

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASHLEY WILLIAM BENNETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39864

FILED

NOV 06 2002

ORDER DENYING MOTION IN PART

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. R. R. R.
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction pursuant to a jury verdict of first degree murder with the use of a deadly weapon. Appellant has moved this court to hold this appeal in abeyance pending the filing and disposition of a motion for a new trial in the court below. Alternatively, appellant requests an extension of time to file the opening brief and appendix to and including February 28, 2003.

Appellant's reliance on Daniels v. State¹ in support of his motion is misplaced. In Varwig v. State,² this court effectively overruled Daniels. Specifically, this court stated:

It has been our experience that the end of judicial economy has not been served by the abeyance procedure announced in Daniels. Specifically, direct appeals from judgments of conviction which have been held in abeyance pending resolution of post-conviction matters are increasingly clogging the dockets of this court. The administrative burden of tracking these delayed appeals and insuring that the matters

¹100 Nev. 579, 688 P.2d 315 (1984).


²104 Nev. 40, 752 P.2d 760 (1988)

pending below are pursued expeditiously has proven to be substantial.³

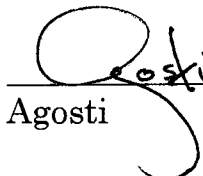
Further, appellant's motion fails to demonstrate: (1) that the instant case is an unusual or extraordinary matter warranting our exercise of discretion to hold the appeal in abeyance; (2) that appellant is likely to succeed on the merits of the motion for a new trial; and (3) that there is a strong likelihood that holding this appeal in abeyance will promote judicial economy.⁴ Accordingly, we deny appellant's request to hold this appeal in abeyance.

Additionally, we are not persuaded that a four-month extension of time is warranted in this matter. Nonetheless, appellant shall have to and including January 3, 2003, within which to file the opening brief and appendix.

It is so ORDERED.


Maupin, C.J.


Rose, J.


Agosti, J.

³Id. at 41-42, 752 P.2d at 760.

⁴Id. at 42, 752 P.2d at 761.

cc: Markoff & Boyers
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Clark County District Attorney