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Respondent.

Electronically Filed
Dec 07 2020 10:34 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

COMES NOW Appellant, KODY HARLAN, by and through his counsel in this matter, JEAN J. SCHWARTZER, ESQ., and moves this Court for the third time for an enlargement of time of sixty (60) days from December 7, 2020 to file Appellant's Opening Brief, making said brief due February 5, 2021. This motion is based upon the following memorandum and all papers and pleadings on file herein.

Dated this 7th day of December, 2020.

Respectfully submitted,

/s/ Jean J. Schwartz
JEAN J. SCHWARTZER, ESQ.
Law Office of Jean J. Schwartz, Ltd
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Las Vegas, NV 89141
Phone: 702-979-9941
jean.schwartz@gmail.com
Counsel for Appellant

1 **MEMORANDUM**

2 I, JEAN J. SCHWARTZER, ESQ., am the attorney in the above-captioned case.
3 Appellant's Opening Brief is due on December 7, 2020. Pursuant to NRAP
4 31(b)(3)(B), this Court may grant a third motion for extension of time for filing an
5 Opening Brief upon a showing of extreme need. This is Appellant's third request for an
6 extension of time to file his Opening Brief.

7 Counsel was appointed to represent Appellant on March 12, 2020. On March
8 15, 2020, the Governor of Nevada ordered social distancing and the closure of all
9 schools due to COVID-19. Schools remained closed pursuant to an amended order for
10 the duration of the school year. From the time school closed until the end of May,
11 Counsel had to home-school her then 4 (now 5) and then 7 (now 8) year old children
12 and was only able to work very limited hours due to having no child care until school
13 started on August 10, 2020. This was the reason cited to for Appellant's first Motion
14 for Enlargement of Time.

15 Counsel leased a new office in late August and spend a considerable amount of
16 time packing, moving and unpacking her case files and office. Counsel then spent the
17 subsequent six weeks catching up on all her cases as she was only able to work on a
18 very limited basis from mid March to mid August due to COVID-19. Although
19 counsel had spent approximately 100 hours on Appellant's Opening Brief, additional
20 time was needed. This was the reason for the second request for an enlargement of
21 time.

22 With respect to extreme need for the current request for an enlargement of time,
23 counsel has not been able to work efficiently over the last two weeks due to the
24 holidays and children being out of school as well as the fact that a close family
25 member has been in the hospital for the last two weeks with a very serious medical
26 condition. This has been very stressful for counsel and her family. Counsel needs
27 approximately two weeks to finish the Opening Brief. That being said, counsel was
28

1 informed this past weekend that trial counsel, Ryan Helmick, Esq., came into
2 possession of newly discovered evidence and plans to file a Motion for New Trial in
3 district court within the next week or two. In the event that this Motion is denied,
4 Appellate counsel would prefer to handle all appellate issues in one Opening Brief as
5 opposed to filing an Opening Brief and then requesting permission to file a
6 Supplemental Brief. In the event the Motion is granted, Appellant's case before this
7 Court becomes moot as he will have been granted a new trial. Appellate counsel is
8 hopeful that the Motion for New Trial will be resolved within four (4) to six (6)
9 weeks.

10 Therefore, Appellant requests sixty (60) additional days to file his Opening
11 Brief making said brief due on February 5, 2021.

12 This Motion is made in good faith and not for the purposes of undue delay.

13 I declare under penalty of perjury the factual representations set forth in the
14 foregoing memorandum are true and correct.

15 Dated this 7th day of December, 2020.

16
17 Respectfully submitted,

18 /s/ Jean J. Schwartzer
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3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY AND AFFIRM that this document was filed
5 electronically with the Nevada Supreme Court on December 7th, 2020. Electronic
6 Service of the foregoing document shall be made in accordance with the Master
7 Service List as follows:

8
9 AARON FORD, ESQ.
Nevada Attorney General

10 ALEXANDER G. CHEN, ESQ.
11 Chief Deputy District Attorney

12
13 /s/ Jean J. Schwartzer
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