

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN M. LIPSITZ

APPELLANT,

v.

THE STATE OF NEVADA,

RESPONDENT.

CASE NO. 72057

DISTRICT NO. C316678

Electronically Filed
 Mar 20 2018 11:06 a.m.
 Elizabeth A. Brown
 Clerk of Supreme Court

**APPELLANT LIPSITZ'S [FINAL] MOTION TO EXTEND
 TIME TO FILE APPELLANT'S OPENING BRIEF**

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 Appellant's Opening Brief by one (1) day for the reasons set forth in the points and authorities herein and the attached declaration of counsel. At the time this motion was filed, Appellant's Opening Brief was also filed with this Honorable Court after numerous problems using the Supreme Court of Nevada electronic filing system. This request is made based upon NRAP 26(a)-(b) and NRAP 31(b)(3)(A) and the attached declaration of counsel.

DATED the 20th day of March, 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 Appellant’s Opening Brief by one (1) day and humbly asks this Court for permission to file Appellant’s Opening Brief on March 20, 2018. Specifically, counsel had trouble scanning and uploading Appellant’s Opening Brief due to its size and formatting. Counsel then faced additional troubles due to the rate of upload on the Supreme Court of Nevada electronic filing system. Around midnight, counsel was finally able to achieve the right sizing for Appellant’s Opening Brief after numerous attempts to scan this document with an original signature. Due to the troubles discussed herein, counsel makes this request in good faith and not for the purposes of delay.

The current briefing was due on March 19, 2018. Previous motions to extend time were filed by both the Clark County Public Defender, Amy A. Feliciano, Esq., and Brian Vasek, Esq. on the following dates: January 24, 2017; June 27, 2017; September 6, 2017; and November 11, 2017, and January 19, 2018 for various reasons, including but limited to the preparation of the trial transcript, Ms. Feliciano’s substitution of attorney, Ms. Feliciano’s health, and present counsel’s substitution. 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 March 19, 2018 after counsel requested time to familiarize himself with a file of this size and begin preparing the Opening Brief. This is Appellant’s sixth and final request for an extension for **Appellant’s Opening Brief**. Appellant’s Opening Brief is already filed and counsel simply asks for this Honorable Court to excuse the late filing by two hours. Counsel asks for one (1) day to file Appellant’s Opening Brief, although Appellant’s Opening Brief is already filed and no further time is necessary.

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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 March 19, 2018.
3. That counsel submitted Appellant's Opening Brief on March 20, 2018, just after the March 19, 2018 deadline.
4. That counsel is requesting a one (1) day extension of time to file Appellant's Opening Brief due to troubles scanning and uploading this document with an original signature.
5. That counsel scanned Appellant's Opening Brief in eight (8) different settings with two (2) different scanners to finally achieve a PDF that the Supreme Court of Nevada electronic filing system would accept (Black and White, US Letter, 96 dots/inch [dpi], two parts).
6. That each attempt to upload Appellant's Opening Brief was then met with a painstakingly slow upload and subsequent failure, further delaying counsel's ability to submit this document on March 19, 2018.
7. That counsel's laptop crashed twice during attempts to upload Appellant's Opening Brief, further delaying counsel's ability to submit this document on March 19, 2018.
8. That counsel finally achieved a successful upload with the Supreme Court of Nevada electronic filing system at 1:04AM on March 20, 2018.
9. That counsel does not anticipate further requests for an extension of time because the Opening Brief is now complete, filed, and no issues remain, other than the final scanning of the Appendix, which counsel has addressed in a separate motion with a different deadline to prepare and scan the Appendix after numerous difficulties personally and professionally scanning this document too.

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1 10. That this request for an extension of time is made in good faith and not for the purposes
2 of delay.

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

4 EXECUTED this 20th day of March, 2018.

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/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 20th day
3 of March, 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 20th day of March,
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.
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