

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 MEHMET KAR,
3 Appellant,
4 v.

5 KATHLEEN KAR,
6 Respondant.
7 _____

) Supreme Court Case No: 65985
) District Court Case No: D441849
) **Electronically Filed**
) **May 20 2015 09:13 a.m.**
) **Tracie K. Lindeman**
) **Clerk of Supreme Court**

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9 **RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION FOR EXTENSION OF**
10 **TIME TO FILE INITIAL BRIEF**

11 COMES NOW Respondent, Kathleen Kar, by and through her attorney of record Jason P.
12 Stoffel of Roberts Stoffel Family Law Group, does hereby give notice of a formal opposition to
13 the request to extend time of the initial brief and would request that this case be dismissed due to
14 Appellant's counsel not adhering to deadlines, lack of prosecution, and lack of diligence in this
15 appeal.

16 1. The issue of this matter is quite simple – the case was dismissed after there were
17 adverse rulings against Appellant. Appellant lives in Turkey and Mother and the minor child
18 reside in England since before the District issued the order declining jurisdiction. The Court
19 properly ruled that Nevada is not a convenient forum to litigate any issues. She has been in
20 England since February of 2014 with the subject minor child.

21 2. Appellant has a forum to litigate issues. It is the country of England where
22 Respondent and the child resides. It is not an inconvenient forum there as Appellant actually
23 went to England in January 2015 for a very brief visit with the minor child at issue. The visit
24 lasted only a few minutes on a military base there.
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1 3. Respondent already has a Court order from Nevada, the last state that issued any
2 order, for Sole Legal and Sole Physical Custody of the child and all visitations are to be at
3 Respondent's discretion.

4 4. Appellant's counsel has taken this case with the Legal Aid Center of Southern
5 Nevada. If there was any sort of emergency or reason that an important filing was missed, it
6 would have been prudent to get counsel to stipulate to a continuance or file a motion prior to the
7 deadline given by the Court. Any attorney at Legal Aid could have filed a pleading on
8 Appellant's counsel's behalf.

9 5. Appellant's counsel, Amberlea Davis, Esq., has been attorney of record since
10 December 10, 2014. There is no reason that her initial brief could not be filed between that date
11 and the present date.

12 6. There has already been one extension in this case for the filing of the initial brief.

13 7. This Court on December 29, 2014 filed an order regarding transcripts and setting
14 briefing schedule.

15 8. Appellant's brief was due on March 30, 2015, or 90 days from the date of that
16 order, exclusive of the date of the order.

17 9. Nothing was filed by the Appellant or his counsel since that time, except for an
18 untimely motion for an extension of time to file an initial brief.

19 10. On April 15, 2015, this Court filed an order that the Appellant's brief was overdue.
20 In an abundance of caution, the Court granted Appellant's counsel an additional eleven (11) days
21 to file and serve an opening brief. This would have been due on Monday, April 27th 2015.

22 11. In this same order, Chief Justice Hardesty indicated that failure to timely comply
23 with this order may result in the imposition of sanctions, including dismissal of this appeal.
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1 12. 22 days later, on May 19, 2015, Appellant's counsel filed a motion for an
2 extension of time to file the brief that was past the deadline set by this honorable Court.

3 13. This is likely in response to Respondent's counsel's office calling the Supreme
4 Court on May 18, 2015 asking the status of the case since the opening brief was overdue and
5 perhaps because of this phone call, staff from the Supreme Court called Appellant's counsel to
6 remind them.

7 14. The Supreme Court staff indicated to Respondent's counsel's staff that to "file
8 something" and that the case will likely be dismissed on its own through the system.

9 15. With one extension granted, that wasn't even requested by the Appellant, it would
10 be inappropriate to allow another continuance as adequate time was already provided to Appellant
11 to move this case forward in an expeditious manner and file the appropriate pleadings.

12 16. At best, the request to extend the time should have and could have been filed on or
13 before April 27th 2015.

14 17. A courtesy phone call could also have been made from Appellant's counsel to
15 Respondent's counsel. No phone call was ever made in this matter in the last few months and
16 certainly not in March, April, or May when time sensitive deadlines were given.

17 18. Appellant's counsel does not give an adequate reason to extend this matter since it
18 is unclear when there was a death in the family, family illnesses, etc. In other words, was this
19 before or after the original deadline of March 30th 2015 or April 27th 2015? A simple phone call
20 to get an extension by stipulation would go a long way for professional courtesy. Why did
21 Appellant's counsel wait so long after the deadline to file a motion and likely based on a call from
22 the Supreme Court to Appellant's counsel?

23 19. From the original date of March 30th 2015, Appellant's counsel is now requesting
24 an almost three (3) month extension to file the brief.

1 20. Any attorney at the Legal Aid Center of Southern Nevada could have and should
2 have been more diligent with this appeal or filed a timely request to extend the time for the brief.
3 With one generous extension (that was not even requested by the Appellant or his counsel)
4 already given, it would be inappropriate to allow additional time when no special circumstances
5 exist.

6 21. Based on the foregoing there should be no extensions given and this Court should
7 properly dismiss this appeal as the ultimate sanction as it doesn't take six (6) months to file an
8 opening appellant brief.
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10 22. No legal authority was provided for in the Respondent's brief as to why an
11 extension of time was appropriate, especially after the deadlines have passed. Proper notice was
12 given based on the previous extension given. Therefore, notice was given that an untimely brief
13 could result in a dismissal of the appeal.

14 23. Under NRAP 31(b), the procedure for requesting an extension of time is contained
15 therein. Here, Appellant has already had one extension and therefore NRAP 31(b)(1) does not
16 apply to request at least a five (5) day extension by telephone.
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18 24. There have been no requests for stipulations on this but it would be inappropriate
19 since the Appellant is beyond the 120 day time frame set forth in NRAP(a)(1)(A) and that
20 deadline would have been at the end of April 2015.

21 25. Under NRAP 31(b)(3)(A), it is clear that motions to extend time must be filed
22 before the due date for the brief. Here, Appellant's motion would have had to have been filed on
23 or before April 27, 2015.

24 26. A motion to extend the time for the initial brief that was filed on May 19th is well
25 after the April 27, 2015 deadline and therefore the motion should be stricken as it is untimely.
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27. The motion to extend the time for the initial brief does not comply with the rule. Most specifically, under NRAP 31(b)(3)(A)(i)(ii)(iii), the motion fails to contain:

* The date the brief was due.

* The number of extensions previously granted and if an extension was granted, the original date the brief was due.

* Whether any previous requests for extension of time have been denied or denied in part.

28. Based on this conduct, this motion is procedurally defective, is done in bad faith based on lack of diligence by Appellant's counsel, and is an unnecessary delay in this matter.

28. The Respondent requests all other further relief deemed just and equitable under the circumstances including the Supreme Court of Nevada to dismiss this appeal.

Respectfully submitted this 20th
day of May, 2015.

ROBERTS STOFFEL FAMILY LAW GROUP

By: /s/ Jason P. Stoffel

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Roberts Stoffel Family Law Group, and on the 20th day of May, 2015, I placed a true and correct copy of the RESPONDENT’S OPPOSITION TO APPELLANT’S MOTION FOR EXTENSION OF TIME TO FILE INITIAL BRIEF in the United States Mail at Las Vegas, Nevada, with postage prepaid, and addressed as follows:

Amberlea S. Davis, Esq.
415 South 6th Street #300
Las Vegas, NV 89101

By: /s/ Jason P. Stoffel, Esq.
An Employee of Roberts Stoffel Family Law Group