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Dale Edward Flanagan*

Electronically Filed
Jul 02 2014 11:21 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

DALE EDWARD FLANAGAN,

Petitioner-Appellant,

Supreme Court Case No.: 63703

v.

THE STATE OF NEVADA and JACK
PALMER, Warden, Northern Nevada
Correctional Center,

DEATH PENALTY CASE

Respondents-Appellees.

MOTION FOR EXTENSION OF TIME TO FILE

APPELLANT'S REPLY BRIEF

COMES NOW, Petitioner-Appellant DALE EDWARD FLANAGAN, by and
through his counsel of record CAL J. POTTER, III., ESQ., and requests an extension
of forty-five (45) days up to and including Monday, August 18, 2014, within which
to file his Reply Brief, which currently is due on Thursday, July 3, 2014.

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...

1 Appellant brings this motion pursuant to NRAP 26(b), 27(b), and 31(b)(3).
2 This is Appellant's first request for an extension. This request is based on the papers
3 and pleadings filed herein, the points and authorities submitted herewith, and the
4 following Affidavit of Michael Laurence, Esq.

5 DATED this 2nd day of July, 2014.

6 POTTER LAW OFFICES

7
8 By /s/ Cal J. Potter, III, Esq.
9 CAL J. POTTER, III, ESQ.
10 Nevada Bar No. 1988
11 1125 Shadow Lane
12 Las Vegas, Nevada 89102

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1 by a 196-page Appendix;

2 9. That Appellant's Reply Brief currently is due on July 3, 2014;

3 10. That your Affiant is responsible for drafting the Reply Brief on behalf of
4 Petitioner-Appellant;

5 11. That your Affiant is unable to complete the Reply Brief in this matter because
6 Respondent's Answering Brief raises substantial factual and legal issues
7 requiring additional review of the extensive record in this matter and because
8 of my responsibilities as the Executive Director of my office and as the
9 supervisor on nineteen capital cases pending before state and federal courts.
10 Your Affiant has been required to draft and file briefing in *Jones v. Chappell*,
11 Case No. CV-90-2158 (C.D. Cal.), on July 3, 2014, and to complete extensive
12 briefing on all the claims raised in *In re Hajek*, California Supreme Court Case
13 No. S204529, by July 28, 2014. In addition, your Affiant is required to be out
14 of the state to teach at a death penalty conference from July 16 through July 20,
15 2014, and to travel to Los Angeles to argue the merits of significant
16 constitutional issues in a capital habeas corpus proceeding in the federal
17 district court on August 4, 2014;

18 12. That granting an extension will not unnecessarily delay the prompt
19 adjudication of this matter because this appeal raises similar legal issues that
20 this Court will address in *Brown v. McDaniel*, Case No. 60065, in which this
21 Court has conducted oral argument and submitted the matter for decision on
22 January 6, 2014;

23 13. That, for the reasons stated above, your Affiant is requesting an additional
24 forty-five (45) days in which to file the Reply Brief in this matter up to and
25 including Monday, August 18, 2014;

26 14. That, if granted this extension, your Affiant believes the Reply Brief will be
27 filed on or before Monday, August 18, 2014, and no further requests for
28 extension will be required;

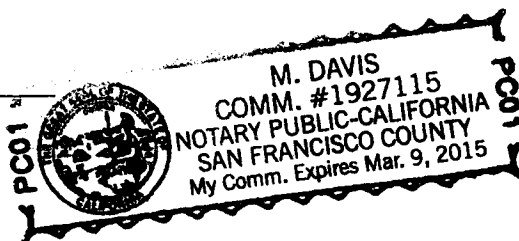
1 15. That your Affiant files this enlargement of time in good faith and not for the
2 purposes of delay.

3 Further Affiant Sayeth Naught.

4 
MICHAEL LAURENCE, ESQ.

5 SUBSCRIBED and SWORN to before
6 me this 2nd day of July, 2014.

7 
8 NOTARY PUBLIC



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **FACTS**

4 Petitioner-Appellant's Reply Brief currently is due on July 3, 2014. Michael
5 Laurence, Esq., is responsible for drafting the Reply Brief.¹

6 Counsel requests an extension of forty-five (45) days in which to file the Reply
7 Brief in this matter up to and including Monday, August 18, 2014. This extension is
8 requested because counsel for Petitioner-Appellant has had significant commitments,
9 including his responsibilities as the Executive Director of the Habeas Corpus
10 Resource Center and as the supervisor on nineteen capital cases. The additional time
11 is necessary because counsel has been working on, and will be required to complete
12 briefing in *Jones v. Chappell*, Case No. CV-90-2158 (C.D. Cal.), which is due on July
13 3, 2014, and extensive briefing on all the claims raised in *In re Hajek*, California
14 Supreme Court Case No. S204529, which is due on July 28, 2014. Counsel also is
15 required to be out of the state to teach at a death penalty conference from July 16
16 through July 20, 2014, and to travel to Los Angeles to argue the merits of a
17 significant constitutional in a capital habeas corpus proceeding in the federal district
18 court on August 4, 2014. In addition, the factual issues raised in Respondent's
19 Answering Brief require counsel to review the extensive record in the case.

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22 ¹

23 On May 7, 2013, the District Court granted the Application of Michael
24 Laurence, Esq. to appear as counsel pro hac vice, in the Petitioner-Appellant's habeas
25 corpus proceedings. Mr. Laurence is the Executive Director of the Habeas Corpus
26 Resource Center, an agency in the Judicial Branch of the State of California that
27 represents indigent men and women under sentence of death in state and federal
28 habeas corpus proceedings and in executive clemency proceedings. Mr. Laurence's
appearance in this matter, however, is conducted solely in his capacity as a private
attorney and on his own personal time.

1 This request for an additional forty-five (45) days in which to file the Reply
2 Brief up to and including Monday, August 18, 2014, is made in good faith and not for
3 the purposes of delay. Moreover, granting an extension will not unnecessarily delay
4 the prompt adjudication of this matter because this appeal raises similar legal issues
5 that this Court will address in *Brown v. McDaniel*, Case No. 60065, in which this
6 Court has submitted for decision on January 6, 2014.

7 **II.**

8 **ARGUMENT**

9 NRAP 31(b)(3) governs motions for extension of time and provides as follows:

10 (3) Motions for Extensions of Time. A
11 motion for extension of time for filing a brief
12 may be made no later than the due date for the
13 brief and must comply with the provisions of
14 this Rule and Rule 27.

15 (A) Contents of Motion. A motion for extension of
16 time for filing a brief shall include the following:

17 (I) The date when the brief is due;

18 (ii) The number of extensions of time
19 previously granted (including a 5-day
20 telephonic extension), and if extensions were
21 granted, the original date when the brief was
22 due;

23 (iii) Whether any previous requests for
24 extensions of time have been denied or denied
25 in part;

26 (iv) The reasons or grounds why an extension
27 is necessary; and

28 (v) The length of the extension requester and
the date on which the brief would become
due.

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1 III.

2 CONCLUSION

3 _____For the reasons stated, and in accordance with NRAP 31(b)(3), the Appellant
4 respectfully requests an extension of forty-five (45) days to file the Reply Brief
5 through and including Monday, August 18, 2014.

6 DATED this 2nd day of July, 2014.

7 POTTER LAW OFFICES

8 By /s/ Cal J. Potter, III, Esq.

9 CAL J. POTTER, III, ESQ.

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18 *Attorneys for Petitioner-Appellant*

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to this action by:

X Electronic Service

Steven B. Wolfson
District Attorney
Steven S. Owens
Deputy District Attorney
200 Lewis Avenue
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Employee of POTTER LAW OFFICES