

● ORIGINAL ●

IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

MAR 31 2005

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

JAMES MONTELL CHAPPELL,  
Appellant/Cross-Respondent,

v.

Case No. 43493

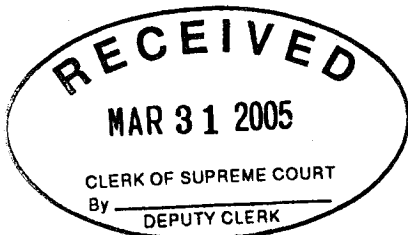
THE STATE OF NEVADA,  
Respondent/Cross-Appellant.

**MOTION FOR ENLARGEMENT OF TIME**

DAVID M. SCHIECK  
Attorney at Law  
Nevada Bar No. 000824  
302 East Carson Avenue, Suite No. 600  
Las Vegas, Nevada 89101  
(702) 382-1844

DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
Clark County Courthouse  
200 South Third Street, Suite 701  
Post Office Box 552212  
Las Vegas, Nevada 89155-2212  
(702) 455-4711  
State of Nevada

BRIAN SANDOVAL  
Nevada Attorney General  
Nevada Bar No. 003805  
100 North Carson Street  
Carson City, Nevada 89701-4717  
(775) 684-1265



Counsel for Appellant

Counsel for Respondent

05-06351

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3  
4  
5 JAMES MONTELL CHAPPELL, )  
6 Appellant/Cross-Respondent, )

7 v. )

Case No. 43493

8 THE STATE OF NEVADA, )  
9 Respondent/Cross-Appellant )

10  
11 **MOTION FOR ENLARGEMENT OF TIME**

12 COMES NOW the State of Nevada, by DAVID ROGER, Clark County District  
13 Attorney, through his deputy, STEVEN S. OWENS, and moves this Court for an  
14 enlargement of time within which to file a combined answering brief on appeal and  
15 opening brief on cross-appeal. This motion is based on the following memorandum,  
16 declaration of counsel and all papers and pleadings on file herein.

17 Dated this 29th day of March, 2005.

18 DAVID ROGER  
19 Clark County District Attorney  
Nevada Bar # 002781

20  
21 BY

22 STEVEN S. OWENS  
23 Chief Deputy District Attorney  
Nevada Bar #004352

24 Office of the Clark County District Attorney  
25 Clark County Courthouse  
26 200 South Third Street, Suite 701  
27 Post Office Box 552212  
28 Las Vegas, Nevada 89155-2212  
(702) 671-2750

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM**

This is an appeal from the denial of a new trial and cross appeal from the granting of a new penalty hearing from a post-conviction petition for writ of habeas corpus in a capital case. Appellant's Opening Brief is 52 pages long, raises 27 issues, and Appellant's Appendix is 11 volumes consisting of 2,785 pages.

The State's answering brief and cross-appeal opening brief is due March 31, 2005. Supreme Court Rule 250 (7)(d) allows for an initial extension of time up to 60 days upon showing of good cause. Additional extensions will not be granted except upon a showing of extraordinary circumstances and extreme need.

The Appellate section of the Clark County District Attorney's office has recently lost 25% of its law clerk staff. We are currently working on 34 pending appeals and approximately 35 post-conviction matters in district court.

We are the respondent in all but one of these assignments. Our work load is not within our control; it is driven by the criminal defense bar and proper person inmates which file the appeals and post-conviction pleadings to which we must respond.

Moreover, this Court's final ruling in McConnell v. State, Docket No. 42101, on March 24, 2005 has drastically changed the focus of our arguments in several cases, including the instant case.

Based on the foregoing and the attached declaration, the State requests an extension of time of 60 days, making the Respondent's Answering Brief and Cross-Appellant's Opening Brief due May 30, 2005.

Counsel for Appellant/Cross-Respondent does not oppose this 60 day extension of time.

Dated this 29th day of March, 2005.

DAVID ROGER, Clark County District Attorney

BY



STEVEN S. OWENS  
Chief Deputy District Attorney

**DECLARATION**  
(NRS 53.045)

I, STEVEN S. OWENS, am a duly licensed attorney in the State of Nevada and am employed by the Clark County District Attorney's Office.

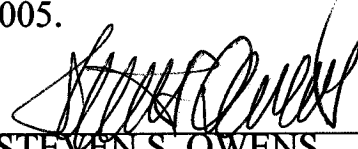
Due to budget concerns in the County and office-wide understaffing, we are currently operating with five law clerks instead of eight. The workload has not been reduced. We currently are working on 34 pending appeals and 35 post-conviction matters pending in district court.

The law clerk assigned to drafting the Respondent's Answering Brief and Cross-Appellant Opening Brief in Chappell has been working on it diligently. However, due to reduced work force and high workload, she has had to work on other assignments over the past few months. Moreover, this Court's final decision in McConnell a few days ago has changed to focus of many arguments in the Chappell brief.

I declare under penalty of perjury that the foregoing is true and correct.


I declare under penalty of perjury the foregoing is true and correct.

Dated this 29th day of March, 2005.

  
\_\_\_\_\_  
STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar #0004352  
Clark County District Attorney's Office  
200 South Third Street  
Las Vegas, Nevada 89155-2212  
(702) 671-2750

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

**David M. Schieck**  
**Clark County Special Public Defender**  
 333 South Third Street, 2nd Floor  
 Las Vegas, Nevada 89155 – 2316

  
Employee, Clark County  
District Attorney's Office

4