

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 LUIS A, HIDALGO, III

5 Appellant,

6 vs.

7 THE STATE OF NEVADA

8 Respondent.

CASE NO. 54272 Electronically Filed
Aug 08 2011 04:36 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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

12 COMES NOW Appellant, Luis A. Hidalgo, III, (hereinafter "Hidalgo III") by and
13 through his counsel, John L. Arrascada, Esq. of the law firm of Arrascada & Aramini, Ltd. and
14 files this Motion for Extension of Time to file Reply Brief based upon NRAP 31(a)(1) and
15 NRAP 26(d).

16 NRAP 26(d) states, in pertinent part, that "time provided in any of theses 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. Hidaglo III's Appeal "raise[d] five (5)
25 issues of exceeding complexity requiring an extensive review of jurisprudence from
26 inside and outside Nevada." (See page two of the State's Motion for Enlargement of
27 Time (Fourth Request) attached hereto as Exhibit 1). Thus, briefing these complex issues
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1 requires a significant amount of legal research and analysis. As the State filed a forty-six
2 (46) page Answering Brief accompanied by a seven hundred and ninety three page (793)
3 appendix addressing each of Mr. Hidalgo III's arguments, counsel for Hidalgo III
4 requires more time to competently reply to each of the State's assertions.

5 2. Additionally, counsel for Appellant Luis Hidalgo III, has previously advised this
6 Court that there exists some mutual issues from this joint trial of both Appellants,
7 Hidalgo III and Hidalgo Jr. The mutual issues are two (2) key issues in these Appeals
8 involving two (2) jury instructions. It appears that the State's Reply Brief is virtually
9 identical in its response to the mutual issues presented by both appellants. Counsel for
10 Hidalgo III and Hidalgo Jr. have been working jointly on these two key issues which
11 pertain to issues of first impression with this Court or changes in the law that this Court
12 has not previously addressed.

13 The mutual and jointly asserted issues by Hidalgo Jr. and Hidalgo III should
14 remain consolidated. Accordingly, for the convenience of the Court and the best interest
15 of the Appellants, this Court will best be served if it reviews these joint issues
16 simultaneously for consistency purposes and for the purpose of reviewing a voluminous
17 record from a single trial

18 3. Counsel for Appellant Hidalgo III currently has a trial scheduled to commence on
19 Tuesday, September 6, 2011, in the matter of *State of Nevada v. Salome Martinez*,
20 District Court Case No. CR07-2308, Department VII, Washoe County, Nevada. The
21 Defendant is charged with sexual assault on a minor and lewdness with a minor. The
22 case is anticipated to last two (2) weeks and is a new trial based on the granting of a
23 motion for new trial by the District Court.

24 4. This motion is made in good faith and not for purposes of delay.

25 5. Counsel asks this Court to grant an additional 60 days from August 10, 2011,
26 within which to file Appellant's Reply Brief.
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Dated this 8th day of August, 2011.

ARRASCADA & ARAMINI, LTD

A handwritten signature in black ink, appearing to read 'JL Arrascada', is written over a horizontal line.

JOHN L. ARRASCADA, ESQ.
Nevada Bar No. 4517
Attorneys for Appellant
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2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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Electronically Filed
Jul 06 2011 01:34 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

LUIS A. HIDALGO, III.

Appellant,

v.

THE STATE OF NEVADA,

Respondent

Case No. 54272

11 **MOTION FOR ENLARGEMENT OF TIME**
12 **(Fourth Request)**

13 COMES NOW the State of Nevada, by DAVID ROGER, Clark County District
14 Attorney, through his deputy, NANCY A. BECKER, and moves this Court for an
15 enlargement of time of six (6) days from July 6, 2011, making said brief due July 12, 2011.
16 This motion is based on the following memorandum and all papers and pleadings on file
17 herein.

18 Dated July 6, 2011.

19 DAVID ROGER
20 Clark County District Attorney
21 Nevada Bar # 002781

22 BY /s/ Nancy A. Becker
23 NANCY A. BECKER
24 Deputy District Attorney
25 Nevada Bar #000145

26 Office of the Clark County District Attorney
27 200 Lewis Avenue
28 Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2750

1 MEMORANDUM

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

18 As good cause for this fourth extension, the State cites the large size of the record,
19 number of pages in the Opening Brief, the number and complexity of issues raised, and the
20 need to make edits to the current draft suggested by trial counsel. The pleadings and
21 appendices in this action are extensive. The fifty-one (51) page Opening Brief raises five (5)
22 issues of exceeding complexity requiring an extensive review of jurisprudence from inside
23 and outside Nevada. Because this is Appellant's direct appeal following his conviction, a
24 detailed review of the record is required. Appellant has submitted an eleven (11) volume
25 appendix consisting of approximately twenty-four hundred (2400) pages.

26 The law clerk assigned to this case presented a draft Answering Brief to the trial and
27 supervising attorneys on June 30, 2011. The draft was promptly reviewed by both and there
28 are edits and some additional research to be completed with regard to two issues. The law

1 clerk is currently out of the office due to illness and the supervising attorney had a family
2 emergency, thus the edits and research have not been completed.

3 The State respectfully moves for an enlargement of time of six (6) days, making its
4 brief due on July 12, 2011. This will give the State sufficient time to finish making the edits
5 and complete the research so that it can properly respond to the material in Appellant's
6 Opening Brief.

7 DATED this 6th day of July, 2011.

8 Respectfully submitted,

9 DAVID ROGER,
10 Clark County District Attorney

11
12 BY */s/ Nancy A. Becker*

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

15 Office of the Clark County District Attorney
16 Regional Justice Center
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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 July 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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19
20 BY /s/ eileen davis
21 Employee, District Attorney's Office

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27 NAB/Patrick Burns/ed