

ORIGINAL

No. 83621

No. 84276

IN THE NEVADA SUPREME COURT

B. Joshua W-A, a Minor,

Appellant,

v.

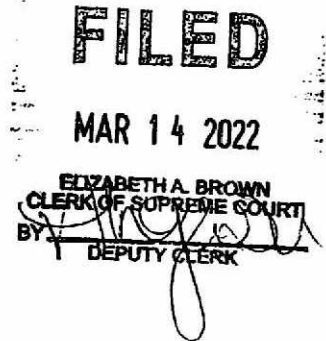
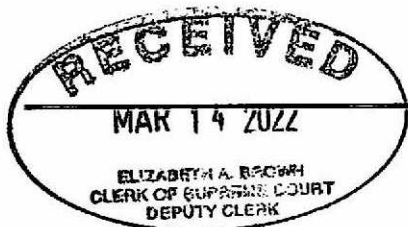
State of Nevada,

Respondent.

Direct Appeal from an Order of the District Court
Juvenile Division for Certification of Adult Status
Eighth Judicial District Court
Honorable David Gibson Jr., District Court Judge
District Court Case No. J-21-353445-D1

**Appellant's Motion to Seal the Briefs and the Appendix, Notice
Appeal will be filed as an Emergency Motion Under NRAP 27(e)**

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Special Public Defender
W. Jeremy Storms
State Bar #10772
Chief Deputy Special Public Defender
330 South 3rd Street
Las Vegas, NV 89155
(702) 455-6265
Attorneys for Appellant Byron W-A



22-67977

POINTS AND AUTHORITIES

Appellant B. Joshua W-A, a minor, (hereinafter referred to as Joshua) by and through his attorney W. Jeremy Storms, Chief Deputy Special Public Defender, requests this Court seal the Opening Brief and Appendix submitted along with this motion; as well as the Respondent's Answering Brief and Appellant's Reply Brief, if one is filed.

This request is based on the Nevada Rules for Sealing and Redacting Court Records (SRCR) and the Declaration of Counsel attached hereto.

This appeal arises from a district court action wherein the court issued two different Certification to Adult Status Orders of a juvenile for adult criminal proceedings pursuant to NRS 62B.390 in case number J-21-353445-D1.

On September 21, 2021, the District Court filed a Certification to Adult Status Order [Counts 1-5, Lewdness with a Minor Under 14]. Appellant filed a notice of appeal of October 16, 2021, and the direct appeal was docketed in this Court under Case Number 83621.

The State filed an amended Petition alleging 3 additional counts of Lewdness with a Minor Under 14. The Certification to Adult Status

Order on Additional Counts 6-8 was filed February 9, 2022. A Notice of Appeal was filed February 15, 2022. That direct appeal was docketed under Case Number 84276.

Counsel filed a Motion to Consolidate the appeals which was granted by this Court on March 3, 2022. The Opening Brief is due March 14, 2022.

“Any person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion...” SRCR 3(1).

SRCR 7 states, “...[a] civil court record or any portion of it that was sealed in the trial court shall be made available to the Nevada Supreme Court in the event of an appeal. Court records sealed in the trial court *shall* be sealed from public access in the Nevada Supreme Court subject to further order of that court.” (Emphasis added). The reporter’s transcripts of the hearings in the district court case J-21-353445-D1 were filed under seal. (1 APP 87-97, 103-05, 188-209; 2 APP 258-70).

It is requested that the transcripts should remain sealed and should be filed with this Court under seal, as well as the rest of the

Appendix, because it involves a subject minor. Additionally, the alleged victims are also minors.

SRCR 3(4) allows the Court to seal documents for a variety of reasons, including any “compelling circumstances”.

SRCR 3(4)(h) states that:

The public interest in privacy or safety interests that outweigh the public interest in open court records include findings that:

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

Counsel submits that the sealing of the Appendix and Briefs is justified due to the age of the involved parties, as well as other confidential information contained in the Appendix. The expectation of privacy of the subject minor as well as the alleged minor victims is a compelling circumstance that outweighs the public interest in access to the court record.

CONCLUSION

Based on the Declaration attached hereto, Appellant B. Joshua W-A, a Minor, requests the Court grant his motion and allow the briefs submitted in this matter as well as the Appendix to be filed under seal.

The Opening Brief and Appendix have been submitted to this Court for its review. If this motion is granted, Counsel for Appellant requests that this Court order the Respondent to file their Answering Brief under seal as well as the Reply Brief of Appellant should one be filed.

DATED this 11th day of March, 2022.

Respectfully submitted,

JoNell Thomas
Special Public Defender



W. Jeremy Storms
Chief Deputy Special Public Defender

DECLARATION OF W. JEREMY STORMS

W. JEREMY STORMS, hereby declares as follows:

1. That I am an attorney duly licensed to practice law in the State of Nevada, and the deputy with the Clark County Special Public Defender's office assigned to represent B. Joshua W-A, a Minor on his appeal from the Order certifying him as an adult from juvenile court case number J-21-353445-D1.

2. I also represent B. Joshua W-A in the criminal case as a result of certification proceedings, Case No. 21CR043382.

3. A delinquency petition was filed September 1, 2021, and a Certification Petition was filed September 3, 2021 alleging 5 counts of Lewdness with a Minor under 14 against Appellant B. Joshua W-A (Joshua). After a hearing held on September 16, 2021, Joshua was certified for adult criminal proceedings.

4. A Notice of Appeal was filed on October 6, 2021, from the Certification to Adult Status Order. The appeal was docketed in Case Number 83621.

5. On November 22, 2021, an amended delinquency petition and an amended certification petition were filed alleging an additional 3 counts against Joshua of Lewdness with a Minor under 14 (in the same district court case number J-21-353445-D1). After a hearing held February 3, 2022, Joshua was again certified for adult criminal proceedings.

6. Another Notice of Appeal was filed February 15, 2022 and the appeal was docketed under Case No. 84276. The appeals in case numbers 83621 and 84276 were consolidated on March 3, 2022.

7. The Opening Brief is due March 14, 2022.

8. A status check is set in the Las Vegas Justice Court on March 30, 2022, for the criminal proceedings.

9. Counsel moves this Court for an Order to seal the Appendix and all briefs submitted based on the following compelling reasons:

(a) the underlying district court case involved a subject minor as well as minor alleged victims.

(b) the transcripts filed in the district court were filed by the Court Reporter under seal.

(c) in addition to the age of the involved parties, there is confidential and personal information contained in the record.

9. The expectation of privacy of the subject minor as well as the alleged minor victims is a compelling circumstance that outweighs the public interest in access to the court record.

Counsel requests that the Appendix and Opening Brief submitted with the instant motion be filed under seal. Further, it is requested that the Respondent's Answering Brief and a reply brief, if one is filed, are also ordered to be filed under seal.

...

I declare that I make this request in good faith and not for purposes of delay.

Dated: 3/11/2022

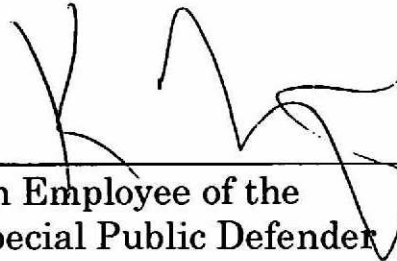


W. Jeremy Storms
Chief Deputy Special Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on 3/11/2022, a copy of Appellant's Motion was served by mail, postage prepaid, to:

Alexander Chen, Esq.
Tanner Sharp, Esq.
Jonathan VanBoskerck, Esq.
District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155



An Employee of the
Special Public Defender