

## IN THE SUPREME COURT OF THE STATE OF NEVADA

ZANE M. FLOYD,

Appellant,

vs.

E.K. McDANIEL, Warden, and  
CATHERINE CORTEZ MASTO,  
Attorney General of Nevada,

Respondents.

Case No. 51409

FILED

FEB 20 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Malone*  
DEPUTY CLERKRECEIVED  
Las Vegas Drop Box  
CLERK OF SUPREME COURT  
2009 FEB 17 PM 3:51**REQUEST FOR A FIFTH EXTENSION OF TIME WITHIN WHICH TO FILE  
APPELLANT'S OPENING BRIEF**

Appellant ZANE M. FLOYD, through counsel, hereby requests a fifth extension of time of two (2) weeks within which to serve and file his opening brief on appeal. Nev. Sup. Ct. Rule 250 (7)(d); Nev. R. App. P. 31 (a)(3). This request is supported by the attached declaration of counsel. Counsel for Respondents does not oppose this request.

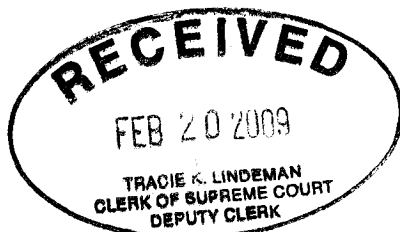
Dated this 17th day of February, 2009.

Respectfully submitted,

FRANNY A. FORSMAN  
Federal Public Defender

*[Signature]*  
TIFFANY D. HURST  
Assistant Federal Public Defender  
Temporary Nevada Bar Number 11027C  
C. BENJAMIN SCROGGINS  
Staff Attorney  
Nevada Bar Number 7902  
411 East Bonneville Ave., Suite 250  
Las Vegas, Nevada 89101  
(702) 388-6577

Counsel for Appellant



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2 DECLARATION

3 Tiffani D. Hurst declares as follows:

4 1. I am an attorney at law, admitted to practice in the State of Illinois, and, admitted  
5 to limited representation in the State of Nevada, Nev. Sup. Ct. Rule 49.11. I am employed as  
6 an Assistant Federal Public Defender in the Capital Habeas Unit of the Law Offices of the  
7 Federal Public Defender. I represent the appellant, Zane Michael Floyd, in this matter.

8 2. The opening brief in Mr. Floyd's case is currently due to be filed on February 17,  
9 2009. I am requesting a fifth extension of two (2) weeks to file the brief.

10 3. During the pendency of the time for filing this brief, my now nine month old  
11 daughter was hospitalized six times. The most recent two hospitalizations were due to a severely  
12 low white blood count, and suspected bacterial infections, and occurred on January 19, 2009 for  
13 a week, and February 9, 2009 for a week. She was discharged the day before the current brief  
14 was due to be filed.


15 4. My daughter, born two and a half months premature on May 14, 2008, has been  
16 hospitalized five times during the past nine months, including a two and half month stay on May  
17 15, 2008, a four week stay on October 28, 2008, a four week stay on December 2, 2008, and the  
18 two stays mentioned above. Each request for an extension of time to file the opening brief has  
19 correlated with one of my daughter's hospital stays.

20 5. As I have substantially completed drafting Mr. Floyd's opening brief, however,  
21 this will be my final request for a continuance to file said brief.

22 6. Attorney C. Benjamin Scroggins from my office has spoken with counsel for the  
23 Respondents in the District Attorney's office, and advised of my intent to request a two (2) week  
24 extension of time. Deputy District Attorney Steven Owens has no objection to the requested  
25 extension of time, considering the unforeseen circumstances.

26 7. This request is made in order to provide Mr. Floyd with competent representation,  
27 Nev. Sup. Ct. Rule 151, and not solely for the purpose of delay or for any other improper  
28 purpose. The brief is substantially complete and the additional time is for editing purposes only.  
I certify that no further extensions will be requested.

1           8.    I declare under penalty of perjury that the foregoing is true and correct and that this  
2 declaration was executed on February 17, 2009 in Las Vegas, Nevada.

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4   
5 TIFFANI D. HURST  
6 Assistant Federal Public Defender  
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Counsel for Appellant

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H. Palmer

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