

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO MIXON,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Sep 24 2019 10:23 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 78900

District Ct. Case No. C-17327439-1

MOTION TO FILE LATE PLEADING

Respondent requests that the Motion for Extension of Time (First Request) to file the Fast Track Response on September 24, 2019. This motion is based on the attached Declaration of Chelsea Kallas.

RESPECTFULLY SUBMITTED this 24th day of September, 2019.

Respectfully submitted,

AARON D. FORD
Attorney General

By: /s/ Chelsea Kallas

CHELSEA KALLAS (Bar No. 13902)
Deputy Attorney General
State of Nevada
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THE STATE OF NEVADA,

Respondent(s).

Case No. 78900

District Ct. Case No. C-17327439-1

DECLARATION IN SUPPORT OF MOTION TO FILE LATE PLEADING

STATE OF NEVADA)
 : ss.
LAS VEGAS)

I, Chelsea Kallas, hereby state, based on personal knowledge and/or information and belief, that the assertions of this declaration are true:

1. I am a Deputy Attorney General employed by the Attorney General's Office of the State of Nevada in the Criminal Prosecution Unit, and I make this declaration on behalf of Respondent's Motion to File Late Pleading in the above-captioned matter.

2. By this motion, I am requesting to file the Response to Court Order four (4) days late.

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3. As part of my duties, I have been assigned the case of *Antonio Mixon vs. The State of Nevada*, Case No. 78900, for the purpose of providing a fast track response to the court.

4. On August 28, 2019, the Appellant filed a Fast Track Statement. Respondent did not receive notification of Appellant's filing until August 29, 2019. Respondent incorrectly calendared the fast track response due date for September 19, 2019, based on the date Respondent was notified of Appellant's filing, August, 29, 2019, rather than the date of actual filing, August 28, 2019. Respondent subsequently filed its Fast Track Response on September 19, 2019.

5. To determine if there is good cause for the late filing, this Court may consider the reason for the delay, whether the State acted in good faith, the length of the delay, and the danger of prejudice. *See Nunnery v. State*, 127 Nev. 749, 465, 263 P.3d 235, 247 (2011) (outlining factors for the court to consider to determine whether good cause existed for the late filing of a notice of evidence in aggravation). Respondent demonstrates good cause for the late filing of the Motion for Extension of Time as the Attorney General's Office only recently became aware of the miscalculated due date. The length of delay is minimal. There is no danger of prejudice to the appellant for this late filing as consideration of his appeal will not be adversely affected.

6. This motion to file late pleading is made in good faith and not for the

purpose of unduly delaying the ultimate disposition of this case.

Pursuant to NRS 53.045, Declarant herein certifies, under penalty of perjury,
that the foregoing is true and correct.

/s/ Chelsea Kallas

CHELSEA KALLAS

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 24th day of September, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as Follows:

HOWARD S. BROOKS, #3374
Clark County Public Defender's Office
309 S. Third St., Ste. 226
Las Vegas, Nevada 89155
BrooksHS@ClarkCountyNV.gov

STEVEN S. OWENS
steven.owens@clarkcountyda.com

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

ANTONIO LEE MIXON
NDOC No: 1019828
c/o High Desert State Prison
P.O. Box 650
Indian Springs, NV 89018.

By: /s/ A. Reber
Employee of the Office of the Attorney
General