

Received
Washington State Supreme Court

OCT 14 2014
Ronald R. Carpenter
Clerk

SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
RESPONDENT,

v.

MARIO NOYOLA,
APPELLANT.

NO. 90732-3

COA # 30736-1-III

MOTION FOR EXTENSION
OF TIME (RAP 18.8)

I. IDENTITY OF MOVING PARTY

MARIO NOYOLA, APPELLANT, ACTING PRO SE, ASKS FOR THE RELIEF DESIGNATED IN PART 2.

II. STATEMENT OF RELIEF SOUGHT

GRANT THE MOTION FOR EXTENSION OF TIME AND ALLOW APPELLANT'S PETITION FOR REVIEW TO PROCEED FORTH.

III. FACTS RELEVANT TO MOTION

ON FEBRUARY 9, 2012 A JURY FOUND MR. NOYOLA GUILTY OF CUSTODIAL ASSAULT, INTIMIDATING A PUBLIC SERVANT, ASSAULT IN THE THIRD DEGREE. ON MARCH 26, 2012 HE APPEALED.

ON JUNE 28, 2013 THE COURT OF APPEALS COMMISSIONER ENTERED AN ORDER, REMANDING THE CASE. (SEE ORDER DATED JUNE 28, 2013)

AFTER REMAND ON SEPTEMBER 10, 2013 MR. NOYOLA APPEALED AGAIN AND FILED A SUPPLEMENTAL (SAG) ON FEB. 27, 2014.

ON MAY 9, 2014 THE COURT OF APPEALS COMMISSIONER, MONICA WASSON ENTERED AN ORDER DISMISSING MR. NOYOLA'S APPEAL. (SEE MAY 9 ORDER)

ON JUNE 9, 2014 MR. NOYOLA FILED A MOTION TO MODIFY. (SEE MOTION DATED JUNE 9, 2014)

ON JULY 30, 2014 COURT OF APPEALS CHIEF JUDGE, LAUREL H. SIDDOWNAY, ENTERED AN ORDER DENYING MR. NOYOLAS MOTION TO MODIFY. (SEE ORDER ENTERED JULY 30, 2014)

ON AUGUST 1, 2014 MR. NOYOLA RECEIVED THE ORDER ENTERED ON JULY 30, 2014.

ON SEPTEMBER 2, 2014 MR. NOYOLA MAILED HIS MOTION FOR DISCRETIONARY REVIEW TO THE C.O.A. AND THIS COURT.

ON SEPTEMBER 11, 2014 SUPREME COURT DEPUTY CLERK, SUSAN L. CARLSON, SENT A LETTER TO MR. NOYOLA INDICATING THEY RECEIVED HIS MOTION FROM THE COURT OF APPEALS. SHE ALSO REQUESTED THAT I FILE A MOTION FOR EXTENSION OF TIME. (SEE COURTS LETTER DATED SEPT. 11, 2014)

IV. GROUNDS FOR RELIEF AND ARGUMENT

RAP 18.8 (9) " THE APPELLATE COURT MAY, ON ITS OWN INITIATIVE OR ON MOTION OF A PARTY, WAIVE OR ALTER THE PROVISIONS OF ANY OF THESE RULES AND ENLARGE OR SHORTEN THE TIME WITHIN WHICH AN ACT MUST BE DONE IN A PARTICULAR CASE IN ORDER TO SERVE THE ENDS OF JUSTICE."

RAP 18.6 (9) " IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THESE RULES, THE DAY OF THE EVENT FROM WHICH THE TIME BEGINS TO RUN IS NOT INCLUDED"... " THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH CASE THE PERIOD EXTENDS TO THE END OF THE NEXT DAY WHICH IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY"...

GR 3.1 (d) " WHENEVER A PARTY HAS THE RIGHT OR IS REQUIRED TO DO

SOME ACT... IF AN INMATE FILES OR SERVES THE DOCUMENT UNDER THIS RULE, THAT PERIOD SHALL BEGIN TO RUN ON THE DATE THE DOCUMENT IS RECEIVED BY THE PARTY."

MR. NOYOLA ASSERTS THAT HIS MOTION WAS TIMELY FILED. THE COURT'S ORDER WAS ENTERED JULY 30, 2014 BUT IT WAS NOT RECEIVED BY HIM TILL AUGUST 1, 2014 WHICH ALLOWED THE 30 DAY TIMELINE TO START.

HE CONTENDS THAT FROM THAT TIME HIS 30TH DAY WAS ACTUALLY A SATURDAY, WHICH BY RULE PROCEEDS TO THE NEXT DAY WHICH IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY. SEPTEMBER 1, 2014 WAS A NATIONAL HOLIDAY (LABOR DAY) WHICH EXTENDED HIS FILING DATE TO SEPTEMBER 2, 2014.

PURSUANT TO THE MAILBOX RULES UNENACTED IN GR 3.1 MR. NOYOLA MADE A TIMELY FILING.

CONCLUSION

WHEREFORE, MR. NOYOLA ASKS THIS COURT TO ENTER AN ORDER GRANTING HIS MOTION FOR EXTENSION OF TIME AND PROCEED FORTH WITH HIS PETITION.

DATE: 10-8-2014



MARIO NOYOLA

PRO SE

CERTIFICATE OF SERVICE

MAILBOX RULE

I CERTIFY THAT ON THIS DATE I MAILED THE FOLLOWING DOCUMENTS, TO WHICH IS AFFIXED, BY PLACING THEM IN THE HANDS OF D.O.C. STAFF TO BE LOGGED IN AS LEGAL MAIL, BY U.S. MAIL, POSTAGE PRE PAID TO:

RONALD R. CARPENTER
SUPREME COURT CLERK
PO BOX 40929
OLYMPIA, WA.

98504-0929

AND TO:

EDWARD A. OWENS
GRANT COUNTY PROSECUTOR
PO BOX 37
EPHRATA, WA. 98823

DATED THIS 8TH DAY OF OCTOBER 2014 AT CONNELL, WA.


MARIE NOYOLA