

TED MICHAEL DONKO, )  
)  
Appellant, )  
)  
vs. )  
)  
THE STATE OF NEVADA, )  
)  
Respondent. )  
\_\_\_\_\_ )

Electronically Filed  
Oct 22 2020 05:19 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
Case No. 81075

Comes Now Appellant TED DONKO, by and through Chief Deputy Public Defender AUDREY M. CONWAY, and moves for a forty-five day extension of time from Monday, October 26, 2020 through and including Thursday, December 10, 2020, within which to file the Opening Brief in this case. This Motion is based upon the attached Declaration of counsel.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

Docket 81075 Document 2020-38825

## **DECLARATION OF AUDREY M. CONWAY**

1. I am an attorney licensed to practice law in the State of Nevada; I am a chief deputy public defender assigned to handle the appeal of this matter; I am familiar with the procedural history of this case.

2. Our office filed the Notice of Appeal in this matter on April 24, 2020. After granting a 30-day stipulation to extend the deadline for the filing of the Opening Brief, on September 10, 2020, this Court ordered the Opening Brief to be filed by October 26, 2020.

3. During the course of researching and writing the Opening Brief, I have discovered omissions from the appellate appendix. After the filing of the Notice of Appeal, the State filed a Motion to Address Aggregate Sentence Calculations. This motion was heard by the district court on June 15, 2020. Although the district court indicated that it would issue a minute order ruling on the State's motion, no minute order has been issued since the hearing date. Counsel has contacted the judicial department to inquire as to the status of the motion, but as of this writing, the matter remains pending. Because the trial court's ruling on this motion could affect the client's sentence, and because the ruling could raise additional appellate issues, I am requesting a continuance to allow additional time for this post-trial motion to be resolved.

4. Further, because the State's motion was filed after the Notice of Appeal was filed, appellate staff was unaware of the need to request the transcript of the June 15, 2020, hearing date at the time of the filing of the initial transcript request on May 6, 2020. On October 6, 2020, we requested preparation of the transcript from the court reporter. As of this writing, the transcript has not been received. After receipt of the transcript and the court's ruling on this matter, I will require additional time to research and brief the issues addressed at the hearing on June 15, 2020.

5. This case involves convictions for two counts of battery with use of a deadly weapon resulting in substantial bodily harm; three counts of attempt murder with use; one count of assault with a deadly weapon; one count of discharging a firearm at or into an occupied structure; and one count of ownership or possession of a firearm by a prohibited person. At this time, the client is serving an aggregate sentence of 144 to 378 months in prison with 150 days credit for time served. This extension request is based on the need to ensure that all meritorious appellate issues are thoroughly researched and briefed. This request for extension of time is made in good faith and not for the purposes of delay. It is the best professional judgment of the undersigned that this extension is crucial to the perfection of this appeal and to the provision of effective assistance of counsel to this client.

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

EXECUTED on the 22nd day of October, 2020.

/s/ Audrey M. Conway  
AUDREY M. CONWAY

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 22 day of October, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD                      AUDREY M. CONWAY  
ALEXANDER CHEN

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

TED DONKO  
NDOC No: 1080899  
c/o High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070

BY /s/ Carrie M. Connolly  
Employee, Clark County Public  
Defender's Office