

1 Thomas A. Ericsson, Esq.
2 Nevada Bar No. 4982
3 ORONOZ & ERICSSON, LLC
4 1050 Indigo Drive, Suite 120
5 Las Vegas, Nevada 89145
6 Telephone: (702) 878-2889
7 Facsimile: (702) 522-1542
8 tom@oronozlawyers.com
9 Attorney for Appellant

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Elizabeth A. Brown
Clerk of Supreme Court

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IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN ELAM,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Case No. 74581

**APPELLANT'S MOTION TO
ENLARGE TIME TO FILE
OPENING BRIEF (4th Request)**

Appellant CALVIN ELAM, by and through his counsel, THOMAS A.
ERICSSON, ESQ., respectfully submits this Motion to Enlarge Time to File
Opening Brief to May 23, 2018, or as soon as this motion is considered.

Appellant's counsel filed the Opening Brief on May 22, 2018, but it was rejected
as untimely. The brief was previously due May 18, 2018.

FACTUAL AND PROCEDURAL BACKGROUND

On April 17, 2015, a grand jury charged Appellant Calvin Elam with the
following crimes: (1) Conspiracy to Commit Kidnapping; (2) First Degree
Kidnapping with Use of a Deadly Weapon; (3) Assault with a Deadly Weapon; (4)
Unlawful Use of an Electronic Stun Device; (5) Battery with Intent to Commit
Sexual Assault; (6) Sexual Assault with Use of a Deadly Weapon; (7) Attempt

1 Sexual Assault with Use of a Deadly Weapon; and (8) Ownership or Possession of
2 Firearm by Prohibited Person. The Appellant proceeded to trial on June 19, 2017,
3 and the jury rendered guilty verdicts on Counts 1, 2, 3, and 5. The jury rendered not
4 guilty verdicts on Counts 4, 6, and 7. The State elected not to proceed on Count 8,
5 and the State requested that the Court dismiss it.
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7 On October 19, 2017, the District Court sentenced the Appellant as follows:
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9 Count 1- 24 to 72 months in NDOC; Count 2- 5 years to Life in prison, plus a
10 consecutive term of 60 to 180 months for the use of a deadly weapon, Count 2 to run
11 concurrent with Count 1; Count 3- 12 to 72 months in NDOC, Count 3 to run
12 consecutive to Count 2; Count 5- 2 years to Life in prison, Count 5 to run consecutive
13 to Count 3. Counts 4, 6, and 7 are dismissed. Count 8 is dismissed without prejudice.
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15 The aggregate total sentence is 13 years to Life in prison. Further ordered, the
16 District Court imposed a special sentence of lifetime supervision upon release of any
17 term of imprisonment, probation, or parole. Additionally, the Appellant must
18 register as a sex offender after release from custody. The District Court filed the
19 Judgment of Conviction on October 31, 2017, and the Appellant filed a timely
20 Notice of Appeal on November 13, 2017.
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24 On May 16, 2018, this Court granted Appellant's Motion to Extend Time to
25 File an Opening Brief and Appendix and ordered the brief and appendix to be filed
26 by May 18, 2018. Appellant filed the Appendix on May 18, 2018. Appellant's
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1 counsel filed the Opening Brief on May 22, 2018, but on May 23, 2018, the Supreme
2 Court's Clerk rejected the Opening Brief as it was filed untimely.

3 4 **ARGUMENT**

5 **Good cause exists to enlarge the time to file appellant's opening brief and** 6 **appendix.**

7 Nevada Rule of Appellate Procedure 26(b)(1)(A) provides in relevant part:

8 For good cause, the court may extend the time prescribed by
9 these Rules or by its order to perform any act, or may permit an
10 act to be done after that time expires.

11 Good cause exists to grant this request to extend the briefing schedule by
12 four (4) days beyond the May 18, 2018, date previously ordered in this matter.

14 On the evening of May 17, 2018, the undersigned counsel had his residence
15 burglarized, one week to the day from the break-in and burglary of his vehicle that
16 was parked in the driveway of the same residence. The police investigating the two
17 incidents believe that the undersigned and/or his family members are being
18 targeting by an individual or group who are surveilling the activities of the
19 undersigned and his family. (The break in of the house on May 17th took place
20 between 7 p.m. and 8 p.m. during a short period in which the family was away
21 from the home.)

25 While dealing with the investigations and the family psychological issues
26 resulting from the burglaries, the undersigned failed to file the Opening Brief on
27 May 18th as ordered. The undersigned sincerely apologizes to the Court for the
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1 failure to meet the filing deadline or request an extension of the due date. The
2 failure rests solely with the undersigned.

3 Appellant respectfully requests that the Court grant this motion to extend
4 time to file the Opening Brief to May 23, 2018, to allow the Clerk of the Court to
5 accept the Brief filed yesterday, May 22, 2018, or allow time for the Appellant to
6 refile the Opening Brief if required. Appellant faces life in prison and it is
7 imperative that he be allowed to present the issues raised in the Opening Brief for
8 the Court's review and consideration. Therefore, it is respectfully submitted that
9 good cause exists for this Court to enlarge the time to file the Appellant's Opening
10 Brief to May 23, 2018, or the date by which the Court orders the brief to be refiled.
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14 CONCLUSION

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16 Based on the foregoing, Appellant respectfully requests an enlargement of
17 time to file the Appellant's Opening Brief to May 23, 2018, or the date by which
18 the Court orders the brief to be refiled.
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20 DATED this 23rd day of May, 2018.

21 ORONoz & ERICSSON, LLC

22
23 /s/ Thomas A. Ericsson

24 THOMAS A. ERICSSON, ESQ.

25 Nevada Bar No. 4982

26 1050 Indigo Drive, Suite 120

27 Las Vegas, Nevada 89145

28 Telephone: (702) 878-2889

Attorney for Appellant

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on May 23, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT
Nevada Attorney General

STEVEN S. OWENS
Chief Deputy District Attorney

THOMAS ERICSSON
Counsel for Appellant

By: /s/ Rachael Stewart
An employee of Oronoz & Ericsson LLC