

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Mar 17 2022 09:57 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Donte Johnson,

Petitioner/Appellant,

vs.

William Gittere, *et al.*,

Respondents/Appellees.

Supreme Court Case No. 83796

District Court Case No. A-19-789336-W

**Request for Extension of Time to
File Appellant's Opening Brief
(First Request)**

DEATH PENALTY CASE

Appellant, Donte Johnson, hereby requests an extension of time of 120 days, up to and including July 15, 2022, within which to file his Opening Brief. This request is supported by the attached declaration of counsel and the entire file herein.

Dated this 17th day of March, 2022.

Respectfully submitted,

/s/ Randolph M. Fiedler

Randolph M. Fiedler
Assistant Federal Public Defender
Nevada State Bar No. 12577
411 E. Bonneville Ave., Ste. 250
Las Vegas, NV 89101
(702) 388-6577
Counsel for Appellant

Declaration of Randolph M. Fiedler

I, Randolph M. Fiedler, hereby declare as follows:

1. I am an attorney at law, admitted to practice before this Court, and employed in the Capital Habeas Unit of the Federal Public Defender's Office. I represent Appellant, Donte Johnson, in this matter.

2. The notice of appeal was filed on November 10, 2021 and placed on the docket on November 17, 2021. Mr. Johnson's Opening Brief is currently due on March 17, 2022. I respectfully request under NRAP 31(a)(4)(b)(3), an extension of time of 120 days, up to and including July 15, 2022, within which to file the Opening Brief. This is Mr. Johnson's first request for an extension of time.

3. I am requesting this 120-day extension because of obligations in other capital habeas matters that have prevented me from devoting adequate time to prepare Mr. Johnson's Opening Brief. Specifically, since this appeal was docketed, I have had the following obligations: on December 29, 2021, I filed an amended civil rights complaint in *Lisle v. Daniels*, Case No. 3:21-cv-00445-MMD-CLB (D. Nev.); on January 10, 2022, Petition for Rehearing in *Floyd v. 8th Jud. Dist. Ct. (State)*, No. 83108 (Nev.); I have been litigating a 1983 civil

rights complaint in *Welch v. Liggett*, Case No. 2:19-cv-01243-APG-NJK (D. Nev.), which involves voluminous discovery and deadlines that cannot be further extended while preparing for numerous depositions, in addition to a Motion for Meaningful Access (filed Jan. 21, 2022), and an Opposition to a Motion to Stay Discovery (filed Feb. 2, 2022); in *Williams v. Gittere*, I have had responsibilities in anticipation of a May 2022 evidentiary hearing, including filing a Prehearing Brief on February 28, 2022 in Case No. 2:98-cv-00056-APG-VCF (D. Nev.); on March 11, 2022, I filed an opening brief in *Ybarra v. Gittere*, Case No. 20-99012 (9th Cir.); and on March 16, 2022, I filed a petition for rehearing in *Vanisi v. Gittere*, Nevada Supreme Court Case No. 78209.

4. Additionally, co-counsel with responsibility for preparation of the Opening Brief, has been heavily engaged in expedited litigation in state and federal court in the case of Zane Floyd.

5. This 120-day extension of time will allow me to complete Mr. Johnson's opening brief in accordance with our office's duty to provide Mr. Johnson with adequate representation and our office's obligation to assist this Court in adjudicating Mr. Johnson's case.

6. The request is not made for purposes of delay, or for any other improper purpose, but only to ensure that this office provides competent representation. Nev. R. Prof. Conduct 1.1.

7. On March 16, 2022, I contacted counsel for the Appellees, Alexander Chen, via email, and he indicated no opposition to this request.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 17, 2022.

Respectfully submitted,

/s/ *Randolph M. Fiedler*

Randolph M. Fiedler

Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2022, I electronically filed the foregoing document with the Nevada Supreme Court by using the appellate electronic filing system. The following participants in the case will be served by the electronic filing system:

Alex Chen
Chief Deputy District Attorney
Clark County District Attorney's Office

/s/ Celina Moore
An Employee of the
Federal Public Defender