

IN THE SUPREME COURT OF THE STATE OF NEVADA

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DOMONIC RONALDO MALONE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 61006

Electronically Filed  
Dec 03 2012 09:14 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

Motion for Extension of Time to File  
Appellant's Opening Brief and Appendix (Second Request)

COMES NOW, Appellant, Domonic Malone, by and through his attorneys, David M. Schieck, Special Public Defender and JoNell Thomas, Deputy Special Public Defender, and moves this Court for an Order granting an extension of time of 45 days, up to and including January 14, 2013 (January 12, 2013 is a Saturday), to file Appellant's Opening Brief and Appendix. This is Appellant's second request for an extension of time.

This Motion is made and based upon NRAP 31, and the Declaration

...

...

attached hereto.

Dated: November 30, 2012

DAVID M. SCHIECK  
SPECIAL PUBLIC DEFENDER

*/s/ JONELL THOMAS*

By \_\_\_\_\_  
JONELL THOMAS, NSB 4771  
DEPUTY SPECIAL PUBLIC DEFENDER  
330 SOUTH THIRD STREET, STE. 800  
LAS VEGAS, NEVADA 89155-2316  
(702) 455-6265

### STATEMENT OF FACTS

The Opening Brief and Appendix are due December 3, 2012 pursuant to the first request of Appellant. Based on the Declaration attached hereto, Appellant is requesting an extension of 45 days, up to and including January 14, 2013, to file his Opening Brief.

### POINTS AND AUTHORITIES

Pursuant to NRAP 31, a motion for an extension of time must be made no later than the due date for the brief.

### CONCLUSION

Appellant is requesting an extension of time to file his Opening Brief and

...

Appendix.

DATED: November 30, 2012

DAVID M. SCHIECK  
SPECIAL PUBLIC DEFENDER

*/s/ JONELL THOMAS*

By \_\_\_\_\_  
JONELL THOMAS, NSB 4771  
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DECLARATION OF JONELL THOMAS

JoNell Thomas makes the following declaration:

I am the Deputy Special Public Defender representing Mr. Malone on his direct appeal in the instant case.

The State filed a Notice of Intent to Seek the Death Penalty in this case. There was a trial and penalty hearing which took approximately 3 weeks after the case was pending in the district court for five (5) years. The jury did not sentence Mr. Malone to death and therefore the Appellant is responsible for preparing the Appendix. There are 19 volumes containing almost 4,000 pages. The record is unusually long. In addition, it is factually intensive requiring far more time than usual to summarize the facts for the Opening Brief.

I also represent Appellant Ronnie Brass who was killed in Ely State Prison. This Court has scheduled his oral argument for December 3, 2012. I have had to conduct extensive preparation for the en banc oral argument. I prepared and filed the Petition for Rehearing in Richardson v. State, a capital direct appeal. The Petition for Writ of Certiorari is due December 14<sup>th</sup> for Rodney Marshall in his direct appeal, and Counsel must meet with Mr. Marshall at High Desert State Prison in order to complete and timely file the Petition. Due to his status at the prison as “intake”, there are some issues with scheduling the visit.

Counsel is requesting additional time to prepare the opening brief, up to and including January 14, 2013 (January 12, 2013 is a Saturday).

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

*/s/ JONELL THOMAS*

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JONELL THOMAS

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on the 30<sup>th</sup> day of November, 2012, a copy of the foregoing Motion for Extension of Time to File Appellant's Opening Brief (second request) was served as follows:

**BY ELECTRONIC FILING TO**

District Attorney's Office  
200 Lewis Ave., 3<sup>rd</sup> Floor  
Las Vegas, NV 89155

Nevada Attorney General  
100 N. Carson St.  
Carson City NV 89701

*/s/ JONELL THOMAS*

\_\_\_\_\_  
JONELL THOMAS