

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEVOHN MARKS,) No. 80469

Appellant,)

v.)

THE STATE OF NEVADA,)

Respondent.)

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Elizabeth A. Brown
Clerk of Supreme Court

**Motion for Extension of Time to File a
Petition for En Banc Reconsideration,
and Motion to Stay the Remittitur**

Pursuant to NRAP 26(b)(1)(A), appellant Devohn Marks moves for a 30-day extension of time to file a petition for en banc reconsideration in accordance with NRAP 40A. This is Marks' first request for an extension of time to file a petition for en banc reconsideration. The petition, if Marks chooses to file one, is currently due August 2, 2022. *See* NRAP 40A(b). If this motion is granted, the petition would be due on September 1, 2022.

Marks also moves to stay the remittitur until disposition of his petition for en banc reconsideration. *See* NRAP 41(b)(1).

Factual Background

The panel's Order of Affirmance was entered on March 17, 2022. Marks filed a petition for rehearing on April 21, 2022. The State filed an answer to the

petition on May 16, 2022. On July 19, 2022, the panel entered an Order Denying rehearing. Therefore, a petition for en banc reconsideration, if Marks chooses to file one, is currently due by tomorrow, Tuesday, August 2, 2022. *See* NRAP 40A(b) (“Any party may petition for en banc reconsideration of a Supreme Court panel’s decision within 14 days after written entry of the panel’s decision to deny rehearing.”). That is not possible for the reasons stated below, so Marks is respectfully requesting a 30-day extension of time to file such a petition.

Good Cause Exists for Granting an Extension

I, Mario D. Valencia, Marks’ court-appointed appellate counsel, was on vacation when the Order Denying Rehearing was entered. Today, Monday, August 1, 2022, is my first day back in the office following my family vacation.

I need the additional 30 days requested in this motion to inform Marks of the panel’s decision to deny rehearing; to analyze the panel’s Order of Affirmance and determine whether there are grounds for seeking en banc reconsideration of the panel’s decision; to discuss this matter with Marks and determine whether he wants to file a petition for en banc reconsideration; and, if he does, to then research, write and file a petition for en banc reconsideration.

Marks, therefore, respectfully requests the Court give him until September 1, 2022 to file a petition for en banc reconsideration. *See* NRAP 26(b)(1)(A).

Marks also moves to stay the remittitur until disposition of his petition for en banc reconsideration. *See* NRAP 41(b)(1) (“The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise. If the petition is denied, the remittitur shall issue 25 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.”).

DATED: August 1, 2022.

/s/ Mario D. Valencia
MARIO D. VALENCIA
Nevada Bar No. 6154
40 S. Stephanie St., Ste. 201
Henderson, NV 89012
(702) 384-7494
Counsel for Marks

Certificate of Service

I hereby certify and affirm that a true and correct copy of the foregoing **Motion for Extension of Time to File a Petition for En Banc Reconsideration, and Motion to Stay the Remittitur** was filed electronically with the Nevada Supreme Court on August 1, 2022. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

ALEXANDER CHEN
Chief Deputy District Attorney

TALEEN PANDUKHT
Chief Deputy District Attorney

/s/ Mario D. Valencia
MARIO D. VALENCIA