

IN THE SUPREME COURT OF THE STATE OF NEVADA

UNITED PARCEL SERVICE, INC., A
CORPORATION; AND RICHARD A.
BOVINO, JR., AN INDIVIDUAL,
Appellants/Cross-Respondents,
vs.
MARY VINCENT, AN INDIVIDUAL,
Respondent/Cross-Appellant.

No. 60062

FILED

JAN 15 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER GRANTING MOTION FOR CONFESSION OF ERROR,
REVERSING AND REMANDING, AND DISMISSING CROSS-APPEAL

This is an appeal and cross-appeal from a final judgment after a jury verdict in a tort action. Appellants/cross-respondents filed their opening brief on July 10, 2012. On August 9, 2012, respondent/cross-appellant Mary Vincent filed a motion to extend the time to file her combined answering brief on appeal and opening brief on cross-appeal, indicating that more time was necessary due to her counsel's caseload, which was granted. Vincent's combined brief was thereafter due on September 10, 2012. On September 13, 2012, Vincent filed a second motion for extension of time to file her combined brief, arguing a further extension was required due to her counsel's illness. The second motion was granted, providing Vincent until October 10, 2012, to file the combined brief. Vincent was advised that no further extensions of time would be permitted absent extreme and unforeseeable circumstances.

Instead of filing her combined brief on October 10, 2012, Vincent filed a motion to strike appellants/cross-respondents' opening brief and requesting a stay of briefing. Vincent's motion was denied, and she was given until December 24, 2012, to file her combined brief. This court

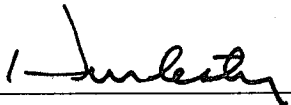
cautioned Vincent that failure to comply with the December 24 deadline may be construed as a confession of error, with a disposition rendered accordingly, and may result in the dismissal of the cross-appeal as abandoned. Vincent failed to file her brief on December 24, and on December 26, 2012, appellants/cross-respondents filed a motion to deem Vincent's failure to file her opening brief as a confession of error and for dismissal of the cross-appeal. Vincent did not oppose this motion.

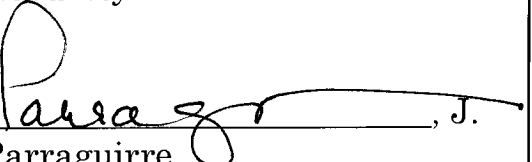
On December 27, 2012, Vincent filed a third request for extension of time, requesting that this court grant her an extension until December 27, to file her combined brief, indicating that the basis for the request was her counsel's caseload and health. This motion indicated that the combined brief would be filed contemporaneously with the motion; however, to date, no brief has been received by this court. On December 28, Vincent filed an appendix. Appellants/cross-respondents filed a motion to strike the third request for an extension of time, which respondent/cross-appellant did not oppose.

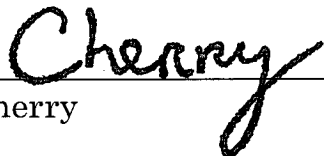
Having considered appellants/cross-respondents' motion to treat Vincent's failure to file a combined brief as a confession of error and dismiss the cross-appeal as abandoned, we grant the unopposed motion and treat Vincent's failure to file an answering brief as a confession of error, NRAP 31(d); State of Rhode Island v. Prins, 96 Nev. 565, 566, 613 P.2d 408, 409 (1980) (explaining that this court may treat a respondent's failure to file an answering brief as a confession of error), and dismiss Vincent's cross-appeal as abandoned. NRAP 3(a)(2); NRAP 31(d). Accordingly, we dismiss Vincent's cross-appeal and we reverse the district

court judgment in Vincent's favor and remand this matter to the district court, with instructions to enter judgment in appellants/cross-respondents' favor.

It is so ORDERED.¹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Mark R. Denton, District Judge
Ansa Assuncao, LLP
Kahle & Associates
Sterling Law, LLC
Cobeaga Law Firm
Law Office of Karen H. Ross
Eighth District Court Clerk

¹In light of this order, we deny all other pending requests for relief.