

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASHLEY BENNETT,

S.C. CASE NO. 39864

Appellant,

FILED

vs.

OCT 09 2003

THE STATE OF NEVADA,

Respondent.

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF

COMES NOW, Christopher R. Oram, Esq., attorney for Appellant, ASHLEY BENNETT, and moves this Court for an Order granting an extension of time of eight (8) days from the date the Opening Brief is now due, to wit: October 9, 2003, and extend the time to and including, October 17, 2003 for the filing of the Opening Brief. This motion is made and based upon NRAP 27 and 31(a), the Affidavit of Christopher R. Oram, Esq., filed herewith, and the Points and Authorities attached hereto.

DATED this 7 day of October, 2003.

Respectfully submitted by:



CHRISTOPHER R. ORAM, ESQ.

Nevada Bar No. 004349

520 S. Fourth Street, 2nd Floor

Las Vegas, Nevada 89101

(702) 384-5563

Attorney for Appellant

ASHLEY BENNETT

RECEIVED

OCT 09 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

03-16795

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

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POINTS AND AUTHORITIES

Time for Serving and Filing Briefs.

The appellant shall serve and file the OPENING brief within one hundred and twenty (120) days after the date on which the appeal is docketed in the Supreme Court. The respondent shall serve and file his answering brief within thirty (30) days after service of the brief of the appellant. After service of respondent's brief, any OPENING brief must be served and filed within thirty (30) days. . .

. By written stipulation timely filed with the Supreme Court, the parties may extend the time for filing any brief for a total of thirty (30) additional days unless the court otherwise orders.

Applications for extensions of time beyond that to which the parties are permitted to stipulate are not favored, and will be considered only on motion for good cause clearly shown, or ex parte in cases of extreme and unforeseeable emergency. The Supreme Court may shorten the periods prescribed above for serving and filing briefs, either by rule for all cases or for classes of cases, or by order for specific cases."

That Appellant's Opening Brief in this matter is currently due on October 9, 2003. The undersigned was appointed by the district court on May 29, 2003. When the undersigned was appointed, the district court instructed the undersigned that the opening brief filing date would be 100 days from May 2, 2003 and therefore much of the time to prepare for the appeal had already been expended (the normal 120 days given by this Court after the notice of appeal is filed). The undersigned was only left with 73 days to prepare for the filing of the opening brief. Thereafter, the undersigned requested two additional continuances for thirty (30) days each. The total time the undersigned had for the preparation was 133 days (only 13 days more than the normally given 120 days). Furthermore, the undersigned was not Mr. Bennett's trial counsel and therefore had to review the entire record.

This is the third request for an extension of time. Additionally in this Court's order of September 11, 2003, this Court stated, "... the court disapproves of repeated requests for extensions of time to brief appeals in criminal cases. Consequently, no further extensions of time shall be permitted absent demonstration of extreme and unforeseeable circumstances. Counsel's

1 caseload will not be deemed such a circumstance. . ." The undersigned takes this Court's orders
2 very seriously and apologizes for any inconvenience this extension may cause this Court.
3 However, the undersigned has reviewed Mr. Bennett's entire file and believes Mr. Bennett has
4 multiple issues which are of great significance.
5

6 The undersigned is aware that this Court will not accept caseload as a unforeseeable
7 circumstance, however, the undersigned is concerned that if he submits Mr. Bennett's brief on
8 the October 9, 2003 due date the brief will not be of the proper quality and the undersigned
9 would not feel he gave Mr. Bennett the adequate attention.

10 Therefore, the undersigned would respectfully request that this Honorable Court grant an
11 extension of eight (8) days within which to file Appellant's Opening Brief.

12 DATED this 7 day of October, 2003.

13 Respectfully submitted by:

14 

15 CHRISTOPHER R. ORAM, ESQ.
16 Nevada Bar #004349
17 520 S. Fourth Street, 2nd Floor
18 Las Vegas, Nevada, 89101

19 Attorney for Defendant
20 ASHLEY BENNETT
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CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

AFFIDAVIT OF CHRISTOPHER R. ORAM
IN SUPPORT OF MOTION FOR EXTENSION OF TIME
TO FILE OPENING BRIEF

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

CHRISTOPHER R. ORAM, ESQ., being first duly sworn, deposes and states:

1. I am an attorney duly licensed to practice law in the State of Nevada. I am counsel for the Appellant in the above-entitled matter. I have personal knowledge of all matters contained herein and am competent to testify thereto.

2. That Appellant's Opening Brief in this matter is currently due on October 9, 2003. The undersigned was appointed by the district court on May 29, 2003. When the undersigned was appointed, the district court instructed the undersigned that the opening brief filing date would be 100 days from May 2, 2003 and therefore much of the time to prepare for the appeal had already been expended (the normal 120 days given by this Court after the notice of appeal is filed). The undersigned was only left with 73 days to prepare for the filing of the opening brief. Thereafter, the undersigned requested two additional continuances for thirty (30) days each. The total time the undersigned had for the preparation was 133 days (only 13 days more than the normally given 120 days). Furthermore, the undersigned was not Mr. Bennett's trial counsel and therefore had to review the entire record.

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1 circumstances. Counsel's caseload will not be deemed such a circumstance. . ." The
2 undersigned takes this Court's orders very seriously and apologizes for any inconvenience this
3 extension may cause this Court. However, the undersigned has reviewed Mr. Bennett's entire
4 file and believes Mr. Bennett has multiple issues which are of great significance.


5
6 4. The undersigned is aware that this Court will not accept caseload as a
7 unforeseeable circumstance, however, the undersigned is concerned that if he submits Mr.
8 Bennett's brief on the October 9, 2003 due date the brief will not be of the proper quality and the
9 undersigned would not feel he gave Mr. Bennett the adequate attention.

10
11 5. Therefore, the undersigned would respectfully request that this Honorable
12 Court grant an extension of eight (8) days within which to file Appellant's Opening Brief.

13 6. That this motion is made in good faith and not for purposes of delay.

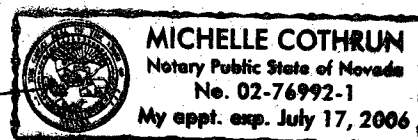
14 FURTHER YOUR AFFIANT SAYETH NAUGHT.

15 DATED this 7 day of October, 2003.

16
17 
CHRISTOPHER R. ORAM, ESQ.

18 SWORN and SUBSCRIBED before me
19 this 7th day of October, 2003.

20 
21 NOTARY PUBLIC in and for said
22 County and State
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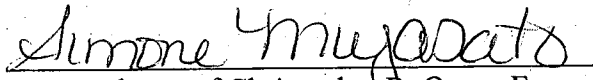
CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

CERTIFICATE OF MAILING

I hereby certify that I am an employee of CHRISTOPHER R. ORAM, ESQ., and that on the 8 day of October, 2003, I did deposit in the United States Postal Service office at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a true and correct copy of the above and foregoing **MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF**, addressed to:

David Roger
District Attorney
200 S. Third Street, 7th Floor
Las Vegas, Nevada 89155

Brian Sandoval
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717


An Employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM
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