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Elizabeth A. Brown  
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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

IVONNE CABRERA,	)	
	)	Case No.: 74341
Appellant,	)	
	)	MOTION FOR ADDITIONAL
vs.	)	TIME TO FILE OPENING BRIEF
	)	and APPENDIX
THE STATE OF NEVADA,	)	
	)	Second Request
Respondent.	)	
_____	)	

COMES NOW, Patricia M. Erickson, counsel for Appellant IVONNE CABRERA, and respectfully requests this Court enter an order, pursuant to N.R.A.P. 26(b), extending the time within which to file Ms. CABRERA's Opening Brief and Appendix which is due to be filed on April 16, 2018.

By this Motion, counsel for Appellant CABRERA requests an additional forty-five (45) days within which to file Ms. CABRERA's pleadings. If this Honorable Court grants this request, Ms. CABRERA's Opening Brief and Appendix will be due to be filed on or before March 31, 2018.

On March 15, 2018, in granting Ms. CABRERA's first request for additional time, this Honorable Court indicated that additional time to file the opening brief and appendix would be granted if extraordinary circumstances and extreme need were detailed. It is respectfully submitted that the following facts fulfill that standard.

In the March 5, 2018 motion filed with this Court, the district court litigation, between May 2, 2012 and May 22, 2017, required ten (10) pages of facts to fully inform this Honorable Court regarding the procedural and issue history underlying this appeal. Additionally, the transcripts of the pretrial hearings were seven hundred ninety five (795) pages in length.

The vast majority of these transcripts are the basis for several issues being raised in Ms. CABRERA's opening brief which include a statutory and constitutional challenge to the ongoing continuations of Ms. CABRERA's trial based upon the co-defendant's need for continuances of the trial when she invoked her right to a speedy trial and the co-defendant ultimately obtained a severance of his trial based upon a statement that Ms. CABRERA gave the police at the time of her arrest in April 2012.

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While this Court has previously addressed continuances of trial in co-defendant trials, none of the fact patterns of those cases are the same as the facts of underlying Ms. CABRERA's challenge. Undersigned counsel is still researching this issue in other state courts and in federal appellate courts and needs additional time to finalize the research and then prepare the challenge.

Subsequent to filing the March 5, 2018 motion, undersigned counsel has spent the vast majority of her time researching numerous issues of first impression which must be raised in Ms. CABRERA's opening brief. The guilt phase issues of first impression are:

- (1) NRS 194.010(8) is unconstitutional when applied to a person whose criminal liability is imputed through an allegation of aiding and abetting, conspiracy and/or participating in a felony murder;
- (2) Application of the common law "choice of evils" policy unconstitutionally denies the person, who never had a weapon in her hand and did not kill anyone, her federal right to present a defense to murder charges; and,

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- (3) Application of the common law “choice of evils” policy to the crimes of attempt murder, burglary while in possession of a firearm and conspiracy to commit murder unconstitutionally precluded presentation of a duress defense to these charges.

Undersigned counsel has never litigated an “as applied” constitutional challenge to a statute before. Counsel has expended numerous hours reviewing opinions on this issue and has not yet finalized either the research or the preparation of the issue. Counsel requires additional time to adequately formulate this very important challenge to Ms. CABRERA’s convictions.

Additionally, while counsel completed research on the “choice of evils” policy during the district court pretrial litigation, given the fact that this policy was the trial court’s basis for precluding a duress defense to all of the crimes at the time of trial, counsel has expended numerous hours continuing to research this issue. Counsel requires additional time to adequately formulate these very important challenges to Ms. CABRERA’s convictions.

It is recognized that this Honorable Court does not usually address penalty phase issues related to the death penalty when a person is sentenced to life without the possibility of parole.

However, in Ms. CABRERA's case a federal constitutional challenge was raised regarding the state's ability to rely upon aggravating circumstances, which were based upon the mind frame of the actual killer, in order to seek the death penalty.

If this issue is not one of first impression, it is a very important constitutional question which can re-occur in the future. Therefore, counsel respectfully submits that this Honorable Court should decide this federal constitutional challenge even though Ms. CABRERA was sentenced to life without the possibility of parole. As counsel is continuing to review opinions by other state and federal appellate courts, it is respectfully submitted that she requires additional time to adequately formulate this issue for inclusion in Ms. CABRERA's opening brief.

The above noted issues are extremely important and are also very difficult to present clearly. As Ms. CABRERA was sentenced to life without the possibility of parole for crimes which were committed after 1995, she will die in prison unless her convictions are reversed based upon the above noted constitutional challenges. In order to adequately and effectively represent Ms. CABRERA during this appeal, undersigned counsel respectfully requests additional time to file the opening brief and appendix in the case at bar.

Therefore, it is respectfully requested that the Honorable Court grant the present motion and order that the opening brief and appendix be filed on May 31, 2018.

DATED this 16th day of April, 2018.

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 16<sup>th</sup> day of April, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Owens, Clark County Chief Deputy District Attorney

Adam Laxalt, Attorney General

Patricia M. Erickson

/s/ Patricia M. Erickson  
Patricia M. Erickson