

FILED

07/19/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 20-0454

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JUL 19 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 20-0454

STATE OF MONTANA,

Plaintiff and Appellee,

V.

GEORGE CARLON,

Defendant and Appellant.

**UNOPPOSED MOTION FOR
EXTENSION OF TIME
TO FILE APPELLANT'S
INITIAL BRIEF
IN A CRIMINAL APPEAL**

COMES NOW Appellant George Carlon, by and through his undersigned attorney, and moves this court pursuant to M.R.App.P. 16 and 26 for an extension of time of thirty days within which to file Appellant's *Initial Brief* on appeal, i.e. to Wednesday, August 18, 2021.

Appellant's *Initial Brief* was expected to be filed today, Monday, July 19, 2021. Appellate Counsel expected to be able to file the brief today with Mr. Carlon's written approval of the brief. Despite repeated inquiries from Appellate Counsel to Mr. Carlon, the brief has not yet been approved by him.

Counsel for Appellant therefore respectfully requests a continuance of thirty days, from July 19, 2021 to August 18, 2021, for the filing of an Appellate *Initial Brief* or a request for further extension.

The Montana Attorney General's Office, per their staff, has no objection to this motion.

DATED this 19th day of July, 2021



Attorney for Appellant

CERTIFICATE OF SERVICE

I, Scott Albers, hereby certify that the foregoing was duly served upon the respective parties entitled to service by hand delivering a copy to the Montana Attorney General's Office, i.e. Office of the Attorney General for the State of Montana, P.O. Box 201401, Helena, MT 59620-1401 on Monday, July 19, 2021.



Scott A. Albers

STATE OF MONTANA)

:

County of Lewis and Clark)

Declaration of Scott A. Albers in support of a thirty day Continuance
Regarding the Appeal of *State of Montana vs. George Carlon*, DA-20-0454.

In support of Counsel's Request for a thirty-day continuance in which to file the initial brief, the following declaration is provided under Rule 26.

I, Scott Albers, hereby solemnly state that the following is true and correct.

I am counsel for Mr. George Carlon in a direct appeal to the Montana Supreme Court, *State of Montana vs. George Carlon*, DA-20-0454.

I am filing a motion for continuance on Monday, July 19, 2021 and this declaration is filed the same day.

In response to the questions posed by Rule 26(2) of the Montana Rules of Appellate Procedure, the following is stated.

(2a) When is the brief due? The brief is due today, July 19, 2021.

(2b) When was the brief originally due? The brief was due originally on November 27, 2020.

On November 27, 2020, an extension was granted bringing the date to December 28.

On December 23, 2020, an extension was granted bringing the date to February 26, 2021.

On February 26, 2021, an extension was granted bringing the date to April 27, 2021.

On April 28, 2021, an extension was granted bringing the date to May 27, 2021.

On May 3, 2021, an extension was granted bringing the date to June 28, 2021.

On June 28, 2021, an extension was granted bringing the date to July 5, 2021.

On July 7, 2021, an extension was granted bringing the date to July 19, 2021.

(2c) What is the length of time requested? Counsel would like an extension of thirty days, from Monday, July 5, 2021 to Wednesday, August 18, 2021.

(2d) Why is the extension necessary? Appellate Carlon risks a number of difficulties should the Montana Supreme Court rule in his favor in this case. Among these are (1) a new trial on the matter on which he has already completed a prison sentence, (2) a new charge of perjury before a new tribunal, and (3) enormous expenses in combatting these developments. Defendant / Appellant Carlon has been shown the existing brief, and further consultation with family members has seemed appropriate. Any changes suggested or requested will require additional time to accommodate, and potentially to prepare an amended brief. This delay will permit Mr. Carlon to read the new brief and consider whether he does or does not want to pursue the matter further in the Montana Supreme Court, and to give Appellate Counsel his written assurance that he understands and accepts these developments should he decide to pursue and be successful in the appeal. Despite repeated phone calls, Mr. Carlon has not been available for comment.

(2e) Explanation as to due diligence. In the opinion of his Appellate Counsel, the need for Mr. Carlon's personal involvement, along with that of his family, in the creation of this brief *is* due diligence. A further delay of thirty days is a *de minimus* imposition upon the parties, in light of the importance of Mr. Carlon's decision herein and the consequences to him personally either way.

(2f) Objection by the State? The State does not object to the request for a thirty day continuance.



Scott Albers

Certificate of Service

I, Scott Albers, hereby certify that the foregoing was hand-delivered to the Montana Attorney General's Office on the 5th day of July, 2021.


