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IN THE SUPREME COURT OF THE STATE OF NEVADA

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WILLIAM LESTER WITTER,

VS.

E.K. McDANIEL, Warden, Ely State Prison, CATHERÍNE CORTEZ MASTO, Attorney General of the State of Nevada,

Respondents.

No. 50447

FILED

SEP 1 5 2008

TRACIE K. LINDEMAN CLERK OF SUPREME COURT

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

Appellant William Lester Witter, through counsel, requests an extension of sixty days, to and including November 19, 2008 within which to file his reply brief in this matter, which is currently due to be filed on September 22, 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 12th day of September, 2008.

Respectfully submitted, JORSMAN Federal/Public Defender

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Nevada Bar No.11031C

411 E. Bonneville Ave., #250 Las Vegas, Nevada 89104

Gerald J. Bierbaum Assistant Federal Public Defender Nevada Bar No 11024C

411 E. Bonneville Ave., #250 Las Vegas, Nevada 89101

Attorneys for Petitioner/Appellant



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DECLARATION

Gary A. Taylor and Gerald J. Bierbaum declare as follows:

- We are attorneys at law, admitted to practice before this Court, employed as an 1. Assistant Federal Public Defenders. We represent appellant William Lester Witter in this appeal.
- 2. Mr. Witter's reply brief is due September 22, 2008. The reply 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, November 19, 2008 within which to complete and file the opening brief.
- 3. Since the filing of the opening brief in this case, counsel has prepared and assisted in the drafting and filing of a petition for writ of habeas corpus in Antonio Doyle v. McDaniel, No. 3:00-cv-101-ECR-RAM, which was filed on May 14, 2008; drafted and filed a Response to Motion to Dismiss in Kitrich Powell v. E.K. McDaniel, Case No. C092400, in the Eighth Judicial District Court of Clark County, Nevada, which was filed on May 30, 2008; drafted and filed an opening brief in the Nevada Supreme Court in David A. Bollinger v. E.K. McDaniel, Case No. 50620 on July 17, 2008; drafted and filed a successor petition for writ of habeas corpus in Kelly E. Rhyne v. E.K. McDaniel, in the Fourth Judicial District Court of Elko County; and drafted a reply to a Motion to Dismiss a petition for writ of habeas corpus in the Eight District Court, Department Eight in Joseph W. Smith v. E. K. McDaniel, Case No. 91-C-100991-C. We participated in filing a brief in the District Court on exhaustion in Roger Libby v. E.K. McDaniel, Case No. 3:04-cv-00038-LRH-RAM on August 22, 2008 and a reply to answer to third amended petition for writ of habeas corpus in John Espiredion. Valerio v. E.K. McDaniel, Case No. 3:96-cv-0362-RCJ-RAM.
- 5. In addition, Gerald J. Bierbaum will be out of the district interviewing a client in Guantanamo Boy, Cuba from September 15, 2008 through September 19, 2008. Since the client interview in Guantanamo Bay required coordination with Military Commission counsel and the Joint Task Force - Guantanamo, we are requesting permission to file Mr. Witter's reply brief sixty (60) days from its current due date of September 22, 2008.

- 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.
- 7. We would be competent to testify to the matters stated in this declaration if called upon to do so.
- 8. We declare under the penalty of perjury that the foregoing is true and correct to the best of our knowledge and that this declaration was executed in Las Vegas, Nevada on the 12th day of September, 2008.

GARY A. TAYLOR Assistant Federal Public Defender Nevada Bar No. 11031C 411 E. Bonneville Ave., #250 Las Vegas, Nevada 89101

GERALD J. BIERBAUM Assistant Federal Public Defender Nevada Bar No. 11024C 411 E. Bonneville Ave., #250 Las Vegas, Nevada 89101

Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that on the 12th day of September, 2008, I served a copy of the MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE APPELLANT'S REPLY 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** John M. Warwick, IV Deputy Attorney General Attorney General's Office 100 North Carson Street Carson City, Nevada 89701-4717

Dated this 12th day of September, 2008.

An employee of the Federal Public Defender

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