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Sep 14 2018 01:21 p.m.
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
REPLY BRIEF (Second
Request)**

Appellant CALVIN ELAM, by and through his counsel, THOMAS A.
ERICSSON, ESQ., respectfully submits this Motion to Enlarge Time to File Reply
Brief to September 14, 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
Sexual Assault with Use of a Deadly Weapon; and (8) Ownership or Possession of
Firearm by Prohibited Person. The Appellant proceeded to trial on June 19, 2017,

1 and the jury rendered guilty verdicts on Counts 1, 2, 3, and 5. The jury rendered not
2 guilty verdicts on Counts 4, 6, and 7. The State elected not to proceed on Count 8,
3 and the State requested that the Court dismiss it.
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5 On October 19, 2017, the District Court sentenced the Appellant as follows:
6 Count 1- 24 to 72 months in NDOC; Count 2- 5 years to Life in prison, plus a
7 consecutive term of 60 to 180 months for the use of a deadly weapon, Count 2 to run
8 concurrent with Count 1; Count 3- 12 to 72 months in NDOC, Count 3 to run
9 consecutive to Count 2; Count 5- 2 years to Life in prison, Count 5 to run consecutive
10 to Count 3. Counts 4, 6, and 7 are dismissed. Count 8 is dismissed without prejudice.
11 The aggregate total sentence is 13 years to Life in prison. Further ordered, the
12 District Court imposed a special sentence of lifetime supervision upon release of any
13 term of imprisonment, probation, or parole. Additionally, the Appellant must
14 register as a sex offender after release from custody. The District Court filed the
15 Judgment of Conviction on October 31, 2017, and the Appellant filed a timely
16 Notice of Appeal on November 13, 2017.
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21 On August 30, 2018, this Court granted a fourteen (14) day extension to file
22 the Reply Brief in this case, which made the Brief due on September 13, 2018. On
23 September 13, 2018, Counsel for the Appellant had a technical computer issue that
24 resulted in submitting the brief at 12:45 a.m. on September 14, 2018. The Reply
25 Brief was then rejected as untimely. Counsel requests that this Court grant a 1-day
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1 extension to allow the Reply Brief to be refiled on September 14, 2018, and accepted
2 as timely.

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4 **ARGUMENT**

5 **Good cause exists to enlarge the time to file the Appellant's Reply Brief.**

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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 one (1) day to be due on September 14, 2018.

13 On September 13, 2018, Counsel had technical difficulties with his
14 computer that resulted in the brief being uploaded at 12:45 a.m. on September 14,
15 2018, rather than on September 13, 2018. *See*, Exhibit A. Counsel requests that
16 this Court grant this request to extend the briefing schedule by one (1) day to allow
17 Counsel to refile the brief and to allow the Clerk's office to accept the brief as
18 timely.
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21 Therefore, good cause exists to grand this request for an additional one (1)
22 day to file the Reply Brief.
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DATED this 14th day of September, 2018.

/s/ Thomas A. Ericsson
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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on September 14, 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

EXHIBIT A



Thomas Ericsson <tom@oronozlawyers.com>

Your filing, Re: 74581 - Criminal Appeal - Brief, was filed subject to acceptance No. 74581.

1 message

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Fri, Sep 14, 2018 at 12:46 AM

RECEIPT OF ELECTRONIC DOCUMENT SUBMITTED FOR FILING

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Case Category: Criminal Appeal

Submitted by: Thomas A. Ericsson
Date Submitted: Sep 14 2018 12:45 a.m.
Document Category: Brief
Document Title: APPELLANT'S REPLY BRIEF
Filing Status: Filed subject to acceptance

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