

# APPLICATION FOR JUDICIAL OFFICE

## SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 65)

### PERSONAL INFORMATION

1. Full Name: **Nathaniel Todd Sorenson**
2. Have you ever used or been known by any other name? **No**
3. Office Address: **250 W. 2<sup>nd</sup> St., Suite G, Yuma, AZ 85364**
4. How long have you lived in Arizona? What is your home zip code? **36 years. 85364.**
5. Identify the county you reside in and the years of your residency. **Yuma County, 19 years.**
6. If appointed, will you be 30 years old before taking office?  yes  no  
If appointed, will you be younger than age 65 at the time of appointment?  yes  no
7. List your present and any former political party registrations and approximate dates of each: **Republican: June 1999 - Present**

8. Gender: **Male**

Race/Ethnicity: **Caucasian**

<b>EDUCATIONAL BACKGROUND</b>
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9. List names and locations of all post-secondary schools attended and any degrees received.

**Arizona Western College: August 1999 – May 2000 (No degree earned)**

**Brigham Young University: January 2004 – June 2007 (BS Education)**

**University of Arizona: August 2007 – May 2010 (Juris Doctor)**

10. List major and minor fields of study and extracurricular activities.

**Brigham Young University:**

- **Major – Social Science Teaching**
- **Minor – Coaching (not completed)**
- **Extra-curricular activities: Volunteer coach for youth sports**  
Intramural sports (flag football, softball, volleyball, soccer)

**University of Arizona:**

- **Religious Freedom Moot Court (Organizer and Team Captain)**
- **Student Bar Association (Elected Officer 2007 – 2010)**
- **Law School Curriculum Committee (Appointed Student Representative 2008 - 2010)**
- **Federalist Society (Member: 2007 – 2010; Elected officer: 2007 – 2009; Selected: National Leadership Conference Representative)**

**J. Reuben Clark Law Society (Member: 2007 – 2010; Elected officer 2009-2010)**

11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

**Arizona Western College:**

- **Honors Scholarship**
- **Honors Program Participant**

**Brigham Young University:**

- **Student Technician at BYU's Office of Information of Technology (January 2004 – June 2007)**
- **Storage Manager: Fort Knox Storage of Lehi (Dec. 2005 – June 2007)**

**University of Arizona:**

- **Certificate in Criminal Law and Policy**
- **Certificate in International Trade and Business Law**
- **Dean's Recognition Award**
- **Arizona State Bar Criminal Justice Section Book Scholarship**

**Outstanding Performance in Oral Advocacy**

<b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b>
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12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

**The Supreme Court and all other Courts of the State of Arizona  
Admitted to Practice: January 27, 2011**

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? **No**
- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state? **No**

14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	DATES	LOCATION
<b>Yuma County Attorney's Office</b>	<b>May 2011 – Present</b>	<b>Yuma, Arizona</b>
<b>Arizona Western College</b>	<b>Aug. 2013 - Present</b>	<b>Yuma, Arizona</b>
<b>Arizona State University</b>	<b>Aug. 2021 – Present</b>	<b>Yuma, Arizona</b>
<b>Seventh Judicial District of Nevada</b>	<b>Aug. 2010 – Apr. 2011</b>	<b>Ely, Nevada</b>

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

**Yuma County Attorney's Office**

**Roster:**

**Jon Smith** (County Attorney)  
**John Tate** (Chief Criminal Deputy)  
**William "Bill" Kerekes** (Chief Civil Deputy)

Joshua Davis-Salsbury  
 Karolyn Kaczorowski  
 Marissa Zhu  
 Mary E. White  
 Matthew Hansen  
 Meaghan Gallagher  
 Nathaniel T. Sorenson  
 Rachel Guerrero  
 Stephen "Steve" A. Kiholm

**Criminal Division:**

*(All attorneys listed are Deputy County Attorney's)*

Andrew Orozco  
 Brian Abbas  
 Charles "Charlie" Platt  
 Chris A. Weede  
 Dallin Marcy  
 Griselda Cordova  
 James "Jim" Eustace

**Civil Division:**

*(All attorneys listed are Deputy County Attorney's)*

Jessica Holzer  
 Minda Davy  
 Theresa Fox

All attorneys at the office may be reached by calling 928-817-4300 asking for the attorney by name.

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

**I am a prosecutor with the Yuma County Attorney's Office. My practice consists entirely of Criminal Law. I have spent significant time handling misdemeanor, juvenile, probation violation, and felony caseloads.**

17. List other areas of law in which you have practiced.

**None**

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

**None**

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

**I served as a clerk for two judges from the Seventh Judicial District Court of Nevada, where I drafted proposed orders for review by the judges. I was assigned motions by the judges, and I was responsible for reading the briefs, conducting research, and drafting a proposed order. After discussing the case and proposed order with the judges, I drafted a final copy for the judge to edit and file. Under the guidance of these judges, I drafted approximately thirty orders.**

**I have negotiated approximately 1500 misdemeanor cases, 950 juvenile cases, and 900 felony cases. Each case was a contested case. I was responsible for drafting the plea agreements presented to the court in all of the felony and juvenile cases, and in a substantial number of the misdemeanor cases.**

**I regularly draft motions and responses. In addition to common motion issues such as suppression and remand, I successfully drafted a response to a probationer's motion for a card under the Arizona Medical Marijuana Act.**

**Additionally, I worked with the Yuma County Narcotics Taskforce to write and refine the language used in search warrants and warrant returns.**

20. Have you practiced in adversary proceedings before administrative boards or commissions?

**No**

Applicant Name: Nathaniel T. Sorenson

21. Have you handled any matters that have been arbitrated or mediated?

**No**

22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case.

**State v. Natasha Turriff (S1400CR2013-637, -092, -0170, -0617, and -638)**

**Date: 11/17/2012 – 4/8/2014**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**

**928-388-4300**

**Defendant: Richard Edgar**

**200 S. 2<sup>nd</sup> Ave.**

**Yuma, AZ 85364**

**[richard@yumaabogados.com](mailto:richard@yumaabogados.com)**

**928-539-0500**

**Summary: I charged five separate cases involving burglaries and possession of stolen property. None of the cases had high dollar amounts, and nearly all of the items were recovered. The defendant had no prior criminal history, and a drug habit. I negotiated two years of probation in each case with all terms served consecutively. This resulted in a total of ten years of probation.**

**Significance: The defendant is almost halfway through the probation period, and is current with fines, fees, and restitution. She has had no relapses, and is complying with all terms of probation. A creative solution was found to get the defendant help to prevent recidivism, while**

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**State v. Richard Limones (S1400CR2013-806)**

**Date: 7/18/2013 – 5/5/2014**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**

**928-388-4300**

**Defendant: Victoria Thompson**

**202 S. 1<sup>st</sup> Ave.**

**Yuma, AZ 85364**

**[lawyervic58@gmail.com](mailto:lawyervic58@gmail.com)**

**928-246-1840**

**Summary: An adult and a juvenile used a shotgun to rob five liquor stores. The adult was coercing the juvenile to go into the stores. The juvenile was dating the adult's daughter, so the juvenile felt a lot of pressure to accompany the adult and do as he said. There was also evidence of threats by the adult against the juvenile. I pled the case out to 9 counts where the juvenile served 6.5 years on each count concurrently.**

**Significance: I saw the importance of pleading out multiple counts in order to give the victims closure, but still using the concurrent sentencing to get a just result for the defendant. I learned that each person involved with a case needs to be considered when seeking a resolution.**

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**State v. Nolan Williams (2014-JV-0851)**

**Date: 1/16/2015 – 8/28/2015**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**

**928-388-4300**

**Defendant: W. Michael Smith**

**113 W. Giss Parkway**

**Yuma, AZ 85364**

**[wms@bowmansmith.com](mailto:wms@bowmansmith.com)**

**928-783-8879**

**Summary: A freshman football team was practicing, when one boy on the team punched another boy on the team. The victim sustained a fracture to the orbital bone in his eye, which pinched the nerve and cause severe and permanent damage to the eye and the ability of the eye to move. There was some evidence that the defendant was being bullied, and that the victim had made a comment to the defendant. The defendant was charged with a Class 2 felony aggravated assault. I pled the case out to a Class 1 misdemeanor assault with full restitution.**

**Significance: This was a case that was handled in Juvenile court. I was assigned the case after some complaints by the victim's mother regarding another prosecutor. I took over the case, and had it set for trial. I offered a plea to a misdemeanor assault, but the plea was rejected by the defendant's mother. I felt that a felony was too harsh a punishment for the defendant given the totality of the case, so I worked with the defense attorney to ensure that the defendant was able to make his voice known. I also worked with the victim to ensure that his voice was heard throughout the proceeding. The victim's parents were very involved, and it was a difficult balancing act. But I was able to learn how to see beyond the multitude of voices to the heart of the issue and work toward a just and right resolution.**

Applicant Name: Nathaniel T. Sorenson



23. Have you represented clients in litigation in Federal or state trial courts? **Yes**  
If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: **0**  
State Courts of Record: **2000**  
Municipal/Justice Courts: **1600**

The approximate percentage of those cases which have been:

Civil: **0**  
Criminal: **100**

The approximate number of those cases in which you were:

Sole Counsel: **3590**  
Chief Counsel: **5**  
Associate Counsel: **5**

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion: **0**  
You argued a motion described above **15**  
You made a contested court appearance (other than as set forth in the above response) **60**  
You negotiated a settlement: **99**  
The court rendered judgment after trial: **.9**  
A jury rendered a verdict: **.1**

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The number of cases you have taken to trial:

Limited jurisdiction court	17
Superior court	8
Federal district court	0
Jury	7

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

24. Have you practiced in the Federal or state appellate courts? **No**
25. Have you served as a judicial law clerk or staff attorney to a court? **Yes** If so, identify the court, judge, and the dates of service and describe your role.

**I clerked in the Seventh Judicial District of Nevada from August 2010 through April 2011. I drafted proposed orders, and I travelled with the judges to outlying communities to hear cases and observe court proceedings. I also assisted in the administration of the Drug Court program for the District. I learned to sort through pleadings, identify the issues, and then research case law and statutes looking for the just outcome on each issue. I learned a lot of information that went beyond just case law. I saw that facts can obscure the law, so the judges showed me how to apply the law consistently regardless of the facts.**

**The court covered a prison, so I had the opportunity to work on motions and pleadings from the prisoners. I read 30 page motions written in pencil, or sometimes crayon, looking at issues as varied as requests for extra time in the library to requests for particular diets. It was interesting work, and helped me remember the importance of getting it right when working on a case.**

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26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

**Caption: State v. Oscar Manuel Ayon (J1401MS2010-365)**

**Date: 12/1/2010 – 8/17/2011**

**Court: Yuma County Justice Precinct 1; Courtroom B**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**

**928-388-4300**

**Defendant: Tori Bryant**

**1390 Santa Alicia #15102**

**Chula Vista, CA 91910**

**[tbryant\\_attv@yahoo.com](mailto:tbryant_attv@yahoo.com)**

**619-272-1272**

**Summary: This case was a misdemeanor case involving the possession of drug paraphernalia found in an oven. The detectives told me they had mail with the defendant's name and address consistent with the house where the pipe was found in the oven. At trial, the first question the defense attorney asked was "Where was the oven?" The answer was the oven was found in the backyard. There was no fence and anyone had access to the yard and the oven. I lost the trial at the Rule 20 motion.**

**Significance: This was my first trial as a new attorney. It stands out to me because of the lesson learned: always ask where the oven was located. I learned not to take everything at face value. Ask the next question. Get all of the information that you can obtain. Make sure that the story is fully fleshed out prior to asking the first question at trial.**

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**Caption: State v. Christopher Michael Cartier (S1400CR2011-0120)**

**Date: 1/12/2011 – 2/1/2013**

**Court: Yuma County Superior Court Division 5**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**

**928-388-4300**

**Defendant: German Salazar**

**168 S. 2<sup>nd</sup> Ave.**

**Yuma, AZ 85364**

**[german.salazar@yumacountyaz.gov](mailto:german.salazar@yumacountyaz.gov)**

**928-817-4600**

**Summary: This case involved a defendant who, while high on methamphetamine, drove out to a former employer and shot a rifle through the windows and walls of the house. The two victims who lived there were home and sleeping when this occurred. When they awoke and went in to the living room, more shots were fired.**

**Significance: This was my first experience in a jury trial. I was preparing for a jury trial of my own, so I asked to join another prosecutor as second chair on this trial. It was a learning experience to see what practicing in front of a jury was like. The defendant was convicted on all counts.**

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**Caption: State v. James Albert Travis (S1400CR2012-506, -876, and -970)**

**Date: 5/4/2012 – 6/19/2013**

**Court: Yuma County Superior Court Division Four**

**Parties:**

**State: Nathaniel T. Sorenson**

**250 W. 2<sup>nd</sup> St., Suite G**

**Yuma, AZ 85364**

**[nathaniel.sorenson@yumacountvaz.gov](mailto:nathaniel.sorenson@yumacountvaz.gov)**

**928-388-4300**

**Defendant: Paul Kittredge\***

**201 S. 2<sup>nd</sup> Ave.**

**Yuma, AZ 85364**

**[paul.kittredge@yumacountvaz.gov](mailto:paul.kittredge@yumacountvaz.gov)**

**928-817-4650**

**\*Paul Kittredge retired from the practice of law and relocated to the Phoenix, Arizona area. I am unable to locate his new contact information.**

**Summary: These cases involved two Possession of Dangerous Drugs for Sale cases and one case of fraud. I lost the first case involving a traffic stop where the information received by police came from a former girlfriend of the defendant. She testified at trial and was very hostile toward the defendant. The defense attorney used that hostility to build a defense that the girlfriend set up the defendant. The defendant was found not guilty on all charges. The defendant was convicted on all charges of the next two cases. A different agency used a confidential informant to buy drugs from the defendant. A search warrant was obtained and executed at the defendant's residence. The defendant was found in the kitchen with baggies of methamphetamine, a scale, methamphetamine cut into lines, and other paraphernalia. The defendant was receiving text messages while the police were searching from people looking to buy drugs. The defendant was arrested and his truck and title were seized as part of the investigation. The second case involved the defendant posting bond, and then obtaining a copy of his truck title from a secondary DMV vendor. He used this title to obtain a title loan even though his truck was seized by officers and not in his possession. He later went back to the title loan store and told them that he would not pay the loan back until he received his truck back. He never made any payments on the loan. Two different juries found the defendant guilty on all charges in each case.**

**Significance: These three cases were heard back to back to back. It was a stressful experience because it was my first solo jury trial, and I lost the first one. I brought on a second chair for the next two trials to assist in making sure I was covering all of the necessary material. I learned to manage a case better from start to finish. I found that by allowing the cases to stack up, I was pressured into taking the cases into trial without adequate time to prepare each individual case. Case management is important.**

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**Caption: State v. Jason Cooper (2015-JV-0388)**  
**Date: 5/19/2015 – 7/17/2015**  
**Court: Yuma County Juvenile Court, Commissioner 1**

**Parties:**

**State: Nathaniel T. Sorenson**  
**250 W. 2<sup>nd</sup> St., Suite G**  
**Yuma, AZ 85364**  
**[nathaniel.sorenson@yumacountyaz.gov](mailto:nathaniel.sorenson@yumacountyaz.gov)**  
**928-388-4300**

**Defendant: Denise Avila-Taylor**  
**2440 W. 28<sup>th</sup> St.**  
**Yuma, AZ 85364**  
**[denise.avilataylor@gmail.com](mailto:denise.avilataylor@gmail.com)**  
**928-257-0168**

**Summary: A juvenile fought a resource officer at the high school. The resource officer was a police officer on assignment to the school. The testimony showed that the officer had a “quarter sized abrasion on his arm.” Video evidence of the fight was shown where the officer tried to diffuse the situation, but the juvenile attacked the officer. The juvenile was charged with aggravated assault on the officer. The judge found that there was no physical injury, so the juvenile was found not responsible on all charges.**

**Significance: This was a difficult case for me. I lost a case that I should have won, and there was nothing I could do about it. The judge simply made a ruling that I believe was wrong and based on inaccurate application of law to facts. The judge ignored the evidence to get to a resolution that was desired, instead of using the law to reach a just conclusion. I learned a valuable lesson on applying the law correctly and consistently in all situations.**

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**Caption: State v. Lionel Rios (S1400CR2012-1076)**  
**Date: 9/26/2012 – 12/20/2013**  
**Court: Yuma County Superior Court Commissioner 3**

**Parties:**

**State: Nathaniel T. Sorenson**  
**250 W. 2<sup>nd</sup> St., Suite G**  
**Yuma, AZ 85364**  
**nathaniel.sorenson@yumacountvaz.gov**  
**928-388-4300**

**Defendant: Kristi Riggins\***  
**168 S. 2<sup>nd</sup> Ave.**  
**Yuma, AZ 85364**  
**kristi.riggins@yumacountvaz.gov**  
**928-817-4600**

**\*Kristi Riggins retired from the practice of law and relocated to the Phoenix, Arizona area. I am unable to locate her new contact information.**

**Summary: Defendant was an employee at a care home watching over severely disabled adults. While at work, the defendant stomped on the victim's stomach leaving a red mark. I lost a pre-trial motion requesting to bring in the defendant's poor behavior at work over the weeks leading up to the incident. The defendant was demoted approximately 3 weeks prior to this incident for a clerical error he made. I was motioning to admit this evidence as other act evidence showing motive. The judge precluded the evidence.**

**Significance: I learned that no matter how good I think I have prepared, there is always something that can derail a case. I had discussed the possibility of that testimony being precluded, and asked the victim representatives if they would like me to offer a better plea. They asked me to take the case to trial. I did, and the defendant was found not guilty on all charges.**

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

**Not applicable**

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28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

**Not applicable**

29. Describe any additional professional experience you would like to bring to the Governor's attention.

**My diversity of practice distinguishes me from other attorneys. I have practiced for at least a year each in the Felony, Misdemeanor, Violation of Probation, and Juvenile sections of a prosecutor's office. I have extensive experience in all areas of criminal law.**

**Clerking for two judges gives me unique insight into judicial functioning. I learned about keeping a straight face on the bench regardless of what is being said or done in the courtroom. Judicial temperament is an important characteristic, and I learned early in my career to maintain my composure in all situations. This attribute will serve me well on the bench.**

**My clerkship also provided a breadth of experience in many different areas of the law. And I also gain a breadth of legal experience through my teaching. I teach at Arizona Western College in the paralegal program. I teach substantive areas of the law including Business, Probate, Contracts, Criminal Law and Procedure, and introductory courses for paralegals. I spend time learning the substantive law. But I also spend time interacting with the students and teaching them how to think critically.**

**I serve as a Bishop in my church. This involves me spending hours a week counseling with members having problems. I also oversee church discipline of all members in my 650 person congregation. This involves interviewing the people involved and counseling with them on issues they are having. I get to interact with people going through hard times, and I develop empathy and sympathy for the problems they are having. I also learn to see through all of the information to the heart of the issues they are having. I dig down to the root cause, and look for ways to resolve those issues. This is a unique opportunity that I have, which I see as invaluable experience in someone taking the bench.**

**I also serve as a seminary teacher. I spend every school day teaching a bible study class at 6:15 am to high school students. In addition to teaching college courses, this seminary teaching experience helps me connect to my community.**

Applicant Name: Nathaniel T. Sorenson



**BUSINESS AND FINANCIAL INFORMATION**

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14?

**No**

31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise?

**No**

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are appointed

**Not applicable**

32. Have you filed your state and federal income tax returns for all years you were legally required to file them?

**Yes**

33. Have you paid all state, federal and local taxes when due?

**Yes**

34. Are there currently any judgments or tax liens outstanding against you?

**No**

35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support?

**No**

36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce?

**No**

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37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest?

**No**

38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties?

**No.**

<b>CONDUCT AND ETHICS</b>
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39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity?

**No**

40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation?

**No**

41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.

**Not applicable**

42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice.

**Not applicable**

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.

**Not applicable**

Applicant Name: Nathaniel T. Sorenson

44. List and describe any sanctions imposed upon you by any court.

**Not applicable**

45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction?

**No**

46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law?

**No**

47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency?

**No**

48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs?

**No**

49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings?

**No**

**PROFESSIONAL AND PUBLIC SERVICE**

50. Have you published or posted any legal or non-legal books or articles?

**No**

Applicant Name: Nathaniel T. Sorenson

51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

**Yes**

52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? **Yes**  
If so, describe.

**I teach in a paralegal program at Arizona Western College. Courses taught include Introduction to Paralegalism, Business Law, Bankruptcy Law, Criminal Law, and Probate Law. In Criminal Law, Business Law, and Probate Law, I cover the substantive portions of the law applicable. The majority of the Business Law course is spent on contracts, with a small part of the class spent on organizations. The probate law course goes through the components of a will and then spends a small part of the course covering trusts. The Introduction to Paralegalism course is a survey course where I attempt to introduce the students to the legal world and legal discussions.**

**I also teach in the ASU Criminal Justice program housed in Yuma. I taught a course titled Law and Social Control and a course titled Community Corrections. These are upper level courses for Juniors and Seniors.**

53. List memberships and activities in professional organizations, including offices held and dates.

**Arizona State Bar**

**Yuma County Bar**

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar?

**No**

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

**Not applicable**

Applicant Name: Nathaniel T. Sorenson

54. Describe the nature and dates of any relevant community or public service you have performed.

**I have volunteered with the Boy Scouts of America organization since July 2014. I work with the boys in my troop on scouting activities. I work on training the boys to help them plan and execute the activities. I earned my Eagle Scout award and have worked diligently to teach and train boys in a similar manner to give back to the scouting program.**

**Through church, I have the opportunity to work with young men and young women as they go through high school. I see the learning and maturing as they prepare to head out into the world and carve out their place in it. This is a joy as I teach and learn with them.**

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

**I received my Eagle Scout award at 18 years old. I have served as a volunteer scouter for most of the past 18 years.**

**After only five years at the Yuma County Attorney's Office, I was promoted to a supervisory role where I hire and train new attorneys.**

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

**Precinct Committeeman: Elected Nov. 2016 for two year term beginning Jan. 2017.  
Candidate for Superior Court Judge, Division 1: I ran in the 2020 General Election.**

Have you ever been removed or resigned from office before your term expired?

**No**

Have you voted in all general elections held during the last 10 years?

**Yes**

57. Describe any interests outside the practice of law that you would like to bring to the Governor's attention.

**I enjoy spending time with my family watching movies and playing games. I love spending time at the library reading and listening to books. My sons and I like to watch games together. And I always relish seeing my kids work on their hobbies.**

**I participate in a fantasy football league with some of the judges and lawyers in the county. There is no money involved, just a little friendly trash talk.**

Applicant Name: Nathaniel T. Sorenson

## HEALTH

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying?

**Yes**

## ADDITIONAL INFORMATION

59. Provide any information about yourself (your heritage, background, life experiences, etc.) that you would like the Governor to consider.

**I have lived all over Arizona. I have lived in small towns and big cities. I love this state. I moved to Yuma when I was 11 years old. I left Yuma at 19 to serve a church mission in Ireland. I lived in Dublin, Ireland and Belfast, Northern Ireland. I learned to love the Irish for their cultural beauty and their open hearts.**

**I returned home and began applying to college. I enrolled at Brigham Young University in Provo, UT, and I graduated in June 2007 with a degree in Secondary Education. I enjoy the pursuit of knowledge and the opportunity to share that knowledge with others. In high school, the teachers I admired most came from other vocations to teach later in life. So I decided that I would pursue other occupations and teach later.**

**I decided on law school. I attended the University of Arizona, graduating in May 2010. I received a certificate in International Trade and Business Law and in Criminal Law and Policy. This allowed me to take a broad spectrum of classes and teachers. I gained a solid foundation in the law.**

**Following law school I clerked for a court in Nevada, and then received an offer to move back to Yuma and work for the prosecutor's office. It is an opportunity that was, and is, a blessing to me and my family.**

**I know that I will serve with honor and uphold the Constitution of Arizona and the Constitution of the United States.**

60. Provide any additional information relative to your qualifications you would like to bring to the Governor's attention.

**I live an ethical life based in principle and law. I believe in the ability of law to bring all people together. I will act accordingly if given the opportunity to serve in this position.**

Applicant Name: Nathaniel T. Sorenson

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location?

**Yes**

62. Attach a brief statement explaining why you are seeking this position.

**See attached.**

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public.

**See attached.**

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than two written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public.

**Not applicable**

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews.

**Not applicable**

Applicant Name: Nathaniel T. Sorenson

**-- INSERT PAGE BREAK HERE TO START SECTION II  
(CONFIDENTIAL INFORMATION) ON NEW PAGE --**

Applicant Name: Nathaniel T. Sorenson



**-- INSERT PAGE BREAK AFTER ALL CONFIDENTIAL CONTENTS, TO START REMAINDER OF APPLICATION (INCLUDING ATTACHMENTS) ON NEW PAGE --**

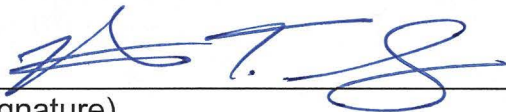
Applicant Name: Nathaniel T. Sorenson

**WAIVER OF CONFIDENTIALITY AND RELEASE OF INFORMATION**

I Nathaniel T. Sorenson hereby authorize the committees of the State Bar of Arizona, all bar associations, references, employers, credit reporting agencies, business and professional associations, and all government agencies to release to the State of Arizona, Office of the Governor any information requested by the State of Arizona, Office of the Governor in connection with the processing of my request for consideration as a candidate for judicial office. I understand that the fact that I have applied and all responses provided in Section I of the application are not confidential and the information provided may be verified and is subject to public disclosure.

Upon submission of this application to the State of Arizona, Office of the Governor, I expressly consent to the release of my name and the contents of Section I of this application to the public. Furthermore, I waive the benefits of any statute, rule, or regulation prescribing confidentiality of records or information that is disclosed in Section I. I understand that it may become public record.

All of the statements made in this application are true and correct to the best of my knowledge, and submission expresses my willingness to accept appointment to the judicial position for which I have applied, should I be selected by the Governor of the State of Arizona.

  
\_\_\_\_\_  
(Signature)

12 Aug. 2022  
\_\_\_\_\_  
(Date)

Applicant Name: Nathaniel T. Sorenson

**Attachment for Question 62.**

**I have spent my life serving others. I look for opportunities to serve my family, my community, and my God. I view this not as an opportunity for me to advance my career, but as an opportunity to better serve my community.**

**Yuma is my home, and Yuma deserves great judges who will apply the law to the facts in a manner that is fair, honest, and equal. There is no room for bias and opinion on the bench. The office of judge requires an equitable and fair analysis of each case. This is a skill that I have honed in my years of raising children, prosecuting cases, and serving the members of my congregation. I have opportunities daily to hear about issues and weigh out the evidence. These opportunities sometimes come in small situations such as my children arguing over what television show to watch. But I also have opportunities to assist couples with marital problems and parents having issues with children. In each case, I sit and listen to the information provided. I ask questions designed to elicit information necessary to resolving the issue. And I often find ways to help the person or people to find a solution on their own.**

**I understand that serving as a judge is a stressful position, and I have experienced this type of stress in many circumstances. I have sat on councils where I disagree with the majority of persons involved. But I speak my mind and argue my position carefully and thoughtfully. Just as I would carefully and thoughtfully outline my orders if selected to serve as a judge.**

**Most importantly, I desire to serve as a judge in Yuma, Arizona, because I believe that I am most capable of making Yuma a better community by serving as a judge. I believe in my skills and abilities, and I believe in the system. I know that I can assist people in making changes in their life, and I guide people in positive decision making processes.**

**Attachment for Question 63.**

**First Writing Sample**

**This is a motion response I drafted for a felony case in front of Commissioner 3 of the Yuma County Superior Court. This document is part of the public record, so there are no redactions to the document.**

**Attachment for Question 63.**

Applicant Name: Nathaniel T. Sorenson

1 JON R. SMITH  
YUMA COUNTY ATTORNEY

2 NATHANIEL T. SORENSON  
3 DEPUTY COUNTY ATTORNEY  
4 Arizona State Bar No. 028367  
5 250 W. Second St., Ste G  
6 Yuma, Arizona 85364  
7 (928) 817-4300  
8 Nathaniel.sorenson@yumacountyaz.gov

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
10 IN AND FOR THE COUNTY OF YUMA

11 STATE OF ARIZONA,  
12 Plaintiff,

13 vs.

14 MICHELLE C. GRECO,  
15 Defendant.

No. **S1400CR2014-0938**

Division: **COMM. II (ROUFF)**

**STATE'S RESPONSE TO DEFENDANT'S  
MOTION TO COMPEL DISCLOSURE OF  
CONFIDENTIAL INFORMANT**

16 COMES NOW the State of Arizona, through the Office of  
17 the Yuma County Attorney, by and through the undersigned deputy,  
18 responding to defendant's Motion to Compel Disclosure of  
19 Confidential Informant filed on November 18, 2014. The State asks  
20 this Court to deny the defendant's motion. This response is  
21 supported by the attached Memorandum of Points and Authorities.

22 RESPECTFULLY SUBMITTED this \_\_\_\_ day of **DECEMBER, 2014.**

23 JON R. SMITH  
24 YUMA COUNTY ATTORNEY

25  
26 NATHANIEL T. SORENSON  
27 DEPUTY COUNTY ATTORNEY

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 FACTS

3 Between August 5<sup>th</sup> and 7<sup>th</sup>, 2014, a reliable, confidential  
4 informant provided information that the defendant possessed  
5 methamphetamine at her house located at 560 N. Somerton Ave. The  
6 informant also saw the defendant use methamphetamine.

7  
8 Based on the information provided, the Yuma County Narcotics  
9 Task Force obtained a search warrant for the defendant's property  
10 and person. In preparing the affidavit for the search warrant,  
11 Agent Gorgue of the Task Force used a law enforcement data base  
12 to obtain the vital statistics of the named subject of the search  
13 warrant. The database showed Michelle C. Greco as an Hispanic  
14 female who was six feet, two inches tall and weighed 175 pounds.  
15 The database also contained a picture. The search warrant was  
16 signed by a judge after the officers swore to the information  
17 contained in the affidavit.

18 The day prior to executing the search warrant, Agent Gorgue  
19 drove past the defendant's house and saw the defendant in front  
20 of the house. The defendant matched the picture in the database  
21 of Michelle C. Greco. Based on that information, the Yuma County  
22 Narcotics Task Force executed the search warrant August 8, 2014.

23  
24 The Task Force found 22.4 grams of methamphetamine and 43.6  
25 grams of marijuana. Officers located a scale with residue near  
26 the drugs. In addition to the scale, there was a stack of plastic  
27 squares cut from plastic bags consistent with packaging

1 methamphetamine for sales. A handgun was hidden in the couch  
2 cushion immediately next to where the drugs were sitting. The  
3 defendant was sitting on the couch within reach of the drugs and  
4 gun when the Task Force executed the search warrant.

5       Persons other than the defendant were present during the  
6 search; however, the defendant admitted possessing and selling  
7 methamphetamine and marijuana. Based on the physical evidence and  
8 the defendant's statements, the defendant was charged with  
9 Possession of Dangerous Drugs for Sale along with seven other  
10 charges. The State only used the confidential informant's  
11 information to obtain the warrant, and does not intend to use the  
12 informant for proof of guilt at trial.

#### 14 **The Defendant's Arguments**

15       The Defendant argues that the confidential reliable  
16 informant provided an inaccurate description of the defendant  
17 which might provide a defense to the charges.

#### 18 **Law**

19       Arizona Rules of Criminal Procedure Rule 15.4(b)(2) states:

#### 20       **b. Materials Not Subject to Disclosure.**

21       (2) *Informants*. Disclosure of the existence of  
22 an informant or of the identity of an informant  
23 who will not be called to testify shall not be  
24 required where disclosure would result in  
25 substantial risk to the informant or to the  
26 informant's operational effectiveness, provided  
27 the failure to disclose will not infringe the  
28 constitutional rights of the accused.

1 Rule 15.4(b)(2) codified the holding in *Roviaro v. United*  
2 *States*.<sup>1</sup> Arizona courts also adopted the *Roviaro* standard.<sup>2</sup>

3 The *Roviaro* standard requires a balancing by the trial  
4 court when determining whether to require disclosure of a  
5 reliable confidential informant.<sup>3</sup> The balancing test weighs the  
6 "public[']s interest in protecting the flow of information,  
7 against the individual's right to prepare his defense."<sup>4</sup> The  
8 test weighs three factors:

- 9 1) the level of the informant's activity;
- 10 2) the helpfulness of the disclosure to the asserted  
11 defense; and
- 12 3) the government's interest in non-disclosure.

13 Arizona's Supreme Court says "a defendant seeking to  
14 overcome the basic policy of protecting an informant's identity,  
15 has the burden of proving that the informant is likely to have  
16 evidence bearing on the merits of the case."<sup>5</sup> Speculation on an  
17 informant's knowledge is not enough to force disclosure of the  
18 informant's identity.<sup>6</sup> The defendant must show that the  
19 informant is a material witness who can testify on issues  
20 pertaining to the guilt of the defendant.<sup>7</sup>

21  
22  
23  
24 1. 353 U.S. 53, 77 S.Ct. 623, 1 L.Ed.2d 639 (1957)

25 2. *State v. Tisnado*, 105 Ariz. 23, 458 P.2d 957 (1969).

26 3. *Id.* at 24, 458 P.2d at 958.

27 4. *Id.*

28 5. *State ex rel. Berger v. Superior Court*, 111 Ariz. 429, 430, 531 P.2d 1136,  
1137 (1975)

6. *State ex rel. Berger*, 111 Ariz. at 430, 531 P.2d at 1137.

7. *State v. Grounds*, 128 Ariz. 14, 15, 623 P.2d 803, 804 (1981).



1) **The informant's involvement was limited to obtaining the search warrant.**

This case is analogous to *State v. Dixon*, where the defendant argued mistaken identity.<sup>8</sup> The court in *Dixon* held, "Since the informant's information was used only to support the issuance of the warrant and did not pertain to any sales transactions, nondisclosure did not hamper appellant's defense."<sup>9</sup>

Similarly, in this case, the informant was not present at the execution of the search warrant. Thus, the informant cannot testify to the events of that day. Assuming, arguendo, that the informant saw a tall, Hispanic woman possessing drugs at the same address on a different day, that testimony would not only be irrelevant, but it also would not help the defendant in light of her own incriminating statements made during the execution of the search warrant.

2) **The informant cannot provide any information which would assist the defense.**

The defense has not made the necessary showings to overcome the privilege as stated in Rule 15.4(b)(2) of the Arizona Rules of Criminal Procedure. The defense asserts that the informant has information regarding another person who possessed drugs at the address identified in the search warrant. Because the defendant identified herself as the person named in the warrant

---

8. *Dixon*, 125 Ariz. 442, 444, 610 P.2d 76, 78 (1980).

9. *Id.*

1 and admitted possessing and selling drugs, there is no issue as  
2 to who possessed the drugs found pursuant to the warrant. Thus,  
3 information about a possible third party possessing drugs is  
4 irrelevant and would not aid the defense at trial.

5         The facts in this case also conform to the facts in *State*  
6 *v. De La Cruz*.<sup>10</sup> In *De La Cruz*, the informant was not disclosed  
7 because the court found: 1) there were other people in the house  
8 with the defendant at the time the warrant was executed who  
9 could serve as material witnesses; 2) the informant was not  
10 present when the arrest occurred; 3) the informant's information  
11 was not used against the defendant except to obtain the warrant;  
12 4) the record at trial corroborated the defendant's story; and  
13 5) testimony was provided that the informant's life was in  
14 danger if the identity was revealed.<sup>11</sup>

16         In the instant case, there were two other people in the  
17 trailer with the defendant when the warrant was executed. The  
18 informant was not present when the warrant was executed, and the  
19 informant's information was used only to obtain the warrant. The  
20 informant's information was not presented to the grand jury, and  
21 will not be used by the State at trial. Finally, the affidavit  
22 for the warrant states that the informant's identity should be  
23 protected to protect the informant's personal safety and to  
24 protect the informant's future usefulness to law enforcement.

---

26 10. *De La Cruz*, 19 Ariz.App. 166, 505 P.2d 1057 (1973).

27 11. *Id.* at 168, 505 P.2d at 1059.

1 3) Disclosure of the informant's identity in this case would put  
2 the safety of the informant at risk, as well as harm the  
3 government's ability to use informants in future cases.

4 Informants are an indispensable part of narcotic  
5 investigations. Officers work with informants on a daily basis  
6 to build cases and combat the drug problem in our community.  
7 "The policy of the informant's privilege is in protecting police  
8 informants and in maintaining a steady supply of information to  
9 our law enforcement agencies."<sup>12</sup>

10 In this case, the affidavit identifies physical, social and  
11 emotional dangers to the informant if their identity is  
12 revealed. These dangers result from retribution when criminals  
13 find out a person provided information to law enforcement. If  
14 identified, this informant can no longer work with law  
15 enforcement to protect our community, and would impede the  
16 ability of law enforcement to find new informants.

17 Additionally, revealing the informants identity would have  
18 a chilling effect on the desire of the community to provide  
19 anonymous tips to law enforcement for fear their name would be  
20 disclosed and retribution would follow.

21 **CONCLUSION**

22 The informant in this case provided information which law  
23 enforcement used to obtain a search warrant. When the warrant was  
24 executed, law enforcement found drugs, a gun, and indicia of  
25 sales. The defendant confessed to possessing and selling drugs at  
26

1 the residence listed in the warrant. This confirmed the source's  
2 information. The defendant's Motion to Compel Disclosure of  
3 Confidential Informant should be denied because:

4 1) the informant was not present during the search and is not a  
5 material witness,

6 2) the informant cannot give any testimony as to the facts from  
7 inside the home or the defendant's statements to law enforcement,  
8 and

9 3) the safety and effectiveness of the informant would be impeded  
10 along with the flow of information to law enforcement.  
11

12 Based on the above facts and law, the State respectfully  
13 requests defendant's Motion to Compel be denied.  
14

15 RESPECTFULLY SUBMITTED this \_\_\_\_ day of **DECEMBER, 2014.**

16 JON R. SMITH  
17 YUMA COUNTY ATTORNEY  
18

19 NATHANIEL T. SORENSON  
20 DEPUTY COUNTY ATTORNEY

21 Copy of the foregoing  
22 was placed in the box  
23 of the following this  
\_\_\_\_ day of **DECEMBER, 2014:**

24 The Honorable **STEPHEN ROUFF**, Commissioner **II**  
25 **RAYMOND VACA**, Attorney for Defendant

26 By: \_\_\_\_\_

27 12 *State v. Gutierrez*, 121 Ariz. 176, 182, 589 P.2d 50, 56 (1978).  
28

## Second Writing Sample

**This is an order I drafted for an appeal from a Justice Court case in Eureka County, Nevada. The order was published from the Seventh Judicial District Court in Ely, Nevada. This document is part of the public record, so there are no redactions to the document. I drafted this order, and it was published after only minor edits by the Judge supervising me.**

Applicant Name: Nathaniel T. Sorenson

Case No. CR-1007056

Dept. No. 02

**IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF  
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE**

\* \* \* \* \*

State of Nevada,

Appellant,

vs.

State of Nevada,

Respondent.

**ORDER OF AFFIRMANCE**

**PROCEDURAL HISTORY**

Appellant, Robin Custer Hancock was charged with Driving Left of Center, Failure to Wear a Safety Belt, and Driving Under the Influence by the Department of Public Safety Nevada Highway Patrol, in Eureka, Eureka County, Nevada. These charges stem from an incident on November 9, 2008 on U.S. Highway 50 at mile marker Eureka four in Eureka County<sup>1</sup> where the Appellant is accused of swerving into, and

---

<sup>1</sup>Trial Transcript at 16.

driving in, the oncoming traffic lane while not wearing a seat belt and being under the influence of alcohol.<sup>2</sup>

The Justice Court decided to combine the Motion to Suppress hearing with the trial, and both were held on January 21, 2009, with Appellant appearing and represented by Deputy Public Defender Ben Gaumond. The Motion to Suppress was denied, and Appellant was found guilty of Driving Left of Center,<sup>3</sup> Failure to Wear Safety Belt,<sup>4</sup> and Driving Under the Influence of Intoxicating Liquor.<sup>5</sup> The "Judgment and Sentence" was filed on January 22, 2009. Appellant filed this timely Notice of Appeal on January 27, 2009.

### **FACTUAL HISTORY**

On November 9, 2008, Trooper Minoletti was traveling westbound on U.S. Highway 50 in Eureka County when he saw a blue Toyota truck.<sup>6</sup> Trooper Minoletti testified he saw the truck swerve right into the gravel on the side of the road, then swerve left, cross the dotted yellow line, and move completely into the oncoming traffic lane for several seconds, and finally swerve right back into the gravel on the side of the road and come

---

<sup>2</sup>Trial Transcript at 18 - 20.

<sup>3</sup> N.R.S. 484.291

<sup>4</sup> N.R.S. 484.641(2)

<sup>5</sup> N.R.S. 484.379 and N.R.S. 484.3792

<sup>6</sup>Trial Transcript at 15 - 16.

to a complete stop.<sup>7</sup> Trooper Minoletti put on his emergency lights and conducted an enforcement stop on the blue truck.<sup>8</sup>

Trooper Minoletti approached the truck and noticed the driver was not wearing a safety belt.<sup>9</sup> Trooper Minoletti requested the driver's license, insurance and registration.<sup>10</sup> While making this request, Trooper Minoletti noticed the driver's eyes were glossy and bloodshot, there was a moderate smell of alcohol emanating from the vehicle and the driver's speech was slurred.<sup>11</sup>

Trooper Minoletti identified the driver as Robin Custer Hancock ("Appellant"). Trooper Minoletti conducted four tests on Appellant: the horizontal gaze and nystagmus, the nine step walk and turn, the one-legged stand, and the preliminary breath test.<sup>12</sup> Trooper Minoletti testified that Appellant's performance on the four tests showed an inability to safely operate a motor vehicle.<sup>13</sup> Appellant was arrested and advised of his

---

<sup>7</sup>*Id.* at 17.

<sup>8</sup>*Id.* at 19.

<sup>9</sup>*Id.* at 20.

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*

<sup>12</sup>*Id.* at 22 and 33.

<sup>13</sup>*Id.* at 24 - 34.



*Miranda* rights as well as the Nevada Implied Consent Law.<sup>14</sup> Appellant was transported to jail where a blood draw was conducted by Dr. Waite.<sup>15</sup>

At trial, Trooper Minoletti testified that it is common practice for a trooper to stop and assist a motorist who is stopped on the side of the road.<sup>16</sup> The procedures of the stop would be the same as an investigatory stop, but the stop would be inquisitory to see if the motorist requires assistance.<sup>17</sup> The stop becomes investigatory if the trooper sees anything indicating a crime has been committed, is being committed or is about to be committed.<sup>18</sup>

This appeal is based on two alleged errors that occurred during the Justice Court hearing. First, Appellant alleges the Justice Court erred in denying Appellant's Motion to Suppress.

Second, Appellant alleges the Justice Court erred in not fully establishing facts for review on appeal.

Upon reviewing the file, the Court finds additional briefing or argument is not necessary.

## **DISCUSSION**

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<sup>14</sup>*Id.* at 34.

<sup>15</sup>*Id.* at 35.

<sup>16</sup>*Id.* at 39.

<sup>17</sup>*Id.* at 39 - 40.

<sup>18</sup>*Id.*

## **1. JURISDICTION OF THE DISTRICT COURT**

“The party aggrieved in a criminal action may appeal ... [t]o the district court of the county from a final judgment of the justice court.”<sup>19</sup> “[A] defendant in a criminal action tried before a justice of the peace may appeal from the final judgment therein to the district court of the county where the justice of the peace is held, at any time within 10 days of the time of the rendition of the judgment.”<sup>20</sup>

Appellant’s trial was held on November 10, 2009 and the sentence was rendered on January 20, 2010. The Notice of Appeal was filed on January 20, 2010, and therefore Appellant’s appeal is timely. The Justice Court of the Eureka Township is in Eureka County, located in the Seventh Judicial District of Nevada, and therefore this Court has jurisdiction over the matter.

## **2. STANDARD OF REVIEW IN APPEALS**

When a District Court reviews a Justice Court judgment the standard of review is whether there was sufficient evidence upon which the Justice Court’s finding of guilt is based. In doing so, the District Court must determine “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.”<sup>21</sup> This review

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<sup>19</sup>N.R.S. 177.015(1)(a).

<sup>20</sup>N.R.S. 189.010.

<sup>21</sup>*Lay v. State*, 110 Nev. 1189, 1192, 886 P.2d 448 (1994) (citing *Guy v. State*, 108 Nev. 770, 776, 839 P.2d 578 (1992)).

is limited because “it is exclusively within the province of the trier of fact to weigh evidence and pass on the credibility of witnesses and their testimony.”<sup>22</sup>

### 3. JUDGMENT OF THE JUSTICE COURT

The Justice Court found Appellant guilty of the offenses of Driving Left of Center, Failure to Wear a Safety Belt, and Driving Under the Influence. After weighing the credibility of the witnesses and their testimony, the Justice Court found the elements of the crimes were proven beyond a reasonable doubt.

#### a.) Did the trier of fact err in denying Appellant’s Motion to Suppress?

For a traffic stop to comply with the Fourteenth Amendment, there must be reasonable suspicion.<sup>23</sup> Nevada law states:

1. Any peace officer may detain any person whom the officer encounters under circumstances which reasonably indicate that the person has committed, is committing or is about to commit a crime.<sup>24</sup>

---

<sup>22</sup>*Id.* (citing *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20 (1981)).

<sup>23</sup>*State v. Rincon*, 122 Nev. 1170, 1173, 147 P.3d 233, 235 (2006).

<sup>24</sup>N.R.S. 171.123(1).

"In determining the reasonableness of a stop, the evidence is viewed under the totality of the circumstances and in the context of the law enforcement officer's training and experience."<sup>25</sup> The court should consider all relevant circumstances including, but not limited to, road and weather conditions, time of day, driving pattern and behavior of the driver.<sup>26</sup> Again, these circumstances are viewed in light of the particular officer's training and experience.<sup>27</sup>

In addition to reasonable suspicion, Nevada recognizes the "community caretaker" function of law enforcement.<sup>28</sup> The community caretaking function applies where there is a reasonable belief that a motorist is in need of emergency assistance.<sup>29</sup> A reasonable belief arises if a police officer observes indications of a medical emergency or automotive malfunction.<sup>30</sup>

In this case, Trooper Minoletti testified that he saw the blue truck swerve to the right off the road, then left across the center line, and then back to the right and off the road.<sup>31</sup> This could indicate the driver of the vehicle was either intoxicated or

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<sup>25</sup>*Rincon*, 122 Nev. at 1173-1174, 147 P.3d at 235.

<sup>26</sup>*Id.* at 1175, 147 P.3d 233, 237.

<sup>27</sup>*Id.*

<sup>28</sup>*Id.* at 1175 - 1176, 147 P.3d at 237 (citing *Cady v. Dombrowski*, 413 U.S. 433, 441, 93 S. Ct. 2523 (1973)).

<sup>29</sup>*Id.* at 1176, 147 P.3d at 237

<sup>30</sup>*Id.*

<sup>31</sup>Trial Transcript at 17.

experiencing vehicular difficulties. In either case, Trooper Minoletti's testimony is evidence supporting a stop to check on the driver of the truck.

Therefore the Justice Court did not commit an error in denying the Motion to Suppress.

**b.) Did the trier of fact err by not fully establishing facts for review on appeal?**

Trial courts should issue express factual findings when ruling on suppression motions so reviewing courts will have no need to speculate.<sup>32</sup> When factual findings are written and entered, they are entitled to deference on appeal and are not overturned if supported by substantial evidence.<sup>33</sup> The trial court is in the best position to judge both witness and evidence credibility, and "unless this court is 'left with the definite and firm conviction that a mistake has been committed,' this court will not second-guess the trier of fact."<sup>34</sup>

Appellant does not argue that no factual findings were made.<sup>35</sup> Instead, Appellant argues for remand based on a single line from the Order Denying Motion to Suppress.<sup>36</sup> The Order Denying Motion to Suppress said

This court finds it difficult to place trust in [Appellant's] recitation of the events, but for the following reasons determines the credibility of [Appellant] is not important to a determination whether Trooper Minoletti had reason to contact [Appellant].<sup>37</sup>

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<sup>32</sup>*Rincon*, 122 Nev. at 1177, 147 P.3d at 238; *Rosky v. State*, 121 Nev. 184, 191, 111 P.3d 690, 695 (2005).

<sup>33</sup>*Rincon*, 122 Nev. at 1177, 147 P.3d at 238. See *State v. McKellips*, 118 Nev. 465, 469, 49 P.3d 655, 658-659 (2002).

<sup>34</sup>*Rincon*, 122 Nev. at 1177, 147 P.3d 233, 238 (quoting *McKellips*, 118 Nev. at 469, 49 P.3d at 685

<sup>35</sup>Appellant's Opening Brief p. 4, lines 17 - 18.

<sup>36</sup>*Id.* at lines 18 - 23 (quoting the Order Denying Motion to Suppress p. 2, lines 2 - 4).

Appellant argues this line from the Order meant “even if [Appellant’s] account were believed, the suppression motion should still be denied.”<sup>38</sup> Appellant argues this is only true if Appellant’s story matches the trooper’s story.

However, Appellant disregards the phrase “for the following reasons” from the Justice Court’s order. The Justice Court, after giving the above statement, continued by saying

Trooper Minoletti testified that even in the absence of observing an erratic driving pattern, he still would have stopped to contact the driver of the Toyota in order to carry out the caretaking function of the Nevada Highway Patrol. On the rural roads of this State, assistance is difficult to come (sic) by, and it is a common practice for a Trooper to contact the occupants of a vehicle stopped along the highway to confirm they are not in need of assistance.<sup>39</sup>

The Justice Court was stating that even in the absence of erratic driving, Trooper Minoletti would have properly stopped and made contact with Appellant.

In this case, there are findings of fact written, entered, and supported by substantial evidence. Because this court is not left with a “definite and firm conviction” that a mistake was made by the Justice Court, “this court will not second-guess the trier of fact.”<sup>40</sup>

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<sup>37</sup>Order Denying Motion to Suppress p. 2, lines 2 - 4.

<sup>38</sup>Appellant’s Opening Brief p. 5, lines 1 - 2.

<sup>39</sup>Order Denying Motion to Suppress p. 2, lines 5 - 10.

<sup>40</sup>*Rincon*, 122 Nev. at 1177, 147 P.3d 233, 238 (quoting *McKellips*, 118 Nev. at 469, 49 P.3d at 685

Good Cause Appearing,

**IT IS HEREBY ORDERED** that the JUSTICE COURT CONVICTION for DRIVING LEFT OF CENTER is **AFFIRMED**.

**IT IS FURTHER ORDERED** that the JUSTICE COURT CONVICTION for FAILURE TO WEAR A SAFETY BELT is **AFFIRMED**.

**IT IS FURTHER ORDERED** that the JUSTICE COURT CONVICTION for DRIVING UNDER THE INFLUENCE is **AFFIRMED**.

DATED this \_\_\_\_\_ day of January, 2010.

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DISTRICT JUDGE