

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM WITTER,

Defendant/Appellant,

vs.

STATE OF NEVADA,

Plaintiff/Appellees.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 73444

District Court Case No. C117513

**SECOND REQUEST FOR
EXTENSION OF TIME TO FILE
REPLY BRIEF**

(Death Penalty Case)

Appellant William Witter, through counsel, hereby requests an extension of time of five days, up to and including February 26, 2019, within which to file his Reply Brief. This request is supported by the attached declaration of counsel.

Dated this 21st day of February, 2019.

Respectfully submitted,
Rene L. Valladares
Federal Public Defender

/s/David Anthony
David Anthony
Assistant Federal Public Defender

DECLARATION OF DAVID ANTHONY

I, David Anthony, declare as follows:

1. I am an attorney at law, admitted to practice before this Court, employed as an Assistant Federal Public Defender. I represent the Appellant William Witter in this capital case.

2. The State's Answering Brief was filed on October 29, 2018. Under NRAP 31(a)(3)(C), Mr. Witter's Reply Brief is currently due on February 21, 2019. I am requesting an extension of time of five days, up to and including February 26, 2019, to file and serve the Reply Brief. *See* NRAP 31(b)(3)(D). This is Mr. Witter's second request for an extension of time.

3. In its last order granting an extension of time, this Court stated that "[n]o further extensions of time would be granted except upon a showing of 'extraordinary circumstances and extreme need.'" NRAP 31(b)(3)(D); SCR 250(6)(e). Counsel's case load will not be deemed such a circumstance. (Citation omitted)." Document No. 18-909572. As explained below, extraordinary circumstances and extreme need exist justifying an extension of time of five days.

4. I have been out of the office since Tuesday, February 19, 2019, due to personal sickness. In the early morning of Thursday, February 21, 2019, my water heater burst and flooded the garage and living room of my house. Therefore, I have had to spend my time on Thursday cleaning up and getting a repair person out to my home.

5. Due to the unforeseen circumstances described above, I have not been able to spend the time necessary to review, edit, and complete the Reply Brief for filing. At the current time, drafts of all of the sections of the brief have been done. I have reviewed and edited approximately 80 percent of the brief and have given changes back to co-counsel to be made. I am requesting three additional business days (five days including the weekend) to complete my review of the Reply Brief, to work on one section of the brief that needs revisions, and to make a good faith effort to shorten the overall length of the brief.

6. Finally, I am requesting five days because I also need to respond to an emergency motion filed yesterday afternoon by the State of Arizona in *Armstrong v. Ryan*, USDC No. CV-15-00358-TUC-RM, which

will require a written opposition to be filed by this afternoon-tomorrow morning at the latest.

7. The Reply Brief will be completed and filed with this Court on Tuesday, February 26, 2019, and I will not seek further extensions of time to file the brief.

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

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 21, 2019, in Las Vegas, Nevada.

/s/David Anthony
David Anthony
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

In accordance with NRAP 25(d)(1), I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 21st day of February, 2019, electronic service of the foregoing SECOND REQUEST FOR EXTENSION OF TIME TO FILE REPLY BRIEF shall be made in accordance with the Master Service List as follows:

Steven S. Owens
Chief Deputy District Attorney
steven.owens@clarkcountyda.com

/s/ Sara Jelinek

An Employee of the Federal Public
Defender, District of Nevada