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VS.

Case No. 53159
(Dist. Ct. No. C228755)

Electronically Filed
Dec 09 2009 01:30 p.m.
Tracie K. Lindeman

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DATED this 9th day of December, 2009.

JONELL THOMAS
Nevada Bar No. 4771
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155
702-455-6265
Attorney for Appellant

JONELL THOMAS, hereby declares as follows:

I have been granted previous extensions of time and the brief and appendix are due December 9, 2009.

While finalizing the brief in the instant appeal, I discovered a need to include trial exhibits in the appendix. There has been some difficulty in obtaining the exhibits, including photographs and the defendant's statement. Due to cost containment issues with Clark County, the evidence vault for the Clark County District Court has been unable to fill vacant positions and is currently staffed by only 1 person. Due to this limitation, she is allowing only one visit per day on the days she is working and is attempting to fill requests for copies of exhibits during the rest of the day. She was out of the office most of last week and upon her return has been attempting to fulfill all the requests made in her absence. In addition, she does not have access to a color scanner or printer which has made requests for color photographs rather difficult. We have been notified that the he documents are now ready to be picked up.

1 We would still need to have another volume of the appendix containing the exhibits bate-
2 stamped and sent to Central Services for copying. Depending on the backlog at Central
3 Services, this may take several days to prepare. The difficulties with the appendix have held
4 up the preparation of the opening brief as I am unable to complete a brief without the final
5 bate-stamped appendix to cite to in the brief.

6 In addition, while Counsel is mindful that this Court does not usually accept caseload
7 as adequate reason for an extension of time, it is requested that this Court be aware that the
8 office of the Special Public Defender has only one appellate attorney to handle appeals in
9 addition to assisting in trial preparation for issues that may need to be raised in appeals on
10 eighteen open capital cases. I am personally assigned to seven capital appeals, one capital case
11 set for trial, and ten other appeals in murder cases.

12 Within the last 60 days, I have prepared an Opening Brief in *Rose v. State* which was
13 received by this Court on October 26, 2009, but was returned in order to re-submit within 20
14 days with a limit of 30 pages. I have filed a Petition for Reconsideration of an En Banc
15 decision in *Chappell v. State*. I also prepared for and appeared before this Court in Carson
16 City for oral argument in two capital cases: *Walker v. State* and *Dozier v. State*. I had to be
17 out of town attending a seminar in Arizona for 2 days, November 18, 2009 and November 19,
18 2009, which was being funded with Federal Grant money and was therefore mandatory.

19 Also, this month I will be filing the Opening Brief in *Flowers v. State*. A Reply Brief
20 is due in *Nunnery v. State*, a capital case, on December 28, 2009.

21 I am requesting that this Court grant a short extension of time, up to and including
22 December 19, 2009, in order to allow me to complete putting together the appendix and
23 finishing the brief.

24 I declare that I make this request in good faith and not for purposes of delay.

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26 /s/ JONELL THOMAS

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JONELL THOMAS

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 9th day of December, 2009. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

- CATHERINE CORTEZ MASTO, Nevada Attorney General
- STEVE OWENS, Deputy District Attorney

/s/ JONELL THOMAS

JONELL THOMAS