

ALFRED C. HARVEY,)
)
Appellant,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
_____)

Electronically Filed
Sep 20 2018 09:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Case No. 72829/75911

Comes Now Appellant ALFRED C. HARVEY, by and through Deputy Public Defender SHARON G. DICKINSON, and moves for an extension pending the Court's resolution of his motions to reconsider. Alfred Harvey's Opening Brief is due September 20, 2018, and he seeks, at a minimum, a 30 day extension from September 20, 2018, up to and including October 22, 2018. Alfred Harvey is entitled to a thirty (30) day stipulation in Case No. 75911. However, Case No. 72829 was continued previously.

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Alfred seeks at a minimum a 30 day extension; however, if the Court does not decide his motions during that time frame he will need more time.

This Motion is based upon the attached Declaration of counsel.

DATED this 19 day of September, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Sharon G. Dickinson
SHARON G. DICKINSON, #3710
Deputy Public Defender
309 So. Third Street, Suite #226
Las Vegas, Nevada 89155-2610
(702) 455-4685

DECLARATION OF SHARON G. DICKINSON

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

2. This request for an extension involves two consolidated cases: 72829 and 75911. The basis for the request for an extension is because Appellant is waiting for the Court to decide a motion filed on July 26, 2018 – a motion to reconsider the denial of his motion to remand the case back for an evidentiary hearing on his motion to reconstruct the record in Case No. 72829.

3. Because the Court has yet to reach a decision on his motion filed in Case No. 72829, on September 18, 2018, Appellant filed an accompanying motion to reconsider in Case No. 75911 – motion to reconsider the denial of the motion to remand back for an evidentiary hearing on his motion for a new trial. Appellant is unable to complete the Opening Brief until the motions are resolved, hopefully in his favor with a remand back to district court for a hearing.

4. Case No. 72829 is the direct appeal of a jury verdict. Case No. 75911 is the appeal from the denial of a motion for a new trial arising out of the same incident.

5. In Case No. 72829, the notice of appeal of the jury verdict was filed on April 10, 2017. In Case No. 74911, the notice of appeal of the denial of the motion for a new trial was filed on May 16, 2018. On July 26, 2018, this Court sua sponte issued an order consolidating the cases, making the Opening Brief due on September 20, 2018.

6. Yesterday, on September 18, 2018, Appellant filed a 30 day stipulation, extending the time to file the Opening Brief to October 22, 2018. Although we have never had a 30 day extension in Case No. 75911, we have already had a 30 day stipulation in Case No. 72829. Thus, Appellant is also filing this motion because it is unclear if a stipulation can be used for both cases even though they are consolidated.

7. The procedural history of Case No. 72829 is laborious. On October 4, 2017, Appellant obtained a 30 day extension by way of stipulation to file the Opening Brief allowing for the filing on November 15, 2017. However, on November 15, 2017, another attorney substituted into the case. Appellant sought an extension due to the new attorney substituting in and because new evidence came to light that needed to be investigated. On December 4, 2017, the Court issued an order removing the Public Defender's Office from Alfred Harvey's appeal. The new attorney did not last long. On January 25, 2018, this Court issued an order allowing Attorney

Treffinger to withdraw from the case and remanded the case to district court for appointment of counsel. Thereafter, on February 16, 2018, district court filed a minute order indicating the Public Defender's Office was assigned to the case. On February 21, 2018, this Court issued an order setting a briefing schedule for the Opening Brief to be due in 45 days. On March 5, 2018, I filed a notice of appearance with this Court.

8. During March and April, in district court I filed and litigated a motion to reconstruct the record as to Case No. 72829. I also filed and litigated a motion for a new trial which is now on appeal as Case No. 75911.

9. While these motions were pending in district court, in Case No. 72827, on April 10, 2018, I filed a motion seeking a stay of proceedings or an extension to file the Opening Brief while I litigated the motion for a new trial and motion to reconstruct the record in district court. State opposed. On April 26, 2018, Court denied the motion for a stay but granted the extension, ordering the Opening Brief due on June 25, 2018.

10. Subsequently, I lost both motions in district court. According, I sought relief in this Court. In Case No. 72829, on June 18, 2018, I filed a motion in this Court seeking an order allowing for the reconstruction of the record and asked for a remand back to district court for an evidentiary hearing before the trial judge; alternatively, I requested an

order allowing Alfred to use the affidavits and declarations presented to the district court in his direct appeal. State opposed. I filed a similar motion in Case No. 75911 on June 29, 2018, which State also opposed.

11. On July 23, 2018, this Court denied the motion filed in Case No. 75911. On July 25, 2018, Court denied the motion in Case No. 72829. On July 26, 2018, Court sua sponte ordered Case No. 72829 and Case No. 75911 consolidated and gave September 20, 2018 as the date to file the consolidated Opening Brief.

12. Before I received the Court's order consolidating the two cases, on July 26, 2018, I filed a motion seeking reconsideration of Court's denial of a stay of proceedings and a remand back to district court in Case No 72829. State Opposed. Court has not yet ruled on this motion.

13. Yesterday, I filed a similar motion to reconsider the denial of the remand back in Case No. 75911.

14. Because the Court has not yet decided the motions to reconsider, I am asking for an extension. I believe the motions are meritorious. Therefore I delayed finalizing the Opening Brief because a remand back would change the focus on how I would present the issues.

15. On another note, I will be out of the office from September 20, 2018, until October 5, 2018. Therefore, I am unclear as to how much

time to ask for and ask this Court to take into account that I will be out of the office during that time frame.

16. This Motion for Extension is made in good faith and not for the purpose of delay.

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

EXECUTED on the 19 day of September, 2018.

/s/ Sharon G. Dickinson
SHARON G. DICKINSON

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 18 day of September, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
STEVEN S. OWENS

SHARON G. DICKINSON
HOWARD S. BROOKS

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

ALFRED HARVEY
NDOC No. 1174900
c/o Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070

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

