

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY BROWN,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Sep 08 2021 11:20 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 81962

MOTION TO TRANSMIT VIDEO RECORDING OF PROCEEDINGS

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, KAREN MISHLER, and under Nevada Rule of Appellate Procedure 30(d) and 10(b)(2), respectfully requests this court to direct the district court to send the JAVS recording to this Court for reaching a decision on the issues on appeal. This motion is based on the following memorandum, declaration of counsel and all papers and pleadings on file herein.

Dated this 8th day of September, 2021.

Respectfully submitted,

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

BY */s/ Karen Mishler*

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
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).

The State asks that this Court direct the District Court Clerk's office to transmit the copy of the JAVS recordings from the District Court proceedings in this case, C-17-326247-1, from Department 21, on December 11, 2019.

On appeal, Appellant Larry Brown alleges that the district court committed structural error in its handling of the Batson challenge, and that three of the State's peremptory strikes were racially motivated. The State's response is that these strikes were not racially motivated, as evidenced by the fact that there were other prospective jurors on the panel with similar racial or ethnic identifications that the State did not strike, some of whom were ultimately seated on the jury. Because the transcript does not reflect the racial identifications of the seated jurors, the State requests that this Court review the JAVS recording from the date that the jury was

sworn in, so that the Court may observe the racial and ethnic composition of the seated jury.

CONCLUSION

For the reasons above, the State respectfully requests the Court to order the District Court Clerk's Office to transmit the JAVS recordings for this case from Department 21 on December 11, 2019.

Dated this 8th day of September, 2021.

Respectfully submitted,

STEVEN B. WOLFSON

Clark County District Attorney

BY */s/ Karen Mishler*

KAREN MISHLER

Chief Deputy District Attorney

Nevada Bar #013730

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 8th day of September, 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

NAVID AFSHAR
Deputy Special Public Defender

KAREN MISHLER
Chief Deputy District Attorney

/s/ J. Garcia

Employee, Clark County
District Attorney's Office

KM//jg