1	IN THE SUPREME COURT OF THE STATE OF NEVADA
2	
3	
4	Electronically Filed Oct 11 2012 09:31 a.m
5	KRISTIN LOBATO, ) Case No. 58913 Tracie K. Lindeman   Clerk of Supreme Cour
6	Appellant, {
7	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
8	THE STATE OF NEVADA,
9	Respondent.
10	OPPOSITION TO MOTION FOR LEAVE TO FILE
11	OPPOSITION TO MOTION FOR LEAVE TO FILE REPLY BRIEF IN EXCESS OF PAGE LIMITS
12	COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark
13	County District Attorney, through his Chief Deputy District Attorney, STEVEN S.
<ul><li>14</li><li>15</li></ul>	OWENS, and respectfully moves for leave to file this Opposition to Motion for
16	Leave to File Reply Brief in Excess of Page Limits.
17	Dated this 11 <sup>th</sup> day of October, 2012
18	Respectfully submitted,
19	STEVEN B. WOLFSON
20	Clark County District Attorney
21	BY /s/ Steven S. Owens
22	STEVEN S. OWENS
23	Chief Deputy District Attorney Nevada Bar #004352 Office of the Clark County District Attorney
24	Office of the Clark County District Attorney Regional Justice Center 200 Lewis Avenue
25	Post Office Box 552212 Las Vegas, Nevada 89155-2212
26	(702) 671-2750
27	
28	

5

15

28

## POINTS AND AUTHORITIES

Appellant seeks leave of this Court to file a 168-page Reply Brief in this post-conviction appeal. The State opposes the request.

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

The 168 pages that Lobato requests is more than ten times that ordinarily permitted for Reply Briefs and even exceeds the 40 pages afforded a capital litigant. NRAP 32(a)(7)(A), (B). The rules contemplate a Reply Brief that is proportionately half the length of the Opening Brief. Id. Considering that the Opening Brief in this case is 129 pages, a Reply Brief of 168 pages is excessive. Also, a Reply Brief is limited to answering any new matter set forth in the opposing brief. NRAP 28(c). Considering the Answering Brief is just 93 pages, 168 pages of rebuttal argument is excessive. Finally, the motion fails to state "in detail" the reasons for the motion and summarily concludes that 168 pages is necessary "[i]n order to fully rebut the State's errors and omissions." Such is inadequate to show diligence and good cause.

The concerns about brevity and conciseness in briefs that are necessary for this Court to function efficiently are the same for the prosecutors who must read and respond to the verbose and excessive filings of opposing counsel. Because excess pages are disfavored and Lobato has failed to demonstrate diligence and good cause for a 168 page Reply Brief, the State requests the motion be denied.

Dated this 11<sup>th</sup> day of October, 2012.

Respectfully submitted,

STEVEN B. WOLFSON Clark County District Attorney Nevada Bar # 001565

BY /s/ Steven S. Owens

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

Attorney for Respondent

## 

## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on October 11, 2012. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

> CATHERINE CORTEZ MASTO Nevada Attorney General

TRAVIS BARRICK, ESQ. Counsel for Appellant

STEVEN S. OWENS Chief Deputy District Attorney

/s/ jennifer garcia
Employee, Clark County
District Attorney's Office

SSO/jg