

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

---

THE STATE OF NEVADA,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE RICHARD  
SCOTTI, DISTRICT JUDGE

Respondents,

and

JENNIFER LYNN PLUMLEE,

Real Party In Interest.

Electronically Filed  
Jan 21 2021 08:44 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO: 82236

D.C. NO: C-20-346852-A

**PETITIONER'S APPENDIX  
Volume 2**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
Regional Justice Center  
200 Lewis Avenue  
Post Office Box 552212  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
State of Nevada

CRAIG MUELLER, ESQ.  
Nevada Bar #004703  
723 South Seventh Street  
Las Vegas, Nevada 89101  
(702) 382-1200

AARON D. FORD  
Nevada Attorney General  
Nevada Bar #007704  
100 North Carson Street  
Carson City, Nevada 89701-4717  
(775) 684-1265

Counsel for Petitioner

Counsel for Real Party in Interest

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on January 21, 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

CRAIG MUELLER, ESQ.  
Counsel for Real Party In Interest

ALEXANDER CHEN  
Chief Deputy District Attorney

I further certify that I served a copy of this document by electronic emailing a true and correct copy thereof to:

JUDGE RICHARD SCOTTI  
Email: [HowardM@clarkcountycourts.us](mailto:HowardM@clarkcountycourts.us)

BY /s/ E. Davis  
Employee, District Attorney's Office

AC//ed

1       **B. PRIOR TO THE FILING OF THE ORDER, THE STATE WANTS TO ENSURE**  
2       **THAT THE DISTRICT COURT MAY APPROPRIATELY DECIDE THIS**  
3       **CASE**

4       During oral argument in this matter, it was argued by Appellant that having the Deputy  
5       District Attorney handle the case gave rise to an inference of impropriety. The State countered  
6       by arguing that the issues raised by Appellant are not the standard for seeking removal of a  
7       single prosecutor. In fact, the State analogized that courts in running campaigns also seek  
8       financial contributions, but that it is presumed that judges can set aside their biases to rule  
9       correctly on the law. The Nevada Supreme Court has mandated that any issue related to  
10      judicial misconduct must be preserved for appellate review. Azucena v. State, 135 Nev. 269  
11      (2019).

12      Rule 1.2 of the Nevada Code of Judicial Conduct (NCJC) indicates that the judiciary  
13      shall avoid the appearance of impropriety. Whether a judge can maintain impartiality is an  
14      objective question that relies upon undisputed facts. In re Varain, 114 Nev. 1271, 1278 (1998).  
15      Furthermore, it is a generally accepted principle that the mere receipt of a campaign  
16      contribution from a litigant is not in itself grounds for disqualification. NCJC Canon 3(E)(1)  
17      (commentary (2000)) *cited by* City of Las Vegas Dwn. Redevelopment Agency v. 8<sup>th</sup> Jud.  
18      Dist. Ct., 116 Nev. 640 (2000). Although this list is not exhaustive, the Nevada Supreme Court  
19      in deciding the appearances of impropriety have considered the amount contributed, any prior  
20      contributions, and the timing of contributions. *See* Ivey v. Dist. Ct., 129 Nev. 154 (2013).

21      On September 14, 2020, Appellant's counsel Craig Mueller, Esq., the principle attorney  
22      of Craig Mueller & Associates, donated \$1,500.00 to this Court's campaign for re-election.  
23      (Attached as "Exhibit 1"). This contribution was by far the highest contribution that he made  
24      to any judicial candidate in this past election. The timing of the listed contribution was made  
25      on the same date that the State filed its Reply to Appellant's Motion to Reconsider. While  
26      contributions to campaigns are extremely normal in Nevada, counsel had never made any  
27      previous donations to this Court, and when the argument was made in court, this fact was not  
28      raised.

1 Based upon this newly discovered information, and because the issue came up during  
2 oral argument, an assurance from this Court that it fairly and impartially ruled on the matter  
3 and has avoided the appearance of impropriety based on the timing and amount of counsel's  
4 contribution seems appropriate. Alternatively, if upon reconsideration this Court feels that the  
5 campaign contribution might have affected the canons to avoid the appearance of impropriety,  
6 then it should refrain from issuing an order and seek to have the matter re-assigned prior to  
7 the filing of the final order.

8 **C. FOLLOWING THE FILING OF THE ORDER, THE STATE REQUESTS**  
9 **THAT THIS MATTER BE STAYED TO SEEK A WRIT FROM THE NEVADA**  
10 **SUPREME COURT**

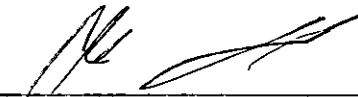
11 The State disagrees with this Court's ultimate decision to reverse the conviction based  
12 upon the Deputy District Attorney's prosecution of this case. Given that this is a novel issue,  
13 but one of widespread importance, the State wishes to seek clarification via the Nevada  
14 Supreme Court. Pursuant to Rule 8 of the Nevada Rules of Appellate Procedure, a party must  
15 ordinarily seek a stay with the district court prior to seeking extraordinary relief. In order for  
16 the appellate court to have jurisdiction, a written order must first be filed. Rust v. Clark Cty.  
17 Sch. Dist., 103 Nev. 686 (1987).

18 Given that this Court's ruling may have an impact on other cases being handled by the  
19 Deputy District Attorney, the State feels seeking extraordinary relief or clarification is  
20 appropriate. Thus, pursuant to Rule 8(a)(1)(C), the State respectfully asks that the order be  
21 filed and then that the order be stayed so that the State may seek a writ from the appellate  
22 court.

23 DATED this 17 day of November, 2020.

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

27 BY

28   
ALEXANDER CHEN  
Chief Deputy District Attorney  
Nevada Bar #010539

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of Notice of Motion and Motion For Clarification And A  
3 Stay Of The Proceedings Following The Filing Of The Order was made this 17<sup>th</sup> day of  
4 November, 2020, by electronic filing to:

5  
6 CRAIG MUELLER, ESQ.  
Email: [receptionist@craigmuellerlaw.com](mailto:receptionist@craigmuellerlaw.com)

7  
8 BY:   
Secretary for the District Attorney's Office

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Contributions Search Results

Contributor	Date	Amount	Type	Recipient	Report
Craig Mueller & Associates	9/14/2020	\$1,500.00	Monetary Contribution	Richard Frank Scotti	2020 CE Report 3
Craig Mueller & Associates Inc	8/28/2020	\$500.00	Monetary Contribution	Crystal Lyn Eller	2020 CE Report 3
Craig Mueller	3/4/2020	\$500.00	Monetary Contribution	Jim Sweetin	2020 CE Report 1 (Amended)
Craig Mueller	2/11/2020	\$500.00	Monetary Contribution	Dan Gilliam	2020 CE Report 1
Craig Mueller	2/16/2020	\$300.00	Monetary Contribution	Annie Black-Guedry	2020 CE Report 1
Craig A. Mueller, Attorney at Law	3/4/2020	\$500.00	Monetary Contribution	Tegan Christine Machnich	2020 CE Report 1
Craig Mueller and Associates	11/7/2019	\$500.00	Monetary Contribution	Assembly Republican Caucus	2020 Annual CE Filing
Craig A. Mueller	5/24/2019	\$300.00	Monetary Contribution	Andrew Thomas Matthews	2020 Annual CE Filing
Craig A Mueller	5/2/2018	\$10,000.00	Monetary Contribution	Craig A Mueller	2018 CE Report 1
Craig A Mueller	5/7/2018	\$20,000.00	Monetary Contribution	Craig A Mueller	2018 CE Report 1
Craig A Mueller	5/11/2018	\$6,000.00	Monetary Contribution	Craig A Mueller	2018 CE Report 1
Craig A Mueller	5/14/2018	\$14,000.00	Monetary Contribution	Craig A Mueller	2018 CE Report 1
Craig Mueller	11/1/2017	\$100,000.00	Monetary Contribution	Craig A Mueller	2018 Annual CE Filing
Craig Mueller	5/22/2016	\$350.00	Monetary Contribution	Bita Yeager	2016 CE Report 2
Craig Mueller	3/31/2016	\$500.00	Monetary Contribution	Steven M Goldstein	2016 CE Report 1 (Amended)
Craig A. Mueller Attorney At Law	1/30/2015	\$500.00	Monetary Contribution	Martin D Hastings	2015 CE Report 1
Craig Mueller	11/3/2014	\$350.00	Monetary Contribution	William Horne	2014 CE Report 5
Craig Mueller	8/15/2014	\$500.00	Monetary Contribution	Joseph Anthony Scalia	2014 CE Report 3
Craig Mueller	5/23/2014	\$350.00	Monetary Contribution	Steven B Wolfson	2014 CE Report 2
Craig Mueller	2/10/2013	\$1,000.00	Monetary Contribution	Terry Jones Zach	2013 Municipal CE Report 1
Craig Mueller	9/10/2012	\$1,000.00	Monetary Contribution	Kalani Hoo	2012 CE Report 3
Craig Mueller	7/19/2012	\$250.00	Monetary Contribution	Amy P. Chelini	2012 CE Report 3
Craig Mueller	6/4/2012	\$500.00	Monetary Contribution	William D Jansen	2012 CE Report 2
Craig Mueller	2/23/2012	\$250.00	Monetary Contribution	Amy P. Chelini	2012 CE Report 1

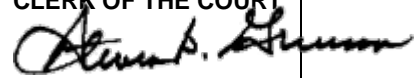
EXHIBIT "1"



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*

Electronically Filed  
11/17/2020 12:06 PM  
Steven D. Grierson  
CLERK OF THE COURT



Jennifer Lynn Plumlee, Appellant(s)  
vs  
Nevada State of, Respondent(s)

Case No.: C-20-346852-A  
Department 2

**NOTICE OF HEARING**

Please be advised that the State's Notice of Motion and Motion for Clarification and a Stay of the Proceedings Following the Filing of the Order in the above-entitled matter is set for hearing as follows:

**Date:** November 30, 2020  
**Time:** Chambers  
**Location:** RJC Courtroom 03B  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

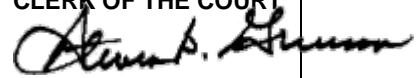
By: /s/ Kadira Beckom  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Kadira Beckom  
Deputy Clerk of the Court

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3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 \*\*\*\*\*

6 Jennifer Lynn Plumlee, Appellant(s)

Case No.: C-20-346852-A

7 vs

Department 2

8 Nevada State of, Respondent(s)

9  
10 **NOTICE OF CHANGE OF HEARING**

11 The hearing on the Motion for Clarification, presently set for November 30, 2020, at 3:00  
12 AM, has been moved to the 3rd day of December, 2020, at 3:00 AM and will be heard by  
13 Judge Richard F. Scotti.

14  
15 STEVEN D. GRIERSON, CEO/Clerk of the Court

16 By: /s/ Kadira Beckom

17 Kadira Beckom

18 Deputy Clerk of the Court

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that this 17th day of November, 2020

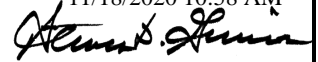


22 The foregoing Notice of Change of Hearing was electronically served to all registered  
23 parties for case number C-20-346852-A.

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/s/ Kadira Beckom  
Kadira Beckom  
Deputy Clerk of the Court

  
CLERK OF THE COURT

1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 JENNIFER LYNN PLUMLEE,

6 Appellant(s),

7 vs.

8 STATE OF NEVADA,

9 Respondent(s).

Case No.: C-20-346852-A

Dept. No.: II

Henderson JC Case No.: 18MH0263X  
18CRH002333-0000

Hearing Date: October 15, 2020

Hearing Time: 10:00 a.m.

10 **ORDER:**

11 **GRANTING APPELLANT'S MOTION TO RECONSIDER, GRANTING THE**  
12 **APPEAL, REVERSING CONVICTION, AND REMANDING TO LOWER COURT**

13 PROCEDURAL HISTORY

14 This matter came before the Court on a Motion to Reconsider this Court's July 16,  
15 2020 decision, Denying Appellant's Appeal. On February 11, 2020, Appellant filed her  
16 Notice of Appeal. After several continuances, and various other logistical issues, a hearing  
17 was held on July 9, 2020. This Court issued its ruling, denying the appeal, via Minute Order on  
18 July 16, 2020. Appellant timely filed a Motion to Reconsider, whereby she asserted newly  
19 discovered facts that Deputy District Attorney Melanie Scheible serves on the Nevada State  
20 Legislature, in violation of the Separation of Powers Doctrine<sup>1</sup>.

21 On August 24, 2020, the Court held a Hearing and entertained arguments on  
22 Appellant's motion. Given the gravity of Appellant's assertions—and its potential widespread  
23 effects on others, like Scheible, who arguably hold dual governmental positions—the Court  
24 continued the hearing and allowed the parties an opportunity to provide supplemental briefing  
25 on the issue.

26  
27 <sup>1</sup> This argument was also made by Appellant Molen, in case C-20-348754-A (Molen v. State), who is represented  
28 by the same counsel as Ms. Plumlee; with Deputy District Attorney Scheible similarly representing the State.  
Accordingly, the Court *quasi*-consolidated the cases, solely for the purpose of arguing the Separation of Powers  
issue.

1 After reviewing all of the submitted papers and pleadings, and considering all of the  
2 arguments and authority presented, the Court GRANTS Appellant's Motion to Reconsider,  
3 based on the violation of Appellant's Constitutional rights to procedural due process, as  
4 explained below.

5  
6 DISCUSSION

7 Appellant Jennifer Plumlee was deprived of her Constitutional rights of procedural due  
8 process because her prosecutor, Deputy District Attorney Scheible, also served as a Legislator  
9 at the time of the trial, in violation of the "Separation of Powers" doctrine – which doctrine  
10 exists as a fundamental feature of American government, and as an express clause in the  
11 Nevada Constitution. Nev. Const. Art III, §1. An individual may not serve simultaneously as  
12 the lawmaker and the law-enforcer of the laws of the State of Nevada.

13 The plain and unambiguous language of the Nevada Constitution is that:

14 The powers of the Government of the State of Nevada shall be divided  
15 into three separate departments, - the Legislative, - the Executive and the Judicial;  
16 and no persons charged with the exercise of powers properly belonging to one of  
17 these departments shall exercise any functions, appertaining to either of the  
others, except in the cases expressly directed or permitted in this Constitution.

18 Nev. Const. Art III, §1. This is commonly known as the "Separation of Powers"  
19 clause.

20 It is undisputed that Prosecutor Scheible was a person charged with the exercise of  
21 powers within the legislative branch of government at the time of the trial. Further, there is no  
22 reasonable dispute that, as prosecutor, she was charged with the exercise of powers within the  
23 executive branch. The enforcement of the laws of the State of Nevada are powers that fall  
24 within the executive branch of the government of the State of Nevada. See Nev. Const. Art. V,  
25 §7. Prosecutor Scheible was enforcing the laws of the State of Nevada, and representing the  
26 State of Nevada, and thus was exercising the powers delegated to her within the executive  
27 branch.

1 Deputy District Attorney Scheible did not have the legal authority to prosecute  
2 Appellant, thus the trial was a nullity.

3 The Separation of Powers doctrine historically exists to protect one branch of  
4 government from encroaching upon the authority of another. However, more than that, it  
5 exists to safeguard the people against tyranny – the tyranny that arises where all authority is  
6 vested into one autocrat – a person who writes the law, enforces the law, and punishes for  
7 violations of the law.

8 Our Founding Fathers understood that consolidated power was the genesis of  
9 despotism. A dispersion of power, they understood, was the best safeguard of liberty. As  
10 explained by James Madison, “The accumulation of all powers, legislative, executive and  
11 judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-  
12 appointed or elective, may justly be pronounced the very definition of tyranny.” Federalist  
13 No. 47, ¶3.

14 One who serves in the legislative branch in making the law must not and cannot  
15 simultaneously serve in the executive branch as a prosecutor of the State laws. This Court  
16 finds that it is a violation of procedural due process of nearly the highest order for a person to  
17 be tried and convicted by a public official who in charge of both writing and enforcing the  
18 law.

19 The authorities cited by the State are very clearly wrong and distinguishable.

20 In 2004, Attorney General (AG) Brian Sandoval issued an opinion that local executive  
21 branch employees are not prohibited from serving in the legislature. However, that opinion  
22 did not specifically consider that a Deputy District Attorney enforcing the laws of the State of  
23 Nevada, and representing the State of Nevada, is actually exercising powers belonging to the  
24 State executive branch.

25 In August 8, 2020, the Legislative Counsel Bureau issued an opinion that “local  
26 governments and their officers and employees are not part of one of the three departments of  
27 state government.” However, similar to the AG Opinion mentioned above, that opinion did  
28 not specifically consider that a Deputy District Attorney enforcing the laws of the State of

1 Nevada, and representing the State of Nevada, is actually exercising powers belonging to the  
2 State executive branch.

3 The State's reliance on Lane v. District Court, 760 P.2d 1245 (Nev. 1988) is  
4 misplaced. The issue in Lane was whether the Judiciary was improperly interfering with the  
5 functions of the executive branch. The Nevada Supreme Court did not squarely reach the issue  
6 whether the due process rights of a criminal defendant were violated when prosecuted by an  
7 Assistant District Attorney who also served in the Legislature. Here, this Court is not directing  
8 the Office of the District Attorney to do or not to do anything. Rather, this Court is protecting  
9 the rights of the accused.

10 The State attempts to draw a distinction between a "public officer" and a "mere public  
11 employee." As to the former, the State acknowledges that the Separation of Powers Doctrine  
12 does apply to a person holding an Office established by the Constitution. However, the State  
13 invents out of thin air the notion that the Doctrine does not apply to an employee who carries  
14 out executive functions. The State's purported authority, State ex rel. Mathews v. Murray, 70  
15 Nev. 116 (1953) does not stand for its proposition. Mathews merely held that a petition for  
16 Writ of *Quo Warranto* could not be used to remove a "public employee," – only a "public  
17 officer." While there might be a meaningful distinction between a public employee and public  
18 officer in some situations, it is not evidence in the words of the Nevada Separation of Powers  
19 doctrine.

20 The State wrongly relies on Heller v. Legislature of the State of Nevada, 120 Nev. 456  
21 (2008) which held that the judiciary could not determine whether a legislator must be  
22 removed for violating the "Separation of Powers" doctrine where the legislator also served in  
23 the executive Branch. That case was based on lack of standing, rather than the merits. Further,  
24 this is not a case of the Judiciary determining the qualifications to be a member of the  
25 Legislature, or to work for the District Attorneys' office. Rather this case involves the due  
26 process rights of an accused; and, in this case, those rights were violated.

27 The Appellant was deprived of her constitutional rights to procedural due process even  
28 if the Nevada Separation of Powers clause as written does not apply to any persons employed

1 by local governments. The "Separation of Powers" doctrine is such a clear, vital, and well-  
2 recognized aspect of the American system of government, existing long before the adoption of  
3 the Nevada Constitution.  
4

5 CONCLUSION

6 This Court finds that it is fundamental to American jurisprudence that a person who is  
7 simultaneously the lawmaker and the law-enforcer of the laws of the State of Nevada shall not  
8 prosecute a criminal defendant.

9 The Court finds that Appellant did not waive her right on appeal to raise the issue of  
10 separation of powers. Raising it in the Motion for Reconsideration is the same as raising it in  
11 the original appeal brief as the initial appeal is still pending.

12 Accordingly, the Court hereby **ORDERS, ADJUDGES, AND DECREES** that  
13 Appellant's Motion to Reconsider is **GRANTED**.

14 The Court **FURTHER ORDERS** that Appellant's Appeal is **GRANTED**, the lower  
15 court's conviction is **REVERSED**, and the bond, if any, released to Appellant.

16 The Court **FURTHER ORDERS** that this matter be **REMANDED** to the lower court  
17 for further proceedings consistent with this Order.

18 **IT IS SO ORDERED.**

Dated this 18th day of November, 2020

19 Dated this \_\_\_\_ day of November, 2020.

20 

21 RICHARD F. SCOTTI  
22 DISTRICT COURT JUDGE  
23 D1A-009-4056-2CAA  
24 C20-34851A  
25 Richard F. Scotti  
26 District Court Judge  
27  
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Craig A. Mueller, Esq.  
*Attorney(s) for Appellant(s)*

*/s/ Melody Howard*

Melody Howard  
Judicial Executive Assistant  
C-20-346852-A

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5  
6 Jennifer Lynn Plumlee,  
Appellant(s)

CASE NO: C-20-346852-A

7 vs

DEPT. NO. Department 2

8 Nevada State of, Respondent(s)  
9

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Order was served via the court's electronic eFile system to all  
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 11/18/2020

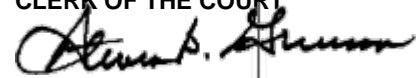
15 Craig Mueller electronicservice@craigmuellerlaw.com

16 Rosa Ramos rosa@craigmuellerlaw.com

17 District Attorney motions@clarkcountyda.com

18 Department II Dept02LC@clarkcountycourts.us

19 Craig Mueller receptionist@craigmuellerlaw.com  
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RSPN  
CRAIG A. MUELLER, ESQ.  
Nevada Bar No. 4703  
MUELLER & ASSOCIATES, INC  
723 S. Seventh St.  
Las Vegas, NV 89101  
Office (702) 388.0568  
Fax (702) 940.1235  
receptionist@craigmuellerlaw.com  
Attorney For Appellant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JENNIFER LYNN PLUMLEE,	)	
	)	
Appellant,	)	CASE NO: C-20-346852-A
	)	
vs.	)	DEPT NO: II
	)	
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	

**APPELLANT'S RESPONSE TO STATE'S MOTION FOR CLARIFICATION AND A  
STAY OF THE PROCEEDINGS FOLLOWING THE FILING OF THE ORDER**

Date of Hearing: December 3, 2020  
Time of Hearing: 9:00 a.m.

COMES NOW, Appellant JENNIFER PLUMLEE, by and through her attorney CRAIG A.  
MUELLER, ESQ., and hereby submits the following as and for her Response to the State's  
Motion For Clarification And A Stay Of The Proceedings Following The Filing Of The Order:

**A. THE STATE'S REQUEST FOR FURTHER CLARIFICATION**

The State has requested that the Court clarify whether by its decision of November 9,  
2020, the Court meant to dismiss this case outright or vacate the conviction and remand the case  
to the Justice Court for further proceedings. Counsel submitted a proposed order to chambers  
prior to the filing of the instant motion by the State. As of the date of this writing, no signed

1 order has been returned or filed. The State's point in this regard is well-taken. Obviously,  
2 Appellant would applaud an outright dismissal; if this was the Court's intention, the proposed  
3 order will be modified accordingly. If the Court's intention was to remand the case to justice  
4 court, with or without direction to that court as to what further proceedings are to be conducted,  
5 the proposed order will be modified accordingly. All parties have a vested interest in assuring  
6 the final written order accurately and completely state the Court's decision.  
7

8 **B. THE STATE'S REQUEST FOR ASSURANCE OF IMPARTIALITY.**  
9

10 The State's motion brazenly asks for assurances that this Honorable Court is not on the  
11 take. The State's interpretation of counsel's reference to the "appearance of impropriety" made  
12 during oral argument is a complete bastardization of counsel's argument. At no time during the  
13 underlying trial or during this appeal, neither in writing nor verbally, has counsel impugned,  
14 questioned or besmirched the character, competence, honesty or reputation of Deputy District  
15 Attorney Melanie Scheible. Counsel's arguments regarding her disqualification to prosecute  
16 defendants are not *ad hominem* attacks, but a defense of the doctrine of Separation of Powers, a  
17 bedrock principal of the constitutions of both the United States and the state of Nevada. It is a  
18 duty we swore to when we took our oaths as attorneys. Defending and applying our constitutions  
19 is a foundational priority to both this Honorable Court and to counsel, as it should be for the  
20 State. Yet the State uses counsel's use of the term "appearance of impropriety" as a pretext to  
21 launch a baseless attack on the integrity of this Honorable Court and this attorney.  
22

23 Counsel's use of the term "appearance of impropriety" in the context of this case clearly  
24 referenced the appearance of the impropriety that results when the doctrine of the Separation of  
25 Powers is violated; the impropriety that results from one branch of government executing the  
26 duties of another. It is not a challenge of anyone's character. Counsel has not argued that the  
27  
28

1 Deputy District Attorney in question has acted in bad faith or maliciously. Counsel argues that  
2 according to his interpretation of Article 3, Section 1 of the Nevada Constitution, a deputy  
3 district attorney cannot serve two branches of government simultaneously. This Honorable  
4 Court agrees with counsel's interpretation in this case; the State does not.

5  
6 The State makes the following statements and cites the following authority in its motion:

7 "Rule 1.2 of the Nevada Code of Judicial Conduct (NCJC) indicates that the  
8 judiciary shall avoid the appearance of impropriety. Whether a judge can  
9 maintain impartiality is an objective question that relies upon undisputed facts.  
10 In re Varain, 114 Nev. 1271, 1278 (1998). Furthermore, it is a generally  
11 accepted principle that the mere receipt of a campaign contribution from a  
12 litigant is not in itself grounds for disqualification. NCJC Canon 3(E)(1)  
13 (commentary (2000)) *cited by* City of Las Vegas Dwtm. Redevelopment Agency  
14 v. 8<sup>th</sup> Jud. Dist. Ct., 116 Nev. 640 (2000). Although this list is not exhaustive,  
15 the Nevada Supreme Court in deciding the appearances of impropriety have  
16 considered the amount contributed, any prior contributions, and the timing of  
17 contributions. *See, Ivey v. Dist. Ct.*, 129 Nev. 154 (2013).

18 The State goes on to question the timing and amount of counsel's contribution to the Court's re-  
19 election campaign. The State insinuates that counsel is willing to pay for favor from this court.

20 The State insinuates that this Court's favor is for sale. Neither is true. Counsel has made dozens  
21 of contributions to campaigns over the years, including those of current or former deputy district  
22 attorneys. No quid pro quo was ever expected or offered from any campaign counsel has  
23 contributed to.

24 The legal standard for whether a campaign donation creates an appearance of impropriety  
25 is not the amount of the donor's donation, but the amount of the donation in relation to the total  
26 amount the campaign raised. In other words, the exact opposite of the State's argument.

27 Applying the actual legal standard, the State has failed to raise the specter of impropriety in this  
28 case.

1 The Due Process Clause guarantees the right to a fair trial before a tribunal.  
2 Determining whether a judge's recusal is compelled by the Due Process Clause  
3 does not require proof of actual bias; instead, a court must objectively determine  
4 whether the probability of actual bias is too high to ensure the protection of a  
5 party's due process rights. When an individual with a personal interest in a  
6 specific case 'ha[s] a significant and disproportionate influence' in putting a judge  
7 on the case by contributing to the judge's campaign while the case is pending,  
8 the United States Supreme Court has concluded that the risk of actual bias is great.  
9 In such a situation, a court must examine the size of the contribution in comparison  
10 to the total campaign contribution amount, the total sum spent on the election, and  
11 the effect that the contribution may have had on the election's outcome. A court  
12 must also review the timing of the campaign contributions in relation to the judge's  
13 election and the status of the contributor's case. Thus, determining whether the risk  
14 of actual bias violates a party's due process rights must be done on a case-by-case basis.

15 *Ivey v. Eighth Judicial District Court*, 129 Nev. 154, 159, 299 P.3d 354, 357 (2013) (internal  
16 citations omitted).

17 Attached hereto as Exhibit A is a copy of this Court's Third Quarter Contributions &  
18 Expenses report from the Office of the Secretary of State. In the third quarter of this year  
19 (reporting period ending September 30), this Court's campaign raised \$57,735.00.

20 Year-to-date contributions totaled \$251,657.00. Applying the analysis of the Nevada Supreme  
21 Court used in *Ivey*, counsel's \$1,500.00 contribution amounts to 2.6% of the Court's campaign  
22 contributions for the quarter and .6% of the year-to-date contributions. Of the 63 contributors in  
23 on record as having donated in the third quarter, 9 (14.3%) gave donations equal to or greater  
24 than counsel's donation. These percentages fall below the figures allowed in *Ivey* and fall far  
25 below an amount which could arguably raise a reasonable question about the Court's  
26 impartiality.

#### 27 C. THE STATE'S REQUEST FOR A STAY.

28 The State requests a stay of this Court's final written order in this matter pursuant to  
NRAP 8(a)(1)(C). Appellant does not agree that this is necessary. The deputies effected by this

1 Court's ruling can be reassigned while the State appeals this Court's decision.

2 Dated this 24<sup>th</sup> day of November, 2020.

3 /s/ Craig A. Mueller  
4 CRAIG A. MUELLER, ESQ.  
5 Nevada Bar No. 4703  
6 MUELLER & ASSOCIATES, INC  
7 723 S. Seventh St.  
8 Las Vegas, NV 89101  
9 Office (702) 388.0568  
receptionist@craigmuellerlaw.com  
Attorney For Appellant

10  
11  
12 **CERTIFICATE OF ELECTRONIC SERVICE**

13 I certify that a copy of Appellant's Response To State's Motion For Clarification  
14 And A Stay Of The Proceedings Following The Filing Of The Order was served through the  
15 court clerk's Odyssey Efile/Eservice network on November 24, 2020, to:  
16

17 ALEXANDER CHEN  
18 Chief Deputy District Attorney  
19 Clark County District Attorney's Office

20 BY: /s/Rosa Ramos  
21 Senior Criminal Paralegal  
22 Mueller & Associates  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**



**CONTRIBUTIONS AND EXPENSES REPORT****State of Nevada****Richard Frank Scotti****District Court Judge, District 8, Department 2**

Name

Office (if applicable)

District (if applicable)

**2831 Saint Rose Pkwy., Suite 200, Henderson, NV, 89052****7025469011**

Mailing Address

Telephone No.

**Scotti@ReelectJudgeScotti.com**

E-Mail Address

Select Appropriate Box(es)

☒ CANDIDATE☐ LEGAL DEFENSE FUND [What is this?](#)☐ AMENDED[Report #1 - Due April 15, 2020](#)

Period: Jan 01, 2020 - Mar 31, 2020

[Report #2 - Due July 15, 2020](#)

Period: Apr 01, 2020 - Jun 30, 2020

☒ [Report #3 - Due October 15, 2020](#)

Period: Jul 01, 2020 - Sep 30, 2020

☐ [Report #4 - Due January 15, 2021](#)

Period: Oct 01, 2020 - Dec 31, 2020

☐ [Annual Filing - Due January 15, 2021](#)

Period: Jan 01, 2020 - Dec 31, 2020

**FILED**

Oct 16 2020

**BARBARA K.  
CEGAVSKE  
SECRETARY OF STATE**

FOR OFFICE USE ONLY

\* Report #4 suffices for the 2021 Annual CE Filing only if Report #'s 1, 2, 3, are previously filed this period.

**CONTRIBUTIONS SUMMARY**

	This Period	Cumulative From Beginning of Report Period #1 Through End of This Reporting Period
1. Total Monetary Contributions Received in Excess of \$100	<b>\$ 44,700.00</b>	<b>\$ 218,075.00</b>
2. Total Monetary Contributions in the Form of Loans Guaranteed by a 3rd-Party in Excess of \$100	<b>\$ 0.00</b>	<b>\$0.00</b>
3. Total Monetary Contributions in the Form of Loans that were Forgiven in Excess of \$100	<b>\$ 0.00</b>	<b>\$0.00</b>
4. Total Amount of Written Commitments for Contributions in Excess of \$100	<b>\$ 0.00</b>	<b>\$0.00</b>
5. Total Value of In Kind Contributions in Excess of \$100	<b>\$ 12,000.00</b>	<b>\$32,097.00</b>
6. Total Value of Written Commitments for In Kind Contributions in Excess of \$100	<b>\$ 0.00</b>	<b>\$0.00</b>
7. Total Amount of all Contributions of \$100 or less	<b>\$ 1,035.00</b>	<b>\$1,485.00</b>
8. Total Amount of All Contributions (Add Lines 1 through 7)	<b>\$ 57,735.00</b>	<b>\$251,657.00</b>

**EXPENSES SUMMARY**

9. Total Monetary Expenses Paid in Excess of \$100	<b>\$ 71,839.70</b>	<b>\$221,684.67</b>
10. Total Value In Kind Expenses in Excess of \$100	<b>\$ 12,000.00</b>	<b>\$12,000.00</b>
11. Total Amount of all Expenses of \$100 or less	<b>\$ 0.00</b>	<b>\$335.64</b>
12. Total Amount of All Expenses (Add Lines 9 through 11)	<b>\$ 83,839.70</b>	<b>\$234,020.31</b>

**ENDING FUND BALANCE**

13. Fund balance at the end of the reporting period	<b>\$17636.69</b>
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**AFFIRMATION**

☒ I Declare Under Penalty of Perjury That the Foregoing is True and Correct.  
AND

☒ I have agreed to the following terms and conditions:

I declare, under penalty of perjury or under an oath to God, that the information I submitted herein to the Secretary of State for the State of Nevada is true and correct, and is not submitted for any improper purpose, and that I am authorized to submit the information, and to the best of my knowledge complies with NRS Chapter 294A. I have reviewed the NRS 225.083 Notice. I understand it is unlawful to submit any illegal, unauthorized, fraudulent, forged, deceptive, defamatory, illicit, or improper information, as defined by state and federal law, to the Secretary of State, and agree to indemnify the Secretary of State, and any other parties entitled thereto, for any damages incurred for any unlawful, unauthorized, fraudulent, forged, deceptive, defamatory, illicit, or improper information, as defined by the federal and state law, submitted to the Secretary of State by my use of this electronic filing system. I further understand that I may be subject to criminal (NRS 239.330) and/or civil (NRS 225.084) penalties for submitting any unlawful unauthorized, fraudulent, forged, deceptive, defamatory, illicit, or improper information, as defined by federal and state law. I understand and agree that all information submitted is the property of the Secretary of State, and may be monitored for all lawful purposes. I further understand that during such monitoring, all information, including personal information placed on this system, may be examined, copied, and used for any authorized purpose. By submitting this report I intend to identify myself as the authorized person signing this document and with the present intent to authenticate my signature as such.

**Richard F. Scotti****10/16/2020**

Signature

Date

**MONETARY  
CONTRIBUTIONS**Report Period **# 3**

Richard Frank Scotti

District Court Judge, District 8, Department 2

Name (print)

Office (if applicable)

District (if applicable)

**MONETARY CONTRIBUTIONS IN EXCESS OF \$100 OR,  
WHEN ADDED TOGETHER FROM ONE CONTRIBUTOR, THAT EXCEED \$100**

(Transfer Total Amount of All Monetary Contributions to Lines 1, 2, or 3, As Applicable, of Contributions Summary)

NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO MADE CONTRIBUTION	DATE OF CONTRIBUTION	AMOUNT OF CONTRIBUTION	CHECK HERE IF LOAN	NAME AND ADDRESS OF 3rd PARTY IF LOAN GUARANTEED BY 3rd PARTY	NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO FORGAVE THE LOAN, IF DIFFERENT THAN CONTRIBUTOR
<a href="#">Bill Laub</a> 1000 Rancho Circle Las Vegas, NV 89107	07/09/2020	\$100.00			
<a href="#">Bob Donald</a> 6550 Peachtree Ln LAS VEGAS, NV 89103	07/15/2020	\$100.00			
<a href="#">Sam &amp; Ash, LLP</a> 3753 Howard Hughes Parkway Suite 200 Las Vegas, NV 89169	07/15/2020	\$2,500.00			
<a href="#">Billie Marie Morrison</a> 501 S 8th St. Las Vegas, NV 89101	07/16/2020	\$2,500.00			
<a href="#">Richard Peel</a> 3333 E. Serene Ave. Suite 200 Henderson, NV 89074	07/16/2020	\$2,500.00			
<a href="#">Lewis &amp; Roca</a> 3993 Howard Hughes Prkwy # 600 Las Vegas, NV 89169	07/17/2020	\$500.00			
<a href="#">Steve Esh</a> 5582 Ricochet Ave. LAS VEGAS, NV 89110	07/18/2020	\$200.00			
	08/20/2020	\$100.00			
<a href="#">Bob Olson</a> xxx Las Vegas, NV xxx	07/20/2020	\$250.00			
<a href="#">Leslie Stovall</a> 2301 Palomino Ln Las Vegas, NV 89107-4503	07/22/2020	\$250.00			
<a href="#">McDonald Carano</a> 100 West Liberty St. Reno, NV 89505	07/23/2020	\$1,500.00			
<a href="#">HENNESS &amp; HAIGHT CHTD</a> 8972 SPANISH RIDGE AVE. LAS VEGAS, NV 89148	07/24/2020	\$3,000.00			
<a href="#">John Cotton</a> 77 Tapadero Ln Las Vegas, NV 89135	07/28/2020	\$250.00			
<a href="#">Jason Close</a> 2831 Saint Rose PKWY STE 240 Henderson, NV 89052	08/04/2020	\$1,000.00			
<a href="#">Santoro Whitemire, Ltd.</a> 10100 W. Charleston Blvd., Ste. 250 Las Vegas, NV 89135	08/06/2020	\$500.00			
<a href="#">O'Reilly Law Group</a> 325 South Maryland Parkway Las Vegas, NV 89101	08/07/2020	\$250.00			
<a href="#">Pauline Lee</a> 9504 Tournament Canyon Dr. Las Vegas, NV 89144	08/11/2020	\$200.00			
<a href="#">Neil Beller</a> 2786 Evening Rock St. Las Vegas, NV 89135	08/12/2020	\$500.00			
<a href="#">Bart Larsen</a> 9490 W. Fisher Ave. Las Vegas, NV 89149	08/12/2020	\$250.00			
<a href="#">Bailey Kennedy</a> 8984 Spanish Ridge Ave. Las Vegas, NV 89148	08/12/2020	\$1,000.00			
<a href="#">Al Lasso</a>	08/13/2020	\$250.00			

10161 Park Run Dr. Suite 150 Las Vegas, NV 89145				
<a href="#">Gerald Gillock &amp; Associates</a> 428 S 4th St Las Vegas, NV 89101	08/18/2020	\$250.00		
<a href="#">David Henry</a> 3153 Espanol Dr. Las Vegas, NV 89121	08/18/2020	\$100.00		
<a href="#">Armstrong Teasdale</a> 7700 Forsyth Blvd. Suite 1800 St. Louis, MO 63105	08/19/2020	\$500.00		
<a href="#">Melissa Kern</a> xxx Las Vegas, NV xxxxx	08/20/2020	\$40.00		
<a href="#">HUTCHISON &amp; STEFFAN</a> 10080 W ALTA DRIVE 200 LAS VEGAS, NV 89145	08/21/2020	\$2,000.00		
<a href="#">Adam Smith Law, PLLC</a> 6130 Elton Ave Las Vegas, NV 89107	08/25/2020	\$250.00		
<a href="#">Steven Dimopoulos</a> 6671 Las Vegas Blvd So Las Vegas, NV 89119	08/25/2020	\$500.00		
<a href="#">Holley Driggs</a> 400 S. 4th St. Las Vegas, NV 89101	08/26/2020	\$500.00		
<a href="#">Maria Armamino</a> 2812 Sterling Cove Dr. Las Vegas, NV 89128	08/27/2020	\$100.00		
<a href="#">Kelley Blatnik</a> 7996 Fringetree Court, Suite 101 Las Vegas, NV 89123	09/01/2020	\$25.00		
<a href="#">George Ranalli</a> 2400 W. Horizon Ridge Henderson, NV 89052	09/02/2020	\$1,000.00		
<a href="#">Snell &amp; Wilmer</a> 3883 Howard Hughes Parkway Suite 1100 Las Vegas, NV 89169-5989	09/04/2020	\$250.00		
<a href="#">Dominic Gentile</a> 3960 Howard Hughes Pkwy, 9th Floor Las Vegas, NV 89169	09/04/2020	\$1,000.00		
<a href="#">Green 320 LLC</a> P.O. Box 61241 Boulder City, Co xxxxx	09/07/2020	\$1,000.00		
<a href="#">Conservative Women's PAC</a> 2196 Cordaville Dr Henderson, NV 89044	09/10/2020	\$300.00		
<a href="#">Daniel Price</a> 7312 W. Cheyenne Av. Ste 5 Las Vegas, NV 89129	09/10/2020	\$500.00		
<a href="#">David Korrey</a> 624 S. Ninth Street Las Vegas, NV 89101	09/11/2020	\$250.00		
<a href="#">Lynda Crossley</a> 9457 Quail Ridge Dr. Las Vegas, NV 89134	09/12/2020	\$50.00		
<a href="#">Craig Mueller &amp; Associates</a> 723 S. 7th St. Las Vegas, NV 89101	09/14/2020	\$1,500.00		
<a href="#">Marquis Aurbach</a> 10001 Park Run Drive Las Vegas, NV 89145	09/15/2020	\$2,000.00		
<a href="#">Clark County Fire Fighter</a> 6200 W. Charleston Blvd Las Vegas, NV 89146-1117	09/15/2020	\$500.00		
<a href="#">Steven M Burris, LLC</a> 2810 W. Charleston Blvd. Ste F-58 Las Vegas, NV 89102	09/16/2020	\$3,000.00		
<a href="#">Royal &amp; Miles</a> 1522 West Warm Springs Rd. Henderson, NV 89014	09/16/2020	\$1,000.00		
<a href="#">Catherine Barnhill</a> 5130 S. Ft. Apache Rd. #215-115 Las Vegas, NV 89148	09/17/2020	\$50.00		

<a href="#">Craig Drummond</a> 810 S Casino Center Blvd Suite 101 Las Vegas, NV 89101	09/17/2020	\$500.00			
<a href="#">Puneet Garg</a> 3145 St. Rose Pkwy. Ste. 230 Henderson, NV 89052	09/22/2020	\$250.00			
<a href="#">Michael Stegman</a> 8321 Paseo Vista Dr. Las Vegas, NV 89128	09/23/2020	\$50.00			
<a href="#">De Castroverde Law Group</a> 1149 S. Maryland Pkwy Las Vegas, NV 89104	09/23/2020	\$1,000.00			
<a href="#">Peter S. Christiansen</a> 810 S Casino Center Dr Suite 104 Las Vegas, NV 89101	09/24/2020	\$1,500.00			
<a href="#">Omni Terra Solutions</a> 5875 S. Rainbow Blvd Suite 204 Las Vegas, NV 89119	09/25/2020	\$250.00			
<a href="#">Ulirika Miyashiro</a> 2512 Setting Sun St Las Vegas, NV 89117	09/25/2020	\$250.00			
<a href="#">Raveendra Suryadevara</a> 8295 Mozley Park St. Las Vegas, NV 89113	09/25/2020	\$250.00			
<a href="#">Maria Donald</a> 6550 Peachtree Ln LAS VEGAS, NV 89103	09/25/2020	\$100.00			
<a href="#">Saroj Singh</a> 12127 High Country Ln. LAS VEGAS, NV 89138	09/25/2020	\$100.00			
<a href="#">Robert Smith</a> 2101 Twin Falls Dr. Henderson, NV 89044	09/25/2020	\$200.00			
<a href="#">Roberta and James Epifanio</a> PO Box 778225 Henderson, NV 89077	09/25/2020	\$500.00			
<a href="#">Linda Buckardt</a> 1664 Rockcrest Hills Ave. Henderson, NV 89052	09/25/2020	\$20.00			
<a href="#">Luella Simpson</a> xxxxx Henderson, NV xxxxxx	09/25/2020	\$50.00			
<a href="#">Mary &amp; Jason Marshall-Lang</a> 4368 Hobbs Dr. Las Vegas, NV 89120	09/25/2020	\$50.00			
<a href="#">Sarah Cirillo</a> 3644 South Ft. Apache 1009 Las Vegas, NV 89147	09/26/2020	\$200.00			
<a href="#">Preston Rezaee</a> 630 S 3rd St Las Vegas, NV 89101	09/28/2020	\$5,000.00			
<a href="#">Robert W Cottle</a> 8635 South Eastern Av. Las Vegas, NV 89123	09/28/2020	\$1,000.00			
<a href="#">Recovery Pac</a> 3321 N Buffalo Dr suite 200 Las Vegas, NV 89129	09/30/2020	\$100.00			

WRITTEN COMMITMENTS

Report Period # 3

Richard Frank Scotti

District Court Judge, District 8, Department 2

Name (print)

Office (if applicable)

District (if applicable)

**WRITTEN COMMITMENTS FOR CONTRIBUTIONS IN EXCESS OF \$100 OR,  
WHEN ADDED TOGETHER FROM ONE ENTITY, THAT EXCEED \$100**  
(Transfer Total Amount of All Written Commitments to Line 4 of Contributions Summary)

<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO MADE THE COMMITMENT</u>	<u>DATE OF COMMITMENT</u> 🏠	<u>AMOUNT OF COMMITMENT</u>

IN KIND CONTRIBUTIONS

Report Period # 3

Richard Frank Scotti

District Court Judge, District 8, Department 2

Name (print)

Office (if applicable)

District (if applicable)

**IN KIND CONTRIBUTIONS IN EXCESS OF \$100 OR,  
WHEN ADDED TOGETHER FROM ONE CONTRIBUTOR, THAT EXCEED \$100**

(Transfer Total Value of All In Kind Contributions to Line 5 of Contributions Summary)

<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO MADE IN KIND CONTRIBUTION</u>	<u>DATE OF IN KIND CONTRIBUTION</u>	<u>DESCRIPTION OF IN KIND CONTRIBUTION</u>	<u>VALUE OR COST OF IN KIND CONTRIBUTION</u>	<u>CHECK HERE IF LOAN</u>	<u>NAME AND ADDRESS OF 3rd PARTY IF LOAN GUARANTEED BY 3rd PARTY</u>	<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO FORGAVE THE LOAN, IF DIFFERENT THAN CONTRIBUTOR</u>
<a href="#">Poor Richard's Press</a> 2224 Beebee St. San Luis Obispo, CA 93401	08/28/2020	Printing Walk Cards	\$1,000.00			
<a href="#">Richard Blake</a> 6171 Alta Mira Lane San Luis Obispo, CA 93401	09/01/2020	Printing	\$5,000.00			
<a href="#">Arleen Blake</a> 6171 Alta Mira Lane San Luis Obispo, CA 93401	09/01/2020	Printing	\$4,000.00			
<a href="#">Poor Richard's Press</a> 2224 Beebee St. San Luis Obispo, CA 93401	09/18/2020	Printing	\$2,000.00			

**WRITTEN COMMITMENTS FOR IN KIND CONTRIBUTIONS**

Report Period # 3

Richard Frank Scotti

District Court Judge, District 8, Department 2

Name (print)

Office (if applicable)

District (if applicable)

**WRITTEN COMMITMENTS FOR IN KIND CONTRIBUTIONS IN EXCESS OF \$100 OR,  
WHEN ADDED TOGETHER FROM ONE ENTITY, THAT EXCEED \$100**

(Transfer Total Value of All In Kind Written Commitments to Line 6 of Contributions Summary)

<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO MADE THE IN KIND WRITTEN COMMITMENT</u>	<u>DATE OF IN KIND WRITTEN COMMITMENT</u>	<u>VALUE OF IN KIND WRITTEN COMMITMENT</u>


**EXPENSE CATEGORIES**Report Period **# 3****Richard Frank Scotti****District Court Judge, District 8, Department 2**

Name (print)

Office (if applicable)

District (if applicable)

**EXPENSE CATEGORIES (NRS 294A.365)**

<b>CATEGORIES</b>	<b>CODE</b>
Office expenses	<b>A</b>
Expenses related to volunteers	<b>B</b>
Expenses related to travel	<b>C</b>
Expenses related to advertising	<b>D</b>



Expenses related to paid staff	<b>E</b>
Expenses related to consultants	<b>F</b>
Expenses related to polling	<b>G</b>
Expenses related to special events	<b>H</b>
Expenses related to legal defense fund	<b>I</b>
Goods and services provided in kind for which money would otherwise have been paid	<b>J</b>
Contributions made to: (i) another candidate; (ii) a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225; (iii) a PAC that is registered or required to be registered pursuant to NRS 294A.230; or (iv) a Recall Committee that is registered or required to be registered pursuant to NRS 294A.250	<b>K</b>
Fees for filing declarations of candidacy or acceptances of candidacy	<b>L</b>
Repayments or forgiveness of loans	<b>M</b>
Disposal of unspent contributions pursuant to NRS 294A.160	<b>N</b>
Other miscellaneous expenses	<b>O</b>

1 NRS 294A.362 requires "In Kind" contributions and expenses to be reported on a separate form, which is attached hereto.

**MONETARY EXPENSES**Report Period **# 3****Richard Frank Scotti****District Court Judge, District 8, Department 2**

Name (print)

Office (if applicable)

District (if applicable)

**MONETARY EXPENSES IN EXCESS OF \$100**

(Transfer Total Amount of All Campaign Expenses to Line 9 of Expenses Summary)

<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO RECEIVED THE PAYMENT FOR THE EXPENSE</u>	<u>CATEGORY (NRS 294A.365)</u>	<u>DATE OF EXPENSE</u>	<u>AMOUNT OF EXPENSE</u>
<u>SOCO</u> 5130 S. Ft. Apache Rd. 215-399 Las Vegas, NV 89148	D, F	07/18/2020	\$8,691.00
	D, F	08/31/2020	\$4,550.00
	D, F, G	09/24/2020	\$13,840.00
<u>Able Source</u> 163 W. Bonita Ste. A San Dimas, CA 91773	D, F	07/27/2020	\$337.50
	D, F	07/27/2020	\$445.00
	D, F	08/11/2020	\$45.00
<u>UPS</u> 7582 S LAS VEGAS BLVD LAS VEGAS, NV 89123	A	08/04/2020	\$125.17
<u>Gills Printing</u> 6800 Paradise Road LAS VEGAS, NV 89119	A, D	08/17/2020	\$966.16
	D	09/10/2020	\$346.80
	D	09/18/2020	\$107.29
<u>Google</u> 1600 Amphitheater Parkway Menlo, CA 94025	D	08/19/2020	\$350.00
	D	09/18/2020	\$405.51



<a href="#">Vegas Voice</a> 2505 Anthem Village Drive E-513 Henderson, NV 89052	D	09/13/2020	\$1,425.00
<a href="#">Fierro Communications</a> 410 S Rampart Blvd Ste 420 Las Vegas, NV 89145-5749	D, F	09/15/2020	\$14,190.00
	D, F	09/21/2020	\$10,000.00
<a href="#">The Prosper Group Corporation</a> 435 East Main Street Ste 250 Greenwood, IN 46143	D, F	09/28/2020	\$15,000.00
<a href="#">Battle Born Design</a> 144 Triumphet Lilly Ave. Las Vegas, NV 89183	D	09/29/2020	\$881.03
	D	09/29/2020	\$134.24

**IN KIND EXPENSES**Report Period **# 3**


**Richard Frank Scotti**  
Name (print)

**District Court Judge, District 8, Department 2**  
Office (if applicable)

District (if applicable)

**IN KIND EXPENSES IN EXCESS OF \$100**

(Transfer Total Value of All In-Kind Expenses to Line 10 of Expenses Summary)

<u>NAME AND ADDRESS OF PERSON, GROUP OR ORGANIZATION WHO RECEIVED THE IN KIND GOOD OR SERVICE</u>	<u>DESCRIPTION OF IN KIND EXPENSE</u>	<u>DATE OF IN KIND EXPENSE</u> 	<u>VALUE OR COST OF IN KIND EXPENSE</u>
<a href="#">Poor Richard's Press</a> 2224 Beebee St. San Luis Obispo, CA 93401	Printing	08/28/2020	\$1,000.00
<a href="#">Poor Richard's Press</a> 2224 Beebee St. San Luis Obispo, CA 93401	Printing	09/01/2020	\$9,000.00
<a href="#">Poor Richard's Press</a> 2224 Beebee St. San Luis Obispo, CA 93401	Printing	09/18/2020	\$2,000.00

EL201  
Revised: 8-13-13  
NRS 294A.120; 294A.125;  
294A.160; 294A.200;  
294A.362; 294A.373

C-20-346852-A      Jennifer Lynn Plumlee, Appellant(s)  
vs  
Nevada State of, Respondent(s)

---

December 03, 2020      03:00 AM      State's Notice of Motion and Motion for Clarification and a Stay of  
the Proceedings Following the Filing of the Order

HEARD BY:      Scotti, Richard F.      COURTROOM: Chambers

COURT CLERK: Garcia, Louisa

RECORDER:

REPORTER:

PARTIES PRESENT:

**JOURNAL ENTRIES**

The Court will issue a Minute Order resolving this matter.

Criminal Appeal

COURT MINUTES

December 15, 2020

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C-20-346852-A      Jennifer Lynn Plumlee, Appellant(s)  
vs  
Nevada State of, Respondent(s)

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December 15, 2020      03:00 PM      Minute Order

HEARD BY:      Scotti, Richard F.      COURTROOM: Chambers

COURT CLERK: Garcia, Louisa

RECORDER:

REPORTER:

PARTIES PRESENT:

### JOURNAL ENTRIES

The Court DENIES the State's Motion For Clarification And Stay of the Proceedings. This Court finds that Judge Scotti's decision was rendered in complete compliance with the Nevada Code of Judicial Conduct, and without any improper bias or prejudice. The State suggests that the Judge was influenced by a campaign contribution from attorney Craig Mueller. The State is clearly wrong for several reasons. First, the amount of the Mueller contribution represents merely one-half of one percent of the total campaign contributions and loans to the Re-elect Judge Scotti campaign. Second, Judge Scotti had actually made two very significant rulings against other clients of Mr. Mueller even after the receipt of the campaign contribution - thus confirming that Judge Scotti renders decision on the merits, rather than external or improper factors. Third, Judge Scotti's decision is legally correct and properly based on the Nevada Constitution and the principle of Separation of Powers. Fourth, Judge Scotti confirms that he acted with impartiality, in strict compliance with the Nevada Code of Judicial Conduct, and without any bias or prejudice. The Nevada Code of Judicial Conduct and the Nevada Supreme Court permit sitting Judges and Judicial candidates to accept campaign contributions from attorneys that have or may have clients with matters pending in their Department - provided it does not lead to actual bias. In fact it is an established practice and commonplace in the Eighth Judicial District Court for Judges and Judicial-candidates to solicit and accept contributions from attorneys that have or might in the future have cases before them. This Court has carefully considered each of the factors set forth in *Ivey v. Eighth Judicial District Court*, 129 Nev. 154, 159 (2013) in exercising its obligation to remain on this case. Further, the Court DENIES the State's request for a stay pursuant to NRAP 8(a). The State is not prejudiced by the denial of a stay, and the denial of a stay will not defeat the object of any appeal.

CLERK S NOTE: This Minute Order has been electronically served to all registered parties for Odyssey File & Serve.

*Heather S. Smith*  
CLERK OF THE COURT

1 **DAO**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 JENNIFER LYNN PLUMLEE,

6 Appellant(s),

7 vs.

8 STATE OF NEVADA,

9 Respondent(s).

Case No.: C-20-346852-A

Dept. No.: 19

Hend. JC Case No.: 18MH0263X

Hearing Date: December 3, 2020

Hearing Time: Chambers

10 **ORDER DENYING RESPONDENT'S MOTION FOR CLARIFICATION AND STAY**  
11 **OF THE PROCEEDINGS**

12 This matter came before Judge Richard Scotti on a Motion for Clarification and Stay  
13 of his prior November 18, 2020 Order Granting Appellant's Motion to Reconsider, Granting  
14 the Appeal, Reversing Conviction, and Remanding to Lower Court. Judge Scotti issued his  
15 ruling on the matter via Minute Order on December 15, 2020, and Respondent appealed to the  
16 Nevada Supreme Court. Subsequently, the Nevada Supreme Court issued its December 31,  
17 2020 Order, directing Respondent to obtain a written Order memorializing Judge Scotti's  
18 December 15<sup>th</sup> ruling. In response, this written Order follows.

19 On December 15, 2020, Judge Richard Scotti issued the following ruling:

20 The Court **DENIES** the State's Motion For Clarification And Stay of the Proceedings.  
21 This Court finds that Judge Scotti's decision was rendered in complete compliance with the  
22 Nevada Code of Judicial Conduct, and without any improper bias or prejudice. The State  
23 suggests that the Judge was influenced by a campaign contribution from attorney Craig  
24 Mueller. The State is clearly wrong for several reasons. First, the amount of the Mueller  
25 contribution represents merely one-half of one percent of the total campaign contributions and  
26 loans to the Re-elect Judge Scotti campaign. Second, Judge Scotti had actually made two very  
27 significant rulings against other clients of Mr. Mueller even after the receipt of the campaign  
28

1 contribution - thus confirming that Judge Scotti renders decision on the merits, rather than  
2 external or improper factors. Third, Judge Scotti's decision is legally correct and properly  
3 based on the Nevada Constitution and the principle of Separation of Powers. Fourth, Judge  
4 Scotti confirms that he acted with impartiality, in strict compliance with the Nevada Code of  
5 Judicial Conduct, and without any bias or prejudice. The Nevada Code of Judicial Conduct  
6 and the Nevada Supreme Court permit sitting Judges and Judicial candidates to accept  
7 campaign contributions from attorneys that have or may have clients with matters pending in  
8 their Department - provided it does not lead to actual bias. In fact it is an established practice  
9 and commonplace in the Eighth Judicial District Court for Judges and Judicial-candidates to  
10 solicit and accept contributions from attorneys that have or might in the future have cases  
11 before them. This Court has carefully considered each of the factors set forth in *Ivey v. Eighth*  
12 *Judicial District Court*, 129 Nev. 154, 159 (2013) in exercising its obligation to remain on this  
13 case.

14 Further, the Court **DENIES** the State's request for a stay pursuant to NRAP 8(a). The  
15 State is not prejudiced by the denial of a stay, and the denial of a stay will not defeat the object  
16 of any appeal.

17  
18 Dated this 14th day of January, 2021

19  
20   
CRYSTAL ELLER  
DISTRICT COURT JUDGE  
C-20-346852-A  
10B 931 93E1 2742  
Crystal Eller  
District Court Judge

1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 Jennifer Lynn Plumlee,  
7 Appellant(s)

CASE NO: C-20-346852-A

8 vs

DEPT. NO. Department 19

9 Nevada State of, Respondent(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Decision and Order was served via the court's electronic eFile system  
14 to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 1/14/2021

15 Craig Mueller                      electronicservice@craigmuellerlaw.com

16 Rosa Ramos                        rosa@craigmuellerlaw.com

17 District Attorney                motions@clarkcountyda.com

18 Department II                    Dept02LC@clarkcountycourts.us

19 Craig Mueller                    receptionist@craigmuellerlaw.com