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Las Vegas, Nevada 89102
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Attorney for Appellant
NARCUS WESLEY

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

[Second Request]

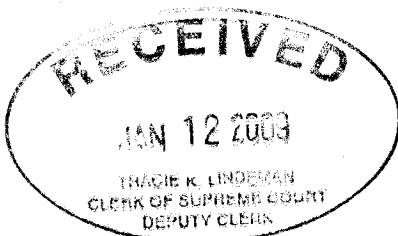
COMES NOW, the Appellant, NARCUS WESLEY a/k/a NARCUS SAMONE WESLEY, by counsel, DAN M. WINDER, ESQ., and moves the Court to grant the Appellant an enlargement of time of an additional sixty (60) days, within which to file Appellant's Opening Brief and Appendix. This pleading is supported by the attached Memorandum of Points and Authorities, the Affidavit of Dan M. Winder, Esq., and all pleadings and papers on file, herein.

DATED this 7th day of January, 2009.

Respectfully submitted,

By:

[Signature] 810
DAN M. WINDER, ESQ.
Attorney for Appellant
NARCUS WESLEY



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Statement of the Relevant Facts

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

On or about July 3, 2008, the Judgment of Conviction was entered, as a matter of record. Thereafter, the Appellant filed his Notice of Appeal and Case Appeal Statement. The Opening Brief and Appendix are presently due on January 12, 2009. Your Affiant is a sole practitioner and has currently filed an Appeal of Murder in the case of State of Nevada v. Fredrick Martinez, counsel also has four trials in the cases of State of Nevada v. Julio Plazola scheduled to begin on January 12, 2009, State of Nevada v. Bernard Ray scheduled to begin January 14, 2009, State of Nevada v. Yvette Quinine, State of Nevada v. Gustavo Perez , State of Nevada v. Yonathan Menari and State of Nevada v. Gregory Hilliard which are all scheduled to begin January 20, 2009. Due to the above named trial and the recent holiday season counsel requests an extension in time to adequately prepare and file the Opening Brief in the above en-captioned case.

Law and Argument

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

“Time for serving and filing briefs...By written stipulation timely filed with the Supreme Court, the parties may extend the time for filing any brief for a total of thirty (30) additional days unless the court otherwise orders (see Rule 26 (d)). Applications for extensions of time beyond that to which the parties are permitted to stipulate are not


1 favored, and will be considered only on motion for good cause clearly shown or ex parte
2 in cases of extreme and unforeseeable emergency..."

3 The rule provides for a permissive thirty (30) day extension of time, to file any brief. In
4 the case at bar, the Appellant seeks a sixty (60) day extension, within which to file his Opening
5 Brief and Appendix.

6 WHEREFORE, the Appellant moves the Court to grant a sixty (60) day enlargement of
7 time, within which to file Appellant's Opening Brief and Appendix, through and including
8 March 6, 2009 and for all such other relief as is just and proper in the premises.

9 Dated this 7th day of January, 2009.

10 Respectfully submitted,

11
12 By:  810
13 for DAN M. WINDER, ESQ.
14 Nevada Bar No. 001569
15 Attorney for Appellant
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1 COUNTY OF CLARK)
2) SS:
3 STATE OF NEVADA)

4 **AFFIDAVIT OF DAN M. WINDER, ESQ.**

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

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

9 3. That the Opening Brief and Appendix are due, in the above referenced cause of
10 action, on or about January 12, 2009.

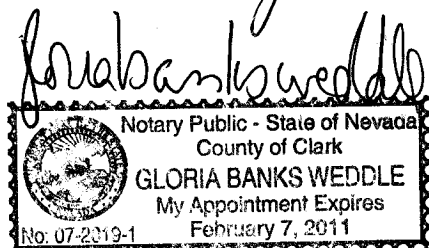
11 4. That your Affiant is a sole practitioner and your Affiant and his staff are working
12 diligently on the matters related to the preparation of the instant appeal.

13 5. That in order to adequately and properly prepare the appeal, an enlargement of
14 time of sixty (60) days is needed, within which to file the Appellant's Opening Brief and
15 Appendix.
16

17 6. That the extension of time is requested for good cause and is not interposed for
18 the purpose of delay.

19 FURTHER AFFIANT SAYETH NAUGHT.

20 Dated this 7th day Jan, 2009.



Dan M. Winder
DAN M. WINDER, ESQ.
AFFIANT

1 **AFFIRMATION**

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

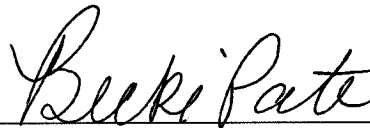
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5
6 DAN M. WINDER, ESQ.

7
8 **CERTIFICATE OF SERVICE**

9 The undersigned does hereby certify that on this 9 day of January, 2009, a
10 true and accurate copy of the Appellant's Ex-Parte Motion for Enlargement of Time was
11 forwarded by facsimile and deposited in the United States Mail, postage, pre-paid hand
12 addressed as follows:

13
14 Clark County District Attorney
15 David Roger, Esq.
16 228 S. Lewis Avenue
17 Las Vegas, Nevada 89155

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19 An Employee of Dan M. Winder, Esq.
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