

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2007-7057

PAULINE PRICKETT,

Claimant-Appellant,

v.

R. JAMES NICHOLSON,
Secretary of Veterans Affairs,

Respondent-Appellee.

ON MOTION

Before PROST, Circuit Judge.

ORDER

The Secretary of Veterans Affairs moves for an additional 2-day extension of time, until March 8, 2007, to file his brief.

We note that counsel filed the extension request on the date that the brief was due. Pursuant to Fed. Cir. R. 26(b)(1), a motion for an extension of time “must be made at least 7 calendar days before the date sought to be extended,” except that in “extraordinary circumstances,” a motion may be filed later if an affidavit or declaration describes the extraordinary circumstances. Here, in a declaration, counsel states that on March 5, one day before the brief due date, the agency provided comments on the draft brief and the brief was submitted for supervisory review. Counsel further states “[u]nfortunately, we require additional time to complete our supervisory review given the timing of the submission to our supervisor combined with our supervisor’s responsibilities in other matters.”

The court does not discern the extraordinary circumstances. The court's rule anticipates that counsel will make attempts to ascertain, at least seven calendar days before a due date, whether counsel will be able to meet the upcoming deadline. The court places counsel on notice that future motions in this or another case that do not comply with this rule may be denied for failure to comply with Fed. Cir. R. 26(b)(1).

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is granted.

March 21, 2007

Date

/s/ Sharon Prost

Sharon Prost
Circuit Judge

cc: Michael P. Horan, Esq.
Martin F. Hockey, Esq.

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