

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 DELARIAN K. WILSON,
4 Appellant,
5 vs.
6 THE STATE OF NEVADA
7 Respondent.

Supreme Court No.: 68576

District Court Case No.: C232494-1

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Clerk of Supreme Court

8 **APPELLANT'S APPENDIX – VOLUME XI – PAGES 2320-**

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IN THE SUPREME COURT OF THE STATE OF NEVADA

DELARIAN K. WILSON A/K/A
DELARIAN KAMERON WILSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52104

FILED

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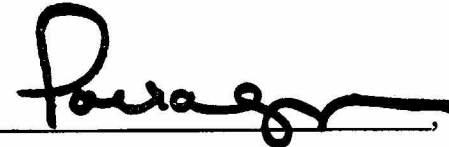
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER

Appellant has submitted a proper person motion asking this court to “grant . . . an extension of time to his remittitur” so that he has more time to file a post-conviction petition for a writ of habeas corpus under NRS chapter 34. Although appellant was represented in this matter and has not sought leave to file documents in proper person, see NRAP 46(b), we direct the clerk of this court to file the motion received on August 27, 2010. This court entered its decision in this matter on July 7, 2009, and the remittitur issued on August 4, 2009; this appeal therefore is closed. Appellant has not asserted any grounds that would warrant a recall of the remittitur, see Wood v. State, 60 Nev. 139, 104 P.2d 187 (1940), and we cannot extend the time for filing a post-conviction petition for a writ of habeas corpus under NRS chapter 34, see State v. Haberstroh, 119 Nev. 173, 69 P.3d 676 (2003); rather, appellant must file an appropriate petition in the district court and, if the petition is untimely, allege and prove good cause for the delay and prejudice to overcome the

procedural bar as provided in NRS 34.726.¹ Accordingly, appellant's motion is denied.

It is so ORDERED.

 C.J.

cc: Attorney General/Carson City
Clark County District Attorney
Oronoz Law Offices
Delarian K. Wilson

¹We express no opinion as to whether appellant can overcome any procedural bars that may apply to such a petition.



Matthew Carling <cedarlegal@gmail.com>

Wilson draft opening brief due Monday the 7th

1 message

Danielle Allison <expertparalegalservices@yahoo.com>
Reply-To: Danielle Allison <expertparalegalservices@yahoo.com>
To: Matthew Carling <cedarlegal@gmail.com>

Fri, Dec 4, 2015 at 5:44 PM

Mr. Carling,

Attached is the draft opening brief on the Wilson case, which is scheduled to be filed on Monday the 7th. I considered putting in the information we learned on the Harris reply regarding habeas petition stacking since it seems to apply here, but then backed off directly addressing it since I believe the State needs to raise it first in their response. The root of the Harris argument is that the court need only determine the "external impediment" issue, which I think is covered sufficiently in this brief so that it will not seem like a "new" argument if they claim petition stacking as an alternative argument to the time bar for affirmation on the appeal. In a nutshell, we are saving the direct address of the Harris argument for reply if the State should raise the petition stacking so that we do not give them this argument up front to make.

I'm attaching the Harris reply, although you might have been recently reviewing this anyway since it looks like the hearing is on Tuesday the 8th?

Let me know if you need anything further on this.

Thank you,
Danielle Allison
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2 attachments

 **Opening Brief.doc**
143K

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