

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEANGELO R. CARROLL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64757

FILED

NOV 21 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING MOTION

Appellant has filed a motion for leave to file an opening brief in excess of the 14,000 word type-volume limitation. NRAP 32(a)(7)(A)(ii), (D). The proposed opening brief contains 22,121 words.

This 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); *see also Hernandez v. State*, 117 Nev. 463, 467, 24 P.3d 767, 770 (2001) (“Page limits . . . are ordinary practices employed by courts to assist in the efficient management of the cases before them.” (quoting *Cunningham v. Becker*, 96 F. Supp. 2 369, 374 (D. Del. 2000))). While we are aware that longer briefs are needed in some cases, there also must remain reasonable limits. *Hernandez*, 117 Nev. at 467-68, 24 P.3d at 770. Accordingly, a motion “will be granted only upon a showing of diligence and good cause.” NRAP 32(a)(7)(D)(i).

Here, the proposed brief includes an 11-page statement of the case and a 42-page statement of facts. The statement of the case should “briefly indicat[e] the nature of the case, the course of the proceedings, and the disposition below.” NRAP 28(a)(6). “This is not a procedural history;

the only pertinent 'course of proceedings' is that which brings the case before this court. Other procedural facts, if relevant, belong in the statement of facts." *Hernandez*, 117 Nev. at 466, 24 P.3d at 769. The statement of the case included in the proposed brief is a procedural history of the case rather than a brief statement of the nature of the case, the pertinent course of proceedings that brings the case before this court, and the disposition below. And the statement of facts should present only facts that are "relevant to the issues submitted for review." NRAP 28(a)(7); *Hernandez*, 117 Nev. at 466, 24 P.3d at 769. The proposed brief includes extensive facts from the penalty phase of the trial, but the brief does not appear to present any issues related to the penalty phase of the trial and it is unclear how the detailed facts from the penalty phase are relevant to the issues that are presented for review. Based on our review of the brief, we are not convinced that counsel has shown diligence and good cause to file a brief exceeding 22,000 words.

Given the seriousness of this case, we grant appellant permission to file an opening brief that does not exceed 19,000 words. The type-volume count shall comply with NRAP 32(a)(7)(C). Appellant shall have 30 days from the date of this order to file and serve the opening brief. Extensions of time will be granted only on showing of extraordinary circumstances and extreme need. NRAP 31(b)(3)(B). Counsel's caseload normally will not be deemed such a circumstance. *Cf. Varnum v. Grady*, 90 Nev. 374, 528 P.2d 1027 (1974). Failure to timely file the opening brief may result in the imposition of sanctions.

It is so ORDERED.

 C.J.

cc: Mario D. Valencia
Attorney General/Carson City
Clark County District Attorney