

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN M. LIPSITZ,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
May 08 2019 11:34 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 72057

**RESPONSE TO MOTION FOR LEAVE TO FILE SUPPLEMENTAL
BRIEFS**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through Chief Deputy, STEVEN S. OWENS, and submits this Response to Motion for Leave to File Supplemental Briefs.

This response is based on the following memorandum, declaration, and all papers and pleadings on file herein.

Dated this 8th day of May, 2019.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ Steven S. Owens
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
Office of the Clark County District Attorney

POINTS AND AUTHORITIES

It has been a year and four months since this appeal was first docketed. Briefing is finally completed and this Court submitted the case for decision without oral argument by Order filed March 28, 2019. Approximately one month later, current counsel, Terrence Jackson, was appointed. He is the fourth attorney to represent Appellant in this appeal, having been preceded by Audrey Conway, Amy Feliciano, and most recently Brian Vasek. Current counsel now seeks leave to preserve an option to file a supplemental brief if deemed necessary after full review of the record so that he may provide effective representation. The State opposes the request as an unnecessary delay.

NRAP 28 provides for an Opening, Answering, and Reply Brief, all of which have already been filed in this case by prior counsel, briefing has been closed, and the matter submitted for decision. Still available to Appellant is NRAP 31(e) which provides for the filing of supplemental authorities before decision is rendered but which may not raise any new points or issues. But no rule allows for re-opening of briefing in this matter which would further delay resolution of the appeal for some unknown duration so that current counsel can duplicate the work of his predecessor and potentially raise altogether new issues.

The State agrees that Appellant is entitled to effective representation by counsel in this appeal. But current counsel's effectiveness is judged by the stage of

the proceedings in which he is appointed. Appellant has already had constitutionally effective counsel in the briefing of this appeal by attorney Brian Vasek and it is he who is responsible for the issues that have been raised, not current counsel. There is no demonstrated need for current counsel to review or even agree with that work. Current counsel's duties only concern those appellate duties after briefing which might include petitions for rehearing or for review and communication of the disposition to the client.

WHEREFORE, the State requests the motion be denied.

Dated this 8th day of May, 2019.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Steven S. Owens*

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on this 8th day of May, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

TERRENCE M. JACKSON, ESQ.
Counsel for Appellant

STEVEN S. OWENS
Chief Deputy District Attorney

BY /s/ J. Garcia
Employee,
Clark County District Attorney's Office

SSO//jg