

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIPAK KANTILAL DESAI,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

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Dec 29 2014 02:27 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

CASE NO: 64591

**MOTION FOR ENLARGEMENT OF TIME
(Second Request)**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, STEVEN S. OWENS, and moves this Court for an enlargement of time within which to file the State's Answering Brief. This motion is based on the following memorandum, declaration of counsel and all papers and pleadings on file herein.

Dated this 29th day of December, 2014.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Steven S. Owens*

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MEMORANDUM

I, STEVEN S. OWENS, am the supervising attorney in the above-captioned case. The State is requesting a thirty (30) day extension of time in which to file its Answering Brief pursuant to NRAP 31.

Respondent's Answering Brief is currently due December 29, 2014. This is a direct appeal from the Judgment of Conviction. Pursuant to NRAP 31(b)(3)(B), an initial request for extension of time in a non-capital case will be granted on a clear showing of good cause. Subsequent extensions of time will not be granted except upon a showing of extraordinary circumstances and extreme need. NRAP 31(b)(3)(B).

On April 21, 2014, this Court granted Appellant's Motion for a one hundred and twenty day extension in part, giving Appellant until July 21, 2014, to file an Opening Brief. On July 18, 2014, this Court granted Appellant's Second Motion for Enlargement of Time and granted a forty-three day extension, giving Appellant until September 2, 2014, to file an Opening Brief. On September 25, 2014, this Court granted Appellant's Motion to file an Opening Brief in excess of the type-volume limitation, but rejected the filed Opening Brief as it was not prepared in accordance with NRAP 32. The Opening Brief was struck and Appellant was given until October 3, 2014 to file the Opening Brief.

The State's Answering Brief was originally due on October 30, 2014. On October 30, 2014, the State filed a Motion for Enlargement of time, seeking an additional sixty days to file its Answering Brief. On November 3, 2014, Desai filed a Non-Opposition to Extension of Time. This Court granted the State's Motion on November 6, 2014. The State's Answering Brief is currently due on December 29, 2014.

The State makes its second request for an extension of time, citing the following as extraordinary circumstances and extreme need: Desai was charged with twenty-eight separate counts, including Second Degree Murder. Appellant filed an Opening Brief of over ninety-six pages, with six separate issues. Each of these six issues includes twenty-five sub-issues and topics that must be addressed, including complex Constitutional claims and issues of first impression for this Court. Further, Appellant's Opening Brief exceeds the limitation under NRAP 32 by 6,825 words with permission of this Court. Moreover, Appellant included a 41-volume appendix consisting of 9,486 pages.

The State is still in the process of reviewing the lengthy record consisting of forty-five days of trial, as well as the extraordinary proceedings that occurred pre-trial. This includes various competency proceedings—one of the issues brought forth in Appellant's Opening Brief. As Defendant noted in his second Motion for Enlargement of time, the complexity of issues and length of the trial requires an

extensive amount of time to adequately review the transcripts, even with the resources to have one individual solely dedicated to this case. Due to the workload in the appellate division, and the aforementioned reasons, the State requests additional time to fully brief and respond to Appellant's claims for this Court.

Due to the above-described circumstances, Respondent respectfully requests this Court's permission for a second extension of time of thirty days to file its Answering Brief, making the State's response due to be filed on or before Wednesday, January 28, 2015. This motion is made in good faith and not for purposes of undue delay.

Dated this 29th day of October, 2014.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney

BY */s/ Steven S. Owens*

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on December 29, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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Nevada Attorney General

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BY /s/ j.garcia
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SSO/Genevieve Craggs /jg