

BRENT D. PERCIVAL, ESQ.  
Nevada Bar # 3656  
**BRENT D. PERCIVAL, ESQ. P.C.**  
1148 S. Maryland Pkwy  
Las Vegas, Nevada 89104  
(702) 868-5650  
Counsel for Appellant:  
CORY DEALVONE HUBBARD

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Elizabeth A. Brown  
Clerk of Supreme Court

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

CORY DEALVONE HUBBARD,	)	
	)	Case No.: 66185
Appellant,	)	
	)	<u>REQUEST FOR ADDITIONAL</u>
vs.	)	<u>TIME TO FILE APPELLANT'S</u>
	)	<u>SUPPLEMENTAL BRIEF</u>
THE STATE OF NEVADA,	)	<u>RESPONSIVE TO THE</u>
	)	<u>OCTOBER 21, 2016 ORDER</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 Supplement Brief Responsive to October 21, 2016 Order in the above-captioned matter.

Mr. HUBBARD's supplemental brief is due to be filed on December 12, 2016.

Pursuant to N.R.A.P. 26(b), Mr. HUBBARD requests an additional thirty (30) days of time to file his Supplement Brief. If this Honorable Court grants this request, Mr. HUBBARD's brief will be due to be filed on or before January 11, 2017.

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 12<sup>th</sup> day December, 2016.

Respectfully Submitted,

/s/ Brent D. Percival  
BRENT D. PERCIVAL, ESQ.  
Nevada Bar # 3656  
630 South Third Street  
Las Vegas, Nevada 89101  
(702) 868-5650  
Counsel for Appellant:  
CORY DEALVONE HUBBARD

**DECLARATION OF BRENT D. PERCIVAL IN SUPPORT OF REQUEST  
FOR ADDITIONAL TIME TO FILE THE RESPONSE TO THE STATE'S  
PETITION FOR REVIEW**

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. On October 21, 2016, this Court granted, in part, the State's Petition for Review by Supreme Court. The October 21, 2016 Order requires further briefing on the issue of,

whether the district court abused its discretion in admitting prior bad act evidence to prove absence of mistake and intent because the defense did not put absence of mistake or intent at issue.

3. As noted in the first request for additional time to file the supplemental brief required by this Honorable Court's October 21, 2016, I intended to complete additional research regarding the admission of other crimes evidence as compiled in law review journals.

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4. On Friday December 9, 2016, I located a law review article in Vol. 65 of the DePaul Law Review entitled “They Did It Before, They Must Have Done It Again; The Seventh Circuit’s Propensity to Use a New Analysis of 404(B) Evidence.” This thirty-six page article analyzes the new approach taken by the Seventh Circuit in analyzing the admission of other crime evidence which began with the Court’s opinion United States v. Miller, 673 F.3d 688 (7<sup>th</sup> Circuit 2012).

5. In Newman v. State, \_\_ Nev. \_\_, 298 P.3d 1171 (2013), this Honorable Court announced that a necessary first step of any NRS 48.045(2) analysis is the identification of an at-issue nonpropensity purpose for admitting the prior-bad-act evidence. This language was taken directly from United States v. Miller. Given this fact, I believe that the analysis enunciated in the DePaul Law Review article may be important to the analysis that should be included in Mr. Hubbard’s Supplemental Brief.

6. While I have reviewed the article several times, I have not yet been able to synthesize the important aspects of the article with the other crime caselaw enunciated by this Court. Further, I have realized that there are other articles cited in the DePaul Law Review article that I should review prior to finalizing Mr. Hubbard’s Supplemental Brief.

7. This request for additional time is made and based upon all of the foregoing information. This is the second request for additional time within which to file a brief on Mr. HUBBARD's behalf which responds to this Court's October 21, 2016 Order.

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

Executed on this 12<sup>th</sup> day of December, 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 12<sup>th</sup> day of December, 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