

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

Electronically Filed
Mar 10 2023 04:52 PM
Elizabeth A. Brown
Clerk of Supreme Court

vs.

DUSTIN LEWIS,

Respondent.

Case No. 85158

RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE

ANSWERING BRIEF

CAESAR ALMASE, ESQ.
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Almase Law
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Counsel For Respondent

Counsel For Appellant

COMES NOW, Respondent DUSTIN LEWIS, by and through Counsel Of Record, CAESAR ALMASE, and the instant RESPONDENT’S MOTION FOR EXTENSION OF TIME, pursuant to NRAP 31(b)(3), NRAP 26(b)(1), and the attached Declaration of Counsel.

DATED this ____10____ day of March, 2023.

_____/s/ Caesar Almase_____
CAESAR ALMASE, ESQ.
Nevada Bar No. 7974
Almase Law
600 S. 8th St.
Las Vegas, NV 89101
(702) 463-5590
(702) 463-8595
Counsel For Respondent

The undersigned Counsel For Respondent only became aware on March 10, 2023, of this Honorable Court's ORDER DIRECTING FULL BRIEFING, filed on January 12, 2023. In that Order, Appellant was directed to file and serve an Opening Brief and Appendix; and Respondent was directed to file and serve its Answering Brief, 21 days from the date Appellant's Opening Brief was served. Appellant was then directed to file and serve any Reply Brief 14 days after the Answering Brief was served.

As directed, APPELLANT'S OPENING BRIEF, was filed on January 31, 2023; and pursuant to the ORDER DIRECTING FULL BRIEFING, Respondent was to file and serve the Answering Brief by February 21, 2023. However, Counsel for Respondent was not served, or perhaps more accurately, Counsel for Respondent did not receive service of APPELLANT'S OPENING BRIEF or the ORDER DIRECTING FULL BRIEFING.

On May 1, 2022, Almase Law Office changed its physical location and mailing address from 526 S.7th St., Las Vegas, NV, to 600 S. 8th St., Las Vegas, NV, and notice of the filing of the ORDER DIRECTING FULL BRIEFING or APPELLANT'S OPENING BRIEF were not received via US Mail. While Counsel's electronic address of caesar@almaselaw.com has remained the same, similarly, no electronic notice that the ORDER DIRECTING FULL BRIEFING or APPELLANT'S OPENING BRIEF were filed was received. Counsel checked the

status of this matter on March 10, 2023, only because Dustin Lewis, the Respondent, left a message at Almase Law Office.

This is the first Motion For Extension Of Time filed by Respondent in this matter. Should this Honorable Court grant this Motion, Respondent requests 21 days from the date of such Order to file and serve its Answering Brief.

NRAP 31(b)(3) provides:

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

- (i) The date when the brief is due;
- (ii) The number of extensions of time previously granted (including a 14-day telephonic extension), and if extensions were granted, the original date when the brief was due;
- (iii) Whether any previous requests for extensions of time have been denied or denied in part;
- (iv) The reasons or grounds why an extension is necessary (including demonstrating extraordinary and compelling circumstances under Rule 26(b)(1)(B), if required); and
- (v) The length of the extension requested and the date on which the brief would become due.

NRAP 26(b)(1) provides:

(1) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires.

But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, a party may, on or before the due date sought to be extended, request by telephone a single 14-day extension of time for performing any act except the filing of a notice of appeal. If good cause is shown, the clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this Rule will bar any further extensions of time to perform the same act unless the party files a written motion for an extension of time demonstrating extraordinary and compelling circumstances why a further extension of time is necessary.

Counsel for Respondent requests this Honorable Court find this situation be deemed a matter of *excusable neglect*, and that good cause be shown to grant the instant Motion. Given the ORDER DIRECTING FULL BRIEFING and the filing date of January 31, 2023, of APPELLANT’S OPENING BRIEF, the instant Motion should have been filed by February 20, 2023. However, as stated above, Counsel for Respondent did not receive notice of either. Respondent Dustin Lewis should not be made to suffer for the actions of his Counsel, and he remains in custody on this matter. Further, the issues on appeal are novel and are important matters pertaining to Search and Seizure law, which should be considered on its merits.

_____/s/ Caesar Almase
CAESAR ALMASE, ESQ.
Nevada Bar No. 7974
Counsel For Respondent

DECLARATION OF COUNSEL FOR RESPONDENT

CAESAR ALMASE makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; that I am the attorney of record for the Respondent in the instant matter, and that I am familiar with the facts and circumstances of this case.
2. Declarant only became aware on March 10, 2023, of this Honorable Court's ORDER DIRECTING FULL BRIEFING, filed on January 12, 2023.
3. In that Order, Appellant was directed to file and serve an Opening Brief and Appendix; and Respondent was directed to file and serve its Answering Brief, 21 days from the date Appellant's Opening Brief was served.
4. Appellant was then directed to file and serve any Reply Brief 14 days after the Answering Brief was served.
5. As directed, APPELLANT'S OPENING BRIEF, was filed on January 31, 2023; and pursuant to the ORDER DIRECTING FULL BRIEFING, Respondent was to file and serve the Answering Brief by February 21, 2023.
6. However, Counsel for Respondent was not served, or perhaps more accurately, Counsel for Respondent did not receive service of APPELLANT'S OPENING BRIEF or the ORDER DIRECTING FULL BRIEFING.

7. On May 1, 2022, Almase Law Office changed its physical location and mailing address from 526 S.7th St., Las Vegas, NV, to 600 S. 8th St., Las Vegas, NV, and notice of the filing of either the ORDER DIRECTING FULL BRIEFING or APPELLANT'S OPENING BRIEF were received via US Mail.
8. While Counsel's electronic address of caesar@almaselaw.com has remained the same, similarly, no electronic notice that the ORDER DIRECTING FULL BRIEFING or APPELLANT'S OPENING BRIEF were filed was received.
9. Counsel checked the status of this matter on March 10, 2023, only because Dustin Lewis, the Respondent, left a message at Almase Law Office.
10. This is the first Motion For Extension Of Time filed by Respondent in this matter.
11. Should this Honorable Court grant this Motion, Respondent requests 21 days from the date of such Order to file and serve its Answering Brief.

_____/s/ Caesar Almase_____
DECLARANT

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 10th day of March, 2023. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

CAESAR ALMASE, ESQ.
Counsel For Respondent

KAREN MISHLER
Chief Deputy District Attorney / Counsel For Appellant

_____/s/ Caesar Almase_____
CAESAR ALMASE, ESQ.
Nevada Bar No. 7974
Counsel For Respondent