

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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DIPAK KANTILAL DESAI,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

CASE NO:

Electronically Filed  
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Tracie K. Lindeman  
Clerk of Supreme Court  
64591

**RESPONSE TO DESAI'S OPPOSITION TO STATE'S MOTION FOR  
ENLARGEMENT OF TIME**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Appellate Deputy, Ryan J. MacDonald, and submits this RESPONSE TO DESAI'S OPPOSITION TO STATE'S MOTION FOR ENLARGEMENT OF TIME.

This motion is based on the following memorandum, declaration, and all papers and pleadings on file herein.

Dated this 3<sup>rd</sup> day of February, 2015.

Respectfully submitted,

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

BY */s/ Ryan J. MacDonald*

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RYAN J. MACDONALD  
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## MEMORANDUM

On January 28, 2015, the State filed a third motion for an extension of time in which to file its answering brief. Appellant's counsel filed an opposition to this extension, apparently deciding that the requested 60 days was not reasonable and suggesting that this Court should grant the State only 30. Appellant characterized the reasons for the extension proffered by the State as insufficient to meet the standard. Although the undersigned rarely if ever files oppositions to these extension motions when made by defense counsel, Appellant's opposition requires the State to file this response in order to more fully articulate why the requested extension is necessary.

First, when the State represented that a draft had been completed, it must be noted that the draft referenced was a first draft by an appellate law clerk. There will be additional drafts and likely extensive review by both the Deputy who tried this case and the undersigned Appellate Deputy.

Second, this is a large (41 Volume Appendix) criminal appeal in an important case, thus making the review process even more cumbersome than the normal appeal. Normally, when the record is that large much of it will not require close review. Not so here.

Third, the Opening Brief presents claims in a perplexing manner and they are presented in a stream-of-consciousness prose style. This also increases the

time required to ensure that no aspect of any claim is missed. Given the defense bar's increased citation to and reliance upon *Polk v. State*, this Court hopefully understands the caution and care exercised by the State in reviewing this appeal.

Fourth, the trial deputy is in back-to-back murder trials, making rushed review impossible.

Fifth, the State brings to the Court's attention that the Opening brief is in reality thousands of words over the limit. On September 25, 2014, this Court rejected the initial brief filed and ordered Appellant to file a brief no more than 20,825 words. While the brief now *technically* complies, Appellant has exploited this technicality by appending an "Exhibits" section *after* the Conclusion, meaning that any added words would not be counted. These exhibits are charts of text with citations to the record and purported "summaries of testimony." By the State's count, it is over 3,800 additional words. That is essentially the length of a fast-track response. Appellant cites to these summaries to bolster its Statement of the Facts, *see e.g.*, AOB at p. 11 fn.6, p. 20 fn.8. With this strategy, Appellant essentially circumvents the Court's imposed word limit, making the brief vulnerable to a motion to strike. However, given the priority of the case, the State is not moving to strike, but merely asking for more time to review.

For the forgoing reasons, the State asserts that extraordinary circumstances exist justifying the 60-day request.

Dated this 3<sup>rd</sup> day of February, 2015.

Respectfully submitted,

**STEVEN B. WOLFSON**  
Clark County District Attorney

BY */s/ Ryan J. MacDonald*

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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on February 3, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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RJM//jg