

● ORIGINAL ●

IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

\* \* \*

JAMES MONTELL CHAPPELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

JAN 09 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY [Signature]  
DEPUTY CLERK

Case No. 49478

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2008 JAN -4 PM 3:06

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

COMES NOW, Appellant, JAMES CHAPPELL, by and through his attorneys, DAVID M. SCHIECK, SPECIAL PUBLIC DEFENDER, and JONELL THOMAS, DEPUTY SPECIAL PUBLIC DEFENDER, and moves this Court for an Order granting an extension of time of ninety (90) days to file Appellant's Opening Brief up to and including April 9, 2008.

This Motion is made and based upon Nevada Supreme Court Rule 250(6)(e), the Affidavit filed herewith, and the Points and Authorities attached hereto.

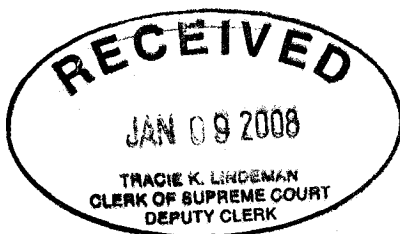
DATED this 4<sup>TH</sup> day of January, 2008.

SUBMITTED BY:

DAVID M. SCHIECK

SPECIAL PUBLIC DEFENDER

[Signature]  
JONELL THOMAS  
Nevada Bar No. 4771  
330 S. Third St., Ste. 800  
Las Vegas, Nevada 89155  
702-455-6265  
Attorney for Appellant



SPECIAL PUBLIC  
DEFENDER

CLARK COUNTY  
NEVADA

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STATEMENT OF FACTS

This capital appeal was docketed on May 25, 2007. Pursuant to the Court's Order on October 11, 2007, Appellant's Motion for an Extension of Time was granted and the Opening Brief is due January 9, 2008.

POINTS AND AUTHORITIES

SCR 250(6(e) states as follows:

"(e) 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 extreme need."

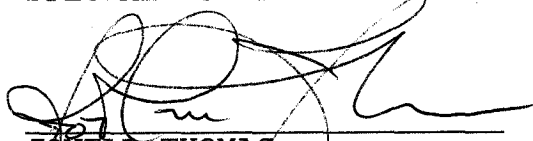
CONCLUSION

An extension of time of 90 days was requested to file Appellant's Opening Brief and granted by this Court. That based on the reasons set forth in the Affidavit of Counsel attached hereto, an extension of an additional 90 days is requested to file the Opening Brief, up to and including April 9, 2008.

DATED this 4<sup>th</sup> day of January, 2008.

SUBMITTED BY:

DAVID M. SCHIECK  
SPECIAL PUBLIC DEFENDER

  
JONELL THOMAS  
Nevada Bar No. 4771  
330 S. Third St., Ste. 800  
Las Vegas, Nevada 89155  
702-455-6265  
Attorney for Appellant

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JONELL THOMAS, being first duly sworn, deposes and says:

That Affiant is an attorney duly licensed to practice law in the State of Nevada, and the Deputy Special Public Defender appointed to represent Appellant CHAPPELL.

That CHAPPELL'S Opening Brief is due on January 9, 2008.


That Affiant has only recently been able to travel to Ely State Prison to meet with Appellant James Chappell. That Mr. Chappell has requested that the Opening Brief be sent to him to review prior to sending to this Court for filing.

That additionally, in light of recent decisions, extensive research must be conducted on two unique and novel issues which need to be raised in this capital appeal.

Therefore, Affiant requests an extension of 90 days, up to and including April 9, 2008 to file the Opening Brief. That Affiant makes this request in good faith and not for purposes of delay.

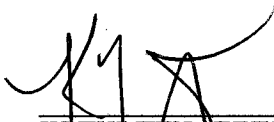
Further Affiant sayeth naught.

SUBSCRIBED AND SWORN to before me  
this 14 day of January, 2008 by JoNell Thomas.

 **KATHLEEN FITZGERALD**  
**NOTARY PUBLIC**  
**STATE OF NEVADA**  
APT. No. 92-1867-1  
MY APPL. EXPIRES DEC. 24, 2010

CERTIFICATE OF MAILING

I, KATHLEEN FITZGERALD, do hereby certify that on the 4 day of January, 2008, 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