

**RECEIVED
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STATE OF WASHINGTON
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Nov 18, 2016, 1:36 pm

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Supreme Court No. 93678-1
Court of Appeals No. 32758-2-III

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND HEALTH SERVICES,

Respondent,

v.

HOLLY E. SNYDER,

Appellant.

**ANSWER TO APPELLANT'S MOTION FOR EXTENSION OF
TIME**

ROBERT W. FERGUSON
Attorney General

KATHERINE M. CHRISTOPHERSON
Assistant Attorney General
WSBA #40707
OID #91109
1116 W. Riverside, Ste. 100
Spokane, WA 99201-1106
(509) 456-3123

 **ORIGINAL**

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I. INTRODUCTION

“[T]he desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time” under RAP 18.8(b). In this case, Petitioner Holly Snyder asks this Court to extend the deadline for filing her petition for review. Because she demonstrates no “extraordinary circumstance” justifying her untimeliness, her motion should be denied.

II. BRIEF STATEMENT OF FACTS

On August 30, 2016, Division III of the Court of Appeals issued an order denying Ms. Snyder’s motion for reconsideration. Appendix A. The court Clerk sent a letter to Ms. Snyder’s attorney the same day. Appendix A. In the letter, the Clerk specifically highlighted the requirements for an appeal, stating, “A party seeking discretionary review must file a Petition for Review, an original and a copy of the Petition for Review in this Court within 30 days after the Order Denying Motion for Reconsideration is filed....” Appendix A (citing RAP 13.4(a)).

On September 29, 2016, Ms. Snyder’s attorney filed a one-page “Notice of Discretionary Review” with Division III. Appendix B. This Court responded to this filing in a letter dated October 5, 2016, identifying the deficiencies of Ms. Snyder’s attempt to appeal Division III’s order. *See* Supreme Court Docket. In response, Ms. Snyder filed the current

motion before the court seeking an extension of the 30-day limitation imposed by RAP 13.4(a).

III. ARGUMENT

RAP 18.8(b) governs disposition of untimely appeals:

(b) Restriction on Extension of Time. The appellate court will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the time within which a party must file a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the Court of Appeals, a petition for review, or a motion for reconsideration. The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section.

RAP 18.8(b). Appellate courts “apply this test rigorously.” *State v. Moon*, 130 Wn. App. 256, 260, 122 P.3d 192 (2005). As a result, “there are very few instances in which Washington appellate courts have found that this test was satisfied.” *Id.* (citing *Reichelt v. Raymark Indus., Inc.*, 52 Wn. App. 763, 765, 764 P.2d 653 (1988)). The burden is on Ms. Snyder to provide “sufficient excuse for [her] failure to file a timely notice of appeal” and to demonstrate “sound reasons to abandon the [judicial] preference for finality.” *Id.* (quoting *Schaefco, Inc. v. Columbia River*

Gorge Comm'n, 121 Wn.2d 366, 368, 849 P.2d 1225 (1993). Ms. Snyder has failed to meet this burden here.

Ms. Snyder asks this Court to grant her an extension of time because, "Petitioner's counsel erred." Petitioner's Motion at 1. She also appears to place responsibility for her untimely filing upon this Court, stating "counsel called the Supreme Court Clerk to ensure it was filed correctly and was told it was submitted correctly." Petitioner's Motion at 1-2. Neither of these reasons represents an appropriate ground to grant Ms. Snyder's motion for an extension of time. "It is incumbent upon any attorney to institute internal office procedures sufficient to assure that" appeal deadlines are not missed. *See Beckman ex rel. Beckman v. State, Dep't of Soc. & Health Servs.*, 102 Wn. App. 687, 696, 11 P.3d 313 (2000) (quoting *State v. One 1977 Blue Ford Pick-up Truck*, 447 A.2d 1226 (Me. 1982)). Negligence, or the lack of reasonable diligence, does not amount to extraordinary circumstances under RAP 18.8(b). *Beckman*, 102 Wn. App. at 695. Ms. Snyder has already enjoyed several levels of review in this case. The desirability of finality regarding the decision below outweighs the "privilege" of an extension. RAP 18.8(b). Because Ms. Snyder has failed to carry her burden under RAP 18.8(b), this Court should deny her motion.

IV. CONCLUSION

Based on the foregoing, the Respondent requests this Court deny Ms. Snyder's Motion for Extension of Time to Submit Petition for Review.

RESPECTFULLY SUBMITTED this 18th day of November, 2016.

ROBERT W. FERGUSON
Attorney General

Chris Jordan #49968
for KATHERINE M. CHRISTOPHERSON
Assistant Attorney General
WSBA #40707
OID #91109
1116 W. Riverside, Ste. 100
Spokane, WA 99201-1106
(509) 456-3123

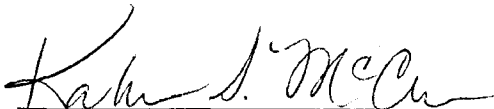
PROOF OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

Douglas D. Phelps	<input type="checkbox"/> US Mail
Attorney at Law	<input type="checkbox"/> ABC/Legal Messenger
2903 N. Stout Rd.	<input checked="" type="checkbox"/> Hand delivered by Katie Christopherson
Spokane, WA 99206-4373	<input type="checkbox"/> E-mail:

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 18th day of November, 2016 at Spokane, Washington.



Kahren S. McCrow

Appendix A

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*



500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>

August 30, 2016

Katherine Marie Christopherson
Washington State Attorney General's Office
1116 W Riverside Ave
Spokane, WA 99201-1106
katiec1@atg.wa.gov

Douglas Dwight Phelps
Phelps & Associates, P.S.
2903 N Stout Rd
Spokane, WA 99206-4373
phelps@phelps1aw1.com

CASE # 327582
Holly E. Snyder v. State of Washington, DSHS
SPOKANE COUNTY SUPERIOR COURT No. 132048943

Counsel:

Enclosed is a copy of the Order Denying Motion for Reconsideration and Granting Leave to File Memorandum of Amicus Curiae in Support of Motion for Reconsideration. A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review, an original and a copy of the Petition for Review in this Court within 30 days after the Order Denying Motion for Reconsideration is filed (may be filed by electronic facsimile transmission). RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:pb
Enc.

FILED
August 30, 2016
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

STATE OF WASHINGTON,	)	No. 32758-2-III
)	
Respondent,	)	ORDER DENYING
	)	MOTION FOR
v.	)	RECONSIDERATION AND
	)	GRANTING LEAVE TO FILE
HOLLY E. SNYDER,	)	MEMORANDUM OF AMICUS
	)	CURIAE IN SUPPORT OF
Appellant.	)	MOTION FOR
	)	RECONSIDERATION

The court has considered Northwest Justice Project's motion for leave to file memorandum of amicus curiae in support of motion for reconsideration. The court has also considered appellant's motion for reconsideration. The court is of the opinion that Northwest Justice Project's motion for leave to file memorandum of amicus curiae in support of motion for reconsideration should be granted. The court is of the opinion that appellant's motion for reconsideration should be denied. Therefore,

IT IS ORDERED that the Northwest Justice Project's motion for leave to file memorandum of amicus curiae in support of motion for reconsideration is granted.

IT IS FURTHER ORDERED that appellant's motion for reconsideration of this court's decision of June 2, 2016, is denied.

PANEL: Judges Lawrence-Berrey, Korsmo and Fearing

FOR THE COURT:


ROBERT LAWRENCE-BERREY
ACTING CHIEF JUDGE

Appendix B

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SEP 29 2016

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)	COA#: 327582
Respondent	)	CASE NO. 13-2-04894-3
)	
vs.)	
	)	NOTICE OF DISCRETIONARY
HOLLY E. SNYDER	)	REVIEW
Appellant)	
_____)	

HOLLY E. SNYDER, Appellant, seeks review by the designated court of the Court of Appeals opinion entered on June 2, 2016 and the ruling on the Motion for Reconsideration entered August 30, 2016.

A copy of the decision is attached to this notice.

Dated this 28th day of September, 2016.


 DOUGLAS D. PHELPS
 Attorney for Appellant

Notice of Discretionary Review - 1

PHELPS AND ASSOCIATES, PS
 Attorneys at Law
 2903 N. Stout Rd.
 Spokane, WA 99206-4373
 Email: phelps@phelpsawl.com