

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

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5 KIRSTIN BLAISE LOBATO,
6 Appellant,

) Case No. 58913

Electronically Filed
Jan 31 2012 04:06 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

7 v.

8 THE STATE OF NEVADA,
9 Respondent.

10 **RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION**
11 **TO FILE OPENING BRIEF IN EXCESS OF PAGE LIMIT**

12
13 COMES NOW the State of Nevada, by DAVID ROGER, Clark County
14 District Attorney, through his Chief Deputy, STEVEN S. OWENS, and
15 respectfully moves for leave to file this Opposition to Motion to File Opening Brief
16 in Excess of Page Limit.

17 Dated this 31st day of January, 2012

18 Respectfully submitted,

19 MARY-ANNE MILLER
20 Interim Clark County District Attorney
Nevada Bar 001419

21
22 BY /s/ Steven S. Owens

23 STEVEN S. OWENS
24 Chief Deputy District Attorney
25 Nevada Bar #004352
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1 MEMORANDUM

2 Appellant seeks leave of this Court to file a 98-page Opening Brief in this
3 post-conviction appeal. The State opposes the request.

4 Pursuant to NRAP 32(a)(7)(A)(i), an opening brief “shall not exceed 30
5 pages.” Lobato inappropriately cites to the rule for page limits on motions, not
6 briefs. See NRAP 27(d)(2). This Court “looks with disfavor on motions to exceed
7 the applicable page limit or type-volume limitation, and therefore, permission to
8 exceed the page limit or type-volume limitation will not be routinely granted.”
9 NRAP 32(a)(7)(D)(i). Such a request will only be granted upon a showing of
10 “diligence and good cause.” Id. A motion seeking enlargement of the page limit
11 for a brief “shall be accompanied by a declaration stating in detail the reasons for
12 the motion.” NRAP 32(a)(7)(D)(ii). This Court has recognized that reasonable
13 limitations on briefs are “necessary for the functioning of this court” and “are
14 ordinary practices employed by courts to assist in the efficient management of the
15 cases before them.” Hernandez v. State, 117 Nev. 463, 24 P.3d 767 (2001).

16 The 98 pages that Lobato requests is more than three times that ordinarily
17 permitted for Opening Briefs and even exceeds the 80 pages afforded a capital
18 litigant. NRAP 32(a)(7)(A), (B). The motion fails to state “in detail” the reasons
19 for the motion and summarily concludes that 98 pages is necessary “in order to
20 fully develop the extensive claims raised . . . below.” Such is inadequate to show
21 diligence and good cause.

22 The concerns about brevity and conciseness in briefs that are necessary for
23 this Court to function efficiently are the same for the prosecutors who must read
24 and respond to the verbose and excessive filings of opposing counsel. Because
25 excess pages are disfavored and Lobato has failed to demonstrate diligence and
26 good cause for a 98 page Opening Brief, the State requests the motion be denied.

1 Dated this 31st day of January, 2012.

2 MARY-ANNE MILLER
3 Interim Clark County District Attorney
4 Nevada Bar # 001419

5 BY */s/ Steven S. Owens*

6 STEVEN S. OWENS
7 Chief Deputy District Attorney
8 Nevada Bar #004352

9 Attorney for Respondent
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify and affirm that this document was filed electronically with
3 the Nevada Supreme Court on January 31, 2012. Electronic Service of the
4 foregoing document shall be made in accordance with the Master Service List as
5 follows:

6 CATHERINE CORTEZ MASTO
7 Nevada Attorney General

8 TRAVIS N. BARRICK
9 Counsel for Appellant

10 STEVEN S. OWENS
11 Chief Deputy District Attorney

12 */s/ eileen davis*
13 _____
14 Employee, Clark County
15 District Attorney's Office

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26 SSO/ed
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