IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ADAM TRUSCA,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 83853
c/w 84183

RESPONDENT'S ANSWERING BRIEF

Appeal from Denial of a Judgment of Conviction (83853)
and Denial of a Motion to Withdraw Guilty Plea (84183)
Eighth Judicial District Court, Clark County

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ROUTING STATEMENT

These matters are presumptively assigned to the Nevada Court of Appeals, because they challenge a conviction following a guilty plea (83853) and the denial of a motion to withdraw that plea (84183). NRAP 17(b)(1).

STATEMENT OF THE ISSUES

1. Whether Trusca waived any objection to his remote sentencing, and the district court did not err even if he had not.
2. Whether the district court properly denied Trusca's motion to modify his sentence.
3. Whether no error can be cumulated to warrant modification of Appellant's sentence.

STATEMENT OF THE CASE

Police found 771 images and 89 videos of child pornography, 1,115 images and 15 videos of sexually explicit material where the parties' ages could not be

determined, and 43 images of child pornography animation on electronic devices belonging to Christopher Adam Trusca. On September 9, 2020, he was charged by Criminal Complaint with two counts of Possession of Visual Presentation Depicting Sexual Conduct of a Child (Category B felony – NRS 200.700, 200.730) and one count of Use of the Internet to Control Visual Presentation Depicting Sexual Conduct of a Person Under 16 Years of Age (Category C felony – NRS 200.727.1(a)).

On June 17, 2021, following negotiations, Trusca was charged by Information with one count of Possession of Visual Presentation Depicting Sexual Conduct of a Child. Appellant's Appendix ("AA") 01. He pled guilty on June 20, 2021. AA 03-11.

He was sentenced on October 19, 2021, to nineteen (19) to forty-eight (48) months in the Nevada Department of Corrections, with four days credit for time served. AA 116. He was ordered to surrender immediately. The Judgment of Conviction was filed October 25, 2021. AA 115-16.

On October 26, 2021, Trusca requested more time to surrender. AA 32. He told the court his infant daughter was scheduled for heart surgery on November 15, 2021. AA 32, 49-50. The court allowed him to return on November 23, 2021. AA 32. In actuality, no surgery was contemplated for his daughter, despite Trusca's

representation to the court. AA 47. He asserted she was "seriously ill" while her doctor described her as "asymptomatic." AA 47, 50, 110-11.

Trusca filed a Motion to Modify Sentence on November 8, 2021, requesting additional days credit for time served and for the court to reevaluate his sentence based on the same issues he raises here. He also filed a Motion for Bail Pending Appeal. AA 34, 81. The Motion for Bail was denied on November 23, 2021. AA 124. The Motion to Modify Sentence was granted in part the same day, giving Trusca three additional days credit for time served. AA 124. He was remanded into custody on November 23, 2021. AA 114. The court's order was filed on January 26, 2022. AA 123. The Amended Judgment of Conviction was filed on January 26, 2022. AA 120.

Trusca appealed his conviction and sentence on November 23, 2021, and appealed the denial of his Motion to Modify Sentence on January 28, 2021. AA 118, 126. These appeals have been consolidated in Appellant's Opening Brief, filed March 23, 2022 ("AOB").

STATEMENT OF THE FACTS

The district court relied on the following synopsis of the offense at sentencing:

> On September 17, 2018, Dropbox, an electronic service provider, reported to the National Center for Missing and Exploited Children (NCMEC) that one of their subscribers, the defendant, later identified as Christopher Trusca aka Christopher Adam Trusca, had uploaded six images of child pornographic material to his cloud storage account on September 16, 2018. On October 11, 2018, NCMEC forwarded the

> report to the Nevada Internet Crimes Against Children Task Force (NVICACTF). Dropbox provided Trusca's account information and IP address login information. The IP address returned to Trusca's residence in Henderson.
>
> On May 31, 2019, a search warrant was executed on Trusca's residence and three items were seized. Officers searched the items and located 771 images and 89 videos of illegal content. When interviewed, Trusca admitted to uploading 100 to 1,000 (pictures and videos) that had bestiality and underage girls to his Dropbox. He further admitted his actions were attributed to his drug addiction to opioids and denied trading or exchanging links. The videos were reviewed, and a warrant was issued for Trusca.
>
> On April 30, 2021, Trusca was arrested, transported to the Clark County Detention Center and booked accordingly.

Presentence Investigation Report prepared August 10, 2021, at 5.

SUMMARY OF THE ARGUMENT

Where Trusca and his attorney chose to appear remotely, reversal is not mandated. He was present and represented by counsel during his sentencing hearing. The district court did not rely on materially untrue assumptions about the defendant's criminal record which worked to his extreme detriment, so there is no basis for modifying his sentence.

ARGUMENT

I. SENTENCING TRUSCA REMOTELY DID NOT AFFECT HIS CONSTITUTIONAL RIGHTS

In his first issue, Trusca asserts his remote sentencing violated "constitutional, statutory, and local" requirements. AOB at 9. He complains that while he and his attorney chose to appear separately, the court "should have required both of them to

be present in person." AOB at 10. Trusca relies on this Court's recent decision in Chapparo v. State, 137 Nev. Adv. Op. 68, 497 P.3d 1187 (2021) to support his contention that he and his attorney were required to be together in court for sentencing. AOB at 11. This reliance is misplaced. Further, since he failed to object to his decision to appear remotely at the time, this Court should not consider the issue. If this Court chooses to reach the merits of Trusca's decision to appear remotely, the standard would be plain error.

Despite deliberately choosing to appear remotely and separately from his attorney, Trusca argues this claim was "preserved." AOB at 16. He claims that since the appellate time period had not passed, his Motion to Modify Sentence preserved the issue. AOB at 16. This is patently false. A preserved error is one that has been objected to at the time it is alleged to have occurred. McCullough v. State, 99 Nev. 72, 74, 657 P.2d 1157, 1158 (1983); State v. Taylor, 114 Nev. 1071, 1077, 968 P.2d 315, 320 (1998). When, as here, an error has not been preserved, this Court employs plain-error review. Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). Under that standard, an error must be plain and the defendant must demonstrate that the error affected his or her substantial rights by causing "actual prejudice or a miscarriage of justice." Id.

Neither Trusca nor his attorney objected during the sentencing hearing to their own decisions to appear remotely. By not objecting to their own behavior at the time

it occurred, they prevented the district court from evaluating the issue and potentially correcting it. Trusca is not privileged to force an error by choosing to appear remotely, then complaining his appearance was remote. Trusca fails to demonstrate his decision to appear remotely was plain error.

In Chapparo, the defendant and his attorney appeared remotely from separate locations. Id. at 1190. He could see and hear the other participants, and could speak confidentially with his attorney via headset. Id. This Court found the hearing satisfied due process, quoting United States v. Gagnon, 470 U.S. 522, 526, 105 S.Ct. 1482 (1985) to say "[T]he presence of a defendant is a condition of due process to the extent that a fair and just hearing would be thwarted by his absence, and to that extent only." Id. at 1191. Chapparo's presence itself was not a requirement of due process, as he was able to present argument and evidence on his behalf. Id. at 1192. Chapparo received a "fair and just" hearing. Id. (*citing* Snyder v. Massachusetts, 291 U.S. 97, 116, 54 S.Ct. 330 (1934)) ("Fairness is a relative, not absolute, concept.").

Trusca asserts the administrative order in effect at the time of his sentencing mandated a criminal defendant's presence any time jail or prison time could conceivably have been contemplated. AOB at 12-13. This misstates the relevant order. Administrative Order 21-04 is not as dogmatic as Trusca would have this Court believe. AA 54.

Administrative Order 21-04 says "appearances by alternative means remains preferred in all case types with the exceptions of bench trials, jury trials, and in-custody defendants appearing in the Lower Level Arraignment Courtroom." AA 57. The sentencing hearing here, following Trusca's guilty plea, was not a bench trial, a jury trial, or an in-custody arraignment.

The order specifies judges must be especially cognizant of people with underlying health conditions. This logically could include parents caring for infants with heart conditions, such as Trusca. AA 57.

"For appearances other than trials, no in-person appearance shall be made unless the assigned District Court Judge or Hearing Master determines that the particular circumstances of the case require a personal appearance." AA 57. Here, no judge found the particular circumstances required a personal appearance, and Trusca did not request a personal appearance.

The order demands that where probation is contemplated, the sentencing "must" occur remotely. "Due to the limited capacity of the Regional Justice Center at this time, out-of-custody defendants must appear by alternative means wherever possible, including for entry of plea, status checks, motions, and sentencing where the negotiation contemplates probation." AA 73. The GPA contemplated probation where, as here, the defendant's psychosexual evaluation does not find him to be a high risk to reoffend. AA 05. Since both parties retained the right to argue, probation

was as much a possibility as prison time, especially since Trusca only pled to one count. Trusca himself contends "the psychosexual report plainly contemplated community supervision as opposed to incarceration." AOB at 25. In that case, the administrative order required the sentencing hearing to be conducted remotely.

Trusca states he did not want to have a remote hearing, though he never informed the district court of this. AOB at 13, AA 49. Although Trusca participated by video link, he complains his attorney only connected by phone. AA 49. Trusca could be seen and heard. Chapparo, 497 P.3d at 1192.

Next, Trusca argues he had no way to communicate privately with his attorney during the proceeding. AOB at 13, 17, AA 49. He does not state that he actually wished to communicate privately with his attorney, or that he needed to bring an issue to his attorney's attention. He does not show the results of the proceedings would have been different if he had been able to communicate privately with his attorney. Trusca does not explain why he was unable to send his attorney a private message on Zoom, or send him a text from a cell phone, or email him, or phone his attorney from a landline, or ask for a continuance. Notably, he fails to explain why, since he was out of custody, he could not have joined his attorney for the proceeding. Simply put, he chose not to do any of these things.

Trusca complains of "interference which interrupted the proceeding." AOB at 13-14. The only interference shown in the record was caused by his own attorney's

failure to mute his microphone while others were speaking. AA 24-25. The only person who was interrupted was the prosecutor. AA 24-25. Once Trusca's attorney muted himself when not speaking, the rest of the hearing proceeded without interference.

He says he was not able to hear all that transpired. AOB at 13. During the hearing, the court asked, "Can you hear us okay?" AA 23. Trusca answered, "Yes, I can." AA 23. Trusca does not allege this hearing difficulty occurred during his *own* case, just that it happened while he "observed other court proceedings while waiting for my matter to be called, and there were many interruptions by others and the moderator repeatedly had to intervene. Also non-participants kept interrupting and the judge had to repeatedly tell them to be quiet." AA 49. The transcript of his sentencing does not reflect the interruption of any non-participants during Trusca's hearing. AA 22-29. Trusca affirmed he could hear well. AA 23.

Because he and his attorney were not physically in court, Trusca complains they inadequately "read the room." AOB at 17. He complains of the length of his attorney's mitigation statement and says he should have better explained how using drugs made Trusca download child porn. AOB at 17. Contrary to his representation, his attorney did argue for a suspended sentence with supervised probation. AA 27. He highlighted Mr. Trusca's psychosexual report. AA 27. He argued he had a low risk of recidivism since his electronic devices could be monitored. AA 27.

Trusca argues the right to be present means the right to be present in-person. AOB at 14 (citing a case from 1934). COVID-19 did not exist in 1934. As this Court held in Chapparo, "Unusual, historic circumstances can require unusual, temporary accommodations." 497 P.3d at 1195. By any due process standard, Trusca was "present" at his sentencing hearing.

In light of a global pandemic that has killed more than six million people, Trusca was not subjected to an error of constitutional dimensions when he elected to appear remotely for his sentencing hearing. If his counsel advised him to appear remotely, this advice was not deficient in light of Administrative Order 21-04. Since Trusca was able to assert he was "highly remorseful with a personal story," he was not prejudiced by his remote appearance. AOB at 17.

II. TRUSCA'S SENTENCE WAS NOT BASED UPON MATERIALLY UNTRUE FACTS ABOUT HIS CRIMINAL RECORD

In his second issue, Trusca complains the district court improperly denied his motion to modify sentence. AOB at 18. He claims the sentencing court had the ability to modify his sentence for any reason as he "had not yet started to serve his sentence." AOB at 18. He asserts his sentence was imposed in violation of constitutional requirements as it was held remotely. AOB at 21. He also asserts his sentence was based on materially untrue information "concerning the relationship between his severe drug addiction and viewing child pornography." AOB at 21. He asserts that since he would have been an excellent candidate for probation, the fact

he did not receive probation is "proof" the court relied on the prosecutor's opinion about drug use not causing child pornography use. AOB at 26. He claims he preserved the issue by filing a motion to modify his sentence weeks later. AOB at 27. He claims he is "sitting in prison," not because he possessed child pornography, but because the court relied on the prosecutor's argument. AOB at 28. He asserts the psychosexual report "all but recommended" he be sentenced to probation rather than prison. AOB at 28.

This issue has not been preserved, as defense counsel did not object to the prosecutor's opinion during the sentencing hearing. AA 22-29. Filing a motion weeks later does not preserve an alleged error at the time it occurred. McCullough, 99 Nev. at 74, 657 P.2d at 1158.

In general, a district court lacks jurisdiction to modify a sentence once the defendant has started serving it. Passanisi v. State, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992), overruled on other grounds by Harris v. State, 130 Nev. Adv. Op. 47 (2014). A motion to correct or modify an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

However, a district court does have inherent authority to correct, vacate or modify a sentence where the defendant can demonstrate the sentence violates Due

Process because it is based on a materially untrue assumption or mistake of fact that has worked to the defendant's extreme detriment. Edwards, 112 Nev. at 707, 918 P.2d at 324; see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to a Due Process violation. State v. District Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984).

"A motion to correct an illegal sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at any time; such a motion cannot be used as a vehicle for challenging the validity of a judgment of conviction or sentence based on alleged errors occurring at trial or sentencing." Edwards, 112 Nev. at 708, 918 P.2d at 324. A motion to modify or correct an illegal sentence "presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence." Id.

District courts have "wide discretion" in sentencing decisions, and "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence," their decisions will not be disturbed. Allred v. State, 120 Nev. 410, 420, 92 P.2d 1246, 1253 (2004) (quoting Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976)). Courts can consider "any reliable and relevant evidence at the time of sentencing." NRS 176.015(6).

The Nevada Supreme Court has emphasized that a "motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the extreme detriment of the defendant." Edwards, 112 Nev. at 708, 918 P.2d at 325. A district court has jurisdiction to modify a defendant's sentence "only if: 1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant's extreme detriment, and 2) the particular mistake at issue was of the type that would rise to the level of a violation of due process." Passanisi, 108 Nev. at 322-323, 831 P.2d at 1373-74.

Edwards explains that a court may modify a defendant's sentence "only if the mistaken sentence 'is the result of the sentencing judge's misapprehension of a *defendant's criminal record*.'" 112 Nev. at 707, 918 P.2d at 324 (quoting Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original)). Such material mistakes surrounding a defendant's criminal record can arise, "either as a result of a sentencing judge's *correct* perception of inaccurate or false information, or a sentencing judge's *incorrect* perception or misapprehension of otherwise accurate or true information." Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original). A sentence within the terms imposed by statute is not a "materially untrue assumption or mistake of fact" that has worked to Defendant's extreme detriment – the only justification for modifying the sentence.

A motion to modify a sentence after the judgment of conviction has been entered is not the correct mechanism to challenge alleged errors occurring at sentencing. That type of substantive error must be raised on direct appeal. "Post-conviction proceedings are not intended to be utilized as a substitute for appeal." Sanchez v. Warden, Nevada State Prison, 89 Nev. 273, 275, 510 P.2d 1362, 1363 (1973).

This Court addressed the issue of when a defendant begins to "serve" his sentence in Miller v. Hayes, 95 Nev. 927, 604 P.2d 117 (1979). "Only after a judgment of conviction is 'signed by the judge and entered by the clerk,' as provided by NRS 176.105, does it become final and does the defendant begin to serve a sentence of imprisonment." Id. at 929, 604 P.2d at 118.

Here, the Judgment of Conviction was signed and filed on October 25, 2021. The Motion to Modify Sentence was filed November 8, 2021, after the district court lost jurisdiction over the case and no longer had the ability to modify the sentence for reasons not proscribed in Edwards. Miller, 95 Nev. at 929, 604 P.2d at 118. The fact that the district court graciously allowed Trusca to remain free for several weeks based on a false representation about his daughter's impeding heart surgery does not alter the date his conviction became final. AA 32, 47, 49-50.

Trusca objects to the prosecutor's opinion that drug addiction does not cause an interest in child pornography. Since the State retained the right to argue, however,

the prosecutor was entitled to opine on relevant matters, and the sentencing court was entitled to consider, or ignore, the prosecutor's opinion. "Few limitations are imposed on a judge's right to consider evidence in imposing a sentence, and courts are generally free to consider information extraneous to the presentencing report." Denson v. State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

Trusca does not assert his sentence is facially illegal, meaning either the district court lacked jurisdiction or the sentence exceeded the statutory maximum set by the legislature for the crime committed. Edwards, 112 Nev. at 708, 918 P.2d at 324. He also does not assert his sentence was based on a materially untrue assumption or mistake of fact *about his criminal record* that has worked to his extreme detriment. Id. at 707, 918 P.2d at 324; Passanisi, 108 Nev. at 322, 831 P.2d at 1373. The prosecutor's opinion on the interaction between drug use and child pornography, whether factual or not, does not misstate Trusca's criminal record.

The prosecutor's opinion also does not misstate facts about this case. Trusca admitted in his guilty plea agreement that he unlawfully possessed child pornography depicting a person under the age of sixteen engaging in sexual conduct. AA 03, 10-11. He informed the district court he had done so. AA 18. His PSI, which he affirmed reviewing with his attorney, recited the facts of his case. AA 23-24. He alleges no error in the facts of the case or in his criminal history. See generally AOB.

As a final point, Trusca has failed to demonstrate the prosecutor's expressed opinion was materially false. Trusca asserts there is a link between drug use and child pornography, as "addictive disorders frequently overlap." AOB at 23. He claims a person addicted to drugs might find himself also addicted to something else, such as child pornography. AOB at 23. "In general terms, drug addiction can lead to other addictions." AOB at 27.

The prosecutor argued Trusca should be incarcerated for three reasons: the PSI only reflected some of the twenty-nine thousand images found in his possession; he accessed the material many times, not just once; and in the prosecutor's opinion, drug addiction does not *cause* a person to view child pornography over several years. AA 25-26.

The entirety of the prosecutor's challenged opinion encompassed six sentences:

> And, Your Honor, I am sympathetic towards drug addiction, and I am sympathetic towards drug addiction that causes an individual to commit property crimes or cause an individual to commit financial crimes to support their addiction. I don't accept, and I don't support the idea that drug addiction causes you to view child pornography for several years. His opioid addiction did not cause him to view a video of a prepubescent teenager masturbating and being forced to perform oral sex on an adult male. That's just not how drug addiction works, in the State's opinion. And I ask this Court, and I urge this Court to sort of disregard drug addiction. He's not here because he was feeding his addiction; he was here because he was viewing child pornography over the course of several years.

AA 26-27.

The prosecutor did not deny Trusca had a problem with heroin. He did not deny that a person can be addicted to both heroin and child pornography. He simply stated drug addiction does not *cause* an addiction to child pornography, so drug addiction is not a mitigating factor that can excuse a person's possession of child pornography.

Trusca agreed. "I completely do understand how, you know, someone can say it's not drugs. And I am not going to say it's not drugs, or it's heroin that made me do anything specific; it's was—it was a whole portion of my life, Your Honor." AA 27. Rather than blame his possession of child pornography on heroin, Trusca blamed it on the emotional spiral he entered after his brother's death. AA 27-28. His father, in a letter written to the court prior to sentencing, also said, "Being under the influence of drugs is absolutely no excuse for him, being charge with this horrible crime." AA 20.

On a Venn diagram, there may be an overlap between drug addicts and possessors of child pornography. What can be learned from that diagram is that people willing to violate the laws of Nevada might be willing to violate more than one law. That Venn diagram does not hint that drug addiction can *cause* a person to masturbate to images of children ranging in age from toddler to prepubescent being forced to engage in sexual activities.

Trusca argues the prosecutor's opinion is incorrect. AOB at 27. In his motion to modify sentence, he pointed to a study that showed child pornography users were more likely than child molesters to use illegal drugs. AA 39. He described another study saying sex addicts might be more likely to indulge their perversions while on illegal drugs. AA 39-40. He fails to cite any study showing illegal drug use can cause a person to become aroused by child pornography when that person was not a child pornography user before.

Because Trusca's sentence was not based on a materially untrue assumption about his criminal record, the district court lacked jurisdiction to modify his sentence once the judgment of conviction was filed.

III. THERE ARE NO ERRORS TO ACCUMULATE

Trusca asks this Court to grant him relief based on both of his alleged errors even if it finds no single error warrants resentencing. AOB at 28.

Under the doctrine of cumulative error, "although individual errors may be harmless, the cumulative effect of multiple errors may deprive a defendant of the constitutional right to a fair trial." Pertgen v. State, 110 Nev. 554, 566, 875 P.2d 361, 368 (1994) (*citing* Sipsas v. State, 102 Nev. 119, 716 P.2d 231 (1986)); see also Big Pond v. State, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985). The relevant factors to consider in determining "whether error is harmless or prejudicial include whether

'the issue of innocence or guilt is close, the quantity and character of the error, and the gravity of the crime charged.'" Id., 101 Nev. at 3, 692 P.2d at 1289.

Here, Trusca pled guilty to only one Category B felony, out of many which could have been charged based on the images found in his possession. The issue of guilt or innocence was not close, as Trusca admitted his guilt. Finally, his two alleged errors were not errors, so there is no prejudicial effect to accumulate.

Trusca chose not to appear in person, in accordance with an administrative order in effect at the time. He suffered no due process violation, as he could see and be seen, hear and be heard. He could have spoken with his attorney in private if he had wished to do so, or could have requested a continuance to do so. The prosecutor's opinion was permissible at the sentencing hearing and was not a material misrepresentation of Trusca's criminal record.

CONCLUSION

Based on the foregoing, the State respectfully requests that this Court AFFIRM this conviction and sentence, as well as the district court's denial of this Motion to Modify Sentence.

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Dated this 3rd day of May, 2022.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. **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 Microsoft Word 2013 in 14 point font of the Times New Roman style.
2. **I further certify** that this brief complies with the page and 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, contains 4,451 words and does not exceed 30 pages.
3. **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, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. 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 3rd day of May, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on May 3, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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