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2 **REQT**

3 **BRENT D. PERCIVAL, ESQ.**

4 Nevada Bar #3656

5 **BRENT D. PERCIVAL, ESQ. P.C.**

6 Las Vegas, Nevada 89101

7 (702) 868-5650

8 Attorney for Defendant/Appellant

Electronically Filed  
Jan 30 2015 10:13 a.m.

Tracie K. Lindeman  
Clerk of Supreme Court

9 **IN THE SUPREME COURT**

10 **OF THE STATE OF NEVADA**

11 **CORY DEALVONE HUBBARD**

12 Defendant/Appellant,

13 vs.

14 **THE STATE OF NEVADA,**

15 Respondent.

**Supreme Court No. 66185**

District Court Case No. 292507

16 **REQUEST FOR ADDITIONAL TIME TO FILE OPENING BRIEF AND APPENDIX**

17 COMES NOW Appellant, CORY DEALVONE HUBBARD, by and through his  
18 attorney of record, BRENT D. PERCIVAL, ESQ., of the law office Brent D. Percival,  
19 Esq. P.C., and hereby respectfully submits the present Request for Additional Time to  
20 File Opening Brief and Appendix.

21 This Request for additional time is made and based upon the entirety of the  
22 pleadings and papers presently on file herein, upon the affidavit of Brent D. Percival,  
23 Esq., attached hereto.

24 DATED this 30<sup>th</sup> day of January, 2015.

25 **BRENT D. PERCIVAL, ESQ. P.C..**

26   
27 BRENT D. PERCIVAL, ESQ.

28 Nevada Bar #3656

630 South Third Street

Las Vegas, NV 89101

(702) 868-5650

Attorney for Appellant

**AFFIDAVIT OF BRENT D. PERCIVAL, IN SUPPORT OF REQUEST FOR  
ADDITIONAL TIME TO FILE OPENING BRIEF AND APPENDIX**

STATE OF NEVADA            )  
  )ss:  
COUNTY OF CLARK         )

Brent D. Percival., Esq., being first duly sworn, deposes and says:

1. That I am an attorney licensed to practice law in the State of Nevada, and I am Defendant/Appellant CORY HUBBARD's court-appointed attorney of record in the above-captioned matter. Your affiant represented the Defendant/Appellant in all phases of the proceedings which were held in the District Court action below.

2. That I have personal knowledge of the facts herein stated, except for those alleged upon information and belief and, as to those allegations, I believe them to be true.

3. This is an appeal from a judgment of conviction in a case alleging, essentially, the commission of the crimes of Count 1 – Conspiracy To Commit Robbery; Count 2 – Burglary While In Possession Of A Firearm; Count 3 – Robbery With Use Of A Deadly Weapon; Count 4 – Robbery With Use Of A Deadly Weapon; Count 5 – Robbery With Use Of A Deadly Weapon; Count 6 – Robbery With Use Of A Deadly Weapon; Count 7 – Robbery With Use Of A Deadly Weapon; Count 8 – Robbery With Use Of A Deadly Weapon; Count 9 – Robbery With Use Of A Deadly Weapon; County 13 – Attempt Murder With Use Of A Deadly Weapon; Count 14 – Assault With Use Of A Deadly Weapon and Count 15 – Discharge Of Firearm Within A Structure. The defendant was sentenced as to Count 1 – Life without the possibility of parole; as to Count 2 – Life without the possibility of parole, as to Count 3 – Life without the possibility of parole, as to Count 4 – Life without the possibility of parole, as to Count 5 – Life without the possibility of parole, as to Count 6 – Life without the possibility of parole, as to Count 7 – Life without the possibility of parole, as to Count 8 – Life without

1 the possibility of parole, as to Count 9 – Life without the possibility of parole, as to  
2 Count 14 – Sentenced to Credit for Time Served, as to Count 15 – Life without the  
3 possibility of parole, all counts to run concurrent with each other.  
4

5 4. Your affiant was court-appointed to represent Mr. CORY HUBBARD in  
6 place of the Clark County Public Defender's office. Counsel's appointment as attorney  
7 of record took place after a conflict of interest came to light which precluded the Public  
8 Defender's office from further serving as counsel for Mr. HUBBARD.  
9

10 5. The Request for Transcripts was filed on October 15, 2014 and the  
11 Docketing Statement was filed in this matter on August 20, 2014.

12 6. That although the Opening Brief and Appendix are due February 6, 2015,  
13 the transcripts, have yet to be properly delivered to Brent D. Percival, Esq.

14 7. On August 8, 2014, the Supreme Court filed an Order Regarding  
15 Transcripts, which states, the court reporter is to "deliver to the party ordering the  
16 transcript 1 certified copy and an additional certified copy for the appendix." A copy of  
17 the Order is attached hereto.

18 8. On December 15, 2014, Court Reporter for District Court Department IX,  
19 Dana Tavaglione, filed with the Supreme Court a Certificate of Filing and Delivery  
20 stating that "transcripts of these proceedings were delivered". Ms. Tavaglione,  
21 however, apparently never notified this office that the transcripts had been prepared, or  
22 delivered copies of the requested transcripts to counsel, either by e-mail, fax, or U.S.  
23 Mail.

24 9. On January 26, 2015, Court Reporter for District Court Department IX,  
25 Robert Cangemi, filed a Certificate of Filing and Delivery stating that "the requested  
26 transcripts were delivered". Counsel was not notified of the preparation or finalization  
27 of these transcripts, whether by e-mail, fax, or U.S. Mail. Nor were the transcripts  
28 delivered, in any fashion, to counsel's office. The notification and non-delivery of the

requested Transcripts is also in violation of the Supreme Court's Order of August 8, 2014.

10. There has been no Certificate of Filing and Delivery filed by Bill Nelson or Joann Melendez thus far.

11. That in light of the fact that the transcripts of a six (6) day trial have not been received by counsel for Appellant and Certificates of Filing and Delivery have yet to be filed by Court Recorder Nelson and Melendez, as directed by order of the Supreme Court of Nevada, counsel respectfully requests an extension of ninety (90) days in which to file Appellant's Opening Brief and Appendix. If such order were to be granted, Appellant's Opening Brief would fall due on May 6, 2015.

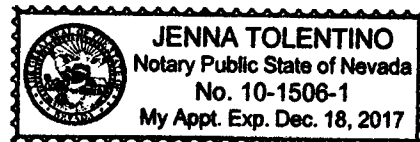
**FURTHER, YOUR AFFIANT SAYETH NAUGHT.**

DATED this 30 day of January 29, 2015.

  
BRENT D. PERCIVAL, ESQ.

SUBSCRIBED and SWORN to before  
me this 30<sup>th</sup> day of January 29, 2015.

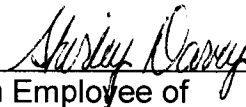
  
Notary Public



**CERTIFICATE OF MAILING**

I hereby certify that on the 30th day of January, 2015 I served a copy of the foregoing **Request for Additional Time to File Opening Brief and Appendix** by depositing a copy in the U.S. Mail, first-class postage attached, addressed as follows:

Clark County District Attorney's Office  
Appellate Division  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
Counsel for Respondent

  
An Employee of  
**Brent D. Percival, Esq., P.C.**

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY A. FRITZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 64770

**FILED**

AUG 08 2014

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

*ORDER REGARDING TRANSCRIPTS*

Appellant served transcript request forms on court recorders Victoria Boyd and Yvette Sison on January 22, 2014. In a motion for an extension of time filed with this court on July 28, 2014, appellant represents that he has not yet been provided with copies of the requested transcripts. Copies of the transcript request forms are attached.

On July 2, 2014, Ms. Boyd filed a notice in this court indicating that she prepared and filed the transcripts requested of her and notified appellant's counsel via e-mail that the transcripts were available on Odyssey. However, based on appellant's motion, it appears that the requested transcripts have not been delivered to appellant's counsel. NRAP 9(b)(1)(A) requires a court recorder to both "file the original transcript with the district court clerk" and "deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix." It thus appears that Ms. Boyd has not yet completed her obligation to deliver copies of the requested transcripts to appellant's counsel. In addition, we note that although Ms. Boyd's notice indicates that she has prepared and filed all of the transcripts requested of her in

this matter, it appears from the district court docket entries that the transcripts of proceedings held on July 15 and 17, 2013, have not yet been filed in the district court.<sup>1</sup> Accordingly, Ms. Boyd shall have 20 days from the date of this order to (1) prepare and file the transcripts of the July 15 and 17, 2013, proceedings, and (2) deliver copies of all the transcripts requested of her to appellant's counsel. If Ms. Boyd believes she is not responsible for preparing or delivering any of the requested transcripts she shall so notify this court, in writing, within the same time period.

It appears that all transcripts requested from Ms. Sison have been filed in the district court. To date, however, Ms. Sison has not filed a notice of delivery of the transcripts in this court as required by NRAP 9(b)(2). And, based on appellant's motion, it appears that appellant has not yet received the transcripts requested of Ms. Sison. Accordingly, Ms. Sison shall have 11 days from the date of this order to deliver the transcripts requested of her to appellant's counsel and file a notice in this court confirming that the transcripts have been delivered to appellant's counsel. The notice must comply with NRAP 9(b)(2). If Ms. Sison believes

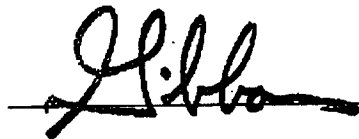
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<sup>1</sup>It also appears that the transcripts of proceedings held on April 3, 2011, and July 16, 2013, also requested from Ms. Boyd, have not been filed in the district court. Review of the district court docket and minute entries indicates that no proceedings were conducted on April 3, 2011. It also appears from the district court minute entries that the July 16, 2013, proceedings consisted of voir dire examination. However, appellant's transcript request form specifically stated that voir dire examination of jurors was not requested. It thus appears that Ms. Boyd is not responsible for the production of these transcripts.

she is not responsible for delivering any of the requested transcripts she shall so notify this court, in writing, within the same time period.

We caution Ms. Boyd and Ms. Sison that failure to comply with this order may result in the imposition of sanctions. See NRAP 9(b)(5); NRAP 13(b).

It is so ORDERED.

, C.J.

cc: Hon. Jennifer Togliatti, Chief Judge  
Hon. Jessie Elizabeth Walsh, District Judge  
Brent D. Percival  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk  
Steve Grierson, District Court Administrator  
Victoria Boyd, Court Recorder  
Yvette Sison, Court Recorder