

IN THE SUPREME COURT OF THE STATE OF NEVADA

TEODOMIRO ESQUIVEL

Appellant,

v.

STATE OF NEVADA

Respondent.

Electronically Filed  
Docket No. 83400  
Jan 06 2022 12:09 p.m.  
District Court No. CB2407239  
Elizabeth A. Brown  
Clerk of Supreme Court

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

**COMES NOW**, the State of Nevada, Respondent, by and through MICHAEL MACDONALD, Humboldt County District Attorney, and hereby opposes the Defendant's Motion to Stay Appeal Pending Motion to Withdraw Plea Hearing Heard by District Court.

This opposition is based upon all the pleadings and papers on file herein. Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

**DATED** this the 6<sup>th</sup> day of January, 2022.

By Michael Macdonald  
MICHAEL MACDONALD  
District Attorney  
P.O. Box 909  
Winnemucca, Nevada 89446  
(775) 623-6360

**OPPOSITION**

The Defendant herein has filed a Motion to Stay Appeal Pending Motion to Withdraw Plea Being Heard by District Court. In doing so he fails to cite any Supreme Court Rule or other authority in support of that Motion. Rather, he refers to an, as yet, unfiled Motion to Withdraw Plea being heard by District Court.

The Defendant, in his Motion, fails to explain how this Court has authority to grant his Motion and further fails to explain how the District Court would have jurisdiction to entertain further proceedings with regard to this matter. The Defendant further fails to explain how his purported grounds for his proposed plea withdrawal are ripe for review.<sup>1</sup> Generally, ineffective assistance of counsel claims are brought following a direct appeal and pursuant to a post-conviction Writ of Habeas Corpus. Again, no authority is provided that supports the Defendant's position has merit.

///

///

///

///

///

///

///

---

<sup>1</sup> Paragraph 6 of the Defendant's supporting Affidavit states his Withdrawal of Plea Motion is on "...the basis of ineffective assistance of Counsel"(sic).

**CONCLUSION**

The Defendant herein, without authority, asks this Court to delay his appeal on a speculative claim that the lower court has jurisdiction to entertain a prematurely brought issue. The Defendant's continuance request should be denied.

**DATED** this 6<sup>th</sup> day of January, 2022.

By *Michael MacDonald*  
MICHAEL MACDONALD  
District Attorney  
P.O. Box 909  
Winnemucca, Nevada 89446  
(775) 623-6360

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) I certify that I am an employee of the Humboldt County District Attorney's Office, and that on the 6<sup>TH</sup> day of January, 2022, I mailed/delivered a copy of the **OPPOSITION TO MOTION TO STAY APPEAL PENDING MOTION TO WITHDRAW PLEA BEING HEARD BY DISTRICT COURT** to:

Steve Evenson  
101 North Maine Street  
Fallon, NV 89406  
(US Mail)

Attorney General  
100 N. Carson Street  
Carson City, Nevada 89701  
(US Mail)

