

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARLEO EARL DAVIS,

Petitioner,

vs,

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE MICHAEL VILLANI,
DISTRICT JUDGE

Respondent,

and

THE STATE OF NEVADA,

Real Party in Interest.

Electronically Filed
Apr 16 2021 06:11 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 82271

D.C. NO: C-20-346920-3

**MOTION TO TRANSMIT EXHIBITS
UNDER NRAP 30(d)**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Deputy, JOHN NIMAN, and under Nevada Rules of Appellate Procedure 30(d) and 10(b)(1), respectfully requests this court to direct the district court to send Grand Jury Exhibit 43 to this Court for reaching a decision on the issues on appeal.

This Motion is based upon the following Memorandum and all papers and pleadings on filed herein.

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Dated this 16th day of April, 2021.

Respectfully submitted,

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

BY */s/ John T. Niman*

JOHN T. NIMAN
Deputy District Attorney
Nevada Bar #014408
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).

Respondent asks that this Court direct the District Court Clerk's office to transmit Grand Jury Exhibit 43, which is the video surveillance of the Breeze Rite Inn. The surveillance video shows Davis and his co-defendant, Anthony Woods, together shortly after the murder in the area where the murder occurred. In his Writ, Davis alleges that the State's only incriminating evidence of Davis was the testimony of Mackeisha Murphy, a co-conspirator, that is "insufficiently corroborated accomplice testimony against Mr. Davis." Opposition, at 7. The surveillance video shows Davis with Woods in the area immediately after the murder and with a backpack similar to the type of bag the victim brought to the robbery. This Court would benefit from seeing the video surveillance to see the evidence of Davis and Woods that was presented to the Grand Jury. Accordingly, this Court should direct

the district court to transmit Grand Jury Exhibit 43 for this Court's review in solving the issues of the instant Writ.

CONCLUSION

For the reasons above, the State respectfully requests the Court to order the District Court Clerk's Office to transmit Grand Jury Exhibit 43.

Dated this 16th day of April, 2021.

Respectfully submitted,

STEVEN B. WOLFSON

Clark County District Attorney

BY */s/ John T. Niman*

JOHN T. NIMAN

Deputy District Attorney

Nevada Bar #014408

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 16th day of April, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
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BY /s/ J. Garcia
Employee, District Attorney's Office

JEV/Brianna Stutz/jg