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IN THE SUPREME COURT OF THE STATE OF NEVADA

DIAMOND HALL,

Appellant

v.

JUSTIN MARTIN,

Respondent

SUPREME COURT CASE NO. 83979

DISTRICT COURT CASE NO. D-19-
600476-C

Electronically Filed
Feb 08 2022 02:58 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION FOR ENLARGEMENT OF TIME TO FILE FAST TRACK
STATEMENT/OPENING BRIEF (FIRST REQUEST)**

COMES NOW, Appellant, DIAMOND HALL, by and through her attorney of record,
ERICK M. FERRAN, ESQ., of the law firm of HITZKE & FERRAN, and hereby makes a
good-faith motion for enlargement of time to file his Fast Track Statement/Opening Brief in this
matter. The transcripts have been ordered but have not been received as of the filing of the
instant Motion, and additional time is required to review the transcript, attach to a proper
appendix, and to file the opening brief/fast track statement. An enlargement of time for filing
Appellant's opening brief would further the interests of justice and would result in a more
equitable proceeding for all parties involved and would allow this Court the opportunity to fully
review the merits of this matter. Appellant had calendared the Statement/Brief as being due on
February 14, 2022, and hereby requests an enlargement until March 16, 2022, to file the opening
brief/fast track statement.

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1 This motion is based on the Points and Authorities attached hereto, all papers and
2 pleadings on file herein, the attached Affidavit of ERICK M. FERRAN, ESQ., and any oral
3 argument deemed necessary by this Court.
4

5 DATED this 8th day of February, 2022.

6 /s/ Erick M. Ferran, Esq.
7 ERICK M. FERRAN, ESQ.
8 Nevada State Bar No. 009554
9 HITZKE & FERRAN
10 2110 E. Flamingo Rd., Suite 206
11 Las Vegas, Nevada 89119
12 Telephone: (702) 476-9668
13 Facsimile: (702) 462-2646
14 ferranlawoffice@gmail.com
15 *Attorneys for Appellant*

16 POINTS AND AUTHORITIES

17 I. STATEMENT OF FACTS/PROCEDURAL POSTURE

18 A summary of the facts of the instant lawsuit is set forth below:

19 The instant matter originates out of the Eighth Judicial District Court (Family Division),
20 Las Vegas, Clark County, Nevada, Case # D-19-600476-C. The District Court proceedings
21 resulted in a final custody order awarding Respondent/Dad primary physical custody of the
22 parties' minor child, as the Court determined that an act of domestic violence was committed by
23 Appellant. The Court further found that Appellant had not rebutted the presumption. An
24 evidentiary hearing/trial was initially held on August 16, 2021, which resulted in denial of joint
25 physical custody for Appellant. A second hearing/trial was held on November 4, 2021, for
26 Appellant's NRCP 59 Motion, which resulted in the Court denying Appellant's request, and
27 striking some of its original findings from the original Decision and Order where the Court
28 referenced part of Respondent's testimony as not being credible. Appellant asserts that the
lower court made numerous errors in reaching its conclusion, including refusing to sanction

1 Respondent after testifying that he was in possession of approximately thirty (30) hours of audio
2 footage that were not previously disclosed, but requested in discovery. Appellant further argued
3 that the lower court abused its discretion by not only refusing to address the undisclosed
4 footage, but by also referencing it as a weighing factor for the parties' conflict in its final
5 Decision and Order. Appellant also argues that there was plenty of evidence provided that
6 rebutted the presumption of domestic violence, such as, the parties attempting to reconcile a
7 month after the alleged event. Appellant argues that even if domestic violence had occurred,
8 that the Court did not properly address the factors of NRS 125C.230, which would have
9 weighed in Appellant's favor.
10

11
12 Appellant filed a timely notice of appeal and proceeded to prepare and file his docketing
13 statement. Transcripts have been requested and paid for but have not been received as of the
14 time of the filing of the instant Motion. Appellant has contacted the transcript reporting service,
15 and they have advised that the transcripts will be ready on or about February 14, 2022. The Fast
16 Track Statement/Brief was set to be due on February 14, 2022, and the ongoing pandemic as
17 well as the voluminous record/transcripts have resulted in the delay. This is the first request for
18 an extension, and it is made in good faith. There is minimal prejudice to the Respondent, who
19 has the primary physical custody of the minor child pursuant to the lower court's order. All
20 fees, cost bonds, and other statements have been filed as required. Transcripts were
21 immediately requested, have been paid for, and proof of the same has been filed with this Court.
22 This Court did not refer the parties to a settlement conference for some reason, shortening the
23 deadlines. Notwithstanding this, Appellant has no transcripts at the present time despite them
24 being timely requested and paid for.
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1 Appellant for the reasons set forth below respectfully requests until March 16, 2022, to
2 file his Fast Track Statement/Brief. This would allow for receipt of all pertinent transcripts
3 requests, for incorporation of the same into the brief, and for filing of a proper appendix with
4 appropriate transcripts for this Court's ultimate review of the issues presented.
5

6 **II. LEGAL ARGUMENT**

7 **A. Appellant Respectfully Requests A Brief Extension In Which To File Her** 8 **Fast Track Statement/Opening Brief.**

9 Appellant respectfully requests that the Court permit a brief extension in which to file
10 her Fast Track Statement/Opening Brief, for the reasons set forth above.

11 Rule 26(b) of the Nevada Rules of Appellate Procedure states in pertinent part:

12 *Enlargement of time.* The court for good cause shown may upon motion
13 to enlarge the time prescribed by these rules or by its order for doing any
14 act, or may permit an act be done after the expiration of such time; but the
court may not enlarge the time for filing a notice of appeal.

15 In the present case, Appellant requires only a brief extension, as set forth herein, for the
16 filing of the Fast Track Statement/Brief. This would allow for receipt of the transcripts, use in
17 the brief/statement, and for a full record for this Court. This Motion is made in good faith and
18 is the first request for an extension in this matter. As such, it is respectfully requested that the
19 Court grant the brief extension, until March 16, 2022, as and for the filing of the Brief in this
20 matter. The transcripts have been requested and paid for, and the requests were done so in a
21 timely manner. It is beyond Appellant's control that these have not yet been completed and/or
22 filed.

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CONCLUSION

Accordingly, Appellant respectfully requests an order enlarging the time to file his Fast Track Statement/Brief in this matter. Considering the circumstances and potential consequences of this case, it is in the ultimate and best interests of justice to grant the brief extension to file the brief.

Dated this 8th day of February, 2022.

/s/ Erick M. Ferran, Esq.
ERICK M. FERRAN, ESQ.
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Attorneys for Appellant

**DECLARATION OF ERICK M. FERRAN, ESQ. IN SUPPORT OF MOTION FOR
ENLARGEMENT OF TIME TO FILE OPENING BRIEF/FAST TRACK STATEMENT**

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

ERICK M. FERRAN, ESQ., being first duly sworn, deposes and says that:

1. Affiant is an associate at the law firm of Hitzke & Ferran, counsel of record for Plaintiff/Appellant in the above-captioned matter, and is competent and willing to testify to the matters contained herein.
2. Appellant timely filed a Notice of Appeal and has lodged her docketing statement and a request for the transcripts. The transcripts have not been received as of the filing of this Motion. The transcripts have been paid for as well, and proof has been submitted to this Court.

- 1 3. All other statements, fees, and docketing statements have been completed.
- 2 4. Appellant has calendared the Fast Track statement as being due on February 14,
- 3 2022, and requests an extension until March 16, 2022 in which to file his Fast
- 4 Track Statement/Opening Brief. Appellant requires the transcripts to complete a
- 5 full record for this Court's review.
- 6
- 7 5. Appellant's request is based upon the grounds as stated herein in the attached
- 8 Motion, as well as the interests of justice.
- 9
- 10 6. Given the issues presented in the brief, the lack of prejudice to the parties as set
- 11 forth herein, and the brief extension requested, the requested extension would be
- 12 in the best interests of justice.
- 13
- 14 7. This is the first request for an extension in this matter, and it is not made for the
- 15 purposes of delay here; the request for extension is made in good faith, and is
- 16 only for a very limited amount of time.

17 FURTHER YOUR AFFIANT SAYETH NAUGHT

18 I declare under the penalties of perjury of the laws of the State of Nevada that the

19 foregoing are true and accurate statements to the best of my knowledge.

20 DATED this 8th day of February, 2022

21 A handwritten signature in black ink, appearing to read 'Erick M. Ferran', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.

22 ERICK M. FERRAN, ESQ.

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Attorneys for Defendant

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