

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAQUEZ DEJUAN BARBER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62649

FILED

FEB 19 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

*ORDER DENYING MOTION TO EXCEED TYPE-VOLUME
LIMITATION AND GRANTING MOTIONS FOR EXTENSION OF TIME
IN PART*

Appellant's counsel has filed a motion for leave to file a reply brief in excess of the type-volume limitation. *See* NRAP 32(a)(7)(D). Counsel certifies that the submitted reply brief contains 16,824 words—more than twice the type-volume allowed by NRAP 32(a)(7)(A)(ii). Counsel states that the additional type-volume is necessary to address two issues of first impression, numerous alleged “mischaracterizations and untruths” in the answering brief, the State's alteration of appellant's issues, and an additional issue raised in the answering brief.

A reply brief serves a very limited purpose: “answering any new matter set forth in the opposing brief.” NRAP 28(c). For this reason, the applicable type-volume limit is half that allowed for the answering brief. *See* NRAP 32(a)(7)(A)(ii). But appellant's proposed reply brief exceeds the length of the answering brief filed in this case by more than three thousand words. “The court looks with disfavor on motions to exceed the 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). Based on our review of the submitted brief, we are not convinced that appellant has shown “diligence and good cause” to warrant a 16,824-word reply brief, *id.*; *Hernandez v. State*, 117 Nev. 463, 466, 24 P.3d 767, 769 (2001) (advising counsel to avoid repetition in briefs), or that such a lengthy reply brief is necessary to respond to any new matter set forth in the answering brief. Accordingly, the motion is denied. The clerk of this court shall reject the reply brief received via E-Flex on January 30, 2014.

Appellant’s counsel has also filed two motions requesting a total of three additional days to file the reply brief and appendix. In light of this order, we grant the motions in part. The clerk of this court shall file the reply appendix received via E-Flex on January 31, 2014. Appellant shall have 30 days from the date of this order to file a reply brief that complies with either the standard page limitation (not more than 15 pages) or type-volume limitation (not more than 7,000 words). NRAP 32(a)(7)(A)(i)-(ii). Failure to file a timely reply brief may be treated as a waiver of the right to file a reply brief. NRAP 28(c).

It is so ORDERED.

 _____, C.J.

cc: Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney