

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES MONTELL  
CHAPPELL,

Petitioner/Appellant,

v.

WILLIAM GITTERE, Warden,  
and ADAM PAUL LAXALT,  
Nevada Attorney General,

Respondents/Appellees.

Electronically Filed  
Jan 16 2019 11:46 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
Supreme Court No. 77002  
District Court Case No. 95C-131341

(Death Penalty Case)

**REQUEST FOR EXTENSION OF  
TIME WITHIN WHICH TO FILE  
APPELLANT'S OPENING BRIEF**

**FIRST REQUEST**

Petitioner/Appellant, James Montell Chappell, by and through  
counsel, hereby requests an extension of time of ninety (90) days, to and  
including April 18, 2019, to file his Opening Brief. This request is  
supported by the attached declaration of counsel.

DATED this 16th day of January, 2019.

Respectfully submitted,

/s/ Brad D. Levenson

BRAD D. LEVENSON  
Assistant Federal Public Defender  
Nevada Bar No. 13804C  
411 E. Bonneville Ave., Suite 250  
Las Vegas, Nevada 89101  
702-388-6577

## DECLARATION OF BRAD D. LEVENSON

I, Brad D. Levenson, declare as follows:

1. I am an attorney at law, admitted to practice before this Court and employed by the Capital Habeas Unit of the Federal Public Defender, District of Nevada. I am assigned to represent James Montell Chappell in this matter.

2. The Appellant's Opening Brief in this case is currently due on January 18, 2019. I am seeking an extension of time of ninety (90) days, up to and including April 18, 2019, within which to file and serve this Brief.

3. I am requesting a ninety-day extension because I have not had adequate time to prepare Mr. Chappell's Opening Brief. The majority of my time since October 2018 was dedicated to preparing a capital federal habeas petition in *Johnson v. Ryan*, 2:18-cv-00889-SPL, which had a federal statutory filing deadline of December 20, 2018. I also filed an opening brief in this Court in *Bejarano v. Gittere*, Case No. 76629, on December 6, 2018. On December 3, 2019, I was appointed to the federal trial case of *USA v. Schlesinger*, 4:18-cr-02719-RCC-BGM, a

death qualified case from the District of Arizona. To that end, I have made four trips to Tucson, Arizona, since December 3, including two court appearances. Due to these deadlines in other capital cases, I will be unable to meet the deadline in Mr. Chappell's case.

4. Further, during the next ninety days, I have a Ninth Circuit argument in San Francisco in *Floyd v. Filson*, Case No. 14-99012, scheduled for January 31, 2019; an opening Ninth Circuit brief in *Hogan v. Filson*, Case No. 18-99004, due on February 12, 2019; and various deadlines in *USA v. Schlesinger* during the month of February 2019.

5. Based upon the above, I believe that with a ninety-day extension, I will be able to complete the Opening Brief.

6. The additional time requested here is necessary for me to devote the attention required to competently represent Mr. Chappell.

7. 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. Chappell. 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 January 16, 2019, in Las Vegas Nevada.

/s/ *Brad D. Levenson*  
BRAD D. LEVENSON

## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 16th day of January, 2019, electronic service of the foregoing REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO FILE APPELLANT'S OPENING BRIEF shall be made in accordance with the Master Service List as follows:

Steven Owens  
Steven.Owens@clarkcountynvda.com

/s/ Sara Jelinek  
An Employee of the  
Federal Public Defender,  
District of Nevada