

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MCNAIR

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 78871

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Douglas Herndon, District Judge
District Court No. C-17-327395-1

**MOTION FOR EXTENSION OF TIME TO FILE
OPENING BRIEF (SECOND REQUEST)**

Navid Afshar
State Bar #14465
Deputy Special Public Defender
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Special Public Defender
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(702) 455-6265
Attorney for McNair

COMES NOW, Appellant Michael McNair, by and through his attorney, Navid Afshar, Deputy Special Public Defender, and requests this Honorable Court to grant an extension of time to file the opening brief and appendix in this matter. This is Appellant's second request for an extension of time to file his Opening Brief and appendix.

STATEMENT OF THE CASE

This is an appeal from a judgment of conviction of First Degree Murder with Use of a Deadly Weapon and Carrying a Concealed Firearm or Other Deadly Weapon. Mr. McNair was charged by way of Information with Murder with use of a deadly weapon and Carrying Concealed Firearm or other deadly weapon on October 24, 2017. He proceeded to trial and the jury returned a verdict of guilty as to First Degree Murder with use of a deadly weapon and Carrying a Concealed Firearm or other deadly weapon. The district court sentenced Mr. McNair on May 1, 2019 to 20 years to Life plus a consecutive term of 60-240 months for the use of the deadly weapon and a concurrent sentence for Count 2. The Judgment of Conviction was filed May 3, 2019 and the Notice of Appeal was timely filed on May 22, 2019.

McNair filed his first request for an extension of time to file his Opening Brief on September 30, 2019. The Court's Order granting the motion was filed October 10, 2019. The Opening Brief is due December 30, 2019.

Based on the reasons set forth in the declaration attached hereto, counsel for Appellant is requesting an extension of time to file the Opening Brief. It is respectfully requested that this Court grant this second request for a continuance of 45 days for Appellant to file the Opening Brief and Appendix, up to and including February 13, 2019.

POINTS AND AUTHORITIES

NRAP 31(b)(3)(B) sets forth in pertinent part:

A motion for extension of time for filing a brief may be made no later than the due date for the brief....

(B) ...The court will grant an initial motion for extension of time for filing a brief only upon a clear showing of good cause. The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.

...

CONCLUSION

Based on the Declaration attached hereto, Mr. McNair requests the Court grant his motion for an extension of time to file the Opening Brief and Appendix, up to and including February 13, 2019.

DATED this 30th day of December, 2019.

SUBMITTED BY:

/s/ NAVID AFSHAR

NAVID AFSHAR
Deputy Special Public Defender
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155
702-455-6265
Attorney for Appellant McNair

DECLARATION OF NAVID AFSHAR

NAVID AFSHAR, hereby declares as follows:

1. That I am an attorney duly licensed to practice law in the State of Nevada, and the deputy with the Clark County Special Public Defender's office assigned to represent Mr. McNair on his direct appeal from a Judgment of Conviction (Verdict From Jury Trial).

2. I was not the trial attorney in this case but assisted trial counsel at certain points.

3. McNair's first request for an extension of time to file his Opening Brief was granted. The Opening Brief is due December 30, 2019.

4. I have been working diligently on my review of the record and draft of the brief, but I have been unable to complete the brief due to a number of factors:

- a. Additional legal research and analysis is necessary; and
- b. An issue recently arose in the case that requires Mr. McNair's direct participation and communication with the client. A contact letter was sent to the client two weeks ago. Upon information and belief, Ely State Prison was in lockdown and due to the holidays, I have been unable to reach the client as needed. I was just able to touch base with the client this past weekend and I need the extra time in order to discuss the matter in detail with the client and if necessary, visit him in person for follow up.
- c. A recent published decision by this Court impacts a potential claim would raise on appeal, and requires additional research and analysis.

d. Lastly, I have been in contact with the State of Nevada, the respondent in this matter, and they have indicated that they do not oppose an extension in this matter.

I declare that I make this request in good faith and not for purposes of delay.

Dated: 12/30/19

/s/ NAVID AFSHAR

NAVID AFSHAR
Attorney for McNair

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on 12/30/19, a copy of the foregoing MOTION was served as follows:

BY ELECTRONIC FILING TO

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701

/s/ *NAVID AFSHAR*

NAVID AFSHAR