

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 DENNIS VINCENT STANTON,

3 Appellant/Cross-Respondent,

4 vs.

5 TWYLA MARIE STANTON,

6 Respondent/Cross-Appellant.

Supreme Court Case No.: 80910

District Court Case No. CV-0029304
Electronically Filed
Dec 29 2020 09:27 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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8 **MOTION TO EXTEND DEADLINE TO FILE OPENING BRIEF AND**

9 **APPENDIX**

10 Appellant/Cross-Respondent Dennis Vincent Stanton, by and through his
11 undersigned counsel, hereby files this Motion to Extend Deadline to File Opening
12 Brief and Appendix (“Motion”) pursuant to NRAP 27 and NRAP 31(b)(3).

13 Dated this 29th of December 2020.

14 HOLLEY DRIGGS

15 /s/ John J. Savage

16 John J. Savage, Esq. (NV Bar 11455)

17 E-mail: jsavage@nevdafirm.com

18 400 South Fourth Street, Third Floor

19 Las Vegas, Nevada 89101

20 Telephone: 702/791-0308

21 Facsimile: 702/791-1912

22 Attorney for Appellant

23 Dennis Vincent Stanton

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 “A motion for extension of time for filing a brief may be made no later than
3 the due date for the brief and must comply with the provisions of this Rule and Rule
4 27.” NRAP 31(b)(3). A motion for extension of time for filing a brief shall include
5 the following:

- 6 (i) The date when the brief is due;
7 (ii) The number of extensions of time previously granted (including a
8 14-day telephonic extension), and if extensions were granted, the
9 original date when the brief was due;
10 (iii) Whether any previous requests for extensions of time have been
11 denied or denied in part;
12 (iv) The reasons or grounds why an extension is necessary (including
13 demonstrating extraordinary and compelling circumstances under Rule
14 26(b)(1)(B), if required); and
15 (v) The length of the extension requested and the date on which the
16 brief would become due.

17 NRAP 31(b)(3)(A).

18 **i. Current Deadline for Opening Brief**

19 This Motion is timely as Mr. Stanton’s opening brief and appendix are
20 currently due on January 11, 2021. *See* Dkt. No. 20-37479.

21 **ii. No Previous Extensions Granted**

22 No previous requests have been made to extend the deadline to file Mr.
23 Stanton’s opening brief. *See* Declaration of John J. Savage, Esq., attached hereto as
24 **Exhibit “1”** (“Savage Declaration”), at ¶ 4. The briefing schedule was suspended
25 on June 22, 2020 per the Court’s Order Regarding Pro Bono Counsel and Directing
Transmission of the Record. *See* Dkt. No. 20-23118. Notice of Appearance of *pro*
bono counsel for Mrs. Stanton was filed on July 14, 2020. *See* Dkt. No. 20-25831.

1 Notice of Appearance of *pro bono* counsel for Mr. Stanton was filed on October 7,
2 2020. *See* Dkt. No. 20-36749. The briefing schedule was reinstated on October 13,
3 2020 and ordered Mr. Stanton’s opening brief to be filed within 90 days. *See* Dkt.
4 No. 20-37479.

5 **iii. No Previous Extension Requests Denied**

6 Since no previous requests have been made to extend the deadline to file Mr.
7 Stanton’s opening brief, no such requests have been denied. *See* Savage Declaration
8 at ¶ 5. No requests for any extensions of any other deadlines have been denied. *Id.*

9 **iv. Reasons Why Extension is Necessary**

10 There are multiple reasons why it is necessary to extend the deadline to file
11 Mr. Stanton’s opening brief and appendix. *See* Savage Declaration at ¶ 6.

12 First, the particular Pro Bono Program that Mr. Stanton was placed in is the
13 Partners in Pro Bono Attorney/Student Mentor Program (“Mentor Program”), which
14 is a partnership between the Legal Aid Center of Southern Nevada, Inc
15 (“LACSN”)and UNLV William S. Boyd School of Law (“UNLV Law”). *Id.* at ¶ 7.
16 Through the Mentor Program, counsel is working closely with a student of UNLV
17 Law on Mr. Stanton’s appeal. *Id.* at ¶ 8. Counsel’s mentorship of the UNLV Law
18 student has added to the time necessary to prepare Mr. Stanton’s opening brief and
19 appendix. *Id.*

20 Second, unlike appeals where counsel was involved in the underlying
21 litigation, Mr. Stanton’s counsel has had to review the trial court record to
22 understand the issues on appeal. *Id.* at ¶ 9. This review has added to the time
23 necessary to prepare Mr. Stanton’s opening brief and appendix. *Id.*

1 Third, counsel felt obligated to dedicate time to preparing and filing a
2 statement of the evidence or proceedings pursuant to NRAP 9(d) because the district
3 court clerk advised the hearings relevant to Mr. Stanton's appeal were not recorded
4 so there were no certified transcripts of the hearings available. *Id.* at ¶ 10. Preparing
5 and filing the statement of evidence has added to the time necessary to prepare Mr.
6 Stanton's opening brief and appendix. *Id.*

7 Fourth, the Fifth Judicial District Court does not accept electronic filings or
8 electronic signatures. *Id.* at ¶ 11. Mailing Mr. Stanton's transcript request form and
9 statement of evidence to the Fifth Judicial District Court with original signatures
10 while counsel and staff intermittently worked from home has added to the time
11 necessary to prepare Mr. Stanton's opening brief and appendix. *Id.*

12 Fifth, significant time has been spent preparing a motion to stay execution of
13 the district court's Order and Judgment filed on March 18, 2019, which is the subject
14 of Mr. Stanton's appeal. *Id.* at ¶ 12. This motion is expected to be filed shortly. *Id.*
15 Preparation of this motion has added to the time necessary to prepare Mr. Stanton's
16 opening brief and appendix. *Id.*

17 Sixth, the holiday season has caused additional delays that has added to the
18 time necessary to prepare Mr. Stanton's opening brief and appendix. *Id.* at ¶ 13.

19 **v. Requested Extension**

20 Pursuant to NRAP 31(b)(3)(B), Mr. Stanton is requesting that the deadline to
21 file his opening brief and appendix be extended by 60 days based upon the clear
22 showing of good cause set forth above. Mr. Stanton has advised counsel that he and
23 Mrs. Stanton have reconciled their differences and are now living together with their
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1 children as a married couple. *See* Savage Declaration at ¶ 14. Consequently, there
2 are no custody issues involved in this appeal that would require a showing of
3 extraordinary and unforeseeable circumstances to justify an extension of time
4 pursuant to NRAP 31(b)(3)(C) despite the case being identified as an appeal
5 involving child custody. *Id.*

6 If this Motion is granted, the new due date to file Mr. Stanton's opening brief
7 and appendix would be March 12, 2021.

8 Dated this 29th of December 2020.

9 HOLLEY DRIGGS

10 /s/ John J. Savage
11 John J. Savage, Esq. (NV Bar 11455)
12 E-mail: jsavage@nevdafirm.com
13 400 South Fourth Street, Third Floor
14 Las Vegas, Nevada 89101
15 Telephone: 702/791-0308
16 Facsimile: 702/791-1912
17 *Attorney for Appellant*
18 *Dennis Vincent Stanton*
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EXHIBIT “1”

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1 **DECLARATION OF JOHN J. SAVAGE, ESQ.**

2 I, John J. Savage, Esq., do hereby voluntarily state under penalty of perjury as
3 follows:

4 1. I am an attorney with the law firm Holley Driggs and counsel of record
5 for Appellant/Cross-Respondent Dennis Vincent Stanton.

6 2. I have personal knowledge of the matters set forth herein, with the
7 exception of those stated to be made upon information and belief, and as to those I
8 believe them to be true to the best of my knowledge. If called to do so, I could and
9 would testify competently to the matters set forth herein.

10 3. Mr. Stanton's opening brief and appendix are currently due on January
11 11, 2021.

12 4. No previous requests have been made to extend the deadline to file Mr.
13 Stanton's opening brief.

14 5. Since no previous requests have been made to extend the deadline to
15 file Mr. Stanton's opening brief, no such requests have been denied. No requests for
16 any extensions of any other deadlines have been denied.

17 6. There are multiple reasons why it is necessary to extend the deadline to
18 file Mr. Stanton's opening brief and appendix.

19 7. First, the particular Pro Bono Program that Mr. Stanton was placed in
20 is the Partners in Pro Bono Attorney/Student Mentor Program ("Mentor Program"),
21 which is a partnership between the Legal Aid Center of Southern Nevada, Inc
22 ("LACSN") and UNLV William S. Boyd School of Law ("UNLV Law").
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8. Through the Mentor Program, I am working closely with a student of UNLV Law on Mr. Stanton's appeal. My mentorship of the UNLV Law student has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

9. Second, unlike appeals where counsel was involved in the underlying litigation, I have had to review the trial court record to understand the issues on appeal. This review has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

10. Third, I felt obligated to dedicate time to preparing and filing a statement of the evidence or proceedings pursuant to NRAP 9(d) because the district court clerk advised the hearings relevant to Mr. Stanton's appeal were not recorded so there were no certified transcripts of the hearings available. Preparing and filing the statement of evidence has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

11. Fourth, the Fifth Judicial District Court does not accept electronic filings or electronic signatures. Mailing Mr. Stanton's transcript request form and statement of evidence to the Fifth Judicial District Court with original signatures while my staff and I intermittently worked from home has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

12. Fifth, significant time has been spent preparing a motion to stay execution of the district court's Order and Judgment filed on March 18, 2019, which is the subject of Mr. Stanton's appeal. This motion is expected to be filed shortly. Preparation of this motion has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

13. Sixth, the holiday season has caused additional delays that has added to the time necessary to prepare Mr. Stanton's opening brief and appendix.

14. Mr. Stanton has advised me that he and Mrs. Stanton have reconciled their differences and are now living together with their children as a married couple. Consequently, there are no custody issues involved in this appeal that would require a showing of extraordinary and unforeseeable circumstances to justify an extension of time pursuant to NRAP 31(b)(3)(C) despite the case being identified as an appeal involving child custody.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 29th day of December 2020.

/s/ John J. Savage
JOHN J. SAVAGE, ESQ.

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☒ (ELECTRONIC SERVICE) The above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities.

Professor Anne Traum
Chair of Pro Bono Committee
Appellate Section of State Bar of Nevada
UNLV William S. Boyd School of Law
4505 S. Maryland Parkway, Box 451003
Las Vegas, Nevada 89154-1003

Kelly H. Dove, Esq.
Co-chair of Pro Bono Committee
Snell & Wilmer, LLP
3883 Howard Hughes Parkway, Ste. 1100
Las Vegas, Nevada 89169

/s/ Kathy MacElwain
EMPLOYEE OF HOLLEY DRIGGS