1	IN THE SUPREME COURT OF THE STATE OF NEVADA	
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4	JOHN DEMON MORGAN,) Electronically Filed	
5) Sep 13 2016 08:53 a.m Appellant,) Tracie K. Lindeman	
6	vs.	
7	je na slovenski stali slovenski slovenski slovenski slovenski slovenski slovenski slovenski slovenski slovenski	
8	THE STATE OF NEVADA,	
9 10	Respondent.	
10)	
12	APPELLANT'S MOTION FOR EXTENSION OF TIME AND RENEWED MOTION FOR FULL BRIEFING.	
13	AND REALEWED MOTION FOR FUEL DRIEFING.	
14	Comes Now Appellant JOHN DEMON MORGAN, by and through	
15	Deputy Public Defender SHARON G. DICKINSON, and moves for Full Briefing	
16 17	with the Opening Brief due 30 days from the filing of the Order. Alternatively,	
18	Morgan asks for a 30 day extension of time from Monday, September 12, 2016	
19 20	through and including Wednesday, October 12, 2016, to file the Fast Track	
20	Statement in this case. The grounds for this request are described in the attached	
22	Declaration.	I
23	DATED this 12 th day of September, 2016.	I
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25	PHILIP J. KOHN CLARK COUNTY PUBLIC DEFENDER	
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28	By <u>/s/ Sharon G. Dickinson</u> SHARON G. DICKINSON, #3710 Deputy Public Defender	
:	1 Docket 70424 Document 2016-28342	

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DECLARATION OF SHARON G. DICKINSON

2	1. I am an attorney licensed to practice law in the State of Nevada; I
3	am a deputy public defender assigned to handle the appeal of this matter; I am
5	familiar with the procedural history of this case.
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7	2. This is my second request for an extension and second request for
8	Full Briefing. Court has not yet ruled on my first motion for Full Briefing.
9	3. On June 1, 2016, I filed a notice of appearance in this appeal. On
10	5. On suite 1, 2010, 1 mod a notice of appearance in and appear.
11	June 21, 2016, Court Recorder Ramirez filed a motion for extension asking for an
12	extension until July 21, 2016. On June 28, 2016, I filed a motion for an extension
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14	to file the Fast Track Statement due to missing transcripts. On July 26, 2016,
15	Court granted the motions for extension making the Fast Track Statement due
16	today.
17	today.
18	4. On July 22, 2016, the court recorder filed the requested transcripts.
19	Thereafter, our clerk compiled the Appendix.
20	5 On July 18 2016 I filed a motion for full briefing. I filed the
21	5. On July 18, 2016, I filed a motion for full briefing. I filed the
22	motion in advance of obtaining the transcripts based on information I received
23	from trial counsel and on the change in this Court's rules allowing a case such as
24	nom that courses and on the ontange in this court is falles and oning a case back as
25	Mr. Morgan's to obtain full briefing.
26	6. Under the rules, a party may seek removal of his appeal from the
27	Fast Track system and ask for full briefing pursuant to NRAP 3C (k) which states:
28	Tast Track system and ask for full bliening pursuant to NICAT SC (k) which states.

(k) Full Briefing, Calendaring or Summary Disposition.

(1) Based solely upon review of the rough draft transcript, fast track statement, fast track response, and any supplemental documents, the Supreme Court may summarily dismiss the appeal, may affirm or reverse the decision appealed from without further briefing or argument, may order the appeal to be fully briefed and argued or submitted for decision without argument, may order that briefing and any argument be limited to specific issues, or may direct the appeal to proceed in any manner reasonably calculated to expedite its resolution and promote justice.

(2) Motion for Full Briefing.

(A) A party may seek leave of the Supreme Court to remove an appeal from the fast track program and direct full briefing. The motion may not be filed solely for purposes of delay. It may be filed to or in lieu of the fast track pleading. addition in

(B) The motion must identify specific reasons why the appeal is not appropriate for resolution in the fast track program. Such reasons may include, but are not limited to, the following circumstances:

(i) The case raises one or more issues that involve substantial precedential, constitutional, or public policy questions; and/or

factually complex. legally (ii) The is or case

(C) If the issues or facts are numerous but not complex, full briefing will not be granted but an excess page motion may be entertained.

- 7. Full briefing is warranted in this case because this case raises several 26 issues that are legally and factually complex. Issues also include substantial

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precedential, constitutional, or public policy questions regarding jury selection. 8. The trial attorney identified the following issues for appeal:

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4 (1) <u>Voir dire questions</u>: Court denied Morgan's request to ask voir dire
5 questions about racial prejudice, overcharging by the State, and questions on the
6 theory of his case.

(2) Use of peremptory challenges: Morgan objected when court required 8 9 him to exercise peremptory challenges before the entire jury panel was passed for 10 cause - all 23 jurors. See NRS 175.301. The plain meaning of wording of NRS 11 12 175.031 indicates court must initially examine and qualify prospective jurors 13 before supplemental questioning and before the parties use peremptory challenges. 14 (3) Jury venire: Morgan objected to jury venire as not being representative 15 16 of the community and court held a hearing allowing parties to question the jury 17 commissioner. Morgan requested a hearing with the jury commissioner. Court 18 19 overruled his objection to the venire then allowed Morgan to question jury 20 commissioner. 21

(4) <u>Burden shifting</u>: Morgan objected when court told jury both sides were
at the same starting line at the beginning of the trial. Morgan objected because
court's statement suggested it was a race and Morgan needed to run - to do
something – as if to say he had a burden of proof. Morgan asked for a new jury
panel which court denied. Court did not give a curative instruction. State also told

jury State and Morgan were at the same starting line. Morgan objected again and 2 court overruled. 3

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Batson challenge: Morgan made a Batson challenge when State (5)4 5 removed a juror after eliciting that the juror was not heterosexual. Court denied 6 Batson challenge. 7

(6) Witness testimony: Morgan objected to a witness narrating a video. 8 9 Court overruled.

Request for mistrial when State introduced other bad act: Morgan (7)11 12 motioned for a mistrial when a police officer testified that Morgan resisted arrest, 13 arguing State introduced a bad act. Prosecutor admitted deliberately introducing 14 evidence of resisting arrest to show the robbery occurred with force. Morgan then 15 16 asked for a mistrial and dismissal because prosecutor acted deliberately. Morgan 17 also challenged the 911 call and other testimony of the witnesses. 18

19 (8) Request for mistrial due to information not being provided by State and 20 efforts to obtain one witness was denied by the court. 21

(9) Jury instructions: Morgan presented numerous jury instructions that 22 23 were denied: (1) Crawford Instruction; (2) mere presence instruction; and (3) 24 lesser related jury instruction of petty larceny. Morgan objected to State's jury 25 26 instruction that indicated State did not need to recover stolen property in a robbery 27 case, arguing the instruction shifted and lowered State's burden of proof beyond a 28 reasonable doubt.

(10) <u>Closing argument and motion for a mistrial</u>: Morgan objected to
 State's Closing Argument regarding facts not in evidence. Court disagreed and
 told Defense Attorney to inform jury that she was wrong. When Defense Attorney
 did not completely agree with court's assessment of the facts, court told jury that
 Defense Attorney was incorrect. Morgan moved for a mistrial that court denied.

8 (11) Rebuttal argument: Morgan objected to State's Rebuttal Argument. 9 During rebuttal, State argued for first time that the crime of robbery was actually 10 Morgan walking aggressively towards the victim and the force was not the battery. 11 12 Thus, State changed the theory of its case. Prior to trial Defense Attorney litigated 13 the lack of specificity in the charging document and court denied Morgan's request 14 for more specific pleadings. State's changed in the theory of its case resulted in 15 16 Morgan being convicted of a misdemeanor battery and a robbery. 17

(12) <u>Competency</u>: Prior to trial, Morgan filed a motion to dismiss because
 of the lengthy delay in State processing and sending him to Lakes Crossing.

The above listed issues are complex and full briefing would be beneficial to allow a more thorough analysis.

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1	9. According, I am asking for full briefing with the Opening Brief due 30
2	days from the filing of the Order. Alternatively, I am asking for a 30 day
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4	extension to file the Fast Track Statement in this case
5	I declare under penalty of perjury that the foregoing is true and correct.
6	EXECUTED on the 12 th day of September, 2016.
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9 10	/s/ Sharon G. Dickinson
11	SHARON G. DICKINSON
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1	CERTIFICATE OF SERVICE	
2	I hereby certify that this document was filed electronically with the	
3	Nevada Supreme Court on the 12 th day of September, 2016. Electronic Service of	•
4		
6	the foregoing document shall be made in accordance with the Master Service List	
7	as follows:	
8	ADAM LAXALT SHARON G. DICKINSON	
9	STEVEN S. OWENS HOWARD S. BROOKS	
10	I further certify that I served a copy of this document by mailing a	
11	true and correct copy thereof, postage pre-paid, addressed to:	
12		
13	JOHN DEMON MORGAN NDOC No. 1158013	
14	c/o High Desert State Prison	
15	P.O. Box 650 Indian Springs, NV 89070	
16	indian Springs, ivv 05070	
17		
18	BY/s/ Carrie M. Connolly	
19 20	Employee, Clark County Public Defender's Office	
20	Defender s Office	
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