

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTE JOHNSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 45456

FILED

DEC 19 2005

BY *[Signature]*  
CLERK OF SUPREME COURT  
DEPUTY CLERK

FOURTH MOTION FOR EXTENSION OF  
TIME TO FILE OPENING BRIEF

COMES NOW, Appellant, DONTE JOHNSON, by and through his attorney,  
LEE-ELIZABETH McMAHON, Deputy Special Public Defender, and moves this  
Court for an Order granting an extension of time of one week, up to  
and including December 12, 2005, to file Appellant's Opening Brief.  
This Motion is made and based upon Supreme Court Rule 250 (6) (e) and  
the Affidavit of counsel filed herewith.

DATED this 5th day of December, 2005.

SUBMITTED BY:

SPECIAL PUBLIC DEFENDER

*[Signature]*  
LEE-ELIZABETH McMAHON  
NEVADA BAR #1765  
330 SOUTH THIRD ST., Ste. 800  
LAS VEGAS, NV 89155-2316  
(702)455-6265  
Attorney for Appellant

POINTS AND AUTHORITIES

SCR 250 6(e) Extension of time reads as follows:

"The supreme court may grant an initial extension of time  
of up to 60 days to file a brief upon a showing of good  
cause, but shall not grant additional extensions of time  
except upon a showing of extraordinary circumstances and  
extreme need."

DEC 19 2005

05-24674

1 This Court granted the Motion for Extension of Time of Two Weeks  
2 to File the Opening Brief in this matter, up to and including November  
3 28, 2005. On or about November 28, 2005, Appellant sent a Motion to  
4 this Court for an extension of one week, up to and including December  
5 5, 2005, due to preplanned vacation and the move of the office.

6 Appellant requests an additional week based on the reasons set  
7 forth in Counsel's Affidavit attached hereto. In addition, pursuant  
8 to SCR 250(1)

9 "This court places the highest priority on diligence in the  
10 discharge of professional responsibility in capital cases.  
11 The purposes of this rule are: to ensure that capital  
12 defendants receive fair and impartial trials, appellate  
13 review....."

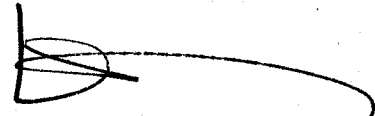
14 In order for Counsel for Appellant to diligently ensure JOHNSON  
15 receives the most thorough appellate review possible, it is necessary  
16 that all possible issues be researched and raised before this Court.

17 Based on the Affidavit, it is requested that an extension of one  
18 week, up to and including December 12, 2005, be granted to file  
19 Appellant's Opening Brief.

20 DATED this 5th day of December, 2005.

21 Respectfully submitted,

22 SPECIAL PUBLIC DEFENDER

23 

24 LEE-ELIZABETH McMAHON  
25 NEVADA BAR #1765  
26 330 SOUTH THIRD ST., Ste. 800  
27 LAS VEGAS, NV 89155-2316  
28 (702)455-6265  
Attorney for Appellant

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1 first impression to be raised and is researching same to find case law  
2 in other jurisdictions to support the issue.

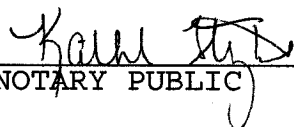
3 6. Due to the extreme and unforeseen difficulty in completing the  
4 review of the Record on Appeal, the issue of first impression, and  
5 based on the fact that this is a capital case, it is requested this  
6 Court grant the motion for extension of time of one week to file the  
7 Opening Brief, up to and including December 12, 2005.

8 This Motion is made in good faith and not for the purpose of  
9 delay.

10 Further Affiant sayeth naught.

11  
12   
LEE-ELIZABETH McMAHON

13 SUBSCRIBED and SWORN to before me  
14 this 5 day of December, 2005.

15   
16 NOTARY PUBLIC

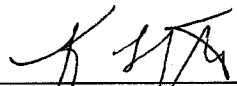


17 CERTIFICATE OF MAILING

18 I, KATHLEEN FITZGERALD, do hereby certify that on the 5 day  
19 of December, 2005, did deposit in the United States Post Office at Las  
20 Vegas, Nevada, a copy of the above and foregoing Motion, enclosed in  
21 a sealed envelope upon which first class postage was fully prepaid,  
22 addressed to the following:

23 Clark County District Attorney  
24 200 Lewis Avenue, 3rd Floor  
Las Vegas NV 89155

Nevada Attorney General  
100 N. Carson  
Carson City NV 89701-4717

25   
26 KATHLEEN FITZGERALD an employee  
27 of The Special Public Defender  
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