

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH SIMON JEREMIAS

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Tracie K. Lindeman
Clerk of Supreme Court

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 67228

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court No. 09C256769

**MOTION TO SUPPLEMENT THE RECORD ON APPEAL
AND MOTION FOR EXTENSION OF TIME TO FILE
OPENING BRIEF**

JoNell Thomas
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David M. Schieck
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Attorneys for Jeremias

Motion to Supplement the Record on Appeal and
Motion for Extension of Time to File Opening Brief

COMES NOW, Appellant, Ralph Jeremias, by and through his attorneys David M. Schieck, Special Public Defender, and JoNell Thomas, Deputy Special Public Defender, and respectfully moves this Honorable Court to direct the Clerk of the Eighth Judicial District Court to supplement the Record on Appeal with all minutes, including those of co-defendants Zapata and Rios, and with the transcript of June 13, 2012 from Rios' jury trial. Mr. Jeremias also requests that this Court grant an extension of time to file Appellant's Opening Brief. Should this Court grant the Motion to Supplement the Record on Appeal, Appellant requests 60 days from the date the supplemental ROA is docketed in this court to file his Opening Brief.

This Motion is made and based upon Nevada Supreme Court Rule 250(6)(c)

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and (e), the Points and Authorities contained herein, and Declaration attached hereto.

DATED this 3rd day of June, 2015.

SUBMITTED BY:

DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER

/s/ JONELL THOMAS

JONELL THOMAS
DEPUTY PUBLIC DEFENDER
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Attorney for Appellant

STATEMENT OF FACTS

On August 5, 2009, the State charged Carlos Zapata, Ivan Rios, and Ralph Jeremias, by way of Indictment, with one count each of Conspiracy to Commit Robbery, and Burglary While In Possession of a Deadly Weapon; and two counts each of Robbery With Use Of A Deadly Weapon and Murder With use of a Deadly Weapon. The case was docket in District Court Case No. C25769. Mr. Zapata entered a plea of guilty to two counts of second degree murder and agreed to testify against Mr. Rios and Mr. Jeremias. On May 11, 2011, the district court ordered the severance of the trials of Mr. Rios and Mr. Jeremias. Both cases remained docketed

in the same number and both trials were heard before Judge Adair.

The trial in Mr. Rios's case was held in June, 2012, and it appears that he was acquitted of the charges. The trial in Mr. Jeremias's case began in October, 2014. He was convicted of the charges and was given the death penalty.

In preparing the Opening Brief on behalf of Mr. Jeremias, it became apparent that documents necessary for fair consideration of this appeal are not included in the Record on Appeal which was prepared by the Clerk of the Eighth Judicial District Court. Specifically, the Record on Appeal does not include all documents, transcripts, and minutes concerning Mr. Zapata and Mr. Rios.

Mr. Jeremias respectfully requests that the record be supplemented to provide a complete copy of the minutes for all three defendants, and that it include the testimony of Mr. Zapata which was given on June 13, 2012, in Mr. Rios's trial. The complete minutes are necessary to provide for citation to the record for the procedural history of the case, which includes resolution of the charges against Mr. Zapata and the proceedings which resulted in Mr. Rio's acquittal. The testimony of Mr. Zapata from Mr. Rios's trial is necessary to place a context on critical rulings concerning Mr. Zapata's testimony during Mr. Jeremias's trial. Undersigned counsel believes that an issue to be presented concerning this testimony can only be properly understood in light of actions at the first trial, which involved the same witness, same prosecutor,

and same district court judge.

POINTS AND AUTHORITIES

SCR 250(6(e) states as follows:

“(e) The supreme court may grant an initial extension of time of up to 60 days to file a brief upon a showing of good cause, but shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.”

Appellant is requesting an extension of 60 days from the docketing of the supplemental ROA to file the Opening Brief. In the alternative, should the Court deny the motion to supplement the appeal, Appellant requests the Court reset the briefing schedule and allow the Opening Brief to be due no less than 60 days from the date the Court denies the motion to supplement the ROA.

CONCLUSION

Based on the Declaration attached hereto, Jeremias requests the Court grant his

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motion to supplement the record on appeal and grant his request for an extension of time to file the Opening Brief.

DATED this 3rd day of June, 2015.

RESPECTFULLY SUBMITTED:

DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER

/s/ JONELL THOMAS

JONELL THOMAS
DEPUTY PUBLIC DEFENDER
Nevada Bar No. 4771
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702-455-6265
Attorney for Appellant

DECLARATION OF JONELL THOMAS

JONELL THOMAS, hereby declares as follows:

I am an attorney duly licensed to practice law in the State of Nevada, and the Deputy Special Public Defender assigned to handle Mr. Jeremias' capital appeal.

Co-Defendant Carlos Zapata entered a plea of guilty to two counts of second degree murder and agreed to testify against Defendants Ivan Rios and Ralph Jeremias. The trials of Mr. Rios and Mr. Jeremias were severed and both cases remained docketed with the same case number and both trials were heard before Judge Adair.

Mr. Rios went to trial in June, 2012, and he was acquitted of the charges. The

trial in Mr. Jeremias's case began in October, 2014, and he was convicted of the charges and was given the death penalty.

While reviewing Jeremias' record on appeal, it has become apparent that documents necessary for fair consideration of this appeal are not included in the Record on Appeal. Specifically, the Record on Appeal does not include all documents, transcripts, and minutes concerning Mr. Zapata and Mr. Rios.

It is respectfully requested that the record be supplemented to include a complete copy of the minutes for all three defendants as well as the testimony of Mr. Zapata from Mr. Rios's trial. The complete minutes are necessary to provide for citation to the record for the procedural history of the case. Undersigned counsel believes that an issue to be presented concerning Zapata's testimony can only be properly understood in light of actions at the first trial, which involved the same witness, same prosecutor, and same district court judge.

I declare that I make this request in good faith and not for purposes of delay.

/s/ JONELL THOMAS

JONELL THOMAS

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 3rd day of June, 2015, a copy of the foregoing Motion to Supplement the Record on Appeal and Motion for Extension of Time to File Opening Brief was served as follows:

BY ELECTRONIC FILING TO

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

/s/ JONELL THOMAS

JONELL THOMAS