

IN THE SUPREME COURT OF THE STATE OF NEVADA

STAVROS ANTHONY, an individual,

Appellant,

v.

CLARK COUNTY BOARD OF
COMMISSIONERS, a local government
entity; ROSS MILLER, an individual,

Respondents.

Supreme Court No. 82269

District Case No. ~~20-82187~~ Electronically Filed
Jan 04 2021 03:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO EXPEDITE
APPEAL**

**ELECTION RELATED
MATTER**

Appellant Stavros Anthony requests that this Court expedite resolution of this appeal pursuant to NRAP 2. Attached as Exhibit 1 is the original notice of appeal. An amended notice of appeal will be filed in the district court concurrently with this motion and is attached as Exhibit 2.

1. Facts and Procedural History.

On November 3, 2020, the General Election for Clark County Board of Commissioners, District C, was held. Appellant Stavros Anthony and Respondent Ross Miller were candidates in the race. On November 16, 2020, the Clark County Registrar of Voters reported to Respondent Clark County Board of Commissioners that the election results reflected a 10 vote margin of victory for Miller over Anthony, but also reported 139 irreconcilable errors or deficiencies in the voting that could affect the outcome of the election. Therefore, the Registrar reported that he could not certify the election results because the discrepancies prevented him from concluding that the real will of the voters was manifested in the election

results. Subsequently, the Registrar submitted a sworn affidavit to the Commission to memorialize his report and professional opinion, wherein he stated concisely:

In the case of the Commission, District C race, the members of counting and auditing boards found discrepancies such that the margin of victory in that race is called into doubt. There are 218 precincts in District C. There were 139 discrepancies which the election boards were unable to reconcile. ***As a result, I cannot certify that the vote is an accurate representation of the will of the voters in that district***, and in my professional opinion as an election official, ***it raises a reasonable doubt as to the outcome of the election.***¹

Given these serious concerns, the Commission voted not to certify the election, and instead ordered a new election be held in Clark County Commission, District C, pursuant to NRS 293.465.

Shortly thereafter, this case was initiated by Miller on November 17, 2020, to compel the Commission to recognize him as the winner of the November 2020 General Election for Clark County Commission, District C. Although the Commission had initially voted not to certify the District C election results and had ordered a new election, the Commission subsequently published a meeting agenda that included an item to reconsider its decision.

Anthony, as an intervening plaintiff, moved to enjoin the Commission from reconsidering that decision or otherwise certifying the election results in Miller's favor contrary to NRS 293.465 and related election statutes. After briefing and a

¹ Exhibit 3 attached, Joe Gloria Affidavit (emphasis added).

hearing on Anthony's Application for Preliminary Injunction, the district court denied the Application on November 30, 2020, holding that the District C election was not "prevented" as prescribed in NRS 293.465. One business day later, on December 1, 2020, the Commission proceeded with its scheduled meeting. After members specifically noted their reliance on the mandatory nature of the district court's ruling, the Commission re-voted and certified the District C election results in Miller's favor.

Two days following the Commission's vote to reverse its prior decision to order a new election, on December 10, 2020, Anthony filed a motion with the district court for a writ of mandamus seeking the Commission's compliance with NRS 293.465 and related election statutes. The statutes require the Commission to refrain from certifying an election result that its own Registrar of Voters was unwilling to certify as an accurate representation of the will of the voters because an audit of the voting cast the result in doubt, and instead to order a new election in District C as the Commission had previously voted to do. The District Court denied that motion on December 31, 2020, holding that the District C election was not "prevented" as prescribed in NRS 293.465.

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2. In the Interests of Clark County District C Voters and Constituents, Expedited Review is Necessary to Resolve This Appeal.

Anthony seeks resolution of an election issue by writ of mandamus. In similar circumstances, interpreting the same statute at issue in this case, this Court has expedited the process “because the public interest requires an early determination of the issue” and “delay in the selection of this representative would hamper the legislative process.” *LaPorta v. Broadbent*, 91 Nev. 27, 29, 530 P.2d 1404, 1405 (1975).

Nevada’s appellate courts are committed to the proposition that “justice delayed is justice denied.” *Dougan v. Gustaveson*, 108 Nev. 517, 523, 835 P.2d 795, 799 (1992). Pursuant to NRAP 2, “[o]n its own or a party’s motion, the Supreme Court may – to expedite its decisions or for other good cause – suspend any provisions of these Rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).” Good cause exists in this case to expedite the proceedings. This is an election issue that will affect both candidates and the voters at large. The matter requires immediate attention.

Anthony understands that Miller may be seated at the Commission’s next scheduled meeting on January 5, 2021. Anthony does not believe that the Commission’s act of certifying the election or seating Miller in violation of Nevada election law will prevent this Court from granting the writ of mandamus and ordering a new election. Indeed, Anthony has argued throughout this action

that NRS 293.465 and related statutes compel a new election. A new election is statutorily mandated “[i]f an election is prevented in any precinct or district by reason of the loss or destruction of the ballots intended for that precinct, *or any other cause*... the board of county commissioners *shall order* a new election in that precinct or district.” See NRS 293.465 (emphasis added). Moreover, the Commission is not supposed to certify simply that an election *happened*. That would be a truly meaningless, and frankly useless, certification. Rather, the statutes mandate that the Commission is *supposed* to certify that the canvass has yielded the true will of the voters (NRS 293.127), or as stated in NRS 293.387(2)(b) – ensure that the declared result of the canvass “represents the true vote cast.” Further, NRS 293 directly asserts that steps should be taken to *avoid* “certifying an incorrect election outcome.” See NRS 293.394(2)(b). The certification should therefore mean something about the *integrity* of the election results.

A new election was previously approved for the District C race by the Commission and proceeded to the early planning stages before the Commissioners relied on the District Court’s ruling to reconsider their vote and to certify the election in Miller’s favor. A new election mandated by this Court would require time and planning. The voters and constituents in Clark County Commission District C would benefit from an efficient resolution.

Therefore, Anthony respectfully requests that this Court expedite the disposition of this appeal to resolve the issue as swiftly as possible. To assist the Court in reaching a timely resolution of this matter, Anthony proposes the following briefing schedule:

Opening Brief due: Wednesday January 6, 2020.

Answering Briefs due: Monday January 11, 2020.

Reply Brief due: Wednesday January 13, 2020.

The parties have worked together well in expediting briefing and argument before the District Court to reach this point for a Supreme Court venue to interpret the election statutes at issue meaningfully. Of course, the parties will always defer to the Court's timing, and counsel will comply with any briefing schedule the Court may order.

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3. Conclusion.

For the foregoing reasons, Appellant Stavros Anthony respectfully requests that this Court expedite review of this appeal, and that the Court order an expedited briefing schedule.

DATED this 1st day of January, 2021.

HUTCHISON & STEFFEN, PLLC

/s/ Mark A. Hutchison

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Attorneys for Stavros Anthony

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on the 4th day of January, 2021 the foregoing **MOTION TO EXPEDITE APPEAL** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list below. Further the below parties were served via U.S. Mail at the addresses below on the 2nd day of January, 2021:

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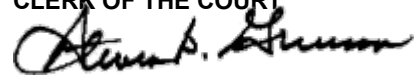
Attorneys for Defendant
Clark County Board of Commissioners

/s/ Kaylee Conradi
An Employee of Hutchison & Steffen, PLLC

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EXHIBIT 1

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A PROFESSIONAL LLC



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Attorneys for Intervening Plaintiff

Stavros Anthony

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROSS MILLER, an individual,

Plaintiff/Petitioner,

v.

CLARK COUNTY BOARD OF
COMMISSIONERS, a local government entity;
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

NOTICE OF APPEAL

STAVROS ANTHONY, an individual,

Intervening Plaintiff,

v.

CLARK COUNTY BOARD OF
COMMISSIONERS, a local government entity;
ROSS MILLER, an individual,

Defendants.

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1
2 Notice is given that Stavros Anthony, Intervening Plaintiff in the above captioned matter,
3 appeals to the Supreme Court of Nevada from the following Orders:

- 4 1. The District Court's Order denying Intervenor Stavros Anthony's Motion for
5 Preliminary Injunction entered in this action on December 4, 2020; and
6 2. The District Court's [Minute] Order denying Intervenor Stavros Anthony's Motion for
7 Writ of Mandamus entered in this action on December 24, 2020; and
8 3. Any and all orders and judgments rendered appealable by the foregoing.

9 DATED this 29th day of December, 2020.

10 HUTCHISON & STEFFEN, PLLC

11
12 /s/ Mark A. Hutchison

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18 *Stavros Anthony*
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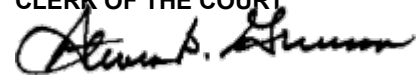
TO ALL THE PARTIES ON THE E-SERVICE LIST

/s/ Kaylee Conradi
An Employee of Hutchison & Steffen, PLLC

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EXHIBIT 2

HUTCHISON & STEFFEN
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROSS MILLER, an individual,

Plaintiff/Petitioner,
v.

CLARK COUNTY BOARD OF
COMMISSIONERS, a local government entity;
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

AMENDED NOTICE OF APPEAL

STAVROS ANTHONY, an individual,

Intervening Plaintiff,
v.

CLARK COUNTY BOARD OF
COMMISSIONERS, a local government entity;
ROSS MILLER, an individual,

Defendants.

///

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3 appeals to the Supreme Court of Nevada from the following Orders:

- 4 1. The District Court's Order denying Intervenor Stavros Anthony's Motion for
5 Preliminary Injunction entered in this action on December 4, 2020; and
6 2. The District Court's Order denying Intervenor Stavros Anthony's Motion for Writ of
7 Mandamus entered in this action on December 31, 2020; and
8 3. Any and all orders and judgments rendered appealable by the foregoing.

9 DATED this 1st day of January, 2021.

10 HUTCHISON & STEFFEN, PLLC

11
12 /s/ Mark A. Hutchison

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TO ALL THE PARTIES ON THE E-SERVICE LIST

/s/ Kaylee Conradi
An Employee of Hutchison & Steffen, PLLC

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EXHIBIT 3

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

AFFIDAVIT OF JOSEPH GLORIA

State of Nevada)
) ss:
County of Clark)

1. I am the Registrar of Voters for Clark County, and this declaration formalizes the statements I made to the Commissioners on November 16, 2020 during the canvass of the 2020 General Election.

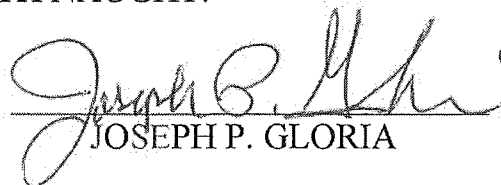
2. It is a routine procedure for the election boards after each election and before the canvass of that election to examine the voter sign ins with the vote tallies of each precinct to ensure that they balance. In the event that they do not balance (match), members of the board examine the records available in order to ascertain why the numbers do not match. There are a number of reasons that a voter number will not match with the vote tally and it is not unusual for these discrepancies to occur and for the election boards to be unable to discern the reason for the discrepancy.

3. In the case of the Commission, District C race, the members of counting and auditing boards found discrepancies such that the margin of victory in that race is called into doubt. There are 218 precincts in District C. There were 139 discrepancies which the election boards were unable to reconcile. As a result, I cannot certify that the vote is an accurate representation of the will of the voters in

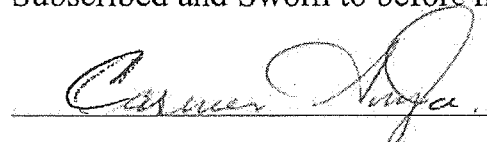
that district, and in my professional opinion as an election official, it raises a reasonable doubt as to the outcome of the election.

4. The discrepancies found in other races in the General Election were not of sufficient magnitude to call into question the results of that race.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


JOSEPH P. GLORIA

Subscribed and Sworn to before me



Notary Public in and for
said County and State

