

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

IN THE MATTER OF THE  
APPLICATION OF BRECK WARDEN  
SMITH FOR A WRIT OF HABEAS  
CORPUS.

No. 82696

Electronically Filed  
Oct 05 2021 05:42 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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THE STATE OF NEVADA,

Appellant,

vs.

BRECK WARDEN SMITH,

Respondent.

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**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF**  
**THE NEVADA JUSTICE ASSOCIATION**  
**(In Support of Respondent)**

The Nevada Justice Association (“NJA”), a proposed *amicus curiae*, files this motion seeking leave of this Court to file a proposed amicus curiae brief, which is submitted concurrently with this motion. This motion is made pursuant to NRAP 29(c) and is based upon the following:

NJA is a non-profit organization of independent lawyers in the State of Nevada who represent consumers and share the common goal of improving the civil justice system. NJA seeks to ensure that access to the courts by Nevadans is not diminished. NJA also works to advance the science of jurisprudence, to promote the

administration of justice for the public good, and to uphold the honor and dignity of the legal profession.

Through its proposed amicus curiae brief, NJA seeks to provide this Court with the broader context regarding the broader statewide implication of this matter, including the necessity of proper interpretation of NRS 213.1517(4) in order to preserve any notion of “due process,” not only for the parolee here, but for parolees in Nevada Department of Corrections custody statewide.

The outcome of this matter will reach far beyond the parties and the dispute here, as the State seeks to impose an incorrect reading of the statute that would enable the State to keep a parolee in NDOC custody indefinitely prior to a revocation hearing, rather than complying with the strict 60-day limit expressly imposed by the statute.

Amicus intervention is appropriate where “the amicus has unique information or perspective that can help the Court beyond the help that the lawyers for the parties are able to provide.” *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997); *see also Miller-Wohl Co. v. Comm’r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982) (indicating that the classic role of an amicus curiae is to assist in cases of general public interest and to supplement the efforts of counsel by drawing the Court’s attention to law that may have escaped consideration).

Thus, amici curiae are regularly allowed to appear when they seek to inform the deciding court regarding the limits of discovery and the privileges and protections available (or unavailable) to a party in resisting disclosure requirements or discovery requests. *See, e.g., Bradford v. Eighth Judicial Dist. Court of State ex rel. Cty. of Clark*, 128 Nev. 884 (2012) (considering amicus curiae arguments regarding tensions between procedural protections and a party’s rights); *see also Ballard v. Eighth Judicial Dist. Court of State In & For Cty. of Clark*, 106 Nev. 83, 84 (1990) (acknowledging efforts of NJA — then called Nevada Trial Lawyers Association — as amicus curiae).

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Accordingly, NJA respectfully requests leave to file the proposed amicus curiae brief.

DATED this 5th day of October 2021.

CLAGGETT & SYKES LAW FIRM

*/s/ Micah S. Echols*

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF THE NEVADA JUSTICE ASSOCIATION (IN SUPPORT OF RESPONDENT)** was filed electronically with the Supreme Court of Nevada on the 5th day of October 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

**Appellant, The State of Nevada**

Aaron D. Ford (Attorney General/Carson City)

Katrina A. Samuels (Attorney General/Las Vegas)

**Respondent, Breck Warden Smith**

Michael J. Mcavoyamaya (McAvoy Amaya & Revero, Attorneys)

Timothy E. Revero (McAvoy Amaya & Revero, Attorneys)

*/s/ Anna Gresl*

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Anna Gresl, an employee of  
CLAGGETT & SYKES LAW FIRM