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Elizabeth A. Brown
Clerk of Supreme Court

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

8
9 APRIL PARKS,

10 Appellant,

11 vs.

12 STATE OF NEVADA,

13 Respondent.

CASE NO.: 84612

14 **MOTION TO TRANSMIT PRESENTENCE INVESTIGATION REPORT**

15 COMES NOW Appellant, April Parks, by and through counsel, James A.
16 Oronoz, Esq., and files this Motion to Transmit Presentence Investigation Report
17 ("PSI Report"). This motion is based on the following memorandum and all papers
18 and pleadings on file herein.
19

20 DATED this 2nd day of November, 2022.

21 By: 

22 JAMES A. ORONoz, ESQ.
23 Attorney for Appellant
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MEMORANDUM

Per NRS 176.156(5), PSI Reports are confidential and “must not” be included in the public record. In criminal cases where an appellant’s PSI Report is “necessary” for appellate review but cannot be added to the appendix, NRAP 30(b)(6) instructs the appellant to “file a motion with the clerk of the Supreme Court within the time period for filing an opening brief or fast track statement that the court direct the district court clerk to transmit the report to the clerk of the Supreme Court in a sealed envelope.” Accordingly, Appellant Parks files this motion respectfully requesting that this Court direct the district court to transmit a sealed copy of her PSI Report.


Appellant Parks’ Report is necessary to this Court’s review because she claims her prison term is so “grossly disproportionate” to her committed offenses that it violates federal and state constitutional prohibitions against “cruel and unusual punishment.” U.S. Const. amend. VIII.; Nev. Const. art. I, § 6; *see Harmelin v. Michigan*, 501 U.S. 957, 1001, 111 S. Ct. 2680, 115 L. Ed. 2d 836 (1991) (plurality opinion) (internal citations omitted). In determining proportionality, an appellate court must use objective factors to weigh the gravity of the offense against the harshness of the punishment. *Ramirez v. Castro*, 365 F.3d 755, 775 (9th Cir. 2004), *as amended* (Apr. 27, 2004). This analysis turns upon three factors: (1) the nature of appellant’s crime(s), (2) appellant’s criminal

1 history, and (3) their incarceration history. *Id.* PSI Reports both provide and use
2 this data to inform sentencing recommendations.

3 In Appellant Parks' case, these factors strongly supported a lesser sentence,
4 as evidenced by the Report's recommendation of parole eligibility after sixty-four
5 (64) months served. In striking contrast, however, the district court imposed a
6 sentence demanding she wait three times longer for parole eligibility. Although a
7 sentencing judge is not bound by PSI Report recommendations, the district court's
8 significant departure from those made in Appellant Parks' Report reflects a
9 flagrant disregard for the critical facts upon which those recommendations were
10 based. Because these factors are intrinsic to the proportionality review her claim
11 requires the Supreme Court to conduct, this Court must have access to the
12 information contained in her PSI Report.
13
14

15 WHEREFORE, Appellant Parks respectfully requests that her PSI Report
16 be transmitted to the Supreme Court.


17 DATED this 2nd day of November, 2022.

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19 By: 
20 JAMES A. ORONOS, ESQ.
21 *Attorney for Appellant*
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AARON FORD
Nevada Attorney General

STEVEN WOLFSON
Clark County District Attorney

By: 
Oronoz & Ericsson, LLC