

IN THE SUPREME COURT OF THE STATE OF NEVADA

Donte Johnson,

Petitioner/Appellant,

vs.

William Reubart,¹ *et al.*,

Respondents/Appellees.

Supreme Court Case No. 03796 Electronically Filed
Nov 22 2022 09:51 AM
District Court Case No. A-18-789336-W
Elizabeth A. Brown
Clerk of Supreme Court

**Request for Extension of Time to
File Appellant's Reply Brief
(Second Request)**

DEATH PENALTY CASE

Appellant, Donte Johnson, hereby requests an extension of time of 30 days, up to and including December 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 22nd day of November, 2022.

Respectfully submitted,

/s/ Randolph M. Fiedler

Randolph M. Fiedler
Assistant Federal Public Defender
Nevada State Bar No. 12577
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Counsel for Appellant

¹ Under NRAP 43(c)(1), William Reubart is substituted as Respondent.

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. Mr. Johnson's Reply Brief is due today, November 22, 2022. This is his second request for an extension of time; his reply brief was originally due on September 23, 2022. No previous request for extension of time was previously denied or denied in part.

3. I am requesting a 30-day extension of time, up to and including December 22, 2022, within which to file the Reply Brief.

4. I am requesting this 30-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 my previous request for an extension of time, I have had a number of case-related responsibilities that have prevented me from devoting sufficient time and attention to Mr. Johnson's brief. Specifically, I filed a Reply Brief before the Ninth Circuit in *Ybarra v. Gittere*, No. 20-99012 on October 12, 2022; in *Vanisi v. Reubart*, No. 22-5851, a Petition for

Writ of Certiorari before the U.S. Supreme Court on October 13, 2022; in *Keck v. Reubart*, No. A-22-860621-W, a Petition for Writ of Habeas (Post-Conviction), before the Eighth Judicial District Court on November 1, 2022. Additionally, I have had to devote substantial time and effort to a federal death penalty case, in anticipation of filing a motion for relief under 28 U.S.C. § 2255, in *United States v. Coonce*, No. 6:20-cv-08000-BCW (W.D. Mo.).

5. Additionally, I have faced difficulty in my personal life as my wife recovers from a serious illness for which she was twice hospitalized last year. Though she is well on her way to a full recovery, childcare outside of regular business hours continues to be a challenge, and so working during weekends or outside of regular business hours is, correspondingly, a challenge.

6. Co-counsel, too, has had challenges since our last request for an extension of time, requiring an unexpected trip out of the country to visit a terminally ill family member.

7. This 30-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.

8. 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.

9. On November 21, 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 November 22, 2022.

Respectfully submitted,

/s/ *Randolph M. Fiedler*
Randolph M. Fiedler
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 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/ Shanyla Curtis
An Employee of the
Federal Public Defender