

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS CHARLES LANZALACA,)

Appellant,)

v.)

THE STATE OF NEVADA,)

Respondent.)

Electronically Filed
Nov 30 2021 01:57 p.m.
83780
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO.

MOTION TO TRANSMIT UNDER SEAL PRESENTENCE
INVESTIGATION REPORT

The Appellant above-named, NICHOLAS CHARLES LANZALACA, by and through his counsel of record, BENJAMIN C. GAUMOND, ESQ. of the BEN GAUMOND LAW FIRM, PLLC, hereby moves for an order directing the Fourth Judicial District Court Clerk to transmit a sealed copy of the Presentence Investigation Report in this case for review by this Court. That report is dated September 8, 2021. Pursuant to NRS 176.156, NRAP 10, and NRAP 30, the document must not be made a part of any public record and therefore cannot be a part of any appendix or exhibits attached to a motion.

1 The Fast Track Statement shall make reference to information
2 contained in the Presentence Investigation Report insofar as such
3 information supports Mr. Lanzalaca's position that he suffered no prior
4 conviction for an infraction under NRS 453.336 and, as such, the
5 infraction in the instant case was subject to mandatory diversion under
6 NRS 176.211. This is relevant to the appeal because the district court
7 lacked jurisdiction to sentence Mr. Lanzalaca to a felony conviction.
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10 DATED this 30th day of November, 2021.

11 BEN GAUMOND LAW FIRM, PLLC

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14 BENJAMIN C. GAUMOND, ESQ., OWNER
15 NEVADA STATE BAR NUMBER 8081
16 495 IDAHO STREET, SUITE 209
17 ELKO, NV 89801
18 (775)388-4875 (PHONE)
19 (800)466-6550 (FACSIMILE)
20 BEN@BENGAUMONDLAWFIRM.COM

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CERTIFICATE OF SERVICE

I, Benjamin C. Gaumond, certify that I am the owner of the Ben Gaumond Law Firm, PLLC and that on the 30th day of November, 2021, I served a copy of the foregoing MOTION TO TRANSMIT UNDER SEAL PRESENTENCE INVESTIGATION REPORT by:

(a)electronically serving said document to the Clerk of the Supreme Court, Tyler J. Ingram and Justin M. Barainca of the Elko County District Attorney's Office, and Nevada Attorney General Aaron D. Ford; and

(b)emailing a copy to Nicholas Charles Lanzalaca.

DATED this 30th day of November, 2021.

A handwritten signature in black ink, appearing to read 'Benjamin C. Gaumond', is written over a horizontal line.

Benjamin C. Gaumond, Esq.