

1 Lobato's case was a complicated, high profile trial lasting almost a full month that was
2 broadcast live nationally by Court TV. It presented novel pre-trial as well as post-trial legal
3 issues; and numerous appealable issues arose during trial as well.

4 Ms. Lobato was sentenced as follows: Count 1 - 48 months to 120 months plus an equal
5 and consecutive 48 months to 120 months; and Count 2 - 60 months to 180 months (Count 2 to
6 run concurrent with Count 1). The Court granted 1,544 days credit time served.

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8 Ms. Lobato's direct appeal (No. 49087) was exempted from the Fast Track Rules due to
9 the complexity of the case and nature of the charges. A copy of the previous Order is attached
10 hereto.

11 Subsequently, Ms. Lobato filed a 770-page Petition for a Writ of *Habeas Corpus* that
12 includes 79 grounds for relief supported by 101 exhibits, and her 205-page Answer to the
13 State's Response is supported by an additional 5 exhibits. The District Court's FINDINGS OF
14 FACT, CONCLUSIONS OF LAW AND ORDER summarily denying Ms. Lobato's Petition
15 raises a plethora of substantive legal and factual issues for appeal by Ms. Lobato.
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18 On August 1, 2011, Ms. Lobato's Notice of Appeal of the District Court's Order was
19 filed with the Court.

20 On August 2, 2100, Ms. Lobato's Appeal was docketed and notice that the Appeal was
21 to proceed under the Fast Track Rules was served upon Ms. Lobato's counsel.

22 On August 25, 2011, Ms. Lobato filed with the Court a Motion for Waiver of
23 Application of NRAP 3C and Request for Full Briefing.
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25 **II. ARGUMENT.**

26 NRAP 27(a)(2) provides as follows:

27 A motion must state with particularity the grounds for the motion, the relief
28 sought, and the legal argument necessary to support it. The motion shall contain
or be accompanied by any matter required by a specific provision of these Rules

1 governing such a motion. If a motion is supported by affidavits or other papers,
2 they shall be served and filed with the motion.

3 **A. GROUNDS.**

4 Ms. Lobato's Petition for a Writ of Habeas Corpus includes 79 grounds for relief
5 supported by 101 exhibits, and her 205-page Answer to the State's Response is supported by an
6 additional 5 exhibits. The District Court's FINDINGS OF FACT, CONCLUSIONS OF LAW
7 AND ORDER summarily denying Ms. Lobato's Petition raises a plethora of substantive legal
8 and factual issues for appeal by Ms. Lobato. Treatment under the Fast track Rules with a 10
9 page limit would be unduly restrictive and burdensome in this particular case. The 10 page
10 limitation could not provide this Court with sufficient information to adequately review the
11 record.
12

13 **B. RELIEF SOUGHT.**

14 Ms. Lobato seeks a Stay of the Fast Track Rules pending the Court's decision on
15 her Motion for Waiver of Application of NRAP 3C and Request for Full Briefing.
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17 **C. ARGUMENT.**

18 In *Woods v. State*, the Nevada Supreme Court held that the Fast Track Rules under
19 NRAP 3C, including the restrictions on the briefing, "complies with the due process
20 requirements of the United States Constitution, the Nevada Constitution and NRS 2.120."¹
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22 In *Hernandez v. State*, the Nevada Supreme Court subsequently upheld the 10 page
23 limit, but also exercised its discretion in granting the petitioner an exception, and allowed him to
24 file an 80 page brief, "given the seriousness and complexity" of his appeal.²
25

26 Here, given the complexity of the issues raised in Ms. Lobato's Appeal, the Court has
27 the discretion to waive the 10 page limit, as requested in Ms. Lobato's Motion for Waiver of
28 Application of NRAP 3C and Request for Full Briefing.

¹ *Woods v. State*, 115 Nev. 344, 352, 990 P.2d 786 (1999).

² *Hernandez v. State*, 117 Nev. 463, 468, 24 P.3d 767 (2001).

1 Ms. Lobato's Motion for Stay will toll the time requirements under the Fast Track Rules
2 until the Court renders its decision on Ms. Lobato's Ms. Lobato's Motion for Waiver of
3 Application of NRAP 3C and Request for Full Briefing.

4 **III. CONCLUSION.**

5 Therefore, it is respectfully requested that this Honorable Supreme Court stay the
6 application of the time requirements of the Fast Track Rules until such time as it renders its
7 decision on Ms. Lobato's Motion for Waiver of Application of NRAP 3C and Request for Full
8 Briefing.
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10 Respectfully submitted,

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