

FILED
SUPREME COURT
STATE OF WASHINGTON
8/30/2023
BY ERIN L. LENNON
CLERK

FILED
Court of Appeals
Division I
State of Washington
8/29/2023 4:50 PM

Case No. 102322-7

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

Court of Appeals Division I, Case No. 83114-3

KEITH WELCH

Defendant/Appellant,

v.

CHRIS WALDEN

Plaintiff/Respondent.

**MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR REVIEW**

Keith Welch, Defendant/Appellant
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I. IDENTITY OF MOVING PARTY

Appellant, Keith Welch, *pro se*, seeks for the relief set forth below.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 18.8(a), Appellant hereby moves for an Extension of Time to File a Petition for Review to the Supreme Court of Washington.

Appellant respectfully ask that this Court extend the 30-day deadline for filing a Petition for Review set forth in RAP 13.4(a), an additional 45 days.

III. FACTS RELEVANT TO MOTION

Pursuant to RAP 13.4(a), a Petition for Review must be filed within 30 days after the decision is filed. Thus, August 30, 2021, is the due date.

IV. GROUNDS FOR RELIEF AND ARGUMENT

Rule of Appellate Procedure 18.8(a) empowers this Court, “on its own initiative or on motion of a party,” to “waive or alter the provisions of any of [the Rules of Appellate Procedure]” and to “enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice.” Similarly, RAP 1.2(a) provides that the Rules of Appellate Procedure “will be liberally interpreted to promote justice and facilitate the decision of cases on the merits...”

Extension of Time to File a Petition for Review, however, is tempered by RAP 18.8(b)’s qualification that such relief will only be granted “in extraordinary circumstances and to prevent a gross miscarriage of justice.”

Firstly, Appellant's extension request involves several issues requiring a response with specificity. RAP 13.4(b)(2),(3).

Secondly, Appellant begin before and extends during this entire period of limited time, reviewing, and preparing a Petition for Review.

Thirdly, the circumstances which made it impractical or impossible for Appellant to comply with the 30-day provision of RAP 13.4(a), was that the Appellate Court, chose to link together Appellant's two (2) appeals that are currently before this Court.

Fourthly, the Appellate Court's, choosing to rule together Appellant's two (2) appeals, on the same day, thereby, made it impossible for Appellant to write a clear and effective petition by August 30, 2022, in both this case, and the concurrent case.

Lastly, Respondent's recently filed motions requiring a response from Appellant in both this case, and the concurrent case, also effected Appellant's limited time to complete a clear and effective petition by August 30, 2022.

While RAP 18.8(b) establishes a rigorous test for extending the time to seek review in an Appellate Court, the test is satisfied in cases where "the filing, despite reasonable diligence, was beyond Appellant's control, such as the case in this case, and Appellant's concurrent case.

Furthermore, the Appellate Court observed that the Rules of Appellate Procedure “were designed to allow some flexibility to avoid harsh results.” RAP 18.8.

Nevertheless, the lost opportunity to appeal would constitute a gross miscarriage of justice, due impart to what had transpired, which was beyond Appellant’s control.

Therefore, Appellant respectfully request this Court grant Appellant’s extension to complete a clear and effective petition.

Finally, no prejudice will be inflicted on the Respondent from Appellant’s brief 45-day request. According to the Skagit County, Assessor’s website’s the Respondent’s investment in the Property has increased nearly \$400,000.000 from his initial investment.

(See <https://www.skagitcounty.net/Search/Property/?id=P117052>).

Additionally, the continuation of Appellant’s supersedeas bond ensures Appellant’s ability to satisfy a judgment pending this Courts review.

Therefore, the granting of a brief 45-day extension of time will not prejudice the Respondent if granted. Yet, if Appellant’s motion is not granted, Appellant will be denied the opportunity to seek this Court’s review of the multiple legal issues raised to the Appellate Court, which the Appellate Court failed to address in its decision.

To avoid a gross miscarriage of justice, this Court should grant Appellant's Motion for Extension of Time to File a Petition for Review, in order to correct the Court of Appeal's earlier error's resulting from the Court's misinterpretation, and in order to clarify Washington law. RAP 13.4(b)(2),(3).

Appellant apologizes to this Court for the delay and inconvenience, but again, the request is made in good faith, with a view to providing a competent Petition for Review.

V. CONCLUSION

Appellant respectfully request that this Court grant Appellant's Motion for Extension of Time to File Petition for Review, and that the new filing deadline be extended by a brief 45 days.

DATED this 29th day of August, 2023.

RESPECTFULLY SUBMITTED:

/s/ Keith Welch
Keith Welch, Defendant/Appellant

VI. CERTIFICATE OF COMPLIANCE

The undersigned certifies that this document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images, if any, contains 672 words, in in compliance with RAP 18.17.

Respectfully submitted this 29th day of August, 2023.

/s/ Keith Welch

Keith Welch, Defendant/Appellant

DECLARATION OF SERVICE

I, Keith Welch, certify under penalty of perjury under the laws of the State of Washington, that on the day I signed this declaration of service, I caused a copy of the Motion for Extension of Time to File Petition for Review, to be serve electronically *via* the Appellate Courts Portal, to this Court, and electronically mailed upon Counsel and Transcriptionist of record:

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Attn: Eileen Sterns

Signed at Mount Vernon, Washington, this 29th day of August, 2023.

/s/ Keith Welch
Keith Welch, Defendant/Appellant

KEITH WELCH - FILING PRO SE

August 29, 2023 - 4:50 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 83114-3
Appellate Court Case Title: Christopher Walden, Respondent v. Keith Welch, Appellant
Superior Court Case Number: 21-2-00257-8

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