

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
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4 Jun 13 2022 03:55 p.m.
5 Elizabeth A. Brown
6 Clerk of Supreme Court

7 STEVEN GEIL,

8 Appellant,

9 vs.

10 STATE OF NEVADA,

11 Respondent.

Docket No. 83831

12 **Appeal From Judgment of Conviction**
13 **Third Judicial District Court, Lyon County, Nevada**
14 **The Honorable Leon Aberasturi, District Court Judge**

15 **Appellant's Response**

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1 **I. ARGUMENT**

2 Respondent's argument fails to address several key issues discussed in the
3 Appellant's Opening Brief. The Respondent's failure to address these key issues
4 helps to illustrate the errors that were committed by the district court during
5 Appellant's sentencing.

6 The Respondent argues that the sentence was reasonable based on the
7 information cited by the District Court as well as the information contained in the
8 PSI. A sentence that is based on the facts of the case, criminal history, and PSI, is
9 generally reasonable. However, in the Appellant's case that was not the only
10 information that the court relied on and in fact the irritation from the court's
11 morning calendar was the driving force in the sentencing decision. The court's
12 irritation was clear from the sentencing transcript. AA at 33: 4-14; 35: 9-13. The
13 Appellant's argument is not that the court's reliance on the criminal history or PSI
14 was improper, but that the decision to sentence Mr. Geil to a harsher sentence
15 based on the court's frustration with court's morning calendar was improper.
16 While the sentence was not the maximum sentence the court could have imposed,
17 it was nearly the maximum and there was far more time than what the parties had
18 agreed upon during negotiations.

19 Additionally, while the court noted on the record that the victim impact
20 statement would not be considered or read, the court was still aware of its

1 existence. The court decided not to consider the victim impact statement only after
2 defense counsel brought up concerns regarding some of the statements contained
3 within it. While the court said that the statement was not considered during
4 sentencing, the court was still aware of its existence and that the victim had taken
5 the time to write out an impact statement.

6 **II. CONCLUSION**

7 The Appellant asks the court to reverse the sentence imposed by the district
8 court. While the court may have considered the appellant's criminal history and
9 PSI, the sentence was ultimately based on the court's frustration with the morning
10 calendar. Due to this, the Appellant was sentenced to far more time what the
11 parties agreed upon during negotiations. Lastly, while the court stated that it would
12 not consider the victim impact statement during sentencing, it was still aware that
13 the statement was in existence, and it is difficult not to acknowledge that a victim
14 took the time to write one. As such these are improper considerations made by the
15 court. The sentence is one that shocks the conscience and should not be upheld.

16 Dated: June 13, 2022.

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1 **VERIFICATION AND CERTIFICATE OF COMPLIANCE**

2 1. I hereby certify that this Opening Brief complies with the formatting
3 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and
4 the type style requirements of NRAP 32(a)(6) because:

5 [X] This Opening Brief has been prepared in a proportionally spaced type
6 face using Microsoft Word 2010 in 14 point Times New Roman font.

7 2. I further certify that this Opening Brief statement complies with the
8 type volume limitations stated in Rule 32(a)(7), because it is proportionally
9 spaced, has a typeface of 14 points or more, and contains 419 words.

10 3. Finally, I hereby certify that I have read this appellate brief, and to
11 the best of my knowledge, information, and belief, it is not frivolous or interposed
12 for any improper purpose. I further certify that this brief complies with all
13 applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1),
14 which requires every assertion in the brief regarding matters in the record to be
15 supported by appropriate references to the page and volume number, if any, of the
16 transcript or appendix where the matter relied on is to be found. I understand that

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1 I may be subject to sanctions in the event that the accompanying brief is not in
2 conformity with the requirements of the Nevada Rules of Appellate Procedure.

3 Dated: June 13, 2022

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5 By: /s/ Alexandra M. Dyer
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I further certify that I served a copy of this document by mailing a true and correct copy there, postage pre-paid via USPS, addressed to:

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