IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAL SNEED, Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF CLARK, THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE, Respondent. THE STATE OF NEVADA, Real Party in Interest.	)	No. (DCt. No. C-20-348539-1

PETITION FOR WRIT OF MANDAMUS

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IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAL SNEED, Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF CLARK, DEPARTMENT X, THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE, Respondent, THE STATE OF NEVADA, Real Party in Interest.	)	NO. (Dist. Ct. No. C-20-348559-1)

PETITION FOR WRIT OF MANDAMUS
(Relief Prior to Calendar Call of: 04/25/2022)

COMES NOW, the Petitioner JAMAL SNEED, by and through his counsel, Deputy Public Defender Michael L. Van Luven, and respectfully petitioners this Honorable Court for a Writ of Mandamus ordering the Honorable Tierra Jones to grant the Petitioner's Petition for a Writ of Habeas Corpus, and to dismiss the below-referenced charge against him.

This verified Petition is based on the attached Memorandum of Points and Authorities, the corresponding Petitioner's Appendix of exhibits ("PA"),

all papers and pleadings on file, and any oral argument granted and heard by this Court.

DATED this 6th day of April, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: */s/ Michael Van Luven*
MICHAEL L. VAN LUVEN, #13975
Attorney for PETITIONER

VERIFICATION

MICHAEL VAN LUVEN, being first duly sworn, deposes and says the following:

1. I am an attorney duly licensed to practice law in the State of Nevada and the Deputy Clark County Public Defender assigned to represent Petitioner, JAMAL SNEED, in this matter.

2. Petitioner authorized the filing of the instant Petition for Writ of Mandamus.

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by the State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

4. Respondent, at all times mentioned herein, is the District Judge presiding over Department X of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark. The instant case is assigned to the Honorable Tierra Jones.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief. (NRS 53.045).

By: */s/ Michael Van Luven*
MICHAEL L. VAN LUVEN, #13975
Attorney for PETITIONER

SUBSCRIBED and SWORN to before me

This 6th day of April, 2022.

/s/ Carrie M. Connolly, No: 94-2602-1, Exp. 10/11/25
NOTARY PUBLIC in and for said
County and State

ROUTING STATEMENT

This matter is presumptively assigned to the Supreme Court pursuant to NRAP 17(12) because it raises a matter of statewide public importance: namely, the consistent application in justice court of controlling case law precedent; and the fidelity of the habeas corpus mechanism in district court.

RELIEF SOUGHT

Petitioner requests that this Honorable Court issue a writ of mandamus directing the district court to grant the Petition for a Writ of Habeas Corpus, and dismiss the instant charges against the Petitioner.

ISSUE PRESENTED FOR REVIEW

1. Whether the justice court erred in finding probable cause at the Petitioner's preliminary hearing to support binding over the count of Grand Larceny, wherein the State improperly presented hearsay evidence; presented evidence without proper foundation; and wherein the State presented improper expert witness testimony without qualification.

STATEMENT OF THE FACTS

The Petitioner in this matter is charged by way of Information with one (1) count of Burglary; and one (1) count of Grand Larceny.[1] The two counts were bound over to district court following preliminary hearing held on May 28, 2020.

[1] *PA* at 11-12.

The Petitioner is accused of entering the SuperPawn at 2645 S. Decatur Blvd., in Las Vegas, Nevada, on November 29, 2019, "with intent to commit larceny."[2] The State alleges that the Petitioner "did then and there willfully, unlawfully, feloniously, and intentionally, with the intent to deprive the owner permanently thereof, steal, take and carry away … Digital cameras."[3] The State alleges that the "Digital cameras" were worth "a value of $3,500, or greater…"[4]

At preliminary hearing, the State called a single witness: Ralph Jovero.[5] Jovero was the clerk on shift at the SuperPawn at the time of the alleged incident.[6] Jovero testified to his alleged interaction with the Petitioner, specifically that they haggled over price:

> I was showing a customer something from the glass case we had on display. Then he was asking me about getting a better price for it. When he asked about getting a better price I walked to the manager's office and when I walked to the manager's office I walked out the glass had been smashed and there were two items missing and the customer had left out the door.[7]

Jovero could not recall what exactly had been taken from the display case:

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[2] *Id.* at 11.
[3] *Id.* at 12.
[4] *Id.*
[5] *Id.* at 32.
[6] *Id.*
[7] *Id.* at 32-33.

Q: What was missing?
A: There was two cameras that were missing.
Q: As you sit here today do you remember the brand of those cameras?
A: No. I just know they were like high-priced cameras.[8]

When pressed for additional details as to the type of cameras allegedly taken, Jovero could not be specific: "I'm assuming – they were DSLR's or digital cameras."[9] However, he could not recall a specific price on the two items; instead, Jovero attempted to provide estimates of the price on both cameras, and drew multiple defense objections:

Q: Okay. You said they were the high-priced cameras and there were two do. You [sic] remember roughly the price of each of those?
MR. VAN LUVEN: Objection. Hearsay.
THE COURT: He can answer if he knows.
THE WITNESS: Cost to the company or the price?
Q: The price if they were sold from the store?
A: One was like 1,800 and one was like somewhere –
MR. VAN LUVEN: Again Your Honor, I'm going to object to ["]one was like["] is not personal knowledge.
THE COURT: Overruled.
THE WITNESS: One was priced at least 1,800. One was priced at least $2,000.
MR. VAN LUVEN: Same objection, Your Honor. ["]One was priced at least["] is still not personal knowledge. I renew my objection as to hearsay –
THE COURT: Overruled.
MR. VAN LUVEN: -- and also add an objection as to lack of foundation.
THE COURT: Overruled. Like I said before he can testify if he knows. If he works there he knows how

[8] *Id.* at 33.
[9] *Id.*

> much it cost and he can testify as to how much they had it for sale for.[10]

On cross-examination, Jovero admitted that he did not know the price of the cameras:

> Q: Okay. Now you testified that the cameras were like a certain price at least a certain price but you don't know the exact price; correct?
> A: I don't remember the exact price.[11]

Following Jovero's testimony, the defense argued that the State had not met its burden on the grand larceny count. The State did not introduce sufficient evidence of value due to Jovero's admitted inability to recall the price of the items in question. The State did not offer any argument on this point, instead stating that "The grand larceny I think speaks for itself."[12]

The justice court bound over the grand larceny charge.[13]

Following preliminary hearing, defense counsel prepared and filed a Petition for a Writ of Habeas Corpus ("PWHC") in the Eighth Judicial District Court, Dept. X, the Hon. Tierra Jones presiding. At the hearing on the PWHC, defense counsel argued that the State did not present proper evidence of value to support its charge of grand larceny:

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[10] *Id.*
[11] *Id.* at 34.
[12] *Id.*
[13] *Id.*

> MR. VANLUVEN: ...They cited in the return specifically that an owner can testify to value. We don't have an owner in this situation. We have a clerk. And furthermore, this case law that I cited states that for a clerk to testify to value sufficient to overcome both best evidence and hearsay problems that clerk needs to have some independent basis for the value that he's testifying to. In this case two digital cameras. I think we can do away with that. One, he was not certified as an expert of any kind or otherwise testified to any independent basis during the preliminary hearing. And second not only was his knowledge of those items so limited that the State actually had to strike from the complaint the specific mention of the range of the cameras, because he couldn't even remember that. So based on that and the case law, Your Honor, I think it's clear that him testifying imperfectly from memory is almost directly analogous to the case law I've cited, therefore it was improper and that count should be dismissed.[14]

Judge Jones denied the habeas petition by finding that the State presented sufficient evidence:

> Well, for the purposes of slight or marginal evidence which is the State's burden at preliminary hearing this Court finds the State has met that burden in regard to the grand larceny as well as in regards to the burglary based on the evidence that was presented, and the Justice Court properly held the defendant to answer the petition will be denied.[15]

The District Court's Order denying the PWHC was entered on August 6, 2020.[16] This Petition follows.

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[14] *Id.* at 190-91.
[15] *Id.* at 192.
[16] *Id.* at 105-06.

SUMMARY OF THE ARGUMENT

At issue in this Petition is the Petitioner's right, and similarly-situated defendants' rights, to due process and fair proceedings against him wherein the State seeks to deprive the Petitioner of his liberty via a criminal prosecution. Specifically, the preliminary hearing is a mechanism in Nevada whereby the State must present *legal* evidence to demonstrate probable cause to hold an accused to answer for charges brought against him. Where probable cause is based on improper evidence, the preliminary hearing mechanism becomes a nullity, and an important constitutional protection is obviated.

Furthermore, where the State presents no cogent evidence in support of its charge, the proper avenue of redress is a Petition for a Writ of Habeas Corpus. When presented with a factual record that shows a deficiency in the State's body of evidence relied upon at preliminary hearing, the appropriate action is a dismissal of the charge where insufficient evidence was presented. Where probably cause is based on insufficient evidence, the preliminary hearing mechanism becomes a nullity and an important constitution protection is obviated.

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ARGUMENT

1. Jurisdiction

Mandamus is available to order a public official to do what the law requires. It is appropriate for mandamus to issue when a judge's ruling does not comply with the law. Extraordinary relief is available where the petitioner has no plain, speedy, and adequate remedy in the ordinary course of the law.[17]

Here, the Petitioner has no plain, speedy, or adequate remedy in the ordinary course of the law; indeed, the Petitioner has been improperly denied those remedies. The most plain of the remedies for the State introducing insufficient evidence—both as a quantum of proof and for its introduction of improper evidence (discussed more fully below)—would have been the dismissal of the charge against the Petitioner in the justice court at the conclusion of the preliminary hearing. Instead, the remedy was denied when the Petitioner's charge was bound up to the district court for trial.

From there, the Petitioner's next plain remedy was the PWHC process, whereby Petitioner asked the district court to review the record of the preliminary hearing. Judge Jones's ruling did not touch upon any of the

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[17] *Margold v. District Court*, 109 Nev. 804, 858 P.2d 33 (1993); *see also NRS 34.160, 34.170.*

evidentiary issues raised in the PWHC, and instead issued a blanket ruling that the State had produced sufficient evidence "in regards to the grand larceny ... based on the evidence that was presented..."[18] This ruling ignores—does not address—the challenge to the Grand Larceny count in that the Petitioner's argument went to the quality of the State's evidence (i.e. "legal evidence") rather than the sufficiency. Thus the Petitioner was not afforded an adequate remedy at law.

Furthermore, this issue is capable of repetition and evades review. Here, the preliminary hearing process has been rendered infirm due to the admission of, and reliance upon, improper evidence. While the PWHC mechanism should cure such an issue, and would cure such an issue in future cases, that was not done here. When this matter proceeds to trial, the State will likely cure its prior deficiencies by presenting the proper witness, or otherwise bolstering/buttressing the testimony to avoid the issues present at preliminary hearing. This retrospective patchover renders the preliminary hearing process—an important gatekeeping function—meaningless if clearly identifiable errors from the preliminary hearing are allowed to force a trial wherein savvy prosecutors can simply address and repair the prior missteps.

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[18] *PA* at 192.

To prevent such future oversights, mandamus is the appropriate remedy. Where a justice court magistrate has allowed improper evidence to be admitted, and has relied upon that evidence as the basis for a probable cause determination, an accused is left to rely upon the PWHC process for relief. If such relief is denied, even in light of clear and controlling authority, and in such a way where the ruling on the PWHC does not address the actual challenge to the preliminary hearing finding, similarly situated petitioners are left with no meaningful avenue of redress and the preliminary hearing process does not serve its function. The result is a violation of an accused's right to due process, and to fairness in the proceedings against him.

2. Legal Standard

a. Habeas Corpus

It has long been the law in Nevada that "in the absence of evidence legally sufficient to indicate that an offense has been committed and that there is sufficient cause to believe the accused guilty thereof, he should not be bound over for trial in the district court."[19] "It is fundamentally unfair to

[19] *State v. Plas*, 80 Nev. 251, 253, 391 P.2d 867, 868 (1964).

require a defendant to stand trial unless he is committed upon a charge with reasonable or probable cause."[20]

NRS 171.206 states, in pertinent part, the following:

> If from the evidence it appears to the magistrate that there is probable cause to believe that an offense has been committed and that the defendant has committed it, the magistrate shall forthwith hold the defendant to answer in the district court; otherwise the magistrate shall discharge the defendant.

The probable cause necessary at a preliminary hearing has been defined as slight, even marginal, evidence because it does not involve a determination of guilt or innocence of an accused.[21] However, probable cause is not to be found in a vacuum. Whatever evidence the State is introducing to argue the existence of probable cause, it nevertheless must create a reasonable inference that the accused committed the alleged offense.[22] The Nevada Supreme Court has held that although the State's burden at the preliminary hearing is "slight, it remains incumbent upon the

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[20] *Shelby v. Sixth Judicial Dist. Court*, 82 Nev. 204, 207, 414 P.2d 942 (1966); see also *Eureka Bank Cases*, 35 Nev. 80, 126 P. 655 (1912).
[21] *Sheriff, Washoe County v. Dhadda*, 980 P.2d 1062, 115 Nev. 175 (1999) (rehearing denied).
[22] *LaPena v. Sheriff, Clark County*, 91 Nev. 692, 696, 541 P.2d 907, 910 (1975).

State to produce some evidence" as to each of the State's burdens.[23] If the State fails to meet its burden, "an accused is entitled to be discharged from custody under a writ of habeas corpus."[24]

Such evidence introduced at a preliminary hearing must be legal evidence.[25] While the State is only required to produce "slight or marginal evidence" at a preliminary hearing, this merely refers to the quantum of evidence and not to the "sufficiency or weight of evidence and not to its competency, relevancy or character."[26] Furthermore, the Goldsmith case serves as a check on the preliminary hearing process to ensure that only legally competent evidence is offered against an accused.

b. Grand Larceny

When attempting to prosecute any crime where value is at issue, such as grand larceny, the State must present evidence of that value behind the mere recollection of an employee.

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[23] *Woodall v. Sheriff*, 95 Nev. 218, 220 (1979); see also *Marcum v. Sheriff*, 85 Nev. 175, 178 (1969) ("The state must offer some competent evidence on those points to convince the magistrate that a trial should be held").
[24] *State v. Plas*, 80 Nev. 251, 252 (1964).
[25] *Goldsmith v. Sheriff of Lyon County*, 85 Nev. 295, 303, 454 P.2d 86, 91 (1969).
[26] *Id.*

In the case *Stephans v. State*, 127 Nev. 712, 262 P.3d 727 (2011), the defendant was accused of grand larceny for "felony shoplifting."[27] The State's only evidence of value "came from the department store's loss prevention officer, David Scott. Scott testified—over the defense's foundation, hearsay, and best evidence objections—that the stolen goods he recovered bore price tags adding up to $477."[28] The State did not offer any other evidence, such as the price tags themselves, or duplicates of such.[29]

The Nevada Supreme Court held that this was error, and that the defense's objections to the testimony "should have been sustained."[30] Specifically, the Court held that "While there are several ways to establish value in a shoplifting case, testimony from a witness whose knowledge rests on what he remembers reading on a price tag is not, without more, one of them."[31] Furthermore, the State's loss prevention witness "was neither offered nor qualified as an expert under NRS 50.275. Nor did the State establish that Scott had the personal knowledge required to give lay opinion testimony under NRS 50.265..."[32] Regardless, such "personal knowledge" of value only applies either where the witness is the owner of the property,

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[27] 127 Nev. at 713.
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.* at 716.

or where a non-owner has "some personal knowledge to on which to base their estimate..."[33]

Scott's lack of knowledge in *Stephans* was demonstrated upon examination. Specifically, Scott was where "on the price range" the stolen merchandise was in terms of value.[34] Scott testified, "It would have been at the top of the price range in regard to those colognes that we sell. That was our high end brand."[35] However, based on Scott's knowledge from the price tags of the "high end brand" merchandise, he was able to testify as to the "exact" price: "It was exactly 79.50 per bottle."[36]

Despite this testimony of "high end price" merchandise, description of the merchandise, and even Scott's recollection of the "exact" price, the Court still found his testimony alone to be insufficient: "The record in this case supplies no foundation for Scott's testimony about the value of the stolen cologne beyond his memory of reading the price tags."[37] Ultimately, the Court characterized Scott's testimony as lacking a basis of knowledge, given that his testimony was derives sole from "looking at the price tag 'the

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[33] *Id.* at 716-17.
[34] *Id.* at 715.
[35] *Id.*
[36] *Id.*
[37] *Id.* at 719.

same as any customer would.'"[38] Per the Nevada Supreme Court, "This was hearsay, with no exception shown."[39]

3. Legal Argument

a. The State did not introduce legal evidence of value sufficient to support its count of grand larceny; alternatively, the justice court should have sustained the defense's objection to Mr. Jovero's testimony as to value, and the district court should have dismissed the count upon review

This matter is directly analogous to the *Stephans* case, above. As with that case, this matter concerns allegations of grand larceny borne from shoplifting. Likewise, as with the *Stephans* case, the State did not introduce any evidence of value of the items taken other than the imperfect recollection of its sole witness- a store employee. This evidence was admitted by the justice court over defense counsel's repeated, contemporaneous objections

Here, Jovero's testimony was entirely speculative. Not only did he use speculative language—he testified alternatively, between defense objections, that the items were worth "like" a certain amount, or "at least" a certain amount—but he would admit on cross-examination that he did not recall the exact price of the items in question. So imperfect was Jovero's memory, in fact, that the State moved to amend its complaint to strike the reference to

[38] *Id.*
[39] *Id.*

specific brands of cameras because Jovero, despite coaxing from the State, could not even recall the exact items that had allegedly been taken:

> THE COURT: State have any other witnesses?
> MS. THOMSON: No, Your Honor. Prior to resting I'd ask the Court to allow me to remove the brands of the camera on lines 21 and 22. So that it reads only digital cameras. Not the word only though.[40]

Jovero's lack of recollection is *worse* than the function of memory offered in the *Stephans* case. There the witness, Scott, testified as to having exacting recall of price based on price tags he had seen. In fact, Scott testified as to the price of the merchandise being "exactly 79.50 per bottle" and that the merchandise was "our high end brand."[41]

By contrast, Jovero could not testify with *any* exactitude. Jovero was first asked if he knew the brand of cameras, to which he replied "No. I just know they were like high-priced cameras."[42] The State then attempted to elicit testimony as to the type, brand, etc., of camera:

> Q: Do you remember when we are talking about cameras there's kind of that range of the old time where everyone had to stand super still, you put in film, or digital cameras, do you remember what type of camera they were?
> A: I'm assuming – they were DSLR's or digital cameras.[43]

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[40] *PA* at 34.
[41] *Stephans*, 127 Nev. at 715.
[42] *PA* at 33.
[43] *Id.*

This lack of exactitude extended to the prices of these items as well. The State asked Jovero, "You remember roughly the price of each of those?"[44] When this drew a hearsay objection from the defense, the justice court overruled the objection: "He can answer if he knows."[45] This ruling ignored the testimony immediately prior to the question of value, wherein Jovero could not even remember the brand of the cameras allegedly taken, and merely assumed that the cameras were of a certain type in the first place.

Regardless, Jovero's subsequent testimony demonstrated, without question, that he absolutely did *not* know the value of the items in question:

> A: One was like 1,800 and one was like somewhere –
> MR. VAN LUVEN: Again Your Honor, I'm going to object to ["]one was like["] is not personal knowledge.[46]

The justice court again overruled the objection. Jovero then again couched his testimony in uncertain terms:

> THE WITNESS: One was priced at least 1,800. One was priced at least $2,000.
> MR. VAN LUVEN: Same objection, Your Honor. ["]One was priced at least["] is still not personal knowledge. I renew my objection as to hearsay –
> THE COURT: Overruled.
> MR. VAN LUVEN: — and also add an objection as to lack of foundation.[47]

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[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*

The justice court again ruled that Jovero's testimony was proper if based on personal knowledge: "Overruled. Like I said before he can testify if he knows. If he works there he knows how much it cost and he can testify as to how much they had it for sale for."[48]

This ruling was clearly erroneous, for three reasons.

First, Jovero's testimony immediately prior to the repeated defense objections indicated a lack of knowledge not only of the brand of cameras allegedly taken, but of the type of cameras (as discussed above). But as defense counsel objected, there was no foundation to establish Jovero's knowledge in favor of accurate recollection; instead, Jovero's inability to recall exactly what the merchandise was demonstrated a lack of knowledge to the fundamental character—even the existence—of the merchandise. Without such a base of knowledge to begin with/from, any claim that Jovero knew the price of the items immediately fails.

Second, Jovero's testimony demonstrated a lack of knowledge on its face. Even as the justice court invited Jovero's testimony on price "if he knows," Jovero could only hazard a guess: either that the prices were "like" a rough amount, or "at least" a rough amount. This is wholly distinct from the *Stephans* case wherein that witness testified *as to the exact price*. In

[48] *Id.*

Stephans, the Nevada Supreme Court held that the testimony was improper regardless of accuracy because it was based on hearsay, and because it lacked a proper foundation. In fact, the "if he knows" ruling by the justice court ignored the *Stephans* holding entirely because the *Stephans* Court has expressly rejected knowledge based solely on the assumption used by the justice court in this case- "If he works there he knows how much it cost and he can testify as to how much they had it for sale for."

Third, Jovero ultimately would testify on cross-examination that he did *not* know the price of the cameras:

> Q: Okay. Now you testified that the cameras were like a certain price at least a certain price but you don't know the exact price; correct?
> A: I don't remember the exact price.[49]

This subsequent testimony (on cross-examination) shows that Jovero did not actually have any knowledge of the price of the cameras. Furthermore, there was no attempt at rebuttal or redirect examination by the State, such as to ask further foundational questions of Jovero, establish his knowledge and/or competency to testify as to price independent of merely working at the store and being aware of the price, etc. Jovero answered quite clearly that he did not remember the exact price, nor did he offer any estimate that was based on knowledge of the value of the merchandise.

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[49] *PA* at 34.

Even if the justice court's ruling on the defense's objections was correct, Jovero's testimony taken as a whole demonstrated the lack of knowledge necessary to testify. As set forth in the *Stephans* case, a non-owner "must have some personal knowledge on which to base their estimate," and cannot merely rely on another's valuation of the property in question.[50]

Accordingly, the State did not introduce any legal evidence to show the value of the items in question and thus the State did not meet its burden to establish probable cause supporting the grand larceny count. This argument was raised in the Petitioner's PWHC before Judge Jones in the district court, wherein the Petitioner challenged the character of the State's evidence on identical grounds and similarly with reliance upon the Nevada Supreme Court's holding in *Stephans*. Despite challenging the admissibility of the State's evidence (Jovero's testimony of value), Judge Jones denied the PWHC on the grounds of *sufficiency* of the evidence, without rendering a ruling on the evidentiary arguments themselves.

As demonstrated from the preliminary hearing transcript, Jovero was the State's only witness at the preliminary hearing. Jovero's testimony consisted of identifying the Petitioner in open court, testifying as to his

[50] *Stephans*, 127 Nev. at 716-17.

alleged interactions with the Petitioner, and the testimony on value of the merchandise allegedly taken. No other witnesses were forthcoming or offered by the State, either as to value or as to any other elements of the grand larceny count.

If Jovero's testimony had been appropriately stricken and/or prevented (had the defense's objections been sustained), the State had no other evidence to offer as to the value of the alleged. Thus the count of grand larceny would have failed at the preliminary hearing and would have been dismissed. As the justice court allowed Jovero's testimony over defense objections, the Petitioner sought relief by filing a PWHC that highlighted why the evidence was improper, should not have been admitted against him, and argued that the justice court was incorrect in overruling the defense and allowing the testimony to stand. The Petitioner's PWHC did *not* allege or otherwise challenge that the testimony as admitted was insufficient from a quantitative standpoint.

Judge Jones's ruling on the PWHC is therefore insufficient as it did not specifically address the evidentiary quality of Jovero's testimony, but instead found there to be "sufficient evidence" at preliminary hearing despite the fact that Jovero was the State's only witness. The Petitioner did not receive a meaningful effort at review of the justice court probable cause

finding, or at the very least did not receive a ruling and a record that indicates the actual challenge in the PWHC was heard and considered. Instead, the district court ruled only that the State had produced sufficient evidence to meet its burden at preliminary hearing.

CONCLUSION

For the foregoing reasons, the Petitioner moves this Honorable Court for a Writ of Mandamus ordering the Eighth Judicial District Court, Dept. 10, the Honorable Tierra Jones Presiding, to dismiss the count of grand larceny.

Respectfully submitted,

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: */s/ Michael Van Luven*
MICHAEL L. VAN LUVEN, #13975
Attorney for PETITIONER

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 Times New Roman in 14 size font.

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

Proportionately spaced, has a typeface of 14 points or more and contains 4920 words which does not exceed the 7,000 word limit.

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 6th day of April, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: */s/ Michael Van Luven*
MICHAEL L. VAN LUVEN, #13975
Attorney for PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 6th day of April, 2022 Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
ALEXANDER CHEN

MICHAEL L. VAN LUVEN

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

HONORABLE TIERRA JONES, DEPT. X
c/o dept10lc@clarkcountycourts.us

BY *_/s/ Carrie M. Connolly_*
Employee, Clark County Public Defender's Office