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Sixth District

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P.9.26
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IN THE
COURT OF APPEALS
SIXTH APPELLATE DISTRICT OF TEXAS AT TEXARKANA

FILED IN
The Court of Appeals
Sixth District
JUL 07 2016

Texarkana, Texas
Debra K. Autrey, Clerk

No. 06-15-00182-CR

CHRISTOPHER ALAN RAY, APPELLANT

V

THE STATE OF TEXAS, APPELLEE

MOTION FOR EXTENSION OF TIME
TO FILE FOR REHEARING

COMES NOW, CHRISTOPHER ALAN RAY PURSUITANT TO APPELLATE RULE 10.5(b) AND WOULD LIKE TO SHOW THE COURT THE FOLLOWING:

I

MOTION FOR REHEARING DEADLINE IS JULY 5th, 2016.

II

APPELLANT IS SEEKING AN EXTENSION OF 30-60 DAYS TO ADEQUATELY AND DILIGENTLY PREPARE MOTION FOR REHEARING.

III

FOR THE FOLLOWING REASONS APPELLANT REQUEST THIS TIME:

A) I RECEIVED MY LETTER FROM THE APPEALS COURT ON JUNE 20, 2016 AND 2 DAYS AFTER RECEIVING MY LETTER ~~GRANTING~~ GRANTING EXTENSION TO JULY 5th 2016, ON JUNE 22, 2016 MY UNIT WENT ON IT'S ANNUAL LOCKDOWN. DURING LOCKDOWN NO ONE HAS ACCESS TO THE COURTS. LATE ON JULY 1, 2016 WE (THE UNIT) WERE RELEASED OFF OF LOCKDOWN. THE COURTS ARE NOT OPEN ON THE WEEKENDS AND WITH JULY 4, 2016 (Holiday) BEING ON A MONDAY THE COURTS WILL BE CLOSED, AND WILL NOT BE REOPENED UNTIL JULY 5, 2016 ACCORDING TO THE LAW LIBRARY SUPERVISOR.

B) I AM A LAYMAN AND I AM DILIGENTLY TRYING TO FIGURE OUT THE LAW AS TO PROGRESS IN MY RESEARCH. I HAVE RECENTLY CAME INTO CONTACT WITH A PROFESSIONAL WRIT WRITER WHO IS NOW HELPING ME WITH MY CASE AT BAR. WE ARE NOT CURRENTLY HOUSED TOGETHER OR IN THE SAME BUILDING SO, THE LAW LIBRARY PROVIDES BOTH OF US TIME TOGETHER WORKING DILIGENTLY ON MY CASE. HE IS CURRENTLY AWAITING ON CHAINS TO ANOTHER UNIT SO HE CAN FINISH HIS TIME AND TO BE PAROLED OUT.

C) UNIT ONLY ALLOWS ONLY 2 HOURS PER DAY, MONDAY - FRIDAY, AND CURRENTLY PROVIDES (INMART) A COPYING AND PAGING SYSTEM. NOTOROUSLY RECOGNIZED AS CONSTITUTIONALLY INADEQUATE. FURTHERMORE, PRINT REQUESTS CAN ONLY BE 3 PER REQUESTS AND 3 PER DAY, AND REQUIRE A 24 HOUR GRACE PERIOD BEFORE PRINTOUTS HAVE TO BE PROVIDED. ALSO PRINTOUTS ARE NOT ALLOWED OUT OF THE LAW LIBRARY.

D) I HAVE A UNIT JOB THAT I WORK 5 HRS A WEEK ON THE EARLIER MORNING HOURS, ROUGHLY 12:00AM - 8:00AM OR LATER.

E) NEW MATERIAL MAY BE ADDED IN THE MOTION FOR REHEARING.

IV

ARGUMENT:

A PAGING OR COPYING SYSTEM DOES NOT PROVIDE PRISONERS WITH CONSTITUTIONALLY ADEQUATE LAW LIBRARY ACCESS. SEE GREEN V. KASKLE, 788 F. 2d 1116, 1126 (5th CIR 1986)(LIMITED LAW LIBRARY ACCESS FOR PRISONERS ARE FACTS OF CONSTITUTIONAL IMPLICATION). SEE JOHN BOSTON & DANI-L E. MANVILLE, PRISONER'S SELF-HELP LITIGATION MANUAL, 4th Ed., 242 & n. 536 (COURTS UNDERSTAND THAT "PAGING" SYSTEM, DOES NOT PROVIDE ADEQUATE COURT ACCESS FOR PRISONERS WHO WILL GENERALLY NOT KNOW WHAT MATERIALS TO ASK FOR) - N. 536 KNOP V. JOHNSON, 977 F. 2d 996, at 1006-07 (6th CIR 1992); DEMALLORY V. CULLEN, 855 F. 2d, 442 AT 446-47 (7th CIR 1988); KAISER V. CITY OF SACRAMENTO, 780 F. SUPP. 1309, 1316 (E.D. CAL 1992); NORLEY

V. COUNTY OF ERIE, 776 F. SUPP. 715, 716 (W.D. N.Y. 1991); MESSERE V. FAIR, 752 F. SUPP. 48, 50 (D. MASS. 1990); MALLET V. PHINNEY, 791 F. SUPP. 288, 292 (D. ME. 1990); JOHNSON V. GALLI, 596 F. SUPP. 135 AT 138 (D. NEV. 1984); MATRONO V. CAREY, 563 F. SUPP. 984, 1003-04 (D. OR. 1983); LA PLANTE V PENE 307 F. SUPP. 2d. 219, 220-21 (D. MASS. 2004)(NOTING THAT REQUIRING PRISONERS TO DESIGNATE NEEDED MATERIALS BY CITATION MAY VIOLATE THE RIGHT TO ACCESS THE COURTS).

THESE CIRCUMSTANCES ARE NOT TOTALLY UNDER THE CONTROL OF APPELLANT, SO THEY CANNOT BE CALLED DELIBERATE OR INTENTIONAL, BUT ARE THE RESULT OF INADVERTANCE, MISTAKE, OR MISCHANCE. THUS, THEY ARE ACCEPTABLE AS A REASONABLE EXPLANATION FOR EXTENSION OF TIME, AND THE APPELLEES WILL NOT SUFFER ANY MATERIAL HARM. SEE GARCIA V. KASTNER FARMS, INC. 774 S.W. 2d 668, 670 (TX. 1989); NOLAN V. RAMSEY, 783 S.W. 2d 212 (TX. 1990); & HEAD V 13th COURT of APPEALS, 811 S.W. 2d 570, 571 (TX. 1991).

AS FOR NEW MATERIAL BEING ADDED IN A MOTION FOR REHEARING, SEE BONILLA V. STATE, 933 S.W. 2d 538, 543 (?), REHEARING OVERRULED (APP. 1ST DIST. 1995)(CITING: ROCHELLE V. STATE, 799 S.W. 2d 121, 124-25 (TX. CR. APP. 1990); TALLANT V. STATE, 742 S.W. 2d 292, 294 (TX. CR. APP. 1987); SEE ALSO PERKINS V STATE, 905 S.W. 2d 451, 453 (APP 5th DIST. 1995)(COURT OF APPEALS HAS DISCRETION TO CONSIDER NEW MATTERS RAISED IN MOTION FOR REHEARING); CF ALSO, TAYLOR V. TRANS. CONTINENTAL PROPERTIES, LTD., 739 S.W. 2d 873, (?)(APP 4th DIST. 1987)(LATER CLAIM CANNOT BE RAISED IN APPELLANT BRIEF, NOR INCORPORATED IN MOTION FOR REHEARING) THUS, APPELLANT IS TRYING TO MAKE SURE HE IS PRESERVING ERROR AT A MINIMUM FOR LATER REVIEW.

PRAYER

WHEREFORE, PREMISES CONSIDERED, APPELLANT PRAYS THAT THIS COURT GRANTS HIM THE ALLOTTED EXTENSION OF TIME. MAY IT BE SO! SO BE IT!

RESPECTFULLY SUBMITTED

CHRISTOPHER ALAN RAY
TDCJ # 02034851
PRICE DANIEL UNIT
938 S. FM. 1673
SNYDER, TX 79549

CERTIFICATE of SERVICE

I, CHRISTOPHER ALAN RAY, TDCJ# 02034851, CURRENTLY CONFINED AT SCURRY COUNTY, TX, DO HEREBY DECLARE UNDER PENALTY OF PERJURY, THAT THE FOLLOWING FACTS ARE BOTH TRUE AND CORRECT, AND STATES TO THE BEST OF MY PERSONAL KNOWLEDGE: ON 7/3/2016, I PLACED THE FORGOING MOTION FOR EXTENSION OF TIME TO FILE FOR REHEARING IN THE PRISON MAILING SYSTEM FOR MAILING TO:

SIXTH DISTRICT COURT OF APPEALS
BI-STATE JUSTICE BUILDING
100 NORTH STATE LINE AVENUE #20
TEXARKANA, TX 75501

ON THE SAME DAY, I AM ALSO SERVING COUNSEL FOR THE APPELLEE:

ADA NATALIE A. MILLER
405 N. TITUS
GILMER, TX 75644

SIGNED AND EXECUTED: /s/ Christopher Alan Ray

CHRISTOPHER ALAN RAY PRO SE
7/3/2016