

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLORIA ESTELLA,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 83905

RESPONDENT'S APPENDIX

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CERTIFICATE OF SERVICE

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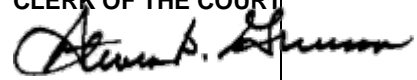
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1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,
7 Plaintiff,

CASE#: C-21-353999-1

DEPT. IX

8 vs.

9 GLORIA ESTELLA,

10 Defendant.

11
12 BEFORE THE HONORABLE CRISTINA D. SILVA, DISTRICT COURT JUDGE
13 MONDAY, NOVEMBER 1, 2021

14 **RECORDER'S TRANSCRIPT OF HEARING:**
15 **DEFENDANT'S MOTION TO WITHDRAW PLEA**

16
17 APPEARANCES:

18 For the State:

CHAD N. LEXIS, ESQ.
Chief Deputy District Attorney

19
20 For the Defendant:

MANDANA DIVANBEIKI, ESQ.

21 Also Present:

AMANDA PELLIZZARI, ESQ.

22 CAROLA ANDERSON
23 Spanish Interpreter

24
25 RECORDED BY: GINA VILLANI, COURT RECORDER

1 Las Vegas, Nevada, Monday, November 1, 2021

2

3 [Hearing began at 11:06 a.m.]

4 THE COURT: All right. Do we have somebody present

5 though?

6 There was somebody coming from Henderson.

7 THE MARSHAL: Oh, I'm sorry.

8 THE COURT: That's okay.

9 We got a message back there, you wouldn't have known that.

10 Is anyone on BlueJeans for the Estella case?

11 Yeah, so she's not here yet. So give us just a few minutes. I

12 think she's coming -- oh, you are here.

13 THE MARSHAL: Yeah, she's here on behalf of Mr. Mueller.

14 THE COURT: Oh, okay. All right. I'm sorry.

15 C353999, State of Nevada versus Gloria Estella.

16 All right. I see Mr. Lexis is here on behalf of the State.

17 Who is present on behalf of the defendant?

18 MS. DIVANBEIKI: My name is Mandana Divanbeiki. I am

19 appearing on behalf of Mr. Mueller.

20 THE COURT: All right.

21 MS. DIVANBEIKI: And bar number 14862.

22 THE COURT: All right. Good morning to you.

23 MS. DIVANBEIKI: Good morning.

24 THE COURT: And, madam interpreter, what is your name?

25 THE INTERPRETER: Carola Anderson.

1 THE COURT: All right. Good morning to you.

2 THE INTERPRETER: Good morning, Your Honor.

3 THE COURT: Ms. Estella, I want to confirm that you could
4 hear and understand the interpreter with no problems; is that correct?

5 THE DEFENDANT: Yes.

6 THE COURT: All right.

7 We are here on a continuing hearing for defendant's motion to
8 withdraw a guilty plea. I did review the State's supplemental opposition.

9 And I'm going to ask counsel for Ms. Estella at this time, is
10 there any additional argument you would like to make outside the written
11 pleadings?

12 MS. DIVANBEIKI: Actually, Your Honor, I'm only filling in for
13 Mr. Craig Mueller today. So he wanted this matter continued to
14 November 10th, if that's possible.

15 THE COURT: State, do you have an objection, that's the
16 sentencing date?

17 MR. LEXIS: Not as to the sentencing date but as to this
18 motion being continued I do have an objection. It's frivolous in itself. It's
19 a cookie cutter motion. They couldn't even get the frivolous motion to
20 adjust the facts. It says that defense counsel waived the preliminary
21 hearing as one of the basis, that's not true. It was indicted.

22 Made no underlying argument as to why it's not freely and
23 voluntary made, especially in front of a Court who can understand
24 Spanish. You heard, you went over the plea, the interpreter was here.

25 THE COURT: Okay. Hold that thought.

1 MR. LEXIS: Yes, Judge.

2 THE COURT: Just so she can translate. We're getting ahead
3 of ourselves.

4 Go ahead.

5 MR. LEXIS: Judge, you saw exactly what was going on here.
6 There was no argument as to whether or not this was freely and
7 voluntarily given. This was just a vehicle to put this motion on calendar
8 to then argue the facts of the case even though none of the facts were
9 on there.

10 And as far as his basis on how, you know, unbelievable it was
11 for defense counsel to recommend such a thing, not only is that not in
12 his motion, but as I gave you in the supplemental, there was ample
13 reasons for defense counsel to make such recommendation to the
14 defendant given the facts of the speed, the failure to maintain lane, video
15 evidence, the meth in the system.

16 In addition, I was given no notice today about requesting
17 another continuance. You know, there's better things to do then waste
18 time with frivolous motions and a defense counsel that just wants to kick
19 it out and not give the courtesy of anybody to tell them that.

20 I'd ask you to --

21 THE COURT: Hold --

22 MR. LEXIS: -- deny that motion and keep the sentencing
23 date.

24 THE COURT: All right.

25 Do you need a moment? Okay.

1 All right. Well, here's what I am going to do, I am going to
2 deny this motion. The reasons set forth in the motion to withdraw guilty
3 plea are insufficient for me to grant the relief sought by the defendant.
4 At the last hearing Mr. Mueller sua sponte raised additional, we can call
5 them, arguments as to why the plea should be withdrawn. But those
6 arguments weren't based on any law or authority that would form a basis
7 to withdraw this plea.

8 Specifically, Mr. Mueller raised arguments about how,
9 essentially, he's unclear how this could be a crime when the defendant
10 was under the influence of methamphetamine --

11 I'll let you translate that.

12 -- when methamphetamine was used for fighter pilots during
13 World War II. Such argument is not only irrelevant, it's not based in fact
14 or law.

15 Moreover, Mr. Mueller lied to the Court regarding when a
16 transcript was requested for the defendant's change of plea. Mr. Mueller
17 advised the Court that it was documented in his file that the transcript
18 had been requested when, in fact, it had not been.

19 And, further, I asked Mr. Mueller to show me what he was
20 looking at in support of his representation that the transcript had been
21 ordered. He showed me the document, that, of course, had no
22 documentation regarding the request of transcript.

23 In this particular case, the transcript was critical to this motion
24 because the allegations in the motion are that the defendant didn't
25 knowingly and voluntarily enter into this plea. But a transcript would

1 belie that argument, as I specifically recall engaging in a conversation
2 with Ms. Estella about the facts of the case. Specifically, I didn't --
3 because I didn't have the facts in front of me, I was unclear as to who
4 was the individual killed as a result of the underlying accident.

5 Ms. Estella was able to clearly correct me and note that it was
6 the passenger, not another driver that was killed during the course of the
7 accident, which does demonstrate she understood the nature of the
8 offense itself. Because Mr. Mueller did not provide any written basis or
9 support of his allegations that potential defenses were not discussed
10 with the defendant, therefore, that cannot provide a basis to grant this
11 motion.

12 Essentially, Mr. Mueller argued bald allegations that the case
13 was not discussed with Ms. Estella. And going back to the beginning,
14 the defenses, quote/unquote, that were not discussed with Ms. Estella
15 were related to the methamphetamine and military use, which are
16 unrelated and irrelevant.

17 Therefore, this motion is denied. We will see everyone again
18 on the 10th of November for sentencing at 11 o'clock in the morning.

19 Counsel, I know you're covering today, so the -- my decision
20 should be reflected in the minutes. And if not, you're welcome to
21 request a transcript. All right.

22 Thank you, everyone.

23 MR. LEXIS: Thank you.

24 Judge, will we have --

25 MS. PELLIZZARI: Judge, I'm sorry to interrupt, this is

1 Amanda Pellizzari. I was appointed on the case.

2 For sentencing, am I getting reappointed to do sentencing or
3 does Mr. Mueller have to do it because Ms. Estella alleged that I was
4 ineffective?

5 THE COURT: I thought that Mr. Mueller was substituting in.

6 Again, I don't -- so, Ms. Pellizzari; I'm going to ask that you
7 appear for sentencing in an abundance of caution.

8 MS. PELLIZZARI: I will. I most likely won't be able to go
9 forward since I'm not her attorney. I won't be able to go through the PSI
10 with her. I did send it to her however.

11 THE COURT: Yeah, so, he actually filed a notice of
12 appearance on October 1st. So actually you don't need to be present.
13 Mr. Mueller will have to be prepared.

14 So you don't need to appear.

15 MS. PELLIZZARI: Okay. Thank you, Your Honor.

16 THE COURT: Thank you.

17 And I'll just counsel to please relay to Mr. Mueller he does
18 need to be prepared to proceed with sentencing on the 10th.

19 MS. DIVANBEIKI: Yes, Your Honor.

20 THE COURT: All right. Thank you so much. I appreciate it.
21 Thank you for standing in today.

22 MS. DIVANBEIKI: Thank you.

23 MR. LEXIS: Thank you.

24 THE COURT: Thank you.

25 Thank you, madam interpreter.

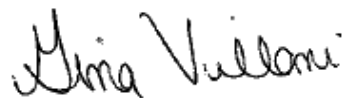
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THE INTERPRETER: You're welcome, Your Honor.

[Hearing concluded at 11:20 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX