

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

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TROY WHITE,  
Appellant,  
v.  
THE STATE OF NEVADA,  
Respondent.

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Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO: 86406

**OPPOSITION TO MOTION TO CONSOLIDATE APPEALS**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, JONATHAN E. VANBOSKERCK, and files this Opposition to Motion to Consolidate Appeals. This motion is brought pursuant to Rules 3(b) and 27 of the Nevada Rules of Appellate Procedure (NRAP) and is based on the following memorandum and all papers and pleadings on file herein.

Dated this 28<sup>th</sup> day of April, 2023.

Respectfully submitted,

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

BY /s/ Jonathan E. VanBoskerck  
JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528  
Office of the Clark County District Attorney

## **ARGUMENT**

Appellant asks that this case be consolidated with Coca v. Williams (85519). The appellant in Christy v. State (86366) has also requested consolidation with Coca. All three Appellant's are represented by the Federal Public Defender (FPD) while the State in Coca is represented by the Elko County District Attorney (Elko) and by the Clark County District Attorney (Clark) in this case and Christy. Consolidation is unwarranted and would needlessly complicate the relevant appeals.

NRAP 3 allows for consolidation where "practicable." Here, consolidation would not be practical in any way. Appellant indicates all three cases will ask this Court to overrule Brown v. McDaniel, 130 Nev. 565, 331 P.3d 867 (2014). While the Findings of Fact, Conclusions of Law and Order (FOF) in this case limited the denial of habeas relief to the failure to show good cause, Appellant's habeas petition extensively challenged the competence of trial counsel related to involuntary manslaughter. Further, the FOFs in Christy addressed the procedural bars, good cause, prejudice, actual innocence, a Brady claim as well as ineffective assistance complaints alleging incompetence regarding witness identification, failure to request jury instructions related to witness identification, failing to call an eye-witness identification expert, non-opposition to joinder, and failure to investigate multiple issues. The Christy FOFs also adjudicated a cumulative error claim and a demand for an evidentiary hearing. The Christy FOFs alone are approximately 39 pages

long. Both Christy and this case are fact intensive cases regardless of the one issue Appellant believes warrants consolidation.

Consolidation of this case with Coca and Christy is impractical. NRAP 32(a)(7) imposes strict length limitations on briefs. Consolidation of Christy and this case into Coca would likely require Respondent to address all the issues in this case as well as Christy in a single brief limited in length by NRAP 32(a)(7). This would severely handicap the State in its ability to present meaningful and fact intensive analysis to this Court.

Further, consolidation would likely require Elko and the Clark to share time at any oral argument. Again, this would frustrate the ability of Elko and Clark to address the unique factual background and additional issues that may be raised in each case. Doing so would not only provide a tactical advantage to the FPD, but it would also deprive this Court of any meaningful discussion of other issues at oral argument.

While consolidation would provide Appellant with the benefit of limiting the State's briefing and oral argument, it does nothing to further this Court's interest in meaningful analysis and discussion. To the extent this Court believes the Brown issue Appellant intends to raise may be determinative, the wiser course would be to stay briefing in this case and Christy until Coca is decided. Coca is significantly further along in the appellate process than either of these cases. Alternatively, this

Court should defer ruling on the consolidation motion until briefing is completed in all three cases and allow the State additional time at any oral argument if consolidation is granted.

**CONCLUSION**

WHEREFORE, the State respectfully requests this Court deny the Motion to Consolidate Appeals.

Dated this 28<sup>th</sup> day of April, 2023.

Respectfully submitted,

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

BY */s/ Jonathan E. VanBoskerck*

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on April 28, 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

LAURA BARRERA  
Assistant Federal Public Defender

JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney

BY /s/ E. Davis

Employee,  
Clark County District Attorney's Office

JEV//ed