

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 65168

**FILED**

**DEC 26 2014**

*ORDER GRANTING MOTION*

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

Appellant has filed a motion requesting a third extension of time (32 days) to file the opening brief. We previously denied appellant's request for a 90-day second extension of time and directed him to file the opening brief within 60 days. This third extension motion essentially requests the additional thirty days that were denied in our last order.

In support of the current motion, counsel cites the "difficult and time consuming task" of creating the appendix and the upcoming preplanned vacations of counsel and his paralegal. As we explained in our order denying appellant's prior motion for an extension of time, the volume of the record does not constitute an extraordinary circumstance, *see* NRAP 31(b)(3)(D); SCR 250(7)(d), in light of counsel's familiarity with the record and the time he had already been afforded to file the opening brief. Given these circumstances, the preplanned vacations also do not constitute extraordinary circumstances and extreme need warranting an additional extension of time. *See id.* Nevertheless, because counsel has not yet submitted the opening brief and appendix, and he represents that he will be out of the jurisdiction from December 18, 2014, through January 5, 2015, we grant the motion.

Appellant shall have until January 9, 2015, to file and serve the opening brief and appendix. With this extension of time counsel will

have had 305 days to prepare the opening brief and appendix. Any additional requests for extensions will not be viewed favorably and will be granted only on a showing of the most 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). No further extensions will be granted based on the length of the record. Failure to timely file the opening brief and appendix 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