

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

WILLIAM LESTER WITTER,  
Appellant,

v.

THE STATE OF NEVADA,  
Respondent.

Electronically Filed  
Aug 27 2018 11:08 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO: 73444

**MOTION FOR ENLARGEMENT OF TIME**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, STEVEN S. OWENS, and moves this Court for an enlargement of time within which to file State's Answering Brief. This motion is based on the following memorandum and all papers and pleadings on file herein.

Dated this 27<sup>th</sup> day of August, 2018.

Respectfully submitted,

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY /s/ Steven S. Owens  
STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar # 004352  
Office of the Clark County District Attorney

## **MEMORANDUM**

This is an appeal from a third amended judgment of conviction which followed the denial of a fourth state habeas petition in a capital case. The third amended judgment was filed 23 years after the trial and imposition of the death penalty and did no more than remove an order for restitution from the judgment of conviction. On February 23, 2018, this Court denied at that time the State's motion to dismiss the instant appeal for lack of jurisdiction and allowed briefing to proceed on the merits of errors from the trial and penalty hearing 23 years ago as if this were a new direct appeal all over again. This presents a monumental and, as far as the State can tell, unprecedented decision to permit such an appeal to be briefed on the merits. Even if the appeal is eventually dismissed for lack of jurisdiction, this Court's order for briefing on the merits presents a substantial and tedious burden on the State consuming a great deal of resources at a time when those resources are stretched thin.

After obtaining one 60-day extension of time, Witter filed his Opening Brief on June 26, 2018. The Opening Brief is 200 pages in length and is accompanied by one volume of appendix and 27 volumes of Record on Appeal. Additionally, 17 exhibits from the trial and penalty hearing have been transmitted. The State's Answering Brief is currently due on August 27, 2018, and this is the State's first request for an extension of time.

The Supreme Court may grant an initial motion for an extension of time of up to 60 days for filing a brief in a capital case upon a showing of good cause. NRAP 31(b)(3)(D); SCR 250(7)(d). As good cause in this appeal, the State proffers that the complicated procedural history, the age of the case, the length of the brief, and the complexity of the issues including the death penalty, warrant an extension of time. For these reasons, the State needs an additional 60 days in which to file its Answering Brief.

WHEREFORE, the State respectfully requests an extension of time of 60 days.

Dated this 27<sup>th</sup> day of August 2018.

Respectfully submitted,

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY */s/ Steven S. Owens*

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STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar #004352  
Office of the Clark County District Attorney  
Regional Justice Center  
200 Lewis Avenue  
P.O. Box 552212  
Las Vegas, NV 552212  
(702) 671-2500

## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on August 27, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT  
Nevada Attorney General

DAVID ANTHONY  
STACY NEWMAN  
TIFFANY L. NOCON  
Assistant Federal Public Defenders

STEVEN S. OWENS  
Chief Deputy District Attorney

BY /s/ E.Davis

Employee,  
Clark County District Attorney's Office

SSO//ed