20

21

22

23

24

25

26

Law Offices of Thomas L. Qualls, Esq

ORIGINAL

MAY 2 3 2008

IN THE SUPREME COURT OF THE STATE OF NEVADA

SIAOSI VANISI,

Appellant,

Supreme Court No.

50607

v.

1

2

3

4

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 co-counsel of record THOMAS L. QUALLS, ESQ., and hereby moves this Honorable Court for an Order allowing counsel thirty (30) days to file the Opening Brief that at this time is due May 30, 2008.

This Motion is made and based upon the attached Memorandum of Points and Authorities, the Affidavit of 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 May, 2008.

THOMAS L. QUALLS, ESQ.

Co-Counsel for Appellant,

SIAOSI VANISI



3

456

7 8 9

10 11

13 14

12

15 16

17

18 19

2021

22

2324

2526

2728

MEMORANDUM OF POINTS AND AUTHORITIES

I.

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. Appellant's Opening Brief was originally due on March 31, 2008. Appellant filed a Motion for Extension of time, which was granted, causing the Opening Brief to be due May 30, 2008.

II.

<u>ARGUMENT</u>

One of Appellant's counsel, SCOTT EDWARDS, ESQ., suffered a heart attack on May 15, 2008 and as a result spent the weekend in the Intensive Care Unit at St. Mary's Hospital in Reno, Nevada. Mr. Edwards has since been released from the hospital with the Doctor's order that he is not to work until at least after Memorial Day. Accordingly Appellant's counsel requests additional time for Mr. Edwards to convecese in order to assist with the preparation of 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 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 an additional thirty (30) days to file the Opening Brief up to and including June 30, 2008.

RESPECTFULLY SUBMITTED this Z day of May, 2008.

24

25

26 27

28

THOMAS L. QUALLS, ESQ. Co-Counsel for Appellant, SIAOSI VANISI

	1	
	2	I
	3	
	4	
	5	
	6	
	7	I
	8	l
	9	
1	0	
1	1	
1	2	
1	3	
1	4	
1	5	
1	6	
1	7	
1	8	
1	9	I
2	0	I
2		
2		
- 2		
2		
2		
2		
2 2		
4	1	۱

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 thirty (30) days is necessary and 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.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Office of Thomas L. Qualls and that on the 22nd day of May, 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, 4th floor Reno, Nevada 89520

DATED this 22nd day of May, 2008.

Kristy Schaaf