

Case No. 89958

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

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CITY OF HENDERSON,

Appellant,

v.

BERNARDO ARMENDAREZ, JACOB ALEXANDER NAVARRO-  
REYES, NAYIB WATSON, LOUIS ANTHONY DELOSRIOS JR.,  
VIRGIL CRISTOBAL, HUNTER ALEXIS DOOLEY AND JACOB  
VERNON HARDY,

Respondents

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ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

CASE No. A-24-896651

HENDERSON MUNICIPAL COURT CASE NO. 23CR004785, 23CR004687,  
23CR004789, 23CR004795, 23CR004796, 23CR004966, 23CR004970,  
23CR004988

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**AMICUS BRIEF OF THE CITY OF NORTH LAS VEGAS  
IN SUPPORT OF REAL PARTY IN INTEREST CITY OF  
HENDERSON**

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## I. INTRODUCTION AND INTERESTS OF AMICUS CURIAE

The questions addressed in the City of Henderson’s Opening Brief are: (i) whether Nev. Rev. Stat. § 178.4849 conflicts with the constitutional requirements regarding the setting of bail as decided by this Court in Valdez-Jimenez v. Eighth Jud. Dist. Court., 136 Nev. 155, 460 P.3d 976 (2020); (ii) whether Nev. Rev. Stat. § 178.4849 violates crime victims’ rights contained in Nev. Const. art. I, § 8A (Marsy’s Law); (iii) whether Nev. Const. art. I, § 8A is self-executing; (iv) whether Nev. Rev. Stat. § 178.4849 interferes with Nevada Supreme Court Order ADKT 0539 and therefore encroaches upon the Separation of Powers Doctrine; and (v) whether the good cause requirement of Nev. Rev. Stat. § 178.4849 creates an unreasonable legal impediment to a court’s consideration of constitutional rights.

As a similarly situated municipality, the City of North Las Vegas experiences similar logistical encumbrances outlined in the Appellant’s Statement of Facts. The City of North Las Vegas respectfully argues that Nev. Rev. Stat. § 178.4849 conflicts with *Valdez-Jimenez* and violates crime victims’ rights. Furthermore, Nev. Rev. Stat. § 178.4849 encroaches on the Separation of Powers Doctrine, and the City of North

Las Vegas believes the City of Henderson unequivocally has standing to bring this claim.

## II. ARGUMENT

### A. Nev. Rev. Stat. § 178.4849 Violates Victims' Rights Protected by the Nevada Constitution and Undermines *Valdez-Jimenez*.

There is no question that Article 1, Section 8A of the Nevada Constitution, otherwise known as Marsy's Law, provides constitutional protections for crime victims ensuring they have a voice and are treated with fairness and respect in the criminal justice system. Of paramount importance is the right of a victim to be notified of, to attend, and to be heard at a public criminal proceeding. Nev. Const. art. I, § 8A, (1)(g)-(h). Furthermore, Marsy's Law provides that the safety of the victim and the victim's family is to be considered as a factor in setting bail and conditions of release, Nev. Const. art. I, § 8A, (1)(b)(c), as well as the right to provide input to prosecutors before a plea negotiation is reached. Nev. Const. art. I, § 8A, (1)(f).

In *Valdez-Jimenez v. Eighth Jud. Dist. Ct.*, this Court recognized the constitutional rights that are afforded to victims of crime, stating that the Nevada Constitution requires the "consideration of the safety of the

victim and the victim's family in setting bail." 136 Nev. at 162, 460 P.3d at 984. Additionally, this Court found that a person arrested for a crime is entitled to an individualized hearing regarding their custody status within a reasonable time. *Id.* at 163-64, 460 P.3d at 985-86.

Although a victim is not a party *per se* to the proceeding, they may directly assert the rights granted to them by the Nevada Constitution. As outlined in Nev. Const., art. I, § 8A, (1)(g)-(h), a victim has the right to be notified of, to attend, and to be heard at a public criminal proceeding. With the passage of Nev. Rev. Stat. § 178.4849, the opportunity to assert these rights at a bail hearing are significantly diminished resulting in a weakening of Marsy's Law. Most bail hearings take place only hours after an arrest occurs. During that time, victims have pressing matters to attend to including, but not limited to: (i) receiving treatment for injuries that may be life threatening; (ii) finding temporary shelter; (iii) taking care of minor children and/or family members; or (iv) mentally processing what can be characterized as possibly the most traumatic incident of their lives. Victims also may have had their phones, IDs, or other vital documents taken or destroyed by the suspect, leaving them in precarious situations without these necessities. Living in the current

digital world, taking a victim's phone is tantamount to placing the victim into a virtual purgatory of isolation. Often times, it is the last act of violence perpetrated by the abuser against a victim in domestic violence incidents. Since the enactment of Nev. Rev. Stat. § 178.4849, victims are expected to process and navigate the legal system, often mere hours after a potentially life-threatening and life-altering event. Often times, victims are unaware of these rights, and it is the mandated obligation and duty of the prosecutors to inform these victims of their rights under the Nevada Constitution. Nev. Rev. Stat. § 178.4849 mandates the bail hearing be held within 48 hours of the arrest. This requirement constitutes an unreasonable restraint on the prosecutor's ability to contact the victims, which is imperative in determining the appropriate amount of bail to request. Without fully understanding the facts prior to the bail hearing, potentially tragic and/or fatal results occur. This is evidenced by the City of Henderson in their Opening Brief where Defendant Jacob Navarro-Reyes, who was given standard bail after being accused of domestic battery despite the Prosecutor requesting a continuance (which was denied by the municipal court). Upon posting

bail, Defendant Jacob Navarro-Reyes committed a second domestic battery against the same victim.<sup>1</sup>

The City of North Las Vegas and the City of Henderson, like other cities in Nevada, have a small window of time for their Victim Advocate to contact victims before an initial appearance. This contact must occur within hours of a defendant being arrested. Assuming that contact information is readily available to the Victim Advocate, the goal for the Victim Advocate is to inform the victim of their constitutional rights and confer with the prosecuting office regarding the alleged incident. However, in this race against time, victims cannot always be reached due to circumstances beyond their control. Recent statistics gathered by the City of North Las Vegas City Attorney's Office show from January 2025 to April 2025 that in weekend bail hearings in North Las Vegas Municipal Court<sup>2</sup>, 48% of victims were not able to be reached prior to the

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<sup>1</sup> See Pg. 10 Appellant's Opening Brief City of Henderson v. Et Al.

<sup>2</sup> Defendants who are arrested in North Las Vegas and who are heard before the North Las Vegas Municipal Court can have their initial appearance on Monday or Tuesday at 1:30 PM, Wednesday or Thursday at 10:30 AM, or Saturday at 10:30 AM. Saturday hearings are strictly to address pretrial custody status.

defendant's bail hearing.<sup>3</sup> It is unrealistic to expect a victim to recover from an extremely traumatic and stressful event within the 48-hour window so that they may receive the protections enumerated in Marsy's Law.

When the City Attorney's Office is unable to reach the victim of a crime, the prosecutors are forced to make an educated guess as to the current well-being of the victim and potential safety concerns or harm posed to the victim. Every prosecutor is tasked with the significant responsibility of providing for the safety of a victim, as well as protecting their constitutional rights. Victims are aware of their situations better than anyone and they deserve to have their specific concerns considered by the court. For the majority of cases, 48 hours is an impossible barrier for victims to overcome. More time is needed for victims to assert their constitutional rights and for prosecutors to have the full picture to present to the Judge at the bail hearing.

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<sup>3</sup> Notably, in January, 46% of victims were not able to be reached before the Saturday bailing hearings, In February, 33% were not able to be reached; in March, 56% were not able to be reached; in April, 47% victims were not able to be reached.

Not only do victims have constitutional rights, but they also have rights enumerated by statute. Nev. Rev. Stat. § 178.4845 provides that a victim has the right to request the court issue a no contact order before the court determines the appropriate bail. A no contact order is a crucial legal tool for a prosecutor to provide safety for a victim. Violation of a no contact order can result in further charges being filed against the defendant as well as revocation of bail status. In order to determine if a victim is requesting a no contact order, Victim Advocates desperately attempt to contact victims within an impossibly short window of time before 48 hours elapse and the defendant must be brought into court. When the Victim Advocate is unable to reach the victim, the Victim Advocate is unable to provide a recommendation for a no contact order and the prosecutor is unable to request it. Without input from the victim, the prosecutor is limited to a police report, which more often than not fails to provide a complete picture of the situation between the offender and the victim. The result is a deprivation of a victim's right to be heard and have meaningful input.

The unreasonable 48-hour deadline that Nev. Rev. Stat. § 175.4849 requires, fails to reasonably provide victims the opportunity to

meaningfully participate in bail hearings. The passage of Nev. Rev. Stat. § 178.4849 has resulted in an unreasonable, unjust, unworkable, unconstitutional, and potentially dangerous situation for all victims. Nev. Rev. Stat. § 178.4849 is in direct contravention of the Nevada Constitution's mandated protections for victims of crime and creates an unreasonable timeframe for victims to assert their rights. The window is too small.

**B. Nev. Rev. Stat. § 178.4849 Violates the Separation of Powers Doctrine as it Undermines an Existing Supreme Court Order.**

The Separation of Powers Doctrine is contained in Nev. Const. art. III, § 1(1). This doctrine provides that the Legislative Branch shall not exercise any functions pertaining to either the Executive or Judicial Departments. *Id.* “It is fundamental to such a system of government [a government of separation of powers] that powers separately vested in the executive, legislative, and judicial departments be exercised without intrusion.” *Blackjack Bonding v. City of Las Vegas Mun. Ct.*, 116 Nev. 1213, 1219, 14 P.3d 1275, 1283-1284 (2000).

Part of the inherent judicial authority that the courts possess includes the exercise of procedural judicial functions without interference

from the legislature. In *Lyft, Inc. v. Eighth Jud. Dist. Ct. of Nev.*, the Nevada Supreme Court, stated that “the judiciary has the power to regulate court procedure. . . .” 501 P.3d 994, 997, 2021 Nev. LEXIS 82, 84. In the *Blackjack Bonding* case, the Court described Congress as having control “over ‘when and where’ of judicial power, i.e., the number and jurisdiction of federal courts, but not over the ‘who and what’ of judicial power, i.e., who has the power and what that power consists of.” *Id.* In that case, the Nevada Supreme Court held that “in giving municipal courts general jurisdictional power over bail and property bonds, the Legislature also granted by implication every power necessary for municipal courts to exercise that power, including the power to charge and collect reasonable filing fees.” *Id.* 116 Nev. 1213 at 1220, 14 P. 3d at 1286. The Nevada Supreme Court has recognized that the Legislature may **not** enact a procedural statute that would abrogate a preexisting court rule. . . .” *Lyft, Inc.*, 501 P.3d 994, 997, 2021 Nev. LEXIS 82, 84; *see also Lindauer v. Allen*, 85 Nev. 430, 434, 456 P.2d 851, 854 (1969).

In the present matter before this Court, the City of Henderson has demonstrated a situation that the City of North Las Vegas similarly faces time and time again. The Pretrial Risk Assessment Tool is often

unavailable at the time of the in-custody bail hearing as a result of the 48-hour time constraint mandated by Nev. Rev. Stat. § 178.4849.

In addition to the unavailability of the Pretrial Risk Assessment Tool, the City of North Las Vegas faces the issue of the Pretrial Risk Assessment Tool being inaccurate due to the rushed timeframe in which bail hearings must take place. There have been instances where a defendant has returned with a low risk score on the Assessment, only for the prosecution to discover at a later date that the defendant has a history of violent criminal arrests and/or convictions, or failures to appear in court that would have provided for a much higher score. For example, the City of North Las Vegas has seen a Pretrial Risk Assessment return with a low score of 2, only for the prosecutor to discover a manslaughter charge in the defendant's recent criminal history at a later date. This type of information is crucial to the Pretrial Risk Assessment and the prosecutor's ability to make an accurate recommendation. The Pretrial Risk Assessment Tool is also crucial to the court's determination of imposing bail, as well as the prosecutor's arguments for setting bail amounts. Failure to have an accurate and reliable Pretrial Risk Assessment Tool can result in misinformation for

the court regarding the danger the defendant poses to the community, including the victim.

It is without question that the Supreme Court Order requiring use of the Pretrial Risk Assessment Tool (Nev. Sup. Ct. Order ADKT 0539) and Nev. Rev. Stat. § 178.4853 were created to protect victims and the community. Nev. Rev. Stat. § 178.4849 frustrates the very purpose of the Order and Statute.<sup>4</sup> There is no question that ADKT 0539, implemented by the Supreme Court of Nevada, is within the actual and inherent powers of the constitutionally created Court. As such, Justice Courts and Municipal Courts possess the inherent power to execute these procedural judicial mandates.

However, the timeframe required by Nev. Rev. Stat. § 178.4849 creates an impermissible conflict with the purpose and implementation of the Pretrial Risk Assessment Tool. To the extent that this conflict

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<sup>4</sup> On March 21, 2019, this Court issued a statewide order requiring the use of the Pretrial Risk Assessment Tool when addressing in custody status and bail issues (Nev. Sup. Ct. Order ADKT 0539 and Nev. Rev. Stat. 178.4853). This was a procedural tool which would allow for a uniform, statewide application for making pretrial release decisions for in custody defendants. Subsequently, Assembly Bill 24 was enacted on June 4, 2021. The effective date for the Bill was July 1, 2022, and the legislation was eventually assigned Nev. Rev. Stat. 178.4849.

exists, and that the subsequent legislation conflicts with a pre-existing procedural court rule, the statute is an unconstitutional encroachment upon the judicial powers reserved for the courts under the Separation of Powers Doctrine.

**C. The City of Henderson Has Standing to Bring This Constitutional Challenge.**

To have standing, the party seeking relief must have sufficient interest in the litigation. *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Nev. 247, 250, 396 P.3d 754, 756 (2017). An interest is sufficient if it “ensures the litigant will vigorously and effectively present his or her case against an adverse party.” *Id.*

Usually, standing is not a prominent question in criminal proceedings. A prosecutor or a defendant will have standing to challenge the constitutionality of a criminal statute as the enforcement of the law affects the parties involved. While a victim is not a named party in a criminal complaint, the prosecutor has an ethical obligation to ensure that the constitutional rights of all individuals are protected in a criminal prosecution. This includes the defendant, the victim, and the community as a whole. In fact, the prosecutor serves as the community’s representative in the court room.

A prosecutor is a party to a criminal proceeding and prosecutors are adversely affected by the time requirement in Nev. Rev. Stat. § 178.4849. The prosecution represents the government and has an obvious interest in deterring pretrial risk to both the community and the victim of a crime. These interests are legitimate and compelling in light of protecting the victim's rights, defendant's rights, and ensuring public safety. When making a request for bail or releasing defendants on their own recognizance, there are multiple factors that a prosecutor examines and must know. One of these critical pieces of information is the Pretrial Risk Assessment prepared by the Court. The inaccuracy, incompleteness, and/or untimely production of the Pretrial Risk Assessment can have potentially lethal consequences for the victim of a crime. Improperly releasing a defendant on bail also increases the danger to the community.

Without the victim's input or a complete Pretrial Risk Assessment, the prosecutor is left with the limited information contained in the police report and the defendant's criminal history available at the time. While helpful, these reports often do not depict a complete picture of the victim's current situation. For example, a police report might state that the defendant was intoxicated or under the influence of an illicit substance.

Further, upon contacting the victim, the victim might describe a long history of substance abuse that causes the defendant to act violently. This history might prompt the victim to request a no drug or no alcohol consumption order upon release. Without victim contact, the prosecutor would be unable to gather and verify this information and, as a result, fail to request that no drug or alcohol use is a condition of release.

Additionally, at question is whether prosecutors can raise this challenge on behalf of crime victims. If a prosecutor is unable to challenge these issues on behalf of a victim, then the victim is rendered voiceless and Marsy's law ineffective.

In the majority of criminal cases, victims of crimes do not hire their own counsel to ensure their rights are protected. Oftentimes, victims are financially unable to hire an attorney or believe the prosecutor will be their advocate. Victims are unaware of the ability to hire counsel to protect their rights as they are not the ones being charged with a crime. As a result, victims do not have their own attorney to inform them of their rights under the Nevada Constitution as a victim of a crime. It is often the prosecutor or Victim Advocate who informs them of these rights. Without victim contact by a Victim Advocate or prosecuting office,

victims can be completely unaware that they have the right to be heard at every stage of the criminal proceedings.

Moreover, as discussed above, victims may have other pressing needs that require immediate attention following the perpetration of a crime. By the time a victim has learned of these rights, it is often too late to have meaningful input at the bail hearing. Without input, potentially unimaginable and fatal consequences for a victim and/or members of their family could result.

The prosecutor serves as the lone voice for the victim. The prosecutor is responsible for articulating arguments regarding the safety and protection of the victim during the bail hearing. While victims of crime are indeed granted certain rights, such as the right to be heard, these rights are truly only meaningful when victims are aware of them and understand how to exercise them. It is the proper role of the prosecutor to speak on behalf of these victims. Victim Advocates and prosecutors play a critical role in informing victims of their rights, navigating the justice system, and protecting the victim and community.

### III. CONCLUSION

The City of Henderson has standing to bring this constitutional challenge and the City of North Las Vegas joins in Real Party in Interest's City of Henderson's Answering Brief. The City of North Las Vegas respectfully requests that this Court overturn the district court's ruling. Nev. Rev. Stat. § 178.4849 violates this Court's findings in *Valdez-Jimenez*, the victim's rights enshrined in the Nevada Constitution, and the Separation of Powers Doctrine.

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## 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:

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interposed for any improper purpose. I further certify that this brief complies with all 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 this 29<sup>th</sup> day of May, 2025.

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By: /s/ Deep Goswami  
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## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on May 29<sup>th</sup>, 2025. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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An employee of the City of North Las Vegas