

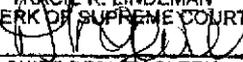
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MAXWELL FELCH MULLEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68372

FILED

JUL 27 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER LIFTING STAY AND REVERSING AND REMANDING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of attempted murder with the use of a deadly weapon and assault with a deadly weapon. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

On February 26, 2016, we stayed the resolution of this appeal pending final disposition of a petition for a writ of certiorari filed with the United States Supreme Court that challenges the Nevada Supreme Court's decision in *Barral v. State*, 131 Nev. ___, 353 P.3d 1197 (2015), *cert. denied*, 2016 WL 309779 (U.S.Nev., June 28, 2016). On July 6, 2016, respondent informed this court that the United States Supreme Court denied the petition for a writ of certiorari in *Barral* on June 28, 2016. Accordingly, we lift the stay and proceed with resolution of this appeal.

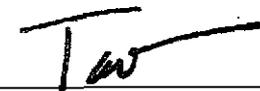
Relying on *Barral*, appellant Maxwell Felch Mullen claims the district court committed structural error requiring reversal when it failed to comply with NRS 16.030(5) and administer the oath to the jury venire before voir dire. We agree.

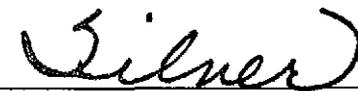
The record clearly demonstrates that the district court did not comply with NRS 16.030(5) and administer the oath to the jury venire

before voir dire. The Nevada Supreme Court has held that this is structural error and "is reversible *per se*." *Id.* at ___, 353 P.3d at 1200. Therefore, we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for a new trial.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas Smith, District Judge
William B. Terry, Chartered
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Because we reverse Mullen's convictions on the grounds the district court committed structural error, we decline to address the remaining issues in this appeal.