

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 80902

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Jul 29 2020 12:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Tyrone David James Sr.,

Petitioner/Appellant,

v.

State of Nevada,

Respondent/Appellee.

**Motion for Extension of Time to File
Appellant's Opening Brief**

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POINTS AND AUTHORITIES

For the reasons stated in the below Declaration of Counsel, and pursuant to Nevada Rules of Appellate Procedure 26, 27, and 31(b)(3), Ronald Rangel requests an extension of sixty (60) days in which to file his Opening Brief, from July 30, 2020, up to and including September 28, 2020.

DECLARATION OF COUNSEL

I, C.B. Kirschner, do declare as follows:

1. I am counsel for the Appellant in the above-entitled matter.

I have personal knowledge of the matters contained herein and am competent to testify thereto.

2. Appellant's Opening Brief is currently due July 30, 2020.

3. No extensions have previously been sought or granted with respect to the Opening Brief.

4. An extension of time to file the brief is necessary for several reasons. First, counsel's schedule has been particularly busy. On June 1, 2020, counsel filed an Opening Brief with this Court in *Taukitoku v. Filson*, case no. 80124; on June 8, 2020, counsel filed an Opening Brief

with the Ninth Circuit in *Alvarez v. Neven*, in case no. 18-15516; on June 11, 2020, counsel argued an appeal before the Ninth Circuit in *Zimmerman v. Baca*, case no. 18-16886; on June 16, 2020, counsel filed a Reply Brief with the Ninth Circuit in *Tiffany v. LeGrand*, case no. 19-15796; on June 23, 2020, counsel filed a Reply Brief with this Court in *Rangel v. Baker*, case no. 79711; on June 29, 2020, counsel filed a Reply Brief with this Court in *Melendez v. Baker*, case no. 80192; on July 6, 2020, counsel filed a Response to Motion to Intervene in *Lyons v. Williams*, case no. C-13-289278-1; on July 15, 2020, counsel filed a Reply to Answer to First Amended Petition in *Chao v. Baker*, case no. 2:14-cv-02039-GMN-EJY; and on July 27, 2020, counsel filed a Petition for Writ of Certiorari with the United States Supreme Court in *Page v. Baker*.

5. Counsel also has a numerous upcoming filing deadlines in the next two months as well as two, federal evidentiary hearings scheduled on September 9, 2020 (*Young v. Williams*, case no. 2:12-cv-00524-RFB-NJK), and September 23, 2020 (*McClain v. LeGrand*, case no. 3:14-cv-00269-MMD-CLB), both of which require extensive preparation.

6. Additionally, the Federal Public Defender's Office is primarily operating from a remote, telework system in light of the COVID-19 pandemic. Overall the transition has been smooth, but it has caused some ongoing network interruptions and unavoidable delays. The Ninth Circuit has recognized the current pandemic "has disrupted services of all kinds" and is a valid basis for extending deadlines.¹ Additional time is necessary in light of these extraordinary circumstances.

7. For the above-stated reasons, and in order to adequately represent Mr. James, I respectfully ask this Court grant this first request for an extension of sixty (60) days and order the Opening Brief to be filed on or before September 28, 2020.

I declare the foregoing is true and correct.

Dated this 29th day of July, 2020.

Respectfully submitted,

/s/ CB Kirschner

C.B. Kirschner

Assistant Federal Public Defender

Nevada State Bar No. 14023C

¹ <http://cdn.ca9.uscourts.gov/datastore/general/2020/03/16/COVID-19%20Notice.pdf>

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2020, 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:

Alexander Chen

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Geordan Goebel
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

/s/ Adam Dunn

An Employee of the
Federal Public Defender, District of Nevada