

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNY SPLOND, A/K/A KENYA
SPLOND,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 72545

FILED

FEB 26 2018

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

ORDER DENYING MOTION AND IMPOSING SANCTIONS

On December 20, 2017, this court entered an order granting appellant's third motion for an extension of time to file the opening brief and appendix. We noted that appellant's counsel had already been granted a total of 150 days beyond the original due date of July 7, 2017, and we further noted that counsel offered the same reasons for the extension as in his last motions. We cautioned appellant's counsel that further requests for extensions would not be viewed favorably, and that failure to timely file the opening brief and appendix could result in the imposition of sanctions.¹

Appellant's counsel, T. Augustus Claus, has filed a fourth motion for an extension of time, asking this court for an additional 15 days up until January 20, 2018. January 20, 2018, has passed, and Mr. Claus has failed to submit the opening brief and appendix for filing or otherwise communicate with this court. Accordingly, the motion for an extension is denied.

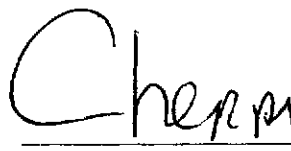
We conclude that Mr. Claus's failure to file the opening brief and appendix warrants the imposition of sanctions. Mr. Claus shall pay the


¹A copy of this order is attached.

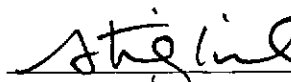
sum of \$250 to the Supreme Court Law Library and provide this court with proof of such payment within 15 days from the date of this order. Mr. Claus shall have 5 days from the date of this order to file and serve the opening brief and appendix.

Failure to comply with this order or any other filing deadlines will result in Mr. Claus's removal as counsel of record in this appeal. Further, because it appears that Mr. Claus's conduct in this appeal may constitute violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct), failure to comply with this order or any other filing deadlines will also result in Mr. Claus's referral to the State Bar of Nevada for investigation pursuant to SCR 104-105.

It is so ORDERED.

 J.
Cherry

 J.
Parraguirre

 J.
Stiglich

cc: Legal Resource Group
T. Augustus Claus
Attorney General/Carson City
Clark County District Attorney
Supreme Court Law Librarian

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DEC 20 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
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ORDER

Appellant's counsel has filed a motion requesting a third extension of time (60 days) to file the opening brief. NRAP 31(b)(3)(B). We note that appellant has already been granted two extensions totaling 150 days beyond the original due date of July 7, 2017. Counsel offers the same reasons for needing the extension as in his last motion, including that appellant has proposed certain appellate issues and that contact with appellant is logistically difficult. Further, the decision as to what issues to raise on appeal ultimately lies within counsel's professional judgment. See *Jones v. Barnes*, 463 U.S. 745, 751 (1983). We conclude that counsel has failed to demonstrate extraordinary circumstances or extreme need. The motion is denied.

Appellant shall have until January 5, 2018, to file and serve the opening brief and appendix. Any additional extensions will be not be viewed favorably and will be granted only on showing of extraordinary circumstances and extreme need. NRAP 31(b)(3)(B). Failure to timely file the opening brief and appendix may result in the imposition of sanctions against counsel.

It is so ORDERED.

Cherry, C.J.

cc: Legal Resource Group
Attorney General/Carson City
Clark County District Attorney