

B.T.;)
) **SUPREME CT. CASE NO.: 85122** Electronically Filed
) Nov 23 2021 12:55 p.m.
) Elizabeth A. Brown
Appellant,) Clerk of Supreme Court
) **D.C. CASE NO.: J-21-352754-D1**
v.)
)
THE STATE OF NEVADA)
)
Respondent.)
)

Appellant, B.T., by and through his undersigned counsel, hereby files this Motion to Reconsider Request to File Joint Appendix and Briefs Under Seal or in the Alternative to File a Redacted Joint Appendix.

This Appeal involves Appellant challenging the District Court's (Juvenile Division) Order certifying him as an adult for purposes of criminal prosecution.

This Appeal arose from proceedings in the District Court (Juvenile Division) related to allegations of alleged sexual assault of a minor while Appellant was a juvenile. The proceedings in the District Court (Juvenile Division) are confidential.

On November 5, 2021, the parties filed their Joint Motion to file the Appendix and related Briefs in this matter under seal.

On November 10, 2021, Appellant submitted his Opening Brief and Joint Appendix under seal to this Honorable Court, and served the same. On November 18, 2021, this Honorable Court denied said Motion to Seal, but stated in part that “[w]ithin 7 days of the date of this order, appellant may renew the motion to file the joint appendix and opening brief under seal and demonstrate why sealing rather than redaction is warranted. Alternatively, within the same time period, appellant may move to file a redacted brief and appendix accompanied by redacted copies of the opening brief and appendix.” *See* November 18, 2021 Order.

By way of this Motion, Appellant respectfully requests reconsideration that he be permitted to file the previously submitted Joint Appendix and Brief under seal. Again, this matter is related to a confidential juvenile proceeding.

It is respectfully submitted that the documents in the Joint Appendix are confidential and protected pursuant to NRS 432B.280, NRS 62H.025, and NRS 62H.030. *See also* SRCR 3(4)(a), (c), (d), (f), and (h).

Moreover, the report from Dr. Zucker contains confidential medical information which should not be available to the public.¹ *See* previously submitted Joint Appendix at AA Vol. 1, pages 34-38. Additionally, the transcript of the June 9, 2021 Certification Hearing was marked as “Sealed” by the Court. *See* previously submitted Joint Appendix AA Vol. 1, pages 39-64.² Thus, it is respectfully submitted that reasonable redaction would not suffice to maintain confidentiality as required under the law. Accordingly, in light of this Honorable Court's Order entered on November 18, 2021, Appellant respectfully requests that the Joint Appendix and Briefs in this matter be sealed as previously requested in parties’ previously filed Joint Motion.

In the event this Honorable Court denies the Motion to seal as previously requested, in the alternative, Appellant respectfully requests that the redacted Joint Appendix be filed (as concurrently submitted herein to the Court by FedEx) for the reasons stated above. Furthermore, the additional proposed redactions include the redaction of personal identifying information (including the name of Appellant and

¹ In addition, it is respectfully submitted that this information should be protected from public disclosure under HIPAA (including 45 C.F.R. Part 164 *et seq.*) and the Nevada Doctor-Patient privilege found in N.R.S. 49.225.

² SRCR 7 states that “[c]ourt records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.”

the alleged victim and other personal identifying information).

In addition, if this Honorable Court denies the request to reconsider sealing the Joint Appendix and briefs, as previously requested, it is respectfully submitted that the previously submitted Opening brief may be filed with Court (as it does not include the full name of Appellant or the alleged victim). It is also submitted that any personal identifying information including the name of Appellant and the alleged victim should not be referenced in any related briefs.

In light of the foregoing, and the compelling circumstances identified herein, Appellant respectfully requests that this Honorable Court grant his Motion to Reconsider the Request to File Appendix and Briefs Under Seal, or in the Alternative to permit Appellant to file the Redacted Joint Appendix as stated herein.

Dated this 23rd day of November, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November 2021, I served a true and correct copy of the foregoing to all parties on the e-service list as follows:

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