

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

No. 82696

IN THE MATTER OF THE
APPLICATION OF BRECK WARDEN
SMITH FOR A WRIT OF HABEAS
CORPUS

THE STATE OF NEVADA,
Appellant,

vs.

BRECK WARDEN SMITH,
Respondent.

**RESPONSE TO THE NEVADA
JUSTICE ASSOCIATION’S
REQUEST FOR AN EXTENSION
OF TIME TO FILE AN AMICUS
CURIAE BRIEF AND A
REQUEST FOR AN EXTENTION
OF TIME FOR THE STATE TO
FILE THE REPLY BRIEF**

The State, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Katrina A. Samuels, Deputy Attorney General, file this response to the Nevada Justice Association’s (“NJA”) request for an extension of time to file their motion for leave to file an amicus brief and the proposed amicus brief pursuant to NRAP 26. This response is based on the following points and authorities, together with all pleadings, papers, and exhibits on file.

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On July 29, 2021, the State filed their opening brief and a month later, Smith, with the assistance of counsel, filed his answering brief. On August 30, 2021, NJA filed a notice of appearance of amicus counsel in support of Smith. Four days later, NJA filed a motion for extension of time requesting a 30-day extension within which to file their motion for leave to file their amicus brief and their proposed amicus brief. In their motion, NJA states that additional time is needed for them to familiarize themselves with the record, the legal arguments, and the briefing currently before this Court. NJA also believes that by filing their amicus brief, they can assist this Court with the statutory interpretation of issues of first impression that are implicated in this appeal.

The State has no opposition to NJA's request for additional time, nor does the State oppose NJA filing an amicus brief. Indeed, the State agrees to permit the Clerk of Court to construe this response as the State's written consent to NJA filing a brief without leave under NRAP 29(a). Assuming Respondent Breck Smith will also consent to NJA's participation as amicus, that will dispense with the need for NJA to obtain leave to file its brief. That would then allow this Court to simply extend the time for NJA to file the amicus brief, rather than requiring resolution of a motion for leave. But regardless of whether the Court extends the time for NJA to file a motion for leave to file an amicus brief or the time for NJA to file its brief with the

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consent of the parties, the State requests that this Court adjust the briefing schedule so that the State's reply brief will be due after NJA's amicus brief is filed.

Respectfully submitted,

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/s/ Katrina A. Samuels
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Response to the Nevada Justice Association's Request for an Extension of Time to File an Amicus Curiae Brief and a Request for an Extension of Time for the State to File the Reply Brief* with the Clerk of the Court by using the electronic filing system on the 9th day of September 2021.

The following participants in this case are registered electronic filing system users and will be served electronically

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