

1 **POINTS AND AUTHORITIES**

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

4 Pursuant to NRAP 32(a)(7)(A)(i), a Reply Brief “shall not exceed 15 pages.”
5 Lobato inappropriately cites to the rule for page limits on motions, not briefs. See
6 NRAP 27(d)(2). This court “looks with disfavor on motions to exceed the
7 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 168 pages that Lobato requests is more than ten times that ordinarily
17 permitted for Reply Briefs and even exceeds the 40 pages afforded a capital
18 litigant. NRAP 32(a)(7)(A), (B). The rules contemplate a Reply Brief that is
19 proportionately half the length of the Opening Brief. *Id.* Considering that the
20 Opening Brief in this case is 129 pages, a Reply Brief of 168 pages is excessive.
21 Also, a Reply Brief is limited to answering any new matter set forth in the
22 opposing brief. NRAP 28(c). Considering the Answering Brief is just 93 pages,
23 168 pages of rebuttal argument is excessive. Finally, the motion fails to state “in
24 detail” the reasons for the motion and summarily concludes that 168 pages is
25 necessary “[i]n order to fully rebut the State’s errors and omissions.” Such is
26 inadequate to show diligence and good cause.

