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Attorney for Appellant  
NARCUS WESLEY

**FILED**

MAY 05 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NARCUS WESLEY,	)	Case No.: 52127
	)	
Appellant,	)	District Court Case No.: C232494
v.	)	District Court Dept. No.: XXIV
	)	
STATE OF NEVADA,	)	
	)	
Respondent.	)	
_____	)	

**APPELLANT'S EX-PARTE MOTION**

**FOR ENLARGEMENT OF TIME TO FILE OPENING BRIEF & APPENDIX**

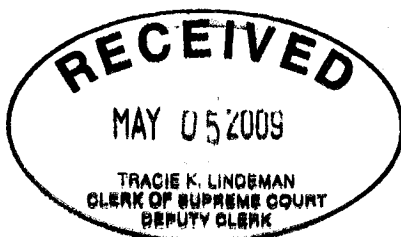
**[Fifth Request]**

COMES NOW, the Appellant, NARCUS WESLEY a/k/a NARCUS SAMONE WESLEY, by counsel, DAN M. WINDER, ESQ., and moves the Court to grant the Appellant an enlargement of time of an additional thirty (30) days, within which to file Appellant's Opening Brief and Appendix.

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09-11123

1 This pleading is supported by the attached Memorandum of Points and Authorities, the Affidavit  
2 of Dan M. Winder, Esq., and all pleadings and papers on file, herein.

3 DATED this 1<sup>st</sup> day of May, 2009.

4 Respectfully submitted,

5 By: 

6 DAN M. WINDER, ESQ.  
7 ARNOLD WEINSTOCK, ESQ.  
8 Attorney for Appellant  
9 NARCUS WESLEY

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 **Statement of the Relevant Facts**

12 This appeal arises from an underlying case, in the District Court of Clark County, in the  
13 matter of State of Nevada v. Narcus Wesley, Case No. C232494. On May 9, 2007, the  
14 Defendant was arraigned on the charges of Robbery, Use of a Deadly Weapon in a Crime,  
15 Sexual Assault, and Sexual Assault/Seduction. On May 22, 2008, the Defendant was sentenced  
16 to a term of imprisonment, inclusive of the range of life imprisonment (with the possibility of  
17 parole).

18 On or about July 3, 2008, the Judgment of Conviction was entered, as a matter of record.  
19 Thereafter, the Appellant filed his Notice of Appeal and Case Appeal Statement. The Opening  
20 Brief and Appendix are presently due on May 4, 2009.

21 That due to the new procedures in the records department in District Court the additional  
22 transcripts requested in this case will take at least an additional week to obtain. All request for a  
23 copy of documents filed in District Court are left with the court clerk and counsel is notified  
24 when request is ready for pick-up, due to this new policy there is a back log in obtain transcripts.  
25

1 An additional thirty (30) days is requested to receive the necessary transcripts to properly  
2 address Defendant's concerns and file brief. Additional time is needed to obtain transcripts and  
3 properly prepare Opening Brief. If an extension of time is granted this will be the last request for  
4 extension of time to filed Opening Brief in this case, bearing some unanticipated circumstance.

5 **Law and Argument**

6 The Nevada Rules of Appellate Procedure, Rule 31 (a) (1), provide as follows:

7  
8 *"Time for serving and filing briefs...By written stipulation timely filed with the*  
9 *Supreme Court, the parties may extend the time for filing any brief for a total of thirty*  
10 *(30) additional days unless the court otherwise orders (see Rule 26 (d)). Applications for*  
11 *extensions of time beyond that to which the parties are permitted to stipulate are not*  
12 *avored, and will be considered only on motion for good cause clearly shown or ex parte*  
13 *in cases of extreme and unforeseeable emergency..."*

14 The rule provides for a permissive thirty (30) day extension of time, to file any brief. In  
15 the case at bar, the Appellant seeks a thirty (30) day extension, within which to file his Opening  
16 Brief and Appendix.

17 WHEREFORE, the Appellant moves the Court to grant a thirty (30) day enlargement of  
18 time, within which to file Appellant's Opening Brief and Appendix, through and including April  
19 6, 2009 and for all such other relief as is just and proper in the premises.

20 Dated this 1<sup>st</sup> day of May, 2009.

21 Respectfully submitted,

22 By: 

23 DAN M. WINDER, ESQ.  
24 Nevada Bar No. 001569  
25 ARNOLD WEINSTOCK, ESQ.  
Nevada Bar No. 000510  
Attorney for Appellant

1 COUNTY OF CLARK )  
2 ) SS:  
3 STATE OF NEVADA )

4 **AFFIDAVIT OF ARNOLD WEINSTOCK, ESQ.**

5 1. Your Affiant is the associate of the attorney of record Dan M. Winder, Esq., in  
6 the case of Narcus Wesley v. State of Nevada, in the Supreme Court of the State of Nevada, Case  
7 No. 52127.

8 2. Your Affiant is fully knowledgeable, regarding all of the matters set forth in this  
9 Affidavit and is competent to testify, respecting the same.

10 3. That the Opening Brief and Appendix are due, in the above referenced cause of  
11 action, on or about May 4, 2009.

12 4. That your Affiant is an associate of the Law Office of Dan M. Winder, P.C., and  
13 your Affiant is working diligently on the matters related to the preparation of the instant appeal  
14 upon review of the file your affiant noticed some transcripts missing and thereupon requested the  
15 same from the Clerk's office

16 5. That due to the change in procedures in the District Court's records department  
17 there is a delay in obtain the needed transcript to properly prepare the Opening Brief.

18 5. That in order to adequately and properly prepare the appeal, an enlargement of  
19 Time of thirty (30) days is needed, within which to file the Appellant's Opening Brief and  
20 Appendix.  
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3 6. That the extension of time is requested for good cause and is not interposed for  
4 the purpose of delay.

5  
6 FURTHER AFFIANT SAYETH NAUGHT.

7 Dated this 1<sup>st</sup> day MAY, 2009.

8  
9 

10 DAN M. WINDER, ESQ.  
11 ARNOLD WEINSTOCK, ESQ.  
12 AFFIANT

13 **AFFIRMATION**

14 The undersigned does hereby affirm, subject to the penalties for perjury, that the  
15 foregoing Affidavit is true to the best of his present knowledge and belief.

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17 

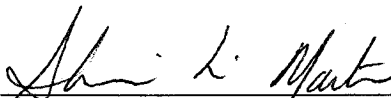
18 DAN M. WINDER, ESQ.  
19 ARNOLD WEINSTOCK, ESQ.  
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3 **CERTIFICATE OF SERVICE**

4 The undersigned does hereby certify that on this 1<sup>ST</sup> day of May, 2009, a  
5 true and accurate copy of the Appellant's Ex-Parte Motion for Enlargement of Time was  
6 forwarded by facsimile and deposited in the United States Mail, postage, pre-paid hand  
7 addressed as follows:  
8

9 Clark County District Attorney  
David Roger, Esq.  
10 200 S. Lewis Avenue  
Las Vegas, Nevada 89155

11 Attorney General  
12 State of Nevada  
555 E. Washington Ave. #3900  
13 Las Vegas, NV 89101

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16 An employee of the Law Office of Dan M. Winder, P.C.  
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