

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

MICHAEL FOLEY

*Appellants,*

VS.

PATRICIA FOLEY,

*Respondent,.*

) Electronically Filed  
) Jul 17 2017 03:39 p.m.  
) Elizabeth A. Brown  
) Supreme Court No. 69997  
) Clerk of Supreme Court  
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) District Court No.:  
) R-11-162425-R  
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**AMENDED MOTION TO EXTEND TIME TO FILE AMICUS BRIEF**

Amended Motion of Proposed Amicus American Civil Liberties Union of Nevada

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## **AMENDED MOTION TO EXTEND TIME TO FILE AMICUS BRIEF**

The American Civil Liberties Union of Nevada (ACLUNV) submits this motion to extend time to file an *amicus curiae* brief pursuant to NRAP 29 (f) and NRAP 26(b)(1).

ACLUNV wish to appear as *amicus curiae* in this appeal in support of Appellant Michael Foley.<sup>1</sup> However, in light of the complex and important constitutional issues raised in this appeal, proposed *Amicus* respectfully requests an extension of the deadline for filing *amicus* briefs be extended 30 days, through August 2, 2017.<sup>2</sup> In its brief, ACLUNV plans to address for this Court, in both the constitutional rights implicated in incarcerating an individual for nonpayment without first properly assessing that individual's actual ability to pay, and the constitutional right to an appointment of counsel when an individual faces a potential deprivation of liberty.

Founded over fifty years ago in 1966, the ACLUNV is a non-profit, non-partisan organization, working to defend and advance the civil liberties and civil

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<sup>1</sup> *Amicus* has not yet submitted a motion for leave to file under NRAP 29(c), yet plans to do so as appropriate.

<sup>2</sup> Appellant previously submitted a motion to this court requesting an identical extension of time for amicus briefs on June 28th, 2017, which was prior to the expiration of the time period proscribed in NRAP(f). However, that motion was denied and this Court ordered proposed *Amicus* submit motions for extension on their own behalf. ACLUNV does so through this motion.

rights of all Nevadans. It is the only organization in Nevada dedicated solely to protecting the Constitutional rights and liberties of every individual in the state. Grounded in the principles of liberty, justice, democracy and equality, the ACLU of Nevada works in three areas: public education, advocacy, and litigation, including the submission of amicus briefs relevant to our work.

The ACLUNV is an affiliate of the American Civil Liberties Union, a nationwide organization that advocates for civil liberties and civil rights of all people across the United States. Since 2009, the ACLU and ACLU affiliates across the country have been exposing and challenging practices that lead to modern-day debtors' prisons, such as the failure of courts to meaningfully assess an individual's ability to pay prior to ordering incarceration for an outstanding fine, fee, court cost, or other debt. The ACLU and ACLU affiliates have uncovered how debtors' prisons across the country threaten civil rights and civil liberties. The ACLU and ACLU affiliates are also working in state legislatures and courts, and with judicial officials to end these practices. The ACLUNV recently testified in front of the Nevada Advisory Committee to the U.S. Commission on Civil Rights<sup>3</sup> regarding the civil rights implications of debtors' prison practices in Nevada, highlighting in our public

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<sup>3</sup> Press Release, *ACLU Of Nevada Legal Director To Testify At United States Commission On Civil Rights Panel* (March, 14, 2017), available at <https://www.aclunv.org/en/news/aclu-nevada-legal-director-testify-united-states-commission-civil-rights-panel>.

testimony the need to conduct ability to pay hearings and the constitutional right to counsel when an individual faces incarceration for an inability to pay a fine, fee, court cost, or other debt.

The requested extension is essential to allow for a meaningful opportunity to participate in the analysis and consideration of the significant issues in this case. Given the insight and experience that the ACLUNV will bring, the ACLUNV respectfully requests its extension be granted.

Dated this 17th day of July, 2017

/s/ Amy M. Rose  
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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this **AMENDED MOTION TO EXTEND TIME TO FILE AMICUS BRIEF** was filed electronically with the Nevada Supreme Court on July 17, 2017, and electronically served on the following parties:

Daniel F. Polsenberg  
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I further certify and affirm that I caused this document to be deposited via USPS first class mail, posted pre-paid, to the following parties:

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