

ORIGINAL

No. 83621

No. 84276

IN THE NEVADA SUPREME COURT

B. Joshua W-A, a Minor,

Appellant,

v.

State of Nevada,

Respondent.

FILED

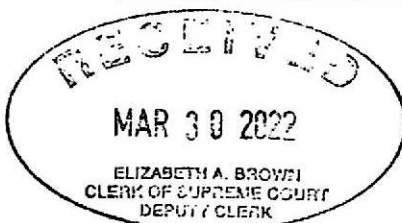
MAR 31 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

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 File Redacted Briefs as well as Redacted
Appellant's Appendix and Respondent's Appendix**

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Attorneys for Appellant Byron W-A



22-10089

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, moves this Court to order that all briefs submitted in the instant matter as well as any Appendix submitted by Appellant or Respondent, be redacted.

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. Pursuant to this Court's Order filed March 21, 2022, the Opening Brief is due March 28, 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).

In Appellant's previous motion to file documents under seal, it was stated that the transcripts were sealed in the district court case and therefore should remain sealed in the Nevada Supreme Court case. Counsel for Appellant has been advised that the transcription service did not seal the transcripts in the district court but rather noted "SEALED" on the cover sheet of the transcripts as the case itself was sealed in the district court and not made available to the public. Appellant apologizes for the confusion caused as to whether the transcripts were sealed or not.

This Court's Order dated March 21, 2022, states in pertinent part, "Having considered appellant's arguments and the documents before this court, this court concludes that appellant has not met the burden of demonstrating that sealing the entire briefs and appendix is warranted, and why redaction would not be sufficient to protect the information at issue...Accordingly, the motion to seal is denied without prejudice." The Order goes on further to state,

Appellant shall have 7 days from the date of this order to file and serve the opening brief and appendix, along with any renewed motion to seal or motion to file certain documents subject to redaction. Any such motion should be accompanied by a copy of any district court order sealing documents and should explain why sealing or redacting is appropriate in this court, either pursuant to SRCR or another applicable statute or rule...Should appellant file a motion to redact documents, he must provide this court with both redacted and unredacted versions of the documents.

The instant motion requests that the Opening Brief, Answering Brief, and Appellant's Reply Brief, if one is submitted, should be redacted. In addition, Appellant requests that the Appendix he submits simultaneously with this motion and Respondent's Appendix (if one is

submitted) should also be redacted. A redacted and unredacted version of the Opening Brief and Appellant's Appendix are being submitted to this Court along with this motion.

Appellant moves this Court to grant his motion to redact the documents requested as to the names of the minor victims as well as dates of births, social security numbers, addresses, and telephone numbers. SRCR 3(4) allows the submission of redacted 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 redacting 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 Appellant, witnesses, and the alleged minor victims is a compelling circumstance that outweighs the public interest in access to their confidential information in a 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 to be submitted in this matter as well as the Appendix of both the Appellant and Respondent to be redacted. A redacted and unredacted version of the Opening Brief and Appellant's 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 redact their Answering Brief, Respondent's Appendix, if filed, and Appellant's Reply Brief of Appellant should one be filed.

DATED this 28th 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 28, 2022.

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

9. It is requested that the submitted documents be redacted based on the following compelling reasons:

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

(b) the pleadings submitted in district court contained police reports which had the names of minors, social security numbers, dates of birth, addresses and telephone numbers.

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

I have submitted both an unredacted and redacted version of the Appellant's Appendix and Opening Brief along with the instant motion. Appellant moves the Court to grant the instant motion and order that the briefs and appendices submitted be redacted.

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

Dated: 3/28/2022

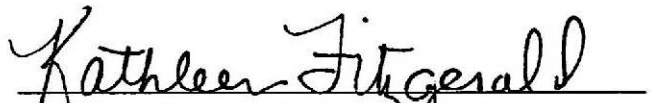


W. Jeremy Storms
Chief Deputy Special Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on 3/28/2022, 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