

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

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ERNESTO MANUEL GONZALEZ

Case No. 64249

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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**MOTION FOR EXTENSION OF TIME**  
**(SECOND REQUEST BY CURRENT COUNSEL)**

COMES NOW, Ernesto Gonzalez, Appellant, by and through the undersigned counsel of record, Richard F. Cornell, Esq. and the Law Offices of Richard F. Cornell, and hereby moves this Honorable Court for an extension of time of 30 days, or until Wednesday, November 5, 2014, within which to file and serve the Appellant's Brief and Appellant's Appendix.

This Motion is brought in good faith and not for purposes of delay.

This is the second Motion for Extension of Time brought by the undersigned, although prior counsel of record on information and belief have also sought extensions.

The within Motion is brought pursuant to NRAP 26(b) and 27(a), and based upon the accompanying Declaration of Counsel.

DATED this 1<sup>st</sup> day of October, 2014.

Respectfully submitted,

LAW OFFICES OF RICHARD F. CORNELL  
150 Ridge Street, Second Floor

Reno, NV 89501

By:   
Richard F. Cornell

**DECLARATION OF COUNSEL**

RICHARD F. CORNELL, under penalty of perjury, swears and declares as follows:

1. Your Declarant is an attorney, admitted to practice in the State of Nevada in 1979. Your Declarant regularly practices appellate law before this Court as well as before the United States Court of Appeals for the Ninth Circuit.
2. Your Declarant makes this Declaration in support of his Motion for Extension of Time to file the Appellant's Opening Brief and Appendix.
3. The undersigned is very well aware of the Court's "Order Granting Motion in Part" filed June 6, 2014, and prepares this Declaration in response to it.

4. The Court should bear in mind, however, that when the undersigned filed the prior Motion for a 120-day extension of time, that was done shortly after the undersigned received the fee in this case from Mr. Gonzales' family and received the file from Mr. Petty. The undersigned was envisioning the 120 days set forth in NRAP 31(a)(1) when the undersigned sought that amount of an extension of time. In other words, had this case been assigned to the undersigned from the time of filing of the Notice of Appeal, the undersigned was envisioning the amount of time that the rule would grant him as a matter of law to file the Opening Brief and Appendix.

5. The undersigned was not trial counsel and knew only generally what the case was about from media accounts and from speaking with trial counsel, Mr. Houston. The trial transcript in this case is 2,736 pages long. At this dictation, the undersigned has very carefully reviewed the entire transcript and now understands what the case is about in terms of the legal issues presented. The undersigned still has a number of transcript pages from pre-trial hearings to go through, but the undersigned suspects that that review will go much more quickly.

6. From June 6, 2014 until now, the undersigned was faced with a choice of either getting this brief done in the 120 days granted, or seeking numerous extensions of time on other cases (with four actually sought, as noted below).

Between those dates, the undersigned wrote the following briefs in the following cases:

a. Alvarez v. State, case no. 64090: 32-page Opening Brief filed August 14, 2014; 16-page Reply Brief filed in September of 2014. (two extensions granted)

b. Cassinelli v. State, case no. 64881: Appellant's Supplemental Fast Track Statement filed July 22, 2014, 10 pages; Fast Track Reply, filed September 24, 2014, 9 pages.

c. Decker adv. United States of America, Ninth Circuit no. 14-10132: Opening Brief for the Appellant filed July 21, 2014, 37 pages; Reply Brief for the Appellant, filed September 26, 2014, 12 pages. (one extension granted)

d. Hall v. Velianoff, case no. 65267: Child Custody Fast Track Statement filed July 22, 2014, 32 pages; Reply to Child Custody Fast Track Response, filed August 26, 2014, 11 pages.

e. Hidalgo v. Warden, Eighth Judicial District case no. 05C212667-2: Supplemental Petition for Writ of *Habeas Corpus* filed May 9, 2013, 43 pages; Reply to State's Response to Defendant's Supplemental Petition, filed September 5, 2014, 37 pages. (one extension granted)

f. Mack v. United States District Court for the District of Nevada, Ninth Circuit case no. 14-72363, Petition for Writ of Mandamus filed August 4, 2014, 30

pages.

g. McKinlay v. State, case no. 64483, Petition for Rehearing, filed September 25, 2014, 10 pages.

h. Medina-Gomez v. Garcia, case no. 64694: Appellant's Opening Brief filed June 24, 2014, 44 pages; Appellant's Reply Brief, filed September 11, 2014, 20 pages.

i. Myers v. Fuller, case no. 64326: Appellant's Reply Brief filed June 26, 2014: 12 pages.

j. Rodriguez v. State, case no. 64945: Appellant's Opening Brief filed July 17, 2014: 38 pages.

k. State v. Smith, case no. 66117: Fast Track Response submitted for filing September 15, 2014: 30 pages.

7. In so stating the Court should bear these things in mind:

a. The undersigned has not listed every document that the undersigned has been involved in preparing over the last 120 days, but rather, the most significant ones.

b. In none of the above cases did the undersigned have other attorneys do any research, writing or review of the record. The undersigned prepared the 423 pages of briefing in question completely on his own.

c. The undersigned is 62 years old. The undersigned did not take any time off during that 120-day time frame at all.

d. This case is a high profile case and it is a complex case. This is the case that involves the shooting inside of the Sparks Nugget during Street Vibrations in September of 2011. The case involves a sentencing structure which, for this Defendant/Appellant, is tantamount to life without the possibility of parole.

e. The undersigned has an evidentiary hearing to prepare and attend in October on October 13 in Gonzalez-Alpizar v. Griffith. (See: 130 Nev. Ad. Op. 2)

8. In light of the huge projects in this case and in Bolanos v. State, case no. 65622, the undersigned has been turning down requests to be retained so that the undersigned can get briefs filed in a reasonably timely fashion in both cases.

Bolanos is equally as complex as this case, if not more so. (See: Accompanying Motion for Extension of Time in Bolanos v. State, case no. 65622).

9. The undersigned is not in a position where he can “subcontract” this case to a different attorney. The reason is as follows: When the undersigned was contacted by the Gonzales family to represent Ernesto Gonzales on a retained basis, the undersigned quoted a flat fee. The undersigned quite frankly erred from a business sense, because the undersigned did not realize the extensive nature of this case. The undersigned should have quoted a fee of about double of what was

actually quoted and paid. Because of that, if the undersigned subcontracts this case out, the undersigned works for free. The undersigned is not interested in working for free, just as any member of this Honorable Court is not interested in working for free. On the same hand, the situation occurred with the Second Judicial District in Gonzales where trial counsel (Mr. Houston) was under-retained; trial counsel attempted to have the County bear some the legal expense involved; and the County absolutely refused to do it for trial counsel. In fact, trial counsel (Mr. Houston) asked the undersigned to assist him during the time he was counsel of record on appeal, and the County would not honor his vouchers (in reality, the undersigned's voucher submitted through Mr. Houston's office) for that reason. Therefore, for this case there is no possibility of your client successfully seeking appointment "after the fee runs out" - especially since by statute Mr. Petty should be appointed counsel.

10. Mr. McCarthy, on behalf of the State, has indicated no objection to the granting of his Motion.

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11. Your Declarant swears and declares under penalty of perjury that the foregoing assertions of fact are true and correct.

DATED this   1   day of October, 2014 in Reno, Washoe County, Nevada.

A handwritten signature in dark ink, appearing to read "Richard F. Cornell", is written over a horizontal line.

Richard F. Cornell




**CERTIFICATE OF SERVICE**

Pursuant to N.R.C.P. 5(b), I certify that I am an employee of LAW  
OFFICES OF RICHARD F. CORNELL, and that on this date I caused a true and  
correct copy of the foregoing document to be delivered by Reno Carson

Messenger Service, addressed to:

Washoe County District Attorney's Office  
Appellate Division  
One S. Sierra St., 7<sup>th</sup> Floor  
Reno, NV 89501

**DATED** this 1st day of October, 2014.

  
Marianne Tom-Kadlic  
Legal Assistant