

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

2  
3                   Electronically Filed  
4                   Dec 29 2021 04:17 p.m.  
5                   Elizabeth A. Brown  
6                   Clerk of Supreme Court

7                   TEODOMIRO ESQUIVEL,

8                   Appellant,

9                   vs.

**Supreme Court No. 83400**  
                  District Court No. CR2107239

10                  THE STATE OF NEVADA,

11                  Respondent.

12                   **MOTION TO STAY APPEAL PENDING MOTION TO WITHDRAW PLEA**  
13                   **BEING HEARD BY DISTRICT COURT**

14                  COMES NOW Appellant TEODOMIRO ESQUIVEL, by and through his  
15                  counsel, STEVE E. EVENSON, Esq., and hereby moves this Court to Stay this  
16                  Appeal for the reasons set forth below. The request for stay is indefinite based  
17                  upon the reasons set forth below.

18                  This request is based on the attached Affidavit. No further extension is  
19                  anticipated to be necessary. The undersigned affirms this document does not  
20                  contain a social security number.

21                  Dated this 29<sup>th</sup> day of December, 2021.

22                                   /s/ Steve E. Evenson, Esq.  
23                                   STEVE E. EVENSON, ESQ., PC  
24                                   Nevada State Bar No.: 4596  
25                                   101 North Maine Street  
26                                   Fallon, NV 89406  
27                                   (775) 273-2529  
28                                   Attorney for Appellant

1 STATE OF NEVADA )

2 :ss

3 COUNTY OF CHURCHILL )

4  
5 I, Steve E. Evenson, Esq. hereby swear that the following is true to the best of  
6 my knowledge, and as to matters stated on belief, I believe them to be true:

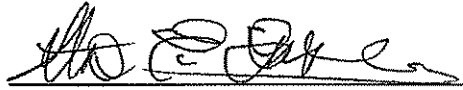
- 7 1. I am the counsel of record for Appellant TEODOMIRO ESQUIVEL.
- 8 2. This Motion is not filed or made for purpose of delay.
- 9 3. I was not the attorney of record on this matter below. I was retained  
10 after Appellant was sentenced, but before the time to appeal was due.  
11 I filled the notice of Appeal to protect Mr. Esquivel's rights.
- 12 4. Since that time, I have reviewed the court file and talked with my  
13 client by telephone. I was unable to meet with him personally until  
14 December 12, in Carson City. The reason for the meeting taking so  
15 long was due to Covid in general, a visit with him being canceled due  
16 to Covid and then, after that, my own personal contraction of the virus.
- 17 5. At that meeting on December 12, a number of different facts/factors  
18 were disclosed that were not previously known to me. Additionally,  
19 the in person visit gave me further insight into what did and did not go  
20 on during the plea process with plea counsel.
- 21 6. Because of that meeting and the review of the file in the matter, it is  
22 my belief that before this appeal is heard, Mr. Esquivel should move  
23 the District Court to be allowed to withdraw his no contest plea on the  
24 basis of ineffective assistance of Counsel.
- 25 7. If that motion is not granted, then that appeal could be conducted and  
26 or consolidated with this one and save Appellant and this Court  
27 resources by not having two appeals on the same case.
- 28

1 8. It is my anticipation that the motion to withdraw the guilty plea can be  
2 prepared by January 28 and will hopefully have a decision from the  
3 Court before the end of March.

4 9. It is believed that Appellant has a strong case with regard to the  
5 withdrawal of his no contest plea in this matter and that the disposition  
6 of that issue may also conclude this appeal.

7 FURTHER YOUR AFFIANT SAYETH NOT.

8 Dated this 29<sup>th</sup> day of Decmeber, 2021.

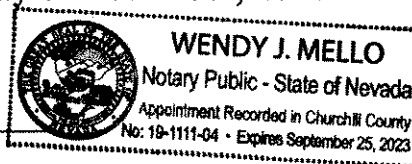
9 

10 STEVE E. EVENSON, ESQ., PC

11 State of Nevada / County of Churchill  
12 SUBSCRIBED and SWORN before me by

13 Steve E. Evenson on this 29th day of December, 2021.

14 Wendy J Mello  
15 Notary Public



16 **CERTIFICATE OF SERVICE**

17 Pursuant to NRCP 5(b), I certify that I am an employee of the EVENSON LAW  
18 OFFICE and that on the date shown below, I caused service of the above document  
19 to be completed by:

20 ☒ Depositing for mailing in the U.S. mail with sufficient postage thereto  
21 ☒ Electronically, in compliance with the Court's electronic filing system a true  
22 and correct copy of the attached document addressed to:

23 Humboldt County District Attorney's Office  
24 PO Box 909  
25 Winnemucca, NV 89419

26 Date this 29<sup>th</sup> day of December, 2021.

27 /s/Wendy J Mello  
28 Evenson Law Office