

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,)
)
Respondents,)
and)
BRANDON ALEXANDER MCGUIRE,)
Real Party in Interest.)
_____)

Electronically Filed
Aug 11 2021 03:02 p.m.
Elizabeth A. Brown
Case No. 83269
Clerk of Supreme Court

REAL PARTY IN INTEREST'S APPENDIX TO
ANSWER TO EMERGENCY PETITION FOR WRIT

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(MCGUIRE)

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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.

Electronically Filed
Jul 26 2021 04:04 p.m.
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Clerk of Supreme Court

CASE NO:

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

**EMERGENCY MOTION UNDER NRAP 27(e) AND
PETITION FOR WRIT OF MANDAMUS OR,
IN THE ALTERNATIVE, PROHIBITION**

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PET.WRIT.MAND.-PROHIB..DOCX

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.

CASE NO:

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

**EMERGENCY MOTION UNDER NRAP 27(e) AND
PETITION FOR WRIT OF MANDAMUS OR,
IN THE ALTERNATIVE, PROHIBITION**

I. Routing Statement

This matter is neither presumptively assigned to the Nevada Supreme Court nor to the Nevada Court of Appeals, pursuant to Rule 17 of the Nevada Rules of Appellate Procedure (NRAP).

II. Relief Requested

The State requests this Court correct the trial court's arbitrary and capricious decision to strike the victim from testifying in this case and vacating the district court's order.

III. Issue Presented

Whether the district court arbitrarily and capriciously abused its discretion

when it granted the defense's motion to strike the victim from testifying because no specific address of the victim was filed.

IV. Statement of Facts and Procedural History

Real Party in Interest Brandon McGuire ("Defendant McGuire") is scheduled for jury trial on July 27, 2021 at 11:00 a.m. Defendant McGuire is charged with two counts of Sexual Assault with Use of a Deadly Weapon for acts that occurred on or about March 11, 2004. In the Indictment, the victim, Evelyn Hicks, was listed as a witness "c/o CCDA, 200 Lewis Avenue, LV, NV 89101.

There was lengthy pre-trial litigation in this case. Among the things that Defendant McGuire filed on March 26, 2020, was a Motion to Compel Compliance with NRS 174.234. Although all trial were halted at the time due to the Covid-19 pandemic and Administrative Order 20-01, the State did reply that the statute requires providing a last known address not less than 5 judicial days before trial.

Defendant McGuire's case was continued throughout the pandemic until his recent trial setting. On July 19, 2021, the parties announced ready at a calendar call to proceed to trial. On July 21, 2021, at the Central Calendar Call, it was announced that trial would commence on July 27, 2021. Following the Central Calendar Call, Defendant McGuire filed a Motion to Strike Witnesses for Failure to Comply with NRS 174.234. On the same day, the State responded to the Motion and filed its own affidavit from its investigator about the efforts that were taken to locate the victim

so that she could testify at trial. Included in the investigator's affidavit is a pronouncement that to date, she still is not sure that the victim has an address or residence. PA 31-31.

On July 26, 2021, the district court heard arguments regarding Defendant McGuire's Motion to Strike Witnesses. Despite the State's position that it still has no address for the victim, the district court agreed to have her testimony stricken because she was not properly noticed.

V. Argument

a. Standard of Review

Standard for Prohibition

Nevada Revised Statute 34.320 states:

The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board or person from exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.

A writ of prohibition does not serve to correct errors; its purpose is to prevent courts from transcending the limits of their jurisdiction in the exercise of judicial but not ministerial power. Olsen Family Trust v. District Court, 110 Nev. 548, 551, 874 P.2d 778, 780 (1994); Low v. Crown Point Mining Co., 2 Nev. 75 (1866). However, "a writ of prohibition must issue when there is an act to be 'arrested' which is 'without or in excess of the jurisdiction' of the trial judge." Houston Gen. Ins. Co.

v. District Court, 94 Nev. 247, 248, 78 P.2d 750, 751 (1978); Ham v. Eighth Judicial District Court, 93 Nev. 409, 412, 566 P.2d 420, 422 (1977); *see also*, Goicoechea v. District Court, 96 Nev. 287, 607 P.2d 1140 (1980); Cunningham v. District Court, 102 Nev. 551, 729 P.2d 1328 (1986).

The object of a writ of prohibition is to restrain inferior courts from acting without authority of law in cases where wrong, damage, and injustice are likely to follow from such action. Olsen Family Trust, 110 Nev. at 552, 874 P.2d at 781; Silver Peaks Mines v. Second Judicial District Court, 33 Nev. 97, 110 P. 503 (1910).

Standard for Mandamus

The court may issue a writ of mandamus to enforce “the performance of an act which the law enjoins as a duty especially resulting from an office . . . or to compel the admission of a party to the use and enjoyment of a right . . . to which he is entitled and from which he is unlawfully precluded by such inferior tribunal.” NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

“[B]ecause a writ of mandamus is an extraordinary remedy, the decision to entertain a petition for the writ lies within [this Court’s] discretion.” Gonzalez v. Eighth Judicial Dist. Court, 129 Nev. 215, 217, 298 P.3d 448, 449–50 (2013). Mandamus may issue to correct discretionary action if it is manifestly abused or is exercised arbitrarily or capriciously. Office of the Washoe County DA v. Second

Judicial Dist. Court, 116 Nev. 629, 635, 5 P.3d 562, 566 (2000). “A writ of mandamus is available to compel the performance of an act that the law requires ... or to control a manifest abuse or arbitrary or capricious exercise of discretion.” State v. Eighth Judicial Dist. Court (Armstrong), 127 Nev. 927, 931, 267 P.3d 777, 779 (2011). “The writ is appropriate when ‘there is not a plain, speedy and adequate remedy in the ordinary course of law.’” State v. Eighth Judicial Dist. Court in & for Cty. of Clark, 134 Nev. 104, 105, 412 P.3d 18, 21 (2018) (quoting NRS 34.170).

This Court has previously recognized that the State is prohibited from appealing a final judgment in a criminal case, and therefore has no remedy in law to challenge most district court rulings. Id. at 106, 412 P.3d at 21. See also NRS 177.015(3) (“The defendant only may appeal from a final judgment or verdict in a criminal case.”); (Armstrong), 127 Nev. at 931, 267 P.3d at 780 (“The instant petition challenges the district court's exercise of discretion, and the State has no other remedy at law because it cannot appeal the final judgment in a criminal case...we exercise our discretion to consider [the petition’s] merits.”).

b. The District Court Acted Arbitrarily and Capriciously by Granting the Defendant’s Motion to Strike Witnesses

Extraordinary relief is warranted in this case to correct the district court’s arbitrary and capricious decision to grant the Defendant’s motion that effectively prohibits the victim from testifying in her own case. An abuse of discretion occurs

if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason. Jackson v. State, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001). "An arbitrary or capricious exercise of discretion is one 'founded on prejudice or preference rather than on reason,' or 'contrary to the evidence or established rules of law.'" State v. Dist. Ct. (Armstrong), 127 Nev. 927, 931–32, 267 P.3d 777, 780 (2011). "[M]anifest abuse of discretion does not result from a mere error in judgment, but occurs when the law is overridden or misapplied, or when the judgment exercised is manifestly unreasonable or the result of partiality, prejudice, bias or ill will." Id.

The district court's striking of the witness in the instant case was an arbitrary and capricious exercise of discretion. NRS 174.234 sets forth certain obligations for parties in a criminal proceeding regarding the notice of witnesses:

1. Except as otherwise provided in this section, not less than 5 judicial days before trial or at such other time as the court directs:
 - (a) If the defendant will be tried for one or more offenses that are punishable as a gross misdemeanor or felony:
 - (1) The defendant shall file and serve upon the prosecuting attorney a written notice containing the names and last known addresses of all witnesses the defendant intends to call during the case in chief of the defendant; and
 - (2) The prosecuting attorney shall file and serve upon the defendant a written notice containing the names and last known addresses of all witnesses the prosecuting attorney intends to call during the case in chief of the State

In addition to the notice requirement, NRS 174.234(3) establishes a continuing duty

to file and serve the opposing party if new addresses become available. Pursuant to the statute, such information should be provided “as soon as is practicable after the party obtains the information.” NRS 174.234(3)(a). Precluding a deficiently noticed witness should only be the result of a party acting in bad faith. Turner v. State, 136 Nev. Adv. Op. 62, 473 P.3d 438 (Oct. 1, 2020).

The requirements of NRS 174.234 are not absolute, and any deficient notice should go towards a possible continuance and not exclusion of the witness’s testimony. Dossey v. State, 114 Nev. 904, 907, 964 P.2d 782, 784 (1998). In Dossey, this Court determined that disclosing the witness’s place of employment but not the witness’s name was sufficient notice “because the defense could have discovered the witness’s identity with minimal and reasonable efforts.” Id. Additionally, “[F]ailure to endorse a witness constitutes reversible error only where the defendant has been prejudiced by the omission.” Jones v. State, 113 Nev. 454, 473, 937 P.2d 55, 67 (1997).

In this particular case, the matter had gone to grand jury where the victim had testified. The discovery clearly indicates the identity of the victim. This is not a case where the defendant could be prejudiced by being surprised by an unknown or undisclosed witness. The victim has always been noticed in this case, but due to her living circumstances, the State has been unable to provide the address called for in NRS 174.234.

Moreover, the circumstances in this case do not show any bad faith on the part of the State. The investigator's affidavit makes it is clear that the victim does not have a stable residence. PA 31-32. As such, the State could not provide an updated address. The listing of her address simply is not practicable given her living situation. However since the State had managed to gain service on the victim, it has even offered to arrange for Defendant's counsel to conduct a pretrial with the victim. PA 28. The State has literally sought to go above and beyond its obligations, yet the district court has imposed the most severe punishment possible by precluding the victim's testimony.

CONCLUSION

Based on the foregoing, the State requests this Court to grant the petition and direct the clerk of this Court to issue a writ of mandamus and/or prohibition vacating the district court from striking the State's witness and allowing the victim to testify at a future jury trial.

Dated this 26th day of July, 2021.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney

BY /s/ Alexander Chen
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539
Office of the Clark County District Attorney

NRAP 27(e) CERTIFICATE

1. Counsel for Petitioner: Chief Deputy District Attorney Alexander Chen, Office of the Clark County District Attorney, 200 Lewis Ave., Post Office Box 552212, Las Vegas, Nevada 89155, (702) 671-2750.
2. Counsel for Real-Party-in-Interest: Clark County Public Defenders Kathleen Hamers, 309 S. Third Street, Las Vegas, NV. 89155, (702) 455-3375.
3. Facts showing the existence and nature of the claimed emergency: On July 26, 2021, the Honorable Monica Trujillo granted Defendant McGuire's motion to have the victim stricken from testifying. Following the district court's ruling, the State requested a stay of the trial, but the district court denied the request for stay. The State requests this Court's review.
4. The Honorable Monica Trujillo and all counsel listed in paragraphs 1-2 were notified of this emergency motion and writ petition by electronic service.

CERTIFICATE OF COMPLIANCE

1. **I hereby certify** that this writ complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(9) because this writ has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in 14 point font of the Times New Roman style.
2. **I further certify** that this writ complies with the page and type-volume limitations of NRAP 21(d) because, excluding the parts of the writ exempted by NRAP 32(c)(2), it is either proportionately spaced, has a typeface of 14 points of more, contains 1,789 words and 163 lines of text.
3. **Finally, I hereby certify** that I have read this appellate writ, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 21, which requires every assertion in the writ regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 26th day of July, 2021.

Respectfully submitted

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

BY */s/ Alexander Chen*

ALEXANDER CHEN
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Nevada Bar #010539
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

AFFIDAVIT

I certify that the information provided in this mandamus petition is true and complete to the best of my knowledge, information and belief.

Dated this 26th day of July, 2021.

BY */s/ Aleander Chen*

ALEXANDER CHEN

Chief Deputy District Attorney

Nevada Bar #010539

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 July 26, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

KATHLEEN HAMERS
Deputy Public Defender

ALEXANDER CHEN
Chief Deputy District Attorney

I further certify that I served a copy of this document by electronic emailing a true and correct copy thereof to:

JUDGE MONICA TRUJILLO
Email: ElliottT@clarkcountycourts.us

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

AC//ed



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 BRANDON ALEXANDER
12 MCGUIRE,

13 Defendant.

CASE NO.: C-16-319756-1

DEPT. XIX

14 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

15 MONDAY, APRIL 13, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING RE:**
17 **CALENDAR CALL**

18 APPEARANCES:

19 For the Plaintiff:

PARKER P. BROOKS, ESQ.
Deputy District Attorney

21 For the Defendant:

22 KATHLEEN M. HAMERS, ESQ.
SHANA S. BROUWERS, ESQ.
Deputy Public Defenders

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25 RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER

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Las Vegas, Nevada; Monday, April 13, 2020

[Hearing commenced at 10:34 a.m.]

THE COURT: State of Nevada versus Brandon McGuire.
This is C319756.

MS. HAMERS: Good morning, Your Honor. Kathleen
Hamers with --

THE COURT: Okay.

MS. HAMERS: -- Shana Brouwers on his behalf.

THE COURT: All right. This is on for calendar call. I also
have --- it's scheduled for hearing on April 20th. Do the parties -- is the
State ready to address these motions?

MR BROOKS: No. It's Ms. Craggs' case.

THE COURT: Okay. All right.

MR. BROOKS: I was just here to get new dates.

THE COURT: Well, the one that I do want to address though
is you filed a motion to compel compliance with NRS 174.234 or to strike
it.

MS. HAMERS: Mm-hmm.

THE COURT: And is there anything particularly special about
-- I mean, I know who the witnesses are based on your motion, but is
there anything particularly special that I -- that I need to order something
beyond the statute? Because it -- their -- I mean, their response is is
that they have five days prior and that's basically what they're saying, so
--

1 MS. HAMERS: I -- no. There's nothing that -- special --
2 THE COURT: Okay.
3 MS. HAMERS: -- besides compliance with the statute. And I,
4 you know, we file them ahead of time because --
5 THE COURT: Okay.
6 MS. HAMERS: -- if I wait till five days, that's --
7 THE COURT: Okay.
8 MS. HAMERS: -- not helpful to us, but --
9 THE COURT: Well that's why I'm saying, that I -- no, no, I
10 understand that --
11 MS. HAMERS: Yeah.
12 THE COURT: -- but that's --
13 MS. HAMERS: So be it.
14 THE COURT: You know, that -- it -- statutorily, I mean, if you
15 had something saying, hey, we're concerned about this one or --
16 MS. HAMERS: I just --
17 THE COURT: -- this one witness, I don't think we can find. I
18 need more extra time or -- I will tell the State though --
19 MS. HAMERS: I think that's where I'll be at five days.
20 THE COURT: Okay. I'll tell the State this, that if that
21 happens, I mean -- I'm telling the State to comply -- I'm dealing with that
22 motion now. I am going to require the State to comply with that;
23 however the State needs to recognize that there may be -- it may cause
24 a delay in this in light of the -- the defense may say, hey, we just got this
25 notice and we weren't able to find anybody in the time frame that we had

1 -- that type of thing.

2 MR. BROOKS: Judge, I don't know that NRS statute on the
3 top of my head.

4 THE COURT: It's -- there's a five day --

5 MS. HAMERS: Is a witness notice.

6 THE COURT: -- requirement --

7 MR. BROOKS: Oh, it's just a notice. Okay.

8 THE COURT: -- on witnesses -- notice.

9 MS. HAMERS: A witness notice.

10 THE COURT: It's just a notice. So, yeah. I can't believe you
11 wouldn't know that.

12 MR. BROOKS: My fault.

13 THE COURT: Okay. So, okay, so that's where I'm at with
14 that one.

15 MS. HAMERS: Okay.

16 THE COURT: I'm going to require the State to comply with it,
17 but caveat here is that I can anticipate that there may be some issues
18 and I'll deal with them if it comes up, all right Ms. Hamers?

19 MS. HAMERS: Thank you.

20 THE COURT: That's all I can tell you.

21 So, are you -- are we ready to go on this?

22 MS. HAMERS: Yeah, we -- I mean, if -- in theory, if we had
23 juries, we would be --

24 THE COURT: Yeah, I know.

25 MS. HAMERS: -- ready to go on them.

1 THE COURT: Well we're not -- the problem is is that we're
2 not.

3 MS. HAMERS: I know. And I spoke to Mr. McGuire and he
4 understands the circumstance that we're in. We're asking to --

5 THE COURT: Yeah.

6 MS. HAMERS: -- reset it for now what is the --

7 THE COURT: If you wanted to do a bench trial, I could --

8 MS. HAMERS: We don't want --

9 THE COURT: -- accommodate you there.

10 MS. HAMERS: -- a bench trial.

11 THE COURT: Oh, okay.

12 MS. HAMERS: I appreciate it though.

13 THE COURT: Okay.

14 MS. HAMERS: And I did -- I spoke to Mr. McGuire about that
15 as well.

16 THE COURT: Okay, all right. Okay. So, all right, so I'm
17 going to vacate the trial that's scheduled for the 20th and reschedule it
18 then.


19 THE COURT CLERK: All right. I'm -- the pretrial conference
20 is going to be June 3rd at 8:30, calendar call is June 24th at 8:30 and the
21 trial day will be July 6th at 10:00 a.m.

22 THE COURT: Okay.

23 MS. HAMERS: And then the other two motions in limine, do
24 you want to just put them on the next calendar call? They're really just --

25 THE COURT: We can.

1 MS. HAMERS: -- they are motions in limine.
2 THE COURT: We can, yes. Just put them on the calendar
3 call.
4 THE COURT CLERK: Calendar call or the pretrial?
5 THE COURT: We can do it at the pretrial, Ms. Hamers.
6 MS. HAMERS: Yeah, that's fine.
7 THE COURT: So -- okay?
8 MR. BROOKS: And Judge, just so there's, you know,
9 because it's not my case and my notes are --
10 THE COURT: Mm-hmm.
11 MS. HAMERS: I'll let her know which --
12 MR BROOKS: -- will be clear.
13 MS. HAMERS: -- ones those are.
14 MR. BROOKS: Given that the trial date is vacated and
15 moved, NRS 174.234 would only apply for five days before that new trial
16 --
17 THE COURT: Trial. Mm-hmm.
18 MR. BROOKS: -- not -- there's no like --
19 THE COURT: Right.
20 MR. BROOKS: Okay.
21 THE COURT: It's -- the statute reads trial, so -- unless there's
22 other reasons, and that's why I was asking Ms. Hamers to give --
23 MS. HAMERS: I understand.
24 THE COURT: -- me some alternative reason, so -- if
25 something happens, let us know and --

1 MS. HAMERS: I will.
2 THE COURT: -- you know, okay, all right. So here's the
3 dates.
4 THE COURT CLERK: It'll be June 3rd for the pretrial, June
5 24th for calendar call, and --
6 THE COURT: Okay.
7 THE COURT CLERK: -- July 6th for [indiscernible].
8 THE COURT: So, I'll hear the motions on June 3rd.
9 MS. HAMERS: Okay.
10 THE COURT: Okay. All right.
11 MS. HAMERS: Thank you.
12 THE COURT: Thank you. All right. Okay, thanks Ms.
13 Hamers.
14 All right. Thank you Mr. McGuire. Okay.
15 [Hearing concluded at 10:38 a.m.]
16 *****
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.
24 
25 Brittany Amoroso
Court Recorder/Transcriber



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,
7 Plaintiff,

CASE#: C-16-319756-1

DEPT. III

8 vs.

9 BRANDON ALEXANDER MCGUIRE,
10 Defendant.

11
12 BEFORE THE HONORABLE MONICA TRUJILLO, DISTRICT COURT JUDGE
13 MONDAY, JULY 26, 2021

14 **RECORDER'S TRANSCRIPT OF HEARING:**
15 **MOTION TO STRIKE WITNESSES FOR FAILURE TO COMPLY WITH**
16 **N.R.S. 174.234 AND MOTION TO DISMISS**

17 ALL APPEARANCES VIA BLUEJEANS:

18 For the State:

LINDSEY D. MOORS, ESQ.
Chief Deputy District Attorney
NIMA AFSHAR, ESQ.
Deputy District Attorney

21 For the Defendant:

KATHLEEN M. HAMERS, ESQ.
SHANA S. BROUWERS, ESQ.
Deputy Public Defenders

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25 RECORDED BY: REBECA GOMEZ, COURT RECORDER

1 Las Vegas, Nevada, Monday, July 26, 2021

2
3 [Case called at 8:43 a.m.]

4 THE COURT: Case number C-16-319756-1, State of Nevada
5 versus Brandon McGuire. Who's here on behalf of the State?

6 MS. MOORS: Good morning, Your Honor, Lindsey Moors and
7 Nima Afshar, on behalf of the State.

8 THE COURT: Thank you. On behalf of defendant?

9 MS. HAMERS: Kathleen Hamers and Shana Brouwers.

10 THE COURT: Thank you.

11 Mr. McGuire is present in custody via BlueJeans at CCDC.
12 This is on for defendant's motion to strike witnesses and dismiss case. I
13 reviewed the motion, the opposition, the reply, as well as the attached
14 exhibits.

15 Anything further, Ms. Hamers, or Ms. Brouwers?

16 MS. HAMNERS: No, Your Honor.

17 THE COURT: State?

18 MS. AFSHAR: Your Honor, I did just want to briefly address
19 just one issue, and that was the bad faith issue. I just wanted to make a
20 record that, you know, the defendant throwing out the word bad faith in
21 relation to a calendar call, which has nothing to with the notice of
22 witnesses, doesn't satisfy the legal requirement of bad faith, but beyond
23 that it's not acting in bad faith to announce ready to the Court when
24 there's another calendar call coming and then we had every expectation
25 that this witness would be present, including, you know, she's been to

1 every court date that she needs to be at and we've had very good
2 contact with her, so I just wanted to make that record. And other than
3 that, I will submit unless the Court has questions.

4 THE COURT: So you've had very good contact with her this
5 whole time in the 2016 case, but haven't been able to get her address?

6 MS. AFSHAR: That is correct, Your Honor. So we didn't have
7 -- we both came on this case recently, but the contacts that we have had
8 with her included coming to the Grand Jury. I don't know what it
9 included beyond that, but we do have information for her is my
10 understanding at this point, just not an address.

11 THE COURT: Okay, at any point, since you didn't have an
12 address, did the State consider providing an alternate means of
13 communication to the defense?

14 MS. AFSHAR: No, Your Honor, because there is no statutory
15 requirement to do so, but that is why we offered to provide to make her
16 available. Because I think the purpose of the notice requirement, at
17 least in part, is to facilitate the defendant's investigation and, you know,
18 in one hand and also to put him on notice of what is coming in terms of
19 what the witness intends to say. In this case, they had her statements,
20 her name, they were aware of what she was going to say or what she
21 will say at trial. So, that's not an issue, but in terms of speaking to her,
22 facilitating the investigation, certainly we're happy to set that up. I just --
23 we have no obligation to provide contact information beyond an address.
24 And that was actually one issue I had with the motion and the reply
25 whether there's conflating of an address and contact information.

1 THE COURT: Okay, in what respect?

2 MS. AFSHAR: Well, so, the claim from the State is not that
3 we never had contact information for her. Right, obviously we have
4 been able to bring her to Court. We've never had an address for her as
5 far as I know. And so, that's one aspect of it, but then there's also the
6 circular nature of the argument, Your Honor, where the claim is that we
7 didn't provide an address for the victim. And because we didn't do that,
8 she should be stricken because we were acting in bad faith, because we
9 announced ready on Monday and didn't let anybody know we don't have
10 information for her when the entire issue here is that the notice of
11 witness literally says address unknown. And so therefore, she should be
12 stricken. I mean, it's just -- it's a circular argument.

13 THE COURT: Okay. Ms. Hamers, Ms. Brouwers?

14 MS. HAMERS: Yes, Judge, I would just note the motion is not
15 to strike this witness because the State acted in bad faith. The State
16 argued that they -- the case shouldn't be dismissed because they didn't
17 act in bad faith. That's why bad faith isn't addressed at all. The witness
18 should be stricken because they didn't provide the information they need
19 to, to comply with the statute. They certainly were on notice that we
20 were asking for that information since last year. If the State wanted to
21 make some sort of alternate accommodation, permission not to include
22 her address in the witness notice, whatever, needed to happen a long
23 time ago. And instead, they said they complied with the statute and they
24 did not. And so, I think that the witness needs to be stricken at this
25 point, I think it's too little too late.

1 THE COURT: All right. Thank you. So, just a quick rundown
2 of the case, this is an Indictment from December 1st of 2016. There was
3 no information for the named victim who was listed as a, Jane Doe, at
4 that time, it said in c/o the Clark County District Attorney's office. Garcia
5 was not listed as a witness. Who's the second witness? That's the
6 subject of this motion. On March 13th of 2020, the State's notice of
7 witness and/or experts was filed. The first witness E.H. presumably the
8 alleged victim, it also listed c/o the Clark County District Attorney's office
9 as SVU/VWAC. Garcia was then added as a witness, address
10 unknown. March 31st of 2020, State's supplemental notice of witness
11 listed E.H. c/o CCDA SVU/VWAC. Garcia was also listed as a witness,
12 address unknown. July 2nd 2021, State's second supplemental noticed
13 E.H. and Evelyn Hicks, address unknown and/or c/o CCDA SVU/VWAC.
14 Garcia was listed as a witness, address unknown.

15 And then I just want to address previously the motion to
16 compel was set for hearing April 13th of 2020. I read the transcript of
17 that. I've read the motion. State's opposition at that time said: "State
18 intends to comply with the above statute, will provide notice of the
19 defendant not less five days before trial." At that time a trial date was
20 different, but the State's argument primarily rested on. They had not yet
21 violated the statute which is 174.234. Kephart then said I'm ordering the
22 State to comply. Obviously, this trial's been continued many times for
23 different reasons including Covid. But I do want to point out, in the
24 declaration, just for the record, that the State said the alleged victim
25 wasn't served a subpoena until July 20th 2021, to the day after our

1 calendar call and also the day before Central Calendar Call. And
2 according to the Investigator, you still don't have a complete address for
3 the alleged victim, correct?

4 MS. MOORS: Correct.

5 MS. AFSHAR: That is correct.

6 THE COURT: All right. So, based on that, the Court's going
7 to grant the motion and strike both witnesses. Anything further on either
8 party?

9 MS. AFSHAR: Your Honor, we would ask for a stay of the
10 proceeding so that we can file a writ.

11 THE COURT: That's going to be denied.

12 Thank you.

13 MS. HAMERS: And so, that the issue leaves us now is I
14 would ask that the case be dismissed.

15 THE COURT: Well, I don't know the State's case. I haven't
16 read it all, so if they feel like they can proceed, then we will be here
17 tomorrow morning.

18 MS. HAMERS: And just for the record, I understand, I think
19 they have the right to do that. This is the alleged victim. There's been
20 no previous cross examination and we have a right to confrontation.

21 THE COURT: Thank you.

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MS. HAMERS: Thank you.

MS. AFSHAR: Thank you.

[Hearing concluded at 8:51 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.



Rebeca Gomez
Court Recorder/Transcriber

Steven D. Grierson

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
hamerskm@co.clark.nv.us
Attorneys for Defendant

DEPARTMENT XIX
NOTICE OF HEARING
DATE 11/8/17 TIME 8:30 AM
APPROVED BY *mm*

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

BRANDON ALEXANDER MCGUIRE,

Defendant,

CASE NO. C-16-319756-1
DEPT. NO. XIX
DATE: November 8, 2017
TIME: 8:30 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, BRANDON ALEXANDER MCGUIRE, by and through his attorney, KATHLEEN M. HAMERS, Deputy Public Defender, and respectfully moves this court for an order vacating the November 8, 2017 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 3rd day of November, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By *Is/Kathleen M. Hamers*
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. Trial in the instant case is currently set to commence on December 11, 2017.

3. Counsel will be on leave during that time, and is requesting that this trial be continued.

4. The State of Nevada is aware of this request and it is counsel's belief the State has no objection to the continuance.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 3rd day of November, 2017.

/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

1 **NOTICE OF MOTION**

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

3 YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO
4 CONTINUE TRIAL DATE will be heard on November 8, 2017, at 8:30 a.m. in District Court,
5 Department XIX.

6 DATED this 6th day of November, 2017.

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9
10 By: /s/ Kathleen M. Hamers
11 KATHLEEN M. HAMERS, #9049
12 Deputy Public Defender
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21 **CERTIFICATE OF ELECTRONIC SERVICE**

22 I hereby certify that service of the above and forgoing MOTION was served via
23 electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com
24 on this 6th day of November, 2017.

25 By: /s/ Sara Ruano
26 An employee of the
27 Clark County Public Defender's Office
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 08, 2017

C-16-319756-1 State of Nevada
vs
Brandon McGuire

November 08, 2017 8:30 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

PARTIES

PRESENT:	Hamers, Kathleen M.	Deputy Public Defender
	Mcguire, Brandon Alexander	Defendant
	Villani, Jacob J.	Deputy District Attorney

JOURNAL ENTRIES

- PRE TRIAL CONFERENCE DEFENDANT'S MOTION TO CONTINUE TRIAL DATE

Court noted defense is seeking to continue trial and State has no opposition. Parties agreed with Court's representations. COURT ORDERED, Defendant's Motion to Continue GRANTED; trial date VACATED and RESET.

CUSTODY

8/08/2018 8:30 AM PRE TRIAL CONFERENCE

9/05/2018 8:30 AM CALENDAR CALL

9/10/2018 10:00 AM JURY TRIAL

PRINT DATE: 11/08/2017

Page 1 of 1

Minutes Date: November 08, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 30, 2018**

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

July 30, 2018 08:30 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Everett, Tia

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

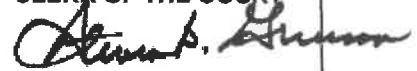
Brandon Alexander Mcguire	Defendant
Jacob J. Villani	Attorney for Plaintiff
Kathleen M. Hamers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

**PRE TRIAL CONFERENCE ... DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY
& BRADY MATERIAL**

Upon Court's inquiry, Ms. Hamers advised she is seeking surveillance video as well as the sane report. COURT ORDERED, Defendant's Motion DENIED IN PART as to the request to compel and GRANTED IN PART as the State is required to comply with NRS 176.245, Brady and its prodigies. FURTHER ORDERED, Defendant's Motion to Compel on calendar for 8/13/2018 VACATED as a duplicate entry.

CUSTODY



MCNT
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
HamersKM@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

BRANDON ALEXANDER MCGUIRE,

Defendant,

CASE NO. C-16-319756-1

DEPT. NO. XIX

DATE: September 5, 2018
TIME: 8:30 a.m.

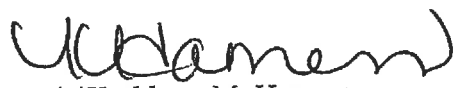
MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, BRANDON ALEXANDER MCGUIRE, by and through his attorney, KATHLEEN M. HAMERS, Deputy Public Defender, and respectfully moves this court for an order vacating the September 10, 2018, trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 28th day of August, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER


By /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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DECLARATION

KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That the Defense is currently without a copy of the Sexual Assault Nurses Examination in the instant case. Counsel believes that despite numerous requests, the State is currently without those reports either. The reports are necessary in order to prepare an adequate defense for Mr. McGuire.


3. The Defense is currently without a copy of the video surveillance in this case. The Defense has been provided with still photographs that came from video surveillance of a Wendy's drive thru. That video surveillance allegedly captured the alleged victim and Defendants at the drive thru. This footage is necessary to investigate and prepare Mr. McGuire's defense.

4. The Defense is requesting that this case be continued until these items can be provided and any follow up preparation can be done on Mr. McGuire's behalf.

5. Mr. McGuire is aware of this request and in agreement that a continuance would be in his best interest at this time.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 28th day of August, 2018.


/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

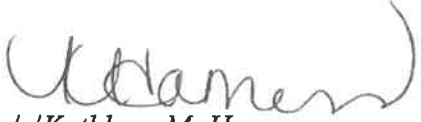
1 **NOTICE OF MOTION**

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

3 YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO
4 CONTINUE TRIAL DATE will be heard on September 5, 2018, at 8:30 a.m. in District Court,
5 Department XIX.

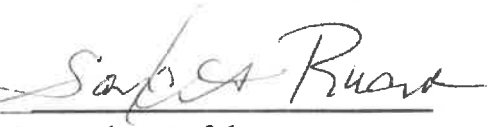
6 DATED this 31st day of August, 2018.

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9 
10 By: /s/Kathleen M. Hamers
11 KATHLEEN M. HAMERS, #9049
12 Deputy Public Defender
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21 **CERTIFICATE OF ELECTRONIC SERVICE**

22 I hereby certify that service of the above and forgoing MOTION was served via
23 electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountysda.com
24 on this 31st day of August, 2018.

25 By: 
26 An employee of the
27 Clark County Public Defender's Office
28

Felony/Gross Misdemeanor

COURT MINUTES

September 05, 2018

C-16-319756-1 State of Nevada
 vs
 Brandon McGuire

September 05, 2018 08:30 AM All Pending Motions

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Everett, Tia

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

Brandon Alexander McGuire	Defendant
Jacob J. Villani	Attorney for Plaintiff
Kathleen M. Hamers	Attorney for Defendant
Shana S. Brouwers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

CALENDAR CALL ... DEFENDANT'S MOTION TO CONTINUE TRIAL DATE

Mr. Villani advised he has no opposition to the motion to continue. Colloquy regarding scheduling.
COURT ORDERED, Defendant's Motion GRANTED; trial date VACATED and RESET.

CUSTODY (COC)

4/03/2019 8:30 AM PRE TRIAL CONFERENCE

5/01/2019 8:30 AM CALENDAR CALL

5/06/2019 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

April 03, 2019

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

April 03, 2019 08:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Emmons, Shannon

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

Brandon Alexander Mcguire	Defendant
Genevieve C. Craggs	Attorney for Plaintiff
Kathleen M. Hamers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Ms. Hamers advised she has not received the S.A.N.E. report or video evidence and she is not prepared to proceed on the current trial date; Further, Defendant has a pending capital case set for hearing on 06/26/2019 and requested matter be set after that date. COURT ORDERED, trial date VACATED and matter SET for status check.

NDC

07/08/2019 8:30 AM STATUS CHECK: TRIAL SETTING

Felony/Gross Misdemeanor

COURT MINUTES

August 26, 2019

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

August 26, 2019 08:30 AM Status Check: Trial Setting

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Everett, Tia; Jackson, Carolyn

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

Brandon Alexander Mcguire	Defendant
Genevieve C. Craggs	Attorney for Plaintiff
Kathleen M. Hamers	Attorney for Defendant
Shana S. Brouwers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Ms. Hamers advised parties are requesting a trial date after March. COURT ORDERED, matter SET for trial. upon Court's inquiry, Ms. Hamers advised she has received the Sane report she has been waiting for; although, the State is still looking into other issues. Ms. Craggs advised the other item is the Sane exam photographs which the Sane nurse has been unable to locate and will hopefully have them. COURT SO NOTED.

NDC

3/11/2020 8:30 AM PRE TRIAL CONFERENCE

4/15/2020 8:30 AM CALENDAR CALL

4/20/2020 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

April 13, 2020

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

April 13, 2020 10:15 AM All Pending Motions

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Everett, Tia

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

Brandon Alexander Mcguire	Defendant
Kathleen M. Hamers	Attorney for Defendant
Parker Brooks	Attorney for Plaintiff
Shana S. Brouwers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

CALENDAR CALL ... DEFENDANT'S MOTION TO COMPEL COMPLIANCE WITH NRS 174.234, OR IN THE ALTERNATIVE, TO STRIKE WITNESSES

Court noted there are a number of motions set for 4/20/2020 and inquired if the State if prepared to argue these motions. Mr. Brooks advised this is Ms. Cragg's case and he is only prepared to get new trial dates. Court stated he would like to address the motion to compel compliance as it appears defense is only requesting witness information pursuant to statute. Colloquy regarding motion. COURT ORDERED, Motion GRANTED with the understanding this may cause further delay with the trial. Upon Court's inquiry, Ms. Hamers advised parties are ready. FURTHER ORDERED, trial date shall be VACATED and RESET based on Administrative Order 20-01 and the COVID-19 pandemic. FURTHER ORDERED, Defendant's other motions scheduled for 4/20/2020 shall be RESET to 6/03/2020.

CUSTODY

6/03/2020 8:30 AM PRE TRIAL CONFERENCE

6/24/2020 8:30 AM CALENDAR CALL

7/06/2020 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

June 03, 2020

C-16-319756-1 State of Nevada
 vs
 Brandon McGuire

June 03, 2020 10:15 AM All Pending Motions

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 16B

COURT CLERK: Everett, Tia

RECORDER: Erickson, Christine

REPORTER:

PARTIES PRESENT:

Brandon Alexander McGuire	Defendant
Genevieve C. Craggs	Attorney for Plaintiff
Kathleen M. Hamers	Attorney for Defendant
Shana S. Brouwers	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

DEFENDANT'S MOTION IN LIMINE TO PRECLUDE USE OF "NO CORROBORATION"
 JURY INSTRUCTION:

COURT ORDERED, Motion DENIED as it is the proper status of the law; although, parties will be permitted to argue their position as to jury instructions at the time of trial.

DEFENDANT'S MOTION IN LIMINE TO PRECLUDE USE OF THE PREJUDICIAL TERM
 "VICTIM":

COURT ORDERED, Motion DENIED.

PRE TRIAL CONFERENCE:

Court noted due to the COVID-19 pandemic trials are not anticipated to begin again until approximately September. Colloquy regarding scheduling. COURT ORDERED, trial date VACATED and RESET.

NDC

11/04/2020 8:30 AM PRE TRIAL CONFERENCE

12/02/2020 8:30 AM CALENDAR CALL

12/07/2020 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2020

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

November 30, 2020 08:30 AM Calendar Call

HEARD BY: Barker, David COURTROOM: RJC Courtroom 16B

COURT CLERK: Everett, Tia

RECORDER: Pierson, Toshiana

REPORTER:

PARTIES PRESENT:

Kathleen M. Hamers Attorney for Defendant

Lindsey Moors Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Court noted pursuant to the new Administrative Order 20-24 trial dates are being reset. Ms. Hamers advised Defendant is not in Nevada Department of Corrections; although, he is housed at the north valley complex. Further Court noted Defendant has previously waived his speedy trial rights. Colloquy regarding scheduling. COURT ORDERED, trial date VACATED and RESET.

CUSTODY

3/03/2021 8:30 AM CALENDAR CALL

3/08/2021 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

March 01, 2021

C-16-319756-1 State of Nevada
 vs
 Brandon Mcguire

March 01, 2021 08:30 AM Calendar Call

HEARD BY: Trujillo, Monica COURTROOM: RJC Courtroom 11C

COURT CLERK: Castle, Alan

RECORDER: Gomez, Rebeca

REPORTER:

PARTIES PRESENT:

Brandon Alexander Mcguire	Defendant
Kathleen M. Hamers	Attorney for Defendant
Public Defender	Attorney for Defendant
State of Nevada	Plaintiff
Steven L Waters	Attorney for Plaintiff

JOURNAL ENTRIES

Due to COVID-19 and trial protocols, Court finds Defendant having previously waived, ORDERS, TRIAL VACATED and RESET.

CUSTODY

7/19/21 8:30 A.M. CALENDAR CALL

7/26/21 10:30 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 19, 2021

C-16-319756-1 State of Nevada
vs
Brandon McGuire

July 19, 2021 8:30 AM All Pending Motions

HEARD BY: Trujillo, Monica

COURTROOM: RJC Courtroom 11C

COURT CLERK: Grecia Snow

RECORDER: Rebeca Gomez

REPORTER:

PARTIES

PRESENT:	Brouwers, Shana S.	Attorney
	Hamers, Kathleen M.	Attorney
	Mcguire, Brandon Alexander	Defendant
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS PURSUANT TO NRS 48.045 (3), NRS 48.061 AND NRS 48.045(2)...CALENDAR CALL

Arguments by counsel. COURT stated its FINDINGS and ORDERED, motion DENIED. Ms. Hamers to prepare the order. Ms. Moors objected to Deft's Notice of Expert Witness as it was not timely filed. Ms. Hamers argued they filed the Notice on the next business day after a holiday. Colloquy regarding the State's video. Court NOTED it would allow the Deft's Notice for Expert Witness. Parties announced ready for trial with 8-10 witness and 4-5 days to try. Ms. Moors advised Nima Afshar would be co-counsel. COURT FURTHER ORDERED, status check and central calendar call SET.

CUSTODY

PRINT DATE: 07/21/2021

Page 1 of 2

Minutes Date: July 19, 2021

C-16-319756-1

7/21/21 8:30 AM - STATUS CHECK: TRIAL

7/21/21 2:00 PM - CENTRAL CALENDAR CALL (LLA)

PRINT DATE: 07/21/2021

Page 2 of 2

Minutes Date: July 19, 2021

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,)	
)	
Petitioner,)	Case No. 83269
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,)	
)	
Respondents,)	
and)	
BRANDON ALEXANDER MCGUIRE,)	
Real Party in Interest.)	
)	

**REAL PARTY IN INTEREST'S APPENDIX TO
ANSWER TO EMERGENCY PETITION FOR WRIT**

DARIN F. IMLAY Clark County Public Defender 309 South Third Street Las Vegas, NV 89155-2610	STEVEN B. WOLFSON Clark County District Attorney 200 South Third Street Las Vegas, NV 89155
Attorney for Real Party in Interest	AARON D. FORD Attorney General 100 North Carson Street Carson City, NV 89701 Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 11th day of August, 2021. Electronic

Service of the foregoing document shall be made in accordance with the
Master Service List as follows:

AARON D. FORD
ALEXANDER CHEN

KATHLEEN M. HAMERS

I further certify that I served a copy of this document by
mailing a true and correct copy thereof, postage pre-paid, addressed to:

MONICA TRUJILLO
District Court, Department III
200 Lewis Avenue
Las Vegas, NV 89101

BY /s/ Carrie M. Connolly
Employee, Clark County Public
Defender's Office