

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERESA ANN GREVELLE,

Appellant,

VS.

THE STATE OF NEVADA,

Respondent.

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Case No. 83579

APPELLANT'S REPLY BRIEF

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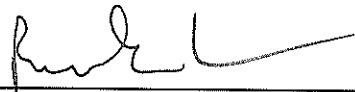
TERESA ANN GREVELLE,)	
)	
Appellant,)	Case No. 83579
)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Miller Law, Inc. and Rendal B. Miller, Esq. are present counsel for Appellant. Miller Law, Inc. has no parent corporations. Jeffrie R. Miller, Esq. has also represented Appellant.

Appellant herein was also represented by Sherburne Macfarlan, Esq. through sentencing.


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ARGUMENT

Respondent, the Humboldt District Attorney's Office, raised several issues in their Brief. First, Respondent argues the Court's jurisdiction over this appeal. This issue was initially briefed in compliance with the Order to Show Cause and Suspend Briefing filed October 20, 2021. The District Court's June 21, 2021 Order for Dismissal did not settle all issues as alleged by Respondent. The September 8, 2021 Order Clarifying Order for Dismissal Entered June 21, 2021 actually terminated probation and dismissed the Petition for Writ of Habeas Corpus, thus resolving all issues.

The June Order did not dispose of all the issues. If the June Order were considered the final Order, then Appellant would have continued on probation. Her probation status was the point of the habeas petition. As seen by the September Order, the Court intended more than what was stated. Therefore, the September 8, 2021 date is the actual final Order for this case as it resolved all issues pending before the court.

Second, the District Court had the ability to impose up to five years of probation. Appellant's probation began on July 7, 2014. Appellant's term of probation far exceeds five years. The latest date Appellant could remain on probation was July 7, 2019. However, Appellant was discharged on September 8, 2021 over two years past her latest discharge date. Appellant is asking for the

original sentence with the probation terminating on December 18, 2018 as was previously ordered.

In fact, even Respondent recognizes that the District Court could not impose a longer probationary period in Respondent's Answering Brief (Page 8, Line 21) where Respondent states, "A District Court Cannot Impose a Sentence of Probation beyond Five Years for a Felony Conviction prior to June 20, 2020 under NRS 176A.500(1)(b)". The sentencing scheme is even shorter now.

Therefore, the District Court clearly abused its discretion by rescinding the discharge of probation and reinstating probation past the five year maximum term.

Third, Respondent now alleges the issue is moot. The issue of Appellant's actual date of discharge and the type of discharge are of paramount importance. If the dishonorable discharge is not addressed, Appellant will not be eligible for probation in the future.

Part of Respondent's argument appears to be based on Appellant not completing all payments for the total restitution balance. But this thinking would make our system a debtor's prison system.

The original Petition for Discharge from Probation states that Appellant "has demonstrated fitness for honorable discharge, **but because of economic hardship, verified by the Division**, has been unable to make restitution as ordered by the court." (See *Appellant's Appendix Page 0014*). Appellant's inability to make all

the restitution payments should not be a bar to an honorable discharge. Nor should the state be a debt collector holding prison over a person's head for the inability to pay.

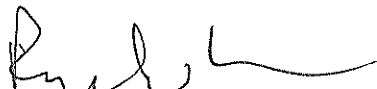
Another reason this is not moot is that Appellant's date she is eligible to seal her record depends on the date she is released from probation. Appellant was originally discharged on December 18, 2017. Her new date is October 20, 2021. This would move the date she is eligible to seal her record out an additional three years. Appellant should be allowed to seal her record in six more months.

Respondent seems to argue that an illegal sentence is allowable and should be overlooked since the victim was not fully compensated but fails to realize the Civil Confession of Judgment that was executed by Appellant. (See Respondent's Answering Brief page 11 line 7-22) (Civil Confession of Judgment See Appellant's Appendix Page 0017). If this is the case, then there is no reason to have laws and procedures.

Appellant was released from probation on December 18, 2017 with the District Court being apprised in the Petition and Order Honorably Discharging

Probationer that the full restitution had not been made. Defendant should be granted that discharge day again with an honorable discharge from probation.

DATED this 3 day of June, 2022



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ATTORNEY'S CERTIFICATION OF COMPLIANCE

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 Times New Roman type style, 14 pt. I further certify that this brief complies with the page- or 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 or more and contains 1166 words. 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, NRAP 28, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the record on appeal (ROA).

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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 3 day of June, 2022.



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CERTIFICATE OF MAILING

I certify that on the 3rd day of June, 2022, I deposited a true and correct copy of the foregoing Appellant's Reply Brief, in the U.S. Mail, first class postage, prepaid pursuant to NRCP 59(b), addressed to the following:

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DATED this 3rd day of June, 2022.



MICHELLE MILLER