

SEVENTH COURT OF APPEALS OF TEXAS AT AMARILLO

Roderick Jordan v. State

Jordan v. State · No. 07-14-00440-CR · Decided April 21, 2015

SUMMARY

This document is a second motion requesting an extension of time to file an appellant's brief in a Texas criminal appeal. The appellant, convicted of murder, asserts scheduling, workload, medical, teaching, and other circumstances as good cause and requests an extension until May 22, 2015.

CASE DETAILS

COURT	Seventh Court of Appeals of Texas at Amarillo
JURISDICTION	Texas
DECIDED	April 21, 2015
DOCKET	07-14-00440-CR
DISPOSITION	other
PROCEDURAL POSTURE	Appellant moved for a second extension of time to file his brief in a criminal appeal.
PRECEDENTIAL VALUE	nonprecedential procedural filing
PARTIES	Roderick Jordan v. The State of Texas

TOPICS

appellate procedure

criminal procedure

PRACTICE AREAS

criminal appellate procedure

criminal procedure

QUESTIONS PRESENTED

1. Whether the court should grant a second extension of time for appellant to file his brief.

KEY QUOTATIONS

“This Motion is not brought for purposes of delay but so that the lengthy appellate record in this case can be read and evaluated, and so that the legal and factual issues presented by the appellate record can be properly briefed and presented to this Court on Appellant’s behalf.” (4)

FACTUAL BACKGROUND

Jordan was convicted of murder and sentenced to twenty years' imprisonment. His appointed appellate counsel stated that the appellate record was lengthy and that preparation of the brief had been delayed by work on other appeals, oral-argument preparation, teaching obligations, and personal matters. The motion represented that the case was not yet set for submission and requested an extension from April 22 to May 22, 2015.

PROCEDURAL HISTORY

Roderick Jordan was convicted of murder and sentenced to twenty years' imprisonment. After receiving one extension, with his appellant's brief due on April 22, 2015, he sought a further extension through May 22, 2015, citing counsel's workload, personal and professional obligations, and the need to review the lengthy appellate record.

DISPOSITION

other

CASES CITED

- Mark McCay v. The State of Texas, No. 05-12-01199-CR
- Demuntra Rashard Green v. The State of Texas, No. 05-14-01264-CR
- Terry Ray McMillan v. The State of Texas, No. 05-14-01419-CR

OPINION

PER CURIAM.

ACCEPTED 07-14-00440-CR SEVENTH COURT OF APPEALS AMARILLO, TEXAS 4/21/2015 4:09:16 PM Vivian Long, Clerk No. 07-14-00440-CR FILED IN 7th COURT OF APPEALS RODERICK JORDAN § IN THE SEVENTH AMARILLO, TEXAS 4/21/2015 4:09:16 PM V. § COURT OF APPEALS VIVIAN LONG CLERK THE STATE OF TEXAS § AT AMARILLO, TEXAS SECOND MOTION FOR AN EXTENSION OF TIME IN WHICH TO FILE APPELLANT'S BRIEF TO THE HONORABLE JUDGES OF SAID COURT: COMES NOW Roderick Jordan, Appellant in this cause, by and through his duly appointed attorney on appeal, and requests that this Court further extend the time in which to file Appellant's Brief.

I. Appellant was convicted of murder and sentenced to twenty (20) years' imprisonment. II. The due date for Appellant's Brief, set on one extension, is April 22, 2015. The case is not yet set for submission. III. The undersigned attorney recognizes that, in its notice granting the previous extension of time, the clerk advised that the Court "does not grant requests for subsequent extensions absent good cause.

The Court does not generally consider the normal press of business good cause. " IV. Appellant submits that good cause exists for this requested extension. Appellant relies on the following facts

to explain why the brief has not yet been prepared and the need for a further extension of time in which to file the brief: (1) The undersigned attorney's work schedule, both on this case and on other matters, was disrupted by long standing vacation plans with non-refundable expenses from March 26 through March 30, 2015.

Additionally, the undersigned attorney was out of her office for significant periods of time on April 7 and April 20, 2015, to handle medical appointments and on April 16, 2015, to handle personal matters which could not be attended to on a weekend.

The undersigned attorney's spouse is scheduled for surgery on April 22 and April 29, 2015, which will necessitate additional time out of the office. (2) The undersigned attorney presented oral argument in *Mark McCay v. The State of Texas*, No. 05-12-01199-CR, in the Fifth Court of Appeals on April 15, 2015.

The McCay record is in excess of 2000 pages and the case presents three issues of first impression regarding the indictment. All other legal work was suspended on April 7, 2015 and not resumed until April 17, 2015, so that the undersigned attorney could fully prepare for this unique oral argument. Indeed, while the undersigned attorney usually requires 10-12 hours to fully prepare for oral argument on any given case, approximately 38 attorney hours were expended in oral argument preparation on McCay.

(3) Prior to beginning work on this case, the undersigned attorney must complete and file a brief in *Demuntra Rashard Green v. The State of Texas*, No: 05-14-01264-CR. Work on the Green brief began on April 2, 2015, and approximately 18 attorney hours have been expended on that case as of the date and time of this motion.

The record, which is in excess of 400 pages, has been read in its entirety and four points of error are currently being researched. As noted in the preceding paragraph, however, work on that case was suspended on April 7, 2015, to prepare for the McCay argument.

The undersigned attorney hopes to have the Green brief completed and filed within the next 5-8 business days. (4) Additionally, since March 13, 2015, the undersigned attorney has expended approximately 50 hours working on a brief in *Terry Ray McMillan v. The State of Texas*, No: 05-14-01419-CR.

The record in the McMillan case is extensive, consisting of over 1300 pages. The case is currently on an abatement due to missing/destroyed exhibits. The trial court entered Findings this morning on the McMillan case and the undersigned attorney expects the abatement to be dissolved and the brief ordered filed within the next few weeks. 3 (5) Lastly, the undersigned attorney is an adjunct professor at Texas A&M School of Law teaching a rigorous writing seminar this spring.

Students turned in the first drafts of their seminar papers on March 31, 2015; the undersigned attorney returned fully critiqued papers to the students on April 14, 2015, so that the students would have a full two weeks to correct their work before submitting their final papers for final grades on April 28, 2015. Reading and critiquing the seminar papers consumed approximately 30 hours of the undersigned attorney's time over the course of nights and weekends from April 1 through April 13, 2015.

Those hours on nights and weekends would otherwise have been devoted to brief preparation in the undersigned attorney's pending cases. (6) The brief in the case at bar is essentially "next" on the undersigned attorney's docket and will be started just as soon as the Green and McMillan briefs are completed and filed. If the Fifth Court of Appeals affords significant additional briefing time on the McMillan case, the undersigned attorney will brief this case before completing the brief in McMillan.

V. This Motion is not brought for purposes of delay but so that the lengthy appellate record in this case can be read and evaluated, and so that the legal and factual issues presented by the appellate record can be properly briefed and presented to this Court on Appellant's behalf. 4 WHEREFORE, Appellant requests that this Court extend Appellant's deadline to file his brief to May 22, 2015.

If the undersigned attorney can file the brief sooner, she will do so. Respectfully submitted, /s/ Katherine A. Drew Lynn Pride Richardson Katherine A. Drew Chief Public Defender Assistant Public Defender Dallas County, Texas State Bar No. 06117800 Frank Crowley Courts Building 133 N. Riverfront Blvd., LB-2 Dallas, Texas 75207-4399 (214) 875-2360 (phone) (214) 875-2363 (fax) Kathi.Drew@dallascounty.org CERTIFICATE OF SERVICE I hereby certify that a true copy of the foregoing motion was served on the Dallas County Criminal District Attorney's Office (Appellate Section), 133 N. Riverfront Blvd., B-19, 10th Floor, Dallas, Texas, 75207, by both electronic transmission and by hand delivery on April 21, 2015. /s/ Katherine A. Drew Katherine A. Drew 5