

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

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT FOR THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK,  
AND THE HONORABLE JUDGE BIXLER,  
SENIOR DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA; and MATEO  
FACIO,

Real Parties in Interest.

Supreme Court Case No. C-22-361822-1  
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No.: C-22-361822-1

**EMERGENCY PETITION FOR**  
**WRIT OF MANDAMUS**  
**AND/OR PROHIBITION**  
**UNDER NRAP 27(e)**

**ACTION REQUIRED BY:**  
**MARCH 31, 2022**

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## **NRAP 26.1 DISCLOSURE**

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the Justices of this Court may evaluate possible disqualification or recusal.

1. The Las Vegas Metropolitan Police Department (“LVMPD”) is a governmental entity and has no corporation affiliation.

2. LVMPD was represented in the District Court by Assistant General Counsel for LVMPD, Martina Bauhaus, Esq., and in this Court by Marquis Aurbach, Nick D. Crosby, Esq. and Jordan W. Montet, Esq.

Dated this 30th day of March, 2022.

MARQUIS AURBACH

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## **I. ROUTING STATEMENTS**

The Supreme Court should exercise its jurisdiction over this Writ Petition because it involves issues of first impression dealing with a district court's ability to order a nonparty, noncustodial law enforcement agency to take custody of a state inmate for purposes of the inmate's preparation for and attendance at a pending criminal trial. To this end, NRAP 17(a)(10) provides this Court with primary jurisdiction as an issue of first impression.

## **II. INTRODUCTION AND OVERVIEW OF RELIEF REQUESTED**

The instant Writ Petition seeks extraordinary intervention by the Court to prohibit a district court from improperly exercising jurisdiction over a nonparty governmental entity and to prohibit the district court from exceeding its power. The Real Party in Interest and defendant in the underlying criminal case, Mateo Facio ("Facio"), is currently an inmate with the Nevada Department of Corrections ("NDOC") and is serving a 12 to 34-month sentence on a separate conviction, Case No. C-18-337117-1. In the underlying criminal case, Facio is currently facing several criminal charges, including First-Degree Murder, Case No. C-22-361822-1. Trial in the pending criminal matter is not scheduled until April 25, 2022 before the Honorable Judge Bluth in Department VI of the Eighth Judicial District Court.

On February 18, 2022, the district court issued an order requiring transportation and housing on Facio for both his criminal trial as well as the

months leading up to trial. The order was amended on February 22, 2022, to clarify that Facio was to be remanded to the Clark County Detention Center (“CCDC”) by February 25, 2022. Sheriff Lombardo of the Las Vegas Metropolitan Police Department (the “Department” or “LVMPD”) through LVMPD’s Detention Services Division (“DSD”) maintains and operates the CCDC and its inmates. The Department was never given an opportunity to respond to the oral Motion made by Facio seeking the Transport Order.

The Transport Order required NDOC to transport Facio to CCDC, the county jail operated by the Department’s DSD, by February 25, 2022, so that Facio could assist his attorneys with preparation for his jury trial set for April 25, 2022. The Transport Order further required CCDC and DSD to take custody of Facio from February 25, 2022 through sentencing.

When the Department became aware of the Transport Order, the Sheriff, on behalf of LVMPD, filed a Motion to Reconsider the Transport Order pursuant to EDCR 2.24, contending that the district court did not have the authority to decide where someone is to be housed in advance of trial nor did it have jurisdiction over the Department, such that it could obligate a non-party (LVMPD) to provide for the care and custody of a state inmate for purposes of an inmate’s criminal trial. Facio opposed the Motion for Reconsideration contending that the Sherriff’s Motion for Reconsideration should be denied because while there was no statute

authorizing the transfer, there was also no statute prohibiting the transfer and that the procedures in place at NDOC made trial preparation difficult due to the NDOC's restrictions on visitations. A hearing on the Motion for Reconsideration was conducted on March 8, 2022 where the district court appropriately ordered it did not have the authority to remand an inmate legally housed at NDOC to CCDC or direct certain housing pursuant NRS 203.360, NRS 209.261 to NRS 209.331 and reversed the Transfer Order. The Court further ordered that if Facio's counsel had issues visiting their client at the NDOC, the appropriate recourse is to file a motion to address this issue with the NDOC. The Order granting the Sheriff's Motion for Reconsideration was entered on March 23, 2022.

Thereafter, Facio filed a Motion to Compel NDOC to allow NDOC to Allow Daily Visitation and a Motion to Reconsider Remanding Defendant and Clarify When Defendant Will be Remanded to CCDC Prior to Trial. The Sheriff opposed this Motion contending that Facio improperly sought reconsideration of a previously granted Motion for Reconsideration in violation of Nevada law as it presented no new evidence to the Court. A hearing on Facio's Motion was conducted on March 23, 2022, where the district court ordered that Facio was to be remanded to CCDC on or before March 26, 2022 through his trial. The March Transport Order does not provide any findings of fact or conclusions of law supporting said Order.

The Department contends that the district court did not have the authority to reconsider a motion for reconsideration. The Department further contends that the district court did not have the authority to obligate a nonparty to provide for the care and custody of a state inmate for the purposes of preparation for and attendance at the inmate's criminal trial. The district court's order is not supported by any law of this state, the Nevada Constitution, or any other body of law, and the law purportedly in support of the order, on its face, does not support the same. The Department, therefore, requests a Writ of Prohibition or Mandamus issue from this Court voiding the district court's March Transport Order.

### **III. ISSUES PRESENTED**

1. Whether the District Court may provide a second reconsideration of the same Order that was already reconsidered.

2. Whether the District Court exceeded its authority in ordering the Las Vegas Metropolitan Police Department to guard, transport, and house Facio for preparation for and attendance at Facio's criminal trial.

### **IV. STANDARDS OF REVIEW FOR WRIT PETITIONS**

#### **A. STANDARDS FOR REVIEWING QUESTIONS OF LAW.**

This Court reviews questions of law de novo. *See Birth Mother v. Adoptive Parents*, 118 Nev. 972, 974, 59 P.3d 1233, 1235 (2002). Statutory interpretation is a question of law which this Court reviews de novo. *Id.* Although this Court generally reviews petitions for extraordinary relief with an abuse of discretion

standard, this Court will still apply a de novo standard of review to questions of law, such as statutory interpretation, in writ petition proceedings. *See Roberts v. State of Nev.*, 104 Nev. 33, 752 P.2d 31 (1988).

**B. STANDARDS FOR REVIEWING PETITIONS FOR WRITS OF MANDAMUS AND PROHIBITION.**

This Court has jurisdiction to grant the requested relief pursuant to Article 6, Section 4 of the Nevada Constitution: “The court shall also have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus and also all writs necessary or proper to the complete exercise of its appellate jurisdiction.” NRS 34.160 provides that “[t]he writ [of mandamus] may be issued by the Supreme Court . . . to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station . . . .” For more than a century, this Court has interpreted Nevada’s constitutional and statutory law to vest original jurisdiction in the Supreme Court to issue writs of mandamus. *See State v. Dist. Ct.*, 116 Nev. 127, 994 P.2d 692 (2000) (citing *State ex rel. Curtis v. McCollough*, 3 Nev. 202 (1867)). Thus, this Court has the constitutional and statutory authority to issue a writ of mandamus when, in the Court’s discretion, circumstances warrant.

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, or to control a manifest abuse of discretion. *See Beazer Homes, Nev., Inc. v. Dist. Ct.*, 120 Nev.

575, 97 P.3d 1132, 1135 (2004); NRS 34.160. An abuse of discretion occurs if the district court's decision is arbitrary and capricious or if it exceeds the bounds of law or reason. *Crawford v. State*, 121 P.3d 582, 585 (Nev. 2005) (citation omitted). "Arbitrary and capricious" is defined as a willful and unreasonable action without consideration or in disregard of the facts or law, or without a determining principle. *Elwood Invs. Co. v. Behme*, 79 Misc.2d 910, 913, 361 N.Y.S.2d 488, 492 (N.Y. Sup. 1974). "Abuse of discretion" is defined as the failure to exercise a sound, reasonable, and legal discretion. BLACK'S LAW DICTIONARY, 11 (6th ed. 1990) (citing *State v. Draper*, 27 P.2d 39, 50 (Utah 1933)). "Abuse of discretion" is a strict legal term indicating that the appellate court is of the opinion that there was a commission of an error of law by the trial court. *Id.* It does not imply intentional wrongdoing or bad faith, or misconduct, nor any reflection on the judge but refers to the clearly erroneous conclusion and judgment—one that is clearly against logic. *Id.*

A writ of prohibition is the appropriate remedy for a court's improper exercise of jurisdiction. *See* NRS 34.320; *Smith v. Dist. Ct.*, 107 Nev. 674, 818 P.2d 849 (1991). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. *Id.* "Jurisdictional rules go to the very power" of a court's ability to act. *Pengilly v. Rancho Santa Fe HOA*, 116 Nev. 646,

5 P.3d 569 (2000). A court must know the limits of its own jurisdiction and stay within those limits. *Id.* “A writ of prohibition will lie to prevent a district court from exceeding its jurisdiction.” *Id.* Although an individual can appeal a final judgment, where there is no legal remedy, extraordinary relief is justified. *Zhang v. Dist. Ct.*, 103 P.3d 20 (Nev. 2004), *abrogated on other grounds by*, *BuzzStew, LLC v. City of N. Las Vegas*, 181 P.3d. 670 (Nev. 2008).

Petitions for extraordinary writs are addressed to the sound discretion of the Court and may only issue where there is no “plain, speedy, and adequate remedy” at law. *See* NRS 34.330; *State ex rel. Dep’t Transp. v. Thompson*, 99 Nev. 358, 662 P.2d 1138 (1983). However, “each case must be individually examined, and where circumstances reveal urgency or strong necessity, extraordinary relief may be granted.” *Jeep Corp. v. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982) (citing *Shelton v. Dist. Ct.*, 64 Nev. 487, 185 P.2d 320 (1947)). This Court will exercise its discretion to consider writ petitions, despite the existence of an otherwise adequate legal remedy, when an important issue of law needs clarification, and this Court’s review would serve considerations of public policy, sound judicial economy, and administration. *Dayside Inc. v. Dist. Ct.*, 119 Nev. 404, 407, 75 P.3d 384, 386 (2003), *overruled on other grounds by*, *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 192 P.3d 243 (2008). “One such instance is when a writ petition offers this court a unique opportunity to define the

precise parameters of . . . a statute that this court has never interpreted.” *Diaz v. Dist. Ct.*, 116 Nev. 88, 93, 993 P.2d 50, 54 (2000).

## **V. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

Facio is currently an inmate at High Desert State Prison serving a 12 to 34-month sentence for a conviction in criminal Case No. C-18-337117-1. PA 001-003. Facio is also a defendant in the pending criminal case in the Eighth Judicial District Court, Case No. C-22-361822-1. PA 004. On May 25, 2021, the Honorable Judge Israel entered an Order for Revocation of Probation and Amended Judgment of Conviction in Defendant’s criminal Case No. C-20-350243-1. PA 001-003. Facio had previously plead guilty to OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony). *Id.* Facio was sentenced to “seventy-two (72) months with a minimum parole eligibility of twenty-four months (24) **in the Nevada Department of Corrections (NDC).**” (emphasis added). *Id.* Facio was properly sentenced pursuant to NRS 205.060 and 193.330 which implicitly state that a person found guilty of a category C felony of the offenses “shall be punished by imprisonment in the state prison”. CCDC is not a state prison, rather it is a local detention facility pursuant to NRS Chapter 211.

On February 18, 2022, counsel for Facio, Clark County Special Public Defender, made an oral motion in open court seeking an order remanding Facio to CCDC for preparation of his trial beginning on August 25, 2022. PA 004. On

February 22, 2022, Facio obtained an Amended Order to Remand Defendant (“February Transport Order”) housed at the Clark County Detention Center for Trial Preparation. PA 008-010. The February Transport Order stated that Facio was to be in “the custody of the Clark County Detention Center by February 25, 2022” in order to “assist his attorneys with preparation for his jury trial set for April 25, 2022. *Id.* The February Transport Order further stated that he is to be “housed [at CCDC] through his trial and sentencing.” *Id.* The Certificate of Service indicates that only counsel for Facio was served with a copy of the February Transport Order from the district court on October 4, 2018. *Id.*

The Sheriff was not provided with a Motion prior to the order or any other notice, is not a party to the underlying criminal case, nor was the Department given an opportunity to be heard before the February Transport Order was entered. *See e.g.* PA 010-022. Accordingly, on February 24, 2022, the Sheriff, as a specially appearing interested party, filed a Motion to Reconsider February Transfer Order. *Id.* Facio filed his Opposition to Motion for Reconsideration on March 7, 2022. PA 022-031. The Sheriff filed its Reply in Support of Motion for Reconsideration that same day. PA 032-037.

On March 8, 2022, the district court heard Sheriff Lombardo’s Motion to Reconsider its previous Order to remand Defendant to the Clark County Detention Center (CCDC). *See e.g.* PA 039-050. The Honorable Senior Judge Ellsworth

granted the Sheriff's Motion. *Id.*; PA 134-137. She agreed that there is no statutory authority for the district court to remand an inmate legally housed at NDOC to CCDC or to direct certain housing pursuant to NRS 202.360, NRS 209.261 to NRS 209.331. PA 134-137. Facio's counsel was instructed to contact the Nevada Department of Corrections (NDOC) and, if access is denied, to "file a motion to bring the State in here to have them explain why they can't give ready access." PA 082. The Sheriff's Motion for Reconsideration was granted, and the February Transfer Order was revoked. PA 134-137.

Facio then filed a Motion to Compel Nevada Department of Corrections to Allow Daily Visitation and Motion to Reconsider Remanding Defendant or Clarify When Defendant will be Remanded to CCDC prior to Trial on March 17, 2022. PA 051-089. Accordingly, Facio's Motion explicitly sought reconsideration of the previously granted Motion for Reconsideration filed by the Sheriff. *Id.* Therein, it was clear that the basis for the motion was not about access to the inmate at NDOC, rather convenience of counsel, as it was predominately seeking reconsideration of the Order granting Appellant's Motion for Reconsideration. *Id.* The Sheriff filed its Opposition on March 21, 2022, largely contending Facio was improperly seeking to reconsider a reconsideration. PA 103-109.

A hearing on Facio's Motion was conducted on March 23, 2022 where the district court ordered that Facio was to be remanded to CCDC on or before

March 26, 2022 through his trial. PA 138-141. At the hearing, the district court declined to address the Motion to Compel NDOC to provide Facio with access to counsel in advance of his trial. PA 111-133. The March Transport Order does not provide any findings of fact or conclusions of law supporting said Order. PA 138-141. The Department is currently required to house and guard Facio up to and throughout his criminal trial, which potentially will not begin until after April 25, 2022. PA 138-141. There are currently 12 criminal trials set to begin on April 25, 2022 in Department VI of the Eighth Judicial District Court, several of which are for criminal charges that pre-date Facio's indictment. PA 111-133.

## **VI. LEGAL ARGUMENT**

### **A. THE DISTRICT COURT LACKED AUTHORITY TO RECONSIDER AN ORDER GRANTING A MOTION FOR RECONSIDERATION.**

The Nevada legislature provides district courts with the statutory provisions of their power. A district court abuses its discretion if it exceeds the bounds of law. *Jackson v. State*, 17 P.3d 998, 1000 (Nev. 2001). The district court “may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry & Tile Contractors Ass’n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 941 P.2d 486, 489 (Nev. 1997).

The Nevada Supreme Court prohibits “‘judge shopping’ once a motion is granted or denied” and “preclude[s] litigants from attempting to have an unfavorable determination by one district judge overruled by another.” *Moore v. City of Las Vegas*, 551 P.2d 244, 245 (Nev. 2021); *see also* EDCR 7.20. Further, the Nevada Supreme Court held, when a second motion “raised no new issues of law and made reference to no new or additional facts[,]” the district court abused its discretion in entertaining the motion. *Moore*, 551 P.2d at 246.

The district court cannot provide a second reconsideration of the same order which was already reconsidered as that would place the district court in the position of an appellate decision maker, which is not the role of a district court. NRAP 3(a)(1); *Rohlfing v. Second Judicial Dist. Ct. of Nev.*, 106 Nev. 902, 906, 803 P.2d 659 (1990), citing to Nev. Const., Art. 6 §6; *see also Warden v. Owens*, 93 Nev. 255, 563 P.2d 81 (1977). In *State v. Sustacha*, 108 Nev. 223, 225-26, 826 P.2d 959 (1992), this Court further discussed the hierarchy of the Nevada courts. “[O]ne district court generally cannot set aside another district court’s order.” *Sustacha* at 226. The district courts have appellate jurisdiction “only in cases arising in justices’ courts and other inferior tribunals”. *Id.*, citing to Nev. Const., Art. 6 §6. Here, Facio improperly sought reconsideration of the Order granting Appellant’s Motion for Reconsideration. In entertaining Facio’s request, the district court exceeded its jurisdiction by acting as a court of appellate jurisdiction.

In seeking a second reconsideration, Facio failed to present to the district court any new facts or law upon which it sought additional reconsideration. Additionally, Facio's underlying motion was without any statutory support or case law to support the relief requested. If the district court had the authority to constantly reconsiders matters a case would never be resolved, and parties would file infinite motions for reconsiderations. For that reason, the law requires a motion for reconsideration to provide new law and facts and directs parties to bring any further reconsiderations before the Nevada Appellate Courts. Here, the district court issued a secondary order on reconsideration without any new facts or law to support its ruling. The district court's order is silent as to any support for its order as none exists, and the March Transport Order exceeded the authority of the district court.

**B. THE DISTRICT COURT LACKED AUTHORITY TO ISSUE THE TRANSPORT ORDER.**

The Nevada legislature provides district courts with the statutory provisions of their power. A district court abuses its discretion if it exceeds the bounds of law. *Jackson v. State*, 17 P.3d 998, 1000 (Nev. 2001). Remanding a sentenced Defendant from NDOC to a local facility is not within the bounds of the law. NRS 209.261 to NRS 209.331. Upon being sentenced, the Sheriff has the duty to transfer the inmate to "whatever place of imprisonment the sentence of the court may require." NRS 211.040.

Here, the district court ordered Facio to be transferred to NDOC and provided no authority for its Order, as none exists. The Sheriff and NDOC followed that Order and Facio was placed into the custody of NDOC to serve his sentence. In Facio's Motion to Reconsider the Sheriff's Motion for Reconsideration, he does not cite to any case or statute that allows for transfer of a state inmate to a local law enforcement agency to transport, house, and guard a state inmate for purposes of allowing the inmate to meet with his attorney in preparation for trial because none exists.

The legislature did consider the possibility that a NDOC inmate would have to appear at court after he is placed into a state facility. *See* NRS 209.274. Specifically, NRS 209.274(1) directs this be done, at the responsibility of NDOC, by transporting the inmate from the NDOC facility to court and back. Subsection 2(c) of the statute also provides the district court with the limited authority to order either NDOC or a county sheriff to transport an offender, but such authority is expressly limited to transportation to and from court. There is no authority for a district court to order the Department to house and guard a state inmate when the inmate is not in court. The statute does not provide for, nor contemplate, the district court to order a local law enforcement agency to take custody of a criminal defendant, simply because the defendant is incarcerated in a

state prison as directed by the sentencing order. Since Defendant is a convicted inmate, he is properly housed within the NDOC and cannot be moved to CCDC.

The Nevada legislature also contemplated a scenario where an inmate in a state prison is transferred within the Department of Corrections, to other governmental entities, or between the United States and a foreign country. NRS 209.291. However, the legislature explicitly delegated such authority solely to the Director of NDOC. *Id.* “When the language of a statute is clear on its face, this court will not go beyond the statute’s plain language.” *J.E. Dunn Nw., Inc. v. Corus Constr. Venture, LLC*, 127 Nev. 72, 79, 249 P.3d 501, 505 (2011) (internal quotations and alterations omitted). To ascertain the Legislature’s intent, the Court must first focus its inquiry on the statute’s plain language, avoiding statutory interpretation that renders language meaningless or superfluous. *Doolin v. Dept of Corr.*, 134 Nev. 809, 811, 440 P.3d 53, 55 (Nev. App. Ct. 2018). If a statute’s language is clear and unambiguous, this Court will apply its plain language. *Gold Ridge Partners v. Sierra Pac. Power Co.*, 128 Nev. 495, 500-01, 285 P.3d 1059, 1062-63 (2012).

The Nevada legislature exclusively gave the Director of NDOC the authority to determine whether it is appropriate to transfer a state inmate to the custody of another governmental authority. Canons of statutory interpretation are clear that the expression of one thing implies the exclusion of others. *Slade v. Caesars*

*Entm't Corp.*, 132 Nev. 372, 380-81, 373 P.3d 74, 78 (2016). If the legislature intended for the district court to have the authority to direct the housing transfer of an NDOC inmate, the statute would not have deliberately delegated such authority solely to the director of NDOC. There is no provision for the State inmate to be housed in a local facility based upon an order of the court. NRS 209.261 to NRS 209.331. Accordingly, there is no provision under which the Defendant should be housed at CCDC. *Id.* The district court did not have the authority to order Facio be housed at CCDC, instead of NDOC, where he has been sentenced to be housed.

## **VII. CONCLUSION**

Given the foregoing, the Department respectfully requests this Court grant this Emergency Writ Petition. The Department does not have any plain, speedy or adequate remedy at law and, as a nonparty, a Writ Petition is its only avenue of relief from the district court's improper exercise of authority and unlawful order.

Dated this 30th day of March, 2022.

MARQUIS AURBACH

By /s/ Nick D. Crosby

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**DECLARATION OF NICK D. CROSBY IN SUPPORT OF PETITION FOR  
WRIT OF MANDAMUS AND PROHIBITION**

Nick D. Crosby, being first duly sworn, deposes and says:

1. I am an attorney with the law firm of Marquis Aurbach and attorney of record for Petitioner, Las Vegas Metropolitan Police Department, in the above-captioned case. I have personal knowledge of the matters stated in this affidavit, except for those stated upon information and belief. To those matters stated upon information and belief, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will do so if called upon.

2. Upon information and belief, the Emergency Petition for Writ of Prohibition must be heard immediately, as Facio is currently in the process of being transported to the custody of the Department and the Department will be responsible for housing and guarding Facio, at its own cost, pursuant to the unlawful and invalid March Transport Order.

3. It is LVMPD's position the district court lacked the authority to reconsider a motion for reconsideration as such request was silent as to any new facts or law.

4. Further, LVMPD believes the district court lacked the legal authority to order a nonparty law enforcement agency to take custody of and care for an inmate of the State in a subsequent criminal proceeding as such authority lies exclusively with the Director of the Department of Corrections.


5. Finally, LVMPD believes the district court exceeded its authority in issuing the March Transport Order and the oral order related thereto and, therefore, committed reversible error.

6. As a nonparty, this Writ Petition is LVMPD's only remedy for relief as it does not have standing as a nonparty to appeal.

7. Upon information and belief, the Department advanced the objections raised in this Writ Petition to the district court.

8. I certify and affirm that the Petition for Writ of Mandamus or, in the Alternative, Petition for Writ of Prohibition pursuant to NRS 34.170 and NRS 34.330 is filed in good faith, and that the Petitioner, LVMPD, has no plain, speedy, and adequate remedy in the ordinary course of law that the Petitioner, LVMPD, could pursue in absence of the extraordinary relief requested.

Dated this 30 day of March, 2022.

  
\_\_\_\_\_  
Nick D. Crosby

## **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 2007 in 14-point Times New Roman font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 21(d) because it is either:

☒ proportionally spaced, has a typeface of 14 points or more and contains 5,777 words; or

☐ does not exceed \_\_\_\_\_ pages.

3. Finally, I hereby certify that I have read this 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 30th day of March, 2022.

MARQUIS AURBACH

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Las Vegas, Nevada 89145  
Attorneys for LVMPD

### **NRAP 27(e) CERTIFICATE**

I hereby certify that this Emergency Petition for Writ of Mandamus and/or Prohibition Under NRAP 27(e) relies upon issues raised by the Sheriff in the District Court, and otherwise complies with the provisions of NRAP 27(e).

As set forth in the body of this petition, emergency relief is needed on or before **March 31, 2022** because Department will be responsible for housing and guarding Facio, at its own cost, pursuant to the unlawful and invalid March Transport Order. The telephone numbers and office addresses of the attorneys for the parties are as follows:

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According to the attached certificate of service, all parties through their counsel of record have been served electronically through this Court's electronic filing system, and by email as indicated. Furthermore, the undersigned notified the parties by email on March 30, 2022 of the emergency petition and the basis for same. The undersigned's office also informed the Clerk of the emergency petition on the same day.

Dated this 30th day of March, 2022.

MARQUIS AURBACH

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION UNDER NRAP 27(e) AND PETITIONER'S APPENDIX** were filed electronically with the Nevada Supreme Court on the 30th day of March, 2020. I further certify that I served a copy of this document by emailing a true and correct copy thereof and addressed to:

Honorable Jacqueline Bluth  
Eighth Judicial District Court, Dept. 6  
Regional Justice Center  
dept06lc@clarkcountycourt.us  
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\_\_\_\_\_  
An employee of Marquis Aurbach