

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 13, 2026**

C-23-379122-1 State of Nevada
vs
James Degraffenreid, III

August 13, 2026 1:30 PM Minute Order

HEARD BY: Holthus, Mary Kay **COURTROOM:** Chambers

COURT CLERK: Dara Yorke

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

This matter came before the Court on February 2, 2026, following the Court's request for supplemental briefing addressing whether the State presented sufficient evidence to establish the essential elements of the offenses charged under NRS 239.330 and NRS 205.110. The parties filed supplemental briefs. Having considered those briefs, the evidence presented to the grand jury, and the applicable law, the Court concludes that, based upon the three independent findings discussed below, Defendants' Motions to Dismiss are GRANTED.

First Independent Finding: Failure to Present Material Exculpatory Evidence

In its recent decision in *Chasing Horse v. Eighth Judicial District Court*, 140 Nev. Adv. Op. 63, 555 P.3d 1205 (2024), the Nevada Supreme Court reaffirmed the State's obligation to present known exculpatory evidence to the grand jury and emphasized that a prosecutor must not present a distorted or misleading factual picture by withholding material evidence bearing on an essential element of the charged offense. Guided by *Chasing Horse*, this Court has considered not only the evidence presented to the grand jury, but also the evidence identified in Defendants' supplemental briefing as having been omitted from those proceedings, which this Court finds to be exculpatory.

The omitted evidence identified by Defendants bears directly on Defendants' asserted purpose in executing and submitting the GOP Certificate and, therefore, on the issue of fraudulent intent. Because fraudulent intent is an essential element of the offenses charged under both NRS 239.330 and NRS 205.110, evidence bearing directly on that element was material to the grand jury's determination of probable cause. The significance of that omission is heightened because the State's evidence of fraudulent intent was, at best, minimal. Where the evidence supporting an essential element is already limited, the failure to present exculpatory evidence addressing that same element has a particularly substantial impact on the integrity of the grand jury's determination. The Court therefore concludes that the State's failure to present this exculpatory evidence affected the grand jury's determination of probable cause and independently supports dismissal under the principles articulated in *Chasing Horse*.

Moreover, even considering the totality of the evidence both that presented to the grand jury and the additional evidence identified by Defendants in the supplemental briefing the Court concludes the State failed to present sufficient evidence from which a reasonable grand jury could infer the requisite intent to defraud.

Second Independent Finding: Lack of Fraudulent Intent

The Court further concludes the State failed to present sufficient evidence from which the grand jury could reasonably infer that Defendants acted with the requisite intent to defraud. Although intent is ordinarily a question of fact, factual issues do not reach the jury unless the State presents sufficient evidence to support a reasonable inference that the accused committed the charged offense. *See Kinsey v. Sheriff*, 87 Nev. 361, 487 P.2d 340 (1971). Here, even considering the totality of the evidence before the Court, including the evidence identified by Defendants as having been omitted from the grand jury proceedings, the record does not support a reasonable inference of fraudulent intent. Indeed, the omitted evidence further reinforces the conclusion that Defendants acted openly and consistently with their stated purpose of preserving ongoing election challenges, rather than with an intent to deceive.

A. Evidence Demonstrating Lack of Intent

Rather than attempting to deceive government officials into recognizing the GOP Certificate as Nevada's official electoral vote, the evidence reflects that Defendants openly publicized their conduct. Defendants held a televised ceremony, publicly executed the GOP Certificate, and consistently represented that their purpose was to preserve their ability to pursue pending election challenges and obtain meaningful judicial relief should those challenges ultimately prove successful. Contemporaneous communications in the record likewise reflected that stated purpose and did not suggest an effort to secretly induce governmental reliance upon the submitted documents.

B. Public Nature of Conduct / First Amendment

The Court further finds the public and political nature of Defendants' conduct significant in evaluating whether the evidence supports an inference of fraudulent intent. Defendants repeatedly explained the purpose of their actions during the televised ceremony and in contemporaneous

communications, consistently asserting they believed they were following a process necessary to preserve their legal rights while election litigation remained pending. While the Court need not resolve Defendants' constitutional arguments, the Court references those considerations because they provide important context for evaluating Defendants' asserted purpose and whether the evidence supports an inference of fraudulent intent. The fact that Defendants openly announced both their actions and their asserted purpose, rather than concealing their conduct or attempting to secretly induce governmental reliance, weighs against a reasonable inference that they acted with fraudulent intent. Accordingly, the Court concludes the evidence is insufficient to support a reasonable inference that Defendants acted with the requisite intent to defraud.

C. State's Own Evidence Undermines Intent

The Court's conclusion regarding intent is further supported by the State's own evidence. Testimony presented to the grand jury established that the submitted certificates were not treated as Nevada's official electoral certificates and were not accepted for filing or acted upon by the receiving agencies. Rather, the evidence demonstrated that the documents were recognized for what they were and returned because they could not be accepted. Likewise, testimony from Secretary of State Barbara Cegavske, Deputy Secretary of State Mark Wlaschin, and Ms. Vincent reflected that the documents were not capable of being processed as Nevada's official electoral certificate. This evidence further undermines any reasonable inference that Defendants intended to deceive government officials into acting upon the submitted documents.

Third Independent Finding: Failure to Establish an Essential Element Under NRS 239.330

Even apart from the lack of evidence establishing the requisite intent to defraud, the Court concludes dismissal is independently warranted under NRS 239.330. The Court concludes that *Vaughn v. State*, 141 Nev. Adv. Op. 6, 563 P.3d 295 (2025), controls the analysis under NRS 239.330. As explained in *Vaughn*, the statute concerns documents having the present ability to be filed or recorded under state or federal law, but that are forged or contain false information. The purpose of the statute is to prevent public officials from acting upon such documents in the mistaken belief that they are genuine. This interpretation is consistent with *People v. Bel Air Equipment Corp.*, 239 Cal. App. 2d 48, 53, 47 Cal. Rptr. 860 (1965), which likewise recognized that forgery statutes are intended to prevent reliance upon false documents believed to be genuine. Here, the evidence presented to the grand jury demonstrated that the GOP Certificate was not a document that could legally be accepted, filed, registered, or recorded under Nevada or federal law. Nor was there evidence that any public official believed it to be Nevada's official electoral certificate or was induced to act upon it in the mistaken belief that it was genuine. Accordingly, the Court concludes the State failed to present sufficient evidence establishing an essential element of the offense charged under NRS 239.330.

Legislative Context

The Court further notes Defendant Law's argument that Nevada's Attorney General publicly recognized that existing Nevada law did not expressly criminalize the conduct at issue and thereafter supported legislation specifically intended to criminalize the submission of alternate electoral certificates. Although those legislative statements are not dispositive, they provide additional context

supporting the Court's conclusion that the statutes relied upon by the State were not plainly intended to encompass the conduct alleged in the indictment.

For all of the foregoing reasons, together with the analysis set forth in Defendants' motions and supplemental briefing, the Court concludes that the State failed to present sufficient evidence establishing the essential elements of the offenses charged under NRS 239.330 and NRS 205.110. The Court further concludes that the State failed to present material exculpatory evidence to the grand jury, thereby independently undermining the integrity of the Indictment under the principles articulated in *Chasing Horse*. Accordingly, the Indictment cannot stand, and Defendants' Motions to Dismiss are GRANTED. Defendant Law shall prepare a written order consistent with this Minute Order. COURT FURTHER ORDERED, the hearing set for August 17, 2026 was hereby VACATED.

CLERK'S NOTE: Minute order served to parties via mail, or electronically served via email or to all registered parties through Odyssey File & Serve. //8-13-26/dy