

IN THE SUPREME COURT OF THE STATE OF NEVADA

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DEQUINCY BRASS,	)	Electronically Filed
	)	Jun 07 2021 08:59 a.m.
Appellant,	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
vs.	)	Case No. 81142
	)	
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	

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**APPELLANT’S PARTIAL OPPOSITION TO MOTION FOR LEAVE  
TO FILE ANSWERING BRIEF IN EXCESS OF TYPE-VOLUME  
LIMITATIONS**

Comes Now Appellant DEQUINCY BRASS, by and through Chief Deputy Public Defender DEBORAH L. WESTBROOK, and hereby opposes, *in part*, Respondent’s Motion for Leave to File Answering Brief in Excess of Type-Volume Limitations. While Appellant agrees that Respondent should be permitted to submit an Answering Brief that is at least the same length as Appellant’s Opening Brief, Appellant does not believe Respondent should be permitted to submit an Answering Brief that is nearly 25-pages *longer* (and contains 8,524 more words) than Appellant’s Opening Brief.

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This partial Opposition is based on the following Memorandum of Points and Authorities and all papers and pleadings on file herein.

DATED this 7th day of June, 2021.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By /s/ Deborah L. Westbrook  
DEBORAH L. WESTBROOK, #9285  
Chief Deputy Public Defender

### **MEMORANDUM OF POINTS AND AUTHORITIES**

Respondent has filed a Motion pursuant to NRAP 28(g) to exceed the type-volume limitations for its Answering Brief. Respondent seeks to file a 99-page Answering Brief containing 24,147 words—10,147 words more than are allowed under NRAP 32(a)(7)(A)(i)-(ii) (limiting opening and answering briefs to 14,000 words in a noncapital case). Respondent contends that excessive briefing is warranted because this Court permitted Appellant to file an Opening Brief that contained 15,623 words and exceeded the type-volume limitations by 1,623 words. Respondent asserts that it was “necessary to prepare an Answering Brief containing 24,147 words” in order to “fully develop the facts and answer the issues Appellant raised” in his 15,623-word brief. Respondent further claims that Appellant’s 75-page Opening Brief which contains 12 issues “necessitates a more detailed and

lengthy response than the word limits of NRAP 32(a)(7) would normally permit.” Finally, Respondent asserts that it has “diligently sought to respond in as concise a manner as possible, without sacrificing depth, breadth, or accuracy.”

Appellant is certainly cognizant of the complexity of this case, the voluminous appendix, and the need to exceed 14,000 words to properly address all meritorious issues raised below. Additionally, Appellant appreciates that Respondent rarely opposes good faith motions filed by Appellants with cases pending in this Court. Nevertheless, while sympathetic to Respondent’s situation, Appellant was able to file an Opening Brief that contained 8,524 fewer words than Respondent’s proposed Answering Brief. Appellant did so by judiciously addressing only the issues he believed to be most meritorious and doing so as concisely as possible.

Appellant questions why Respondent would need 8,524 more words than Appellant to address Appellant’s arguments. Further, where Appellant’s Reply Brief is limited to just 7,000 words, Appellant will be hard-pressed to respond to all of Respondent’s arguments in the space allotted. Appellant is concerned that should this Court allow Respondent vastly more words in its

Answering Brief than Appellant submitted in his Opening Brief, then that decision may result in an unfair appellate advantage to Respondent.

### **CONCLUSION**

Appellant recognizes that his case involves numerous issues that cannot be adequately addressed in 14,000 words. And Appellant *agrees* that Respondent is entitled to present an Answering Brief that contains at least as many words as Appellant's Opening Brief. Nevertheless, Respondent's request to submit an Answering Brief containing 24,147 words appears excessive, unnecessary, and unfair to Appellant.

Appellant, therefore, asks that the Court limit Respondent's Answering Brief to a word-count similar to that permitted to Appellant—15,623 words.

Respectfully submitted,

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By /s/ Deborah L. Westbrook  
DEBORAH L. WESTBROOK, #9285  
Chief Deputy Public Defender  
309 So. Third Street, Suite #226  
Las Vegas, Nevada 89155-2610  
(702) 455-2685

## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of June, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD  
STEVEN B. WOLFSON  
ALEXANDER CHEN

DEBORAH L. WESTBROOK

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

DEQUINCY BRASS  
NDOC No. 1233421  
c/o High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070

BY /s/ Carrie M. Connolly  
Employee, Clark County Public  
Defender's Office