

Appeal No. 02-14427-FF

IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

JUAN ROMAGOZA ARCE,
NERIS GONZALEZ,
and CARLOS MAURICIO,

Plaintiffs-Appellees,

vs.

JOSE GUILLERMO GARCIA
and CARLOS EUGENIO VIDES-CASANOVA,

Defendants-Appellants.

On Appeal From the United States District Court
for the Southern District of Florida
The Honorable Daniel T.K. Hurley, Judge Presiding
(U.S.D.C. Case No. 99-8364 Civ-Hurley/Lynch)

**PLAINTIFFS-APPELLEES' OPPOSITION TO
DEFENDANTS-APPELLANTS' MOTION FOR
PERMISSION TO FILE REHEARING OUT OF TIME**

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CERTIFICATE OF INTERESTED PERSONS

Pursuant to Federal Rule of Civil Procedure 26.1 and 11th Circuit Rule 26.1-1, plaintiffs certify that the following is a complete list of all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this appeal.

Juan Romagoza Arce

Carolyn Patty Blum

Center for Justice & Accountability

Matthew Eisenbrandt

Jose Guillermo Garcia

Neris Gonzalez

James K. Green

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Judge Daniel T.K. Hurley

Kurt R. Klaus, Jr.

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Carlos Eugenio Vides-Casanova

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INTRODUCTION

Plaintiffs-Appellees Juan Romagoza Arce, Neris Gonzalez, and Carlos Mauricio oppose the Motion for Permission to File Rehearing Out of Time (the “Motion”) filed by defendants-appellants Jose Guillermo Garcia and Carlos Eugenio Vides-Casanova on January 31, 2006. Defendants’ Motion is meritless and their request to file an untimely Petition for Rehearing should be denied.

ARGUMENT

On January 4, 2006, this Court issued its decision in this appeal, affirming the judgment of the district court. (*See* Appendix A to defendants-appellants’ Petition for Rehearing.) The date of filing appears clearly on the first page of the decision.

Eleventh Circuit Rule 40-3 provides that “[a] petition for rehearing must be filed within 21 days of entry of judgment.” This Rule further states that “[j]udgment is entered on the opinion filing date.” Here, the deadline for filing a petition for rehearing was January 25, 2006. Defendants’ Petition for Rehearing is dated January 27, 2006, and by defendants’ own admission was not filed until three days after the deadline passed (Motion at 1).

Under Eleventh Circuit Rule 40-3, which governs submission of petitions for rehearing, “[c]ounsel should not request extensions of time except for the most compelling reasons.” Attorney negligence is the sole reason offered by defendants

for missing the filing deadline. This excuse fails to meet the stringent standard for obtaining an extension of time.

CONCLUSION

For the foregoing reasons, plaintiffs respectfully request that defendants' Motion be denied and their Petition for Rehearing be deemed untimely.

Dated: February 2, 2006

Respectfully submitted,

By:  _____

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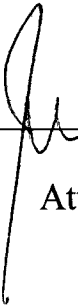
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Kurt R. Klaus, Jr., Esq., Law Offices of Kurt R. Klaus, Jr., 3191 Coral Way, Suite 502, Miami, FL 33145, by U.S. Mail this 2 day of February, 2006.



Attorney