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2	IN THE SUPREME COURT OF THE STATE OF NEVADA		
3	DORIE HENLEY) Electronically Filed		
5	Appellant, (a) Feb 14 2022 12:36 p. (b) Elizabeth A. Brown (c) CASE NO.: 83546 Clerk of Supreme Co		
6	vs.	art.	
7 8	THE STATE OF NEVADA)		
9	Respondent.)		
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11	APPELLANT'S MOTION TO TRANSMIT EXHIBIT		
12	Appellant, DORIE HENLEY by and through his attorney, LUCAS J. GAFFNEY,		
13 14	ESQ., and pursuant to Nevada Rules of Appellate Procedure 10(b)(2) and 30(d), asks		
15	this Court to direct the district court to transmit Court Exhibit Number 1 from the		
16	evidentiary hearing conducted on March 4, 2021, in the Eighth Judicial District Court,		
17 18	Department 9, in case number C-17-327585-1, as it is necessary for the adjudication of		
19	the instant appeal. This motion is based upon the following Memorandum and all papers		
20 21	and pleadings on file herein.		
22	DATED this 14 th day of February, 2022.		
23	Respectfully submitted,		
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25	<u>/s/ Lucas Gaffney</u> LUCAS GAFFNEY, ESQ.		
26	Nevada Bar No. 12373		
27	Attorney for the Appellant		
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MEMORANDUM OF POINTS AND AUTHORITIES

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

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

NRAP 30(d).

Appellant respectfully requests this Court direct the Eighth Judicial District Court Clerk's Office 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. ¹ The Exhibit contains sensitive information regarding the co-defendant's participation in the robbery and murder of the victim in the instant case. The district court placed the Exhibit under seal to protect the identity of the witness that provided the information. Protecting the witnesses' identity is crucial to prevent any potential retaliation against the witness.

¹ The district court filed Court Exhibit 1 under seal. *See* Appellant's Appendix, Volume II, bates number 380.

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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.

By: /s/ Lucas J. Gaffney
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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on February 14, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD Nevada Attorney General

STEVEN WOLFSON Chief Deputy District Attorney

BY <u>/s/ Lucas Gaffney</u>
Employee of Gaffney Law