

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 65168

FILED

AUG 14 2015

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

ORDER GRANTING MOTION

Appellant has filed a motion for a second extension of time (60 days) to file the reply brief. In support of the motion, counsel cites the length of the answering and opening briefs and the record. Counsel also asserts that the issues involved in this appeal are complex, notes that this is a capital case, and represents this his only paralegal was recently on vacation.

While we appreciate the length of the record, we are not convinced that the length of the previous briefs (both within the type-volume limitation established by NRAP 32(a)(7)(B)), the nature of this case alone, nor the complexity of unidentified issues constitutes an extraordinary circumstance or an extreme need, especially where counsel represented appellant in the district court and appears to have been working on this case since 2008. Nevertheless, the motion is granted. NRAP 31(b)(3)(D); SCR 250(6)(e). Appellant shall have until October 6, 2015, to file and serve the reply brief. No further extensions will be granted except upon a showing of the most "extraordinary circumstances and extreme need." *Id.* Neither the reasons proffered in support of the current motion, nor counsel's caseload will be deemed such a circumstance. *Cf. Varnum v. Grady*, 90 Nev. 374, 528 P.2d 1027 (1974).

Failure to file a timely reply brief may be treated as a waiver of the right to file a reply brief. NRAP 28(c).

It is so ORDERED.

1. Sanders, C.J.

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