

Ali Shahrokhi
10695 Dean Martin Dr. #1214
Las Vegas, NV 89141
(702) 835-3558
Alibe76@gmail.com
In Proper Person

FILED

JUL 02 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI SHAROKHI)	
Appellant,)	CASE NO.: 81978/82245
vs.)	
)	District Court Case No.:
KIZZY BURROW,)	D-18-581208-P
)	
Respondent.)	
)	
)	
)	

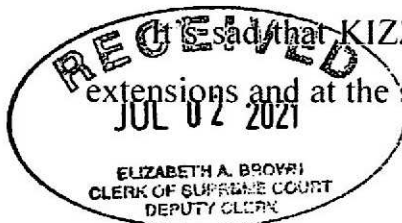
**RESPONSE TO MOTION TO STRIKE OPENING BRIEF AND TO
DISMISS APPEAL, OR IN THE ALTERNATIVE, MOTION TO EXTEND
TIME TO FILE AN ANSWERING BRIEF**

Appellant ALI SHAHROKHI ("ALI"), in proper person, Opposition to Motion to Strike Opening Brief and to Dismiss Appeal, or in the Alternative, Motion to Extend Time to File an Answering Brief. This Motion is made and based upon the papers and pleadings on file herein and the foregoing Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

On February 18, 2021, the Nevada Supreme Court issued its Order Consolidating Cases 81978 and 82245, stating, "Preliminarily, as these appeals arise from the same district court case and involve the same parties and related issues, their consolidation would promote judicial economy."

It is sad that KIZZY is relitigating and festering over this court granting ALI extensions and at the same time request their own extension. In the time that these



21-19112

extensions were granted, ALI had found fraud upon the Supreme Court of Nevada and fraud upon the court in the lower proceedings. Understanding that ALI had a death in the family, there was an ongoing pandemic and there are strict timelines in filing an NRCP 60 motion to set aside in the underlying case; ALI had need for the court's grace in this matter which was granted in the form of extensions, and KIZZY is just frivolously relitigating matters this court has already decided upon, to harass ALI. Matter of fact, KIZZY uses these granted extensions to try and dismiss ALI's case, coupled with a backdoor attempt at blind siding ALI by waiting until after the opening brief deadline had passed to raise any of these issues. Such behavior should be sanctioned.

On May 24, 2021, this court denied ALI's extension of pages, however, the Supreme Court of Nevada acknowledge that ALI's case is atypical, "While this court appreciates the lengthy procedural history of this case, it is not convinced that a 92-page brief is warranted." ALI's request for more pages had merit and KIZZY attacking this just again shows ill will and bad faith.

Additionally, on May 24, 2021, the Nevada Supreme Court ordered that ALI file an informal brief or an opening brief that complies with NRAP 28(a) and NRAP 32 no later than June 24, 2021. ALI met the deadline, as he filed his opening brief on June 14th and believes that he did meet the compliance for NRAP 28 and NRAP 32. Again, KIZZY waited until after the deadline, more than two weeks after she received the brief to raise issues, and now sneakily asks the court to dismiss the appeal because ALI's deadline has passed and its too late for him to correct any issues and resubmit his brief. This is unreal.

ALI did not defy orders of this court as KIZZY frivolously claims. More likely the case is in that KIZZY needs an extension of time and because she has opposed ALI's formal requests for extensions she needed a futile argument to cover *her* request for an extension of time, which she should be barred from requesting considering she has already made arguments against time extensions before this very court. She should also be barred from asking for any extension

considering the manipulative tactics she brought to this court in filing this motion for dismissal. In the alternative, ALI asks that KIZZY's counsel be sanctioned.

This honorable court has full authority to sanction Ms. Ruiz for abusive litigation tactics. The Supreme Court has recognized the "inherent power of a court to levy sanctions in response to abusive litigation practices." *Id.* at 765. "The power of a court over members of its bar is at least as great as its authority over litigants." *Id.* at 766. *Young v. Ninth Judicial Dist. Court*, 818 P.2d 844, 847, 1991 (Nev. September 30, 1991). Further this court has power to sanction Ms. Ruiz for a non meritorious motion to dismiss, "Under the inherent power doctrine, Nevada courts have jurisdiction to impose sanctions on attorneys" *Young v. Ninth Judicial Dist. Court*, 818 P.2d 844, 847, 1991 (Nev. September 30, 1991)

To address KIZZY's attempt to suppress ALI's rights in the consolidated matter. It is of ALI's understanding that the consolidation of the two cases should not affect any of his rights, including his right to be heard. ALI's only opportunity to be heard in this appeal is encompassed in the opening brief. "Appeals brought in pro se and postconviction appeals will be submitted for ***decision without oral argument***, but the court may direct that a case be argued." *NRAP 34(f)(3)*.

Further, consolidating two cases would not limit ALI to the page designation for one case, but rather *NRAP 32* would define applicable page limitations for each. There are no clear guidelines as to page limitations for consolidated cases in *NRAP*. However, ALI's right to be heard cannot be limited because the case was consolidated. This is presented in the following authority:

In holding that consolidated cases retain their separate character, we cited the United States Supreme Court's decision in *Hall v. Hall*, 584 U.S., 138 S. Ct. 1118, 200 L. Ed. 2d 399 (2018), as strong persuasive authority. *In re Estate of Sarge*, 134 Nev. at 870, 432 P.3d at 722. Significantly, Hall observed that "consolidation is permitted as a matter of convenience and economy in administration, but does not merge the suits into a single cause, or change the rights of the parties" 584 U.S. at, 138 S. Ct. at 1127 (quoting *Johnson v. Manhattan Railway Co.*, 289 U.S. 479, 496-97, 53 S. Ct. 721, 77 L. Ed. 1331 (1933))." *In re Wynn Resorts Derivative Litig.*, 2020 Nev. Unpub. LEXIS 639, *2-3, 465 P.3d 1184, 2020 WL 3483757 (Nev. June 25, 2020)

“And, finally, we held that consolidation could not prejudice rights to which the parties would have been due had consolidation never occurred.” *Hall v. Hall*, 138 S. Ct. 1118, 1128, 200 L. Ed. 2d 399, 410, 2018 U.S. LEXIS 2062, *21, 100 Fed. R. Serv. 3d (Callaghan) 179, 27 Fla. L. Weekly Fed. S 143, 2018 WL 1472897 (U.S. March 27, 2018)

“But merger is never so complete in consolidation as to deprive any party of any substantial rights which he may have possessed had the actions proceeded separately.” 3 J. Moore & J. Friedman, *Moore's Federal Practice* §42.01, pp. 3050-3051 (1938). *Hall v. Hall*, 138 S. Ct. 1118, 1130, 200 L. Ed. 2d 399, 412-413, 2018 U.S. LEXIS 2062, *27, 100 Fed. R. Serv. 3d (Callaghan) 179, 27 Fla. L. Weekly Fed. S 143, 2018 WL 1472897 (U.S. March 27, 2018)

ALI was not defiant in submitting a 60 page brief but rather logically applying the court's order for him to follow NRAP 28 and NRAP 32 *in a consolidated case*. ALI requests this court accept his filing as is – or - in the alternative - clarify how *Hall* is upheld in limiting ALI's page allotment to that equating to one appeal. Especially considering this court's notation that the underlaying case has an “extensive” record. ALI will comply with court orders, yet believes he did follow the order. ALI believes that KIZZY's argument is nonsensical and brought simply to harass. If ALI misunderstood, it was not intentional and he requests grace from this court. KIZZY's sneaky attempt to backdoor a dismissal in this case is irreprehensible. Why did KIZZY wait until five days after the deadline for ALI to file an opening brief to raise any issues here? She received the brief 20 days prior to filing her motion to strike/dismiss.

Ali's Appeal Should Not Be Stricken Nor Should This Case Be Dismissed

The appellate courts are reluctant, absent egregious situations, to strike entire briefs or delete portions of a brief. Rather, after taking the case under advisement, the appellate court will disregard matters inappropriately included in the briefs. *See Serota*, 129 Nev. Adv. Op. 66, n.5, 309 P.3d at 1040 n.5; *Brundy v. Bramlet*, 101 Nev. 3, 6 n.2, 692 P.2d 493, 495 n.2 (1985) (denying motion to strike

but disregarding improper material in reply brief). *A missing table of contents is not an egregious situation.* If it pleases the court, ALI will submit either a separate table of contents or resubmit his opening brief, yet this seems a little overbearing considering that pro se litigants are not even required to site the record. ALI did cite the record as he knew the extent of the underlying case and how it would be a burden on the appellate court to sort through the assertions without citations. ALI had thought his table of authorities equated to the table of contents and this was not a harmless error, not one of intent, bad faith or in anyway to prejudice the Respondent.

KIZZY misappropriates law where she cites *Nevada Employment Sec. Dep't v. Weber*, a case holding *attorneys* to high standard when practicing in the appellate court. "When attorneys fail to brief a case adequately, the court is forced to divert its limited resources to the task of compensating for counsel's derelictions in order to properly reach and resolve the merits of the appeal. *Nevada Employment Sec. Dep't v. Weber*, 100 Nev. 121, 123, 676 P.2d 1318, 1319, 1984 Nev. LEXIS 332, *4-5 (Nev. February 24, 1984).

Although ALI is expected to comply with orders and rules, he is not an attorney, nor is he a native English speaker; although ALI is pro se and expected to present the case on the merits he is not held to the same standard as an attorney *See Haines v. Kerner*, 404 U.S. 519, 520, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972) (noting that pro se pleadings should be held "to less stringent standards than formal pleadings drafted by lawyers." If the lower court has the authority to apply a less stringent standard for pleadings drafted by pro se litigants, it is difficult to comprehend how a pro se litigant magically gains an ability to equate to an attorney's brief in the appellate courts, which have even higher standards than the lower courts. Attorneys practicing in the appellate courts must be well seasoned for the job, as they are held to higher standards in the appellate courts. Pro se litigants on the other hand are not developing a career goal to be appellate attorneys and

should not be expected to increase their proficiency in legal writing prior to going up on appeal. It would be unfair and prejudicial to justice to hold ALI to the same standard that an appellate attorney is held to.

Considering ALI has been convicted of crimes in a civil proceeding, violating the Nevada Constitution; his rights to parent have been terminated under a misnomer of sole custody; and he is in proper person pursuing a very difficult case, justice would be best served to allow any minor defects in his pro se brief to be disregarded versus striking his entire opening brief.

NRAP 31(d) provides that, “[i]f an appellant fails to file an opening *brief* or appendix within the time provided by this Rule, or within the time extended, respondent may move for dismissal of the appeal.” Yet ALI has followed the rules in requesting extensions and this is a futile argument on behalf of KIZZY. The only reason ALI would be late at this point is because KIZZY’s attorney is playing games and being unfair to an opposing pro se litigant. KIZZY’s attorney has a duty under her rules of professional conduct to be fair in this situation. Ms. Ruiz is not litigating with integrity and makes the legal profession look bad.

KIZZY waited until June 29th, well after the deadline had passed for ALI to file his opening brief, *intentionally*, to try and backdoor a dismissal in this appeal. This is abusive litigation. KIZZY should have brought issues to ALI and given him time to correct if she truly believed she was being prejudiced in ALI filing his 60 page brief. Ms. Ruiz had 14 days after receiving the opening brief to contact ALI or move this court, but she waited to try and unfairly have this appeal dismissed.

KIZZY wants to try and thwart ALI’s right to appeal the lower courts’ outrageous ruling, where ALI was tried for crimes, where Judge Harter had no jurisdiction to do such under the Nevada Constitution Article 1 section 8. Where ALI’s parental rights have been terminated as a misnomer of “sole custody.”

KIZZY did not set forth a request in the number of days she wanted for an extension, so ALI asks this court to deny her request for an extension as she never

set forth a number of days needed to oppose the brief.

CONCLUSION

The issue at hand is not minor defects that may be found in a pro se appellant brief but rather that Ms. Ruiz is using unfair litigation tactics to try and hinder ALI from invoking his right to appeal by asking this honorable court to backdoor a dismissal. For the foregoing reasons, ALI requests that this Honorable Court deny Respondent's motion in *toto*. ALI request that this Honorable Court sanction respondent for using unfair litigation tactics to dismiss this appeal. ALI requests that this Honorable Court accept his opening brief as is or in the alternative, clarify how the page limitations in NRAP apply to consolidated cases while upholding *Hall* and an appellant's right to be heard and if any minor defects being correct would please this court that ALI be given five days to bring the opening breif into compliance.

DATED this 1st day of July, 2021.

ALI SHAHROKHI

DocuSigned by:
Ali Shahrokhi
1E3FF1A4645B4B2...

Ali Shahrokhi
10695 Dean Martin Dr. #1214
Las Vegas, NV 89141
(702) 835-3558
Alibe76@gmail.com
In Proper Person

VERIFICATION

I declare under penalty of perjury that I have read this response, that the information provided in this statement is true and complete to the best of my knowledge, information and belief.

ALISHAHROKHI

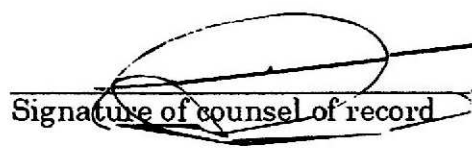
Name of appellant

Proper Person

Name of counsel of record

07/02/2021

Date


Signature of counsel of record

Nevada, Clark County

State and county where signed


CERTIFICATE OF SERVICE

I certify that on the 2nd day of July, 2021, I served a copy of this completed response upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Yvonne Ruiz
Marzola & Ruiz Law Group PLLC
Attn: Yvonne Ruiz, Esq
2920 N. Green Valley Parkway, Bldg 2 Suite 219
Henderson, NV 89014

Dated this 2nd day of July, 2021


Signature