

Electronically Filed
Feb 09 2021 08:06 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY JACOB MONAHAN,

Appellant,

CASE NO. 82031

v.

AMANDA KAITLYN HOGAN, fka
AMANDA KAITLYN KING,,

Respondent.

MOTION TO REQUIRE APPELLANT TO PROVIDE
TRANSCRIPT OF PROCEEDINGS

Respondent, Amanda Hogan ("Mother"), by and through counsel, Roderic A. Carucci, Esq. and the law firm of Carucci and Associates, moves the Court to require appellant, Anthony Monahan ("Father"), to provide the complete transcript of the half day hearing held on September 15, 2020, rather than the limited, self serving 15 pages provided as part of appellant's appendix. Mother's counsel has previously corresponded with Father's counsel demanding a more complete appendix and complete transcript. All requests have been refused (Exhibit 1).

NRAP 9(a) deals with requests for transcripts. Father filed a "Request for Transcript of Proceedings" on December 31, 2020 (Exhibit 2), stating in relevant part:

3. *Transcript for the entire hearing is being requested.*

4. 1 copy of the transcript is being requested.

NRAP 9(a)(3)(C), *contents of form*, states in relevant part:

The appellant shall ***prepare a separate transcript request form*** addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those proceedings recorded by the court reporter or recorder named on the request form. The transcript request form must substantially comply with Form 3 in the Appendix of Forms and must contain the following information:

(v) A certification by appellant's counsel that the attorney has ordered the required transcripts and has paid the required deposits. This certification shall specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid.

Respondent, Mother, has never been served with or received a copy of the request form sent to the Court Reporter, nor has Mother's counsel received a copy of the entire transcript for the hearing as September 15, 2020, consistent with Father's "Request for Transcript of Proceedings" filed with the District Court on December 31, 2020.

NRAP 9(a)(4) provides in relevant part:

Number of Copies of Transcript; Costs. Appellant shall provide a copy of the certified transcript to counsel for each party appearing separately. Unless otherwise ordered, the appellant initially shall pay any costs associated with the preparation and delivery of the transcript.

Father has failed to provide the entire transcript to respondent, Mother, as requested from the Court Reporter. It is appropriate that the Court require Father to immediately provide the entire transcript of the proceeding for inclusion in respondent's appendix, as the parties have been unable to agree upon the documents necessary for inclusion in a joint appendix pursuant to NRAP 30. While NRAP 30 requires "brevity," certain documents are required by the rule including the motions, oppositions, and reply briefs giving rise to the referenced Court hearings and Orders, notices of appeal, and

1 notices of entry of order. Respondent, Father, makes reference in his Fast Track
2 Statement to prior proceedings in this case, such as a prior Order Dismissing an earlier
3 appeal, without including the referenced document in his appendix.

4 In the alternative, this appeal must be dismissed for failure to comply with the
5 applicable rules of appellate procedure.

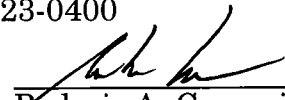
6
7 **AFFIRMATION PURSUANT TO NRS 239B.030**

8 The undersigned hereby affirms this document does not contain a social security
9 number pursuant to NRS 239B.030.

10 DATED: February 9, 2021

11 Carucci and Associates
12 702 Plumas Street
13 Reno, Nevada 89509
14 775-323-0400

15 By:


16 Roderic A. Carucci, Esq. (#4233)
17 Kelly A. VandeBurgt, Esq. (#13270)
18 Attorneys for Amanda Hogan
19
20
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NRAP 25, I certify that I am an employee of Carucci and Associates and on February 9, 2021, I served a true and correct copy of:

Motion to Require Appellant to Provide Transcript of Proceedings

by:

☐ Placing an original or true copy thereof in a sealed envelope, postage prepaid for collection and mailing in the United States Mail at Reno, Nevada

☐ Personal Delivery

☐ Facsimile to the following number: _____

☐ Reno Carson Messenger Service

☐ Certified Mail, Return Receipt Requested

☒ E-Flex filing system

☒ Electronic mail addressed to: nik@lawlaub.com

addressed to:

Nicholus C. Palmer, Esq.
630 East Plumb Lane
Reno, Nevada 89502


Bryttanie McNeff
Carucci and Associates

Exhibit 1

Exhibit 1

**CARUCCI
& ASSOCIATES**
ATTORNEYS AT LAW

Rod Carucci <rod@nvlitigators.com>

Monahan vs. Hogan

9 messages

Nik Palmer <nik@lawlaub.com>

Fri, Jan 22, 2021 at 3:10 PM

To: Rod Carucci <rod@nvlitigators.com>

Cc: maria lawlaub <maria@lawlaub.com>

Hi Rod,

NRAP 3E(d)(4) requires us to do attempt to do a joint appendix. I think only the following documents would be important for the appendix:

1. December 27, 2018, Order
2. March 1, 2019 Order
3. November 20, 2019 Order
4. October 5, 2020 Order After September 15, 2020 hearing.

What other documents do you think need to in the appendix?

Best regards,

Nik C. Palmer, Esq.

(775) 824-7070

nik@lawlaub.com

Rod Carucci <rod@nvlitigators.com>

Mon, Jan 25, 2021 at 7:39 AM

To: Nik Palmer <nik@lawlaub.com>

I will try to get to it this morning. Have court in Fallon this afternoon. If not, tomorrow for sure.

Roderic A. Carucci, Esq.

Carucci & Associates

Attorneys at Law

Licensed in Nevada, Colorado, Oregon and Washington

702 Plumas Street

Reno, Nevada 89509

Ph - 775-323-0400 Fax 775-323-0466

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Offices in Reno, Fernley, Fallon, Winnemucca

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[Quoted text hidden]

Rod Carucci <rod@nvlitigators.com>

Mon, Jan 25, 2021 at 8:18 AM

To: Nik Palmer <nik@lawlaub.com>

Cc: "Kelly A. VandeBurgt" <kelly@nvlitigators.com>, Bryttanie McNeff <bryt@nvlitigators.com>, Office Manager <officemanager@nvlitigators.com>

Also:

Notice of Appeal 3/29/19

Case appeal statement 3/29/19

Supreme Court Order dismissing appeal 9/4/19

Notice of entry of order 11/25/19

Motion to relocate 6/9/20

Supplement to motion to relocate 7/2/20

Opposition to motion to relocate 7/13/20

Reply to motion to relocate 7/24/20

Order modifying child support 9/17/20

Notice of entry of order 10/8/20

Notice of Appeal 10/28/20

Case Appeal Statement 10/28/20

If you don't have these with file stamps, let me know and I will get them to you. The Supreme Court only likes file stamped copies.

I also think we need the transcript of the following hearings:

12/17/18 custody hearing

11/18/19 transcript

9/15/20 transcript

Thanks

Rod

Roderic A. Carucci, Esq.

Carucci & Associates

Attorneys at Law

Licensed in Nevada, Colorado, Oregon and Washington

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Reno, Nevada 89509

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On Fri, Jan 22, 2021 at 3:10 PM Nik Palmer <nik@lawlaub.com> wrote:

[Quoted text hidden]

Nik Palmer <nik@lawlaub.com>

Fri, Jan 29, 2021 at 4:25 PM

To: Rod Carucci <rod@nvlitigators.com>

Cc: "Kelly A. VandeBurgt" <kelly@nvlitigators.com>, Bryttanie McNeff <bryt@nvlitigators.com>, Office Manager <officemanager@nvlitigators.com>

Hi Rod,

Pursuant to NRAP 30, "all matters not essential to the decision of issues presented by the appeal shall be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix"

The issue on appeal is that the Court failed to address the recent best interest factors as delineated in NRS 125C.0035(4)(a-k), which is required under NRS 125C.007(1)(b) during a relocation matter. The District Court simply relied on a best interest analysis it had done over one and a half years prior in its March 1, 2019 order.

I think we only need the March 1, 2019 Order, the November 8, 2019 Order and the September 15, 2020 Order. IF you want to include the rest of your list below you can do so but we will need to do separate Appendixes.

Let me know.

Best regards,

Nik C. Palmer, Esq.

(775) 824-7070

nik@lawlaub.com

[Quoted text hidden]

Rod Carucci <rod@nvlitigators.com>

Mon, Feb 1, 2021 at 12:30 PM

To: Nik Palmer <nik@lawlaub.com>

Cc: "Kelly A. VandeBurgt" <kelly@nvlitigators.com>, Bryttanie McNeff <bryt@nvlitigators.com>, Office Manager <officemanager@nvlitigators.com>, brandon hogan <brandonhogan82@gmail.com>

Nik, I realize you are trying to do this on the cheap, but we are before the Supreme Court. Many of the documents I am requesting be including in the appendix are required by the Supreme Court. I suggest you reread NRAP 30. As appellant you are also required to request, and pay for, copies of the transcript and provide these to both the Supreme Court and opposing parties. NRAP 3E. You filed a request for a transcript of the 9/15/20 hearing with the clerk of the district court. You did not serve the court reporter. The court clerk will not order transcripts. If the proceedings are recorded by JAVS (3rd Jud Dist.), you have to obtain the JAVS recording and pay a court reporter to transcribe the proceedings and provide certified copies to the Supreme Court and opposing party. You have not done so. This alone is grounds to move to dismiss your appeal. Let me know how you wish to proceed. If you insist on proceeding as set forth in your last email, I will file a motion to dismiss the appeal.

Rod

Roderic A. Carucci, Esq.
Carucci & Associates
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Licensed in Nevada, Colorado, Oregon and Washington
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Nik Palmer <nik@lawlaub.com>

Thu, Feb 4, 2021 at 4:34 PM

To: Rod Carucci <rod@nvlitigators.com>

Cc: "Kelly A. VandeBurg" <kelly@nvlitigators.com>, Bryttanie McNeff <bryt@nvlitigators.com>, Office Manager <officemanager@nvlitigators.com>, brandon hogan <brandonhogan82@gmail.com>, maria lawlaub <maria@lawlaub.com>

Hi Rod,

I spoke to the supreme court clerk, who said we only need to provide the part of the transcript relevant to the appeal. We did have the hearing transcribed as to that part. You are free to have anything else you want transcribed. It appears that we will do our own Appendixes. I happy to discuss with you further if you still want to try and do a joint appendix, however I have to have my Fast Track Brief filed by Monday.

[Quoted text hidden]

Rod Carucci <rod@nvlitigators.com>

Fri, Feb 5, 2021 at 9:18 AM

2/8/2021

Carucci & Associates Mail - Monahan vs. Hogan

To: Nik Palmer <nik@lawlaub.com>

There is no way for me to select a portion of the transcript without seeing the record and the hearing was not lengthy or voluminous; it went for less than half a day. I am repeating my demand for the entire transcript.
Rod

Roderic A. Carucci, Esq.
Carucci & Associates
Attorneys at Law
Licensed in Nevada, Colorado, Oregon and Washington
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Reno, Nevada 89509
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Exhibit 2

Exhibit 2

FILED

2020 DEC 31 PM 3:43

TANYA SCURINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
Electronically Filed
Jan 04 2021 04:21 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY JACOB MONAHAN,)
Appellant,) No. 82031
vs.)
AMANDA KAITLYN HOGAN fka)
AMANDA KAITLYN KING,)
Respondent.)

REQUEST FOR TRANSCRIPT OF PROCEEDINGS

TO: Court Reporter in Department 2 of the Third Judicial District Court in Lyon County

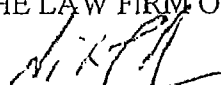
Appellant requests preparation of a transcript of the proceedings before the district court,
as follows:

1. Judge or officer hearing the proceeding: Honorable Leon A. Aberasturi
2. Transcript requested for Hearing held on September 15, 2020.
3. Transcript for the entire hearing is being requested.
4. 1 copy of the transcript is being requested.

1 I hereby certify that on the 30th day of December, 2020 I ordered the transcript(s) listed
2 above from the court reporter named above.
3

4 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
5 document does not contain the social security number of any person.

6 DATED this 31st day of December, 2020.
7

8 THE LAW FIRM OF LAUB & LAUB
9 

10 _____
11 Nicholas C. Palmer, Esq.
12 Nevada State Bar #9888
13 630 E. Plumb Lane
14 Reno, Nevada 89502
15 (775) 824-7070
16 nik@lawlaub.com
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 30th day of December, 2020, I caused to be delivered via U.S. MAIL, a true and correct copy of the within document: Request for Transcript of Proceedings, Case Number: 82031, addressed as follows:

Roderic A. Carucci, Esq.
702 Plumas Street
Reno, Nevada 89509

M. Moreno
Maria Moreno