

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTE JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65168

FILED

OCT 10 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

ORDER DENYING MOTION

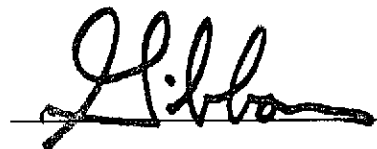
Appellant has filed a motion requesting a second extension of time (90 days) to file the opening brief. The complexity of this case and volume of the record do not constitute extraordinary circumstances warranting a further extension of time, NRAP 31(b)(3)(D); SCR 250(7)(d), considering the following: appellate counsel represented appellant in the district court proceedings and therefore is familiar with the record and the issues raised in the post-conviction petition and he has already been afforded 210 days to file the opening brief, an additional 90 days beyond that provided in NRAP 31(a)(4) based on the complexity of the case and volume of the record. Although counsel's preparation for trial in an unrelated death penalty case scheduled to commence on October 20, 2014, likely means that counsel needs additional time to also complete the brief in this case, it does not warrant an additional 90 days given the amount of time already afforded to counsel and counsel's familiarity with this case. Accordingly, the motion for a 90-day extension of time is denied.

Appellant shall have until December 5, 2014, to file and serve the opening brief. Any additional requests for extensions will not be viewed favorably and will be granted only on showing of extraordinary



circumstances and extreme need. NRAP 31(b)(3)(D); SCR 250(7)(d). Counsel's caseload normally will not be deemed such a circumstance. *Cf. Varnum v. Grady*, 90 Nev. 374, 528 P.2d 1027 (1974). Failure to timely file the opening brief may result in the imposition of sanctions.

It is so ORDERED.

_____, C.J.

cc: Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney