Docket No. 22–5622

In the
Supreme Court of the United States

T. MATTHEW PHILLIPS
Petitioner

vs.

AMBER KORPAK
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEVADA

PETITIONER'S REPLY *to* RESPONDENT'S BRIEF *in* OPPOSITION

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* ***Application for Admission to U.S. Supreme Court Bar Delivered Nov. 3, 2022***

PARTIES *to the* PROCEEDING

The caption page, in this instant case, contains the names of all the parties to this petition—*i.e.*, Petitioner, T. Matthew Phillips, ("Husband"), and Respondent Amber Korpak, ("Wife"), [Rule 14.1(b)(i)].

CORPORATE DISCLOSURE STATEMENT

As per Supreme Court Rule 29.6, Petitioner, T. Matthew Phillips, a natural person, discloses that he has no parent corporation, [Rule 14.1(b)(ii)].

RELATED PROCEEDINGS

Petitioner, T. Matthew Phillips, knows of no other proceedings that are "directly related," [Rule 14.1(b)(iii)].

NOTICE *of* APPLICATION *for* ADMISSION *to* U.S. SUPREME COURT BAR

Petitioner, T. Matthew Phillips, wishes to inform the Court and the opponents that he submitted to this Court his application for admission to practice before this Court. The application was overnighted to Washington, D.C., on Nov. 2, 2022. UPS tracking indicates the admission application arrived at 9:42 a.m., Nov. 3, 2022.

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STATE STATUTES

California Code of Civil Procedure § 377.60 – "A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf." [CCP § 377.60]

California Penal Code Sec. § 187(a) – "Murder is the unlawful killing of a human being, or a fetus, with malice aforethought." [P.C. § 187(a)]

Nevada Revised Statutes, Section 33.020(1) – If it appears to the satisfaction of the court from specific facts shown by a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence, the court may grant a temporary or extended order. A court shall only consider whether the act of domestic violence or the threat thereof satisfies the requirements of NRS 33.018 without considering any other factor in its determination to grant the temporary or extended order." [NRS 33.020.1]

Revised Statutes, § 125C.0035.1 – "In any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child.," [NRS § 125C.0035.1].

Nevada Revised Statutes § 207.190 (Coercion) – "It is unlawful for a person, with the intent to compel another to do or abstain from doing an act which the other person has a right to do or abstain from doing..." [NRS § 207.190].

Nevada Eight District Court Rules, Rule 5.519(a)(1) – "The statutory evidentiary standard of "to the satisfaction of the court" shall be construed as equivalent to a reasonable cause or probable cause standard by a court considering an application for issuance of a temporary protection order (TPO) or extended order of protection (EOP)." [EDCR 5.519(a)(1)]

* * *

PETITIONER'S REPLY

1. No Such Thing as 'Domestic Violence in a Civil Setting.'

Respondent Wife presents a counterstatement of first impression. In her opposition brief, Respondent Wife espouses a new legal theory—"***domestic violence in a civil setting***." But what, exactly, does this mean? Here is Wife's counterstatement—

> "Petitioner claims the standard of proof necessary to establish ***domestic violence in a civil setting*** is "beyond a reasonable doubt." The question presented is whether the intermediate standard of proof -- clear and convincing -- is appropriate in custody proceedings when determining whether a parent engaged in domestic violence against the child or the other parent."
> [Respondent's Question Presented, from *Brief in Opposition*, (Oct. 18, 2022), (page i); (bold italics added)]

But this is a grotesque fiction. "Domestic violence in a civil setting" is legally impossible. There's no such thing as "crimes" in "civil settings." Why?—because ***domestic violence is a crime***. And, obviously, American courts do not adjudicate ***crimes*** in "civil settings."

However, Wife argues that state courts may adjudicate "criminal" matters—in "civil" settings. But this argument has no precedent in America history. And, naturally, Wife cites no authority for this peculiar doctrine.

Remarkably, the opposition begins by announcing a new legal doctrine, *i.e.*, "domestic violence in civil setting," but then, it never again mentions it! Wife articulates this new doctrine, "domestic violence in a civil setting," however, she never explains its parameters.

In contrast, Husband adopts the traditional viewpoint, *i.e.*, that "civil" and "criminal" are two separate trains—running on two separate tracks that never intersect. Simply stated, there's no such thing as "domestic violence in a civil setting." Allegations of violent crime belong in *criminal* court—not *family* court. Where parents allege violent crime—and constitutional rights hang in the balance—the state must acknowledge the "rights of the accused," [5th, 6th, and 14th Amdts].

2. The O.J. Simpson Hypothetical.

To illustrate the point, Husband here explores the O.J. Simpson saga. Back in 1994, the Los Angeles County District Attorney charged NFL legend, O.J. Simpson, on two counts of murder.

The state brought a ***murder*** complaint against O.J. Simpson—based on a criminal statute—Penal Code Sec. § 187; (here we see a *criminal* statute in a *criminal* setting). After O.J.'s acquittal, Nicole Brown's family brought a ***wrongful death*** complaint against O.J.—based on a "civil" statute—CCP § 377.60; (here were see a *civil* statute in a *civil* setting).

The Million Dollar Question: Might the state have tried O.J.—on Penal Code § 187, ("murder"), in a *civil* setting? No, of course, not. Asked another way—could the trier of fact have concluded that O.J. committed "murder," [Penal Code § 187], in a *civil* setting? Absolutely not. Well, then, how on Earth do family court judges have legal authority to find and conclude that parents commit *violent crimes* in *civil* settings?

Again, domestic violence is a ***crime***—proscribed by ***criminal*** statutes. Remarkably, the family court found that Husband violated a "criminal" statute, NRS 207.190, in a "civil" setting, (a child custody hearing); but no American precedent supports this finding. Wife's argument for adjudicating violent crimes—in civil settings—is an unjust fiction that cannot stand.

Obviously, California judges never adjudicate California's "*murder*" statute, P.C. § 187, in child custody proceedings, between two private parties. Well, then, what legal precedent allows the Nevada judges to adjudicate Nevada's "*coercion*" statute, NRS § 207.190, in child custody proceedings, between two private parties?

In the parties' child custody ruling, [Pet. App.], the family court judge concluded that Husband had violated a "criminal" statute, NRS § 207.190, but in a "*civil*" setting. And, why is NRS § 207.190 a criminal statute?—because (i) it contains a *scienter* element, and (ii) it proscribes punishment in the form of incarceration in the state penitentiary, [*see* NRS § 207.190].

Remarkably, Wife's attorneys pretend it's perfectly normal for judges to adjudicate violent crime in "civil" settings—with a complete absence of constitutional safeguards and procedures, [5th, 6th & 14th Amdts]; but still, Wife's attorneys cite no supporting precedent.

Wife cites no legal precedent to support her novel theory of adjudicating "criminal" statutes in "civil" settings. On page one, in the counterstatement, Wife's attorneys pique the reader's interest; but then, they fail to deliver. After an intriguing opening counterstatement, the reader is left hanging. Just to reemphasize, Wife cites not one point, nor authority, to support her dubious legal theory of "crimes" in "civil settings."

3. Two Types of Domestic Violence ('D.V.').

Modern American family law has created two separate and distinct types of domestic violence—(i) ***criminal*** setting, and (ii) ***civil*** setting. *First*, there's D.V. in a "criminal" setting—which involves criminal statutes. *Second*, there's D.V. in a "civil" setting—which, remarkably, involves the ***same criminal statutes*** adjudicated in criminal court!

In the real world, where victims allege domestic violence, ("D.V."), in a "criminal" setting, it suggests that the allegations have evidentiary support. In contrast, where D.V. is alleged in a "civil" setting, it's a sure sign that the allegations have no evidentiary support (which is the case now before the Bench). Ordinarily, cases with no evidentiary support are met with nonsuits because, with no tangible evidence, the accuser cannot meet the legal burden. However, in family court, cases with no evidentiary support can, and often do, prevail—and with no evidence of any kind whatsoever; (such is the case now before the Bench).

Metropolitan law enforcement nationwide trains officers to arrest suspected D.V. perpetrators on the slightest scintilla of evidence; (this Court may judicially notice this fact). Upon the slightest scintilla of evidence, accused "wife beaters" are arrested. The amount of evidence required is easily satisfied—if only the proponent has the slightest scintilla of evidence. But here, in the instant matter, Wife never even mounted a police report. On the issue of whether D.V. occurred, Wife offers nothing but her self-serving testimonials (and she has every motive to falsify).

But what about domestic violence cases that lack evidentiary support? Well, those cases land in family court. The truth is this, in America today, where the accuser has only self-serving testimonials, it's a "civil" matter. Notably, family courts adjudicate domestic violence allegations using the ***same criminal statutes*** that they use in criminal courts—but with none of the constitutional safeguards or procedures traditionally associated with criminal proceedings, [5th, 6th, and 14th Amdts].

In the parties' child custody case, Wife presented no tangible evidence. No photos or videos! No police reports! Not one witness! Not one piece of substantiating evidence—other than the self-serving testimonials—from the mouth of supposed victim herself—and she has every reason to lie.

This instant matter is a perfect example of "domestic violence in a civil setting," which literally translates to, "domestic violence—with no supporting evidence." In the underlying custody case, the only evidence offered was futile "he-said / she-said" evidence—which remarkably, proved enough to divest Husband of his fundamental "right to parent."

4. 'He-Said / She-Said' Evidence Must Be Deemed Insufficient to Divest Parents of Custodial Rights.

The only evidence against Husband is "he-said / she-said" evidence. But Husband contends that "he-said / she-said" evidence, as a matter of law, cannot form the basis of a finding that one parent should be divested of his or her fundamental right to custody.

Husband was found to have violated a criminal statute, NRS 207.190, based "clear and convincing" evidence. Two problems with this—(i) "he-said / she-said" evidence never rises to the level of "clear and convincing," and, in any case, (ii) the constitutional standard of proof on criminal statutes is "*beyond a reasonable doubt.*" Sadly, Husband was found to have violated a criminal statute—by Wife's mere allegations standing alone.

In Salem, Massachusetts, during the *Witch Trials* of 1692, villagers were convicted of witchcraft—and hanged—based on mere allegations standing alone. This is an historical example of how courts wrongfully use mere allegations to prove the commission of a crime; but still, the practice is unconstitutional. Just like the Salem villagers, Husband was found to have violated a criminal statute—based on mere allegations standing alone. But, instead of being hanged—Husband suffered a civil death sentence, *i.e.*, he lost his fundamental "right to parent"—based on mere allegations. Husband contends this is grave injustice.

Petitioner Husband contends he was railroaded under this pretextual doctrine—"domestic violence in a civil setting." But then again, if family courts faithfully adhered to the Constitution, family court judges would not be adjudicating "crimes" in "civil settings" in the first place.

5. Questions Presented—Revisited.

If Husband had the opportunity to refine his *Question Presented*, he would present it thusly—

- Where individuals stand accused of violating criminal statutes—and their constitutional rights hang in the balance—are such individuals entitled to the "rights of the accused?" [5th, 6th, and 14th Amdts]. (Yes.)

Where, as here, parents bring allegations of violent crimes, and the accused parent stands to lose constitutional rights—such as the "right to parent"—such parents are entitled to the full panoply of constitutional safeguards and procedures found at the 5th, 6th, and 14th Amendments. (Any other way lies the madness and anarchy of family court)

Hoping to articulate the perfect "question presented," Husband more narrowly refines his *Question Presented*—

- May state-court judges determine that individuals violate "criminal" statutes—in "civil" proceedings? (No.)

State-court judges may not make "criminal" findings in "civil" settings. Back in the Old West, they had "vigilante" laws that allowed private citizens to bring "civil" actions to enforce "criminal" statutes—to jail or hang the bad guys. But this "vigilante justice" is constitutionally intolerable under the 14th Amendment—precisely because no legal authority allows judges to adjudicate "criminal" statutes in "civil" settings.

6. Restraining Orders Have Minimal Evidentiary Standards.

Wife's opposition brief, (at p. 9), correctly points-out that the family court hearing master was "satisfied an act of domestic violence occurred," and a D.V. restraining order thus issued against Husband. However, the opposition brief fails to advise this Court of the nitty-gritty details regarding the lowly *evidentiary standard* used to adjudicate domestic violence, ("D.V."), restraining orders in family court.

Nevada hearing masters award "temporary" and "extended" restraining orders ("TPO" and "EPO") based on the evidentiary standard—"to the satisfaction of the court," [NRS 33.020(1)], which Nevada law specifically defines as "***reasonable cause*** or ***probable cause***," [EDCR, Rule 5.519(a)(1); (bold italics added)].

In the underlying domestic matter, the hearing master was "satisfied an act of domestic violence occurred"; however, taken with a grain of salt, one realizes this D.V. finding is based on the lowly evidentiary standard, ***probable cause***, the lowliest of all standards. Notably, the "probable cause" standard is *lower* than the "preponderance" standard—and far lower than the constitutional standard for criminal matters, *i.e.*, "beyond a reasonable doubt."

The "preponderance of the evidence" standard, used in "civil" actions, is defined as "more likely than not," (at least 51% certainty); in contrast, the "probable cause" standard, used in restraining order actions, is a much lowlier standard, (maybe 33% certainty).

In Nevada, D.V. victims needn't prove their allegations are "more likely than not." No indeed; victims need only prove their allegations by "probable cause"—*i.e.*, "*less* likely than not." Nevada hearing masters issue restraining orders based on the standard—"*less* likely than not"—and they kidnap children based on the same lowly indicia of evidence.

To recap, the family court hearing master divested Husband of his fundamental "right to parent"—based on D.V. findings—which were based on mere "reasonable cause," (*i.e.*, *less* than 50% certainty).

Husband is critical of the opposition, which fails to disclose to the Court this stark reality, *i.e.*, that D.V. restraining orders require the lowest standard of proof.

More remarkable still, in the final custody order, the sitting judge "elevated" the hearing master's earlier evidentiary findings; the judge determined that Husband's acts of domestic violence are now based on "clear and convincing" evidence; and then, ***for the first time in the case***, a criminal statute suddenly appears, [NRS 207.190, ("coercion")].

The sitting judge had magically concluded that Husband violated a criminal statute based on "clear and convincing" evidence; however, should the reader pause to reflect, "clear and convincing" findings should be *impossible* in "he-said / she-said" disputes—where nobody's allegations ever rise to the "preponderance" level.

> Footnote: In Nevada Supreme Court, Husband proposed a definition for the "clear and convincing" evidentiary standard, which Nevada law inadequately defines. Husband believes that "clear and convincing" means that which is "corroborate-able." A finding is "clear and convincing" only where it can be "verified." Regrettably, Nevada Supreme Court ignored Husband's argument, which means Nevada judges will continue to find D.V. by "clear and convincing" evidence— despite the fact that the underlying controversy is a "he-said / she-said" dispute (with not one piece of substantiating evidence other than the self-serving testimonials of the victims themselves...)

7. The 'Best Interests' of the Children Must Take a Backseat to the Constitutional Interests of the Children.

The opposition brief, (at p. 10), states that, "the Trial Court was required to consider the best interests of the child, NRS 125C.0035," [*Brief in Opposition*, (p. 10)]. However, this statute is decidedly unconstitutional because, odd as it may sound, the statute actually requires state-court judges to ignore the Constitution.

NRS 125C.0035.1 provides that — "In any action for determining physical custody of a minor child, the ***sole consideration*** of the court is the ***best interest*** of the child." [NRS 125C.0035.1; (emphasis added)]

Nevada's "best interest" statute is unconstitutional on its face. If the judge's "sole consideration" is the child's best interests, then this necessarily excludes consideration of the child's constitutional rights.

And, this raises a pressing question: when it comes to child custody litigation, which has priority? — (A) the best interests of the children? — or, (B) the constitutional rights of the children?

" 'The best interests of the child' ... is not traditionally the sole criterion — much less the sole constitutional criterion," [*Reno v. Flores*, 507 U.S. 292, 303–304 (1993)].

The "best interest" comes into effect only where a parent has been adjudged "unfit," [*Stanley v. Illinois*, 405 U.S. 645 (1972); ("The State's interest in caring for Stanley's children is de minimis if Stanley is shown to be a ***fit father***," *id.*, at 647–648; "if Stanley is a ***fit father***, the State spites its own articulated goals when it needlessly separates him from his family," *id.*, at 652 – 653; (bold italics added)].

Husband is a ***fit father***; so too, Wife is a ***fit mother***; *therefore*, as a matter of law, the Equal Protection Clause requires 50-50 timeshare of the parties' minor child. This is the only just disposition.

8. Husband Has Never Been Shown 'Unfit.'

Wife's opposition brief, (at p. 13), admits an all-important fact—***"neither [Husband] nor [Wife] were determined to be an unfit parent,"*** [Respondent's *Brief in Opposition*, (p. 13)]. This is significant; for Husband has never been found "unfit"—and yet the State of Nevada completely divested Husband's parental rights.

But note, under federal law, parents may not be divested of custody unless there is a showing of "unfitness"; and again, as the opposition brief acknowledges, Husband has never been shown "unfit."

Back in 2000, this Court ruled, "[t]here is a presumption that fit parents act in their children's best interests," [*Troxel v. Granville*, 530 U.S. 57, 58, (2000), citing, *Parham v. J. R.*, 442 U.S. 584, 602 (1979)]. And thus, because Husband has never been shown "unfit," Husband is presumed to be acting in his son's best interests. But still, and tragically, Husband has been completely divested of all custodial rights.

"If a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some ***showing of unfitness*** and for the sole reason that to do so was thought to be in the children's best interest." [*Smith v. Organization of Foster Families*, 431 U.S. 816, 862 -863 (1977) (Stewart, J., concurring), (emphasis added); ("[U]ntil the state proves parental ***unfitness***, the child and his parents share a vital interest in preventing erroneous termination of the natural relationship.") (emphasis added); [*J.B. v. Washington County*, 127 F.3d 919, 925 (10th Cir. 1997), ("We recognize that the forced separation of parent from child, even for a short time, represents a serious infringement upon both the parents' and child's rights.")] But again, ***Husband has never been shown unfit***, which means he should still have custody; and yet, his rights are completely terminated.

9. Husband's Parental Rights Have Been Terminated.

The opposition brief makes spurious claims, including, "[t]he Trial Court did not eliminate Phillips' right to visitation," [Respondent's *Brief in Opposition*, (p. 17)]. On the contrary, the trial court did indeed eliminate Husband's right to visitation. (If, God forbid, the son were in the hospital, Husband has no say-so regarding life support and no right to visit.)

The State refuses to allow Husband to see his only son. So too, Wife refuses to allow Husband to see the son. The grim reality is this: ***Husband has neither seen—nor spoken—to his son in 1,509 days***; (which is 4 yrs., 1 mo. and 17 days...).

Since Husband last saw his son, he has died a thousand deaths. Indeed, the State of Nevada calls it a "civil death penalty"—

> "Termination of parental rights is an exercise of awesome power. We have previously characterized the severance of the parent-child relationship as tantamount to imposition of a ***civil death penalty***."
> [*In re J.L.N.*, 118 Nev. 621, 625 (2002); (emphasis added)]

Husband points-out that close family associations are protected by the First Amendment as "intimate" and "expressive" associations, [*Board of Directors of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537, 545 (1987)]. "We have emphasized that the First Amendment protects those relationships, including family relationships, that presuppose "deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs but also distinctively personal aspects of one's life," " [*id.* at 545, citing *Roberts v. U.S. Jaycees*, 468 U.S. 619–620 (1984)].

The opposition steadfastly claims that Husband's parental rights have somehow not been terminated. But then again, this may be a ripe issue for the Court to adjudicate, *i.e.*, at which point is the "right to parent" actually terminated? Is four (4) years with no parent-child contact the functional equivalent of termination?

Did the State, in fact, terminated Husband's rights? Husband has zero rights, *i.e.*, (i) no right to decide which school the son attends; (ii) no right to communicate with the son; (iii) no right to teach religious beliefs to the son; (iv) no right to teach scientific beliefs to the son; (v) no right to teach the son music; (vi) no right to care, custody, or control of the son; (vii) no right to determine what's in the son's best interests; and, (viii) no right to visit the son—in four (4) years!—and counting!

The opposition admits that, in the two evidentiary hearings, there were no findings of violence towards the son. "***Neither the TPO nor the EPO found Phillips engaged in domestic violence against the Son***," [Respondent's *Brief in Opposition*, (p. 11, at fn. 4)]. And yet, Wife and State lock elbows, determined to refuse Husband any access to the minor child.

The State will allow Husband to visit his son, but only with the court's permission, and only at a place called *Donna's House*—which is *not* a single-family home. In reality, *Donna's House* is just another drab room at the courthouse—with depressive fluorescent tube lighting, security personnel, and video surveillance. Parties visiting *Donna's House* must pass-by armed guards and metal detectors to visit loved ones. Apparently, the State believes it's in the son's "best interest" to see father portrayed in a "criminal" setting. The fact is, Husband wishes to see his son in a "civil" setting—at the home where the son spent his first twelve (12) years of life.

10. No Strict Scrutiny Analysis.

Husband argues that, when the State issues custody orders that deprive fundamental rights, such as the "right to parent," there must be "strict scrutiny" analysis, *i.e.*, was the constitutional deprivation narrowly tailored to effectuate a compelling gov't interest?—and are there less-restrictive alternatives?

In Nevada family court, there are no "strict scrutiny" analyses. Let's suppose, for a moment, that Husband really did beat-up the Wife, and further, that Husband was duly convicted—by a jury—of domestic battery. Well, arguably, the State has an interest in preventing women from getting beat-up. Therefore, it may be appropriate to restrain Husband from coming within 100 yards of Wife. If such an order were "narrowly tailored" to protect Wife, then Husband should be allowed to have custody of the son—because there's no evidence, nor allegations—of harm to the son. Here, the "least restrict alternative" would be to restrain Husband from Wife (if there were actual D.V. evidence...).

But the truth is, the state now "punishes" Husband for the so-called domestic violence against the Wife—and the "punishment" comes in the form of taking-away Husband's "right to parent."

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11. Eight Issues of Exceptional Importance.

Eight Issues of Exceptional Importance: Appellants here present eight (8) nationwide issues of "exceptional importance"—

(1) Whether civil litigants may bring private criminal causes-of-action against one another in civil proceedings; (no because the 14th Amendment "right to a fair trial" forbids vigilante justice).

(2) Whether state-court judges have subject-matter jurisdiction—where there is no underlying indictment—to conclude that an individual violated a criminal statute; (no because the indictment is the precise legal mechanism that confers subject-matter jurisdiction).

(3) Whether state-court judges may adjudicate criminal statutes on "clear and convincing" standard of proof—or, whether criminal statutes require the constitutional standard, *i.e.*, "beyond a reasonable doubt"; (where constitutional rights are at-stake, *i.e.*, as "punishment" for violating a criminal statute, the proper evidentiary standard, of course, is "beyond a reasonable doubt").

(4) Whether the Sixth Amendment requires jury trials for persons accused of violating criminal statutes—where deprivation of parental rights hang in the balance; (yes because jury trials are the ultimate bulwark against judicial tyranny).

(5) Whether the Fifth and Sixth Amendments require a "presumption of innocence"—in instances where individuals stand accused of violating criminal statutes—and deprivation of parental rights hangs in the balance; (yes, all nations of the world, including the United Nations, require that all persons be "presumed innocent until proven guilty").

(6) Whether parents retain a First Amendment right of "familial association" (private speech, educational speech, religious speech, *etc.*), even after they've been divested of legal and physical custody; (yes).

(7) Whether state-court judges must undertake "strict scrutiny" analyses in all child custody orders that terminate or otherwise parental rights; (yes because any time there is a constitutional taking, reviewing courts must apply strict scrutiny analysis).

(8) Whether NRS 125C.0035.5 is unconstitutional—for allowing state court judges to try and convict parents on *criminal* statutes in "civil" settings, with no supporting indictment, no presumption of innocence, no notice of the criminal facts nor the criminal charges, based on the lowest standard of proof, with no trial-by-jury, and with no assistance of counsel; (yes).

CONCLUSION

Petitioners prays the Court issue grant the instant petition and issue a writ of certiorari to the Nevada Supreme Court.

Date: **Nov. 3, 2022**

RESPECTFULLY SUBMITTED,

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* *Application for Admission to U.S. Supreme Court Bar Delivered Nov. 3, 2022*

CERTIFICATE *of* WORD COUNT

I, the undersigned, do hereby certify that this brief contains a grand total of **3,906 words**, (below the 9,000 word limit); and under 15 pages for reply briefs.

Date: **Nov. 3, 2022**

T. Matthew Phillips

T. Matthew Phillips, Esq.
Affiant.