

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL TODD BOTELHO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43247

FILED

DEC 10 2004

ORDER GRANTING MOTION

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

On October 11, 2004, this court entered an order granting appellant's motion for an extension of time, until November 3, 2004, to file the opening brief. That order noted that no further extensions of time shall be permitted absent demonstration of extreme and unforeseeable circumstances, and that counsel's caseload will not be deemed such a circumstance. Because the opening brief was not filed, on November 18, 2004, this court entered an order directing appellant to file the opening brief by November 29, 2004.

Appellant has filed an untimely motion requesting an additional 11-day extension of time to file the opening brief. The basis for the motion is that the Thanksgiving holiday and weekends shortened the time for appellant's counsel to work on the brief and appellant's counsel is waiting for the district court's appellate clerk to provide documents for inclusion in the joint appendix. Notwithstanding its untimeliness and extreme and unforeseeable circumstances having been shown, we grant the unopposed motion. Appellant shall have 7 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

Any additional extensions of time to file the opening brief will be granted only on showing of extreme and unforeseeable circumstances.

Counsel's caseload will not be deemed such a circumstance. See Varnum v. Grady, 90 Nev. 374, 528 P.2d 1027 (1974).

It is so ORDERED.

 C.J.

cc: Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick