

Case No. 83796

Supreme Court of Nevada

Electronically Filed
Jul 14 2023 02:02 PM
Elizabeth A. Brown
Clerk of Supreme Court

Donte Johnson,

Appellant,

vs.

State of Nevada, *et al.*,

Appellee.

**Request for Extension of
Time to File Appellant's
Petition for Rehearing
(First Request)**

DEATH PENALTY CASE

Appeal from the Eighth Judicial District Court

Rene L. Valladares
Federal Public Defender
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

Appellant, Donte Johnson, hereby requests an extension of time of 60 days, up to and including September 12, 2023, within which to file his Petition for Rehearing. This request is supported by the attached declaration of counsel and the entire file herein.

Dated this 14th day of July, 2023.

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. Mr. Johnson's Petition for Rehearing is due today, July 14, 2023. This is my first request for an extension of time. No previous request for extension of time was previously denied or denied in part.

3. I am requesting a 60-day extension of time, up to and including September 12, 2023, within which to file the Petition for Rehearing.

4. 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 this Court issued its Order of Affirmance, I have had case related responsibilities that have prevented me from devoting sufficient time and attention to this petition for rehearing. Specifically, I have two Opening Briefs due in *Lisle v. Gittere*, Nos. 21-99009, 22-99009, both capital cases, before the Ninth Circuit due on August 9, and July 14.

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.). In addition, Mr. Johnson's case presents a large number of legal issues, resulting in a 26-page order. The complexity of these issues coupled with the length of this Court's order have required additional review.

5. This 60-day extension of time will allow me to complete Mr. Johnson's Petition for Rehearing 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 July 14, 2023 I contacted counsel for the Appellees, Alexander Chen, via email. 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 July 14th, 2023.

Respectfully submitted,

/s/ *Randolph M. Fiedler*

Randolph M. Fiedler

Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on July 14th, 2023, 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/ Lisa Keller
An Employee of the
Federal Public Defender