

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 65168

FILED

OCT 16 2015

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

ORDER DENYING MOTION

Appellant has filed a motion for a third extension of time (60 days) to file the reply brief. In support of the motion, counsel cites the length of the opening and answering briefs and the record. Counsel also asserts that the issues involved in this appeal are complex, notes that this is a capital case, and states that he has been preparing for a capital murder trial.

Counsel's prior extension request was also based on the length of the briefs and record and the fact that this is a complex capital case. When we granted that request, we concluded that neither the length of the 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 extraordinary circumstances and extreme need warranting the requested extension of time. See NRAP 31(b)(3)(D). We also stated that no further extensions of time would be granted absent demonstration of the most extraordinary circumstances and extreme need and that neither the reasons proffered in support of that motion nor counsel's caseload would be deemed such a circumstance.

Despite our caution, counsel bases his current extension request on the same circumstances previously rejected by this court and

his caseload. Accordingly, the motion is denied. Appellant shall have until November 13, 2015, to file and serve the reply brief. Further requests for extensions of time will not be viewed favorably and will not be granted except upon a showing of the most extraordinary circumstances and extreme need. *Id.* Failure to timely file the reply brief may be treated as a waiver of the right to file a reply brief. NRAP 28(c).

It is so ORDERED.

1. Jandesth, C.J.

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