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CLERK OF THE SUPREME COURT
STATE OF WASHINGTON
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JAN 05 2015

**COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON**

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

In Re:

SHANNON MARIE LANGFORD,

Petitioner,

v.

CHAD FRANKLIN LANGFORD,

Respondent.

91167-3

Court of Appeals No. 31961-0-III

Supreme Court No. 91167-3

**MOTION AND DECLARATION
FOR EXTENSION OF TIME**

COMES NOW, the petitioner, Chad Langford, by and through his attorneys of record and hereby motions this court for an extension of time. A short extension is required for purposes of advancing Mr. Langford's Petition for Supreme Court review. The Petition was filed by fax approximately 5 minutes after the Court of Appeals fax filing closed. This motion is made and based upon the Declaration of counsel below and RAP 1.2, 18.8.

DATED this 5th day of January, 2015.

TELQUIST ZIOBRO McMILLEN CLARE, PLLC

By: Andrea J. Clare
ANDREA J. CLARE, WSBA #37889

Attorneys for Respondent

TELQUIST ZIOBRO McMILLEN CLARE, PLLC
1321 Columbia Park Trail
Richland, Washington 99352
PH: 509.737.8500 / FAX: 509.737.9500

MOTION AND DECLARATION
FOR EXTENSION OF TIME
Page 1 of 4

DECLARATION OF COUNSEL

I, Andrea J. Clare, upon oath, states:

The undersigned represents petitioner Chad Langford in his appeal to the Supreme Court herein. On December 19, 2014, I personally contacted the Court of Appeals to verify that the deadline for filing the Petition would be the Monday following the Saturday (12/20/14) deadline. I further verified information regarding the filing fee and fax filing method. I was not advised that the office closed for fax filing at 4:30 p.m. The Petition for Review was completed and prepared for sending on December 22, 2014, well in advance of the 4:30 p.m. closure. Nevertheless, in my ignorance of the fax filing deadline/closure I did not communicate the Petition's priority to my staff. Consequently, my assistant elected to complete another attorney's priority project unbeknownst of the important office closure. Attached hereto is a true and accurate fax receipt from my office to the Court of Appeals on December 22, 2014. The receipt shows that the petition for review was received by the Court of Appeals at 4:35 p.m.

RAP 1.2(a) provides:

"These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands, subject to the restrictions in rule 18.8(b)."

RAP 18.8(b) provides that 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. "While a failure to meet jurisdictional requirements has generally mandated dismissal of the appeal, this court has always retained, and occasionally exercised in unusual cases, its authority to nevertheless hear the case on the merits." *State v Ashbaugh*, 90 Wn.2d 432, 437-38, 583 P.2d 1206 (1978). See, e.g. *Myers v Harris*, 82 Wn.2d 152, 155, 509 P.2d 656 (1973). In *Myers*, the court declined to dismiss the appeal despite the fact that appellants

1 timely submitted notice of appeal without payment of fees (at that time a jurisdictional
 2 requirement). The court declined to dismiss the appeal because the mistake was made in good
 3 faith and the respondents suffered no prejudice. *Myers*, at 155; See also *State v Sorenson*, 2
 4 Wn.App. 97, 101 P.2d 532 (1970).

5
 6 Good cause exists to grant the motion for short extension of time. Having received the
 7 January 2, 2015 letter from the court of appeals regarding the Langford brief is a practice
 8 changing experience. The mistake I made will never be repeated. I now recognize that each
 9 Court of Appeals operates under different hours of operation. Still, justice demands that my
 10 oversight not prohibit the litigant from seeking discretionary review. All efforts made to timely
 11 file the Langford appeal were in good faith. Moreover, there is no prejudice to the opposing
 12 party should the court grant Chad Langford's motion for a 5 minute extension and accept the
 13 Petition for Review. Should a lesser penalty be available, the undersigned humbly accepts.

14
 15 I declare under penalty of perjury under the laws of the state of Washington that the
 16 foregoing is true and correct.

17
 18 Signed at Richland, Washington on January 5th, 2015.

19
 20
 21 TELQUIST ZIOBRO McMILLEN CLARE, PLLC

22
 23 By: Andrea J. Clare
 24 ANDREA J. CLARE, WSBA #37889
 25 Attorneys for Respondent

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CERTIFICATE OF FILING AND SERVICE

The undersigned hereby declares, under penalty of perjury, under the laws of the State of Washington, that on January 5, 2015, I faxed the foregoing document to the Court of Appeals for filing with Division III of the State of Washington. I also placed in Inter-City Legal Messenger Service the foregoing document for delivery to:

Defoe Pickett Law Office
830 N. Columbia Center Blvd. Suite A1
Kennewick, WA 99336

DATED this 5th day of January, 2015, at Richland, Washington.

TELQUIST ZIOBRO McMILLEN CLARE, PLLC

By: Kristi Flyg
Kristi Flyg, Legal Assistant

* * * COMMUNICATION RESULT REPORT (DEC. 22. 2014 4:39PM) * * *

FAX HEADER: TELQUIST ZIOBRO MCMCI

TRANSMITTED/STORED FILE MODE	DEC. 22. 2014 4:35PM OPTION	ADDRESS	RESULT	PAGE
648	MEMORY TX	15094564288	OK	26/26

REASON FOR ERROR OR LINE FAIL
E-1) HANG UP OR NO ANSWER

E-2) BUSY
E-3) NO FACSIMILE CONNECTION



Telquist Ziobro McMillen Clare

1321 Columbia Park Trail
Richland, WA 99352
Phone (509) 737-8500 Fax (509) 737-9500

Fax

To: Court of Appeals From: Andrea Clare

Fax: (509) 456-4288 Pages: 9/10

Phone: _____ Date: 12/22/14

Re: Langford v. Langford Cc: _____

- Urgent For Review Please Comment Please Reply Please Recycle

* Comments:

Attached please find our Petition for Review. Our check in the sum of \$200.00 is being mailed directly to you.

Thank you!

*This communication, together with any attachments hereto or links contained herein, is for the sole use of the intended recipient(s) and may contain information that is confidential or legally protected. If you are not the intended recipient, you are hereby notified that any review, disclosure, copying, dissemination, distribution or use of the communication is STRICTLY PROHIBITED. If you have received this communication in error, please notify the sender immediately by return e-mail message and delete the original and all copies of the communication, along with any attachments hereto or links contained herein, from your system.

THE SUPREME COURT

STATE OF WASHINGTON

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SUPREME COURT CLERKSUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEYTEMPLE OF JUSTICE
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e-mail: supreme@courts.wa.gov
www.courts.wa.gov

January 2, 2015

LETTER SENT BY E-MAIL ONLYAndrea Jean Clare
Telquist Ziobro McMillen Clare PLLC
1321 Columbia Park Trail
Richland, WA 99352-4735Hon. Renee Townsley, Clerk
Court of Appeals, Division III
500 N. Cedar Street
Spokane, WA 99201Steven L. Defre
Attorney at Law
830 N. Columbia Center Boulevard, Suite A1
Kennewick, WA 99336-7800Re: Supreme Court No 91167-3 - In re the Marriage of Shannon Marie Langford v. Chad
Franklin Langford
Court of Appeals No. 31961-0-III

Clerk and Counsel:

The Court of Appeals has forwarded the petition for review, \$200 filing fee check #10909 and related Court of Appeals case file in the referenced matter. The matter has been assigned the Supreme Court cause number indicated above.

A review of the Court of Appeals case indicates the Court of Appeals decision terminating review was filed on November 20, 2014. RAP 13.4(a) requires the filing of a petition for review within 30 days after a decision terminating review is filed. The Rules of Appellate Procedure require that the petition be received by the court within the 30 days. The petition was due for filing on December 22, 2014, but was not received until December 23, 2014¹; see RAP 18.6(c).

¹ A review of the Court of Appeals docket indicates the petition for review was faxed to that office on November 22, 2014, after 4:30 p.m. Division Three closes their office at 4:30 p.m., therefore, the petition for review was received and stamped on the following business day.

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January 2, 2015

The petition for review will be held without further action until February 2, 2015, to allow the Petitioner time to serve and file a motion for extension of time. Failure to serve and file a motion for extension of time may result in the dismissal of this matter. RAP 18.9(b).

At such time as the Petitioner serves and files a motion for extension of time to file a petition for review, a date will be established by which the Respondent may serve and file both an answer to the motion for extension of time and an answer to the petition for review.

The parties are referred to the provisions of General Rule 31(e) in regards to the requirement to omit certain personal identifiers from all documents filed in this court. This rule provides that parties "shall not include, and if present shall redact" social security numbers, financial account numbers and driver's license numbers. As indicated in the rule, the responsibility for redacting the personal identifiers rests solely with counsel and the parties. The Clerk's Office does not review documents for compliance with the rule. Because briefs and other documents in cases that are not sealed may be made available to the public on the court's internet website, or viewed in our office, it is imperative that such personal identifiers not be included in filed documents.

It is noted that for attorneys, this office uses the e-mail address that appears on the Washington State Bar Association lawyer directory. Counsel are responsible for maintaining a current business-related e-mail address in that directory.

Sincerely,



Susan L. Carlson
Supreme Court Deputy Clerk

SLC:kmt