IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE FERNANDO MONAY-PINA, A/K/A JOSE FERNANDO MONAYPINA.

NO: 74199

Electronically Filed Feb 22 2018 10:01 a.m. Elizabeth A. Brown Clerk of Supreme Court

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VS.

THE STATE OF NEVADA

Defendant.

Appellant,

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27 28 MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF

COMES NOW, Petitioner Jose Fernando Monay-Pina, by and through his attorney of record, Thomas D. Boley, Esq. and respectfully requests that this Honorable Court allow an extension of time to file the Appellant's opening brief by ninety (90) days for the reasons set forth in the points and authorities therein and the attached declaration of counsel.

This request is predicated by NRAP 26(b)(1)(A), NRAP 31(b)(3) and the attached declaration of counsel.

DATED this 21st day of February, 2018.

RESPECTFULLY SUBMITTED

THOMAS D. BOLEY, Esq. Nevada Bar # 11961 BOLEY & ALDABBAGH 1900 E. Bonanza Rd. Las Vegas, Nevada 89101 (702) 435-3333 Attorney for Appellant

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 below attached declaration, good cause has been shown to extend the time to file the opening brief by ninety (90) days.

The underlying criminal matter involved two co-defendants. Casimiro Venegas was represented by Adam Gil. Jose Monay-Pina was represented by the undersigned. One of the major issues in this appeal is that a motion for a mistrial was made by Attorney Gil off the record due to information presented during the State of Nevada's closing arguments. In order to properly represent Mr. Monay-Pina, it would be prudent to have a conference with Mr. Gil and/or read the brief he will file in case 74241. Unfortunately, that opening brief has not been filed. It is anticipated from a discussion with Mr. Gil that he will be requesting an extension of time to file this document.

Also, due to the fault of counsel, the transcript was not delivered in this matter until 2/6/2018, which only provided seventeen days, even with an oral request for extension, to draft the opening brief.

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DECLARATION OF THOMAS D. BOLEY, ESQ, PURSUANT TO NRS 53.045

THOMAS D. BOLEY, ESQ., deposes and states as follows:

- That I am an attorney duly licensed to practice law in the State of Nevada and counsel
 of record for the Appellant on his appeal currently pending before this Honorable
 Court.
- 2. That Appellant's opening brief is due on 2/23/2018.
- 3. That information from co-counsel that has not yet been filed would be necessary to draft this document prudently.
- 4. That the transcripts in this matter were not received until February 6, 2018.
- 5. That an extension of time is necessary for counsel to prudently draft and file the opening brief in this matter.
- 6. That this request is the first request for an extension of time made in writing and that it is made in good faith and not for purposes of delay.
- 7. That it is unlikely further extensions of time will be necessary.

 Further your affiant sayeth naught.

THOMAS D. BOLEY, ESQ.

SUBSCRIBED AND SWORN to before me This 22 m day of 14 many, 2017.

NOTARY PUBLIC, Clark County, Nevada.

