

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS WILLIAM RANDOLPH

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 73825

Direct Appeal From A Judgment Of Conviction
Eighth Judicial District Court
The Honorable Stefany Miley, District Judge
District Court No. 09C250966

**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME
TO FILE OPENING BRIEF
(FOURTH REQUEST)**

Sandra L. Stewart, Esq.
State Bar No. 6834
140 Rancho Maria Street
Las Vegas, NV 89148
702-363-4656
Attorney for Thomas Randolph

THOMAS RANDOLPH hereby moves for an enlargement of time to file his opening brief - to December 14, 2018.

A. DISTRICT COURT PROCEDURAL BACKGROUND

RANDOLPH was convicted on August 23, 2017 of conspiracy to commit murder, and double murder. **He was sentenced to death.**

Counsel was appointed to represent Mr. Randolph on direct appeal to the Nevada Supreme Court on April 30, 2018.

The opening brief in this case is due on December 10, 2018, pursuant to an enlargement of time which was granted by this Court on November 29, 2018.

B. JUSTIFICATION FOR MOTION

This request is necessitated by the fact that (1) the ROA is over 8,000 pages in length and counsel has identified 12 issues with sub-issues that need to be discussed in the Opening Brief, and (2) counsel has suffered some personal issues with the illness of her husband who developed an upper respiratory infection and was excused by his doctor from work from December 6, 2018 through December 9, 2018. Counsel is currently only working on Mr. Randolph's appeal, and will only be working on this appeal until it is finished.

1. Many Issues and Sub-Issues

Counsel is currently working on writing the Opening Brief and has been doing so for over a week. There are many complicated issues.

One issue involves improper admission of prior bad acts involving a case where Randolph was previously tried in Utah for

the murder of his second wife, and acquitted of that murder. All those records were expunged, suggesting choice-of-law issues and whether any testimony regarding that case was even properly considered in **any** proceeding in Nevada. Additionally, there were six separate motions in Nevada on that issue spanning a period of seven years by three separate sets of defense counsel, including a motion to admit the bad acts, a motion for reconsideration, a renewed motion for reconsideration, a motion to supplement *Petrocelli* hearing, and a renewed motion to supplement *Petrocelli* hearing.

Another issue involves the Constitutionality of Nevada's lethal injection protocol in light of the new execution manual which came out on November 7, 2017, after trial of this case was concluded, and whether it comports with the *Baze* ruling out of Kentucky (reviewed by the United States Supreme Court), and also in light of the pending *Dozier* case here in Nevada. Just these two issues, alone, are complicated both factually and legally and require a great deal of research not only of Nevada law, but Utah and United States Supreme Court decisions. Both may involve issues of first impression.

Currently, I am in the middle of writing the Opening Brief. I have lost about four days in that effort while caring for my husband who suddenly became ill. (discussed below)

...

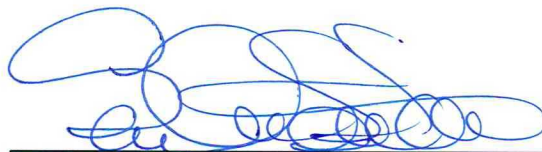
2. Personal Set-Backs

While I have been working exclusively on the Opening Brief in this case for over a week, my husband suddenly and unexpectedly became ill with an upper respiratory infection which required a trip to the doctor and for him to be off work for four days (work excuse attached). For my husband, this can be very serious since three of the past four years, he has ended up in the hospital with pneumonia following onset of a cold/flu/upper respiratory infection. I have therefore had to take this seriously and devote my time to making sure he has wholesome food to eat, monitoring his temperature, making sure he takes medications on time, and making sure that he does not lie flat which could cause fluid to accumulate in his lungs. This has interfered with my work on the Opening Brief in this case. Accordingly, I must, regretfully, request a four-day enlargement of time to file the Opening Brief.

C. CONCLUSION

For the reasons outlined above, Counsel respectfully requests an enlargement of time of four days to file the Opening Brief in this case to December 14, 2018.

Dated this 8th day of December, 2018.



SANDRA L. STEWART, ESQ.
Nevada Bar No.: 6834
Attorney for Appellant, RANDOLPH

TRAILS FAMILY MEDICAL

6787 West Tropicana Avenue, Suite 110

Las Vegas, NV 89103

Phone: (702) 750-1744

Fax: 1-877-367-5322

Work/School Excuse

This note states that David Stewart (patient) with date of birth 01/20/1958, was seen at this clinic on 12/7/18. Please excuse the patient from work/school 12/6/18 to 12/8/18. Patient may return to work/school next work day. If you have any questions, please feel free to call. Thank you.

Additional Restrictions: patient is contagious for
the duration of time of work.



Bikas Sharma M.D., MPH

12/7/18

Date

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the:

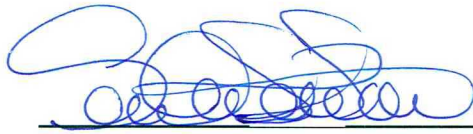
**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME
TO FILE OPENING BRIEF
(FOURTH REQUEST)**

by mailing a copy on December 8, 2018, 2018 via first class
mail, postage thereon fully prepaid, to the following:

**THOMAS RANDOLPH, IM NO. 1183344
HIGH DESERT STATE PRISON
POST OFFICE BOX 650
ELY, NV 89070**

and by e-filing a copy with the Nevada Supreme Court, thereby
providing a copy to:

**CLARK COUNTY DISTRICT ATTORNEY
OFFICE OF THE DISTRICT ATTORNEY
200 LEWIS AVENUE, THIRD FLOOR
LAS VEGAS, NV 89155-2212**



SANDRA L. STEWART