ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

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BRIAN KERRY O'KEEFE,

Appellant,

VS.

THE STATE OF NEVADA,

Respondent.

Case No. 53859 District Court Case No. C250630

FILED

AUG 1 9 2009

TRACIE K. LINDEMAN

MOTION FOR EXCESS PAGES

COMES NOW Appellant, BRIAN O'KEEFE, by and through his attorney, DAVID M. SCHIECK, Special Public Defender, and JONELL THOMAS, Deputy Special Public Defender, and hereby requests that this Honorable Court allow Appellant to file the Fast Track Statement submitted simultaneously with this Motion, in excess of 10 pages.

This Motion is based upon the Points and Authorities and Declaration attached hereto.

POINTS AND AUTHORITIES

NRAP 3C(e)(1)(B) states that "Except by court order granting a motion ... the fast track statement shall not exceed 10 pages in length...."

Based on the reasons set forth in the Declaration of counsel attached hereto, Appellant requests this Court allow the filing of his fast track statement in excess of 10 pages, to wit: 15 pages.

DATED this day of August, 2009.

IT IS ORDERED THE FAST TRACK STATEMENT/RESPONSE MAY BE FILED IN EXCESS OF 10 PAGES. 15 **PAGES**

Clerk of Court cc: Counsel of Record

AUG 1.9 2009 CLERK OF SUPREME COURT DEPUTY CLERK

DAVID M. SCHIECK SPECIAL PUBLIC DEFENDER

Nevada Bar #4771

330 S. Third St., 8th/Eloor Las Vegas, Nevada 89155

(702) 455-6265

09-20139

CLARK COUNTY NEVADA

SPECIAL PUBLIC

DEFENDER

DECLARATION OF JONELL THOMAS

I, JoNell Thomas, do hereby declare as follows:

I am an attorney duly authorized to practice law in the State of Nevada.

I am the Deputy Special Public Defender appointed to represent Mr. O'Keefe on his direct appeal to the Nevada Supreme Court from his conviction and sentence entered in the Eighth Judicial District Court.

Mr. O'Keefe was convicted of Second Degree Murder with Use of a Deadly Weapon. Even though the instant case involves a category A felony, it is subject to NRAP 3C, the Fast Track Criminal Appeal Process, as O'Keefe was sentenced as follows: maximum twenty-five (25) years with a minimum parole eligibility of ten (10) years plus a consecutive term of two hundred forth (240) months with a minimum parole eligibility of ninety-six (96) months for the use of a deadly weapon; with one hundred eighty-one (181) days credit for time served.

This was prosecuted as a First Degree Murder Case, therefore the trial issues and evidence were more complicated than a standard felony prosecution. Given the nature of the case, the jury selection process must also be reviewed in greater detail, requiring additional time to cull out only the necessary portions of the record on appeal. There were over 300 photographs admitted into evidence due to the Hepatitis C contamination of the physical evidence; and the joint decision of the State and Defense to not require the biologically dangerous items to be brought to court will require additional time within the evidence vault in the Courthouse to determine what exhibit photographs should be included. The medical and psychological records of the deceased, being offered but denied, must be compared closely to the actual testimony at trial, not just for overall prejudice.

O'Keefe's case is a complicated case. Treatment under the Fast track rules with a 10 page limit would be unduly restrictive and burdensome in this particular case. The 10 page limitation could not provide this Court with sufficient information to adequately review the record.

Therefore, it is respectfully requested that this Honorable Supreme Court waive the requirements of Rule 3C and allow the O'Keefe to file a Fast Track Statement in excess of 10 pages, to wit: 15 pages.