

Electronically Filed
Feb 14 2022 12:36 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Respondent.

CASE NO.: 83546

DATED this 14th day of February, 2022.

Attorney for the Appellant

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 Rule 30(d) of the Nevada Rules of Appellate Procedure allows an appellant to
4 include copies of relevant and necessary exhibits in the appendix. However, if an exhibit
5 is not able to be reproduced, a party may:

7 ...file a motion requesting the court to direct the district court clerk to
8 transmit the original exhibits. The court will not permit the transmittal
9 of original exhibits except upon a showing that the exhibits are relevant
10 to the issues raised on appeal, and that the court's review of the original
11 exhibits is necessary to the determination of the issues.

12 NRAP 30(d).

13 Appellant respectfully requests this Court direct the Eighth Judicial District Court
14 Clerk's Office to transmit Court Exhibit 1, which was admitted into evidence during an
15 evidentiary hearing that occurred on March 4, 2021, in the Eighth Judicial District Court
16 Department 9 case number C-17-327585-1. ¹ The Exhibit contains sensitive
17 information regarding the co-defendant's participation in the robbery and murder of the
18 victim in the instant case. The district court placed the Exhibit under seal to protect the
19 identity of the witness that provided the information. Protecting the witnesses' identity
20 is crucial to prevent any potential retaliation against the witness.
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27 ¹ The district court filed Court Exhibit 1 under seal. *See* Appellant's Appendix, Volume
28 II, bates number 380.

The Exhibit is necessary for the adjudication of the instant appeal as it was considered by the district court below when denying the Appellant's Motion to Withdraw Guilty Plea. Specifically, the Exhibit supports Appellant's arguments in Section B of the Appellant's Opening Brief which discusses whether counsel's failure to provide the witness' statement to the Appellant provided a fair and just reason to withdraw the Appellant's plea.

Therefore, Appellant respectfully request that this Court direct the Eighth Judicial District Court Clerk to transmit Court Exhibit 1, which was admitted into evidence during an evidentiary hearing that occurred on March 4, 2021, in the Eighth Judicial District Court, Department 9, case number C-17-327585-1, for this Court's review.

Respectfully submitted, this 14th day of February, 2022.

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AARON D. FORD
Nevada Attorney General

STEVEN WOLFSON
Chief Deputy District Attorney

BY /s/ Lucas Gaffney
Employee of Gaffney Law