

CASE NOS. 76417, 76845, 76947

IN THE SUPREME COURT OF NEVADA

JOSE VALDEZ-JIMENEZ, et al.

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vs.

THE EIGHTH DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND HONORABLE MARK BAILUS, DISTRICT
JUDGE, et al.

Respondents,

and THE STATE OF NEVADA,

Real Party in Interest.

On Appeal from the District Court of Clark County Nevada,
Eighth Judicial District, Cases C332277, C331986, and C334246

BRIEF OF AMICUS CURIAE OF SOCIAL SCIENTISTS IN
SUPPORT OF PETITIONERS

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NEVADA RULE OF APPELLATE PROCEDURE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Under Nevada Rule of Appellate Procedure 26.1, the social scientists identified in Appendix 1 hereto declare that they do not have a parent corporation or issue publicly held stock.

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BRIEF OF AMICUS CURIAE

I. INTRODUCTION

This brief summarizes social and economic research on the circumstances of pretrial incarceration and its effects on case disposition, recidivism, and socioeconomic opportunities. Although roughly 18 times more people pass through jails than prisons annually, the effects of pretrial detention are less well-understood than the effects of prison incarceration. Because the high-quality data necessary to conduct careful analyses of the effects of pretrial detention and other forms of incarceration on individual outcomes are often hard to come by, amici draw their conclusions from the most recent, rigorous, and comprehensive relevant studies. Studies of pretrial incarceration are one part of a larger research program that considers the effects of incarceration on a wide variety of social and economic outcomes. This larger research literature is also summarized here.

As the court weighs the appropriate parameters of pretrial detention, the social researcher amici urge the court to weigh in its analysis the significant harm that follows from unnecessary incarceration of any length. The bulk of social science research indicates that incarceration harms the well-being and opportunities of those who are incarcerated, both in the short and long term. Moreover, significant negative effects are also imposed on the families and communities of incarcerated persons.

In determining the appropriate guidelines for imposing pretrial detention, these substantial negative effects must be taken into consideration.

II. PRETRIAL DETENTION IS GROWING, IS UNFAIRLY IMPOSED ON PEOPLE OF COLOR, AND CAUSES SIGNIFICANT HARM

A. The Scope of Pretrial Detention

In the United States, there are nearly 11 million new jail admissions every year, and most are people awaiting trial. Zhen Zeng, *Jail Inmates in 2017*, NCJ 251774, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2019). At midyear in 2017, about half a million Americans were in jail awaiting trial, marking a 30 percent increase in the size of the daily pretrial detainee population since 2000. *Id.* Over this same period, the number of convicted individuals in American jails declined, meaning that the entire net growth in the size of the jail population since 2000 can be attributed to growth in the number of pretrial detainees. See, Peter Wagner & Wendy Sawyer, *Mass Incarceration: The Whole Pie 2019*. Easthampton, MA: Prison Policy Initiative (2019); Zeng, *supra*. As a result, the proportion of pretrial detainees increased from half of the jail population in the 1980s and early 1990s to roughly two-thirds of the jail population by 2016. Darrell K. Gilliard & Allen J. Beck, *Prison and Jail Inmates, 1995*, NCJ-161132, Bureau of

Justice Statistics, Office of Justice Programs, U.S. Department of Justice (1996); Wagner & Sawyer, *supra.*; Zeng, *supra.*

In Nevada, nearly 7,000 people are detained in local jails on a given day, and almost 60 percent are awaiting trial. Because of the rapid turnover in the population, the footprint of the Nevada jail system is much larger, admitting around 140,480 people each year. As is the case nationally, there is a large racial disparity in Nevada jail admissions. An analysis of Nevada's 16 counties in 2015, found that African Americans account for 26 percent of the jail population despite making up just 9 percent of the state population. See Vera Institute of Justice, *Incarceration Trends*, <http://trends.vera.org/>, (2016). In short, incarceration before criminal conviction unfolds on a vast scale and is marked by deep racial and ethnic disparities.

B. Many in Pretrial Detention Are Charged With Low-Level Or Non-Violent Offenses, And Many Will Not Be Convicted

A sizeable share of those in pretrial detention are individuals charged with low-level crimes who would otherwise go free were they able to post money bail. Data on the charges faced by pretrial detainees are limited, but national estimates from 2002 indicate that two-thirds of unconvicted jail detainees were incarcerated for nonviolent charges. Doris J. James, *Profile of Jail Inmates, 2002*. NCJ 201932, Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2004).

More recent data from Philadelphia reveal that 60 percent of pretrial detainees from 2006 to 2013 were charged with nonviolent crimes and 28 percent faced misdemeanor charges. Megan Stevenson, *Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes*, SSRN Scholarly Paper, ID 2777615, Social Science Research Network (2017).

Likewise, 35 percent of pretrial jail admissions in New York City in 2015 were for misdemeanor charges. Preeti Chauhan, et al. *Trends in Custody: New York City Department of Correction, 2000-2015*. New York, NY: John Jay College of Criminal Justice (2017). Moreover, many individuals detained pretrial would have avoided incarceration entirely if they had been able to secure pretrial release. Recent studies indicate that 20 to 50 percent of pretrial detainees, depending on the jurisdiction, eventually have their charges dropped or are found not guilty. Will Dobbie, Jacob Goldin, and Crystal S. Yang, *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, 108(2) *American Economic Review* 201–40 (2018); Arpit Gupta, Christopher Hansman, & Ethan Frenchman, *The Heavy Costs of High Bail: Evidence from Judge Randomization*, 45(2) *The Journal of Legal Studies* 471–505 (2016); Paul Heaton, Sandra Mayson, and Megan Stevenson, *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 *Stanford Law Review* 711–94 (2016); Emily Leslie & Pope G. Pope, *The Unintended Impact of Pretrial*

Detention on Case Outcomes: Evidence from New York City Arraignments, 60(3)

The Journal of Law and Economics 529–57 (2017).¹

C. Pretrial Detention Puts People At Risk of Serious Physical Harm, And Pretrial Detainees Have Poorer Health Care Than Prisoners Who Have Been Convicted Or Pled Guilty To Crimes

A variety of statistical indicators point to the serious physical dangers to inmates in U.S. jails. Detailed mortality statistics are tabulated by the Bureau of Justice Statistics. From 2000 to 2014, 14,786 detainees had died in U.S. jails, including 4,508 whose cause of death was suicide. After illness, suicide is the leading cause of death in jail. The most recent figures, for 2014, show the highest level of suicide in jail since 2000. By 2014, the suicide rate in U.S. jails was 50 per 100,000, about 5 times higher than in the general population. Margaret E. Noonan, *Mortality in Local Jails, 2000-2014 - Statistical Tables*, NCJ 250169, Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2016); Margaret E. Noonan, *Mortality in State Prisons, 2001-2014 - Statistical Tables*, NCJ 250150, Washington, D.C.: Bureau of Justice Statistics,

¹ Half (51 percent) of those in Stevenson’s 2017 study of Philadelphia courts, 44 percent of those in Gupta et al.’s study of Philadelphia and Pittsburgh, 42 percent of those in Dobbie et al.’s study of Miami and Philadelphia, 20 percent of those in Leslie and Pope’s study of New York City, and 20 percent of those in Heaton et al.’s study of Houston who are detained are eventually found not guilty or have their charges dropped.

Office of Justice Programs, U.S. Department of Justice (2016). The median period of detention at the time of suicide was 9 days.

Although there are no detailed national figures on jail violence in general, sexual violence in U.S. jails has been well-documented at least since data collection has been mandated by the Prison Rape Elimination Act (2003). PREA data collection has involved large-scale surveys of incarcerated respondents in jails, prisons, and juvenile detention facilities. In a survey of 358 local jails nationwide, the most recent BJS report showed that 3.2 percent of those detained in jails had experienced one or more incidents of sexual victimization in the past reporting year of 2011-2012. The rates of sexual victimization and reports of staff sexual misconduct are highest among young detainees, those under age 24.

An alternative data source on sexual violence in jails is provided by reports of correctional administrators. The number of reported allegations of sexual violence has climbed steeply following the creation of national standards for reporting and investigation adopted by the U.S. Department of Justice in 2012. In 2015, an estimated 5,809 allegations of sexual victimization were made by detainees to jail authorities, an allegation rate of 803 per 100,000. About 12 percent of allegations were found to be substantiated. Ramona Rantala, *Sexual Victimization Reported by Adult Correctional Authorities*, NCJ 251146, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2012-15) (2018).

These figures indicate a rate of sexual victimization of 96 per 100,000, about five times higher than the self-reported rate for all violent victimization (including non-sexual violence) in the general population. Rachel E. Morgan and Grace Kena, *Criminal Victimization*, NCJ 251150, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2016). These figures likely underestimate the actual level of sexual violence in jail because they do not include truthful allegations for which there was insufficient evidence to make positive findings of incidents of sexual violence.

While pretrial detainees are exposed to the risk of infectious diseases and sexual assault in jail, jail provides worse access to health care than prison. Allen J. Beck, Marcus Berzofsky, Rachel Caspar, & Christopher Krebs, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12-Update*, NCJ 241399 Washington, D.C: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2014); Joseph A. Bick, *Infection Control in Jails and Prisons*, 45(8) *Clinical Infectious Diseases* 1047–55 (2007). Relative to prisoners, jail detainees are far less likely to report having seen a health care professional since intake (80 percent versus 47 percent, respectively). Laura M. Maruschak, Marcus Berzofsky, and Jennifer Unangst, *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-12*, NCJ 248491, Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2015). While

those incarcerated in jail and prison have similar incidence of chronic medical conditions (approximately 40 percent), jail detainees with chronic conditions are far less likely to receive medical treatment than prisoners with chronic conditions. *Id.* Two-thirds of prisoners with a chronic condition report taking prescription medication for that condition, but only 40 percent of jail inmates with a chronic condition receive prescription medication while incarcerated. *Id.* For prisoners, use of prescription medications for chronic conditions increases after incarceration, but use of prescription medications decreases by 32 percent following intake for jail inmates with chronic conditions. *Id.* Other medical treatment besides prescriptions declines after prison and jail admission for patients with chronic conditions, but treatment declines more steeply in jail than in prison (a 58 percent decline compared to a 42 percent decline, respectively). *Id.* Similarly, although rates of mental health diagnosis are slightly higher in jails than in prisons, jail detainees are less likely to receive mental health treatment than prisoners. Doris J. James, & Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, NCJ 213600, Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2006). Consistent with these patterns, the suicide rate in local jails is nearly three times the rate in state prisons. Noonan (2016a), *supra.*; Noonan (2016b), *supra.* In sum, people who are incarcerated without being convicted of a crime are at greater

risk, and receive worse health care, than those who are imprisoned because they have been convicted or have pled guilty to a crime.

D. Pretrial Detention Negatively Affects Case Disposition

Beyond exposing individuals to the risks that accompany jail incarceration, a variety of studies have found that pretrial detention has important implications for case outcomes and future criminal activity. Recent studies have exploited the near-random assignment of judges in arraignment hearings in multiple settings to estimate the causal effect of pretrial detention – and/or money bail – on subsequent, largely case-related, outcomes. These papers take advantage of the fact that judges differ greatly in their propensity to detain or release defendants (i.e., by setting high versus low money bail amounts, relative to case characteristics). Thus for marginal defendants, pretrial detention is determined by their assignment to a more lenient or a harsher judge for the money bail hearing. Using federal court data as well as data from Philadelphia, Pittsburgh, New York City, and Miami, these studies consistently find that, among individuals who would have been released by a more lenient judge, pretrial detention and the assignment of money bail increase the probability of conviction primarily through an increase in guilty pleas. Dobbie, Goldin, & Yang, *supra.*; Gupta, Hansman, & Frenchman, *supra.*; Leslie & Pope, *supra.*; Stevenson, *supra.* Studying cases from Houston, TX, Heaton et al. (2016) examined differences in timing of arraignment (i.e., proximity to the weekend), and found that pretrial

detainees were more likely to plead guilty than their counterparts who were released. The finding that pretrial detention elicits guilty pleas have been found for felony defendants, misdemeanor defendants, and a combination of both. Heaton et al., *supra*; Leslie & Pope, *supra*.²

These studies also find evidence that pretrial detention increases the severity of the sentences defendants receive. Dobbie et al. and Leslie and Pope find that pretrial detainees receive less favorable plea deals than defendants who have been released while awaiting trial. Dobbie et al., for example, find that released defendants are substantially more likely to be convicted of a lesser charge and are convicted of fewer total offenses than otherwise similar defendants in pretrial detention. Researchers have interpreted the high probability of guilty pleas among pretrial detainees as the result of their weaker bargaining power during plea negotiations relative to individuals released before trial.

Similarly, Heaton et al. find that pretrial detention increases the probability of receiving a jail sentence among misdemeanor defendants who are convicted or plead guilty and also increases the length of the sentence received. Didwania, Leslie

² Using data from New York City, Leslie and Pope (2017) find that the size of the effects of pretrial detention on conviction and pleading guilty are larger for felony defendants than misdemeanor defendants and larger still for first-time offenders charged with felonies. Stevenson (2017), however, finds larger effects for misdemeanor defendants than felony defendants in Philadelphia.

and Pope, and Stevenson likewise find that, among convicted defendants who could have been released if assigned a more lenient judge, pretrial detention increases the sentence length received independent of time already served by pretrial detainees.³ Stephanie Holmes Didwania, *The Immediate Consequences of Pretrial Detention: Evidence from Federal Criminal Cases*, SSRN Scholarly Paper, ID 2809818, Social Science Research Network, (2018); Leslie & Pope, *supra.*; Stevenson (2017), *supra.* This finding holds for both misdemeanor and felony defendants. Finally, Stevenson also finds that pretrial detention leads to a 41 percent increase in the amount of non-bail court fees owed by defendants who might have otherwise been released pretrial. In sum, by exploiting random variation in the assignment of judges to cases, researchers find that defendants who go to jail before trial are more likely to be found guilty and receive harsher sentences than identical defendants who are not incarcerated prior to trial.

In plain terms, what this research illustrates is that for two identical defendants, the one assigned to a harsher judge at the outset is more likely to (1) be detained pretrial and, therefore, to (2) plead guilty, and (3) serve a longer sentence

³ In their analysis of Miami and Philadelphia data, Dobbie et al. find that pretrial detention significantly increases the total number of days spent in detention but that this increase comes in the form of days detained prior to case disposition. They do not find evidence that pretrial detention increases the number of days incarcerated after disposition.

than the defendant originally assigned to a more lenient judge. This violates our most basic intuitions about fairness. The fact that the only people able to avoid this arbitrary outcome are those who can afford bail further offends our sense of justice.

E. Because Pretrial Detention Increases The Likelihood Of Conviction, Pretrial Detention Increases The Likelihood Of Future Criminal Activity, Reduces Socioeconomic Opportunity, And Further Increases Crime

The higher probability of conviction and the lengthier sentences that derive from pretrial detention could arguably be justified as enhancing public safety. However, research suggests that pretrial detention may do exactly the opposite, particularly in situations where another judge would have granted pretrial release. Across jurisdictions, researchers find that pretrial detention increases the likelihood of future criminal activity among defendants who might have otherwise been released if assigned to a more lenient arraignment judge. Dobbie, Goldin, & Yang, *supra.*; Gupta, Hansman, & Frenchman, *supra.*; Leslie & Pope, *supra.* Furthermore, Dobbie et al. and Leslie and Pope find that the increase in crime caused by pretrial detention wholly offsets the pre-disposition reduction in crime that can be attributed to pretrial detention.

Why might pretrial detention cause more criminal activity rather than deterring it? Higher rates of future offending among marginally-detained defendants appear to be partially due to the criminogenic effect of incarceration and exposure to criminally-involved peers even for brief periods of time. Patrick Bayer, Randi

Hjalmarsson, & David Pozen, *Building Criminal Capital Behind Bars: Peer Effects in Juvenile Corrections*, 124(1) *The Quarterly Journal of Economics* 105–47 (2009); Dobbie, Goldin, & Yang, *supra.*; Michael Mueller-Smith, *The Criminal and Labor Market Impacts of Incarceration*, Retrieved from <https://sites.lsa.umich.edu/mgms/wp-content/uploads/sites/283/2015/09/incar.pdf>, 2015, Accessed August 6, 2018. Dobbie and his colleagues also find that increased criminal activity by pretrial detainees is substantially correlated with differences in future employment prospects. They examined the effects of pretrial detention on employment and earnings in the formal labor market by linking tax records to Miami and Philadelphia court records. They find that pretrial detention significantly reduces the probability of subsequent employment, the probability of having any income, and annual earnings for defendants who might have otherwise been released.

Why would pretrial detention, which does not in and of itself give rise to a criminal record, be correlated with harm to future employment prospects in the same way as a conviction? Research indicates that the negative effects of jail on employment outcomes is due to the stigma of a criminal conviction in the labor market. Dobbie, Goldin, & Yang, *supra.* This finding buttresses earlier research that also documents poor labor market outcomes among formerly-incarcerated individuals. Robert Apel & Gary Sweeten, *The Impact of Incarceration on Employment during the Transition to Adulthood*, 57(3) *Social Problems* 448–79

(2010); Harry J. Holzer, *Collateral Costs: Effects of Incarceration on Employment and Earnings Among Young Workers*, 239–65, *Do Prisons Make Us Safer?: The Benefits and Costs of the Prison Boom*, edited by S. Raphael and M. A. Stoll. Russell Sage Foundation (2009); Bruce Western, *The Impact of Incarceration on Wage Mobility and Inequality*, 67(4) *American Sociological Review* 526–46 (2002); Bruce Western, Jeffrey R. Kling, & David F. Weiman, *The Labor Market Consequences of Incarceration*. 47(3) *Crime & Delinquency* 410–27 (2001). In particular, Devah Pager’s experimental work suggests that the stigma of a criminal record significantly diminishes employment prospects for formerly-incarcerated individuals by reducing the probability that prospective employers will consider their applications. Devah Pager, *The Mark of a Criminal Record*, 108(5) *American Journal of Sociology* 937–75 (2003); Devah Pager, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*, University of Chicago Press (2007); Devah Pager, Bruce Western, & Bart Bonikowski, *Discrimination in a Low-Wage Labor Market a Field Experiment*, 74(5) *American Sociological Review* 777–99 (2009). The fact that persons who are detained pretrial suffer diminished future employment prospects is likely related to the fact that pretrial detainees are more likely to plead guilty to a crime; and thereby more likely to acquire a criminal record than arrestees who are released pretrial. By increasing the probability that an individual charged with a crime will plead guilty – perhaps simply to avoid further

detention and uncertainty while awaiting trial⁴ – pretrial detention operates to, increase the number of people with a conviction on their record, and then subjects more individuals to the stigma and additional challenges that flow from a criminal record. National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, edited by J. Travis, B. Western, and S. Redburn. Washington, DC: The National Academies Press (2014).

III. STUDIES FIND MANY NEGATIVE EFFECTS OF INCARCERATION

The research findings discussed above provide significant evidence for the harmful effects of pretrial detention, but, because these studies rely on administrative data, they can only illuminate the effects of pretrial detention on a limited range of outcomes, including procedural outcomes, re-arrest, and employment in the formal labor market. Administrative datasets are unable to tell us about the broader social implications of pretrial detention for matters such as mental and physical health, family relationships, housing stability, and financial wellbeing.

There is, however, a rich trove of research on the broader implications of incarceration that assess these equally important effects of incarceration. This

⁴ Leslie and Pope find that the median time between arraignment and sentencing is 513 days for felony detainees and 138 days for misdemeanor detainees whose cases go to trial; 188 days and 196 days, respectively, for dismissals; and just 80 days and 15 days, respectively, for felony and misdemeanor detainees who plead guilty.

research indicates that incarceration has enduring negative effects on a variety of socioeconomic and health outcomes following release. Nat'l Research Council, *supra*. Previous studies link prior incarceration to labor market discrimination (Pager (2003), *supra*.; Pager, Western, & Bonikowski, *supra*), lower wages (Apel & Sweeten, *supra*; Western, *supra*), reduced employment levels (Holzer, *supra*.), diminished earnings (Western, Kling, & Weiman, *supra*), job instability Sampson, Robert J. Sampson and John H. Laub, *Crime in the Making: Pathways and Turning Points Through Life*, Harvard University Press (1993), and very low upward economic mobility (Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility*, The Pew Charitable Trusts (2010). The economic insecurity that follows incarceration has also been associated with further criminal offending. Sampson & Laub, *supra*.

Another vein of research connects prior incarceration to poorer mental health (Jason Schnittker, Michael Massoglia, & Christopher Uggen, *Out and Down Incarceration and Psychiatric Disorders*, 53(4) *Journal of Health and Social Behavior* 448–64 (2012); Kristin Turney, Christopher Wildeman, & Jason Schnittker, *As Fathers and Felons Explaining the Effects of Current and Recent Incarceration on Major Depression*, 53(4) *Journal of Health and Social Behavior* 465–81 (2012)), diminished physical health (Michael Massoglia, *Incarceration as Exposure: The Prison, Infectious Disease, and Other Stress-Related Illnesses*, 49(1)

Journal of Health and Social Behavior 56–71 (2008a); Michael Massoglia, *Incarceration, Health, and Racial Disparities in Health*, 42(2) Law & Society Review 275–306 (2008b); Jason Schnittker & Andrea John, *Enduring Stigma: The Long-Term Effects of Incarceration on Health*, 48(2) Journal of Health and Social Behavior 115–30 (2007)), and poorer health behaviors (Lauren C. Porter, *Incarceration and Post-Release Health Behavior*, 55(2) Journal of Health and Social Behavior 234–49 (2014)) among formerly-incarcerated adults. While health and employment-related outcomes have received the bulk of scholarly attention in the area of individual-level consequences of incarceration, additional research suggests that incarceration leads to subsequent relationship dissolution (Leonard M. Lopoo & Bruce Western, *Incarceration and the Formation and Stability of Marital Unions*, 67(3) Journal of Marriage and Family 721–734 (2005); Kristin Turney & Christopher Wildeman, *Redefining Relationships Explaining the Countervailing Consequences of Paternal Incarceration for Parenting*, 78(6) American Sociological Review 949–79 (2013)), housing instability (Amanda Geller & Marah A. Curtis, *A Sort of Homecoming: Incarceration and the Housing Security of Urban Men*, 40(4) Social Science Research 1196–1213 (2011); David J. Harding, Jeffrey D. Morenoff, and Claire W. Herbert, *Home Is Hard to Find: Neighborhoods, Institutions, and the Residential Trajectories of Returning Prisoners*, The ANNALS of the American Academy of Political and Social Science 647(1):214–36 (2013);

Cody Warner, *On the Move: Incarceration, Race, and Residential Mobility*, 52 *Social Science Research* 451–64 (2015)), decreased asset ownership (Turney, Kristin and Daniel Schneider, *Incarceration and Household Asset Ownership*, *Demography* 53(6):2075–2103 (2016)), and diminished civic participation (Amy E. Lerman & Vesla M. Weaver, *Arresting Citizenship: The Democratic Consequences of American Crime Control*, University of Chicago Press (2014); Vesla M. Weaver & Amy E. Lerman, *Political Consequences of the Carceral State*, 104(04) *American Political Science Review* 817–833 (2010)).

Moreover, incarceration appears to have important implications for the health and well-being of those connected to currently- or formerly-incarcerated individuals. Having a partner or family member incarcerated is associated with poor health outcomes (Rucker C. Johnson & Steven Raphael, *The Effects of Male Incarceration Dynamics on Acquired Immune Deficiency Syndrome Infection Rates among African American Women and Men*, 52(2) *Journal of Law and Economics* 251–93 (2009); Hedwig Lee, Christopher Wildeman, Emily A. Wang, Niki Matusko, & James S. Jackson, *A Heavy Burden: The Cardiovascular Health Consequences of Having a Family Member Incarcerated*, 104(3) *American Journal of Public Health* 421–27 (2014); Hedwig Lee & Christopher Wildeman, *Things Fall Apart: Health Consequences of Mass Imprisonment for African American Women*, 40(1) *The Review of Black Political Economy* 39–52 (2013)), financial strain (Amanda Geller,

Irwin Garfinkel, and Bruce Western, *Paternal Incarceration and Support for Children in Fragile Families*, 48(1) *Demography* 25–47 (2011); Ofira Schwartz-Soicher, Geller Amanda, and Irwin Garfinkel, *The Effect of Paternal Incarceration on Material Hardship*, *Social Service Review* 85(3):447–73 (2011.), reduced wealth (Bryan L. Sykes & Michelle Maroto, *A Wealth of Inequalities: Mass Incarceration, Employment, and Racial Disparities in U.S. Household Wealth, 1996 to 2011*, 2(6) *RSF: Russell Sage Foundation Journal of the Social Sciences* 129–52 (2016)), and diminished political participation (Hedwig Lee, Lauren C. Porter, & Megan Comfort, *Consequences of Family Member Incarceration Impacts on Civic Participation and Perceptions of the Legitimacy and Fairness of Government*, 651(1) *The ANNALS of the American Academy of Political and Social Science* 44–73 (2014); Naomi F. Sugie, *Chilling Effects: Diminished Political Participation among Partners of Formerly Incarcerated Men*, 62(4) *Social Problems* 550–71 (2015)). Furthermore, incarceration has been linked to a range of disadvantages for the children of currently- or formerly-incarcerated parents, including housing instability and homelessness (Amanda Geller, Irwin Garfinkel, Carey E. Cooper, & Ronald B. Mincy, *Parental Incarceration and Child Well-Being: Implications for Urban Families*, 90(5) *Social Science Quarterly* 1186–1202 (2009); Christopher Wildeman, *Parental Incarceration, Child Homelessness, and the Invisible Consequences of Mass Imprisonment*, 651(1) *The ANNALS of the American*

Academy of Political and Social Science 74–96 (2014)), behavioral problems (Geller et al. (2012), *supra.*; Sara Wakefield & Christopher James Wildeman, *Children of the Prison Boom Mass Incarceration and the Future of American Inequality*, Oxford University Press (2014); Christopher Wildeman, *Paternal Incarceration and Children’s Physically Aggressive Behaviors: Evidence from the Fragile Families and Child Wellbeing Study*, 89(1) *Social Forces* 285–309 (2010).), lower educational attainment (Rosa M. Cho, *Understanding the Mechanism Behind Maternal Imprisonment and Adolescent School Dropout*, 60(3) *Family Relations* 272–289 (2011); John Hagan & Holly Foster, *Intergenerational Educational Effects of Mass Imprisonment in America*, 85(3) *Sociology of Education* 259–86 (2012)), and poorer health outcomes (Rosalyn D. Lee, Xiangming Fang, and Feijun Luo, *The Impact of Parental Incarceration on the Physical and Mental Health of Young Adults*, 131(4) *Pediatrics* e1188–95 (2013); Joseph Murray, David P. Farrington, & Ivana Sekol, *Children’s Antisocial Behavior, Mental Health, Drug Use, and Educational Performance after Parental Incarceration: A Systematic Review and Meta-Analysis*, 138(2) *Psychological Bulletin* 175–210 (2012); Michael E. Roettger, & Jason D. Boardman, *Parental Incarceration and Gender-Based Risks for Increased Body Mass Index: Evidence from the National Longitudinal Study of Adolescent Health in the United States*, 175(7) *American Journal of Epidemiology* 636–44 (2012)).

Because of data limitations, most of these studies consider the effect of having experienced any form of incarceration. The survey data on which these studies often rely do not generally allow researchers to distinguish between prison and jail incarceration or to identify pretrial detention separately from post-conviction incarceration. A handful of studies have considered length of incarceration, however. In general, these studies find that even short periods of incarceration are likely to be harmful for a variety of outcomes.⁵ Apel, for example, finds that even very short terms of incarceration appear to be disruptive to marital and cohabitating

⁵ A handful of studies have linked unemployment insurance and corrections records to explore whether length of incarceration affects outcomes in the formal labor market, but results are inconsistent. Some find that the effect of incarceration does not vary significantly by length of incarceration (e.g., Jeffrey R. Kling, *Incarceration Length, Employment, and Earnings*, 96(3) *American Economic Review* 863–76 (2006), while others find that longer spells of incarceration are associated with *better* employment outcomes than shorter spells (Haeil Jung, *Increase in the Length of Incarceration and the Subsequent Labor Market Outcomes: Evidence from Men Released from Illinois State Prisons*, 30(3) *Journal of Policy Analysis and Management* 499–533 (2011), and still others find that lengthier incarceration is negatively associated with employment outcomes (Ramakers et al. 2014). Much of this variability in findings may be due to the fact that reported earnings from unemployment insurance records – which reflect only earnings in the formal labor market – do not correspond well with self-reported earnings for criminally-involved individuals. Robert Kornfeld & Howard S. Bloom, *Measuring Program Impacts on Earnings and Employment: Do Unemployment Insurance Wage Reports from Employers Agree with Surveys of Individuals?*, 17(1) *Journal of Labor Economics* 168–97 (1999). Thus, unemployment insurance records may not adequately reflect post-incarceration employment and earnings experiences across both the formal and informal labor market. The clearest conclusion from this research may simply be that there is no consensus among researchers that a short period of incarceration is *not* damaging.

relationships. Robert Apel, *The Effects of Jail and Prison Confinement on Cohabitation and Marriage*, 665(1) *The ANNALS of the American Academy of Political and Social Science* 103–26 (2016). Likewise, while longer and/or more frequent paternal incarceration is associated with worse outcomes, Andersen finds that even short-term parental incarceration (of less than 3 months) is associated with poorer educational outcomes and higher probability of child’s future offending and criminal justice system contact, even when differences in family background characteristics are taken into account. Lars H. Andersen, *How Children’s Educational Outcomes and Criminality Vary by Duration and Frequency of Paternal Incarceration*, 665(1) *The ANNALS of the American Academy of Political and Social Science* 149–70 (2016).

IV. PRETRIAL DETENTION EXACERBATES RACIAL DISPARITIES

Pretrial detention is likely to have disparate effects by exacerbating pre-existing racial inequalities in American society.⁶ There is a large racial disparity in jail incarceration: incarceration rates for African Americans are about 3.3 times

⁶ While researchers have considered the possibility that pretrial detention has a differentially large or small impact for blacks and Latinos relative to whites, there is little evidence that the size of the effect of pretrial detention on subsequent outcomes varies by race. Disproportionate exposure to pretrial detention by race is likely to contribute to widening racial disparities in outcomes at the population level, however.

higher than for non-Hispanic whites nationwide. Zhen Zeng, *Jail Inmates in 2017*, NCJ 251774, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2019). The racial disparity in jail incarceration is even starker in places like Clark County, Nevada, where black adults are 4.3 times more likely than whites to be incarcerated in jail than their white counterparts or in Washoe County, where black adults are incarcerated in jails at a rate 5.8 times higher than white adults. See Vera Institute of Justice, *Incarceration Trends*, <http://trends.vera.org/>, (2016). In both Nevada and nationwide, minorities are more likely to be detained pretrial for both felony and misdemeanor charges. Stephen Demuth & Darrell Steffensmeier, *The Impact of Gender and Race-Ethnicity in the Pretrial Release Process*, 51(2) *Social Problems* 222–42 (2004); Leslie & Pope, *supra.*; Stevenson (2017), *supra.* In Philadelphia, for example, black defendants are 25 percent more likely to be detained pretrial than white defendants. Megan Stevenson, *A Decomposition of Racial Disparities in Pretrial Detention*, <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/> (2018). At least part of the racial disparity in jail incarceration seems due to the economic disadvantage of black defendants. Stevenson finds that after adjustment for characteristics that affect bail-setting decisions, racial disparities in pretrial detention are the result of racial differences in bail posting, because of likely differences in ability to pay money bail.

Given the relationship between pretrial detention and higher probability of conviction and pleading guilty, the race gap in pretrial detention thus translates into greater racial disparities in sentencing outcomes and incarceration rates. In New York City, for example, Leslie & Pope (2017) find that racial disparities in pretrial detention rates explain more than half of the black-white and Hispanic-white gaps in the probability of being sentenced to prison or jail time. Likewise, by affecting one's probability of conviction and incarceration, these racial gaps in pretrial detention are likely to exacerbate already existing racial disparities in employment, earnings, health, family instability, and all of the other outcomes described above.

V. CONCLUSION

In sum, as both sides in this case agree, a criminal justice system in which pretrial detention depends closely on posting a cash bond punishes poverty with incarceration. Research shows that adults who are detained pretrial are subject to harsher sentences and a higher probability of conviction – primarily due to greater probability of pleading guilty – than otherwise similar arrestees released pretrial. Moreover, the harms of pretrial detention extend beyond case disposition, by increasing the likelihood of re-arrest, and reducing employment and earnings. These findings are buttressed by a larger research literature that studies prison incarceration as well as jail. This larger research program finds that incarceration is widely associated with high rates of unemployment, lower incomes, poor health, family

disruption, and the diminished well-being of children with incarcerated parents. Because pretrial detention increases the probability of acquiring a felony record and serving more time, racial disparities in pretrial detention mean that the considerable negative effects of incarceration on recidivism and socioeconomic well-being are borne overwhelmingly by minority communities. Based on this research showing strong evidence of the negative effects of incarceration on both public safety and socioeconomic well-being, we urge the court to curtail pretrial detention to the greatest extent possible.

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Respectfully submitted,

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APPENDIX: SOCIAL SCIENTIST AMICI CURIAE

The undersigned *amici* are social scientists who have studied issues arising out of incarceration, including pretrial incarceration in jails. *Amici* are interested in the present case, as it deals with the individual and social harms arising out of even short-term pretrial incarceration, an area to which the undersigned have devoted considerable scholarship. The *amici* file this brief in the interest of applying high-quality social science research to help develop a fairer, safer, and more effective allocation of criminal justice resources to the pretrial process, and to pretrial incarceration specifically.

Bruce Western is Professor of Sociology at Columbia University and Co-Director of the Justice Lab at Columbia University and was the Guggenheim Chair of Criminal Justice Policy at Harvard University. His research has examined the causes, scope, and consequences of the historic growth in U.S. prison populations. He was the Vice Chair of the National Academy of Sciences panel on the causes and consequences of high incarceration rates in the United States. He is the author of *Homeward: Life in the Year After Prison* (Russell Sage Foundation, 2018), and *Punishment and Inequality in America* (Russell Sage Foundation, 2006). He is a member of the National Academy of Sciences, and the American Academy of Arts and Sciences. He has been a Guggenheim Fellow, a Russell Sage Foundation Visiting Scholar, and a fellow of the Radcliffe Institute of Advanced Study. Western received his PhD in Sociology from the University of California, Los Angeles, and was born in Canberra, Australia.

Brielle Bryan is an Assistant Professor of Sociology at Rice University. Her research examines the implications of criminal justice system contact for the socioeconomic wellbeing and social integration of both justice-system-involved individuals and their children. Her work has been published in *Demography*, *Social Forces*, *RSF: The Russell Sage Foundation Journal of the Social Sciences*, and *The ANNALS of the American Academy of Political and Social Science*.

Christopher Uggen is Regents Professor, Martindale Chair, and Distinguished McKnight Professor in Sociology, Law, and Public Affairs at the University of Minnesota. He is the 2017-2018 Vice President of the American Sociological Association, a member of the Sociological Research Association, and a fellow of the American Society of Criminology. With Jeff Manza, he wrote *Locked Out: Felon Disenfranchisement and American Democracy* (2006), and he has published extensively in criminology, criminal justice, law, and sociology. His recent work

includes a comparative study of reentry from different types of institutions, the long-term consequences of harassment and discrimination, crime and justice after genocide, monetary sanctions, and the health effects of incarceration. With Douglas Hartmann, he served as editor of *Contexts* magazine from 2007-2011 and as the editor and publisher of *The Society Pages*, a popular book series and multimedia social science hub.

Christopher Wildeman is Provost Fellow for the Social Sciences, Director of the Bronfenbrenner Center for Translational Research, and Director of the National Data Archive on Child Abuse and Neglect, where he is also a Professor of Policy Analysis and Management and (by courtesy) Sociology. His research on mass incarceration has been published in *American Sociological Review*, *Demography*, *The Lancet*, and *Social Forces*, among other outlets, and his book (with Sara Wakefield) *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality* (2013) was published by Oxford University Press.

Christopher Muller is Assistant Professor of Sociology and faculty affiliate at the Center for the Study of Law & Society and the Institute for Research on Labor and Employment at the University of California, Berkeley. He is the author of multiple publications on the historical origins of racial and class inequality in incarceration in the United States and the social consequences of imprisonment, among other topics.

Devah Pager is Peter & Isabel Malkin Professor of Sociology & Public Policy at Harvard University, and Director of the Multidisciplinary Program in Inequality & Social Policy. Her book, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration* (University of Chicago, 2007), investigates the racial and economic consequences of large scale imprisonment for contemporary U.S. labor markets. Other projects examine the longer-term consequences of labor market discrimination for job seekers and employers, self-selection in job search, the organizational bases of discrimination, and the long-term consequences of legal debt.

John Hagan is John D. MacArthur Professor of Sociology and Law at Northwestern University and Co-Director of the Center on Law & Globalization at the American Bar Foundation. He was elected Fellow of the National Academy of Sciences, 2017 and Fellow of the American Academy of Arts and Sciences, 2010. He is the author of the 2012 Princeton University Press book, *Who Are the Criminals? The Politics of Crime Policy from the Age of Roosevelt to the Age of Reagan* and the 2015 Cambridge University Press book with Josh Kaiser and

Anna Hanson, *Iraq and the Crimes of Aggressive War*.

Michael A. Stoll is Professor of Public Policy in the Luskin School of Public Affairs at the University of California, Los Angeles (UCLA). He serves as a Fellow at the American Institutes for Research, the Institute for Research on Poverty at University of Wisconsin, Madison, and the National Poverty Center at the University of Michigan, Ann Arbor, and served as a past Visiting Scholar at the Russell Sage Foundation and Non- resident Fellow at the Brookings Institution. Dr. Stoll's published work explores questions of poverty, labor markets, migration, and crime. His recent work examines the labor market consequences of mass incarceration and the benefits and costs of the prison boom. A recently completed book, *Why Are so Many Americans in Prison* (2013), explores the causes of the American prison boom and what to do about it to insure both low crime and incarceration rates.

John H. Laub is Distinguished University Professor in the Department of Criminology and Criminal Justice at the University of Maryland, College Park. From 2010-2013, he served as the Director of the National Institute of Justice in the Office of Justice Programs in the Department of Justice. In 1996, he was named a fellow of the American Society of Criminology, in 2002-2003 he served as the President of the American Society of Criminology, and in 2005 he received the Edwin H. Sutherland Award from the American Society of Criminology. Dr. Laub, along with his colleague, Robert Sampson was awarded the Stockholm Prize in Criminology in 2011 for their research on how and why offenders stop offending. He has published widely including two award winning books, *Crime in the Making: Pathways and Turning Points Through Life*, co-authored with Robert Sampson, Harvard University Press, 1993 and *Shared Beginnings, Divergent Lives: Delinquent Boys to Age 70*, co-authored with Robert Sampson, Harvard University Press, 2003.

David J. Harding is Professor of Sociology at the University of California, Berkeley, where he also serves as the Director of the Social Sciences D-Lab. He is an expert on poverty, inequality, and the criminal justice system. Harding is the author of *Living the Drama: Culture, Conflict, and Community among Inner-City Boys* (2010) and *On the Outside: Prisoner Reentry and Reintegration* (Forthcoming, 2019). His articles on incarceration have been published in *Proceedings of the National Academy of Sciences*, *American Journal of Sociology*, and the *Journal of Policy Analysis and Management*, among other journals.

Holly Foster is a Professor of Sociology at Texas A&M University. She has published extensively on the influences of paternal and maternal incarceration on

children, particularly around their social exclusion, or disconnection from major societal institutions. Along with collaborator Professor John Hagan (Northwestern University), she co-coordinated a White House Conference on “Parental Incarceration in the United States: Bringing Together Research and Policy to Reduce Collateral Costs for Children.” Foster and Hagan have also presented their research results at the National Academy of Sciences Workshop on “Improving Collection of Indicators of Criminal Justice System Involvement in Population Health Data Programs.”

Sandra Susan Smith is a Professor and Chair of the Department of Sociology at the University of California, Berkeley. Professor Smith specializes in studies of urban poverty and joblessness, social capital and social networks, trust and cooperation, and more recently, the front end of criminal case processing. She has published a number of articles and one book, *Lone Pursuit: Distrust and Defensive Individualism among the Black Poor* (Russell Sage Foundation, 2007), on this and related topics. Smith is currently on the advisory board of the Y Combinator Research’s Basic Income Project and the Misdemeanor Justice Project. She was a member of Harvard University’s Executive Session on Community Corrections; Interim Director of UC Berkeley’s Institute for Research on Labor and Employment; and chair of the Inequality, Poverty, and Mobility Section of the American Sociological Association (ASA). She also served as a council member for the American Sociological Association (ASA), Deputy Editor and editorial board member of the *American Sociological Review* and the *American Journal of Sociology*, respectively.

Harry J. Holzer is the John LaFarge SJ Professor of Public Policy at Georgetown University. He is a former Chief Economist at the US Department of Labor, and is also an Institute Fellow at the American Institutes for Research and a Nonresident Senior Fellow at Brookings. His research focuses on the low-wage labor market and disadvantaged workers. His books include *The Black Youth Employment Crisis* (1986), *Reconnecting Disadvantaged Young Men* (2005), and *Making College Work* (2017).

Peter B. Edelman is the Carmack Waterhouse Professor of Law and Public Policy at Georgetown University Law Center. On the faculty since 1982, he teaches constitutional law and poverty law and is faculty director of the Georgetown Center on Poverty and Inequality. He is the author of *Not a Crime to Be Poor: The Criminalization of Poverty* (2017) and *So Rich So Poor: Why It’s So Hard to End Poverty in America* (2012). Edelman has also served in all three branches of

government. During President Clinton's first term he was Counselor to HHS Secretary Donna Shalala and then Assistant Secretary for Planning and Evaluation.

Jeffrey Fagan is the Isador and Seville Sulzbacher Professor of Law at Columbia Law School. His research and scholarship examine policing, the legitimacy of the criminal law, capital punishment, legal socialization of adolescents, neighborhoods and crime, and juvenile crime and punishment. He served on the Committee on Law and Justice of the National Academy of Science from 2000-2006, the MacArthur Foundation's Research Network on Adolescent Development and Juvenile Justice, and was a member of the 2004 National Research Council panel that examined policing in the U.S. He is a fellow of the American Society of Criminology, and serves on the editorial boards of several journals in criminology and law.

Kristin Turney is an Associate Professor of Sociology at the University of California, Irvine. She also has a joint appointment in the Department of Criminology, Law, and Society. Her research on the criminal justice system and inequality has been funded by the Foundation for Child Development, the National Science Foundation, the William T. Grant Foundation. Her research on this topic has been published in journals such as the *American Sociological Review*, *Demography*, *Journal of Marriage and Family*, *Social Forces*, and *Social Problems*.

John J. Donohue III is C. Wendell and Edith M. Carlsmith Professor of Law at Stanford Law School. A leading empirical researcher in the legal academy over the past 25 years, Donohue is well known for using empirical analysis to determine the impact of law and public policy in a wide range of areas, including civil rights and antidiscrimination law, employment discrimination, crime and criminal justice, and school funding. His publications include *Employment Discrimination: Law and Theory* with George Rutherglen (2005). He is a member of the American Academy of Arts and Sciences, and the former editor of the *American Law and Economics Review* and president of the American Law and Economics Association.

Jeffrey Morenoff is a professor in the Department of Sociology, the Gerald R. Ford School of Public Policy, and the Institute for Social Research at the University of Michigan. He is also the director of the Population Studies Center at U-M. In 2014, he was recognized in Thomson Reuters' list of Highly Cited Researchers 2014, Thomson Reuters, a distinction given to researchers whose work has been officially designated by Essential Science Indicators as ranking among the top 1% most cited for their subject field and year of publication.

Morenoff's research straddles the fields of sociology, demography, and criminology. He is the principle investigator of two large interrelated studies on prisoner reentry and co-author of the forthcoming book, *On the Outside: Reentry, Reintegration, and Recidivism*.

Bernard E. Harcourt is the Isidor and Seville Sulzbacher Professor of Law and Professor of Political Science at Columbia University, and also serves as the Executive Director of the Eric H. Holder Initiative for Civil and Political Rights at Columbia. Professor Harcourt specializes in penal law and procedure, criminology, and punishment theory. He is the author of multiple books on the criminal justice system, including *Against Prediction: Profiling, Policing and Punishing in an Actuarial Age* (2007), *Language of the Gun: Youth, Crime, and Public Policy* (2005), and *Illusion of Order: The False Promise Of Broken Windows Policing* (2001).

Paul Heaton is a Senior Fellow at the University of Pennsylvania Law School and Academic Director of the Quattrone Center for the Fair Administration of Justice. An expert on legal and regulatory program and policy evaluation, Dr. Heaton's criminal justice work spans a wide range of areas, including measurement of impacts of criminal justice interventions; applications of cost-benefit analysis to criminal justice; and evaluations of the criminal justice implications of public policies related to controlled substances. His work on policing, courts, and drug offending has been widely cited by policymakers and the media and has been published in leading scholarly journals such as the *Yale Law Journal*, *New England Journal of Medicine*, *Journal of Law and Economics*, and *American Journal of Public Health*.

Jacob Goldin is a lawyer and economist whose research focuses on the taxation of low income households and the application of behavioral economics to the design of policy. Prior to joining the faculty in 2016, he worked in the Office of Tax Policy at the U.S. Treasury Department. Professor Goldin holds a J.D. from Yale Law School, a Ph.D. in economics from Princeton University, and a B.A. from Wesleyan University. He clerked for Judge Richard Posner of the Seventh Circuit Court of Appeals.

Becky Pettit is Professor of Sociology at the University of Texas-Austin. She is a sociologist, trained in demographic methods, with interests in social inequality broadly defined. She is the author of two books and numerous articles which have appeared in the *American Sociological Review*, the *American Journal of Sociology*, *Demography*, *Social Problems*, *Social Forces* and other journals. Her newest book,

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Alexes Harris is Presidential Term Professor at the University of Washington. Her work

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Megan Stevenson is Assistant Professor of Law at George Mason University. An economist and legal scholar, her research uses econometric methods to evaluate criminal law and policy in areas such as bail, pretrial detention, risk assessment, and juvenile justice. Her studies have been published in top journals in both law and economics, such as the *Stanford Law Review* and the *Review of Economics and Statistics*. Her research on bail was cited extensively in a landmark federal civil rights decision, *O'Donnell v. Harris*, and has received widespread media coverage.

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2011 in Times New Roman.

2. I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding parts of the brief exempted by NRAP 32(a)(7)(C) it is proportionally spaced, has a typeface of 14 points and contains 5,653 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for an improper purpose. I further certify that this brief complies with all the applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: July 25, 2019

/s/ Lisa Rasmussen

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