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Criminal Procedure; Search Warrant–Oral Statements and Authorization

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ruling.⁵ The district court clerk must notify the defendant's counsel or, if acting pro se,⁶ the defendant, within two judicial days after filing the notice of appeal.⁷ A defendant, however, may appeal only from a final judgment or verdict in a criminal case.⁸

Prior to the enactment of Chapter 702, the law did not distinguish between criminal and civil actions regarding supreme court jurisdiction to review an order granting or refusing to change the place of trial.⁹ Chapter 702 provides that the supreme court has jurisdiction to review on appeal from a final judgment¹⁰ in a criminal action any order changing or refusing to change the place of trial of the action or proceeding when the original matter in dispute is within the general jurisdiction of the court.¹¹ In contrast, the supreme court has jurisdiction to review an order in a civil action changing or refusing to change the place of trial in cases when the court has appellate jurisdiction¹² but only on direct appeal from the order.¹³ Under existing law, the supreme court may reverse, affirm, or modify the judgment or order appealed from as to any or all of the parties, and if it deems necessary, order a new trial.¹⁴ Under Chapter 702, the supreme court may order that the new trial be conducted in the proper place.¹⁵

5. *Id.*

6. BLACK'S LAW DICTIONARY 1099 (5th ed. 1979) (definition of pro se).

7. N.R.S. §177.015 2.

8. *Id.* §177.015 3.

9. See NEVADA COMPILED LAWS 1929, §8375 (enacting N.R.S. §2.090).

10. N.R.S. §2.090 1. See *State v. Aslup*, 68 Nev. 45, 47-8, 226 P.2d 801, 802 (1951). See generally *State v. Viers*, 86 Nev. 385, 469 P.2d 53 (1970); NEV. CONST. art. VI, §4.

11. See N.R.S. §2.090 1.

12. See *id.* §§2.090 2, 2.110.

13. See *id.* §2.110.

14. See *id.*

15. See *id.*

Criminal Procedure; search warrant—oral statements and authorization

N.R.S. §§179.045, 179.095 (amended).

AB 405 (Committee on Judiciary); STATS 1981, Ch 685

Prior to the enactment of Chapter 685, a magistrate could issue a search warrant only upon a sworn affidavit setting forth the grounds for the warrant.¹ Chapter 685 provides that in lieu of a sworn affidavit, an application for a search warrant may be based upon an oral statement

1. STATUTES OF NEVADA 1975, c. 34, §1, at 39 (amending N.R.S. §179.045).

given under oath of the grounds for the requested issuance.² A record of the statement must be made by electronic means or by a certified shorthand reporter in the presence, or immediate vicinity, of the magistrate.³ The record must be transcribed, certified by the magistrate and the reporter, if one was used, and filed with the clerk of the court.⁴

Chapter 685 also provides that after issuing a search warrant based either on a sworn affidavit or an oral statement given under oath, a magistrate may orally authorize a peace officer to sign the magistrate's name on a duplicate original warrant.⁵ The duplicate original is considered to be a search warrant for all purposes.⁶ After the duplicate original has been served, it must be returned to the issuing magistrate to be endorsed and dated.⁷ Chapter 685 provides that a magistrate's failure to endorse and date the warrant *does not* invalidate the warrant, although no provision is made regarding the specific effect of the failure.⁸ After endorsing the duplicate original warrant, the magistrate must attach the search warrant, a copy of the return, the inventory, and all other related papers, and file them with the clerk of the court in the jurisdiction where the property was seized.⁹

2. N.R.S. §§179.045 1, 179.045 2; *accord*, CAL. PENAL CODE §1526 (California law similar to Chapter 685); 2 PAC. L.J. REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION 377 (1971).

3. N.R.S. §179.045 2.

4. *Id.*

5. *Id.* §179.045 3; *accord*, CAL. PENAL CODE §1528 (California law similar to Chapter 685); 2 PAC. L.J. REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION 377 (1971).

6. N.R.S. §179.045 3.

7. *Id.*

8. *Id.*

9. *Id.* §179.095.

Criminal Procedure; pretrial habeas corpus appeals

N.R.S. §§34.375, 34.380 (amended).

AB 529 (Committee on Judiciary); STATS 1981, Ch 263
(*Effective May 19, 1981*)

Prior to the enactment of Chapter 263, a provision granting an accused the right to appeal the denial of a petition for a writ of habeas corpus was deleted from the Nevada Revised Statutes.¹ In *White v. Warden*,² the Nevada Supreme Court determined that this deletion

1. *See* STATUTES OF NEVADA 1979, c. 216, §1, at 312 (amending N.R.S. §34.380).

2. 96 Adv. 168, 614 P.2d 536 (1980).