

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 LUIS A, HIDALGO, JR.

5 Appellant,

6 vs.

7 THE STATE OF NEVADA

8 Respondent.

CASE NO. 54209 Electronically Filed  
Jul 06 2011 02:24 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

9  
10 **LUIS A. HIDALGO, JR.'S MOTION FOR EXTENSION**  
11 **OF TIME TO FILE REPLY BRIEF**  
12 **(First Request)**

13 COMES NOW Appellant, Luis A. Hidalgo, Jr., (hereinafter "Hidalgo Jr.") by and  
14 through his counsel, Dominic P. Gentile, Esq., of the law firm of Gordon Silver, and files this  
15 Motion for Extension of Time to file Reply Brief based upon NRAP 31(a)(1) and NRAP 26(d).

16 NRAP 26(d) states, in pertinent part, that "time provided in any of these rules within  
17 which an act shall be done, may be extended or shortened . . . by order of the court or a justice  
18 thereof upon good cause shown. NRAP 26(d). Further, NRAP 31(a)(1) states, in pertinent part,  
19 that "[a]pplications for extensions of time beyond that which the parties are permitted to stipulate  
20 . . . will be considered only on motion for good cause clearly shown, or ex parte in cases of  
21 extreme and unforeseeable emergency." NRAP 31(a)(1).

22 This Motion is made and based on the following:

23 1. As noted by the State in its Request for an Extension of Time to File an  
24 Answering Brief, the matters set forth in Mr. Hidalgo Jr.'s Appeal "raised legal and  
25 fact[ual]...issues that were very complex." (See page three of the State's Motion for  
26 Enlargement of Time (Third Request) attached hereto as Exhibit 1). Thus, briefing these  
27 complex issues requires a significant amount of legal research and analysis. As the State  
28 filed a fifty-one page Answering Brief addressing each of Mr. Hidalgo Jr.'s arguments,  
counsel for Mr. Hidalgo Jr. requires more time to competently reply to each of the State's

1 assertions.

2 2. Additionally, counsel for Appellant Luis Hidalgo Jr., has been involved in  
3 numerous hearings and depositions in the matter of *OBI v. Mark James*, Clark County  
4 District Court Case No. A-09-605985-B over the past three months; additionally, there  
5 are three depositions scheduled for July 11 and 12, 2011.

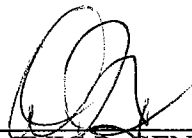
6 3. Counsel for Appellant currently has a trial scheduled to commence on Tuesday,  
7 July 26, 2011, in the matter of *State of Nevada v. Melody McLallen*, District Court Case No.  
8 C257842, Department VII, Clark County, Nevada. The Defendant is charged with driving  
9 and/or being in actual physical control while under the influence of intoxicating liquor and/or a  
10 controlled substance and/or a prohibited substance in blood or urine causing death and/or  
11 substantial bodily harm; leaving the scene of an accident; and under the influence of controlled  
12 substance; said trial is anticipated to last approximately five (5) to seven (7) days.

13 6. This motion is made in good faith and not for purposes of delay.

14 7. Counsel asks this Court to grant an additional 60 days from July 8, 2011, within  
15 which to file Appellant's Opening Brief.

16  
17 Dated this 6<sup>th</sup> day of July, 2011.

18 GORDON SILVER

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Nancy A. Becker  
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# EXHIBIT “1”

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2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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Electronically Filed  
Jun 06 2011 10:30 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

LUIS A. HIDALGO, III.

Appellant,

v.

THE STATE OF NEVADA,

Respondent

Case No. 54272

**MOTION FOR ENLARGEMENT OF TIME  
(Third Request)**

COMES NOW the State of Nevada, by DAVID ROGER, Clark County District Attorney, through his deputy, NANCY A. BECKER, and moves this Court for an enlargement of time of thirty (30) days from June 6, 2011, making said brief due July 6, 2011. This motion is based on the following memorandum and all papers and pleadings on file herein.

Dated June 6, 2011.

DAVID ROGER  
Clark County District Attorney  
Nevada Bar # 002781

BY /s/ Nancy A. Becker

NANCY A. BECKER  
Deputy District Attorney  
Nevada Bar #000145

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1 MEMORANDUM

2 I, NANCY A. BECKER, am the supervising attorney in the above-captioned case.  
3 The State is requesting a thirty (30) day extension of time in which to file its Answering  
4 Brief under Nevada Rules of Appellate Procedure (NRAP) 31(b)(3). Two previous  
5 extensions have been requested. Under NRAP 26(b), this Court for good cause shown can  
6 enlarge the time prescribed by the NRAP for doing any act, or may permit an act to be done  
7 after the expiration of such time.

8 This is an appeal from final judgment in a multi-defendant Murder case. Appellant  
9 filed a Notice of Appeal on August 3, 2009. Appellant's Opening Brief was initially due on  
10 January 29, 2010. On December 24, 2009, Appellant filed his first Motion for Extension of  
11 Time which sought an extension of ninety (90) days and was granted on December 29, 2009.  
12 Appellant subsequently filed five (5) additional Motions for Extension of time, all of which  
13 were granted. The Clark County District Attorney's Office received Appellant's Opening  
14 Brief on February 4, 2011. The State's Answering Brief was due on or before March 7,  
15 2011. The State requested an extension of sixty (60) days, which was granted. The State  
16 subsequently requested a second extension of thirty (30) days, which was granted.

17 As good cause for this third extension, the State cites the recent completion of its  
18 Answering Brief responding to the appeal of Appellant's co-defendant, Luis Hidalgo, Jr., the  
19 large size of the record, number of pages in the Opening Brief, the number and complexity  
20 of issues raised, and the contemporaneous pendency of Appellant's co-defendants' appellate  
21 proceedings. The pleadings and appendices in this action are extensive. The fifty-one (51)  
22 page Opening Brief raises five (5) issues of exceeding complexity requiring an extensive  
23 review of jurisprudence from inside and outside Nevada. Because this is Appellant's direct  
24 appeal following his conviction, a detailed review of the record is required. Appellant has  
25 submitted an eleven (11) volume appendix consisting of approximately twenty-four hundred  
26 (2400) pages. Additionally, this is a multi-defendant case in which Appellant's co-defendant  
27 has also filed a fifty-nine (59) page Opening Brief and submitted a twenty-five (25) volume  
28 appendix consisting of over four thousand (4000) pages. As noted, the State has recently

1 completed its drafting of the Answering Brief for the co-defendant, and will timely file that  
2 brief without further extensions. While some of the legal issues raised are similar,  
3 Appellant's co-defendant raised legally and factually unrelated issues that were very  
4 complex. Appellant's co-defendant's brief is nearly due at the same time, June 9, 2011.

5 The State respectfully moves for an enlargement of time of thirty (30) days, making  
6 its brief due on July 6, 2011. This will give the State sufficient time to thoroughly review the  
7 record so that it can properly respond to the material in Appellant's Opening Brief.

8 DATED this 6th day of June, 2011.

9 Respectfully submitted,

10 DAVID ROGER,  
11 Clark County District Attorney

12  
13 BY */s/ Nancy A. Becker*

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14 NANCY A. BECKER  
15 Deputy District Attorney  
16 Nevada Bar #000145

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify and affirm that this document was filed electronically with the  
3 Nevada Supreme Court on June 6, 2011. Electronic Service of the foregoing document shall  
4 be made in accordance with the Master Service List as follows:

5  
6 CATHERINE CORTEZ MASTO  
Nevada Attorney General

7 JOHN L. ARRASCADA, ESQ.  
8 CHRISTINE ARRASCADA ARAMINI, ESQ.  
Counsels for Appellant

9  
10 NANCY A. BECKER  
Deputy District Attorney

11  
12 I further certify that I served a copy of this document by mailing a true and correct  
13 copy thereof, postage pre-paid, addressed to:

14  
15 CHRISTOPHER W. ADAMS, ESQ.  
16 Admitted Pro Hac Vice  
102 Broad Street, Ste. C  
17 P.O. Box 561  
Charleston, South Carolina 29402-0561

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20 BY /s/ eileen davis  
21 Employee, District Attorney's Office

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27 NAB/Patrick Burns/ed