

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTE JOHNSON,

Appellant,

vs.


THE STATE OF NEVADA,

Respondent.

Case No. 45456

FILED

DEC 27 2005

JY 
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

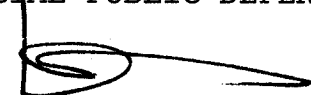
MOTION FOR EXTENSION OF
TIME TO FILE OPENING BRIEF

COMES NOW, Appellant, DONTE JOHNSON, by and through his attorney, LEE-ELIZABETH McMAHON, Deputy Special Public Defender, and moves this Court to allow Appellant an extension of time, up to and including January 23, 2006 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 22nd day of December, 2005.

SUBMITTED BY:

SPECIAL PUBLIC DEFENDER



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 27 2005

05-25181

1 Pursuant to the Order of the Court filed December 22, 2005 ,
2 Appellant's Opening Brief is due December 27, 2005.

3 Counsel for Appellant will be out of the country for the next two
4 weeks and is requesting an extension of time, up to and including
5 January 23, 2006 to file the Opening Brief. Counsel needs the
6 extension of time in order to research new issues which counsel
7 believes to be issues of first impression.

8 In addition, the appellate secretary for the Special Public
9 Defender has had to prepare briefs in Wolff v. State, Perry v. State,
10 Floyd v. State, and a fast track statement in Pruett v. State over the
11 last two weeks.

12 Appellant requests additional time based on the reasons set forth
13 in Counsel's Affidavit attached hereto. In addition, pursuant to SCR
14 250(1)

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

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

21 Based on the Affidavit, it is requested that an extension of

22 . . .

23 . . .

24 . . .

25 . . .

26 . . .

27 . . .

28

1 time, up to and including January 23, 2006, be granted to file
2 Appellant's Opening Brief.

3 DATED this 22nd day of December, 2005.

4 Respectfully submitted,
5 SPECIAL PUBLIC DEFENDER

6
7
8 LEE-ELIZABETH McMAHON
9 NEVADA BAR #1765
10 330 SOUTH THIRD ST., Ste. 800
11 LAS VEGAS, NV 89155-2316
12 (702)455-6265
13 Attorney for Appellant

14
15
16 AFFIDAVIT OF COUNSEL

17 STATE OF NEVADA)
18) ss:
19 COUNTY OF CLARK)

20 LEE-ELIZABETH McMAHON, being first duly sworn, deposes and says:

21 1. That Affiant is an attorney duly licensed to practice law in
22 the State of Nevada, and court-appointed counsel for Appellant DONTE
23 JOHNSON.

24 2. That this Court granted Appellant's Motion for Extension of
25 Time to File Opening Brief and the Brief is due December 27, 2005.

26 3. That due to excessive mandatory medical appointments, Affiant
27 has been out of the office much of the time since December 12, 2005.

28 4. That Affiant will be out of the country for the next two
weeks and is requesting an extension of time, up to and including
January 23, 2005 to file the Opening Brief.

5. That the appellate secretary for the Special Public Defender
has prepared briefs in Wolff v. State, Perry v. State, Floyd v. State,
and a fast track statement in Pruett v. State over the last two weeks.

6. That Affiant is requesting the extension in order to research

1 case law in other jurisdictions to support issues of first impression
2 to be raised.

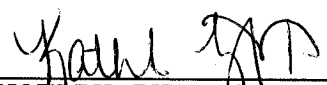
3 7. That Affiant requests the late filing of the instant motion
4 and the extension of time based on the foregoing extreme and unforeseen
5 reasons, up to and including January 23, 2006.

6 This Motion is made in good faith and not for the purpose of
7 delay.

8 Further Affiant sayeth naught.

9
10 
LEE-ELIZABETH McMAHON

11 SUBSCRIBED and SWORN to before me
12 this 22 day of December, 2005.

13 
14 NOTARY PUBLIC

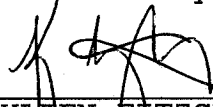


15 CERTIFICATE OF MAILING

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

21 Clark County District Attorney
22 200 Lewis Avenue, 3rd Floor
Las Vegas NV 89155

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

23 
24 KATHLEEN FITZGERALD an employee
25 of The Special Public Defender
26
27
28