

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

FILED

MARLO THOMAS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

SEP 18 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

Case No. 46509

MOTION FOR EXTENSION OF TIME TO
FILE APPELLANT'S REPLY BRIEF

COMES NOW, Appellant, MARLO THOMAS, by and through his attorney,
DAVID M. SCHIECK, ESQ., and moves this Court for an Order granting an
extension of time of thirty (30) days to file Appellant's Reply Brief
up to and including October 14, 2006. This Motion is made and based
upon Supreme Court Rule 250 (6)(e) and the Affidavit of counsel filed
herewith.

DATED this 14 day of September, 2006.

SUBMITTED BY:

DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar No. 0824
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155
702-455-6265
Attorney for Appellant

STATEMENT OF FACTS

SCR 250 6(e) Extension of time reads as follows:

"The supreme court may grant an initial extension of time
of up to 60 days to file a brief upon a showing of good
cause, but shall not grant additional extensions of time
except upon a showing of extraordinary circumstances and

SEP 18 2006

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SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

06-19173

1 extreme need."

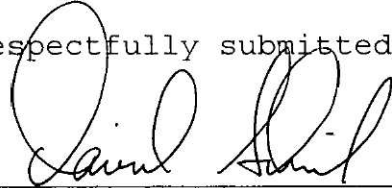
2 Based on the reasons set forth in counsel's affidavit attached
3 hereto, it is requested that an extension of 30 days be granted to
4 file Appellant's Opening Brief, up to and including October 14, 2006.

5 CONCLUSION

6 An extension of time of 30 days is requested to file Appellant's
7 Reply Brief, up to and including October 14, 2006.

8 DATED this 14 day of September, 2006.

9 Respectfully submitted,

10 

11 DAVID M. SCHIECK
12 SPECIAL PUBLIC DEFENDER
13 Nevada Bar No. 0824
14 330 S. Third St., Ste. 800
15 Las Vegas, Nevada 89155
16 702-455-6265
17 Attorney for Appellant

18 AFFIDAVIT OF COUNSEL

19 STATE OF NEVADA)
20) ss:
21 COUNTY OF CLARK)

22 DAVID M. SCHIECK, ESQ., being first duly sworn, deposes and says:

23 That Affiant is an attorney duly licensed to practice law in the
24 State of Nevada, and attorney for Appellant Marlo Thomas.

25 Thomas' Reply Brief is due September 14, 2006. No previous
26 extension to file the Reply Brief has been requested.

27 That Affiant makes this request for an extension of time with the
28 understanding of Supreme Court Rule 250 that "This court places the
highest priority on diligence in the discharge of professional
responsibility in capital cases." That in order to ensure Affiant
effectively represents Appellant in this capital case Affiant needs

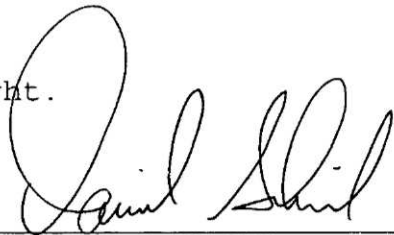
1 an extension of time of 30 days to respond to the State's Answering
2 Brief.

3 That Affiant has had to prepare for two murder trials for August
4 and September: State v. Maestas and State v. Lobato. Maestas was set
5 to begin August 21, 2006 as soon as the capital penalty hearing of her
6 co-defendant was concluded. The District Court requested Affiant be
7 ready to go the day after closing argument in the penalty hearing,
8 even before the jury returned with a verdict. That when the co-
9 defendant received the death penalty, Maestas negotiated her plea and
10 did not go to trial.

11 That Affiant began State v. Lobato, a murder trial on remand
12 after direct appeal, on September 11, 2006. Preparation for the
13 Lobato murder trial included finding witnesses and interviewing them
14 in Panaca, Nevada, a small town approximately 2 hours from Las Vegas.
15 That Affiant and his investigator spent numerous hours locating and
16 interviewing witnesses for trial.

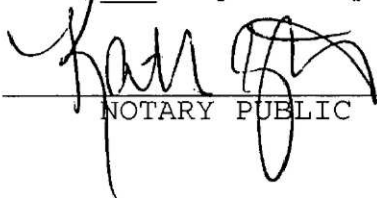
17 That Affiant therefore requests an extension of 30 days, up to
18 and including October 14, 2006 to prepare and file Appellant's Reply
19 Brief. That Affiant makes this request in good faith and not for
20 purposes of delay.

21 Further Affiant sayeth naught.

22
23 
24 DAVID M. SCHIECK

25 SUBSCRIBED AND SWORN to before me

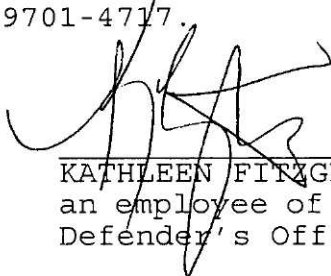
26 this 14 day of September, 2006.

27 
28 NOTARY PUBLIC



CERTIFICATE OF MAILING

I, KATHLEEN FITZGERALD, do hereby certify that on the 14 day of September, 2006, I did deposit in the United States Post Office at Las Vegas, Nevada, a copy of the above and foregoing Motion, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to the following: Clark County District Attorney, 200 Lewis Ave., 3rd Floor, Las Vegas NV 89155; and Nevada Attorney General, 100 N. Carson St., Carson City NV 89701-4717.


KATHLEEN FITZGERALD
an employee of the Special Public
Defender's Office