

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

ZANE MICHAEL FLOYD,
Appellant,

vs.

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

Respondents.

Case No. 51409

MAR 05 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

MOTION TO PERMIT APPELLANT TO FILE AN OPENING BRIEF
LONGER THAN THIRTY PAGES

Zane Michael Floyd, by his counsel, hereby moves to be allowed to file his opening brief which is eighty-five (85) pages in length.

This motion is based on NRAP 28(g), the following declaration and all papers and pleadings on file herein.

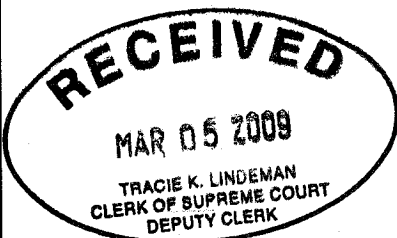
Dated this 3rd day of March, 2009.

FRANNY A. FORSMAN
Federal Public Defender

TIFFANI D. HURST
Assistant Federal Public Defender
Nevada Bar No. 11027C
Illinois Bar No. 6278909
411 East Bonneville Ave., Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

C. BENJAMIN SCROGGINS
Staff Attorney
Nevada Bar No. 007902
411 East Bonneville Ave., Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

Counsel for Appellant



DECLARATION

1 Tiffani D. Hurst declares as follows:


2 1. I am an attorney at law admitted to practice before this Court, employed as an
3 Assistant Federal Public Defender. This office is counsel for the appellant, Zane Michael Floyd,
4 in case no. 51409.

5 2. The opening brief submitted for filing in Mr. Floyd's post-conviction habeas corpus
6 appeal is eighty-five (85) pages in length.

7 3. I have made this brief as short as I believe is practicable. However, in order to
8 provide this Court with a fair opportunity to apply controlling legal principles to the facts bearing
9 upon Mr. Floyd's constitutional claims in this post conviction proceeding relating to a death
10 sentence, I believe it is necessary to exceed the thirty page limit. I do not believe I can
11 practicably shorten the brief further without endangering Mr. Floyd's right to review of his
12 constitutional claims and without rendering the brief completely telegraphic. See 28 U.S.C. §
13 2254(b) (1) and (3). I have attempted to comply with the Court's decisions requiring counsel
14 both to shorten arguments presented for purposes of extension, and to provide "cogent"
15 supporting authority for arguments. Compare Hernandez v. State, 117 Nev. 463, 466-467, 24
16 P.3d 767 (2001), with Browning v. State, 120 Nev. 347, 361, 91 P.3d 39, 50, 53 (2004), State
17 v. Haberstroh, 119 Nev. 173, 185, 69 P.3d 676, 684 (2003).

18 4. I therefore request that this Court file the accompanying opening brief.

19 5. I declare under penalty of perjury that the foregoing is true and correct and that this
20 declaration was executed on March 3, 2009 in Las Vegas, Nevada.

21
22
23 
24 Tiffani D. Hurst
25
26
27
28

CERTIFICATE OF SERVICE

In accordance with Rule 25 of the Nevada Rules of Appellate Procedure, the undersigned hereby certifies that on the 3rd day of March, 2009, a true and correct copy of the foregoing **MOTION TO PERMIT APPELLANT TO FILE AN OPENING BRIEF LONGER THAN THIRTY PAGES** was deposited in the United States mail, first class postage prepaid, addressed to counsel as follows:

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 89155-2212

Catherine Cortez Masto
Attorney General
Thom Gover
Senior Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101



An employee of the Federal Public Defender