

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY JOSEPH HARRIS,

Appellant,

v.

STATE OF NEVADA, ET AL.,

Respondent.

No.: 81430

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Aug 03 2021 01:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**UNOPPOSED MOTION TO EXTEND TIME TO FILE OPENING
BRIEF
(THIRD REQUEST)**

Pursuant to Nevada Rule of Appellate Procedures 31(b)(3), Appellant Anthony Joseph Harris, by and through his counsel of record Holland & Hart, LLP, files this Unopposed Motion to Extend Time to file his Opening Brief. This Motion is based on the following Memorandum of Points and Authorities, and the papers and pleadings on file in this matter.

MEMORANDUM OF POINTS & AUTHORITIES

On June 30, 2020, Appellant Anthony Joseph Harris filed his Notice of Appeal. This case was subsequently referred to the Pro Bono Committee of the Appellate Litigation Section of the State Bar of Nevada on November 12, 2020. On March 1, 2021, Joshua M. Halen, Esq., filed a Notice of Appearance of Pro Bono Counsel on behalf of Harris. On June 9, 2021, the Court granted the parties' joint motion for an extension of time to file the opening brief. On July 21, 2021, Harris filed an Unopposed Motion for Extension of time, seeking a brief two-week

extension to file the opening brief, based on Harris and his counsel's inability to communicate about the brief. The Court granted the Motion and extended the deadline until August 5, 2021, stating that no other extension would be granted absent extraordinary circumstances. Harris files this Motion requesting a two-week extension to file the opening brief and believes that extraordinary circumstances exist that warrant the granting of this motion.

Harris's counsel has been diligently working on the opening brief and the brief is near completion; however, as before, counsel has been unable to communicate with his client due to his incarceration. Harris has been able to call counsel at inconsistent times and at times when counsel has been unable to answer phone calls. For example, one phone was made on July 27, 2021, when Harris's counsel was in a court hearing and unable to answer. Given Harris's incarceration, counsel cannot simply call back. Additionally, counsel had been communicating with the Attorney General's office regarding having the prison set up a phone call, but was unsuccessful. Harris's counsel has been in contact with Chief Deputy Attorney General D. Randal Gilmer, who is assisting in setting up a phone call between Harris and counsel.

The substance of the communication required between counsel and Harris are regarding issues to raise in the opening brief, and counsel believes that he has an ethical obligation under the Nevada Rules of Professional Conduct to discuss these

issues with his client and for his client to be involved in the decision making process. Given the ethical considerations and the inability of counsel to communicate with his client given his incarcerated status, Harris believes that extraordinary circumstances exist for the filing and granting of this Motion. Additionally, with the assistance of the Attorney General's Office, counsel believes that he should be able to communicate with his client before the expiration of the additional 14-day window, and the opening brief can be filed shortly thereafter.

Counsel for Harris spoke with counsel for Respondents' counsel, Mr. Gilmer, on August 3, 2021, and Mr. Gilmer agreed to Harris's request for a 14-day extension and to assist counsel in assisting to coordinate a time for Harris and his counsel to speak.

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Accordingly, Harris requests a 14-day extension to file his opening brief. The granting of this Motion would make Harris's brief due on or before Thursday, August 19, 2021.

DATED this 3rd day of August, 2021

HOLLAND & HART LLP

s/ Joshua M. Halen

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 5(b), I hereby certify that on the 3rd day of August, 2021, I served a true and correct copy of the foregoing **UNOPPOSED MOTION TO EXTEND TIME TO FILE OPENING BRIEF (THIRD REQUEST)** by electronic transmission to the parties on electronic file and/or depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below :

D. Randal Gilmer
Chief Deputy Attorney General
Frank A. Toddre II
Senior Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Ave, Ste 3900
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/s/Cathy Ryle
An Employee of Holland & Hart LLP

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