

FIRST COURT OF APPEALS OF TEXAS

Nelson Okwolisa Ilodigwe v. State of Texas

Ilodigwe v. State · No. 01-14-00231-CR · Decided September 28, 2015

SUMMARY

This document is an appellant's motion in the First Court of Appeals of Texas seeking a thirty-day extension of time to file a motion for rehearing en banc. The motion states that the underlying criminal appeal was affirmed and that counsel's absence from the country and subsequent inability to confer with the incarcerated appellant caused the delay.

CASE DETAILS

COURT	First Court of Appeals of Texas
JURISDICTION	Texas
DECIDED	September 28, 2015
DOCKET	01-14-00231-CR
DISPOSITION	other
PROCEDURAL POSTURE	Appellant filed a motion for extension of time to file a motion for rehearing and en banc reconsideration of the appellate court's prior judgment affirming the district court's judgment and jury verdict.
PRECEDENTIAL VALUE	No precedential value determined; the document is a motion filing rather than a substantive court opinion.
PARTIES	Nelson Okwolisa Ilodigwe v. The State of Texas

TOPICS

[appellate procedure](#)[criminal procedure](#)

PRACTICE AREAS

[criminal procedure](#)[appellate procedure](#)

QUESTIONS PRESENTED

1. Whether appellant should receive a thirty-day extension of time to file a motion for rehearing and en banc reconsideration under the Texas Rules of Appellate Procedure.

FACTUAL BACKGROUND

The First Court of Appeals had previously affirmed the district court's judgment and jury verdict. Appellant's counsel stated that he had been out of the country when the appellate judgment was rendered and could not confer with appellant, who was incarcerated in Huntsville, Texas, until shortly before the filing deadline. Appellant requested a thirty-day extension to file a motion for rehearing en banc and represented that it was his first extension request.

PROCEDURAL HISTORY

The 248th Judicial District Court of Harris County entered the judgment challenged on appeal in trial court cause number 1361714. The First Court of Appeals issued an opinion on August 27, 2015, affirming the district court's judgment. Appellant then sought a thirty-day extension to file a motion for rehearing en banc.

DISPOSITION

other

OPINION

PER CURIAM.

ACCEPTED 01-14-00231-CR FIRST COURT OF APPEALS HOUSTON, TEXAS 9/28/2015
6:28:11 PM CHRISTOPHER PRINE CLERK NO. 01-14-00231-CR

FILED IN 1st COURT OF
APPEALS HOUSTON, TEXAS IN THE FIRST COURT OF APPEALS 9/28/2015 6:28:11 PM
FOR THE STATE OF TEXAS CHRISTOPHER Clerk A. PRINE

NELSON OKWOLISA
ILODIGWE V. THE STATE OF TEXAS

MOTION FOR
EXTENSION OF TIME TO FILE MOTION FOR REHEARING EN BANC

Appeal from the 248th
Judicial District Court Harris County Texas Trial Court Cause No. 1361714

BRIEF OF APPELLANT,
NELSON OKWOLISA ILODIGWE

Alphonsus O. Ezeoke Texas
Bar No. 24025356 1810 Cravens Road, Suite C Stafford, Texas 77477 Tel.

(281) 499-0505 Fax. (281) 499-8282 e-mail: Ezeoke@gmail.com Attorney for Appellant Nelson Okwolisa Ildigwe 1|Page TO THE HONORABLE FIRST COURT OF APPEALS: Pursuant to TEX. R. APP. P. 49, Appellant, Nelson Okwuolisa Ildigwe, files this Motion to Extend Time to File Motion for Rehearing and En Banc Consideration.

In support of this Motion, Appellants show the Court as follows: 1. On August 27, 2015, this Honorable Court issued an opinion regarding Mr. Ildigwe’s appeal. The Court affirmed the

judgment of the District Court. The filing of the motion for Rehearing en Banc was due on the 15th day following the date of the judgment of this Court.

The motion was due on September 13th 2015. 2. Per the Texas Rules of Appellate Procedure 49.8, Ilodigwe had up until 15 days from the date of the judgment to file a motion seeking extension of time to file the motion for Rehearing En Banc. 3. Appellant's counsel was out of the country when the judgment was rendered. Upon returning from his trip, counsel could not confer with Mr. Ilodigwe regarding his rights to file a motion for rehearing until last weekend when he was able to speak to him.

Mr. Ilodigwe is in prison in Huntsville Texas. 4. After consulting with Mr. Ilodigwe and his family, they are of the opinion that the undersigned counsel should file a motion for rehearing to bring to 2|Page the attention of the Court that the basis of its judgment affirming the trial court's actions and the jury verdict were erroneous. 5. Appellant is seeking a Thirty-day (30 days) extension from the date of this motion to file the Motion for Rehearing En Banc.

6. This is the first request for extension by Ilodigwe seeking to file his Motion for Rehearing, and no further requests for extension are anticipated in the future. 7. All stated facts are known ex officio or are within the personal knowledge of the Appellant. Tex. R. App. P. 10.2. 8. This motion is definitely not sought for delay because delay would be detrimental to Mr. Ilodigwe's cause.

PRAYER FOR RELIEF For the reasons stated hereinabove, Appellant requests that this Court grant this Motion for Extension of Time to file Motion for Rehearing En Banc, and in the interest of justice, grant the thirty-day extension. Respectfully Submitted EZEoke & EZEoke, P.C. 3|Page _____ Alphonsus O. Ezeoke Texas Bar No. 24025356 1810 Cravens Road, Suite C Stafford, Texas 77477 Tel.

(281) 499-0505 Fax. (281) 499-8282 Attorney for Appellant Nelson Okwuolisa Ilodigwe
CERTIFICATE OF SERVICE I hereby certify that on this September 28, 2015, a true and correct copy of the foregoing instrument was served upon the Assistant District Attorney via Texas E-filing. _____ Alphonsus O. Ezeoke 4|Page
CERTIFICATE OF CONFERENCE On September 28, 2015, I made a reasonable effort to confer with the Assistant District Attorney for the State of Texas, Jessica Caird at (713) 755-5826, regarding this motion.

The operator told me that Ms Caird was unavailable today, but would leave a message for her. Due to the deadline involved in this matter, I had to file this motion without knowing whether Ms Caird is opposed or unopposed to the motion. _____ Alphonsus O. Ezeoke
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