

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3
4 SIAOSI VANISI,
5 Appellant,

No. 65774

Electronically Filed
Jan 06 2015 09:53 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

6 vs.

7 RENEE BAKER, WARDEN, and
8 CATHERINE CORTEZ MASTO,
9 ATTORNEY GENERAL FOR
 THE STATE OF NEVADA,
 Respondents.

10 **SECOND AND FINAL REQUEST FOR EXTENSION OF TIME**
11 **WITHIN WHICH TO FILE APPELLANT'S OPENING BRIEF**

12 Appellant Siaosi Vanisi, through counsel, hereby requests a
13 second and final extension of time of eleven (11) days, to and including
14 January 9, 2015, within which to file his opening brief. SCR 250 (7)(d);
15 NRAP 31 (a)(4), (b)(3).

16 The Opening Brief was due to be filed on December 29, 2014.
17 Assigned counsel prepared this request for a final extension of time for
18 filing on that date and left it for the office staff to file. Because
19 assigned counsel was unavoidably absent from the office on that date,
20 as described in the accompanying declaration, the staff of the office
21 incorrectly assumed that counsel had filed it herself. Accordingly,
22 counsel now requests that this Court entertain this request for an
23 extension of time for filing the opening brief, which will be submitted
24 for filing on January 9, 2015, without fail. This request is supported
25 by the attached declarations of counsel. Exs. 1 and 2.

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1 Counsel for respondents will not oppose the requested extension.

2 Dated this 5th day of January, 2015.

3 RENE L. VALLADARES
4 Federal Public Defender

5 MICHAEL PESSETTA
6 Assistant Federal Public Defender
Nevada State Bar No. 2437

7 TIFFANI HURST
8 Assistant Federal Public Defender
Nevada State Bar No. 11027C
411 E. Bonneville, Suite 250
9 Las Vegas, Nevada 89101
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10 Attorneys for Appellant
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EXHIBIT 1

EXHIBIT 1

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1. I am the Chief of the Capital Habeas Unit of the Federal Public Defender's office. This office represents Siaso Vanisi in the appeal of a denial of a successor petition of writ of habeas corpus by the Eighth Judicial District Court.

4. Ms. Hurst has been unavoidably absent from this office virtually all of the time since December 24, 2014, when her young daughter was taken seriously ill and had to be transported to Los Angeles, where she remains hospitalized. Ms. Hurst has continued to work diligently on the brief during her child's hospitalization in order to ensure that the brief will be filed by January 9, 2015, but she was not in the office to ensure that the extension request was filed on December 29. I was also absent from the office on leave since

1 December 24, 2014, and I was first told that the extension request had
2 not been filed today after the office staff checked to see if the request
3 had been filed. The failure to ensure that the extension was filed is
4 attributable to me, as the supervising attorney in the Capital Habeas
5 Unit, because I was not in the office when the request should have
6 been filed. It is not in any way attributable to Mr. Vanisi.

7 5. The opening brief will be filed by January 9, 2015. No
8 further extension will be requested under any circumstances. This
9 request is being made solely to protect Mr. Vanisi's right to appeal the
10 denial of his habeas corpus petition and his right to effective
11 representation, Nev. R. Prof., Conduct 1.1, and not for any improper
12 purpose.

13 I declare under penalty of perjury that the foregoing is true and
14 correct and that this declaration was executed on January 5, 2015 in
15 Las Vegas, Nevada.

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18 MICHAEL PESCETTA
19 Assistant Federal Public Defender
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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 5th day of January, 2015.

Electronic Service of the foregoing Certification Under NRAP 9(a) shall be made in accordance with the Master Service List as follows:

Terrence McCarthy
Washoe County District Attorney
tmccarth@da.washoecounty.us

FELICIA DARENSBOURG
An employee of the Federal Public
Defender, District of Nevada

EXHIBIT 2

EXHIBIT 2

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 SIAOSI VANISI,

5 Appellant,

No. 65774

6 vs.

7 RENEE BAKER, WARDEN, and
8 CATHERINE CORTEZ MASTO,
9 ATTORNEY GENERAL FOR
 THE STATE OF NEVADA,

10 Respondents.

11 **SECOND AND FINAL REQUEST FOR**
12 **EXTENSION OF TIME WITHIN WHICH**
13 **TO FILE APPELLANT'S OPENING BRIEF**

14 Appellant Siasosi Vanisi, through counsel, hereby requests a
15 second and FINAL extension of time of eleven (11) days, to and
16 including January 9, 2015, within which to file his opening brief. SCR
17 250 (7)(d); NRAP 31(a)(4), (b)(3). This request is supported by the
18 attached declaration of counsel.

19 Dated this 29th day of December, 2014.

20 RENE L. VALLADARES
21 Federal Public Defender

22 TIFFANI DANI HURST
23 Assistant Federal Public Defender
24 Nevada State Bar No. 11027C
25 411 E. Bonneville, Suite 250
26 Las Vegas, Nevada 89101
27 (702) 388-6577
28 danielle_hurst@fd.org

Attorneys for Appellant

1 **DECLARATION OF TIFFANI D. HURST**

2 I, Tiffani D. Hurst, declare as follows:

3 1. I am an attorney at law, admitted to practice before this
4 Court, and employed in the Capital Habeas Unit in the Law Offices of
5 the Federal Public Defender. I am assigned to represent Siaosi Vanisi
6 in this matter.

7 2. Mr. Vanisi's opening brief is currently due on or before
8 December 29, 2014. Counsel seeks an extension of time of eleven (11)
9 days, up to and including January 9, 2015, within which to file and
10 serve the opening brief. This is Mr. Vanisi's second request for an
11 extension. I certify that I will make no further requests for any
12 continuances.

13 3. Between the time of my first extension and this request, I
14 have filed a Reply Brief in Crump v. McDaniel, NSC No. 62472 on
15 September 29, 2014; a traverse and a motion for an evidentiary
16 hearing in Hogan v. Baker, No. 2:97-cv-0927-JCM-PAL on October 3,
17 2014; Petition for Rehearing in Hernandez v. McDaniel, NSC No.
18 60254 on October 10, 2014; Reply Brief in Rogers v. Baker, Ninth
19 Circuit No. 11-99009, 11-99010 on October 17, 2014; a Petition for
20 Certiorari in Libby v. Nevin on November 3, 2014; a Motion to
21 Reconsider in Floyd v. Baker, USDC No. 2:06-cv-00471-PMP-CWH on
22 November 14, 2014; a Reply to Opposition to Motion for an Evidentiary
23 Hearing, Hogan v. Baker, No. 2:97-cv-0927-JCM-PAL on November 17,
24 2014, and a Reply to the Opposition to Motion to Reconsider in Floyd
25 v. Baker, USDC No. 2:06-cv-00471-PMP-CWH on December 10, 2015.

26 4. This 11-day extension is made based upon the extra-
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1 ordinary circumstance that the majority of the attorneys and staff in
2 the Federal Public Defenders Office have not been in the office since
3 December 24, 2014 due to the holidays, and will not be returning to
4 the office until January 5, 2015. Although I have completed an
5 approximately 37,000 word final draft of this Opening Brief, a
6 paralegal must finalize the Appendix, a secretary must perform the
7 filing of the approximately 29 volume Appendix, and the Chief of the
8 Unit must perform a final review of the opening brief. Although I
9 worked extremely hard to try to complete this brief in advance so that
10 these so that these tasks could be completed by December 24, 2014, I
11 was unable to do so without compromising the quality of the briefing.

12 5. In light of the above circumstances, I seek on Mr. Vanisi's
13 behalf an 11 day extension until January 9, 2015.

14 6. I have contacted counsel for Respondents, Terrance
15 McCarthy, and he does not intend to file an objection to this request
16 for an extension.

17 7. This request is not made solely for the purpose of delay, or
18 for any other improper purpose, but only to ensure that this office
19 provides competent representation to Mr. Vanisi. Nev. R. Prof.
20 Conduct 1.1.

21 8. I declare under penalty of perjury that the foregoing is true
22 and correct and that this declaration was executed on December 29,
23 2014 in Las Vegas, Nevada.

24 /s/Tiffani D. Hurst
25 Tiffani D. Hurst
26 Assistant Federal Public Defender
27
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that this document was filed electronically with
3 the Nevada Supreme Court on the 29th day of December, 2014.
4 Electronic Service of the foregoing Certification Under NRAP 9(a) shall
5 be made in accordance with the Master Service List as follows:
6

7 Terrence McCarthy
8 Washoe County District Attorney
 tmccarth@da.washoecounty.us
9

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11 Katrina Davidson
12 An employee of the Federal Public
13 Defender, District of Nevada
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