

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM LESTER WITTER,

Petitioner,

v.

E.K. McDANIEL, Warden, and
CATHERINE CORTEZ-MASTO, the
Attorney General of the State of Nevada,

Respondents.

Case No. 50447

FILED

MAY 01 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. Ingersoll
DEPUTY CLERK

**MOTION TO PERMIT APPELLANT TO FILE AN OPENING BRIEF
LONGER THAN THIRTY PAGES**

William Lester Witter, by his counsel, hereby moves to be allowed to file his opening
brief which is fifty (50) pages in length.

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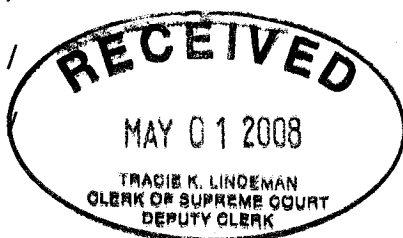
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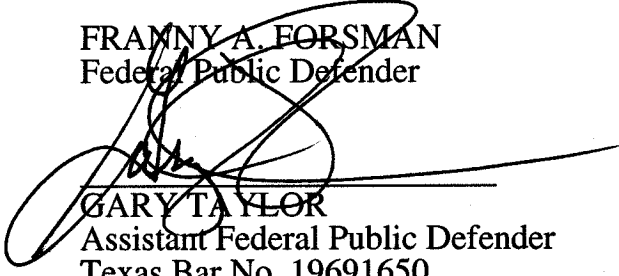


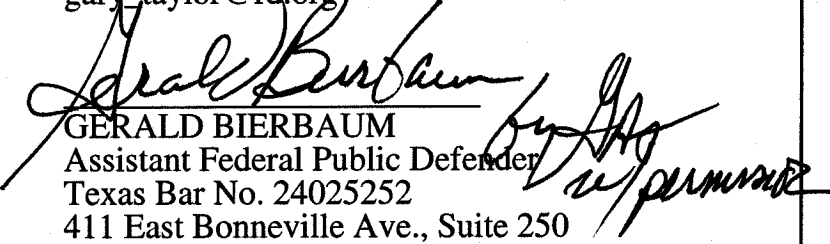
1 This motion is based on NRAP 28(g), the following declaration and all papers and
2 pleadings on file herein.

3 Dated this 29th day of April, 2008.

4 Respectfully submitted,

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6 Federal Public Defender

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23 Attorneys for Appellant

24 **DECLARATION**

25 Gary Taylor, declares as follows:

26 1. I am an attorney at law admitted to practice before this Court, employed as an
27 Assistant Federal Public Defender in the Capital Habeas Unit of the Federal Public Defender.
28 This office is counsel for the appellant, William Lester Witter, in Witter v. McDaniel, No.
50047.

2 The opening brief in Mr. Witter's post-conviction habeas corpus appeal is fifty
(50) pages in length.

3 I have made this brief as short as practicable. In order to provide this Court
with a fair opportunity to apply controlling legal principles to the facts bearing upon Mr.

1 Witter's constitutional claims, it is necessary to exceed the thirty page limit. In my judgment,
2 I cannot practicably shorten the brief further without omitting crucial facts which would
3 endanger the right to review of constitutional claims. See 28 U.S.C. § 2254(b) (1, 3). I have
4 attempted to comply with the Court's decisions requiring counsel both to shorten arguments
5 presented for purposes of extension, and to provide "cogent" supporting authority for
6 arguments. Compare Hernandez v. State, 117 Nev. 463, 466-467, 24 P.3d 767 (2001), with
7 Browning v. State, 120 Nev. 347, 91 P.3d 39, 50, 53 (2004), State v. Haberstroh, 119 Nev.
8 173, 69 P.3d 676, 684 (2003).

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10 4. I ask that this Court allow Mr. Witter to file the accompanying opening brief.


11 5. I declare under penalty of perjury that the foregoing is true and correct and that
12 this declaration was executed on April 29, 2008 in Las Vegas, Nevada.

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15 Gary Taylor
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