1 2 3 4 5 6 7	CAL J. POTTER III, ESQ. Nevada Bar No. 001988 POTTER LAW OFFICES 1125 Shadow Lane Las Vegas, Nevada 89102 Telephone (702) 385-1954 Facsimile (702) 385-9081  MICHAEL LAURENCE, ESQ. California Bar No. 121854 ATTORNEY AT LAW 303 Second Street, Suite 400 South Tower San Francisco, CA 94107 Tel: (415) 348-3800 Fax: (415) 348-3873 (admitted Pro Hac Vice)	Electronically Filed Aug 13 2014 11:46 Tracie K. Lindeman Clerk of Supreme C	1
8	Fax: (415) 348-3873 (admitted Pro Hac Vice)		
9	Attorneys for Petitioner Dale Edward Flanagan		
11	IN THE SUPREME COURT OF	THE STATE OF NEVADA	
12	IN THE SULKEME COURT OF	THE STATE OF NEVADA	
13	DALE EDWARD FLANAGAN,		
14	Petitioner-Appellant,	Supreme Court Case No.: 63703	
15	V.		
16 17	THE STATE OF NEVADA and JACK PALMER, Warden, Northern Nevada Correctional Center,	DEATH PENALTY CASE	
18	Respondents-Appellees.		
19	/		
20	MOTION FOR SECOND EXTENSION OF TIME TO FILE		
21	APPELLANT'S REPLY BRIEF		
22	COMES NOW, Petitioner-Appellant DALE EDWARD FLANAGAN, by and		
23	through his counsel of record CAL J. POTTER, III., ESQ., and requests an extension		
24	of seven (7) days up to and including Monday, August 25, 2014, within which to file		
25	his Reply Brief, which currently is due on Monday, August 18, 2014.		
26	Appellant brings this motion pursuant to NRAP 26(b), 27(b), and 31(b)(3).		
27	This is Appellant's second request for an extension and is made to permit Appellant		
28	to address this Court's decision in Brown v.	McDaniel, Case No, 60655, which was	

decided on August 7, 2014. This request is based on the papers and pleadings filed herein, the points and authorities submitted herewith, and the following Affidavit of Michael Laurence, Esq. DATED this 13th of August, 2014. POTTER LAW OFFICES By /s/ Cal J. Potter, III, Esq. CAL J. POTTER, III, ESQ. Nevada Bar No. 1988 1125 Shadow Lane Las Vegas, Nevada 89102 MICHAEL LAURENCE, ESQ. California Bar No. 121854 303 Second Street Suite 400 South Tower San Francisco, CA 94107 Attorneys for Petitioner-Appellant 

#### 1 AFFIDAVIT OF MICHAEL LAURENCE, ESQ. IN SUPPORT OF MOTION 2 STATE OF CALIFORNIA Ss. 3 COUNTY OF SAN FRANCISCO MICHAEL LAURENCE, ESQ., being first duly sworn upon oath, deposes and 4 5 states: Your Affiant is the attorney of record on behalf of the Petitioner-Appellant in 6 1. this matter, and as such, your Affiant is competent to testify as to the matters 7 set forth herein; 8 9 2. That your Affiant is an attorney admitted to practice in the State of California and was permitted to practice pro hac vice before the District Court for Clark 10 11 County as counsel for Petitioner-Appellant; 12 3. That your Affiant currently is employed as the Executive Director of the 13 Habeas Corpus Resource Center, an agency in the California Judicial Branch 14 that represents indigent men and women under sentence of death in state and federal habeas corpus proceedings and in executive clemency proceedings; 15 16 4. That your Affiant's appearance in this matter, however, is conducted solely in 17 my capacity as a private attorney and on my own time. As such, it is not part of my responsibilities at the Habeas Corpus Resource Center and is without the 18 use of any state or other institutional resources; 19 20 5. That on July 26, 2013, a Notice of Appeal on behalf of the Petitioner-Appellant 21 was filed in this matter; 22 6. That on February 19, 2014, Appellant's Opening Brief was filed in this matter; 23 7. That Respondent filed two motions for an extension of time to file 24 Respondent's Answering Brief, requesting a total of ninety (90) additional 25 days. This Court granted the requested extensions; That, on June 20, 2014, Respondent's Answering Brief was filed, accompanied 26 8.

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by a 196-page Appendix;

- 9. That Appellant's Reply Brief currently is due on August 18, 2014, following this Court's granting Appellant's request for a forty-five-day extension of time;
- 10. That your Affiant is responsible for drafting the Reply Brief on behalf of Petitioner-Appellant;
- 11. That your Affiant seeks a brief seven (7) day extension for the filing of the Reply Brief in this matter to permit counsel to address this Court's decision in *Brown v. McDaniel*, Case No. 60065, filed August 7, 2014, in which this Court addresses issues raised in Appellant's Opening Brief.
- 12. That your Affiant learned of this Court decision in *Brown* today and is unable to review and redraft the Reply in light of that decision until the week of August 18, 2014, because he will be out of the office traveling from August 13, until August 18, 2014;
- 13. Permitting Appellant to address the *Brown* decision in the Reply Brief serves the interest of judicial economy because it will obviate the need for the filing of any supplemental briefing in this case;
- 14. That, for the reasons stated above, your Affiant is requesting an additional seven (7) days in which to file the Reply Brief in this matter up to and including Monday, August 25, 2014;
- 15. That your Affiant files this enlargement of time in good faith and not for the purposes of delay.

Further Affiant Sayeth Naught.

MICHAEL LAURENCE, ESQ.

SUBSCRIBED and SWORN to before me this 12<sup>th</sup> day of July, 2014.

NOTARY PUBLIC



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## MEMORANDUM OF POINTS AND AUTHORITIES

## <u>I.</u>

## **FACTS**

Petitioner-Appellant's Reply Brief currently is due on August 18, 2014. Michael Laurence, Esq., is responsible for drafting the Reply Brief.

Counsel requests an extension of seven (7) days in which to file the Reply Brief in this matter up to and including Monday, August 25, 2014. This extension is requested to permit counsel to address this Court decision in *Brown v. McDaniel*, Case No. 60065, filed August 7, 2014, in which this Court addresses issues raised in Appellant's Opening Brief. Permitting Appellant to address the *Brown* decision in the Reply Brief serves the interest of judicial economy because it will obviate the need for the filing of any supplemental briefing in this case. This request for an additional seven (7) days in which to file the Reply Brief up to and including Monday, August 25, 2014, is made in good faith and not for the purposes of delay.

#### II.

### **ARGUMENT**

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

- (3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.
- (A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:
  - (I) The date when the brief is due;
  - (ii) The number of extensions of time previously granted (including a 5-day telephonic extension), and if extensions were granted, the original date when the brief was due;
  - (iii) Whether any previous requests for extensions of time have been denied or denied in part;

1	(iv) The reasons or grounds why an extension is necessary; and
2 3	(v) The length of the extension requester and the date on which the brief would become due.
4	III.
5	CONCLUSION
6	For the reasons stated, and in accordance with NRAP 31(b)(3), the Appellan
7	respectfully requests an extension of seven (7) days to file the Reply Brief through
8	and including Monday, August 25, 2014.
9	DATED this 13th of August, 2014.
10	POTTER LAW OFFICES
11	Dry /a/ Col I Dotton III Egg
12	By /s/ Cal J. Potter, III, Esq. CAL J. POTTER, III, ESQ. Nevada Bar No. 1988
13	1125 Shadow Lane Las Vegas, Nevada 89102
14	
15	MICHAEL LAURENCE, ESQ. California Bar No. 121854 303 Second Street
16	Suite 400 South Tower San Francisco, CA 94107
17	Attorneys for Petitioner-Appellant
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1	CERTIFICATE OF SERVICE		
2	I HEREBY CERTIFY that pursuant to NRAP 25(1)(d) on the 13 <sup>th</sup> of Augus		
3	2014, I did serve at Las Vegas, Nevada a true and correct copy of MOTION FOR		
4	SECOND EXTENSION OF TIME TO FILE APPELLANT'S OPENING BRIEF		
5	AND THE APPENDIX, on all parties to this action by:		
6	☐ Facsimile		
7	□ U.S. Mail		
8	☐ Hand Delivery		
9	X Electronic Service		
10	Addressed as follows:		
11	Steven B. Wolfson District Attorney		
12	District Attorney Steven S. Owens Deputy District Attorney		
13	200 Lewis Avenue Las Vegas, Nevada 89155		
14	Lus vegus, revadu op 155		
15	/s/ Jenna Enrico		
16	/s/ Jenna Enrico Employee of POTTER LAW OFFICES		
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