

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN J. BROOKS II,

Petitioner,

vs.

LEGISLATURE OF THE
STATE OF NEVADA,

Respondent.

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Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court Case No. 62734

Original Action for Writ of Mandamus

**LEGISLATURE'S MOTION FOR
EXTENSION OF TIME TO FILE ANSWER**

BRENDA J. ERDOES, Legislative Counsel

Nevada Bar No. 3644

erdoes@lcb.state.nv.us

LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

401 S. Carson Street

Carson City, NV 89701

Tel: (775) 684-6830; Fax: (775) 684-6761

Attorneys for Respondent Legislature of the State of Nevada

MOTION

Pursuant to NRAP 27 and NRAP 31(b)(3), Respondent Legislature of the State of Nevada (Legislature), by and through its counsel, the Legal Division of the Legislative Counsel Bureau under NRS 218F.720, hereby files this Motion for an Extension of Time to File an Answer. Pursuant to the Court's March 6, 2013 order, the Court provided the Legislature with 11 days, until March 18, 2013, to file an answer to the original petition for writ of mandamus filed by Assemblyman Steven J. Brooks II on March 5, 2013. The Legislature is respectfully asking the Court for a 9-day extension of time until March 27, 2013, to file its answer to Mr. Brooks' petition for writ of mandamus. The Legislature has not previously requested any extensions of time in this case.

STATEMENT OF REASONS FOR REQUESTED EXTENSION

On March 5, 2013, Mr. Brooks filed an original petition for writ of mandamus challenging the decision of the Nevada Assembly to place him on administrative leave from his responsibilities as an Assemblyman pending further investigation by the Select Committee on the Assembly into his fitness to serve as a member of the Assembly pursuant to Assembly Resolution No. 5 of the 77th Regular Session of the Nevada Legislature and Article 4, Section 6 of the Nevada Constitution. On March 6, 2013, this Court entered an order directing the Legislature to file an answer to Mr. Brooks' petition by March 18, 2013.

Because Mr. Brooks' petition is lacking in cogent legal argument and citation to authority and because Mr. Brooks has not complied with the Court's order to file and serve an appendix as required by NRAP 21(a)(4), the Legislature is requesting a 9-day extension of time until March 27, 2013, in order to provide the Court with the comprehensive legal argument, citation to authority and proper documentation that is necessary to understand the complex legal issues presented by the petition. In addition, the Legislature is also requesting an extension of time because the resources of its legal staff are urgently and immediately needed to complete all bill drafting by this legislative session's bill introduction deadlines of March 18 and March 25, 2013.

In prior cases, this Court has instructed counsel that it "expects all [cases] to be pursued with high standards of diligence, professionalism, and competence." Barry v. Lindner, 119 Nev. 661, 671 (2003); Polk v. State, 126 Nev. ---, 233 P.3d 357, 359 (2010). This duty requires counsel to avoid lackadaisical litigation practices, such as discussing issues without including "cogent argument and citation to relevant authority." Berkson v. Lepome, 126 Nev. ---, 245 P.3d 560, 566 (2010).

Despite the magnitude, complexity and importance of the constitutional issues raised by this case, Mr. Brooks' petition is lacking in cogent legal argument and citation to authority as required by NRAP 21(a)(3) and NRAP 28(a)(9). In his

petition, Mr. Brooks' entire legal argument consists of three conclusory paragraphs containing citations to only two cases and no other authorities. Mr. Brooks' legal argument is so lacking that it fails to cite or reproduce the relevant provisions of Article 4, Section 6 of the Nevada Constitution, which is the constitutional provision that is central to the legal issues raised by this case. This failure in citation and reproduction is directly contrary to NRAP 28(f), which provides that "[i]f the court's determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form."

Furthermore, in its order, the Court noted that Mr. Brooks had not provided an appendix in support of his petition as required by NRAP 21(a)(4). Accordingly, the Court directed Mr. Brooks to file and serve, by no later than March 13, 2013, an appendix containing the letter placing Mr. Brooks on administrative leave and any other documentation that may be relevant to the Court's review of the petition. At the close of the business day on March 14, 2013, Mr. Brooks had not filed the appendix as required by the Court, and he had not served it on the Legislature.

To this point in the case, Mr. Brooks' documents and pleadings have fallen well below the "high standards of diligence, professionalism, and competence" expected by the Court. As a consequence, the Legislature is requesting a 9-day extension of time until March 27, 2013, in order to provide the Court with the

comprehensive legal argument, citation to authority and proper documentation that is necessary to understand the complex legal issues presented by the petition.

In addition, the Legislature is also requesting an extension of time because the resources of its legal staff are urgently and immediately needed to complete all bill drafting by this legislative session's bill introduction deadlines of March 18 and March 25, 2013. The Nevada Constitution limits regular sessions of the Legislature to 120 consecutive calendar days beginning on the first Monday of February of each odd-numbered year. Nev. Const. art. 4, §2. To effectively and efficiently perform its lawmaking functions within this extremely limited timeframe, the Legislature adopts Joint Standing Rules each session that set deadlines for when bills must be introduced to be considered by the Houses. See Joint Standing Rule No. 14.2, as adopted by Assembly Concurrent Resolution No. 1, 77th Leg. (2013).

For the 2013 legislative session, bills requested by Legislators must be introduced by March 18, 2013, and bills requested by Committees must be introduced by March 25, 2013. In order to meet these critical deadlines in the legislative process, the resources of the Legislature's legal staff are urgently and immediately needed to complete all bill drafting before the deadlines. Therefore, in addition to the other reasons set forth in this motion, the Legislature is

requesting a 9-day extension of time until March 27, 2013, in order to maximize its bill-drafting resources before the deadlines.

CONCLUSION

Based on the foregoing, the Legislature respectfully asks the Court to grant its motion for a 9-day extension of time until March 27, 2013, to file its answer to Mr. Brooks' petition for writ of mandamus.

DATED: This **15th** day of March, 2013.

Respectfully submitted,

By: /s/ Brenda J. Erdoes

BRENDA J. ERDOES

Legislative Counsel

Nevada Bar No. 3644

erdoes@lcb.state.nv.us

LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

401 S. Carson Street

Carson City, NV 89701

Tel: (775) 684-6830; Fax: (775) 684-6761

Attorneys for Respondent Legislature

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 15th day of March, 2013, pursuant to the Court's March 6, 2013 order and the Nevada Electronic Filing Rules, I served a true and correct copy of the Legislature's Motion for Extension of Time to File Answer, by means of the Nevada Supreme Court's electronic filing system and by electronic mail, directed to the following:

MITCHELL L. POSIN, ESQ.
LAW OFFICES OF MITCHELL POSIN, CHTD.
850 E. Bonneville Avenue
Las Vegas, NV 89101
mposin@gmail.com
Attorneys for Petitioner

/s/ Brenda J. Erdoes _____
An Employee of the Legislative Counsel Bureau