

IN THE SUPREME COURT OF THE STATE OF NEVADA

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VANESHIA OLIVER,  
Appellant,

v.

THE STATE OF NEVADA,  
Respondent.

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Case No. 83276

**RESPONDENT'S ANSWERING BRIEF**

**Appeal From Denial of Petition for Writ of Habeas Corpus (Post-Conviction)  
Eighth Judicial District Court, Clark County**

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**STATEMENT OF THE ISSUES**

- I. WHETHER OLIVER WAS NOT ENTITLED TO A NON-CONTINGENT GUILTY PLEA**
- II. WHETHER THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN DENYING OLIVER’S MOTION FOR SEVERANCE AND MISTRIAL**
- III. WHETHER OLIVER’S SENTENCE WAS WITHIN THE LEGAL RANGE AND CONSTITUTIONAL**
- IV. WHETHER REMAND FOR RESENTENCING IS REQUIRED**
- V. WHETHER THERE IS NO CUMULATIVE ERROR**

**PROCEDURAL HISTORY**

On October 22, 2020, Veneshia Oliver (“Oliver”) and Darrell Clark (“Clark”) were jointly charged by way of Indictment with 39 crimes. 1 Appellant’s Appendix (“AA”) at 1-18. On October 29, 2020, Clark and Oliver were jointly charged by way of Superseding indictment with 46 crimes. 1 AA at 37-56.

On April 13, 2021, Oliver was charged by way of Second Amended Superseding Indictment with: five counts of Conspiracy to Commit Larceny (Counts 1, 9, 19, 26, 31); five counts of Conspiracy to Commit Burglary; (Counts 2, 10, 20, 27, 32); five counts of Residential Burglary (Counts 3, 11, 21, 28, 33); five counts of Invasion of the Home (Counts 4, 12, 22, 29, 34); four counts of Theft (Counts 13, 23, 30, 35); two counts of Burglary of a Business (Counts 5, 6); two counts of Fraudulent Use of a Credit Card (Counts 7, 8); one count of Robbery (Count 24); one count of Coercion (Count 25); one count of Burglary of a Business (Count 14); four counts of Attempt Fraudulent Use of Credit or Debit Card (Counts 15, 16, 17, 18); one count of Possession of Credit or Debit Card Without Cardholder's Consent (Count 36); and one count of Possession of Burglary Tools. 1 AA at 63-78.

Following a jury trial, on July 1, 2021, Oliver was found guilty on all counts and sentenced to the Nevada Department of Corrections to the aggregate total sentence of eight hundred sixty-four (864) months maximum with a minimum of one hundred eighty (180) months. 7 AA at 1527.

On June 28, 2021, Oliver's Judgment of Conviction was filed. 1 AA at 144.

On July 21, 2021, Oliver filed a Notice of Appeal. 1 AA at 152. Oliver filed the instant Appellant's Opening Brief on February 11, 2022. The State's Respondent's Brief now follows.

## **STATEMENT OF RELEVANT FACTS**

Between the months of June and August 2020, Oliver and Clark committed five residential burglaries of rooms at multiple casino hotels on the Las Vegas Strip<sup>1</sup>.

June 15, 2020, Clark and Oliver broke into Esther Chae's hotel room at Harrah's Hotel and Casino while she was out, by prying her door open. 3 AA at 575, 610; 5 AA at 1186. When Esther came back to the room, Clark and Oliver were still there. 4 AA at 985. As Esther approached the door, she overheard them talking in the room and called the front desk. Id. While on the phone, Clark came out of the room, grabbed Esther by the neck, shoved her against the wall, and took her phone before running to the elevator. 4 AA at 986-987. Then, Oliver came out of the room next and asked Esther why she was screaming, as she ran to the elevator with Clark to escape. 4 AA at 988. They stole two laptops, chargers, clothes, and Esther's wallet. 4 AA at 988-989.

On August 6, 2020, Clark and Oliver broke into the hotel room of Bertha Geradeau and Latoya Gustus, also at Harrah's Hotel and Casino. 5 AA at 1009-1014. They broke into their room while they were out, by prying the door open. 5 AA at 1186. Clark and Oliver took sunglasses, a diamond necklace, a watch, shoes, two pocketbooks, and belt bags. 5 AA at 1012-1014.

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<sup>1</sup> The crimes were committed on June 15<sup>th</sup>, August 6<sup>th</sup>, August 16<sup>th</sup>, August 21<sup>st</sup>, and August 23<sup>rd</sup>. The citations contained in the Statement of Facts will be cited to in chronological order unless referencing a specific date.



On August 16, 2020, Clark and Oliver broke into Gary Krusinski's room at the Paris Hotel and Casino while he was out of the room. 4 AA at 968-971. They broke into the room by prying the door open. 5 AA at 1186. They stole valuables such as headphones, sunglasses, earbuds, and Mr. Krusinski's wallet containing his credit cards. 5 AA at 971-972. After they took his credit cards, they used his cards at a 7-eleven convenient store. 5 AA at 975; 4 AA at 787-791.

On August 21, 2020, Clark and Oliver broke into Rebecca Finger and Brooke Bargholtz's room, which was also at the Paris Hotel and Casino. 5 AA at 1138-1142. They broke into their room when they were out of the room, by damaging the lock. 3 AA at 564. They took valuables such as headphones, an apple watch, a phone charger, and a backpack containing a credit and debit card. 5 AA at 1141-1142. Oliver then attempted to use both Ms. Bargholtz's and Ms. Finger's credit cards at a Target store. 5 AA at 1024-1028.

On August 23, 2020, Clark and Oliver broke into Jewell Love and Patricia Williams' hotel room, again at Harrah's Hotel and Casino. 4 AA at 910-911. They broke in while Love and Williams were out of the room by prying the door open. 5 AA at 1186. They stole a Louis Vutton backpack, another backpack containing a Dell computer, Apple AirPods, and a wallet containing \$200 in cash and credit cards. 4 AA at 911-914.

In each burglary, Clark and Oliver broke into the room by prying the door open with a prying device while the guests were out. 5 AA at 1186. Then, Clark and Oliver entered the room and took anything valuable such as wallets with credit and debit cards, laptops, watches, sunglasses, expensive bags, and headphones. 4 AA at 988-989; 5 AA at 1012-1014; 5 AA at 971-972; 5 AA at 1141-1142; 4 AA at 911-914.

All these burglaries occurred at either Harrah's Hotel and Casino or the Paris Hotel and Casino on the Las Vegas Strip during the Summer of 2020.

### **SUMMARY OF THE ARGUMENT**

Oliver claims her Constitutional rights were violated when her guilty plea was rejected because it was contingent on her co-defendant also pleading guilty. However, Oliver is not entitled to a non-contingent plea agreement and the contingent plea agreement did not violate her Constitutional rights. Next, the district court did not abuse its discretion when it denied Oliver's motion for severance because Oliver moved to sever at the very end of trial, during closing arguments. Regardless, any alleged error was harmless considering the overwhelming evidence presented at trial. Oliver also contends her sentence was cruel and unusual, but her sentence was within the statutory range and not out of proportion to the severity of the crime.

This case should be remanded to the district court for resentencing. Regarding Count 25 (Coercion), the District Court sentenced Oliver incorrectly under NRS 207.190, thereby making her aggregate total erroneous. Lastly, Oliver claims there was cumulative error that denied her right to fair trial. However, the only error occurred after trial, during sentencing. Oliver has failed to substantively support any other claims of error. Therefore, she is not entitled to relief.

## **ARGUMENT**

### **I. OLIVER WAS NOT ENTITLED TO ENTER A GUILTY PLEA**

Oliver claims her due process rights were violated when her opportunity to enter a guilty plea was “sabotaged” by her co-defendant’s counsel. Appellant’s Opening Brief (“AOB”) at 9-11. Oliver’s claim has no merit.

A defendant has no right to a plea bargain, and the prosecutor is not obliged to negotiate a case if she prefers to go to trial Weatherford v. Bursey, 429 U.S. 545, 561 (1997). The weight of authority supports the fact that a guilty plea offer that is based on the decision of a third party such as a co-defendant is permissible and does not violate the defendant’s due process rights. United States v. Williams, 827 F.3d 1134, 1164-1165 (D.C. Cir. 2016). **United States v. Williams**, (explaining that “a plea deal contingent on a co-defendant's guilty plea” did not violate defendant's due process rights); United States v. Gonzalez-Vazquez, 219 F.3d 37, 43 (1st Cir, 2000) (explaining that a “package deal” would not violate the defendants’

constitutional rights); *United States v. Seligsohn*, 981 F.2d 1418, 1426 (3d Cir. 1992) (“Package deal plea bargains, in which a prosecutor makes an agreement with one defendant contingent upon a co-defendant also pleading guilty, are permissible provided that the defendant's decision to forego a trial is otherwise voluntary.”)

Here, the plea agreement was contingent on Oliver and Clark both agreeing to accept their guilty plea. 2 AA at 447. Oliver was not entitled to a non-contingent guilty plea and offers no claim or argument as to why the contingent plea agreement was impermissible or violated her due process rights. While Oliver states the “Nevada State Constitution can [afford] greater protections than those provided by the U.S. Constitution,” she does not state how the Nevada Constitution protects her right to a non-contingent plea agreement. The reason she cannot cite any protection is because neither the Nevada Constitution, nor the United States Constitution, gives a defendant the right to a non-contingent plea agreement. Oliver’s claim should be denied because it is meritless.

## **II. THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN DENYING OLIVER’S MOTION FOR SEVERANCE AND MISTRIAL**

Oliver claims she suffered prejudice that resulted in the denial of her right to a fair trial when the district court denied her oral motion to sever. However, Oliver fails to meet the heavy burden of showing the court abused its discretion and alternatively, any error was harmless.

The district court's denial of a motion to sever is reviewed for abuse of discretion. Marshall v. State, 118 Nev. 642, 646-647, 56 P.3d 376, 379 (2002). Joinder of defendants is preferred because it promotes judicial economy and efficiency, as well as consistent verdicts, so long as it does not compromise a defendant's right to a fair trial. Id. A defendant must meet a heavy burden to show abuse of discretion and a trial judge's decision will seldom be disturbed. U.S. v. Tootick, 952 F.2d 1078, 1080 (1991). A defendant must show more than the fact that joinder was prejudicial. Marshall, 118 Nev. at 647, P.3d at 379. Misjoinder will only be reversed if it had a substantial and injurious effect on the verdict. Id. Antagonistic defenses between co-defendants alone does not meet the standard, nor does co-defendants offering mutually exclusive defenses. Id. at 648.

Here, Oliver first orally moved to sever on the fourth day of trial, and then again during her co-defendant Clark's closing arguments. 5 AA at 1203, 6 AA at 1431-1433. Oliver never filed a motion to sever pre-trial. This motion was not made until after all the evidence had been presented. Oliver argued that Clark's counsel's comments in closing warranted a mistrial because "having a co-defendant point the finger at [Oliver]" prohibited Oliver from having a fair trial. 6 AA 1431-1432. However, the court ruled that the comments did not rise to level of antagonistic defense that warrants a severance or a mistrial. 6 AA at 1433. On appeal, Oliver has failed to show this ruling was an abuse of discretion.

First, Oliver has not shown that Clark's closing and questioning throughout trial had a substantial and injurious effect on the verdict. Clark's counsel never stated Oliver was guilty of any of the crimes she was accused of nor attempted to blame her for what Clark was accused of. In fact, every time he mentioned Oliver during closing, he mitigated by stating, "whoever that individual is," or, "whoever the female was in that video." 6 AA at 1414, 1415, 1416. The only time he specifically talked about Oliver committing a crime was when he spoke about Count 14, and stated, "That's Ms. Oliver going into a Target and using the credit cards." 6 AA at 1419. However, counsel stated that he only brought up Count 14 to show that his client was not there and to rebut the evidence of conspiracy. 6 AA at 1419-1420. Given that Clark was not there, he would not know whether it was Oliver or some random woman who used the credit cards at Target. 6 AA at 1419. Therefore, Clark's claim that Oliver was there holds no weight. Moreover, Clark's counsel finished by stating, "Count 14, not guilty." 6 AA at 1420. Thus, Oliver fails to show the District Court abused its discretion because Clark's closing was not antagonistic.

Furthermore, Oliver did not suffer prejudice because even in her own closing, Oliver's counsel did not argue that she did not use the credit cards at Target. 6 AA at 1402. Her defense was that she did not steal the credit cards from the hotel room, not that she did not use them at Target. Id. Oliver's counsel in closing said, "The credit card. Okay. It was used at the Target. I'm not going to tell you nothing

happened. Okay. The credit card got used.” 6 AA 1402. Therefore, even if Clark’s counsel argued in closing that Oliver used the credit cards at Target, Oliver’s counsel never disputed those facts and admitted that she used the cards at Target. Oliver did not suffer any prejudice as a result.

Second, the alleged error was harmless considering all the evidence adduced at trial of Oliver’s guilt. NRS 178.598 provides that “[a]ny error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.” Constitutional error is harmless when “it is ‘clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error.’” Tavares v. State, 117 Nev. 725, 732 n.14, 30 P.3d 1128, 1132 n. 14 (2001) (quoting Neder v. United States, 527 U.S. 1, 3, 119 S. Ct. 1827, 1830 (1999)). Non-constitutional trial error is reviewed for harmlessness based on whether it had substantial and injurious effect or influence in determining the jury's verdict. Knipes v. State, 124 Nev. 927, 935, 192 P.3d 1178, 1183 (2008).

Here, the evidence was overwhelming. Oliver and Clark committed each burglary in the exact same way and committed all of them at either the Paris or Harrah’s Hotel and Casino on the Las Vegas Strip. For the burglary involving Gary Krusinski, Oliver was depicted on video surveillance going into the elevators at the

Paris hotel and walking around with the hotel with Clark<sup>2</sup>. 3 AA at 750-753. Then, shortly after the burglary, she is seen on video surveillance at a 7-eleven convenience store close to the hotel in the same clothing she is seen wearing at the Paris, using Krusinski's credit card. 4 AA at 782-790, 864-866.

For the burglary involving Rebecca Finger and Brook Bargholtz, again, Oliver is seen on video surveillance at the Paris hotel, walking around the hotel on the date and around the time the burglary occurred. 3 AA at 718-726. Then, Oliver is seen on video surveillance at a Target clothing store, near the Paris hotel, wearing the same clothes she was at the Paris, attempting to use Bargholtz and Fingers' credit cards at the self-checkout. 4 AA at 877-882, 5 AA at 1023-1031. Oliver's outfit depicted on both video surveillances matched the outfit she was wearing in a photograph that she took of herself, which was located on her cellphone. 5 AA at 1133-1135. Additionally, Oliver's cellphone was pinging off of the cellphone tower that services the Paris during the time of the burglary, and off of the tower that services the Target during the time she was attempting to use the credit cards. 6 AA at 1320-1327. Thus, she was present at those places at those times because her phone was using those towers.

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<sup>2</sup> Oliver did not move to transmit any photos or video, but they were part of the jury's consideration and portions of the record appellant fails to include are presumed to support the district court's decision. M&R Inv. Co., v. Mandarin, 103 Nev. 711, 718, P.2d 488, 493 (1987).



At trial, Oliver was proven to be the owner of her cell phone because the phone was found on her person when she was arrested, and she had several photos of herself on the phone. 5 AA at 1133-1135, 6 AA at 1283-1284. Further, the phone number of that phone matched the number Oliver gave to a cab driver who picked her up from a Walgreens near the Target where she attempted to use Bargholtz and Fingers' credit cards on the day she attempted to use them. 5 AA at 1043-1045, 6 AA at 1320-1327. Lastly, there was a photo on the phone showing the receipt from where Oliver purchased the phone, showing that phone number was associated with the pink LG phone that was found on Oliver when she was arrested. 5 AA at 1133-1135, 6 AA at 1283-1284.

For the burglary involving Esther Chae, Oliver's DNA was found on gum wrappers that were placed on the peephole of the room across the hall from Chae's hotel room. 4 AA at 826, 5 AA at 1082-1084. Oliver placed those wrappers on the peephole so that whoever was in that room could not look out and see Oliver and Clark breaking into Chae's room. Chae described a woman who looked like Oliver that ran out of the room with Clark during the burglary but was not able to identify Oliver at trial. 4 AA at 988. When officers searched Oliver's person, Chae's Victoria's Secret credit card was found in Oliver's purse. 6 AA at 1304.

For the burglary involving Bertha Geradeau and Latoya Gustus, Oliver was seen on video surveillance at Harrah's hotel on that date. 3 AA at 727-728. The

clothes Oliver was wearing on surveillance matched clothes she wore in several photographs that she took of herself located on her phone. 5 AA at 1133-1135. She was wearing the same hat and shirt on surveillance video as she was in the photo on her phone. Id. Furthermore, Oliver and Clark broke into the room while they were not there and stole any valuable items, which was consistent with the other burglaries. 5 AA at 1009-1015. Geradeau and Gustus' hotel room door had the same pry marks as all of the other burglaries. 5 AA at 1186.

Lastly, for the burglary involving Jewell Love and Patricia Williams, Oliver was again seen on video surveillance at Harrah's hotel on the date of the burglary walking around the hotel before and after the burglary. 3 AA at 707-715. The outfit she was wearing in the video matches the outfit she was wearing in photographs found on her phone, which was a black baseball cap, a black tank top, and a long necklace. 5 AA at 1133-1135. Similar to the burglary involving Finger and Bargholtz, Oliver's cellphone was pinging off of the cellphone tower that services Harrah's hotel before, during, and after the time of the burglary. 6 AA at 1327-1330.

In each burglary, they broke into each hotel room by prying the door open, in the same location on each door by the door catch plate. 5 AA at 1186. They also used the same pry device consistent with a screwdriver in each burglary. Id. When she was arrested, Oliver was found with multiple screwdrivers on her person. 6 AA at 1304. They committed all five burglaries by breaking into the room while the

guests were out and stealing any valuable items they could find. 4 AA at 988-989; 5 AA at 1012-1014; 5 AA at 971-972; 5 AA at 1141-1142; 4 AA at 911-914. There was overwhelming evidence that Oliver committed each burglary.

The evidence presented at trial was overwhelming and Oliver's guilt at trial was clear beyond a reasonable doubt. Therefore, any possible error by the court was harmless.

### **III. OLIVER'S SENTENCE WAS WITHIN THE LEGAL RANGE AND CONSTITUTIONAL**

Oliver claims she received an "unconscionable" sentence that was cruel and unusual. AOB at 14-16. However, Oliver's claim is meritless because her sentence was within the statutory range.

The Eighth Amendment to the United States Constitution as well as Article 1, Section 6 of the Nevada Constitution prohibit the imposition of cruel and unusual punishment. The Nevada Supreme Court has stated that "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" Allred v. State, 120 Nev. 410, 92 P.2d 1246, 1253 (2004) (quoting Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

Additionally, the Nevada Supreme Court has granted district courts “wide discretion” in sentencing decisions, and these are not to be disturbed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Allred, 120 Nev. at 410, 92 P.2d at 1253 (quoting Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976)). A sentencing judge is permitted broad discretion in imposing a sentence and, absent an abuse of discretion, the district court’s determination will not be disturbed on appeal. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993) (citing Deveroux v. State, 96 Nev. 388, 390, 610 P.2d 722, 723-724 (1980)). As long as the sentence is within the limits set by the Legislature, a sentence will normally not be considered cruel and unusual. Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 593 (1994).

A sentence will not be deemed cruel and unusual if it is within the statutory range unless the statute fixing the punishment is unconstitutional, or the sentence is so unreasonably disproportionate to the offense as to shock the conscience. Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 489 (2009); Allred, 120 Nev. at 420, 92 P.2d at 1253. A punishment is considered “excessive” and unconstitutional if it: “(1) makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the severity of the crime.” Pickard v. State, 94

Nev. 681, 684, 585 P.2d 1342, 1344 (1978) (quoting Coker v. Georgia, 433 U.S. 584, 592, 97 S. Ct. 2861, 2865 (1977)).

Here, Oliver's sentence is within the framework mandated by statute and is not out of proportion to the severity of the crime. The District Court sentenced Oliver to a minimum of one hundred eighty (180) months and a maximum of eight hundred sixty-four (864) months. This sentence was within the statutory range for the crimes Oliver was convicted of. It is well-settled that a district court judge has discretion at sentencing and can sentence a defendant to any sentence within the statutory framework. Thus, Oliver's sentence is not cruel and unusual as it is within the framework mandated by statute.

#### **IV. REMAND FOR RESENTENCING IS REQUIRED**

Oliver claims the District Court sentenced her in error regarding Count 25. AOB 16-18. Oliver is correct. The District Court sentenced Oliver to a maximum of one hundred twenty (120) months with a minimum of forty-eight months (48) on Count 25 (Coercion). 1 AA at 149. This was an illegal sentence. Under NRS 207.190, the sentencing range should have been a maximum of forty-eight (48) months with a minimum of twelve (12) months. Oliver was sentenced to an aggregate total of a minimum of one hundred eighty (180) months and a maximum of eight hundred sixty-four months (864) in the Nevada Department of Corrections. 1 AA at 184. However, even after Oliver's sentence has been corrected, the

aggregate total will stay the same. Count 25 runs concurrent to Counts 24, 35, and 36. Oliver's sentence for Count 24 is a minimum term of twenty-four (24) months and a maximum term of one hundred twenty (120) months. Because the Counts 25, 35, and 36 run concurrently to Count 24, the aggregate total of those counts will be a minimum term of twenty-four (24) months and a maximum term of one hundred twenty (120) months. This term, added up to run consecutively with the other terms, equals the current total of Oliver's sentence. Therefore, Oliver's aggregate total term will remain the same.

Regardless, this case should be remanded to the District Court for resentencing as to Count 25 and an amended Judgment of Conviction should be issued.

## **V. THERE IS NO CUMULATIVE ERROR**

Oliver claims there was cumulative error during the proceedings that denied her right to fair trial. AOB at 19. Oliver includes no substantive argument to support her claim. See id. Thus, Oliver is not entitled to relief.

A party seeking review bears the responsibility "to cogently argue, and present relevant authority" to support his assertions. Edwards v. Emperor's Garden Restaurant, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006); Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (an arguing party must support his arguments with relevant authority and cogent argument; "issues not so presented

need not be addressed”). Oliver includes no cogent argument concerning her allegation that cumulative error warrants relief. Therefore, this claim should be summarily rejected on its face without needing to reach the merits. Maresca, 103 Nev. at 673, 748 P.2d at 6.

Even if this Court were to reach the merits of a cumulative error analysis, Appellant would not be entitled to relief. “Relevant factors to consider in evaluating a claim of cumulative error are (1) whether the issue of guilt is close, (2) the quantity and character of the error, and (3) the gravity of the crime charged.” Mulder v. State, 116 Nev. 1, 17, 992 P.2d 845, 855 (2000). Furthermore, any errors that occurred at trial were minimal in quantity and character, and a defendant “is not entitled to a perfect trial, but only a fair trial.” Ennis v. State, 91 Nev. 530, 533, 539 P.2d 114, 115 (1975).

As stated in Section II, *supra.*, the issue of Oliver’s guilt was not close. Oliver has failed to substantively support a single claim of error, much less multiple errors that could be cumulated to warrant relief. The only error committed by the court occurred after trial during sentencing and did not affect Oliver’s right to a fair trial. While the gravity of the crimes charged is severe, Oliver cannot demonstrate that the totality of the Mulder factors weighs in her favor. 116 Nev. at 17, 992 P.2d at 854-855. Therefore, Oliver fails to demonstrate that cumulative error entitles her to relief.

## **CONCLUSION**

For the foregoing reasons, the State respectfully requests that this Court remand to the District Court for resentencing on Count 25 and to issue an amended judgment of conviction but affirm Oliver's conviction on all other issues.

Dated this 13<sup>th</sup> day of April, 2022.

Respectfully submitted,

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BY */s/ John Afshar*

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## **CERTIFICATE OF COMPLIANCE**

1. **I hereby certify** that this brief 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)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in 14 point font of the Times New Roman style.
2. **I further certify** that this brief complies with the page and type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points, contains 4,102 words and does not exceed 30 pages.
3. **Finally, I hereby certify** that I have read this appellate brief, 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 28(e)(1), which requires every assertion in the brief 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 13<sup>th</sup> day of April, 2022.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on April 13, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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