

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

JUN 17 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

WILLIAM LESTER WITTER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent

Case No. 50447

MOTION FOR ENLARGEMENT OF TIME

GARY A. TAYLOR
Assistant Federal Public Defender
Texas Bar #19691650
GERALD J. BIERBAUM
Assistant Federal Public Defender
Texas Bar #24025252
411 E. Bonneville Ave., Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577

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

CATHERINE CORTEZ MASTO
Nevada Attorney General
Nevada Bar #003926
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

Counsel for Respondent

RECEIVED
JUN 15 2008
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

TRACIE K. LINDEMAN SECRETARY MOTIONS/EXTEND WITTER, WILLIAM LESTER, 50447, C117513, MTN.EXT.TIME TO 7-14-08.DOC

08 - 10374

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

2
3
4
5 WILLIAM LESTER WITTER,)

6 Appellant,)

7 v.)

Case No. 50447

8 THE STATE OF NEVADA,)

9 Respondent)

10
11 **MOTION FOR ENLARGEMENT OF TIME**

12 COMES NOW the State of Nevada, by DAVID ROGER, Clark County District
13 Attorney, through his Chief Deputy District Attorney, STEVEN S. OWENS, and
14 moves this Court for an enlargement of time within which to file Respondent's
15 Answering Brief up to and including July 14, 2008. This motion is based on the
16 following memorandum, declaration and all papers and pleadings on file herein.

17 Dated this 12th day of June, 2008.

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

20
21 BY

22 STEVEN S. OWENS
23 Chief Deputy District Attorney
24 Nevada Bar #004352
25 Office of the Clark County District Attorney
26 Regional Justice Center
27 200 Lewis Avenue
28 Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

1 **MEMORANDUM**

2 The certificate of mailing in Appellant's Opening Brief is dated May 29, 2008.
3 The Opening Brief is 50 pages long, raising six (6) issues and fifteen (15) sub-issues
4 and Appellant's Appendix is over 5,100 pages long. Due to a shortage of law clerks in
5 the Appellate division, the law clerk assigned to preparing the State's Answer has
6 numerous other briefs and post-conviction matters assigned to him making a proper
7 response difficult, if not impossible to achieve given the current schedule.

8 NRAP 26(b) permits this Court to enlarge the time for doing any act upon good
9 cause shown even when the time for doing the act has passed. Further, SCR Rule
10 250(7) allows for initial extensions of time on capital post-conviction appeals of up to
11 sixty (60) days upon a showing of good cause.

12 Rather than rush to complete the State's brief which is due today, June 12,
13 2008, the State moves for an enlargement of thirty (30) days time within which to file
14 Respondent's Answering Brief up to and including July 14, 2008. This will allow the
15 State sufficient time to draft a brief which adequately sets forth the State's position
16 and won't require superficial editing and a rush to format the brief.

17 Dated this 12th day of June, 2008.

18 Respectfully submitted,

19 DAVID ROGER,
20 Clark County District Attorney

21 BY 

22 STEVEN S. OWENS
23 Chief Deputy District Attorney
24 Nevada Bar #004352
25 Office of the Clark County District Attorney
26 Regional Justice Center
27 200 Lewis Avenue
28 Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

- 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

I am advised that due to our Appellate case load, that completion of the State's Answering Brief in Witter v. State, Case No. 50447 cannot be completed on time taking into consideration the length of Appellant's Opening Brief and Appendixes. An extension will allow the State sufficient time to draft a brief which adequately sets forth the State's position and won't require superficial editing and a rush to format the brief.

DATED this 12th day of June, 2008.

BY


STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

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

CERTIFICATE OF MAILING

I hereby certify and affirm that I mailed a copy of the foregoing Motion For
Enlargement of Time to the attorney of record listed below on June 12, 2008.

GARY A. TAYLOR
GERALD J. BIERBAUM
Assistant Federal Public Defender
411 East Bonneville Ave, Ste. 250
Las Vegas, Nevada 89101



Employee, Clark County
District Attorney's Office

SSO/Michael Radovic/ed