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IN THE SUPREME COURT OF THE STATE OF NEVADA

CORY DEALVONE HUBBARD,)	
)	Case No.: 66185
Appellant,)	District Court No.: C-13-292507-1
)	
vs.)	<u>REQUEST FOR ADDITIONAL</u>
)	<u>TIME TO FILE APPELLANT'S</u>
THE STATE OF NEVADA,)	<u>REPLY BRIEF</u>
)	
Respondent.)	(Second Request)
_____)	

COMES NOW Appellant, CORY DEALVONE HUBBARD, by and through his attorney of record, BRENT D. PERCIVAL, ESQ., of the law office of Brent D. Percival, Esq. P.C. and hereby respectfully submits the present Request for Additional Time to File Appellant's Reply Brief in the above-captioned matter.

Mr. HUBBARD's reply brief is presently due to be filed on October 26, 2015. This pleading requests an additional seven days of time to file this brief.

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If this Honorable Court grants this request, Mr. HUBBARD's brief will be due to be filed on or before November 2, 2015.

This request for additional time is made and based upon the entirety of the pleadings and papers presently on file herein and upon the declaration of Brent D. Percival, Esq. which is attached to this Request.

DATED this 26th day October, 2015.

Respectfully Submitted,

/s/ Brent D. Percival
BRENT D. PERCIVAL, ESQ.
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**DECLARATION OF BRENT D. PERCIVAL IN SUPPORT OF REQUEST
FOR ADDITIONAL TIME TO FILE REPLY BRIEF**

BRENT D. PERCIVAL, knowing the penalties for perjury, does state the following under penalty of perjury:

1. I am attorney licensed to practice in the state of Nevada, before the U.S. District Courts in and for the States of Nevada and Kansas. I have been so licensed within the State of Nevada since approximately November 18, 1988.

2. I was appointed to represent Defendant/Appellant CORY DEALVONE HUBBARD in both the Justice Court and District Court.

3. This appeal follows after a six day jury trial. Mr. HUBBARD was convicted of committing eleven crimes: conspiracy to commit robbery, burglary, seven counts of robbery with use of a deadly weapon, assault, and discharging a firearm within a structure.

4. On June 26, 2014, the district court found that Mr. HUBBARD was a habitual criminal and sentenced him to life without possibility of parole on ten of the counts of conviction. The district court ordered all sentences to run concurrent to each other.

5. Mr. HUBBARD's opening brief was received, by the clerk of this Court, on July 27, 2015 and filed on August 5, 2015.

The brief challenged the sufficiency of the evidence adduced during Mr. HUBBARD's trial regarding five of the seven counts of robbery with use of a deadly weapon. Additionally, the opening brief challenged the introduction of other bad act evidence regarding a crime previously committed in the state of Washington.

6. The state's answering brief was filed on August 31, 2015. The state's response to Mr. HUBBARD's challenge to the five robbery convictions is based solely upon three opinions by this Court: Robertson v. Sheriff, 93 Nev. 300, 302 (1977), Phillips v. State, 99 Nev. 693, 696 (1983) and State v. Ah Loi, 5 Nev. 99, 101 (1869).

7. According to the state, these three cases establish sufficient evidence was adduced because (1) the "victims" of the challenged five counts were in the same room or an adjacent room or in an upstairs bedroom during the robbery and therefore were "in the presence" of the two victims who actually had property taken from them; and (2) because the five victims were "friends and family members" each had a possessory interest in the iPad/cell phone taken from the person of one victim - Asia Hood (who did not own the property but was clearly a victim of robbery) and also

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the cellular phone owned by and taken directly from another person - Kenneth Flenory.¹

8. In preparing the reply brief regarding the sufficiency issue, I found that the three cases relied upon by the state did not hold that “family and friends” have a possessory interest in items taken from the person of another. Therefore, I began researching the issues - in the presence of another and possessory interest - in other state jurisdictions. While I recognize that other state court opinions are clearly not binding upon this Court, they can offer an analysis of the issues presented in the case at bar that haven’t been determined by this Court and could therefore be instructive.

9. As noted in the first request for additional time, these issues are very general concepts. My research resulted in a extremely large number of opinions which I have been reviewing since October 1, 2015.

10. Even though I have diligently been reviewing other state court opinions, I have not finalized this research. Therefore, I require additional time to finalize this task and also finalize the reply brief which I have begun to draft.

¹ Other than making the general assertion that all five victims were “family or friends”, the state utterly fails to address how Anthony Roberts, the friend of only one person - David Powers - had a possessory interest in any of the three items actually taken “from the person of another.”

11. In the Eighth Judicial District Court, Mr. HUBBARD filed two separate motions to have me removed as counsel. While the district court denied these motions, it is important that I properly and adequately research and prepare Mr. HUBBARD's reply brief..

12. I have been diligently completing the tasks associated with the preparation of Mr. HUBBARD's reply brief. However, I have not been able to complete the necessary research and writing of the reply brief.

Based upon all of the above noted facts, I respectfully request this Honorable Court grant me an additional seven days to file the reply brief. This is the second request for additional time to file this brief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of October, 2015, at Las Vegas, Nevada.

/s/ Brent D. Percival
Brent D. Percival

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26th day of October, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Chief Deputy District Attorney Steven Owens

Attorney General Adam Laxalt

Brent D. Percival

/s/ Brent D. Percival
Brent D. Percival
Counsel for Appellant:
CORY DEALVONE HUBBARD