

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**
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4 LESEAN TARUS COLLINS,

5 Appellant,

6 vs.

7 THE STATE OF NEVADA,
8

9 Respondent.
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Electronically Filed
Apr 08 2011 01:12 p.m.
Tracie K. Lindeman

Case No. 55716

11 **APPELLANT'S MOTION FOR EXTENSION OF TIME**
12 **TO EXAMINE SEALED TRANSCRIPT AND MEET WITH TRIAL COUNSEL**
13 **IN APPELLANT'S PENDING MURDER TRIAL**

14 COMES NOW Appellant LESEAN TARUS COLLINS, by and through
15 Deputy Public Defender, P. DAVID WESTBROOK, and moves this Honorable Court to
16 grant a thirty (30) day extension of time from Friday, April 8, 2011, through and
17 including Monday, May 9, 2011, within which to file the Opening Brief in the above
18 entitled case.
19

20 This Motion is based upon the attached declaration of counsel.

21 DATED this 8th day of April, 2011.

22
23 PHILIP J. KOHN
24 CLARK COUNTY PUBLIC DEFENDER

25
26 By



27 P. DAVID WESTBROOK, #9278
28 Deputy Public Defender
 309 So. Third Street, Suite #226
 Las Vegas, Nevada 89155-2610
 (702) 455-4685

1 **DECLARATION OF P. DAVID WESTBROOK**

2 1. I am an attorney duly licensed to practice law in the State of Nevada and
3 the Deputy Public Defender assigned to represent LESEAN TARUS COLLINS on
4 appeal currently pending before this Court.
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6 2. During my preparation of the opening brief in this matter, I discovered
7 that on November 2, 2009, a 15-minute portion of the record had been placed under seal
8 by the Court. Just prior to the sealed portion of the transcript, Mr. Collins' trial attorneys
9 were making a record concerning their Motion to Continue and explaining to the court
10 why they were not ready to proceed to trial or to conduct cross-examination in a
11 videotaped deposition the State proposed for later that day.
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14 After discovering that part of the argument had been placed under seal, I
15 spoke to my client at High Desert State Prison and to Attorney Ivvette Maningo. Ms.
16 Maningo is the defense attorney handling Mr. Collins' pending murder trial (case
17 number 09C252804). Neither Mr. Collins nor Ms. Maningo could recall precisely what
18 was discussed during the sealed portion of the transcript, but Ms. Maningo believes that
19 she was present (even though she was not representing Collins in the instant case) and
20 that part of the sealed transcript may include her representations about the pending
21 murder trial.
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24 One of the central issues on appeal is the court's erroneous denial of
25 defendant's Motion to Continue the trial. I have reason to believe that a significant
26 portion of defense counsel's argument and offer of proof will be included in the sealed
27 portion of the transcript. However, I cannot ask the district court to simply unseal and
28

1 produce the transcript because, according to Ms. Maningo, the transcript may prejudice
2 Mr. Collins' defense in the pending murder case.
3

4 In order to address this complex issue, I have contacted Judge Leavitt's
5 chambers. I intend to file a motion to produce the sealed transcript for in-camera review
6 only, so that Ms. Maningo and I can review exactly what was said and determine what
7 can and cannot be produced as part of Mr. Collins' record on appeal in the instant case. I
8 am requesting an additional 30 days in order to accommodate 1) my motion in the
9 district court; 2) production of the sealed transcript; 3) my review of said transcript with
10 Judge Leavitt and Attorney Maningo; and 4) the inclusion of the transcript in the opening
11 brief and appellant's appendix.
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14 3. This request for an extension is made in good faith, and not for the
15 purpose of delay. Mr. Collins was sentenced to a Life in Prison with the possibility of
16 parole after 10 years, so this is a very serious case. Furthermore, I must act with care in
17 the production of the opening brief in this case so that I don't risk prejudicing Mr.
18 Collins' defense in his pending murder case. It is my professional opinion that this
19 extension is necessary to safeguard Mr. Collins' right to effective assistance of counsel
20 and to present a defense.
21
22

23 I declare under penalty of perjury that the foregoing is true and correct to
24 the best of my information and belief.
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26 EXECUTED on the 8th day of April, 2011

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28 P. DAVID WESTBROOK

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CATHERINE CORTEZ MASTO	P. DAVID WESTBROOK
STEVEN S. OWENS	HOWARD S. BROOKS

LESEAN TARUS COLLINS
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Cheryl Zisuraca
Employee, Clark County Public
Defender's Office