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IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN DEMON MORGAN,)
)
 Appellant,)
)
 vs.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

Electronically Filed
Dec 02 2016 08:43 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Case No. 70424

**APPELLANT’S MOTION FOR EXTENSION OF TIME
TO FILE OPENING BRIEF DUE TO
MISSING PORTIONS OF THE TRIAL TRANSCRIPTS**

Comes Now Appellant JOHN DEMON MORGAN, by and through Deputy Public Defender SHARON G. DICKINSON, and moves for an extension of time of fifty-seven (57) days from Thursday, December 1, 2016 through and including January 27, 2017, to file the Opening Brief in this case. Morgan requests this extension because portions of the trial transcript were not transcribed by the court recorder.

DATED this 1st day of December, 2016.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Deputy Public Defender

1 **DECLARATION OF SHARON G. DICKINSON**

2 1. I am an attorney licensed to practice law in the State of Nevada; I
3 am a deputy public defender assigned to handle the appeal of this matter; I am
4 familiar with the procedural history of this case.
5

6 2. John Morgan filed a Notice of Appeal in this matter on
7 05/17/16. At the time of the filing of the notice, this case was governed by the
8 provisions of NRAP 3C, which required Appellant to file a Fast Track
9 Statement 40 days after filing the Notice of Appeal. On 06/01/16, I filed a
10 notice of appearance in this case.
11

12 3. On 06/28/16, Morgan filed a motion requesting an extension
13 due to missing transcripts. Prior to this filing, on 06/25/16, the court
14 reporter/recorder requested an extension of time to file the trial transcripts. On
15 07/06/16, Court issued an order allowing Morgan to file the Fast Track
16 Statement on 09/12/16.
17

18 4. On 07/22/16, the court reporter filed the requested transcripts.
19

20 5. On 07/28/16, Morgan filed a motion for full briefing.
21

22 6. On 09/12/16, Morgan filed a motion requesting an extension
23 and asking for full briefing.
24

25 7. Court granted the motions, making the Opening Brief due on
26 10/31/16. Thereafter, Morgan filed a stipulation which was granted, making the
27 Opening Brief due today.
28

1 8. On 11/22/16, I realized there were errors in the trial transcripts -
2 none of the bench conferences were transcribed by the court recorder. This was
3 an unexpected discovery because I have received transcribed bench conferences
4 from this particular courtroom and court in the past. In fact, the trial transcripts
5 in this case indicated that the trial court told the trial attorneys that bench
6 conferences were being recorded. However, she cautioned them to also make a
7 record later in order to make sure the record was correct.
8

9
10
11 9. Obtaining the transcribed bench conferences is important
12 because trial counsel informed me she relied on the bench conferences being
13 transcribed when making objections - even though she tried to make subsequent
14 records. Trial counsel was surprised I had not received the transcribed bench
15 conferences
16

17
18 10. On 11/22/16, Appellant Counsel notified the court recorder of
19 the problems. After several e-mails and a conversation, today the court recorder
20 informed me that she would have the bench conferences transcribed by
21 01/06/17. She said it was likely an oversight that they were not transcribed.
22

23 11. The missing portions of the trial transcripts are as follows:
24

- 25 • **Day 1:** 02/22/16 --- Bench Conference during jury selection at pages: 23,
26 93, 141, 149, 154,161,162, 166, 173, 175, 184, 193, 194, 208, 217, 223,
27 232, 237
- 28 • **Day 2:** 02/23/16 --- Bench conferences during trial at pages 28, 65, 88, 94,
 105, 127, 784.

- 1 • **Day 3:** 02/24/16 ---- Bench conferences during trial at pages 24, 29, 32, 34,
2 42, 44, 51, 56.
- 3 • **DAY 3** – closing rebuttal ---- Excerpt played from 911 call at page 56.
4

5 The court recorder also agreed to give me a DVD or CD of the closing rebuttal
6 so that I will know the portions of the 911 call that were played by the
7 prosecutor.
8

9
10 12. In addition to the above, I realized that all discussions
11 involving the use of the peremptory challenges were made at the bench
12 conferences and none of the jury documents showing peremptory challenges
13 were made a court exhibit. The court's JEA graciously sent me the documents
14 but I now have to make a request for the documents to be made court exhibits.
15

16
17 7. According, I am asking for an extension of fifty-seven (57) days to
18 prepare and file the Opening Brief in this case.

19 I declare under penalty of perjury that the foregoing is true and
20 correct.
21

22 EXECUTED on the 1st day of December, 2016.
23

24
25 /s/ Sharon G. Dickinson
26 SHARON G. DICKINSON
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this document was filed electronically with the
3 Nevada Supreme Court on the 1st day of December, 2016. Electronic Service of
4 the foregoing document shall be made in accordance with the Master Service List
5 as follows:
6

7
8 ADAM LAXALT
9 STEVEN S. OWENS

SHARON G. DICKINSON
HOWARD S. BROOKS

10 I further certify that I served a copy of this document by mailing a
11 true and correct copy thereof, postage pre-paid, addressed to:
12

13 JOHN DEMON MORGAN
14 NDOC No. 1158013
15 c/o High Desert State Prison
16 P.O. Box 650
17 Indian Springs, NV 89070

18 BY /s/ Carrie M. Connolly
19 Employee, Clark County Public
20 Defender's Office
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