaskey*, 9 F.3d 368, 378 (5th Cir. 1993) (the doctrine prohibits "parties from deliberately changing positions according to the exigencies of the moment."); *In re Cassidy*, 892 F. 2d 637, 641 (6th Cir. 1990) ("Judicial estoppel is a doctrine intended to prevent the perversion of the judicial process.")). "The rule of judicial estoppel is recognized in Nevada's case law." *Vaile v. Eighth Judicial District Court*, 188 Nev. 262, 44 P. 3d 506, 514 (2002). *See also Brock v. Premier Trust, Inc.,* 133 Nev. Adv. Op. 8, 390 P.3d 646, 652 (2017). According to the rule of judicial estoppel, a party who has stated an oath in a prior proceeding, "as in a pleading, "that a given fact is true, may not be allowed to deny the same fact in a subsequent action. *Id*. (citing *Sterling Builders, Inc. V. Fuhrman*, 80 Nev. 543, 396 P.2d850 (1964)).

This Court need look no further than the State's own words in pleadings submitted to this Court to determine the State has not met their burden to deny Mr. Sewall the right to bail: suppression of Mr. Sewall's statement **"amounts to the death knell of the State's case."** (App p. 18) (emphasis added).

Based upon the rationale discussed above, this Court should Order Mr.

Sewall is entitled to a setting of bail based upon principles of federal law because his case is an "extraordinary case" involving "a high probability of success." *Mett*, 41 F.3d at 1282.

2. BAIL (IN LIEU OF OTHER CONDITIONS) MUST BE SET ONLY WHEN NECESSARY AND EVEN THEN, THE SETTING MUST BE REASONABLE AND MADE ON AN INDIVIDUAL BASIS

Not only is Mr. Sewall entitled to bail under Article 1, Section 7, of the Nevada Constitution, but he is also entitled to a bail that is reasonable. In *Ex Parte Malley*, this Court stated:

> Bail must not be in a prohibitory amount, more than the accused can reasonably be expected under the circumstances to give, for if so it is substantially a denial of bail within the constitutional provision. However, a mere inability to procure bail in a certain amount does not of itself make such amount excessive; but regard must be had to the circumstances and ability of the prisoner, in connection with the atrocity of the offense, or the turpitude of the crime and the punishment involved, in determining whether the bail is or is not excessive. 50 Nev. 248, 253, 256 P. 512, 514 (1927) (citation omitted) (questioned on other grounds in *Wheeler, supra*).

The purpose of bail is not to punish the Defendant for charges of which he has not been convicted. The purpose of bail is to ensure the Defendant returns to court. In *Ex Parte Jangels and Barnes*, 44 Nev. 370, 195 P. 808 (1921), this Court stated:

> "The constitution provides (Article I, Section 6) that excessive bail

should not be required. In reaching a conclusion as to what is reasonable bail, a Court should consider that the object of bail is simply to ensure the presence for the accused for trial; . . . (195 P. 808 at 808).

NRS 178.498 addresses the factors to be considered when setting the amount of bail. The statute states that:

> If the Defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to: (1) the nature and circumstances of the offense charge; (2) the financial ability of the defendant to give bail; (3) the character of the defendant; and (4) the factors listed in NRS 178.4853.
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> The factors as listed in NRS 178.4853 to consider include:
>
> 1. The length of residence in the community;
> 2. The status and history of employment;
> 3. Relationships with the person's spouse and children, parents or other family members and with close friends;
> 4. Reputation, character and mental condition;
> 5. Prior criminal record, including, without limitation, any record of appearing or failing to appear after release on bail or without bail;
> 6. The identity of responsible members of the community who would vouch for the reliability of the person;
> 7. The nature of the offense with which the person is charged, the apparent probability of conviction and the likely sentence, insofar as these factors relate to the risk of not appearing;
> 8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;
> 9. The likelihood of more criminal activity by the person after release; and

10. Any other factors concerning the person's ties to the community or bearing on the risk that the person may willfully fail to appear.

Additionally, Mr. Sewall is also entitled to an individualized determination concerning the setting of bail. In the consolidated cases *Valdez-Jimenez v. Eighth Jud. Dist. Ct.* and *Frye v. Eighth Jud. Dist. Ct.*, this Court recently offered extensive guidance to litigants and courts regarding the necessary process required under the Constitutions of the United States and of the State of Nevada. 136 Nev. Adv. Op. 20 (April 9, 2020). "When bail is set in an amount the defendant cannot afford, however, it deprives the defendant of his or her liberty and all its attendant benefits, despite the fact that he or she has not been convicted, and is presumed innocent." *Id.* at 3. Therefore, " a defendant who remains in custody following arrest is constitutionally entitled to a prompt individualized determination . . . preceded by an adversarial hearing at which the defendant is entitled to present evidence and argument concerning the relevant bail factors." *Id.*

Following that adversarial evidentiary hearing, "[t]he judge . . . may impose bail only if the State proves by clear and convincing evidence that it is necessary... [and] the judge must consider the defendant's financial resources . . . in setting the amount of bail[.]" *Id*. "Bail in an amount greater than necessary to ensure the defendant's appearance and the safety of the community is unconstitutional[.]" *Id.*

at 11. "[B]ecause the right of an individual to reasonable bail before trial is a fundamental one, bail must not be in an amount greater than necessary to serve the State's interests." *Id.* at 12 (quoting *United States v. Salerno*, 481 U.S. 739, 750 (1987)). Bail is only permitted to be set when it is necessary to ensure the attendance of the accused at future hearings, "and to protect the community, including the victim and the victim's family[.]" *Id.* at 13, quoting Nev. Const. art. 1 § 8A(1)(c). Indeed, "for many individuals who are arrested, bail will not be necessary." *Id.* at 16 (emphasis added).

Mr. Sewall is currently 53 years of age and has been in custody within the Clark County Detention Center since January 19, 2018.

Mr. Sewall has strong community ties and great family support in the Las Vegas area. Mr. Sewall has been married to Monica, for approximately fourteen years. If released on bail, Mr. Sewall intends to reside with his wife at their home in Henderson, Nevada.[3] Monica is gainfully employed by SW Gas. Mr. Sewall also has strong family support from his two adult daughters, his elderly mother, and sister. These numerous family members all live in the Las Vegas area. Mr. Sewall's

[3] Mr. Sewall can provide the Court with the home addresses as discussed within this Petition should that be necessary. Counsel omits the addresses as this is a public filing.

mother has owned and resided at her home in Las Vegas for approximately twenty-one (21) years. Given these strong ties, Mr. Sewall is not a flight risk and has ample community support.

Prior to his arrest, Mr. Sewall had stable employment, further evidencing his ties to the State of Nevada. Upon information and belief, Mr. Sewall has worked as an electrician for a total of twenty-two years, maintained consistent employment as an electrician,[4] was a member of the IBEW 357 and has stayed up to date on his union dues. Mr. Sewall's most recent employment was with Tesla in Reno, Nevada.

Lastly, the offense for which the charges stem occurred over twenty-three (23) years ago (the Indictment alleges May 8, 1997). Importantly, as detailed above by the State's own admission, the chances of conviction in the instant case are extremely low, indicating release on bail is appropriate in the instant case.

In sum, Mr. Sewall has strong community ties, has a stable plan for release,

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[4] Mr. Sewall does not dispute he was arrested approximately 23 years ago, for operating under color of law. For this offense he was sentenced to five years probation in August of 1999, with his probation being revoked in September of 2004. Mr. Sewall served his prison sentence from September 2004 until 2006 when he was released. As such, during this time period Mr. Sewall was not employed as an electricians.

is not a flight risk, and the State's chances of obtaining a conviction are extremely low. Thus, Mr. Sewall is a prime candidate for release on bail.

3. THE COVID-19 PANDEMIC PROVIDES ADDITIONAL SUPPORT FOR MR. SEWALL'S RELEASE

Further, this Court must consider the current situation at Nevada Detention facilities with regard to the pandemic COVID-19. On January 30, 2020, the COVID-19 outbreak was declared a Public Health Emergency.[5] The Center for Disease Control ("CDC") states that there is a "high-risk of severe illness" for those who are: (1) aged 65 years or older; (2) living in a long-term care facility; (2) people with serious heart conditions; (3) people with chronic lung disease or moderate to severe asthma; (4) people of any age with severe obesity; or (5) people with an underlying medical condition, such as diabetes.[6] Under the best of circumstances, the conditions of a detention facility maximize virus transmission.

Upon information and belief, Mr. Sewall a 53 year old African American male, has been previously diagnosed with asthma and is a diabetic. With the

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[5] *See* The World Health Organization, http://www.who.int/emergencies/ diseases/novel-coronavirus-2019/events-as-they-happen, 31 December 2019.

[6] *See* CDC, https://www.cdc.gov/coronavirus/ 2019-ncov/need-extra-precautions/groups-at-higher-risk.html.

increased risk of contracting Covid-19 in the Clark County Detention Center, the court in this matter should consider this a factor in setting reasonable bail for Mr. Sewall.

C. MR. SEWALL WAS DENIED DUE PROCESS WHEN THE DISTRICT COURT FAILED TO MAKE THE REQUIRED FACTUAL FINDINGS UNDER *VALDEZ-JIMENEZ*, THEREBY DEPRIVING MR. SEWALL OF A MEANINGFUL BAIL HEARING.

A review of the transcript concerning the motion for the setting of bail demonstrates the district court did made adequate findings as to why holding Mr. Sewall with no bail is appropriate (App. p. 77). The district court's findings were extremely short and amount to 1) Mr. Sewall's DNA was located[7] and 2) Mr. Sewall owned a firearm that was consistent with the weapon used (App. p. 77)[8].

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[7] Other sources of DNA were also located, presumably because the victim was known to engage in prostitution (App. p. 76).

[8] It is important to remember the firearm Mr. Sewall owned was just one, of several possible firearms types that could have been used in the case (App. p. 74-75). The State does not dispute that the firearm used could have been a .357, a .38 caliber, or a .9 millimeter handgun (App. p. 75). There is no evidence whatsoever linking the firearm Mr. Sewall owned to the instant case, but rather, Mr. Sewall just happened to own a .357, which is one of the three types of handguns which

Based upon those minimal facts, the district court found the proof evidence and the presumption great that Mr. Sewall committed murder (App. P. 77).

The district court's factual findings completely ignore what the State has already admitted to this Court – the facts enunciated by the district court are insufficient for conviction. Similarly, the district court's factual findings completely ignore established state and federal law which does not permit the State to change positions as they have here depending upon the forum which they appear. The district court's acquiescence to the State's argument that the proof is evident and the presumption great concerning Mr. Sewall's guilt, knowing the State had just previously told this Court suppression of the confession amounted to the "death knell" of the State's case, is an abuse of discretion warranting this Court's intervention.

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could have been utilized (App. P. 75).

VII. CONCLUSION

For all the foregoing reasons, Mr. Sewall requests this Court intervene, finding he is entitled to a reasonable setting of bail and/or release conditions.

DATED this 11th day of June, 2020.

Respectfully submitted:

/s/ Christopher R. Oram, Esq.
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/s/ Joel M. Mann, Esq.
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(702) 474-6626

VIII. CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this writ, and to the best of my knowledge, information and belief, is not frivolous or interposed for any improper purpose. I further certify that this writ complies with the applicable Nevada Rules of Appellate Procedure, in particular NRAP 21, which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the record on appeal.

I further certify that this brief complies with NRAP 32, in that it is double spaced, and is in 14 point font, Times New Roman, and formatting requirements under NRAP 21. Pursuant to NRAP 21(d) this petition is in compliance because it does not exceed 7,000 words, to wit, 4,253 words.

I understand that I may be subject to sanctions in the event that the accompanying writ is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 11th day of June, 2020.

Respectfully submitted by,

/s/ Christopher R. Oram, Esq.
CHRISTOPHER R. ORAM, ESQ.
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/s/ Joel M. Mann, Esq.
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IX. CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 11th day of June, 2020. On that same date, a copy of the document was hand-delivered to the following:

THE HONORABLE VALERIE ADAIR
Eighth Judicial District Court, Department 21
200 Lewis Avenue, 11th Floor
Las Vegas, Nevada 89101

CLARK COUNTY DISTRICT ATTORNEY
Pamela Weckerly, Chief Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101

BY:

/s/ Nancy Medina
An Employee of Christopher R. Oram, Esq.