

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN M. LIPSITZ

APPELLANT,

v.

THE STATE OF NEVADA,

RESPONDENT.

CASE NO. 72057

DISTRICT NO. 1316678

Electronically Filed
Jan 24, 2018 09:23 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT LIPSITZ'S MOTION TO EXTEND TIME TO FILE
APPELLANT'S OPENING BRIEF AND APPENDIX

COMES NOW the Appellant, RYAN LIPSITZ, by and through his attorney of record, BRIAN VASEK, ESQ., and respectfully requests that this Honorable Court allow leave to expand time to file the Appellant's Opening Brief and Appendix by sixty (60) days for the reasons set forth in the points and authorities herein and the attached declaration of counsel. This request is made based upon NRAP 26(a)–(b) and NRAP 31(b)(3)(A) and the attached declaration of counsel. BRIAN VASEK, ESQ. is substituting in as counsel of record in this matter for AMY A. FELICIANO. BRIAN VASEK has filed an accompanying NOTICE OF APPEARANCE AS COUNSEL FOR APPELLANT RYAN LIPSITZ. Appellant RYAN LIPSITZ therefore requests this extension of time so that counsel may familiarize himself with Appellant's case and provide Appellant effective assistance of counsel when filing Appellant's Opening Brief within a period of time that will satisfy this Honorable Court. Appellant RYAN LIPSITZ and BRIAN VASEK, ESQ. humbly request sixty (60) days.

DATED the 23rd day of January, 2018.

BY: /s/ Brian Vasek, Esq.
BRIAN VASEK, ESQ.
Bar No. 13976
Counsel for Appellant, Ryan Lipsitz

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POINTS AND AUTHORITIES

NRAP 26(b)(1)(A) provides as follows: “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.” NRAP 26(b)(1)(A). Pursuant to the declaration contained herein, counsel can show good cause to extend the time to file the opening brief by sixty (60) days and humbly asks this Court for permission to file Appellant’s Opening Brief and Appendix after the last due date ordered by this Honorable Court. Specifically, counsel has just substituted in on this case with the consent of Appellant and Appellant’s point of contact and he must now review the voluminous trial transcript and other applicable discovery and case history. Counsel makes this request in good faith and not for the purposes of delay and seeks to intervene before this Honorable Court possibly sanctions Appellant for the inactions of his prior attorney.

The current briefing was due on or about January 16, 2018. Previous motions to extend time were filed by both the Clark County Public Defender and Amy A. Feliciano, Esq. on the following dates: January 24, 2017; June 27, 2017; September 6, 2017; and November 11, 2017 for various reasons, including but limited to the preparation of the trial transcript, Ms. Feliciano’s substitution of attorney, and Ms. Feliciano’s health. Furthermore, the Court Reporter filed a motion to extend time on March 29, 2017 to prepare the trial transcripts. It appears that these previous motions were granted in part and denied in part, thus resulting in the existing January 16, 2018 due date after Ms. Feliciano’s final attempts to convey to the court the severity of her condition. This is therefore Appellant’s fifth and likely final request, which is why counsel asks for at least sixty (60) days and has already begun work on Appellant’s Opening Brief and Appendix to complete this appeal without further delay.

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DECLARATION OF BRIAN VASEK, ESQ.

BRIAN VASEK, ESQ. makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada and counsel for Appellant Ryan Lipsitz for his appeal currently pending before this Honorable Court.
2. That Appellant's Opening Brief and Appendix was due on or about January 16, 2018.
3. That counsel is requesting a sixty (60) day extension of time to file Appellant's Opening Brief and Appendix because he has just substituted in on the present case.
4. That counsel anticipates at least one significant issue on appeal but needs adequate time to fully review the trial transcripts and other trial documents for other potential issues.
5. That counsel does not anticipate other requests for an extension of time unless other significant issues present themselves upon review.
6. That this request for an extension of time is made in good faith and not for the purposes of delay.

I declare under penalty of perjury that the foregoing is true and correct. NRS 53.045.

EXECUTED this 23rd day of January, 2018.

/s/ Brian Vasek, Esq.
BRIAN VASEK, ESQ.

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1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that electronic service of the foregoing document was made the 23rd day
3 of January, 2018 to the following persons:

4 CLARK COUNTY DISTRICT ATTORNEY

5 ATTORNEY GENERAL / CARSON CITY

6
7 **CERTIFICATE OF MAILING**

8 I further certify that I served a copy of the foregoing document on the 23rd day January,
9 2018, by mailing a true and correct copy thereof, postage pre-paid addressed to:

10 RYAN LIPSITZ, #1169942
11 HIGH DESERT STATE PRISON
12 P.O. BOX 650
13 INDIAN SPRINGS, NEVADA 89070

14 BY: /s/ Brian Vasek, Esq.