

DEC 17 2014

E CCF
Ronald R. Carpenter
Clerk

NO. 90754-4

SUPREME COURT OF THE STATE OF WASHINGTON

KNOCK OUT, INC.,

Appellant,

v.

STATE OF WASHINGTON, LIQUOR
CONTROL BOARD,

Respondent.

RESPONDENT'S
ANSWER TO MOTION
FOR EXTENSION OF
TIME

I. INTRODUCTION AND PARTY OPPOSING RELIEF

The Washington State Liquor Control Board opposes Knock Out's motion to extend time to file its petition for review because the reasons given for Knock Out's delay do not meet the high standard set forth in RAP 18.8. Knock Out has not shown that its delay in consulting appellate counsel and counsel's vacation constitute extreme circumstances justifying it late filing or that an extension is required to prevent a gross miscarriage of justice.

II. STATEMENT OF MATERIAL FACTS

The Appellant admittedly filed the petition for discretionary review two days late under RAP 13.4. Counsel's declaration filed with the motion for extension describes the Appellant's late consultation with him,

and his efforts to keep his existing vacation schedule and complete the work needed to prepare and file the petition within the time allowed.

III. ARGUMENT

The Liquor Control Board does not agree that Knock Out's grounds for failing to file the petition for review within the time required meet the high standard set by RAP 18.8. The lack of time counsel had to prepare the petition was due to the Appellant having failed to contact him until nearly the due date. Unlike the case Appellant cites, which involved a recently revised rule, the applicable rules in this case mandating the filing date have not changed. While counsel made efforts to file the petition timely, the failure to do so is not excused by the rules.

The standard for granting an extension of time to file a petition for review in RAP 18.8 requires a showing of "extreme circumstances" and that an extension is required to "prevent a gross miscarriage of justice." The circumstances described in Appellant's motion do not meet this standard.

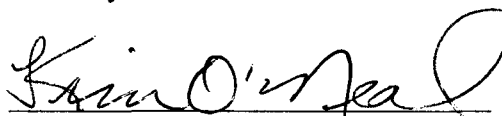
However, both parties have now briefed the issue of whether review should be granted, and we believe the record strongly supports the decisions reached by the courts below. Further review is not warranted by this record. There is no issue requiring further review.

IV. CONCLUSION

Knock Out has not met its burden under RAP 18.8 and the motion to extend time to file the petition for review should be denied.

RESPECTFULLY SUBMITTED this 16th day of December, 2014.

ROBERT W. FERGUSON
Attorney General

A handwritten signature in black ink that reads "Kim O'Neal". The signature is written in a cursive style and is positioned above a horizontal line.

Kim O'Neal
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KNOCK OUT, INC., d/b/a STAR
MART,

Appellant,

v.

STATE OF WASHINGTON LIQUOR
CONTROL BOARD,

Respondent.

DECLARATION OF
SERVICE

I, Jeanne Roth, make the following declaration:

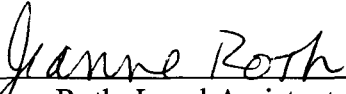
1. I am over the age of 18, a resident of Pierce County, and not a party to the above action.

2. On December 17, 2014, I caused to be served a true and correct copy of Respondent's Answer to Motion for Extension of Time and this Declaration of Service via U.S. Mail:

Steven E. Turner
Steven Turner Law PLLC
1409 Franklin St, Ste 216
Vancouver, WA 98660

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 17th day of December, 2014, at Olympia,
Washington.



Jeanne Roth, Legal Assistant