

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,
vs,

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MONICA
TRUJILLO, DISTRICT JUDGE
Respondent,
and
BRANDON ALEXANDER MCGUIRE,
Real Party in Interest.

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Jul 28 2021 04:02 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 83269
D.C. NO: C-16-319756-1

PETITIONER'S SUPPLEMENTAL APPENDIX

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District Court file stamped Order reflecting it's ruling on McGuire's Motion to Strike Witness, filed 7/28/21.....	1-4

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on July 28, 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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I further certify that I served a copy of this document by electronic emailing a true and correct copy thereof to:

JUDGE MONICA TRUJILLO
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BY /s/ E. Davis
Employee, District Attorney's Office

AC//ed

1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

8 BRANDON ALEXANDER MCGUIRE,
9 #1265445

10 Defendant.

CASE NO: **C-16-319756-1**
DEPT NO: **III**

11
12 **ORDER GRANTING IN PART DEFENDANT'S MOTION TO STRIKE**
13 **WITNESSES FOR FAILURE TO COMPLY WITH N.R.S. 174.234 AND MOTION**
14 **TO DISMISS**

15 THE COURT, having reviewed Defendant's Motion to Strike Witnesses for Failure to
16 Comply with NRS 174.234 and Motion to Dismiss, the State's Opposition, Defendant's Reply,
17 the separately filed Exhibits to the Defendant's Motion and considered arguments of counsel
18 on July 26, 2021, hereby GRANTS Defendant's motion in part for the reasons set forth below.

19 The Court notes that this case arises from an Indictment filed December 1, 2016. That
20 Indictment contained no contact information for the named victim who was actually listed as
21 a Jane Doe. The address associated with Evelyn Hicks and Jane Doe was care of the Clark
22 County District Attorney's office. Gina Garcia, the second witness who is the subject of the
23 instant motion, was not listed as a witness in the Indictment.

24 On March 13, 2020, the State filed a Notice of Witnesses and/or Experts. The first
25 witness, E.H., presumably the victim, has an address listed as care of the Clark County District
26 Attorney's office. Gina Garcia was added as a witness on this date, but the address was listed
27 as unknown.
28

1 On March 31, 2020, the State filed a Supplemental Notice of Witnesses listing E.H.,
2 again, in care of the Clark County District Attorney's Office. Witness Garcia continued to be
3 listed as address unknown.

4 On July 2, 2021, the State's Second Supplemental Notice of Witnesses listed both E.H.
5 and Evelyn Hicks as address unknown and/or care of the Clark County District Attorney's
6 Office. Witness Garcia was still listed as address unknown.

7 The Court further notes that Defendant previously filed a Motion to Compel the State
8 to Comply with N.R.S. 174.234 which was heard on April 13, 2020 by the Honorable Judge
9 Kephart. This Court reviewed that motion, the opposition as well as the transcript of the
10 proceedings in considering the instant motion. The State, in its Opposition, argued that it had
11 not yet violated NRS 174.234, that it intended to comply with the statute and provide notice
12 to the Defendant not less than five days before trial. Judge Kephart ordered the State to comply
13 with NRS 174.234. At that hearing, the State confirmed that NRS 174.234 would only apply
14 for five days before the new trial date and the Court agreed.

15 During oral argument in the instant matter, the Court asked the State whether it
16 provided the Defense with an alternate way to contact the named victim since it had been
17 unable to secure an address. The State responded that there was no statutory requirement to
18 provide that information.

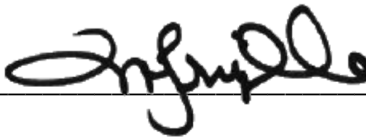
19 According to the State's Opposition to the instant motion, the named victim was not
20 subpoenaed until July 20, 2021, the day after calendar call in this matter during which the State
21 announced ready to proceed to trial. The State represents that it still does not have a complete
22 address for the named victim.

23 The Court FINDS that the State's offer to facilitate a meeting between the Defense and
24 the named victim on the eve of trial in a 2016 case where the Defendant is facing a significant
25 prison sentence is insufficient. The Court also FINDS the offered remedy for the State's failure
26 to comply with the statute is especially insufficient in light of Judge Kephart's previous order
27 for the State to comply with NRS 174.234 and the State's acknowledgement that it would.
28

1 The Court DENIES Defendant's request to dismiss the Indictment as the State did not
2 indicate it was unable to proceed with trial. The Court also DENIES the State's oral Motion
3 to Stay the proceedings.

4 THEREFORE, Defendant's Motion to Strike Witnesses for Failure to Comply with
5 NRS 174.234 and Motion to Dismiss is GRANTED IN PART and DENIED IN PART.

6
7 Dated this 28th day of July, 2021

8
9 A handwritten signature in black ink, appearing to read 'Monica Trujillo', is written over a horizontal line.

10
11 4D9 5E1 FEE8 C0E4
12 Monica Trujillo
13 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-16-319756-1

7 vs

DEPT. NO. Department 3

8
9 Brandon Mcguire

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/28/2021

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