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### Summary of Artiga-Morales v. State, 130 Nev. Adv. Op. 77

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CRIMINAL LAW: DISCLOSURE OF JUROR BACKGROUND INFORMATION

**Summary**

In the absence of a rule or statute mandating disclosure of jury background information from the prosecution to the defense, no such obligation exists.<sup>2</sup> If policy considerations dictate that defendants should be allowed to see prosecution-developed jury dossiers, then a court rule should be proposed, considered and adopted as implicitly authorized by NRS 179A.100(7)(j).<sup>3</sup> Such a procedure would allow the court to better assess the “scope of disparity, impact on juror privacy interests, the need to protect work product, practicality, and fundamental fairness than this case, with its limited record and arguments.”

**Factual and Procedural Background**

Edwin Humberto Artiga-Morales (“Artiga-Morales”) appealed his conviction for battery with a deadly weapon causing substantial bodily harm. With regard to a prospective juror Lazaro, Artiga-Morales claimed that were it not for their superior access to juror background information, the prosecution would have lacked the foresight to inquire about the detention of the juror’s son. This inquiry resulted in the prosecution’s successful defense of its peremptory challenge of the juror.

Artiga-Morales moved the District Court for an order requiring the prosecution to provide a summary of any jury panel information gathered by means unavailable to the defense. The District Court denied the motion, stating that: 1) the prosecution’s choice to not disclose potential juror information does not result in an impartial jury because defense counsel has an opportunity to examine jurors in voir dire; and 2) Artiga-Morales had not established that the desired juror information could not be obtained through other reasonable avenues, such as the defense investigator.

**Discussion**

The en banc Supreme Court reviewed the decision of the district court for abuse of discretion. The Court began its analysis with a review of cases holding that in the absence of a rule or statute mandating disclosure of juror background information from the prosecution to the defense, no such obligation exists. While struggling with the disparity between the parties’ level of access to juror information, many other courts still found no reversible error in a trial courts’ denial of access to such juror information by the defense.

NRS 174.235<sup>4</sup> does not mandate disclosure of prosecution-developed juror background information, therefore, Artiga-Morales’ lacked statutory authority. Furthermore, because his

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<sup>1</sup> By Janine Lee.

<sup>2</sup> This is the majority opinion. A minority of justices vigorously dissented, asserting that the Court has a duty to correct practices of inequality between adverse parties that reflect on the fairness of the criminal process. Accordingly, the minority asserts the prosecution should be required to disclose all veniremember information such that Artiga-Morales’ conviction should be reversed and a new trial granted.

<sup>3</sup> NEV. REV. STAT. § 179A.100(7)(j) (2013).

<sup>4</sup> NEV. REV. STAT. § 174.235 (2013).

argument lacked a claim of unfairness or impartiality, Artiga-Morales' claim for a constitutional right to a fair and impartial jury failed.

Lastly, Artiga-Morales' argument related to prospective juror Lazaro fails for several reasons. First, he does not explain how the prosecution's access to juror Lazaro's criminal history would have produced information about her son's criminal history. Second, Lazaro's son's detention, as discovered in voir dire, established valid reason for the prosecution's peremptory challenge of her. Finally, district court even offered Artiga-Morales additional voir dire of prospective juror Lazaro but he declined. In short, "he fails to connect the injury of which he complains—unequal access to juror background information—to cognizable prejudice affecting his case."

### **Conclusion**

The Court concluded that Artiga-Morales' alleged injury caused by a lack of prosecution-developed jury dossiers disclosure, was speculative and that he failed to show the existence of cognizable prejudice. Consequently, the Court affirmed the ruling of the district court, finding no abuse of discretion, and denied Artiga-Morales appeal from his judgment of conviction.