

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO TREJO,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
May 16 2023 11:12 AM
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 84724

**MOTION TO TRANSMIT EXHIBITS
UNDER NRAP 30(d)**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, KAREN MISHLER, and under Nevada Rules of Appellate Procedure 30(d) and 10(b)(1), respectfully requests this court to direct the district court to send the State's Exhibit 143 to this Court for reaching a decision on the issues on appeal.

This Motion is based upon the following Memorandum and all papers and pleadings on filed herein.

Dated this 16th day of May, 2023.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Karen Mishler*

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 30(d) of the Nevada Rules of Appellate Procedure allows the inclusion of copies of relevant and necessary exhibits in an appendix. However, if an exhibit cannot be reproduced, a party may:

...file a motion requesting the Supreme Court to direct the district court clerk to transmit the original exhibits. The Supreme Court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the Supreme Court's review of the original exhibits is necessary to the determination of the issue.

NRAP 30(d).

Respondent asks that this Court direct the District Court Clerk's office to transmit State's Exhibit 143, which consists of a Las Vegas Metropolitan Police Department helicopter unit video recorded by Sergeant Zachary Baughman on September 3, 2018, when he responded to the robbery at Super Pawn on 1150 South Rainbow Boulevard. 12 Appellant Appendix (hereinafter "AA") 2775, 2778-82.

In his Opening Brief, Appellant alleges that the District Court "erred by failing to instruct the jury Second-Degree Kidnapping as a lesser included offense." AOB at 38. Appellant claims he should have been absolved of the First-Degree Kidnapping and merely convicted of the lesser included. AOB at 38-43. Exhibit 143 shows the Appellant walking out of Super Pawn with a firearm on the victim's head and walking towards his getaway car.

This Court would benefit from viewing the video recorded from the helicopter

unit to fully understand the evidence presented to the jury at trial. The video shows there was sufficient evidence presented of First-Degree Kidnapping; and that no evidence presented justifies a lesser-included offense of Second-Degree Kidnapping. Furthermore, the video demonstrates overwhelming evidence of Appellant's guilt. Accordingly, this Court should direct the District Court to transmit Exhibit 143 for this Court's review in solving the issues on appeal.

CONCLUSION

For the reasons above, the State respectfully requests the Court to order the District Court Clerk's Office to transmit State's Exhibit 143.

Dated this 16th day of May, 2023.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Karen Mishler*

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155
(702) 671-2750

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on May 16, 2023. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

WILLIAM M. WATERS
Chief Deputy Public Defender

KAREN MISHLER
Chief Deputy District Attorney

/s/ E. Davis

Employee, Clark County
District Attorney's Office

KM/Jean Curioso/ed