

IN THE SUPREME COURT OF THE STATE OF NEVADA

Gerald Whatley, Jr.,

Petitioner,

vs.

State of Nevada

Respondent,

) Supreme Court Case No.: 85077

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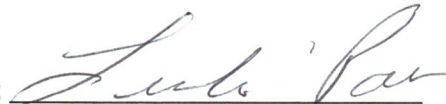
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Aug 18 2022 12:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DECLARATION TO SHOW CAUSE WHY
APPEAL SHOULD NOT BE DISMISSED**

COMES NOW, Petitioner Gerald Whatley, Jr., by and through his attorney of record,
LESLIE A. PARK, ESQ. of Nevada, hereby submits this Declaration in Opposition to Real
Party in Interest's Motion to Strike as Untimely.

DATED this 18 day of August, 2022.

By:



Leslie A. Park, Esq.

Nevada Bar No.: 8870

633 S. Fourth Street, Suite 8

Las Vegas, NV 89101

Attorney for Appellant

MEMORANDUM/DECLARATION

Counsel, Leslie A. Park, is a duly licensed attorney in the State of Nevada and has been retained to represent Petitioner Gerald Whatley, Jr. in the instant proceedings.

On June 1, 2022, a judgment of conviction was filed in this case following a Jury verdict.

Counsel was working with another Attorney to assist with the appeal in this case. Counsel had discussions with the Attorney that I, Leslie Park, would complete the request for transcripts and she would complete the Notice of Appeal and Criminal Appeal Statement. I received communication from her that the first filing was done, which I misunderstood and took that as first filing was filed, however that was not the case, the intention from her was that it was complete and ready to file.

I filed the Request for Transcripts on June 16, 2022, and filed an Amended Request for transcripts on June 20, 2022. The Request for Transcripts was filed within the 30 days time limit for the notice of appeal.


The transcript request should be construed as the Notice of Appeal based on Lemmon v. State, 114 Nev. 219 (“The notice of appeal is not, however, intended to be a technical trap for the unwary draftsman. Where, as here, the intent to appeal from a final judgment can be reasonably inferred and the respondent is not misled, we will not dismiss an appeal due to technical defects in the notice of appeal. Forman v. Eagle Thrifty Drugs & Markets, 89 Nev. 533, 536, 516 P.2d 1234, 1236 (1973)”). In the request for transcripts, it was noted that the request was for determination as to whether appellate issues are present.

It is requested that the Transcript request be treated as a deficient Notice of Appeal rather than dismiss the case. The State was not misled and the transcript request’s

reference to an appeal creates a reasonable inference of Appellant's intent to appeal; additionally, such a decision would conserve judicial resources and favor expediency, as the alternative is a remend, a Lozada petition, and a re-appeal only to end up in the exact same place Appellant is now.

I declare under penalty of perjury that the information set forth in this Memorandum is true and correct.

DATED this 18 day of August, 2022.

By: 
Leslie A. Park, Esq.
Nevada Bar No.: 8870

CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on August 18, 2022, I served the foregoing document via first class mail to:

Steven B. Wolfson, Esq.
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Aaron Ford
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701