## ORIGINAL

### IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 5 WILLIAM LESTER WITTER,

Appellant,

E.K. McDANIEL, Warden, Ely State

Prison, CATHERÍNE CORTEZ MASTO, Attorney General of the State of Nevada,

Respondents.

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TRACIE K. LINDEMAN

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No. 50447

FILED

FEB 2 8 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

### MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE

APPELLANT'S OPENING BRIEF

Appellant William Lester Witter, through counsel, requests an extension of sixty days, to and including April 29, 2008, within which to file his opening brief in this matter, which is currently due to be filed on February 29, 2008. Nev. R. App. P. 27(b); 31(3); Nev. Sup. Ct. Rule 250(7)(d). This request is based on the attached declaration of counsel.

Dated this 26th day of February, 2008.

Respectfully submitted FRANNY A. FORSMA Federal Public Defender

Gary Taylor Assistant Federal Public Defender Texas Bar No. 19691650 411 E. Bonneville Ave., #250 Las Vegas, Nevada 89101

Assistant Federal Public Defender Texas Bar No. 24025252 411 E. Bonneville Ave., #250 Las Vegas, Nevada 89101

Attorneys for Petitioner/Appellant

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#### **DECLARATION**

Gerald Bierbaum declares as follows:

- 1. I am an attorney at law, admitted to practice before this Court, employed as an Assistant Federal Public Defender. I represent appellant William Lester Witter in this appeal.
- 2. Mr. Witter's opening brief is due February 29, 2008. The opening brief has not been completed and it is necessary for this office to request an extension of time of sixty (60) days, to and including, April 29, 2008, within which to complete and file the opening brief.
- 3. From October of 2007 to February of 2008, counsel was obligated to file three amended petitions for capital defendants in federal district court. Counsel filed an amended petition for Joseph Smith, Case No. 2:07-cv-00318-JCM-RJJ in early October. Counsel is currently preparing a petition for Paul Browning, Case No. 03:05-cv-0087-RCJ-RAM. Mr. Browning's petition is due in February of 2008. Counsel is also assisting in preparing a petition for Antonio Doyle, Case No. 3:00-cv-101-ECR-RAM. Mr. Doyle's petition is due April 28, 2008.
- 4. Since the entry of the order in the district court, in addition to preparing petitions, counsel assisted in preparing a response to a motion to dismiss for another capital petitioner in federal court, Mark Rogers, Case No. 3:02-cv-342-ECR-RAM. Counsel also assisted in preparing the reply to the motion to dismiss for capital petitioner William Leonard, in state court. Mr. Leonard's case is 88 00461C in the First Judicial District Court of the State of Nevada, in and for Carson City County.
- 5. This request is made solely in order to allow this office to provide Mr. Witter with competent representation under Nev. Sup. Ct. Rule 151, see Local Rule IA 10-7(a), and not merely for the purpose of delay or for any other improper purpose.

- I would be competent to testify to the matters stated in this declaration if called upon to 6. do so.
  - I declare under the penalty of perjury that the foregoing is true and correct to the best of 7. my knowledge and that this declaration was executed in Las Vegas, Nevada on the 26th day of February, 2008.

Texas Bar No. 24025252 410 E. Bonneville Ave, #250 Las Vegas, Nevada 89101

Attorneys for Appellant

### **CERTIFICATE OF SERVICE**

I certify that on the 26<sup>th</sup> day of February, 2008, I served a copy of the MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE APPELLANT'S OPENING BRIEF completed docketing statement upon all counsel of record:

by mailing it by first class mail with sufficient postage prepaid to the following address(es):

David Roger Clark County District Attorney Steven S. Owens Chief Deputy District Attorney Office of the District Attorney Regional Justice Center, Third Floor 200 Lewis Avenue Las Vegas, Nevada 89155

Catherine Cortez Masto Attorney General Erik A. Levin Deputy Attorney General Attorney General's Office 100 North Carson Street Carson City, Nevada 89701-4717

Dated this 26th day of February, 2008.

An employee of the Federal Public Defender

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