

IN THE SUPREME COURT
OF THE STATE OF NEVADA

IN THE MATTER OF THE VISITATION
OF THE PERSONS OF: J. C. B.; K. R. B.;
L. B. B. AND L. A. B., MINORS .

PAULA BLOUNT,

Appellant,

vs.

JUSTIN CRAIG BLOUNT,

Respondent.

No. 76831

District Court Case No.

D571209

FILED

MAR 29 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. Richards*
DEPUTY CLERK

OPPOSITION TO MOTION TO STAY APPEAL

Respondent, Justin Craig Blount, by and through his attorney, Bradley J. Hofland, Esq. of the law firm of Hofland & Tomscheck, respectfully submits this Opposition to Appellant's Motion to Stay Appeal.

DATED this 29th day of March, 2019.

/s/ Bradley J. Hofland
BRADLEY J. HOFLAND, ESQ.
State Bar of Nevada No. 6343
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Attorney for Respondent

I. INTRODUCTION

The appellant's lack of candor is, quite frankly, alarming and inexcusable. After *failing* to file a Reply Brief pursuant to the timelines set forth in NRAP 31(a)(2), appellant sought an extension to file a reply brief *after* the window for such filing had closed¹, and was notified that the Reply Brief was due on March 25, 2019. March 25, 2019 came and went without the appellant filing a Reply Brief. Hence, appellant neglected and failed to file a Reply Brief within both periods that were allowed.

Instead of filing a Reply Brief in accordance with the directives of this Court, appellant filed a Motion to Stay Appeal—wherein appellant seeks a *third* opportunity and yet *additional* time to submit a Reply Brief. Indeed, appellant is now seeking to stay “briefing” and the appeal in its entirety. It is significant to note that appellant was previously expressly informed, after obtaining the earlier extension, that “[n]o further extensions of time shall be permitted, except upon

¹ Pursuant to NRAP 31(a)(2), appellant was required to serve and file a reply brief within 30 days after the respondent's brief was served. In the case at bar, respondent's brief was served on appellant's counsel on February 7, 2019, but no Reply brief was served and filed within that time, or as a matter of fact, at any time afterwards. Appellant's failure to file a Reply brief should have limited oral argument as provided by NRAP 34(c). NRAP 31(d)(1). After the window for filing a Reply brief closed, appellant filed a motion for extension of time to file a reply brief with this Court on March 12, 2019. The excuses proffered by appellant for such failure and the purported inability to call the Clerk of the Court for a telephonic extension “during business hours” to constitute good cause were tenuous at best, yet this Court still gave appellant an extension to file. Notwithstanding, appellant was given an extension to file.

motion *clearly demonstrating good cause.*”² (Emphasis added). Appellant now hopes to capitalize on an unrelated ruling from the Hualapai Tribal Court with the hopes of obtaining yet another extension to file a reply brief and a Stay of the Appeal in its entirety. Appellant’s request lacks both factual and legal bases and fails to “clearly demonstrate good cause” for the Stay of the Appeal or Briefing.

II. LEGAL ARGUMENT

As noted in Respondent’s Answering Brief, the grandparents have conspired and collaborated to prevent respondent from raising his children.³ The grandparents’ intent has not diminished, and in fact, intensified given the underlying adoption proceeding that has been filed by Respondent and his spouse. In furtherance of their pursuit, the maternal grandparents have obtained a *temporary* award of custody of the two eldest children on paper and without Respondent being afforded an opportunity to contest the requested relief, but they have not moved to have it enforced or sought physical custody of the two eldest children. Indeed, Justin *remains* the primary physical custodian of his children, and he, his spouse and all four children remain an intact familial unit.

² NOTICE MOTION/STIPULATION APPROVED; March 12, 2019.

³ See Answering Brief, pages 1- 2.

The temporary order the maternal grandparents obtained is merely the result of a renewed endeavor to manipulate the legal system through misrepresentation⁴. Respondent has retained counsel to address the issues before the Hualapai Tribal Court. Regardless, the orders and involvement of the Hualapai Tribal Court are irrelevant to the underlying appeal and do not constitute a sufficient basis to Stay the Appeal or the Briefing. In fact, appellant's repeated failures to file a Reply Brief preclude any further extension of time.

Justin is a fit and proper parent and is not a risk to his children. Justin intends on disproving the allegations made by the maternal grandparents. As noted above, no agency has determined that the children are at risk with him and he remains the primary custodian of his two younger, non-Native American, children. Justin will be appearing before the Hualapai Tribal Court to do so. Regardless, as noted above, the legal proceedings of the Hualapai Tribal Court have absolutely no impact on the underlying appeal.

Appellant claims the district court erred in dismissing the grandparent visitation petition; the temporary custody orders of the Hualapai Tribal Court are irrelevant. Regardless of what actions the Hualapai Tribal Court is or will take has no bearing on whether the lower court erred in dismissing the grandparent

⁴ The maternal grandparents' daughter was Justin's prior spouse and biological mother of the two eldest children; she is now deceased and Justin is the children's sole caregiver.

visitation petition. Appellant also claims the Indian Child Welfare Act (“ICWA”) does not apply to grandparent visitation and again, the actions or inactions of the Hualapai Tribal Court have no effect on this Court’s ability to determine the propriety of the lower court’s rulings. In fact, it is significant to note the appellant claims the district court had jurisdiction to address the grandparent visitation which necessarily means that determination is *not* dependent on the temporary custody orders of the Hualapai Tribal Court.

In short, appellant claims the lower court had jurisdiction to address the grandparent visitation petition and that the decision was erroneous. The issues raised are independent of the actions or determinations of the Hualapai Tribal Court. The underlying decisions and determinations of the lower court were consistent with applicable law and there is no basis to Stay the underlying appeal. The request improperly seeks to delay a ruling from this Court and, in the midst of the confusion appellant creates, she hopes her dilatory and inexcusable neglect as it pertains to her failure to file a reply brief is condoned and/or overlooked.

Lastly, appellant falsely represents that “[t]here is no prejudice to Respondent as the district court matter on appeal has been dismissed.” That claim is blatantly false. After the lower court issued its decision the case was closed, but the record will confirm that the district court matter on appeal has *not* been

dismissed. Appellant can certainly withdraw their appeal, but the claim made to this Court is untrue.

III. CONCLUSION.

The actions of the Hualapai Tribal Court are independent and distinct from the issues this Court has been asked to adjudicate by way of appeal. What the Hualapai Tribal Court does or does not do is unimportant. Appellant appealed the lower court's decision and claims it was erroneous; Justin disagrees and submits the Decision was consistent with applicable authority. Appellant has failed to "clearly demonstrate good cause" for yet a third extension of time (having failed to file within the two prior periods) and there are no bases to Stay the Appeal or the Briefing. The Appeal should proceed, this Court has received the Opening and Answering Briefs, and Appellant should not be allowed further time to submit a Reply Brief.

DATED this 29th day of March, 2019.

Respectfully Submitted,

/s/ Bradley J. Hofland

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of HOFLAND AND TOMSHECK and that on the 29th day of March, 2019, I submitted for filing and service the foregoing **Opposition to Motion to Stay Appeal** via the Court's eFlex electronic filing system. According to the electronic service list, notification will be served upon the following:

F. Peter James

Bradley J. Hofland

DATED this 29th day of March, 2019

/s/ Bradley J. Hofland

BRADLEY J. HOFLAND