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CORY DEALVONE HUBBARD

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Tracie K. Lindeman  
Clerk of Supreme Court

**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.	)	(Third 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 November 17, 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 25, 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 17<sup>th</sup> day November, 2015.

Respectfully Submitted,

/s/ Brent D. Percival  
BRENT D. PERCIVAL, ESQ.  
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630 South Third Street  
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Counsel for Appellant:  
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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. 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.

4.. 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), Philllips v. State, 99 Nev. 693, 696 (1983) and State v. Ah Loi, 5 Nev. 99,

101 (1869).

5. According to the state, these three cases establish that three family members and one close friend of the residents, of the home where the robbery took place, have a possessory interest in the iPad and cellular phone based solely on the family/friend relationship. Additionally, the state's brief asserts that the statutory requirement of a taking "from the person of another or in the person's presence" actually means taking from one person or in the presence of other people.

6. Subsequent to the receipt of the state's answering brief, I have researched this Court's position on statutory interpretation. I have also reviewed all of the opinions, published and unpublished, written by this Court and other state appellate courts which cited State v. Ah Loi. I have reviewed all of the opinions, published and unpublished, written by this Court which reference Phillips v. State. I have researched the concept of joint possession in this jurisdiction and in other state appellate courts. I have researched the concept of constructive possession enunciated by this Court and other courts. I have researched the concept "from the person of another or in the person's presence" in this jurisdiction and in other state courts.

7. While Mr. Hubbard's reply brief has been pending filing, I have quickly scanned over four hundred (400) court opinions. Moreover, I have fully reviewed two hundred forty three opinions (243) written by this Court and other state appellate

courts. Further, I have summarized the vast majority of the cases that I fully reviewed.

8. In the last two weeks, I have edited and updated Mr. Hubbard's reply brief eight times in the last two weeks.

9. I have been diligently completing the tasks associated with the preparation of Mr. HUBBARD's reply brief. However, I have still need to clarify several key points of the reply.

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 third request for additional time to file this brief.

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

Executed on this 17<sup>th</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 17<sup>th</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