

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,

No. 68837

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
SUSAN JOHNSON, DISTRICT JUDGE,

Respondents,

and

THOMAS SUPRANOVICH,
Real Party in Interest.

FILED

SEP 24 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING PETITION

This is an original petition for a writ of mandamus challenging the district court's decision to give a certain jury instruction in the trial of the underlying matter. Specifically, the proposed instruction reads:

If the evidence is susceptible to two reasonable interpretations, one of which points to the defendant's guilt and the other of which points to the defendant's innocence, it is your duty, under the law, to adopt the interpretation which points to the defendant's innocence and reject that which points to his guilt.

Having considered the parties' arguments and the documents on file herein, we conclude that our extraordinary intervention is warranted. NRS 34.160; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Specifically, the proposed language is only part of a more complete version typically given when such an instruction is at issue. The partial version here is potentially misleading and confusing. Accordingly, if an instruction along these lines is given, it must be the more complete version, which reads:

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the State has proved each fact essential to that conclusion beyond a reasonable doubt.

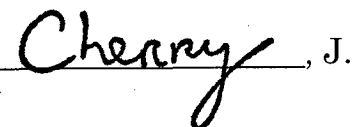
Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court that if it is inclined to give an instruction concerning the interpretation of evidence similar to that challenged in this proceeding, it must be the more complete version set forth above.¹


Parraguirre, J.


Douglas, J.


Cherry, J.

¹We lift the stay entered in this matter on September 18, 2015.

cc: Hon. Susan Johnson, District Judge
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk