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**BRENT D. PERCIVAL, ESQ. P.C.**  
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CORY DEALVONE HUBBARD

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

CORY DEALVONE HUBBARD,	)	Case No.: 66185
	)	
Appellant,	)	
	)	<u><b>AMENDED</b></u>
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 Amended Request for Additional Time to File Appellant's Reply Brief in the above-captioned matter.

Mr. HUBBARD's reply brief was due to be filed on October 26, 2015. On that date a request for seven additional days of time to file the brief was filed with this Court which would have made the reply brief due November 2, 2015.

As an order regarding the October 26, 2015 motion has not been received, this motion is submitted as an amendment to that prior motion and requests an additional fifteen (15) days within which to file Mr. HUBBARD's reply brief. If this Honorable Court grants this request, Mr. HUBBARD's brief will be due to be filed on or before November 17, 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 2<sup>nd</sup> day November, 2015.

Respectfully Submitted,

/s/ Brent D. Percival  
BRENT D. PERCIVAL, ESQ.  
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Counsel for Appellant:  
CORY DEALVONE HUBBARD

**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 (5) of the seven (7) 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 during trial 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

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also the cellular phone owned by and taken directly from another person - Kenneth Flenory.<sup>1</sup>

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.<sup>2</sup>

9. After completion of the October 26, 2015 motion for an additional seven days to file the reply, I began researching the issue of joint possession and constructive possession in our jurisdiction and in other states.

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.

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<sup>1</sup> 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.”

<sup>2</sup> While I recognize that other state court opinions are 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.

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 believe that the state has previously asserted their novel theory that persons in the area of the "victim" of the robbery are also victims which allows for multiple convictions of robbery during other trials and to other attorneys. Therefore, the issues that I am researching are very important.

The research and writing has taken longer than I anticipated and, therefore, out of an abundance of caution, I request an additional fifteen (15) days to file the reply brief.

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

Executed on this 2<sup>nd</sup> day of November, 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 2<sup>nd</sup> day of November, 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