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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>RESPONSE TO STATE'S</u>
)	<u>PETITION FOR REVIEW</u>
Respondent.)	
_____)	(First 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 Response to State's Petition for Review in the above-captioned matter.

Based upon this Court's July 22, 2016 order, Mr. HUBBARD's responsive pleading is due to be filed on August 8, 2016.

Pursuant to N.R.A.P. 26(b), Mr. HUBBARD requests an additional twenty one days of time to file his Response. If this Honorable Court grants this request, Mr. HUBBARD's brief will be due to be filed on or before August 29, 2016.

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 8th day August, 2016.

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 OPENING BRIEF AND APPENDIX**

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 the Justice Court for the Township of Nevada. After the state sought and obtained an indictment charging Mr. HUBBARD with committing twelve crimes, I continued to represent Mr. HUBBARD during the litigation in the Eighth Judicial District Court.

3. On April 1, 2016, the Court of Appeals entered an order reversing three of Mr. HUBBARD's convictions for robbery with use of a deadly weapon. Additionally, after a very detailed review of this Court's opinions regarding admission of other bad act evidence, the majority of the Court of Appeals determined that the district court's order admitting a Washington 2012 burglary conviction was improper.

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On this basis the majority of the Court ordered that Mr. HUBBARD's case be remanded to the district court for proceedings consistent with the Court's order.

4. On April 19, 2016, the state filed a Petition for Review by the Supreme Court. In this request for review of the Court of Appeals order, the state asserts that the majority order in Mr. HUBBARD's concludes "that a non-propensity purpose for admitting a prior bad act must first be put "at issue by a defendant before the State can admit prior-bad-act-evidence." The state asserts that this is a "new rule" which presents an "issue of first impression."¹

5. In requesting this Court review the appellate court's order, the state adopted the two arguments enunciated by the minority judge in his dissent. First, the state adopts the other bad act analysis enunciated by the minority judge.² Second, the state adopts the minority's analysis of the standard of review to be applied when that court is called upon to review of a district court's order permitting admission of other bad act evidence.³

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¹ See Petition 2-3.

² See Petition 13-14.

³ See Petition 19-20.

6. Moreover, in the petition for review, the state argues that the facts of the trial establish that the evidence was overwhelming regarding Mr. HUBBARD's guilt.⁴

7. The state relies upon twenty-one state and federal cases to argue the new "at-issue" argument and the actual admissibility of the bad act evidence.⁵

8. Although I have been practicing before this Honorable Court for many years, I have never been required to respond to a Petition for Review by this Honorable Court.

9. In order to provide this Honorable Court with adequate arguments responsive to the complicated new "at-issue" argument and the complicated standard of review argument, counsel must request an additional twenty one days to finalize Mr. HUBBARD's response to the state's Petition for Review by the Supreme Court.

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⁴ See Petition 14-19.

⁵ See Petition 3-14. The state failed to assert any legal authority in support of the argument regarding the appropriate standard of review to be applied by the Court of Appeals after the district court admits evidence of other bad acts. See Petition 19-20.

This request for additional time is made and based upon all of the forgoing information. Additionally, this is the first request for additional time within which to file the Response to the state's Petition for Review.

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

Executed on this 8th day of August, 2016, 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 8th day of August, 2016. 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