IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK MERRELL,
Appellant,

vs.

CITY OF HENDERSON; AND THE HONORABLE ALICIA A. ALBRITTON, HENDERSON MUNICIPAL COURT JUDGE,
Respondent.

Electronically Filed
Sep 07 2023 02:31 PM
Elizabeth A. Brown
Clerk of Supreme Court

S. Ct. No.: **87066**

APPELLANT'S APPENDIX
VOLUME 2

MICHAEL D. PARIENTE, ESQ,
COUNSEL FOR APPELLANT
Nevada Bar Number 9469
JOHN GLENN WATKINS, ESQ,
OF COUNSEL
Nevada Bar Number 1574
3800 Howard Hughes Parkway #620
Las Vegas, Nevada 89169
Telephone: (702) 966-5310
Facsimile: (702) 953-7055
michael@parientelaw.com
johngwatkins@hotmail.com

NICHOLAS VASKOV
Nevada Bar Number 8298
240 S. Water St.
Henderson, NV 89015
Telephone: (702) 267-1200
Facsimile: (702) 267-1201
nicholas.vaskov@cityofhenderson.co

PARIENTE LAW FIRM. P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

Docket 87066 Document 2023-29326

"INDEX"

Document	Volume No.	Page Number
COMPLAINT	1	3
MUNICIPAL COURT MOTIONS	1	4-64
CITY OPPISITIONS IN MUNICIPAL COURT	1	65-157
MOTION TO DISMISS DUE TO PROSECUTORIAL MISCONDUCT OR IN THE ALTERNATIVE, A VOLUNTARY RECUSAL	1	158-163
OPPOSITION TO DEFENDANT'S MOTION TO DISMISS	1	164-191
REPLY TO THE OPPOSITION TO DEFENDANT'S MOTION TO DISMISS	1	192-196
TRANSCRIPT FROM OCTOBER 6, 2020.	1	197-210
AMENDED PETITION FOR WRIT OF MANDAMUS	1	211-225
CITY'S ANSWER TO PETITION FOR WRIT OF MANDAMUS	1	226-242
REPLY TO CITY'S ANSWER TO PETITION FOR WRIT OF MANDAMUS	1	243-247
TRANSCRIPT FROM MAY 2, 2023	2	248-285
ORDER DENYING WRIT	2	286-290
NOTICE OF APPEAL	2	291-292

PARIENTE LAW FIRM. P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

Electronically Filed
6/2/2023 7:03 PM
Steven D. Grierson
CLERK OF THE COURT

TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

PATRICK MERRELL, Plaintiff,	)	CASE NO. A-22-861191-W
vs.	)	DEPT. NO. XXXI
ALICIA ALBRITTON, Defendant.	)	**Transcript of Proceedings**

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

FURTHER ARGUMENT ON PETITION FOR WRIT OF MANDAMUS

TUESDAY, MAY 2, 2023

APPEARANCES:

For Mr. Merrell: MICHAEL D. PARIENTE, ESQ.
JOHN G. WATKINS, ESQ.
(Via BlueJeans)

For City of Henderson: ADAM OSMAN, ESQ.

RECORDED BY: LARA CORCORAN, DISTRICT COURT
TRANSCRIBED BY: KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording; transcript produced by transcription service.

TUESDAY, MAY 2, 2023, AT 10:30 A.M.

THE COURT: Okay. We are moving on to our 10 o'clocks-ish. So, we have *Merrell versus Albritton*, case 861191, page 6. *Merrill versus Albritton*, who do we got? Thank you. On behalf of Merrill, please?

MR. PARIENTE: Good morning, Your Honor. Michael Pariente and John Watkins for Mr. Merrell.

THE COURT: Okay. Counsel for -- go ahead.

MR. OSMAN: Good morning, Your Honor. Adam Osman for the City of Henderson, bar number 13924.

THE COURT: Okay. It's your Amended Petition for Writ of Mandamus. Welcome back. Thank you for all the additional case law.

So, you both say that this Court has the jurisdiction to decide this Writ of Mandamus under the general concept of that a Writ of Mandamus can come to a District Court from a Justice Court and the various other reasons in your supplemental briefs. Thank you. Correct?

MR. PARIENTE: Yes, Your Honor.

MR. OSMAN: That is correct.

THE COURT: So, now, you're looking for a substantive ruling from the Court. Correct?

MR. PARIENTE: Correct, Your Honor.

THE COURT: Okay.

MR. OSMAN: The City did have a procedural argument, just not at -- with respect to the jurisdiction.

THE COURT: Right. Sorry. Thank you for that clarification.

Okay. So, petitioner, go first. And, then, we'll walk through this. Go ahead.

MR. PARIENTE: Your Honor, I just want to clarify, the Court does have copies of our Reply brief. Is that right?

THE COURT: I have the Reply brief that just was recently done.

MR. PARIENTE: Yes, Your Honor.

THE COURT: I do.

MR. PARIENTE: Okay. Judge, very simply, --

THE COURT: And feel free to sit down or stand, whatever's comfortable for you.

MR. PARIENTE: Okay. I prefer to stand, Judge. I feel smarter when I stand. So, I'll stand.

THE COURT: No worries. Just because people remotely sit down during argument.

MR. PARIENTE: Okay.

THE COURT: I'm not going to tell you all you have to stand up when people remotely get to sit down. So, --

MR. PARIENTE: Understood.

THE COURT: Okay.

MR. PARIENTE: Thank you, Judge. If the microphone can pick me up, I'll stand.

THE COURT: We're good. Go ahead.

MR. PARIENTE: Judge, you know, very briefly, I think we've covered everything in the briefs. What this comes down to is the City is trying to cheat. And what they're doing is they're always submitting facts that have nothing to do with the legal arguments that we are addressing in our Motions.

They file these Oppositions, and they always will say, oh, especially in DUI cases, they'll put the blood alcohol or the breath alcohol reading, just as they did in this case. The only purpose in doing that is to try to taint the Judge. And we believe, under *Canarelli*, whether you look at it as extrajudicial, which it is, because what they're basically doing is they're taking a police report, copying the facts in that, and putting it in their Opposition. Or, you apply the intrajudicial that, in this case, Judge Albritton seemed to have no problem with what the City was doing. She said it's standard practice.

We believe that her not recusing herself, as a matter of law, warrants this Court's intervention to recuse her and to transfer the case to one of the other two Henderson Municipal Court Judges.

THE COURT: Okay. Thank you so very much.

Counsel, do you want to do your procedural, then your substantive? And, then, you want to address the issue of the due process that was stated -- brought up for the first time? Go ahead.

MR. OSMAN: Sure. So, I do kind of want to break this issue down because defense --- or, I'm sorry. Petitioner starts off with kind of a statement that the City is trying to cheat. It's kind of a statement that brings in some emotional reactions, potentially. Not with Your Honor, but obviously that's the type of statement that it is.

I think that the issue is broken down into a couple of tests and a couple of subtests. Number one is the procedural aspect, which has not really been addressed by the defense. But, boiled down, it's effectively: Is there a reason for coming here to this Court to seek extraordinary relief instead of the normal course of the proceedings, going through to the trial and the appeal? And, number two: Has the petitioner provided that information to this Court? Those are two related but separate conditions for filing a Petition for Mandamus.

Same thing goes for the substantive basis, which is: Is there a basis for the actual relief for mandamus? And has that basis been provided to this Court?

Ultimately, you know, before touching on the high

points, because I know Your Honor has read all the briefing and that sort of thing, so I don't want to stand here for an hour going back over everything. But I think it's important for this Court to look at the Petition and hold it to the procedural standards that it's supposed to be held to. Because, if that doesn't happen, ultimately, what we're going to see is more petitions like this clogging up the court systems.

When, even if they have merit, which this Petition does not, even if they had merit, they're not being presented with the appropriate legal citation, the appropriate legal authority. They're not being presented with the appropriate exhibits necessary for this Court to make its decisions. Even though, in the Reply brief, they attach their exhibits at that point, after the City had already pointed out that they failed to carry the burden.

The point I'm trying to make, Judge, is that I think it's important for this Court to hold the defense to their burden just the same way that the City wouldn't be able to -- in the criminal case down in the Trial Court, the City wouldn't be able to file a criminal Complaint with five words saying, hey, the defendant did this on this day, and then go to trial and say, well, Judge, I know the Complaint is inadequate, but we have all this evidence and we're just going to provide the evidence now and it's fine.

It's not fine because there are procedural requirements. And those procedural requirements exist for a reason.

Obviously, I'm not talking about something like the Amended Petition where the Affidavit wasn't included in the original one. I'm not talking about that. I'm talking about the Petition itself not being up to the standards that are necessary for a petition for extraordinary relief.

Ultimately, with the procedural aspect, I am asking if this Court agrees with the City on the procedural aspect of decline and consider this Petition based on the failure to show there is a -- there is a plain, speedy, and adequate remedy at all. Or, that there's no plain, speedy, and adequate remedy at law, I'm asking for this Court to include in its ruling that portion of it as well. Because, again, I think it is important for the Court to hold the petitioner to that standard.

Ultimately, with respect to the procedural aspect, again, I think the briefing does cover everything that I'd like it to cover. The issue that the City has is that the defense hasn't -- or, I'm sorry. The petitioner hasn't even really presented a reason for coming to this Court. Initially, they say: Well, we can't appeal, and so that's why the Nevada Supreme Court says that this is an appropriate vehicle for bringing this type of a claim. Well, it's an appropriate vehicle in the sense that, you

know, the appropriate vehicle to try and keep evidence out at trial is a Motion to Suppress. That doesn't mean that anytime that a petitioner brings a Petition for Writ of Mandamus on this issue that the Court has to consider it.

So, ultimately, that was their argument, is that, you know, we can't appeal it, so we have to bring it through here. Well, they haven't provided any legal citation. So, they -- it does seem, based on the citation that the City has provided, that they can appeal that after the trial. But the bigger issue -- or a equally big issue for the City is that they didn't provide any legal citation on that note.

You know, the defense invokes the idea of judicial economy. I would push back on that pretty heavily. I think that judicial economy was not served by the filing of this Petition because, as I noted, trial would have taken place just 15 days after they filed this Petition, and they could have appealed. Instead, we're here six months after the Petition was filed and we still have to -- once this is taken care of, we still have to get through the trial. And defense, most likely if they lose the trial, is going to appeal it. And, so, we're basically going to be doing this all again.

An appropriate basis would be something like -- and I know Your Honor has probably dealt with plenty of

this, but something like a discovery dispute regarding an Order to Disclose Privileged Documents. And once those privileged documents are disclosed, the damage has kind of already been done. That's not what the case is here.

So, again, I'm not going to go back through the entirety of my Petition. You know, I think that there is a lot of -- in the substantive category, I think that there is a lot of sort of skipping through the necessary test that has to be done. It's just kind of like, well, the Judge ruled against me, and so -- but I'm right. So, therefore, the Judge is biased. Well, you can't base an argument of bias based on that, as we know from the Supreme Court case law that the City has provided.

You can't just say if a Judge disagrees with me -- otherwise, if this Court rules against the defense, then they're going to potentially writ this Court and say: Well, this Judge ruled against me and clearly we're right, so this Judge is biased. And, so, we're just going to keep going up the chain with biased judges if they continue to get people -- to get courts who disagree with them.

So, ultimately, the test is -- you know, is an extrajudicial source. I've sort of laid out what the actual test is for extrajudicial. This dates back to Supreme Court case -- the U.S. Supreme Court case law, which, by the way, was approved of in the due process case

law of *Caperton*. Caperton cites to *Liteky*, or *Liteky*, however you would like to pronounce it. *Liteky* has the language that's the basis of the *Canarelli* decision.

THE COURT: Can I stop you for a quick question?

MR. OSMAN: Absolutely.

THE COURT: You mentioned *Canarelli*. And I understand I'm going a little bit out of order. Since it wasn't mentioned in the initial arguments, I was going to ask it in the reply. Might as well ask you now.

MR. OSMAN: Sure.

THE COURT: There was a statement in the Reply -- and the Court's not really going to take a position on the Reply right now because, obviously, I've read everything, but it is unconstitutional. So, you didn't have a chance to address that argument because you all were given the opportunity to give supplemental briefing. Right? But are you -- your position on whether or not a District Court can hold a decision of a Nevada Supreme Court unconstitutional?

MR. OSMAN: My position is pretty clear, which is that the District Court cannot do that. I honestly -- I don't know if petitioner is asking this Court specifically to do that. My suspicion --

THE COURT: I'm going to ask -- I'm going to ask that question. But, benefit because you're not going to have last word, I might as well ask you as well, because

I'm a District Court Judge.

MR. OSMAN: I appreciate that. And what I would say, also, Your Honor, is that I think not only are they asking Your Honor to -- potentially, that they're asking Your Honor to find supreme -- Nevada Supreme Court case law unconstitutional. Ultimately, with the line of cases that this comes from, leading back to U.S. Supreme Court, I mean, that is ultimately what they're doing. They're asking this Court to overturn U.S. Supreme Court case law. I think it's pretty clear that this Court does not have the ability to do that. And, so, that would be my position on that issue.

THE COURT: Okay. So, since I interrupted you, please continue. Go ahead.

MR. OSMAN: No problem. Okay.

So, fundamentally, Your Honor, again, I'm not going to go through everything that I've talked about. And I know that I've said that three times at this point. But the fundamental problem with their substantive argument is that they cannot come up with any explanation, any reasonable explanation as to where this bias, or alleged bias, supposedly as a risk of bias.

Their argument boils down to kind of: The District Court disagreed with me, but I am so clearly right, so therefore they're biased. Their argument as to

risk of bias boils down to the *Van Griffin* case. The *Van Griffin* case, as I've laid out, it's not controlling for this Court, for this state. It's a Ninth Circuit case law. This state has its own case law that interprets its own code.

I understand that the code of conduct is similar between here and the Federal Code of Conduct. But I don't think that that is really relevant. And what we're talking about is a case law, a Nevada case law, that indicates: Hey, this is the standard for determining where there is bias in this type of a situation in Nevada. And only once we find out whether this is an extrajudicial source do we then look to the code-based standards in the NCJC and the NRS Chapter 1.

So, I don't think that *Van Griffin* has, really, any applicability. But, even if it did, as I laid out, *Van Griffin* is really based on something different, which is an ex parte communication from the police to the Court. That would be more similar to if I had met the Judge in the hallway, for example, and handed the Judge a copy of my Opposition and not served it on counsel, which obviously isn't what happened here.

I do have other points that I could go over. But what I'd rather do is just ask the Court to -- does the Court have any questions for specific aspects of my

response that I -- you prefer some clarity on?

THE COURT: No. Except the only one I had is you didn't have a chance to address their *Canarelli* arguments.

MR. OSMAN: Understood. If I could just have a brief indulgence to make sure I don't have any additional points to --

THE COURT: Sure. Of course.

MR. OSMAN: -- go over?

Oh, actually, Your Honor did ask me to touch on the due process issue. The due process --

THE COURT: Did you say -- I'm going to pause you for one second.

MR. OSMAN: Sure.

THE COURT: Is someone on remotely who has not put themselves on mute? Please do so. We do have counsel arguing here in open court and they would like a nice, clear, clean record. So, please mute yourselves. Okay? Thank you so much.

Sorry, counsel. It's just, presumably, you want a clear record not having all that noise. Go ahead.

MR. OSMAN: No. I do appreciate that, Your Honor.

THE COURT: Due process. Go ahead.

MR. OSMAN: With respect to due process, I think that that is more or less a nonissue here. It does obviously apply to certain situations with respect to

judicial disqualifications. But, as I laid out in the -- with respect to the *Caperton* case, I think that the type of case that we're looking at really has nothing to do with what we're looking at in this case.

In this case, the challenge is that the City's statement of facts somehow tainted the Judge so that ultimately the Judge is somehow going to rely on those statement of facts during the trial instead of relying on the evidence during trial. It's not a personal interest or -- that's going to tempt the adjudicator to disregard neutrality, which is what the *Caperton* case ultimately stands for.

And, then, I do want to just make the point that, sort of, if the petitioner's position is correct, ultimately it's not going to stop. It's just situations where the statements of facts are something that the petitioner unilaterally believes is irrelevant.

Now, again, I indicated that the City believes that they are relevant. At minimum, I believe they're relevant to multiple of those Motions. Not that this Court should have had to go through 100 pages worth of Petitioner's Reply brief to make that determination for itself, considering they didn't explain their argument as to that effect. They just sort of said that it's not relevant.

But, at minimum, I would point out that there was a Motion regarding the sufficiency of the Complaint, there was a Motion that requested discovery and had to do with issues regarding the breath testing and that sort of thing, the machine itself. There was a Motion regarding this -- Motion to find the two-hour theory of the DUI, which I'm assuming Your Honor is familiar with that statute. But a Motion to find that unconstitutional based on the fact that it's possible that the defendant could have drank after driving.

And, so, establishing that, hey, this is what happened in this case, the defendant -- there's no, like, reasonable situation where this case could fall under that category, so they need to show standing, which they didn't in that case. These are all reasons for those facts to be included.

Now, that being said, there's no, like, consideration under this test for whether they're relevant. But, ultimately, the petitioners -- and, so, even though I believe that they're relevant, I don't think that that's -- plays any part into the test.

But, that being said, if the petitioner's logic is extended, we're not talking about situations where a Judge has to be recused anytime they hear facts that -- again, the petitioner unilaterally believes are irrelevant. We're

talking about recusing any and every Judge if they hear any of the facts of the case in any circumstance.

So, in other words, you know, there's really no difference between a Judge hearing facts that are necessary to a motion and a Judge hearing facts that are unnecessary to a motion. And what that means is, extending their logic again, you're going to have a situation where you have one Judge who hears everything pretrial, and then another Judge who hears the bench trial, which is ridiculous. And, ultimately, that's the only way that you're going to be able to do it because you're going to have situations like Motions in Limine, Motions for Own Cognizance Release, all of these things, you know, the PC review. The Judge is going to have the facts of the PC review.

I mean, this is not just limited to what one person thinks is relevant or not relevant to a particular Motion. And, so, I think that this kind of oversteps the bounds. We have U.S. Supreme Court case law -- different U.S. Supreme Court case law that states that this sort of thing does not, by law, affect a Judge. Judges are presumed to be able to focus on exactly what they've seen during the trial.

And, you know, another interesting sort of side example here is that -- which I didn't specifically include in my response. But another interesting example is, you

know, we'll have cases a lot of times where we have, you know, pretrial situations, or, you know, the parties will appear for a trial that's been called off and, you know, there will be a Motion to Continue, for example. And a lot of times the defendant themselves will be present and they'll say, you know: Your Honor, can I make a statement? And, then, nobody knows what, really, what they're going to say, and they say something like the victim, you know, did this to me and this to me, and the victim is this and that. And, you know, basically making all these statements.

And, so, in those of types -- and that happens fairly regularly. I wouldn't say commonly, but it happens relatively regularly. And, in those situations, then the City, in that case, would be able to get a different Judge. Because now the defendant has said: Oh, you know, this person's done these prior bad acts in the past. Well, they haven't filed a Motion.

I realize that's getting into a little bit of a tangent but it's effectively the same thing. The defendant in that case is presenting facts to the Court. In reality, the Court is presumed to be able to focus only on what's presented in the trial. And that's the bottom line. The defense cannot show, even if anything about this was inappropriate, which it wasn't, but even if it was, they can -- that's a separate issue from whether the Judge is

tainted by those facts. And, by law, the Judge is not tainted by those facts.

So, again, if the Court has any questions for me, I'd be happy to answer them. Otherwise, I would ask the Court to deny it. First of all, dismiss the Petition, procedurally. And, if not, then deny the Petition as meritless.

THE COURT: Okay.

MR. OSMAN: Thank you.

THE COURT: I appreciate it. Thank you so much.

Counsel, you get last word. Go ahead. And you know I'm going to ask you the question about how a District Court Judge can find a decision of the Nevada Supreme Court unconstitutional versus the per se rule that District Courts have to follow precedent.

MR. PARIENTE: Understood. Can I address that first? Because --

THE COURT: Yeah. Sure.

MR. PARIENTE: Yeah.

THE COURT: Whatever order you want. Go ahead.

MR. PARIENTE: Judge, first of all, I -- obviously, we understand you're bound by the Nevada Supreme Court's decision. This is something we believe that we want to preserve and address, obviously, if we will need to at some point with the Nevada Supreme Court and possibly in

Federal Court as well. So, I understand the Court's position. It can't buck the -- you know, buck the Supreme Court decision.

THE COURT: Did you give me any citation that I could? I mean, other than your statement? And I appreciate you put it in bold. But bold doesn't make it right. Right? Bold just is bold. So, but, I didn't see any citations anywhere where we would ever allow in this type of situation a District Court to disregard -- and it's a 2022.

MR. PARIENTE: Right.

THE COURT: We're not talking, you know, anything from the 1800s.

MR. PARIENTE: I understand, Judge. But we are -- we are preserving that issue.

THE COURT: Okay. So, it's just a preservation?

MR. PARIENTE: Yes. Yes.

THE COURT: Okay. Okay. Go ahead.

MR. PARIENTE: Okay.

THE COURT: Go ahead, please.

MR. PARIENTE: Judge, first of all, I want to address something that Mr. Osman from the City stated. He said that there -- that it was relevant any time they bring up the blood -- breath alcohol concentration is .24. They do this in every case. They're taking highly prejudicial

facts and they're putting it in every Motion, every Opposition to our Motion, even when our Motions have nothing to do with the facts in the case.

I'll give you an example. First of all, we filed a Motion to Compel Production of RFI Testing Compliance Data. That has nothing to do with the facts in the case, how the person did on the horizontal gaze and the nystagmus test, the one leg stand, the walk and turn. Those are filed sobriety tests approved by the National Highway Transportation Safety Administration.

All of those have nothing to do with it. They're only putting it in to try to taint the Judge, to show the Judge that this is a really bad case, Your Honor. And to -- and influence the Judge because now the Judge is seeing these bad facts while reviewing our Motions.

Secondly, Motion to Dismiss the Complaint for Lack of Jurisdiction. This has nothing to do with the facts in the case. What we're talking about in that Motion is that we believe that it's -- that the DUI, because the fine amount is 1,000 plus 35, that that makes it a gross misdemeanor. Under Nevada law, a misdemeanor is a maximum six months in jail or $1,000 fine. It has nothing to do with whether the person had a .24 blood alcohol or breath alcohol concentration.

This is what they're doing, Judge. The only

reason why they're doing this, again, is to cheat. It's to try to give them an advantage with the Judge by saying: Look at this bad case, Judge. Look at his bad driving, look at his admissions. They have nothing to do, whatever our client may have admitted or how he did on the field sobriety test, it has nothing to do with whether or not the Court has jurisdiction.

So, I'll -- I believe we've covered everything in our Reply brief. Of course, I'll answer any questions that the Court has. I think we've covered everything in our Reply brief related to what Mr. Osman said.

THE COURT: I appreciate it. Okay. So, let's walk through a couple things in the Court's ruling. And, for those of you who are patiently waiting, yes, realize we've got a couple more matters to get taken care of after this.

I will tell you, for those of you for the Rule 16 conference and for my last remaining on my 10 o'clock, just a quick head's up. If you all want to stretch your legs or take something, I'm going to have to take a 10-minute break after this one because my team needs to have their morning break. And they've been wonderful since the morning. Some of you are here earlier in the morning realize they've been going nonstop. So, I'm going to rule on this, then I'm going to take a break so that everybody needs to go another

hearing, etcetera, for a few moments.

Okay. So, let me get back to your case. So, this is case number 861191. And here's the ruling of the Court. First off, the Court is taking into account all pleadings filed, including the amendments, the appendices, etcetera. And the reason why the Court's doing that is because, realistically, while there may be a little bit of timing issues, there may be some issues of attaching things after it was brought to their attention that should have been more appropriately attached in the initial papers. What this Court wanted, really, to do is, I want to make sure for you all's purposes regarding this issue, is you got the body of everything. So, by taking everything into account, I really don't see it's prejudicial to anybody. And it really gives the Court the broadest picture. Okay? So, that point, procedurally.

Second, this Court has no authority to consider a ruling of the Nevada Supreme Court unconstitutional. So, this Court does have to take *Canarelli* into account in its ruling and is taking *Canarelli* into account in its ruling. Okay? There was no citation to anything that would allow a District Court Judge to find a 2022 Nevada Supreme Court case unconstitutional.

So, breadth, I'm considering everything. And I'm also breaking this down into two parts. I am going to --

if you give me just one moment, please? I want to go back to one thing. One second, please.

Okay. So, I've stated -- I really do see this as two prongs. The first part, right, is the same with the first issue is: Is a Writ of Mandamus proper before this District Court, given the nature of the underlying issue, the potential disqualification of a limited jurisdiction Judge? Realistically, this Court need not rule on that because you both have cited applicable case law and have stated that this Court does have jurisdiction. So, the Court really doesn't view that I have to rule on that because, by agreement of the parties, you're saying this Court does have the jurisdiction. Okay?

So, the first step, then, the Court -- is whether the Court should exercise its discretion to consider the instant Petition. And, as you all have cited in both the pleadings, you've talked about the various standards. Right? So, the first prong is, realistically, from this Court's viewpoint, the Court does not see a basis to exercise its discretion.

So, the Court -- and I'm giving you this as two alternative rulings, just to get it. So, when you have to consider Petitions for Writ of Mandamus, you all both have cited the fact that it's an extraordinary remedy to compel the performance of an act that requires a duty resulting

from an office, trust, or station, or to control a manifest abuse of discretion. I'm quoting to what you both cited, *Gonzalez versus District Court*, 129 Nevada 215, 2013.

And, then, of course, you all have both discussed the fact about whether or not there is a plain, speedy, and adequate remedy. And, as you know from *State versus District Court Armstrong*: The writ will not issue if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. I mentioned *State versus District Court Armstrong*, 127 Nevada 927 and that was a 2011 case.

And, so, then, this Court had to evaluate and appreciate both of the extensive reasoning in the supplemental briefing and the Reply, etcetera. Realistically, the Court does see that there was a plain, speedy, and adequate remedy. It really was processing through the case and having it addressed. Okay. So, an appeal, as stated by *Cook versus Eighth Judicial District Court*: Generally does constitute an adequate and speedy remedy precluding writ relief.

Now, the Court is appreciative that the concept is: Why should you continue through the rest of the proceedings if you have an issue with regards to the underlying limited jurisdiction Judge? And, so, maybe have to look at the writ. But, here, the issues realistically that this Court saw were not necessarily what the Judge did

as what the Judge had available to that particular Judge. Right?

Really, the issue seems to be with what was brought to the Judge from the City of Henderson. But, so, realistically in this case -- and I have to look at the facts of the specific case: Does this case -- did you have the adequate speedy remedy? Yes. Because those issues could be brought up in a variety of different forms. So, I don't see that there's a basis for this Court to exercise the piecemeal review of the underlying proceedings. And, yes, that was another citation to *Smith*.

So, when I look at all of those, -- and, here, it was pointed out by the City of Henderson, is whose burden it is, right, to see if the extraordinary relief is warranted. And you both agreed it was for the petitioner. And that's *Pan versus Eighth Judicial District Court versus County of Clark*, 120 Nevada 222, 2004. And when I look at that, I don't see that the extraordinary relief request really is necessary.

And one of the reasons for that is the *Canarelli* decision, because the *Canarelli* kind of parses out, right, the type of information that Judges have, and kind of gives a nice guideline, or however you'd like to phrase it, of what Courts can and cannot consider, what should and should not be done. And, so, I don't see why you would need the

writ when it has a case that does give insights as to what can and cannot be done and what can and cannot be considered. And, even in the absence of *Canarelli*, there still is a plain and speedy remedy.

So, the first part is, the Court would find that it should dismiss the Petition. It should not exercise its discretionary aspect with a writ petition. And this would be regardless. I understand this is kind of both phrases, [indiscernible] and mandamus under either standard. Okay? It would appropriate.

So, I don't see the burden has been met, as I mentioned. So, the burden has not being met, that intervention is warranted, so, therefore, for all the reasons the Court already stated, the Court does not see that this would be appropriate.

Now, I am also appreciative that you all have spent considerable time and effort on the substance issues. So, even if the Court were to take the Petition, and whether or not, what would the Court's ruling be? So, I'm going to give you an alternative. If the Court had found that it should have exercised its discretion, I still would deny the Petition on the merits. Because, realistically, I mean, I'm fully taking into consideration the due process argument.

But, really, it's -- I go back to *Canarelli*. And

I see *Canarelli* has focused in the Courts can consider certain things and still rule fairly. Then I look at the legal standard for disqualification. Right? And that's -- if you look at the legal standard, both the NRS, you've got the judicial ethics, you've got -- so, -- and you've -- also, there's been a citation of federal law, which the Nevada Courts look to a variety of different things.

So, when you look at the due process aspect -- and I don't see how the due process -- the actual rights of the underlying client were impacted. It was really discretionary decisions and decisions made with regards to what should and should not be done, what should and should not be considered. And that was in evidentiary aspects brought forth in the underlying proceedings. And, whether you agree or disagree that they should have been brought forth, they were. And the Court needed to look at it. I don't see how that falls within the parameters of the various due process cases that have been cited by the parties.

So, then, I look to the next standard is, okay, looking absence of the constitutional due process, what is -- the idea what a Court should and should not do? Right? The duty to sit versus the duty of recusal. And you've got *Ham*. You've got a whole bunch of cases. There's a citation to *Goldman versus Bryan*: A Judge has a great

obligation not to disqualify him or herself when there's no occasion to do so as he has the presence of a valid reason. Right? And that was *Goldman* back from 1988. It was abrogated on other grounds. And that case, *Rivero,* was reversed and overruled on other grounds.

So, here, you have to look at: What was the party who is challenging the Court's underlying actions to establish the factual grounds regarding disqualification? I don't see, even under de novo review, that that had been met. Realistically, as *Canarelli* says, unbiased -- a Judge's decision not to recuse will not be able to overturn absent a clear abuse of discretion, 506 at 337.

And what *Canarelli* goes back to is the Nevada Supreme Court did recognize that when a Judge learns in his or her official capacity -- since *Canarelli* involved a female Judge, I'll say his or hers, does not result in disqualification. Here, I have to look at the allegations of bias and what was learned in the totality of the facts presented to this Court. Right? And not only do I have the benefit of what you all presented to me, granted, a lot you presented to me, and what the Court taking into account.

So, a statement or the opinions, right, in the prior proceedings is not a bias on partiality unless they meet a deep-seated favoritism. And I don't see how there's

been any establishment of any deep-seated favoritism, or any bias at all. I just see there's disagreement with rulings. But, realistically, almost every ruling a Court makes, one of the parties doesn't necessarily agree with it in whole or in part. Right? That is part of -- that in and of itself does not mean that it is bias.

So, here, you have to look at the aspect of whether it's extrajudicial or judicial under *Canarelli*. Realistically, *Canarelli* wasn't a new concept. It was kind of a clarifying concept because it went back to *Kirksey*, the earlier case. Right? And, if you adopt this language and you adopt what I need to adopt from the Nevada Supreme Court, I have to look at the rulings alone don't -- you have to look at the full extent of the circumstances and facts presented. Right? Not necessarily the ruling. Because, honestly, people have to rule. We deny Motions all the time, grant Motions, grant in part, deny in part. Right?

That in and of itself, the ruling, a denial or a granting, or a granting in part or denying in part, doesn't in and of itself mean somebody is biased, and hasn't been shown that that ruling itself is biased. But you have to look at all the other circumstances. And, here, I don't see that the burden has been met. Okay?

MR. PARIENTE: Your Honor? I'm sorry. Can I just

ask for a point of clarification? Is the Court's --

THE COURT: Do you want me to -- do you want me to finish? Or do you want -- go ahead, ask for your point of clarification.

MR. PARIENTE: Because it's -- it follows exactly what you're discussing. I just want the record to be clear.

THE COURT: Sure. Of course.

MR. PARIENTE: Is the Court's ruling that the -- what the City did was by including facts from the police report, is the Court saying that that was an extrajudicial source or intrajudicial?

THE COURT: The Court is analyzing in the rubric of what you are requesting, right, for disqualification, under the parameters set forth, *Kirksey* and then with *Canarelli*, I don't see it meets those standards. I don't think I need to get to the very specific of what you are asserting. Right? Because I have to look at the totality.

You're taking one small piece of it, rather than looking at -- I'll use the term pie. Right? Okay. You've got a sliver of your pie. You don't have the whole pizza, or you don't have the whole pie. So, I'm not seeing how you've met your burden.

I understand and appreciate that you have parsed out certain aspects. Right? Excuse me. I do see that

this was in the course of the judicial proceedings. And I don't see that this is knowledge, right, that was acquired outside the proceedings, or you showed a deep-seated, unequivocal antagonism. Right?

MR. PARIENTE: Okay.

THE COURT: You haven't met the standards.

MR. PARIENTE: All right. I just wanted the record to be clear. Thank you.

THE COURT: I was getting there.

MR. PARIENTE: Okay. All right. Thank you, Judge.

THE COURT: I was getting there. No worries. Okay.

So, realistically, I look at it either of a due process stand -- you -- often times, Courts only look at due process and then do something broader. Or, if you view it more narrowly, however you want to do it, with Nevada Supreme Court case law. But regardless of which analysis I look at, I don't see it has been met.

So, looking at the whole context, so I don't see that the City's would fall within the extrajudicial component, as analyzed by the -- all the Nevada Supreme Court case law, is another way to say in answer to your question. Okay? As an extrajudicial.

So, realistically, you all have a different

viewpoint of what should or should not have been included. Okay? And I see that more towards a disagreement with what was presented than really how it goes to what the Judge knew or didn't know for purposes of whether or not disqualification was appropriate. So, when I look at all those factors, I would find, also, that I should deny the Petition under the applicable case law.

I do think that I am giving the petitioner the broad sense of the Petition. I'm taking into account not only, right, the initial Petition, but also all the other Pleadings and looking at it in a broad totality circumstance.

So, I appreciate the City of Henderson argued that if it wasn't in the initial Petition, it shouldn't even be considered by this Court, because that what needs to be brought forth initially. But I'm doing it because this is an alternative ruling. Right? And I appreciate that you might have different places you want to be, or may want to head, and that's perfectly fine. The Court takes no position one way or another. I'm trying to give you the breadth of taking everything into account so that it's not an issue that I excluded something for purpose of my ruling. I'm taking everything into account, regardless of there is a procedural issue that some of those things should have been stated in the initial Petition. But I'm

giving thought as if it was. I'm treating the Petition as all the documents, not just the initial Petition. Okay?

And, once again, I don't see that established already. I'm repeating myself with the deep-seated favoritism since I got a little sidetracked with the question. I wanted to make sure I addressed that.

So, I don't see that the underlying facts in this case didn't confer some personal knowledge with -- intended to how it's described within the applicable case law that would require the recusal or the disqualification. So, realistically, I gave you from a first ruling, I dismissed the Petition with regards to not exercising the Court's discretion. Alternatively, if the Court were to take the Petition on the merits, the Court would deny the Petition.

I do appreciate this was very informative, very well written, very well argued, all the supplemental briefs. And, like I said, the Court did take everything into account so as not to have an issue, if someone felt I was only taking certain things, even if they were some smaller procedural defects.

So, it is so ordered. That's the Court's ruling. That means counsel for the City, you are preparing the Order, circulating it to opposing counsel, and providing it back to the Court. Do you need more than the 14 days under EDCR 7.21 because of the breadth and depth? Or -- so,

better to ask me now than to just not do it. But --

MR. OSMAN: I may need a little extra time. Also, I'm thinking -- I took a full page of notes, but I may need to ask for maybe if there's an audio recording that I can request. Is that a possibility?

THE COURT: Yes. You pay for it, you get it.

MR. OSMAN: That's understood. What would be the procedure? So, -- just so -- I want to make sure my office is okay to pay for it. And, then, I can make that request.

MR. PARIENTE: Or Adam can pay for it himself.

THE COURT: We'll give you the form.

MR. OSMAN: I did have one question for the Court, if I may?

THE COURT: Okay. So, let's finish off with the 30 day. And, then, I'll circle back to your question so we don't get segued on a couple things. You got the form on how to order it?

MR. OSMAN: I do.

THE COURT: Okay. And there's transcripts you can order. There's DVDs you can order, recording fees, all that kind of good stuff. You can share costs, etcetera.

MR. OSMAN: Thank you.

THE COURT: So, you want a form, too, counsel?

MR. PARIENTE: Yes, Your Honor.

THE COURT: Okay. Just a second.

[Colloquy at the bench]

THE COURT: Bottom line is, usually if one person -- okay. Do we have -- there. You got your form as well. Okay.

So, I'm going to say 30 days from today because I think that's appropriate. I like to give people the time that they need to get. And if you all think you need a little bit more, then send the Court a joint letter. Just -- okay?

MR. PARIENTE: Understood.

THE COURT: I want -- the reason -- would 30 days be amenable to you, counsel? What I'm trying to do is I'm trying to give everyone enough time because the extension -- need time to prepare the Order, circulate it among yourselves before you provide it back to the Court. At the same time, this Court is not trying to give additional time that somehow impacts anything that's happening in any underlying proceedings. So, I'm trying to balance those.

So, if you tell me that you needed to stick to the 14 days, I will tell you that I'm going to say 14 days. If you think it is in the best interest of all parties that I give 30 days so you can work what you need to work, then I will give 30 days. And if you tell me a different date, then I'm going to listen to your alternative, and then ask opposing counsel, then make a determination.

MR. PARIENTE: I believe 30 days will be appropriate, Your Honor.

THE COURT: Okay. And that does not negatively impact anything that's happening in any underlying proceedings?

MR. PARIENTE: It does not.

MR. OSMAN: It will not.

THE COURT: Okay. That's what -- you understand I don't intend any consequences. I'm trying to help you out and give you extra time, just not -- I don't want anything to consequences. So, that's part's taken care of.

MR. OSMAN: I appreciate that.

THE COURT: Now, counsel for the City of Henderson, you had a question. Go ahead.

MR. OSMAN: I just -- a point -- as another point of clarification. Your Honor ruled that the -- there was no personal knowledge conferred onto the -- the City's statement of facts. The related issue that they brought up in their initial Petition was the issue of ex parte. Is the Court making a ruling on that being ex parte or not being ex parte?

THE COURT: I don't think this Court has enough information to make a ruling on whether it was or was not.

MR. OSMAN: Okay.

THE COURT: As it was presented within the rules.

MR. OSMAN: Thank you.

MR. PARIENTE: Thank you, Your Honor.

THE COURT: That's why I didn't mention it. Okay.

Any other questions from petitioner?

MR. PARIENTE: No, Your Honor. Thank you for your time.

THE COURT: Any other questions from City of Henderson?

MR. OSMAN: No, Your Honor. Thank you.

THE COURT: I do appreciate it. Thank you all for your time. Have a great rest of your day and week.

MR. PARIENTE: You, too.

THE COURT: Okie doke.

PROCEEDING CONCLUDED AT 11:12 A.M.

* * * * *

CERTIFICATION

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER

ELECTRONICALLY SERVED
7/25/2023 1:58 PM

Electronically Filed
07/25/2023 1:56 PM
CLERK OF THE COURT

ODR
THE PARIENTE LAW FIRM, P.C.
MICHAEL D. PARIENTE, ESQ.
Nevada Bar No. 9469
JOHN G. WATKINS, ESQ., OF COUNSEL
Nevada Bar No. 1574
3800 Howard Hughes Parkway, Suite 620
Las Vegas, Nevada 89169
(702) 966-5310
Attorneys for Defendant

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

PATRICK MERRELL,

Petitioner,

vs.

THE HONORABLE ALICIA ALBRITTON, HENDERSON MUNICIPAL COURT JUDGE,

Respondent,

And

CITY OF HENDERSON,

Real Party in Interest.

DC Case No.: A-22-861191-W

Dept No.: 31

ORDER DISMISSING PETITION FOR A WRIT OF MANDAMUS

(COMPETING ORDER)

This matter having come on for Argument and Decision on May 2, 2023, the Court having read and considered all papers and pleadings filed by respective parties, good cause appearing,

THE COURT HEREBY FINDS that petitioner has a plain, speedy and adequate remedy in the ordinary course of law. *State v. Dist. Ct. (Armstrong)*, 127 Nev. 927, 931, 267 P.3d 777 (2011).

THE COURT FURTHER FINDS that petitioner has not meet his burden showing that extraordinary relief is warranted. *Pan v. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840 (2004). Therefore,

THE COURT ORDERS the Petition for a Writ of Mandamus dismissed.

PARIENTE LAW FIRM, P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

THE COURT ALTERNATIVELY FINDS that "[i]f the Court had found that it should have exercised its discretion, I still would deny the Petition on the merits" because *Canarelli v. Eighth Judicial District Court,* 138 Nev. 104, 506 P.3d 334 (2022) controls. The information received and considered by the lower court was intrajudicial and there was no showing of "a deep-seeded favoritism or antagonism that would make a fair judgment impossible."

THE DISTRICT COURT FURTHER FINDS that the lower court's refusal to recuse was not a due process violation under the United States Constitution.

DATED _____ day of _____, 2023.

Dated this 25th day of July, 2023

Joanna S Kishner

DISTRICT COURT JUDGE
310 A69 47BA C14E
Joanna S. Kishner
District Court Judge

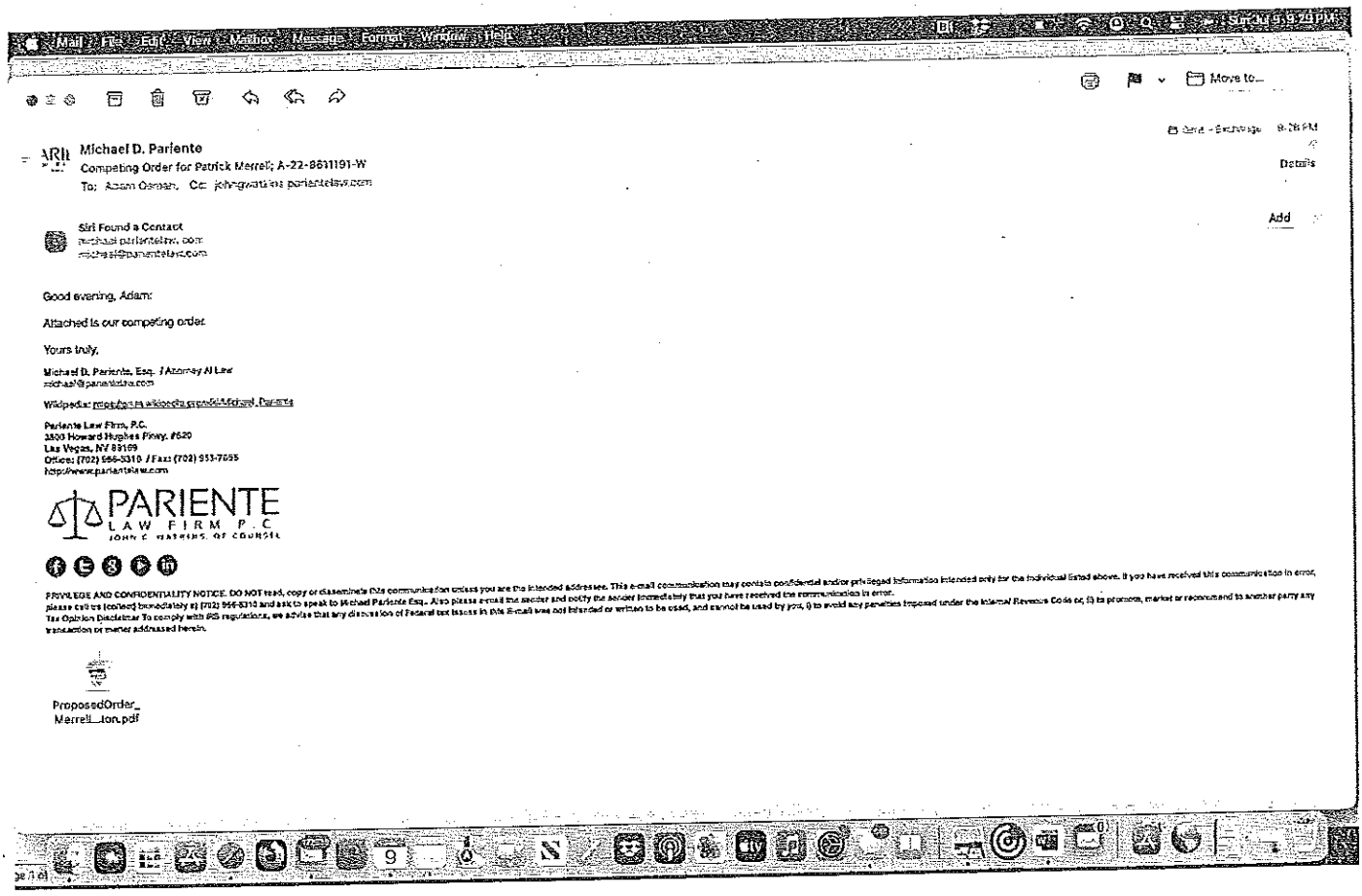
MICHAEL D. PARIENTE, ESQ.
Attorney for Petitioner

ADAM B. OSMAN, ESQ.
Attorney for Real Party in Interest

John G. Watkins

JOHN G. WATKINS, ESQ.
Of Counsel

PARIENTE LAW FIRM, P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM



Mail File Edit View Mailbox Message Format Window Help

Move to...

Michael D. Pariente
Competing Order for Patrick Merrell; A-22-8611191-W
To: Adam Osman, Cc: johngoatas parientelaw.com

Details

Siri Found a Contact
michael.pariente.law.com
michael@parientelaw.com

Add

Good evening, Adam:

Attached is our competing order.

Yours truly,

Michael D. Pariente, Esq. / Attorney At Law
michael@parientelaw.com

Wikipedia: https://en.wikipedia.org/wiki/Michael_Pariente

Pariente Law Firm, P.C.
3800 Howard Hughes Pkwy. #620
Las Vegas, NV 89169
Office: (702) 566-5318 / Fax: (702) 953-7095
http://www.parientelaw.com

PARIENTE
LAW FIRM P.C.
JOHN C. HARRIS, OF COUNSEL

PRIVILEGE AND CONFIDENTIALITY NOTICE. DO NOT read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication may contain confidential and/or privileged information intended only for the individual listed above. If you have received this communication in error, please call us (collect) immediately at (702) 566-5318 and ask to speak to Michael Pariente Esq.. Also please e-mail the sender and notify the sender immediately that you have received the communication in error.
Tax Opinion Disclaimer To comply with IRS regulations, we advise that any discussion of Federal tax issues in this E-mail was not intended or written to be used, and cannot be used by you, (i) to avoid any penalties imposed under the Internal Revenue Code or, (ii) to promote, market or recommend to another party any transaction or matter addressed herein.

ProposedOrder_
Merrell_ion.pdf

PARIENTE LAW FIRM, P.C.
3800 Howard Hughes Pkwy, Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 10 day of July, 2023, by electronic service transmission to:

Henderson City Attorney
Criminal Division
Adam.Osman@cityofhenderson.com

The Honorable Alicia Albritton
Henderson Municipal Court 1
Alicia.Albritton@cityofhenderson.com

Veronica Calles, an employee of
The Pariente Law Firm, P.C.

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Patrick Merrell, Plaintiff(s)	CASE NO: A-22-861191-W
vs.	DEPT. NO. Department 31
Alicia Albritton, Defendant(s)	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Denying was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 7/25/2023

Marc Schifalacqua	Marc.Schifalacqua@cityofhenderson.com
Kim Quinnell	Kim.Quinnell@Cityofhenderson.com
Bonnie Hawley	bonnie.hawley@cityofhenderson.com
Adam Osman	adam.osman@cityofhenderson.com
Alicia Albritton	Alcicia.Albritton@cityofhenderson.com
Dwayne Rennels	dwayne.rennels@cityofhenderson.com
Michael Pariente	michael@parientelaw.com
Veronica Calles	veronica@parientelaw.com
John Watkins	johngwatkins@hotmail.com
Chris Barden	chris@parientelaw.com

Electronically Filed
7/27/2023 9:52 AM
Steven D. Grierson
CLERK OF THE COURT

NOT

THE PARIENTE LAW FIRM, P.C.
MICHAEL D. PARIENTE, ESQ.
Nevada Bar No. 9469
JOHN G. WATKINS, ESQ., OF COUNSEL
Nevada Bar No. 1574
3800 Howard Hughes Parkway, Suite 620
Las Vegas, Nevada 89169
(702) 966-5310
Attorneys for Defendant

Electronically Filed
Aug 01 2023 01:06 PM
Elizabeth A. Brown
Clerk of Supreme Court

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

PATRICK MERRELL,

Petitioner/Defendant,

vs.

THE HONORABLE ALICIA ALBRITTON, HENDERSON MUNICIPAL COURT JUDGE,

Respondent,

And

CITY OF HENDERSON,

Real Party in Interest.

DC Case No.:A-22-861191-W

Dept No.: 31

NOTICE OF APPEAL
(Criminal DUI Case)

NOTICE is hereby given that Defendant PATRICK MERRELL, hereby appeals to the Nevada Supreme Court pursuant to NRS 2.090(2) from the District Court's Judgment denying PATRICK MERRELL'S PETITION FOR WRIT OF MANDAMUS entered on July 25, 2023.

DATED this 27th day of July, 2023.

MICHAEL D. PARIENTE, ESQ.
Nevada Bar No.: 9469

JOHN G. WATKINS, ESQ., OF COUNSEL
Nevada Bar No. 1574

PARIENTE LAW FIRM, P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

Docket 87066 Document 2023-24626

Case Number: A-22-861191-W

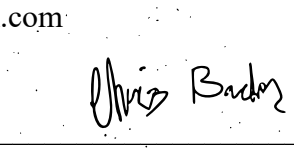
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of July, 2023, that I electronically filed the foregoing Notice with the Clerk of the Court by using the electronic filing system.

The following participants in this case are registered electronic filing system users and will be served electronically:

Nicholas Vaskov
Henderson City Attorney
Nicholas.Vaskov@cityofhenderson.com

The Honorable Alicia Albritton
Alicia.Albritton@cityofhenderson.com



Christopher Barden, an employee
of Pariente Law Firm,

PARIENTE LAW FIRM, P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

PARIENTE LAW FIRM. P.C.
3800 Howard Hughes Pkwy., Suite 620
Las Vegas, NV 89169
PHONE: (702) 966-5310 | FAX: (702) 953-7055
WWW.PARIENTELAW.COM

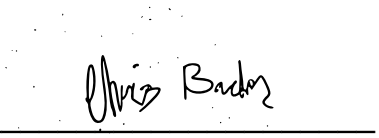
CERTIFICATE OF SERVICE

I, Christopher Barden, hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on September 7, 2023. Electronic Service of the foregoing Appellant's Opening Brief and the Appellant's Appendix shall be made in accordance with the Master Service List as follows:

NICHOLAS VASKOV, ESQ.
HENDERSON CITY ATTORNEY

MARC M. SCHIFALACQUA. ESQ.

ADAM B. OSMAN. ESQ.



Christopher Barden,
an employee of
Michael D. Pariente, Esquire