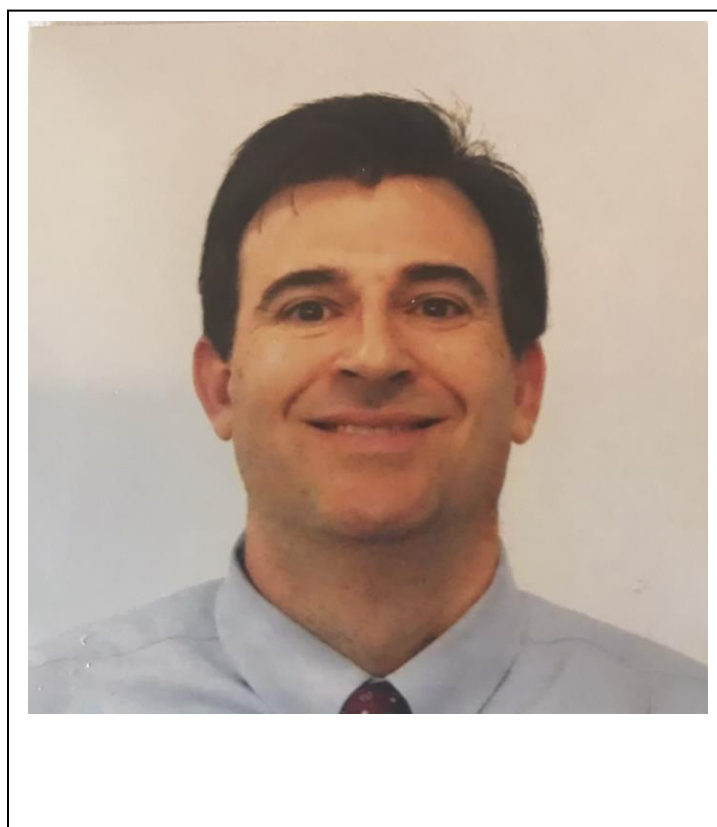


COMMISSION ON JUDICIAL SELECTION APPLICATION

FIRST JUDICIAL DISTRICT
DEPARTMENT 2

By

(Thomas Raymond Armstrong)



Personal Information

1.	Full Name	Thomas Raymond Armstrong
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	N/A
3.	How long have you been a continuous resident of Nevada?	49 years
4.	City and county of residence	Carson City, Nevada
5.	Age	50 yrs

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	Carson City Justice and Municipal Court
Phone	775-887-2121
Physical Address & Website	885 E. Musser St, Ste 2007 Carson City, NV 89701 www.carson.org
Date(s) of Employment	May 2, 2011 (appointed April 21, 2011) to present.
Supervisor's Name and Title	N/A
Your Title	Justice of the Peace, Municipal Court Judge, Department 1
Describe Your Key Duties	Handle all Justice Court cases assigned to department 1. Responsible for administrative decisions, together with my co-judge and court administrators, regarding court operations. Supervise Court administration and staff. Preside over all matters, both civil and criminal, within the jurisdiction of the Justice Court.
Reason for Leaving	N/A

Previous Employer	The Law Offices of Thomas R. Armstrong, Ltd
Phone	775-461-0254 (no longer in service)
Address & Website	209 N. Pratt Carson City, NV 898701
Date(s) of Employment	June 5, 2009 to April 20, 2011
Supervisor's Name and Title	N/A

Your Title	Manager
Describe Your Key Duties	Responsible for all aspects of operating a law office as a sole practitioner. I was a member of the conflict public defender panel. I handled all types of cases, however I focused primarily on criminal defense and civil litigation. I represented my clients from arraignment through appeal. Additionally, I handled most of my bookkeeping, clerical, and administrative tasks.
Reason for Leaving	I was appointed to the Justice/Municipal Court bench by the Carson City Board of Supervisors.

Previous Employer	Kummer Kaempfer Bonner Renshaw & Ferrario, Kaempfer Crowell
Phone	(775) 884-8300
Address & Website	510 West 4 th St. Carson City, NV 89703
Date(s) of Employment	February 2007 to May 2009
Supervisor's Name and Title	Jim Puzey Managing Partner
Your Title	Associate Attorney
Describe Your Key Duties	Handled all aspects of civil litigation and criminal cases, including bench and jury trials. Responsible for all aspects of civil litigation including pleadings, discovery motions, arbitration, mediation and trial. Effectively represented multiple criminal defense clients through negotiation, trial and appeals. Represented corporations and individuals in business transactions, including drafting and review of contracts, purchase agreements, and partnership dissolution.
Reason for Leaving	Firm downsizing resulted in an opportunity to start my own law practice.

Previous Employer	Carson City District Attorney's Office
Phone	(775) 887-2072
Address & Website	885 E. Musser St. Ste 2030, Carson City NV 89701
Date(s) of Employment	June 2001 to February 2007
Supervisor's Name and Title	Noel Waters District Attorney, Anne Langer Chief Criminal District Attorney
Your Title	Senior Deputy District Attorney
Describe Your Key Duties	Responsible for all aspects of criminal prosecution, developed effective trial and courtroom skills through training and multiple jury trials; gained invaluable courtroom experience through numerous bench trials, preliminary hearings, and motion hearings; appeared in appellate matters before the Nevada Supreme Court including oral argument; selected to train and mentor recently hired Deputy District

	Attorneys, including case strategy, and trial advocacy.
Reason for Leaving	Was offered an opportunity to join a prominent and well-respected Nevada law firm and continue to live and work in Carson City.

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Attended Carlin Combined Schools, in Carlin Nevada from kindergarten until graduation in 1991.

Attended the University of Nevada, Reno from Fall of 1991 until graduation in December 1996.

Bachelor of Arts in Criminal Justice with Distinction

Minor in English Literature.

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

High School: Played football and basketball for four years and participated in track and field for three years. Earned multiple All-Conference awards in both football and basketball, including All-State in basketball.

Named one of Northern Nevada's outstanding scholar athletes by the Reno Gazette Journal.

Active in student council, including offices of Treasurer and Vice-President.

National Honor Society

Boy's State delegate and alternate Delegate to Boys Nation.

Participated in Vocational Industrial Clubs of America ("VICA"). Elected State Historian, Vice President, and President. Won State competitions in Job Interview, and Sheet Metal.

Participated in Future Business Leaders of America ("FBLA"). State champion in the Economics competition.

College: Participated in multiple years of intramural basketball while at UNR.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

University of Utah College of Law (Now SJ Quinney), at the University of Utah
Juris Doctor awarded May 20, 2000
Ranked in top 30% of class. (Utah does not give specific class rankings.)

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

I worked hourly as a law clerk for the firm of Marvel & Kump, in Elko, Nevada during the summer break. I primarily provided case support and legal research as needed, drafted and reviewed pleadings and motions. I took on occasional projects during the school year from them as well, eventually hiring on as an associate after bar passage.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

Participated and competed in the law school's moot court competition. The competition involved legal writing and oral advocacy before multiple panels of judges, including Judges from the Utah District Court and Courts of Appeals.

Participated in the law school's Public Defender Legal Clinic. The year long program placed students within the Salt Lake Legal Defender's Office. Students were assigned misdemeanor cases to resolve or try on their own and participated in the defense of felonies under the guidance of experienced attorneys.

Played intramural basketball.

Law Practice

12. State the year you were admitted to the Nevada Bar.

2000

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

N/A

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	.5%
Juvenile matters	15%
Trial court civil	35%
Appellate civil	0%
Trial court criminal	45.5%
Appellate criminal	4%
Administrative litigation	0%
Other: Please describe	

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

My estimate would be 30 percent of my total litigation practice, both civil and criminal, would be set for jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

Between 3-5

19. List courts and counties in any state where you have practiced in the past five years.

I have practiced in Nevada only. I have practiced in Carson City (All levels), Storey County (District Court), Washoe County (all levels), Douglas County (all levels), Lyon County (all levels), Churchill County (District Court), Esmerelda County (all levels), and Clark County (District Court).

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

State of Nevada vs. Craig Stevens
Case name and date: State of Nevada v. Craig Stevens
Court and presiding judge and all counsel: 2 nd Judicial District.

<p>Honorable Judge Kosach, Presiding Judge. Eric Levin from the Attorney General's Office, Prosecutor.</p>
<p>Importance of the case to you and the case's impact on you.</p> <p>I represented the Defendant in multiple criminal cases in different courts on public corruption type charges. This case was the first of his charged matters to go to trial and was a zealously litigated matter. During pretrial motions, Judge Kosach suppressed video evidence of the crime. During trial, Judge issued a directed verdict of acquittal on one of two clusters of charges.</p> <p>After the close of the defense's case, the state requested the judge reconsider the pretrial suppression motion, which the Judge granted. Because my client and I had presented our case in reliance on the pretrial rulings, I argued the reversal was prejudicial to the defense, and the Judge also agreed with me. This resulted in a mistrial, over my objections, minutes before we expected to present closing arguments.</p> <p>It was a wild case, tough and fairly litigated. However, the end had both sides distressed. My client wasn't sure he would be able to afford another trial and liked his chances with the jury on the case we presented. The State was tasked with doing it all again as well. I draw on the memory of this case often, for the issues presented, but primarily for recognizing that steady and consistent case stewardship from the Judge will get the case to the jury, where it belongs. I strive for my court to be steady, efficient, and fair in every case.</p>
<p>Your role in the case: I was the defense attorney.</p>

<p>Case #2</p>
<p>Case name and date: State of Nevada v Jaden Rae Poole</p>
<p>Court and presiding judge and all counsel: The presiding Judge was Michael Gibbons. Laurie Trotter from the Douglas County District Attorney's office prosecuted the case. I was the defense attorney for the defendant.</p>
<p>Importance of the case to you and the case's impact on you:</p> <p>In this case I was hired to represent a juvenile on charges of Felony Eluding a Peace Officer and Assault with a Deadly Weapon on a Peace Officer. My client was charged with driving his vehicle directly at a police officer while eluding and refusing to stop. The case was eventually resolved with a Guilty Plea to Felony Eluding a Peace Officer.</p> <p>I challenged the certification to adult court unsuccessfully. I tried everything I could, within my role as his attorney, to keep my client out of prison. The youth of my client increased the pressure I felt. Multiple attempts at treatment were given by Judge Gibbons, with my hope that good presentence behavior would persuade the court to sentence my client to an alternative to incarceration. Despite my efforts, he was kicked out of residential treatment for bad behavior after it was clear it was his last chance. Judge Gibbons sentenced him to prison because he repeatedly demonstrated that he would not comply with probationary supervision.</p> <p>This case impacted me in that I tried everything I could think of to avoid a prison sentence. My client, a seventeen-year-old young man, lacked the maturity and the tools to appreciate the stakes or the real consequences for his choices. The severity of his substance use disorder, together with his</p>

immaturity, resulted in failure at every chance I convinced Judge Gibbons to give him, which were fair and ample. I didn't want this young man to go to prison, and but he needed more than my zealous legal representation I could provide.

I learned hard lessons in that case that, due to the age of the client, stick with me. I started the Carson City Misdemeanor Treatment Court as soon as I was able after taking the bench. My goal was (and is) to intercede with young addicts, partly because of this case. Finally, I resolved, despite my disappointments in this case, to continue to use the privilege of my profession to make a positive difference in lives where I can, to the best of my abilities.

Your role in the case:
Criminal Defense Attorney

Case 3

Case name and date:
Scatena v. Ott's Farm Equipment

Court and presiding judge and all counsel:
Judge Leon Aberasturi Presiding Judge.
John McCormick, Defendant's Attorney

Importance of the case to you and the case's impact on you:
This case was a civil bench trial in Fallon arising from a faulty tractor repair. It was a straightforward negligence case. It is important to me because it was the first civil trial after my time in the District Attorney's Office. The case involved expert witnesses, and multiple common legal issues that were not present in my experience as a prosecutor. I was able to try the case to a successful conclusion.

This case proved I could be an effective civil litigator. I effectively tried my first civil trial, and won a verdict for my client. I built upon that experience in my future litigation practice. Today when I handle my civil calendar, including bench trials, I am thankful I can draw upon civil practice experience.

Your role in the case:
Plaintiffs' Attorney.

Case 4

Case name and date:
Robinson Nevada Mining Company vs. Century Construction and Engineers, 2008

Court and presiding judge and all counsel:
Seventh Judicial District, Judge Steven Dobrescue Presiding.
Judge Andrew Puccinelli, Mediator
Gary Fairman, Attorney for Plaintiff Robinson Mining.

Importance of the case to you and the case's impact on you:
This case was a mechanic's lien and breach of contract case. My client had contracted with a mining company to design and build substantial mine mill machinery. After the design of the project and before construction began, the mine claimed my client did not perform satisfactorily and hired another company to build the project of the mine's alleged own design.

The mining company claimed that they used none of the designs my client provided, and that my client had breached the agreement. My client maintained that they had performed under the contract, were denied the opportunity to construct the machinery, and their work product was used in the construction that was done and were entitled to payment under the contract.

This case was a complex case, reliant on experts in engineering, mining, and construction. It required significant investigation and research, including tracking down former employees located out of state and interviewing them. I traveled with my clients on a site visit to the mine in Ruth, Nevada, to compare the blueprints with the machinery.

After doing a significant investigation, we agreed to mediation with Judge Puccinelli in Elko. The mediation was very successful for my client because we had done so much preparation to show the strength of our case.

I hadn't been litigating outside of criminal law for very long when I took that case. I handled the case entirely on my own and was able to get a great result for my client at an efficient cost. I have always realized that there is no substitute for diligence and preparation, this case reinforced that notion. This case informed me that I could successfully manage complex facts and technical litigation.

Further, I appreciated Judge Puccinelli's mediation efforts, which resulted in a just and fair settlement. His knowledge and experience was invaluable. The District Court's role in alternative dispute resolution may often be underappreciated but this case impressed upon me its value.

Your role in the case:

Attorney for CEntry Constructors and Engineers

Case 5

Case name and date:

State of Nevada v. Maximilanos Cisneros (Sentenced 2006)

Court and presiding judge and all counsel:

Judge Bill Maddox, Presiding Judge

Robert "Ben" Walker, Defendants Counsel

Importance of the case to you and the case's impact on you:

This was my first and only murder trial. It was the first murder trial in Carson City that a Deputy District Attorney prosecuted in anyone's memory. My bosses, Anne Langer and Noel Waters trusted me to try the case on my own, and it ended with a 2nd Degree murder conviction.

The defense was self-defense, and the case was a much closer call as the trial went on than I anticipated. Ben Walker, who I had done prior jury trials with, was an excellent defense attorney. I felt a lot of pressure to get a just verdict for many reasons, but probably most of all to bring justice to the victim's family and reward the trust placed in me. Diligence and preparedness brought me through that trial and I was relieved to see the gratitude from the victim's family after the verdict.

This case reminds me that despite the high volume of cases I handle, it is important to remember the one case before you is the most important case in the world to the people appearing before you. Not all cases are high profile murder cases, thank God, but every case deserves your best work.

Your role in the case:

Prosecuting Attorney

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

Yes

I am a full time Justice of the Peace and Municipal Court Judge in Carson City since 2011. In 2009 I served as a Judge Pro Tempore in Carson City.

The majority of my law career has been serving Carson City as a Judge. I am proud to have been appointed and elected twice to my position of Justice of the Peace.

22. Describe any pro bono or public interest work as an attorney.

Past instructor at the Nevada Post academy. The courses taught were “Crimes Against the Person” and “Miscellaneous Crimes.”

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

Current Member of the Nevada Judges of Limited Jurisdiction. Within that organization, I have held the offices of Board Member (2015), Vice President(2016), President-Elect(2017), President (2018), and Past President (2019). I have participated in the Association’s legislative committee and education committee. I am also a former member of the Washoe County Bar Association and First Judicial District Bar Association.

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am in compliance with my CLE requirements. My list of CLE courses I have attended within the past five years is:

Nevada Specialty Court Conference 11/2018

2019 Nevada Limited Jurisdiction Judges Winter Seminar 1/2019

NADCP All Rise 19 7/2019

Nevada Pretrial Risk Assessment Training for Nevada Judges 1/2020

2020 Nevada Limited Jurisdiction Winter Seminar 1/2020

Nevada Supreme Court Criminal Case Review 8/2020

Nevada Judicial Leadership Summit 5/2022

One Million DUI’s 9/2022

Nevada Specialty Court 2022 conference 10/22

Carson City Treatment Court Program 1/2023

2023 Nevada Limited Jurisdiction Judges Winter Seminar 1/2023

2023 Nevada Limited Jurisdiction Judges Summer Seminar 6/2023

RISE23 6/2023

2023 Nevada Legislative Review 8/2023

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I work for the Carson City Justice Court.

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

I worked my way through college from 1991 until 1998 by working for the Elko County School District, working in construction, warehouse, janitorial, and maintenance.

Runner for Walther Key law firm the school year of 1994/1995

I worked as a retail cashier the winter of 1996/1997.

Bartender/ Cook at the Spring Creek golf course, Summer 1997

Part-time faculty at Western Nevada College, I was the instructor for Torts and Criminal Evidence. 2006/07

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

a. The nature of the business- Solo Law Practice

b.

c. The nature of your duties- I was a sole practitioner with one limited part-time paralegal. I managed the entirety of the business, including bookkeeping, billing, purchasing, and law practice.

- d. The extent of your involvement in the administration or management of the business- As the sole practitioner I managed the entirety of the business.
- e. The terms of service- There were no terms of my service as I was the only person working for the business.
- f. The percentage of your ownership- My percentage ownership was 100%

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

Appointed executor of my Mothers will in 2018, my duties were to liquidate assets and settle debts. No assets were available to distribute to heirs.

Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

Yes

Have you been a candidate for such an office?

Yes

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

I was appointed to my current position in April of 2011. I won an opposed election in 2012, and another unopposed election in 2018. I currently hold the office.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Board Member-the Carson City Circles Initiative (2011-2018 approx)

Board Member for the Carson City Boys and Girls Club (2011-2015 approx)

Member -Nevada Judicial Discipline Commission. 2018-21

Vice-President of the Sierra Region Judicial Council 2012

Board Member and Officer (including president) for the Nevada Judges of Limited Jurisdiction 2015-2019

Participant in Partnership Carson City.

Instructor at Nevada Post-2006 (approx)

Faculty and Instructor-Nevada Judges of Limited Jurisdiction

Instructor of Torts and Criminal Evidence at Western Nevada College (2006/07).

Volunteer Coach-Little League 2017-2019

Volunteer Coach-Youth Basketball 2018-2023

Volunteer Coach-Flag Football Coach 2022-2023

Volunteer-AYSO referee 2017 (approx).

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

I have been an instructor multiple times for the Nevada Judges of Limited Jurisdiction, including both educational presentations and as an invited panelist. All courses were for Judicial Education Credit

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

33. List honors, prizes, awards, or other forms of recognition.

University of Utah College of Law William H Leary Scholar 1998 (top 20% of class at conclusion of the first year)

NJLJ Judge of the Year 2016

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

N/A

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

I enjoy hunting and fishing, especially fly fishing. I enjoy exploring the outdoors with my family as well as camping with them. I am currently involved in the activities of my children, whatever those are at the moment, but mostly homework and youth sports.

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

Yes.

I was cited for not wearing a seat belt in Maui, Hawaii. I paid the fine.

I was cited for failing to yield to an emergency vehicle in Shoshone County, Idaho. I exceeded the speed limit in the town of Shoshone, Idaho. I was on a hunting trip towing a trailer and didn't notice the officer behind me, due to the compromised view in my rear-view mirror. My music was too loud, and I didn't hear the siren at first either. When I noticed the officer, I pulled over immediately. He issued me a citation for a non-moving violation for my delay in pulling over. I paid the fine.

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

In Carson City, there are few criminal defendants or litigants that were former clients of mine. I keep a conflict list and over the past 12 years have recused on a small number of cases, that occasion is very rare today. I see no other reasons for recusal other than the requirements of the Judicial Canons in the ordinary course of court business.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

I applied to the Carson City Board of Supervisors for appointment to my current judicial position and was successfully appointed. 2011

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify

you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

I have spent the first half of my legal career practicing law from both the prosecution and defense side of the aisle. Additionally, my experience includes litigation and resolution of civil disputes as well. I am a well-rounded attorney, with a broad base of legal experience.

Furthermore, I have been a judge in Carson City for the second half of my career, since 2011. I have earned hundreds of hours of Judicial Education training in all relevant aspects of the profession, including a 26-credit course on judicial leadership at the National Judicial College. During my time on the bench, I have capably handled a busy docket with compassion and fairness.

My duties as a judge have seasoned me in matters of court administration as well as the community leadership expected of a sitting judge. I have educated other judges and learned much from them as well.

My proudest accomplishment is starting and presiding over the Carson City Misdemeanor Treatment Court (“MTC”). MTC provides drug treatment intervention for criminal defendants, enhancing justice, community safety, and positively impacting the lives of its participants and their families. I have helped build and maintain private and public partnerships to provide and improve needed services in Carson City, such as substance abuse treatment, transitional living, and crisis intervention.

My specific career and personal background qualify me for the position and informs this commission that I am the right person for the job.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

WRITING SAMPLES ATTACHMENT

**IN THE CARSON CITY MUNICIPAL COURT
IN AND FOR CARSON CITY, STATE OF NEVADA**

CARSON CITY,

Plaintiff,

vs.

HEATHER ELIZABETH WELDY

Defendant

) Case No.: 19 CR 01485 1C

) FILED:

) THOMAS R. ARMSTRONG
) JUSTICE OF THE PEACE

) **NOTICE OF NOT GUILTY VERDICT**

To: CARSON CITY, Plaintiff and: HEATHER ELIZABETH WELDY, Defendant.

You and each of you will please take notice:

This matter came before this court for trial on February 4, 2021 for the charges of Driving with a Revoked Driver’s License for Driving Under the Influence and Following too Closely. The Defendant was found guilty of Following too Close and the Matter was taken under submission for the Driving Revoked for DUI charge.

At the primary issue at trial was the sufficiency of notice that the Defendant’s license was revoked for a DUI, and the application of *Zamarripa v. First Judicial Dist. Court*, 103 Nev 638 (1987) to the issue. Simply put, *Zamarripa* establishes that the Defendant must have actual or

constructive notice of the revocation of her license for driving under the influence to satisfy the *mens rea* of the crime. Proof of mailing of the notice raises a presumption that it was received and, according to *Zamarripa*, that presumption can be challenged by the defendant.

The court finds, after consideration of the evidence presented at trial, that the presumption was successfully overcome by the Defendant. Particularly, the court recognizes the inaccurate legal information given to the defendant by her sentencing judge. That information, that her interlock requirement was waived, was reasonably relied upon by the defendant. As a result, she reinstated her license and chose to continue to drive. The notice of suspension was delivered to the Defendant's address of record a short time later. Further, the state established that the notice was delivered and signed for by the grandmother of the defendant.

However, no evidence established that the Defendant herself was made aware of the additional suspension time. Further, the court was convinced by the video evidence that the Defendant was genuinely unaware of the additional suspension of her license. The court found her reaction to be candid and revealed that she had no actual knowledge that the DMV had, again, suspended her driving license. Finally, the court finds that the notice was not actually received through no fault of the Defendant's.

The Court notes that if she hadn't been given inaccurate information by her sentencing judge, this result may have been different and constructive notice may have been sufficient. However, that is not the fact of this case. Judge Tiras indicated that he was excusing the defendant from the interlock requirement. The interlock is the sole requirement for obtaining a restricted license after the DUI conviction and avoiding an additional 90 suspension. With that requirement excused, it would be impossible to get an interlock restricted license. That absurd result was not the intention of Judge Tiras. While the Judge may not be statutorily authorized to fashion the intended result, that is, no additional term of suspension or interlock requirement, it was reasonable for the Defendant to rely upon that information. Additionally, the language of the

DL 45, together with the reinstatement of her license by the DMV after her sentencing in the Incline Court bolstered her belief she complied with the law.

The court finds that she did not receive the actual notice of suspension, which would have corrected the erroneous and incomplete information that she had received to that point. Further, because she was not culpable or dilatory in the failure of actual notice, the *mens rea* required for conviction in this case was not established beyond a reasonable doubt. The Court finds the Defendant NOT GUILTY.

IN THE JUSTICE AND MUNICIPAL COURT OF CARSON TOWNSHIP
IN AND FOR CARSON CITY, STATE OF NEVADA

THE STATE OF NEVADA,
Plaintiff,

ORDER OF CONVICTION

vs.

TREVOR WALKEM,
Defendant. /

I, Thomas Armstrong, Justice of the Peace, Department I of the Justice Court of Carson Township in and for Carson City, Nevada do hereby issue an Order of Conviction on this case.

In analyzing whether the defendant was in actual physical control of his vehicle while having greater than the per se amount of THC in his blood, this court is compelled to apply the facts of this case to the factors set forth in *Rogers v. State*, 105 Nev.230 (1989). No individual factor is dispositive of the issue, but all listed factors must be considered in the Court's

determination. Further, the court is not limited to consideration of only the *Rogers* factors¹, but may consider all of the evidence presented in making its determination.

“Obviously, the objective in requiring the arrest of those who are not driving but who are in actual physical control of a vehicle, is to prevent and discourage persons from placing themselves in control of a vehicle where they may commence or recommence driving while in an intoxicated state, notwithstanding the fact that they are not actually driving at the time apprehended.” *Rogers*, 105 Nev.230 at 233 (1989). Further, “[a] person is in actual physical control when the person has existing or present bodily restraint, directing influence, domination, or regulation of the vehicle.” *Id.*, 105 Nev.at 233 (1989).

It is without dispute that, in a Carson City location to which the public has access, the defendant was in the driver’s seat, upright, and awake in his vehicle. It is further without dispute that he drove to the location and had greater than the allowable amount of THC in his system upon his arrest. It is further noted that Mr. Walkem’s own witnesses establish that he must have driven to the area under the influence, as they all denied that Mr. Walkem ingested marijuana at the apartment prior to taking control of his vehicle.

It is, however, disputed whether at any time prior to law enforcement contact, the engine was running , the lights were on, and whether the keys were in the ignition. Officer Rivera, prior to contacting the vehicle, noticed the vehicles lights come on as if the vehicle were started, but could not recall if, upon contact with the driver, the keys were in the ignition at that time.

Defendant’s witnesses all claim that the keys were never in the ignition, and that fact was

¹ Where, and in what position, the person is found in the vehicle; whether the vehicle's engine is running or not; whether the occupant is awake or asleep; whether, if the person is apprehended at night, the vehicle's lights are on; the location of the vehicle's keys; whether the person was trying to move the vehicle or moved the vehicle; whether the property on which the vehicle is located is public or private; and whether the person must, of necessity, have driven to the location where apprehended.

specifically noted by Officer Rivera as a reason Mr. Walkem could not be arrested for driving under the influence.

The court finds the defense witnesses testimony that the keys were in the defendant's back pocket the entire time, including while he was sitting in the driver's seat preparing to drive home, to be illogical and not credible. It defies common sense that the driver of the vehicle would enter the vehicle with the immediate intention of driving said vehicle, and not utilize those keys to operate the vehicle. The court further finds Deputy Rivera's testimony that the vehicle appeared to have been started prior to making contact with the vehicle to be credible.

Detailed analysis of the disputed factors is unnecessary as this court finds that the undisputed factors alone are sufficient to support a conviction for DUI in this case. Further, outside of the *Rogers* factors, the court notes the City proved beyond all doubt that Walkem demonstrated, and took active steps to effectuate, an immediate intent to drive his vehicle. When the defendant took control of the vehicle as its driver, and prepared to drive the vehicle until interrupted by law enforcement, he clearly demonstrated existing or present bodily restraint, directing influence, domination, and regulation of the vehicle. His immediate and concurrent intent to operate the vehicle is established overwhelmingly by all of the evidence and is supported by an analysis of the *Rogers* factors.

The defendant is hereby found guilty of Driving Under the Influence.

PERSONAL STATEMENT

As a high school student in Carlin, Nevada, I participated in a “career day.” I had expressed an interest in being a Judge, and Judge Jack Ames agreed to let shadow him for a day. He was a Justice of the Peace then, and a District Court Judge when he swore me in as an attorney ten years later. My first exposure to the law, as it is practiced in real courtrooms and not in popular media, was enlightening and sobering. I have a lot of respect for Judge Ames, and after all this time, it is his humility and generosity that I remember the most.

I strive to be a good judge every day. I endeavor to hear every case with fairness, consistency, and compassion for all the interested parties. I recognize that a judge’s impact extends beyond the courtroom and affects more than the litigants in the case. Every day, I hope to humble myself to the responsibility of the position. If selected to this position, I will continue to do the same.

My path as an attorney has led to a well-rounded career background. My criminal law background includes prosecution and defense. My years in the private sector, both in a large firm and as a sole practitioner, have provided me with experience in civil law also. Perhaps most importantly, my time on the bench has given me the perspective to understand what it means to be a judge the public can rely on to be fair, consistent, and compassionate.

If I get anything across in this personal statement, it is that I apply for this appointment with a sense of responsibility and humility. I will give the community the best I can give, and my record over the past 12 years is there for all to see. Clearly the District Court and the limited

jurisdiction courts have significant differences, but I plan to approach both the same way. Doing the best I can, and striving to improve each day.

This personal statement asks me to state what sets me apart from the other candidates. I am not sure how to do that, except to tell you who I am. I have a strong educational background, with academic awards in both undergraduate and law school. I have successfully used those skills to develop my talents as a trial lawyer, with significant trial experience. A large portion of my career has been in service to the citizens of Caron City as a prosecuting attorney. I handled hundreds of cases, ranging from traffic violations to murder. I gained courtroom experience through numerous trials, motion hearings, and preliminary hearings. During that time, I gained invaluable empathy for the interests of victims, law enforcement officers, and witnesses. Furthermore, my experience granted me keen insight to the pressures and difficulties the State faces when prosecuting crime.

The remainder of my career as a practicing attorney has been in the areas of criminal defense and civil litigation. I equally enjoyed safeguarding the rights of the accused. My time as a defense attorney has impressed upon me an understanding of the interests and pressures facing the defendant and the defense bar, which are unique to the profession. As a judge, my experience from both sides has been an invaluable asset.

My time in civil practice gave me experience in simple and complex civil matters. Most of that time was spent in civil litigation. Early in my career, I handled family law cases, including contested divorces, and modification of child custody orders. I have drafted wills, trusts, and contracts, and worked on some business transactions also. In my career, I have worked for a large firm, a small firm, and a solo practice. I enjoyed my time as a sole practitioner, running a general practice. I am not sure if my well rounded legal career sets me

apart from other applicants, but I know that it has served me well as a sitting judge and recognize it as an invaluable asset on the bench.

My judicial career demonstrates my ability to preside over a court docket as a fair, reasonable, and compassionate judge. My docket consists of both civil and criminal matters, evictions, restraining orders, and small claims. In all types of cases, it is imperative that all parties get a full and fair hearing without hint of prejudice or bias from the court. I have continued to educate myself, having accumulated hundreds of hours of training. I use that training and 12 years of experience to make my court an excellent place for one's case to be heard. I consistently aim to demonstrate a judicious temperament and use my position to enhance the community.

The First Judicial District has a unique position amongst district courts due to its location in the capitol. I believe my talents and background have prepared me for the position should I be chosen. My legal experience is diverse and my years as a Justice of the Peace provide valuable judicial experience. Finally, my professional and personal reputation informs this commission of my fitness for the position as well. If selected I will honor the trust shown in me with diligence and competence. I will continue to honor the community, serving with humility and generosity. Thank you for your consideration.