

In the Supreme Court of the State of Nevada

Case No. 80255

Evaristo Jonathan Garcia,
Appellant,

Electronically Filed
Apr 02 2021 04:27 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

James Dzurenda, et al.,
Respondents.

Motion for Extension of Time to File Opening Brief

Appellant Evaristo Jonathan Garcia respectfully moves this Court for an order extending the time in which he must file his Opening Brief by 31 days from April 2, 2021, to Monday, May 3, 2021. Counsel reached out to counsel for Respondents, Noreen DeMonte and Taleen Pandukht, to learn their position on this request, but have not been able to connect with them.

This is Mr. Garcia's first request for an extension of this deadline. This motion is not filed for the purposes of delay but in the interests of justice, as well as the interests of Mr. Garcia.

This appeal was suspended pending the completion of an evidentiary hearing in district court and an ultimate ruling on Mr. Garcia's post-conviction petition for a writ of habeas corpus. The hearing was conducted on September 21, 2020, and the final Findings of Fact, Conclusions, of Law, and Order was entered on January 20, 2021. This Court then ordered Mr. Garcia to file his Opening Brief within 60 days.

Undersigned counsel respectfully asserts that additional time is needed to complete this briefing. Mr. Garcia's lead attorney, Emma Smith, returned from maternity leave on March 15, 2021. She and undersigned counsel have been diligently working on Mr. Garcia's case since Atty. Smith's return, but briefing is not yet complete.

In addition to the time spent on Mr. Garcia's case, Atty. Smith's responsibilities in other cases contribute to the need for an extension of time. In the coming few weeks, she has deadlines in federal district court for two oppositions to motions to dismiss, a reply in support of a habeas petition, and an amended habeas petition, as well as a reply brief in the Ninth Circuit.

Similarly, undersigned counsel's work on this case has been slowed by counsel's management responsibilities, which include training a new attorney who started just over a month ago, and her case-related responsibilities. Most recently, the majority of counsel's time was diverted to a Pardon's Board matter. Counsel's client is terminally ill and changes in his health last month necessitated that counsel divert the majority of her time to his case. The Pardon's Board Hearing was March 22, 2021, and was continued unexpectedly until March 23, 2021. Counsel traveled to Reno on March 21, 2021, for the remote hearing to coordinate witnesses, returning to Las Vegas late on March 23, 2021.

For these reasons, counsel asks this Court to grant Mr. Garcia's request to extend the time for filing an Opening Brief by 31 days until May 3, 2021.

Dated April 2, 2021.

Respectfully submitted,
Rene L. Valladares
Federal Public Defender

/s/ Amelia L. Bizzaro

Amelia L. Bizzaro

Certificate of Service

I hereby certify that on April 2, 2021, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include: Noreen DeMonte, Taleen Pandukht, and Alexander Chen.

/s/Jessica Pillsbury
An Employee of the
Federal Public Defender, District of Nevada