

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 COMPLY
WITH PROCEDURES SET FORTH IN NRAP 12A**

Navid Afshar
State Bar #14465
Deputy Special Public Defender
JoNell Thomas
State Bar #4771
Special Public Defender
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Las Vegas, NV 89155
(702) 455-6265
Attorney for McNair

COMES NOW, Appellant Michael McNair, by and through his attorneys, JoNell Thomas, Special Public Defender, and Navid Afshar, Deputy Special Public Defender, and requests this Honorable Court to grant an extension of time to Appellant Michael McNair, to comply with the procedures set forth in NRAP 12A as ordered in this Court's Order filed March 5, 2020. This is Appellant's first request for an extension of time and this request is for 60 days, up to and including June 23, 2020.

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. The Judgment of Conviction was filed May 3, 2019 and the Notice of Appeal was timely filed on May 22, 2019. The appeal was docketed in the Supreme Court and the Opening Brief and Appendix were due February 13, 2020.

On February 11, 2020, McNair filed a Motion and Stipulation to Request to Stay the Appeal and Remand this Matter to the District Court for Entry of Plea which also was signed by Alexander Chen of the Clark County District Attorney's Office.

On March 5, 2020, this Court filed its Order which stated in pertinent part:

This court declines to remand this matter at this time. If the district court is included to grant the relief requested, then it may certify its intent to do so, and appellant may file a motion in this court, with the district court's certification attached, seeking a remand to the district court to grant the requested relief. See NRAP 12A.....

A hearing was held in the district court on March 12, 2020. The Honorable Judge Douglas Herndon certified that it intends to vacate the Judgment of Conviction filed in Case No. C-17-327395-1 against Mr. McNair, and accept his entry of plea pursuant to the parties' stipulated agreement. An Order has been prepared and provided to the District Attorney, Alex Chen, to review and sign off as approved. Respondent is still reviewing.

Based on the reasons set forth in the declaration attached hereto, counsel for Appellant is requesting an extension of time to comply with this Court's Order dated March 5, 2020.

...

POINTS AND AUTHORITIES

NRAP 12A sets forth the procedure if a motion is made in the district court for relief that the court lacks authority to grant because an appeal has been docketed.

CONCLUSION

It is respectfully requested that this Court grant this second request for a continuance of 60 days, up to and including June 23, 2020, for Appellant to comply with this Court's Order dated March 5, 2020.

DATED this 19th day of March, 2020.

SUBMITTED BY:

/s/ JONELL THOMAS

JONELL THOMAS
Special Public Defender
NAVID AFSHAR
Deputy Special Public Defender
330 S. Third St., Ste. 800
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702-455-6265
Attorneys for Appellant McNair

DECLARATION OF JONELL THOMAS

JoNell Thomas, hereby declares as follows:

I am an attorney duly licensed to practice law in the State of Nevada,

and I am the Clark County Special Public Defender. Navid Afshar is the Deputy Special Public Defender assigned to handle Mr. McNair's direct appeal.

Mr. Afshar is out of the office on extended leave for 30 days. Additionally, I am supervising the emergency management as to the continuity of operations plan of the Special Public Defender which includes administrative duties that directly relate to my own office as well as coordinating with the courts and other county agencies.

Given the ongoing concerns and constraints in communication for all parties, counsel requests an extension to allow proper review by Respondent and to coordinate with the Court and Mr. McNair.

Therefore, we are requesting an extension of time to comply with this Court's Order dated March 5, 2020. This is the first request for an extension of time, and we are requesting up to and including June 23, 2020.

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

/s/ JONELL THOMAS

JoNell Thomas

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on March 19, 2020, 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/ JoNell Thomas

JoNell Thomas