

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTE JOHNSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 45456

FILED

NOV 30 2005

JANE T. MAHON  
CLERK OF SUPREME COURT  
DEPUTY CLERK

THIRD 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 5, 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 28 day of November, 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."

NOV 30 2005

JANE T. MAHON  
CLERK OF SUPREME COURT  
DEPUTY CLERK

05-23483

1 This Court granted the Motion for Extension of Time of Two Weeks  
2 to File the Opening Brief in this matter. The Opening Brief is due  
3 November 28, 2005.

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

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

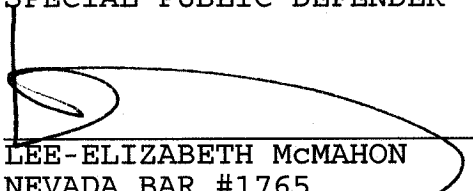
12 In order for Counsel for Appellant to diligently ensure JOHNSON  
13 receives the most thorough appellate review possible, it is necessary  
14 that all possible issues be researched and raised before this Court.

15 Based on the Affidavit, it is requested that an extension of one  
16 week, up to and including December 5, 2005, be granted to file  
17 Appellant's Opening Brief.

18 DATED this 28 day of November, 2005.

19 Respectfully submitted,

20 SPECIAL PUBLIC DEFENDER

21   
22 LEE-ELIZABETH McMAHON  
23 NEVADA BAR #1765  
24 330 SOUTH THIRD ST., Ste. 800  
25 LAS VEGAS, NV 89155-2316  
26 (702)455-6265  
27 Attorney for Appellant  
28

AFFIDAVIT OF COUNSEL

STATE OF NEVADA)

) ss:

COUNTY OF CLARK)

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

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

2. That the Record on Appeal was docketed in the Nevada Supreme Court on July 5, 2005 and Appellant's Opening Brief was due on September 13, 2005. That this Court granted an initial Motion for Extension of Time pursuant to SCR 250 for 60 days and the Opening Brief was due November 14, 2005. That due to Affiant's pre-planned, pre-paid vacation, a second request for an extension of time was made and granted. Appellant's Opening Brief is due November 28, 2005.

3. Prior to leaving on vacation, Affiant spent two days packing her office in anticipation of the move of the Clark County Special Public Defender's Office. After returning from her vacation, Affiant then spent three days unpacking her office and assisting in organizing the boxes of stored appellate and trial files.

4. During the move the office was at times temporarily without phones and computer service. Due to the extreme and unforeseen difficulty in moving locations, and based on the fact that this is a

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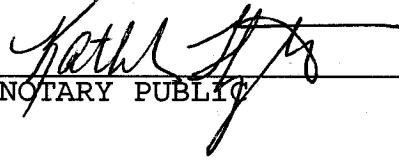
1 capital case, it is requested this Court grant the motion for  
2 extension of time of one week to file the Opening Brief.

3 This Motion is made in good faith and not for the purpose of  
4 delay.

5 Further Affiant sayeth naught.

6  
7   
LEE-ELIZABETH McMAHON

8 SUBSCRIBED and SWORN to before me  
9 this 28 day of November, 2005.

10   
11 NOTARY PUBLIC

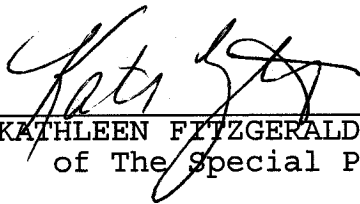


12 CERTIFICATE OF MAILING

13 I, KATHLEEN FITZGERALD, do hereby certify that on the 28 day  
14 of November, 2005, did deposit in the United States Post Office at Las  
15 Vegas, Nevada, a copy of the above and foregoing Motion, enclosed in  
16 a sealed envelope upon which first class postage was fully prepaid,  
17 addressed to the following:

18 Clark County District Attorney  
19 200 Lewis Avenue, 3rd Floor  
Las Vegas NV 89155

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

20  
21   
22 KATHLEEN FITZGERALD an employee  
23 of The Special Public Defender  
24  
25  
26  
27  
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