

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

ANDRE GRANT SNIPES

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO: 82384

**MOTION TO STRIKE PORTIONS OF APPELLANT'S OPENING BRIEF**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, JONATHAN VANBOSKERCK, and files this Motion to Strike Portions of Appellant's Opening Brief. This motion is brought pursuant to NRAP 27 and is based on the following memorandum and all papers and pleadings on file herein.

Dated this 29<sup>th</sup> day of June 2021.

Respectfully submitted,

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

BY */s/ Jonathan VanBoskerck*

\_\_\_\_\_  
JONATHAN VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528  
Office of the Clark County District Attorney

## ARGUMENT

Appellant flagrantly ignores this Court's rule regarding citation to unpublished authority. This Court should not tolerate blatant disregard of the rules of appellate procedure. As such, the portions of Appellant's Opening Brief that address an unpublished disposition order from 2014 should be struck.

"This court expects all appeals to be pursued with high standards of diligence, professionalism, and competence. The Nevada Rules of Appellate Procedure impose affirmative obligations on appellate counsel. This Court may impose sanctions against appellate counsel for failing to comply with the Nevada Rules of Appellate Procedure." Barry v. Lindner, 119 Nev. 661, 671, 81 P.3d 537, 543-44 (2003) (footnotes omitted). Accord, Pittman v. Lower Court Counseling, 110 Nev. 359, 365, 871 P.2d 953, 957 (1994), overruled on other grounds, Nunez v. City of North Las Vegas, 116 Nev. 535, 1 P.3d 959 (2000) (attorney sanctioned \$500 because opening and reply briefs did not contain a single citation to the record as required by NRAP 28(e)); Allianz Ins. Co. v. Gagon, 109 Nev. 990, 997, 860 P.2d 720, 725 (1993) (failure of opening brief to cite to record on appeal or to appendix did not require dismissal of appeal but did warrant sanction of \$1,000); Smith v. Emery, 109 Nev. 737, 856 P.2d 1386 (1993) (failure to include references to record in appellate brief as required by rules of appellate procedure warranted \$1,000 sanction). The State is not requesting sanctions and only offers the preceding

authority as evidence of the importance this Court places upon compliance with the Nevada Rules of Appellate Procedure (NRAP).

NRAP Rule 36(c)(3) clearly states that “[a] party may cite for its persuasive value, if any, an unpublished disposition issued by the Supreme Court on or after January 1, 2016.” Yet the case Appellant relies the most heavily on is a dispositional order from 2014. Appellant’s Opening Brief, p. 9, footnote 26. Appellant admits that this dispositional order is from 2014. *Id.* Shockingly, Appellant does not even acknowledge no less engage with the mandatory requirement of NRAP 26(c)(3) that any citation to unpublished authority is limited to those authored on or after January 1, 2016. Whether intentional or through ignorance, this violation of NRAP 36(c)(3) should not be allowed to stand.

As such, this Court should strike all reference to this dispositional order from Appellant’s Opening Brief. Specifically, the full paragraph starting on page 9 with the text “In Smith” through the end of the block quote on that page as well as footnotes 26 and 27 should be struck. Additionally, reference to this unpublished dispositional order should be struck from Appellant’s table of cases on page ii.

### **CONCLUSION**

This Court has warned that rules exist for a reason and violating them comes with a price:

In the words of Justice Cardozo,

Every system of laws has within it artificial devices which are deemed to promote ... forms of public good. These devices take the shape of rules or standards to which the individual though he be careless or ignorant, must at his peril conform. If they were to be abandoned by the law whenever they had been disregarded by the litigants affected, there would be no sense in making them.

Benjamin N. Cardozo, *The Paradoxes of Legal Science* 68 (1928).

Scott E. v. State, 113 Nev. 234, 239, 931 P.2d 1370, 1373 (1997).

WHEREFORE, the State respectfully requests that this Court strike the above noted portions of Appellant's Opening Brief.

Dated this 29th day of June, 2021.

Respectfully submitted,

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

BY /s/ Jonathan VanBoskerck

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on June 29, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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