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 Attorney for Appellant
 NARCUS WESLEY

FILED

JUN 08 2009

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

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

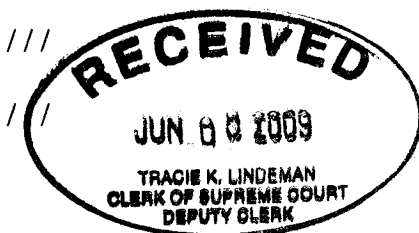
[Sixth Request]

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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09-14247

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 2nd day of JUNE, 2009.

4 Respectfully submitted,

5
6 By: 

DAN M. WINDER, ESQ.
ARNOLD WEINSTOCK, ESQ.
Attorney for Appellant
NARCUS WESLEY

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11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **Statement of the Relevant Facts**

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

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

23 Due to the new procedures in the records department in District Court the additional
24 transcripts needed to prepare Opening Brief took longer then anticipated to obtain. District
25 Court's new procedures in obtaining documents requires all request be left with the court clerk

1 and that once request has been complied person requesting documents will be notified when
2 request is ready for pick-up.

3 Transcripts in this case were order on April 30, 2009 (Order Form attached hereto as
4 Exhibit 1). On May 29, 2009 the District Court Clerk (Nadine) contacted our office to notify us
5 that the transcripts where ready for pick-up and to apologized for the unusual long delay in
6 granting our request.

7
8 An additional thirty (30) days is requested to properly address Defendant's concerns and
9 review transcripts and file brief.

10 **Law and Argument**

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

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

18
19 The rule provides for a permissive thirty (30) day extension of time, to file any brief. In
20 the case at bar, the Appellant seeks a thirty (30) day extension, within which to file his Opening
21 Brief and Appendix.

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1 WHEREFORE, the Appellant moves the Court to grant a thirty (30) day enlargement of
2 time, within which to file Appellant's Opening Brief and Appendix, through and including July
3 5, 2009 and for all such other relief as is just and proper in the premises.

4 Dated this 2nd day of JUNE, 2009.

5 Respectfully submitted,

6 By:


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

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11 COUNTY OF CLARK)
) SS:
12 STATE OF NEVADA)

13
14 **AFFIDAVIT OF ARNOLD WEINSTOCK, ESQ.**

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

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

20 3. That the Opening Brief and Appendix are due, in the above referenced cause of
21 action, on or about June 3, 2009.

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

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


6. That said transcripts were not obtained until May 29, 2009.

7. That in order to adequately and properly prepare the appeal, an enlargement of time of thirty (30) days is needed, in which to properly review transcript and prepare and file the Appellant's Opening Brief and Appendix.

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


FURTHER AFFIANT SAYETH NAUGHT.

Dated this 2nd, day JUNE, 2009.


DAN M. WINDER, ESQ.
ARNOLD WEINSTOCK, ESQ.
AFFIANT

AFFIRMATION

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


DAN M. WINDER, ESQ.
ARNOLD WEINSTOCK, ESQ.

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ORDER FOR PHOTOSTATIC COPIES

(Please Print)

CASE NO. 07-C-232446 CERTIFY ☐ EXEMPLIFY ☐ PLAIN COPY ☒ AMOUNT DUE \$ CT. APP.

PLAINTIFF/ESTATE OF STATE OF NEV.

DEFENDANT: NARCUS WESLEY - CT. APPOINTED

REQUEST COPIES OF THE FOLLOWING DOCUMENTS FROM THE ABOVE ENTITLED FILE:

SEE ATTACHED

FILED ON: _____

FILED ON: _____

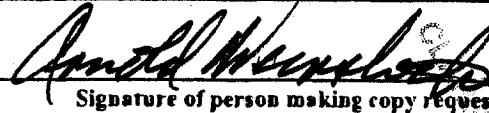
FILED ON: _____

FILED ON: _____

DATE REQUESTED: 4/29/09 DATE REQUIRED: 4/30/09 DATE COMPLETED: _____

ORDERED BY: ARNOLD WEINSTOCK, ESQ. LAW FIRM: DAN M. WINDER, ESQ. - CT. APPOINTED

TO BE MAILED: _____ ADDRESS: _____


Signature of person making copy request

INSTRUCTIONS FOR ORDERING: Fill this form out completely. PLEASE PRINT. Identify documents to be reproduced and list them in the above spaces. If space provided is inadequate, use the back of this form. The clerk will inform you of the cost, you MUST pay all fees in ADVANCE. Be careful when listing documents, THIS OFFICE IS NOT RESPONSIBLE FOR COPIES REPRODUCED OUT OF CORRECT FILES. WE DO NOT PROVIDE REFUNDS FOR COMPLETED COPIES

REV. 7/94 JB