



ORIGINAL

FILED

09/02/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0347

IN THE SUPREME COURT OF THE STATE OF MONTANA

SUPREME COURT No. DA 22-0347

STATE OF MONTANA,

Plaintiff and Appellee,

v.

MATTHEW RYAN AILER,

Defendant and Appellant,

FILED

SEP 02 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

APPELLANT'S UNOPPOSED FIRST
MOTION FOR EXTENSION OF TIME

COMES NOW, Matthew Ryan Ailer, Appellant, respectfully requests a 30-day extension of time until October 9, 2022, to prepare, file and serve the Appellant's opening brief in the above-entitled matter. This is Appellant's first extension request for the opening brief. Appellant's opening brief is currently due on September 9, 2022. Opposing counsel TAMMY K PLUBELL has been contacted and **does not object**.

The grounds and reasons for this Motion are discussed below:

1. Attorney Nick Brooke represented Matthew in No. DA 16-0240 in which this Court granted multiple extensions of time because of Matthew's physical and mental health conditions.

2. Matthew continue to suffer from the following debilitating medical and mental health conditions: PTSD (MVA); Major Depression Disorder; Concussion with possible loss of Consciousness Possible Sequela; Memory Loss; Cognitive Impairment; Chronic Migraine; Neurogenic Bladder; Impaired Mobility and ADL's; Pain Disorder; Suicide Ideation; and Social - Pragmatic Language Disorder: by history, with paralysis, and psychological stressor: 5/18/2011 MVA; Functional Neurological Symptom Disorder (F44.4), by history, with paralysis, and psychological stressor: 5/18/2011 MVA.

Originally diagnosed by William Stratford, MD, (2012), Lennard Wilson, M.D (2011), Stephen Powell, M.D (2012), John Harrison, PhD (2013), Eric Ravitz, DO, (2014 to Current), Sean Tollison, PhD (2014), Holly Schleicher, PhD (2015), Jocelyn Head, DPT (2015), Brent Dodge, PT, OCS,CMPT, CSCS (2015), Sherry Reid, MD (Neurology-2016), Kelly Pearce, PhD (2016), Susan Swierc, PhD (2017), Katie McCall, PhD (2017), Mary Frank, PT (2017), Meadow Summers, PA-C (Neurology-2018), Heather Kroll, MD (2018), Sean Tollison, PhD (2018), Jennifer Roy, OT (2018), Speech Therapist Kerrigan O'Connell (2018), and Eric Ravitz, DO, (2022).

3. Matthew has been limited in reviewing and assisting in the preparation of the Appellant's opening brief due to his deteriorating mental, physical, cognitive and emotional issues listed above. Matthew currently suffers from a mental disease or defect, an emotional disability, and is under prescription medicine that would preclude him from making a knowing, intelligent, and voluntary decision on the current legal matter


before this Court without additional time to review and approve the opening brief when completed.

4. This Court recognizes several mootness exceptions, “public interest,” “voluntary cessation,” and “capable of repetition, but evading review.” E.g., *Havre Daily News, LLC v. City of Havre*, 2006 MT 215, ¶¶ 1-48, 333 Mont. 331, 142 P.3d 864 and (adopting the “voluntary cessation” exception); *In re N.B.*, 190 Mont. 319, 323, 620 P.2d 1228, 1231 (1980) (adopting the “capable of repetition, yet could evade review” exception) (citing *Roe v. Wade*, 410 U.S. 113, 125, 93 S. Ct. 705, 713 (1973)).

All three exceptions apply and will be argued in the Opening Brief. Additional time is warranted for research and application of the mootness exceptions in the Opening Brief.

5. Additional time is warranted in this case as Matthew is in an unfamiliar environment with unfamiliar rules articulated in an unfamiliar language and is a system that is designed primarily for licensed attorneys and extensively trained legal professionals who have devoted time to the intricacies of the judicial arena.

Therefore, Matthew respectfully requests this Court to grant Appellant’s First Motion For Extension Of Time to prepare, file and serve the Appellant’s opening brief in the above-entitled matter. Respectfully submitted this 31st day of August, 2022.

By:  _____

Matthew Ryan Ailer
Defendant and Appellant

CERTIFICATE OF SERVICE

I, Matthew, hereby certify that I have served true and accurate copy of the foregoing **APPELLANT'S UNOPPOSED MOTION FOR EXTENSION OF TIME** with the clerk of the Montana Supreme Court and that I have served true and accurate copies of the **UNOPPOSED MOTION** to each party by the following means:

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DATED this 31st day of August, 2022.

By: _____

Matthew Ryan Ailer
Defendant and Appellant