**Case No. 67380**

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

Electronically Filed
Apr 01 2016 11:04 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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| MAZEN ALOTAIBI,<br>Appellant,<br>vs.<br>THE STATE OF NEVADA,<br>Respondent. | CASE NO. 67380<br><br>District Court Case No.: C-13-287173-1<br>DEPT. XXIII |

**APPELLANT MAZEN ALOTIABI'S MOTION FOR ENLARGEMENT OF TIME WITHIN WHICH TO FILE REPLY BRIEF (SECOND REQUEST)**

COMES NOW, Appellant Mazen Alotiabi ("Mazen"), by and through his attorneys, Dominic P. Gentile, Esq., and Vincent Savarese III, Esq., of the law firm of Gentile Cristalli Miller Armeni Savarese, and pursuant to NRAP 26(b), 27 and 31(b)(3), hereby respectfully requests a two-week (2) enlargement of time within which to file Appellant's Reply Brief in the above-entitled matter.

IN SUPPORT of this Motion, counsel for Appellant respectfully assign the following:

1. That Appellant's Reply Brief is currently due to be filed in this matter on April 6, 2016;

2. That this is a direct appeal from a final judgment of conviction following a Nine (9) day jury trial concerning the following offenses as to which



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the Appellant was sentenced as follows: Count 1 (Burglary): a maximum of 48 months of imprisonment with a minimum parole eligibility of 12 months; Count 2 (Kidnapping): a maximum of 15 years of imprisonment with parole eligibility after 5 years have been served, concurrent with Count 1; Count 3 (Sexual Assault of a Minor Under Fourteen Years of Age): life imprisonment with parole eligibility after 35 years of imprisonment have been served, concurrent with Count 2; Count 5 (Sexual Assault of a Minor Under Fourteen Years of Age): life imprisonment with parole eligibility after 35 years of imprisonment have been served, concurrent with Count 3; Count 7 (Lewdness with a Child Under 14 Years): life imprisonment with parole eligibility after 10 years of imprisonment have been served, concurrent with Count 5; and Count 8 (Lewdness with a Child Under 14 Years): life imprisonment with parole eligibility after 10 years of imprisonment have been served;

3. That this appeal presents important and sophisticated issues involving the failure of the trial court to provide the jury with critical instruction pertaining to those counts of the Information in which the Appellant was charged with the offense of Sexual Assault of a Minor Under Fourteen Years of Age; the post-trial recantation of the testimony of an important witness called by the prosecution; and ineffective assistance of trial counsel for the Appellant susceptible of review on direct appeal;

4. That notwithstanding the exercise of due diligence, counsel for the Appellant requires the additional time herein requested in order to thoroughly review, analyze, and research the factual and legal arguments raised by the Respondent, State of Nevada in its Answering Brief; to traverse the Answering Brief of the Respondent; and to properly prepare the Appellant's Reply Brief;

5. That counsel for the Appellant was recently out of the office for an extended sick leave, unexpectedly, for more than eight (8) days shortly after the first request was filed;

6. That this is the Appellant's second request for an enlargement of time within to file his Reply Brief in this matter;

7. That the Respondent State of Nevada was granted Three (3) (unopposed) enlargements of time within which to complete and file its Answering Brief in this matter;

8. That counsel for the Appellant therefore respectfully requests and additional two-weeks (2) day enlargement of time within which to complete and file Appellant's Reply Brief in this case;

9. That the enlargement of time herein requested would make Appellant's Reply Brief in the instant case due on April 18, 2016.

...

...

**WHEREFORE**, premises considered, Appellant, Mazen Alotiabi respectfully requests that the time for filing his Reply Brief be extended from April 6, 2016 until April 18, 2016.

DATED this 1st day of April 2016.

GENTILE CRISTALLI
MILLER ARMENI SAVARESE

DOMINIC P. GENTILE
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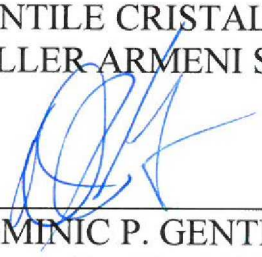
## MEMORANDUM OF POINTS AND AUTHORITIES

FRAP 26(b) provides, in pertinent part: "For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires." FRAP 27(b) provides, in pertinent part: "The court may act on a motion for a procedural order – including a motion under Rule 26(b) – at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions.

Wherefore, Appellant respectfully prays that this request for an enlargement of time be granted.

Respectfully submitted this 1st day of April, 2016.

GENTILE CRISTALLI
MILLER ARMENI SAVARESE



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Attorneys for Appellant
MAZEN ALOTAIBI

**DECLARATION OF DOMINIC P. GENTILE, ESQ.**

The undersigned, Dominic P. Gentile, hereby declares under penalty of perjury that the following assertions are true:

1. That I am an attorney duly licensed to practice before all of the courts of the State of Nevada, and I am a shareholder in the Las Vegas, Nevada law firm of Gentile Cristalli Miller Armeni Savarese, attorneys of record for Appellant, Mazen Alotiabi in the matter entitled *Mazen Alotaibi v. The State of Nevada*, CA No: 67380, presently pending before this Court;

2. That I am competent to testify to the matters asserted herein, of which I have personal knowledge, except as to those matters stated upon information and belief, and as to those matters stated upon information and belief, I believe them to be true;

3. That I make this Declaration in support of Appellant's Motion for Enlargement of Time Within Which to File Reply Brief (Second Request);

4. That the Appellant's Reply Brief is currently due to be filed in this matter on April 6, 2016;

5. That this is a direct appeal from a final judgment of conviction following a Nine (9) day jury trial concerning the following offenses as to which the Appellant was sentenced as follows: Count 1 (Burglary): a maximum of 48 months of imprisonment with a minimum parole eligibility of 12 months; Count 2 (Kidnapping): a maximum of 15 years of imprisonment with parole eligibility after 5 years have been served, concurrent with Count 1; Count 3 (Sexual Assault of a Minor Under Fourteen Years of Age): life imprisonment with parole eligibility after 35 years of imprisonment have been served, concurrent with Count 2; Count 5 (Sexual Assault of a Minor Under Fourteen Years of Age): life imprisonment with parole eligibility after 35 years of imprisonment have been served, concurrent with Count 3; Count 7 (Lewdness with a Child Under 14 Years): life imprisonment with parole eligibility after 10 years of imprisonment have been served, concurrent

with Count 5; and Count 8 (Lewdness with a Child Under 14 Years): life imprisonment with parole eligibility after 10 years of imprisonment have been served;

6. That this appeal presents important and sophisticated issues involving the failure of the trial court to provide the jury with critical instruction pertaining to those counts of the Information in which the Appellant was charged with the offense of Sexual Assault of a Minor Under Fourteen Years of Age; the post-trial recantation of the testimony of an important witness called by the prosecution; and ineffective assistance of trial counsel for the Appellant susceptible of review on direct appeal;

7. That notwithstanding the exercise of due diligence, counsel for the Appellant requires the additional time herein requested in order to thoroughly review, analyze, and research the factual and legal arguments raised by the Respondent, State of Nevada in its Answering Brief; to traverse the Answering Brief of the Respondent; and to properly prepare the Appellant's Reply Brief;

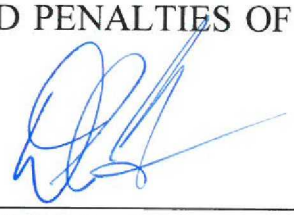
8. That counsel for the Appellant was recently out of the office for an extended sick leave, unexpectedly, for more than eight (8) days shortly after the first request was filed;

9. That this is the Appellant's second request for an enlargement of time within to file his Reply Brief in this matter;

10. That the Respondent State of Nevada was granted Three (3) (unopposed) enlargements of time within which to complete and file its Answering Brief in this matter;

11. That the additional two-week (2) enlargement of time herein requested would make Appellant's Reply Brief in the instant case due on April 18, 2016.

SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY this 1st day of April, 2016.



DOMINIC P. GENTILE, ESQ.

## CERTIFICATE OF SERVICE

The undersigned, an employee of Gentile Cristalli Miller Armeni Savarese, hereby certifies that on the 1st day of April, 2016, I caused a copy of the foregoing **APPELLANT MAZEN ALOTIABI'S MOTION FOR ENLARGEMENT OF TIME WITHIN WHICH TO FILE REPLY BRIEF (SECOND REQUEST)**, to be served electronically to all parties of interest through the eFlex system as follows:

Ryan J. MacDonald
Steven S. Owens
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Nevada Attorney General
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Counsel for Respondent



An employee of
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MILLER ARMENI SAVARESE