

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRENCE KARYIAN BOWSER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50851

FILED

SEP 26 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING MOTION AND
CONDITIONALLY IMPOSING SANCTIONS

On September 2, 2008, appellant filed a motion for a third extension of time to file the opening brief. In support of the motion, counsel for appellant states that the transcript of proceedings held on December 5, 2007, has not yet been filed. Extreme and unforeseeable circumstances having been shown, appellant's motion is granted to the following extent. NRAP 31(a)(1). Appellant shall have 60 days from the date of this order to file and serve the opening brief and appendix.

On January 22, 2008, appellant filed a transcript request form requesting court reporter Kim Tuchman (now Kim Walker-Tuchman) to produce the transcript of proceedings held on December 5, 2007. A certificate acknowledging delivery of the requested transcript was due to be filed by March 3, 2008. See NRAP 9(b).¹ As Ms. Walker-Tuchman failed to file the certificate of delivery, on April 17, 2008, this court entered an order directing Ms. Walker-Tuchman to file the certificate by May 19, 2008. However, the order was returned to this court as undeliverable.

¹A copy of the transcript request form is attached to this order.

After the clerk obtained an updated address for Ms. Walker-Tuchman, this court, on August 25, 2008, entered an order directing Ms. Walker-Tuchman to file the certificate of delivery by September 4, 2008.

To date, Ms. Walker-Tuchman has failed to file the requested certificate. The failure of a party, or of an officer of this court, to file documents that are essential to the efficient processing of an appeal deprives the parties of a prompt resolution of their case. See Dougan v. Gustaveson, 108 Nev. 517, 523, 835 P.2d 795, 799 (1992) (recognizing this court's commitment to the proposition that "justice delayed is justice denied"); NRAP 13(a) (a person serving as a court reporter in a trial or hearing subject to Supreme Court review is, for such purposes, an officer of the Supreme Court and accountable to that court for the faithful performance of their duties). Consequently, this court has declared in the Nevada Rules of Appellate Procedure that the failure to pay the filing fee, or to file a case appeal statement, docketing statement, transcript request form, transcripts, or briefs in a timely manner, may be grounds for the imposition of sanctions. See NRAP 3(a); NRAP 9(c); NRAP 13(b); NRAP 14(c).

We conclude that Ms. Walker-Tuchman's failure to file a certificate acknowledging delivery of the December 5, 2007, transcript in compliance with the court's procedural rules and the order issued in this matter warrants the *conditional* imposition of sanctions. Accordingly, Ms. Walker-Tuchman shall, within 15 days from the date of this order, pay the sum of \$250.00 to the Supreme Court Law Library and provide this court with proof of such payment. However, this sanction shall be automatically vacated if Ms. Walker-Tuchman files a certificate acknowledging delivery

of the December 5, 2007, transcript or, alternatively, a motion to extend time, within ten days from the date of this order.²

It is so ORDERED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Supreme Court Law Librarian
Kim Walker-Tuchman, Court Reporter
Nevada Certified Court Reporters Board

²Any motion for extension of time shall explain the reasons for Ms. Walker-Tuchman's failure to file the certificate of delivery in a timely manner and shall set forth sufficient cause for the requested extension of time.

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRENCE KARYIAN BOWSER,) No. 50851
Appellant,) District Court No. C211162b
v.)
THE STATE OF NEVADA,)
Respondent.)

FILED

JAN 22 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

APPELLANT BOWSER'S REQUEST FOR TRANSCRIPT OF PROCEEDINGS

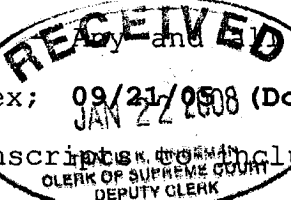
TO: Angela Lee
Court Reporter/Recorder, Department IV
Donna McCord
Court Reporter/Recorder, Department VI
Stacy Briggs
Court Reporter/Recorder, Department VIII
Sonia Riley
Court Reporter/Recorder, Department VIII
Kendall Heath
Court Reporter/Recorder, Department VIII
Kim Tuchman
Court Reporter/Recorder, Department VIII

Appellant requests preparation, at State expense, of a transcript of the proceedings before the District Court, as follows:

Judge or officer hearing the proceeding: Lee A. Gates.

Date or dates of proceeding: 04/29/05, 09/21/05, 09/28/05, 08/30/06, 01/17/07, 04/02/07, 04/11/07, 04/18/07, 08/20/07, 09/24/07, 10/05/07, 12/05/07, and 12/10/07.

Portions of the transcript requested: 04/29/05 (Angela Lee) Any and all proceedings, all transcripts to include word index; 09/21/05 (Donna McCord) - Any and all proceedings, all transcripts to include word index; 09/28/05 (Stacy Briggs) - Any and all proceedings, all transcripts to include word index;



OB-01651

1 08/30/06, 01/17/07, 04/02/07, 04/18/07, 08/20/07, 09/24/07,
2 12/10/07 (Sonia Riley) - Any and all proceedings, all transcripts
3 to include word index; 04/11/07 (Kendall Heath) - Any and all
4 proceedings, all transcripts to include word index; 10/05/07
5 (Sonia Riley) - Trial transcripts - any and all proceedings, all
6 transcripts to include word index - transcripts to include **jury**
7 **voir dire, jury selection**, opening statements, testimony, matters
8 heard outside the presence of the jury, settling of instructions,
9 closing arguments and verdict; 12/05/07 (Kim Tuchman) - Any and
10 all proceedings, all transcripts to include word index.

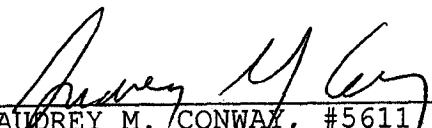
11 **Number of copies required:** Three.

12 I hereby certify that on this date I ordered this
13 transcript from the court reporter named above. I further certify
14 that Appellant is indigent and exempt from paying the required
15 deposit.

16 EXECUTED on the 17th day of January, 2008.

17 PHILIP J. KOHN
18 CLARK COUNTY PUBLIC DEFENDER

19
20 By:

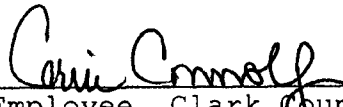

21 AUDREY M. CONWAY, #5611
22 Deputy Public Defender
23 309 S. Third Street, Ste. 226
24 Las Vegas, Nevada 89105
25 (702) 455-2685
26
27
28

CERTIFICATE OF MAILING

I hereby certify and affirm that I mailed a copy of the foregoing Appellant Bowser's Request for Transcript of Proceedings to the attorney of record listed below on this 17th day of January, 2008.

DAVID ROGER
CLARK COUNTY DISTRICT ATTORNEY
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155

BY


Employee, Clark County Public
Defender's Office