

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMMAR ASIMFARUQ HARRIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69509

**FILED**

OCT 12 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK


*ORDER DENYING MOTION FOR REMAND AND GRANTING MOTION  
FOR EXTENSION OF TIME*

Appellant has filed a motion for a remand to the district court under NRAP 10(c) so that the district court may enter an order denying a motion to exclude evidence and make the order part of the trial court record. We deny the motion for two reasons. First, no remand from this court is necessary for a party to file a motion pursuant to NRAP 10(c) to modify or correct the trial court record. See NRAP 10(c) (directing a motion to be filed in the district court). Second, NRAP 10(c) does not authorize the requested relief. NRAP 10(c) allows the trial court record to be corrected or modified to reflect what actually happened in the district court. Here, appellant seeks not to modify the record to reflect what happened, but add something new to the record. See *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010) (looking to analogous federal rules when interpreting this court's rules); e.g., *Fassett v. Delta Kappa Epsilon*, 807 F.2d 1150, 1165 (3rd Cir. 1986) ("It is well-settled that the purpose of [FRAP] 10(e) is not to allow a district court "to add to the record on appeal matters that did not occur there in the course of proceedings leading to the judgment under review." quoting 9 J. Moore, *Moore's Federal Practice* ¶ 210.08(1) at 10-55 (2d ed. 1985); *United States*

*v. Smith*, 493 F.2d 906, 907 (5th Cir. 1974) (concluding FRAP 10(e) "exists to allow the district court to conform the record to what happened, not to what did not").

Extraordinary circumstances and extreme need having been shown, appellant's motion requesting a third extension of time to file the opening brief is granted. NRAP 31(b)(3)(D); SCR 250(6)(e). Appellant shall have 20 days from the date of this order to file and serve the opening brief. Any additional extensions will be granted only on showing of extraordinary circumstances and extreme need. NRAP 31(b)(3)(D); SCR 250(6)(e). Counsel's caseload normally will not be deemed such a circumstance. *Cf. Varnum v. Grady*, 90 Nev. 374, 528 P.2d 1027 (1974). Failure to timely file the opening brief may result in the imposition of sanctions.

It is so ORDERED.

 C.J.

cc: Robert L. Langford & Associates  
Oronoz, Ericsson & Gaffney, LLC  
Attorney General/Carson City  
Clark County District Attorney