

No. _____

**IN THE COURT OF CRIMINAL APPEALS OF TEXAS
AT AUSTIN**

FILED
COURT OF CRIMINAL APPEALS
6/4/2018
DEANA WILLIAMSON, CLERK

KARL DEAN STAHMANN, Appellant
v.
THE STATE OF TEXAS, Appellee

13-16-00400-CR
In the Thirteenth Court of Appeals
Edinburg, Texas

Appealed from the 207th Judicial District Court
Cause No. CR2013-409, Count IV
Comal County, Texas

**STATE'S MOTION TO EXTEND TIME TO FILE PETITION FOR
DISCRETIONARY REVIEW**

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**STATE’S MOTION TO EXTEND TIME TO FILE PETITION FOR
DISCRETIONARY REVIEW**

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes the State of Texas, Appellee (and Petitioner) in the above-styled and -numbered cause, and moves for an extension of time of 30 days from the Court of Appeals’ ruling on the State’s Motion for Rehearing or En Banc Reconsideration to file the State’s Petition for Discretionary Review, and for good cause would show the following:

I. Procedural History

Appellant was charged by Count IV of the indictment with Tampering With Physical Evidence. After he was found guilty by the jury, the Trial Court assessed his punishment at 10 years’ confinement in TDCJ, probated for 10 years. The Thirteenth Court of Appeals reversed and remanded the cause to the Trial Court, with instructions to reform Appellant’s conviction to attempted tampering with physical evidence, and for a new punishment hearing based on the state-jail felony. *Stahmann v. State*, No. 13-16-00400-CR, 2018 Tex. App. LEXIS 78, slip op. at *48 (App.—Corpus Christi Jan. 4, 2018, no pet. h.). After an extension, the State timely filed motions for rehearing and en banc reconsideration; the Court denied both on May 4, 2018, with Justice Benavides dissenting to the denial of en banc reconsideration without a separate opinion.

II. To Ensure the State's Ability to Petition for Discretionary Review, the State Respectfully Requests an Extension of Time Under Tex. R. App. P. 68.2(a) & (c).

Because the Thirteenth Court denied the motions for rehearing and en banc reconsideration on May 4, 2018, the normal deadline to file a petition for discretionary review will be Monday, June 4, 2018. *See* Tex. R. App. P. 68.2(a) (30 days after last such timely motion overruled). Accordingly, under Tex. R. App. P. 68.2(c), the last day to move for an extension from this Court would be Monday, June 18, 2018. *See id.*

The State anticipates filing its petition for discretionary review in less than 30 days, and possibly within a week; much or most of the petition has already been drafted by an appellate prosecutor who recently went on temporary leave. Today I filed a brief in 13-17-00225-CR after cutting it down from over 19,000 words to under 15,000. In the last few weeks, I have also performed significant research for other attorneys in this office, filed answers and otherwise handled expunctions and nondisclosures, prepared a State's notice of appeal, and I am in the process of responding to a motion for bail related to another case on appeal. Because of the foregoing, the undersigned has not yet had an opportunity to complete the State's Petition in the instant case, and respectfully requests one extension of 30 days – until July 3, 2018 – to file the State's Petition, though I anticipate it will be filed well before the end of that time period. This is the State's first motion to extend the

time to file its Petition for Discretionary Review; no previous extensions have been granted.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, the State respectfully prays for an extension of 30 days to file the State's Petition for Discretionary Review. This extension is not requested for purposes of delay but so that justice may be done.

Respectfully submitted,

/s/ Joshua D. Presley

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CERTIFICATE OF SERVICE

I, Joshua D. Presley, Assistant District Attorney for the State of Texas, Appellee, hereby certify that a true and correct copy of this *Motion for Extension* has been delivered to Appellant KARL DEAN STAHMANN's attorney(s) of record in this matter:

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By electronically sending it to the foregoing email address on this 1st day of June, 2018.

/s/ Joshua D. Presley
Joshua D. Presley