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Law Offices of Thomas L. Qualls, Esq.

230 East Liberty Street

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

MAR 3 1 2008

SIAOSI VANISI,

Appellant,

Supreme Court No.

50007 DEBUTY CLERK

District Court No.

CR98P0516

THE STATE OF NEVADA,

**DEATH PENALTY CASE** 

Respondent.

# **MOTION FOR EXTENSION OF TIME**

**COMES NOW** Appellant, SIAOSI VANISI, by and through his attorney of record SCOTTEDWARDS, ESQ., and co-counsel THOMAS L. QUALLS, ESQ., and hereby moves this Honorable Court for an Order allowing counsel sixty (60) days to file the Opening Brief that at this time is due March 27, 2008.

This Motion is made and based upon the attached Memorandum of Points and Authorities, the Affidavits of SCOTT EDWARDS, ESQ. and THOMAS L. QUALLS, ESQ.; and, upon any and all other relevant records, documents, motions and pleadings on file herein; as well as upon such testimony or documentation as may be required by this Honorable Court.

RESPECTFULLY SUBMITTED this 27 day of March, 2008.

SCÓTT EDWARDS, ESQ.

Attorney for Appellant, SIAOSI VANISI

AUSI VANISI

THACIE K. LINDEMAN CLERK OF SUPREME COURT DEPUTY CLERK THOMAS L. QUALLS, ESQ.

Co-Counsel for Appellant, SIAOSI VANISI

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### **MEMORANDUM OF POINTS AND AUTHORITIES**

T.

### STATEMENT OF THE CASE

Appellant SIAOSI VANISI was convicted of First Degree Murder, Robbery with the Use of a Deadly Weapon, two counts of Robbery with the Use of a Firearm and Grand Larceny; on September 27, 2003, by jury. At the penalty phase the jury then set his penalty at death. His Direct Appeal from the judgement of conviction resulted in the conviction and sentence being affirmed on November 27, 2001. A petition for Writ of Habeas Corpus Post-Conviction was filed on January 18, 2002. On February 5, 2003 Scott Edwards, Esq. was appointed as counsel by conference call. Thomas L. Qualls, Esq. was appointed as co-counsel by an order filed December 23, 2003. A Supplemental Points and Authorities to Petition for Post Conviction was filed on February 22, 2005. A multitude of motions and hearing regarding psychiatric evaluations were conducted and VANISI was deemed competent to proceed by an Order entered on March 16, 2005. Respondent then filed a Motion to Dismiss the Petition for Writ of Habeas Corpus and an Answer to the Petition for Writ of Habeas Corpus and Supplemental Points and Authorities to Petition for Habeas Corpus on April 21, 2005. The Post Conviction Evidentiary Hearing began on May 2, 2005. Appellant filed his Opposition to the Motion to Dismiss the Petition for Writ of Habeas Corpus and Supplemental Points and Authorities for Habeas Corpus on May 6, 2005. The Post Conviction Evidentiary Hearing continued on May 18, 2005. A Memorandum of Law regarding McConnell error was filed March 28, 2005. The Post Conviction Evidentiary Hearing continued April 3, 2007. The State filed a Memorandum of Law concerning the Retroactive Application of McConnell on April 6, 2007. The court entered an oral decision on September 7, 2007. A Findings, Conclusions and Judgement denying the Petition for Writ of Habeas Corpus Post-Conviction was filed on November 8, 2007 and entered on November 19, 2007. The Notice

of Appeal was timely filed on November 28, 2007. At this time Appellant's Opening Brief is due March 31, 2008.

II.

### **ARGUMENT**

Appellant, SIAOSI VANISI, has been found to be indigent in these proceedings. As a result, this court appointed undersigned counsel. Due to the seriousness of this matter, as it is a death penalty case, appellant's counsel requests additional time to file the Opening Brief. VANISI's case is complicated and the State's challenge of the new rule announced in McConnell relevant to this case requires extensive historical analysis. Accordingly, it is necessary for undersigned counsel to be allowed additional time in order to provide zealous representation of Appellant SIAOSI VANISI's interests. This is the first request for an extension of time in this matter and this request is made in good faith and not for the purpose of unnecessary delay.

**WHEREFORE**, Appellant SIAOSI VANISI, by and through the undersigned counsel, respectfully requests this Honorable Court enter an order to allow counsel sixty (60) days to file the Opening Brief up to and including May 30, 2008.

RESPECTFULLY SUBMITTED this 27 day of March, 2008.

SCOTT EDWARDS, ESQ. Attorney for Appellant,

SIAOSI VANISI

THOMAS L. QUALLS, ESQ.

Co-Counsel for Appellant, SIAOSI VANISI

# AFFIDAVIT OF SCOTT EDWARDS, ESQ.

STATE OF NEVADA	)	
	)§	
COUNTY OF WASHOE	)	

I, SCOTT EDWARDS, ESQ., having been duly sworn, deposes and states under penalty of perjury the assertions of the Affidavit are true as follows:

- 1. That your Affiant is an attorney licensed to practice law in all courts of the State of Nevada;
- 2. That your Affiant was appointed for purposes of representing Appellant SIAOSI VANISI in the case of *Siaosi Vanisi v. The State of Nevada*, Case No.50607;
- 3. That your Affiant believes that sixty (60) days is adequate time for filing of the Opening Brief;
- 4. That your Affiant makes the foregoing requests in order to provide an adequate and effective representation for SIAOSI VANISI.

FURTHER YOUR AFFIANT SAYETH NOT.

SCOTT EDWARDS, ESQ.

# AFFIDAVIT OF THOMAS L. QUALLS, ESQ.

STATE OF NEVADA	
	){
COUNTY OF WASHOE	)

I, THOMAS L. QUALLS, ESQ., having been duly sworn, deposes and states under penalty of perjury the assertions of the Affidavit are true as follows:

- 1. That your Affiant is an attorney licensed to practice law in all courts of the State of Nevada;
- 2. That your Affiant was appointed as co-counsel for purposes of representing Appellant SIAOSI VANISI in the case of Siaosi Vanisi v. The State of Nevada, Case No. 50607;
- 3. That your Affiant believes that sixty (60) days is adequate time for filing of the Opening Brief;
- 4. That your Affiant makes the foregoing requests in order to provide an adequate and effective representation for SIAOSI VANISI.

FURTHER YOUR AFFIANT SAYETH NOT.

THOMAS L. QUALLS, ESQ.

#### AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the proceeding document, Motion to Reconsider or Correct Order Filed March 4, 2008; and Motion for Leave to Amend Supplement to Petition filed in case number CR97P2077, does not contain the social security number of any person(s).

DATED this A day of March, 2008.

Kristy Schaaf

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# **CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Law Office of Thomas L. Qualls and that on the 28<sup>th</sup> day of March, 2008, I served a copy of the Motion for Extension of Time upon all counsel of record via personal delivery and US postal service to the following address:

Washoe County District Attorney's Office Terrence McCarthy, Appellate Division One South Sierra Street, 4<sup>th</sup> floor Reno, Nevada 89520

**DATED** this 28th day of March, 2008.

Kristy Schaaf