

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Sep 23 2022 01:35 p.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 Reply Brief (First
Request)**

DEATH PENALTY CASE

Appellant, Donte Johnson, hereby requests an extension of time of 60 days, up to and including November 22, 2022, within which to file his Reply Brief. This request is supported by the attached declaration of counsel and the entire file herein.

Dated this 23rd day of September, 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 was filed on May 22, 2022. The State filed its Answering Brief on August 24, 2022. I respectfully request under NRAP 31(b)(3), an extension of time of 60 days, up to and including November 22, 2022, within which to file the Reply Brief. This is Mr. Johnson's first request for an extension of time.

3. I am requesting this 60-day extension because of obligations in other capital habeas matters that have prevented me from devoting adequate time to prepare Mr. Johnson's Reply Brief. Specifically, since the State filed its answer, I have had to devote substantial time and attention to an Amended Petition for Writ of Habeas Corpus, filed on September 19, 2022 in *Keck v. Reubart*, No. 3:22-cv-00031-JAD-CSD (D. Nev.), a capital case. This pleading prevented me from devoting

sufficient time and attention to Mr. Johnson's brief. This request is also necessary in light of my upcoming deadlines. On October 12, 2022, I have a reply brief due before the Ninth Circuit in *Ybarra v. Gittere*, No. 20-99012; on October 13, 2022, I have a petition for writ of certiorari due in *Vanisi v. Reubart*, (from Nev. Case No. 78209). Both are death penalty cases.

4. This 60-day extension of time will allow me to complete Mr. Johnson's reply 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.

5. 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.

6. On September 22, 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 September 23, 2022.

Respectfully submitted,

/s/ *Randolph M. Fiedler*

Randolph M. Fiedler

Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 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