

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRAVIS BISH,

Appellant,

v.

THE JUSTICE COURT FOR
SPARKS TOWNSHIP, THE HON.
JESSICA LONGLEY, BY AND THROUGH
REAL PARTY IN INTEREST
THE STATE OF NEVADA,

Respondent.

No. 82295 Electronically Filed
Jun 08 2021 05:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

_____/

MOTION TO SUSPEND/STAY THE BRIEFING SCHEDULE UNTIL THE
MOTION TO DISMISS IS DECIDED OR, IN THE ALTERNATIVE,
MOTION FOR ENLARGEMENT OF TIME

COMES NOW, the State of Nevada, by and through counsel, and respectfully requests this Court to enter an Order suspending or staying the briefing schedule until it decides the State's motion to dismiss concerning jurisdiction over this appeal or, in the alternative, enter an Order extending the time in which the State may file its Answering Brief in the above-entitled matter, to and including July 9, 2021. This request is predicated on NRAP 27, NRAP 26(b), and the attached Memorandum of Points and Authorities and Affidavit of Counsel.

///

MEMORANDUM OF POINTS AND AUTHORITIES

The order appealed in this case is a pretrial order denying Appellant's pretrial writ of habeas corpus or, in the alternative, writ of mandamus. *See* Joint Appendix 87-92 (Order), 92-94 (Notice of Appeal). The State contends that this Court does not have jurisdiction to consider the appeal because it is not a final judgment. Instead, this appeal concerns an interlocutory order and there is no statutory authority permitting an appeal from such an order. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (“[T]he right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists”); NRS 177.015(3) (“The defendant only may appeal from a final judgment or verdict in a criminal case”). Thus, the State is contemporaneously filing a motion to dismiss the appeal.

In light of the jurisdictional issue and pending motion to dismiss, the State is also seeking an order from this court suspending or staying the briefing schedule until it can rule on the motion to dismiss. If there is a jurisdictional defect, this Court cannot reach the merits of the issues raised on appeal and it would not be in the interest of the litigants or of judicial economy to continue briefing and reviewing issues that cannot be adjudicated under the current procedural posture of the case.

The State's Answering Brief is currently due on June 9, 2021. To the extent this Court is not inclined to suspend or stay the briefing schedule, the State requests an additional 30 days, to and including July 9, 2021, to complete the Answering Brief. This will allow the motion to dismiss to be fully briefed and potentially decided upon prior to the Answering Brief due date.

DATED: June 8, 2021.

CHRISTOPHER J. HICKS
DISTRICT ATTORNEY

By: MARILEE CATE
Appellate Deputy

AFFIDAVIT OF COUNSEL

I, MARILEE CATE, do hereby swear under penalty of perjury that the assertions of this affidavit are true.

1. That your affiant is a duly licensed attorney in the State of Nevada and is counsel of record for Respondent.

2. That your affiant is contemporaneously filing a motion to dismiss this appeal because it does not concern a final judgment or otherwise appealable order.

3. Because there is a jurisdictional defect, your affiant believes the Court should not reach the merits of the issues raised in the appeal and should dismiss this appeal without further briefing. Thus, the State is requesting that this Court suspend or stay the briefing schedule in this appeal until it rules on the motion to dismiss. In the alternative, the State is requesting an extension of time from June 9, 2021, the date the State's Answering Brief is currently due, to July 9, 2021.

4. That this is your affiant's first request for a suspended/stayed briefing schedule and/or extension of time in this case.

///

///

///

5. That this motion is made in good faith and not for purposes of delay.

Further your affiant sayeth not.

By: MARILEE CATE
Appellate Deputy
Nevada State Bar No. 12563

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on June 8, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kathryn Reynolds
Deputy Public Defender

Tatyana Kazantseva
Washoe County District Attorney's Office