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FILED
JAN 20 2022

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

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

DEREK JOHNSTON,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE MARY KAY
HOLTHUS, DISTRICT JUDGE,

Respondent.

and

THE STATE OF NEVADA,

Real Party in Interest

Supreme Court No.: 83968

District Court No.: C-21-354689-1

Dept. No.: 18

MOTION TO EXTEND TIME TO FILE REPLY TO ANSWER TO

EMERGENCY PETITION UNDER NRAP 27(e)

FOR A WRIT OF MANDAMUS

COMES NOW, Petitioner, DEREK JOHNSTON, by and through his attorney, T. AUGUSTUS CLAUS, ESQ. of the law firm of Legal Resource Group, LLC., and moves this Honorable Court to grant a seven (7) day extension of time to file the Petitioner's Reply to Answer to Emergency Petition Under NRAP 27(e) For a Writ of Mandamus. This Motion is based upon the following Memorandum

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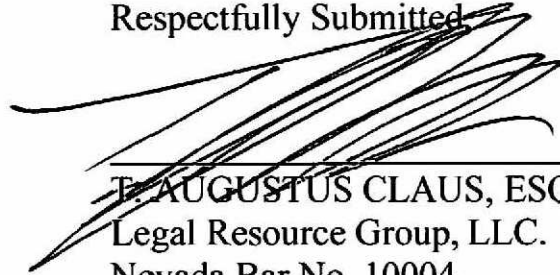
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RECEIVED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

of Points and Authorities.

DATED this 18th day of January, 2022.

Respectfully Submitted

A large, stylized handwritten signature in dark ink, appearing to read 'T. Augustus Claus', is written over a horizontal line.

T. AUGUSTUS CLAUS, ESQ.
Legal Resource Group, LLC.
Nevada Bar No. 10004
205 N. Stephanie St., Suite D221
Henderson, NV 89074

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner initially requested action on the emergency writ prior to December 30th, 2021. Since that initial emergency writ's requested deadline, the District Court has held two hearings and an evidentiary hearing for matters related to this emergency writ on January 12th, 2022, despite petitioner's counsel having lost his voice due to COVID. At the District Court evidentiary hearing on January 12th, 2022, the custodian of records for AT&T testified for the admission of Johnston's cell phone records (which were provided to the Supreme Court in the Petitioner's Appendix), and Officer Lauro testified. While Johnston remains in custody, at the conclusion of the hearing, the District Court ordered Johnston released on high level EMP. Unfortunately, due to Petitioner's counsel having COVID, the district court reporter could barely hear and is having difficulty preparing the transcripts. *See* Exhibit 1. Finally, petitioner's counsel is still suffering the effects of COVID and a test conducted on January 18th, 2022 shows COVID still in his system. While the issues of this writ are not moot, an extension of time will allow the transcripts of the evidentiary hearing to be produced and included in the reply, which should aid this Court in its decisions.

Accordingly, Petitioner requests seven (7) days to allow the District Court hearings to allow for the preparation of transcripts of the District Court's findings and finalization of the Petitioner's Reply to Answer to Emergency Petition Under

NRAP 27(e) For a Writ of Mandamus. Petitioners counsel currently has COVID and the District Court Clerk requested that we ask for extension given that the Petitioners counsel lost his voice and that she could barely hear him. *See Attached Exhibit 1*. This is the second extension of time requested by the Petitioner.

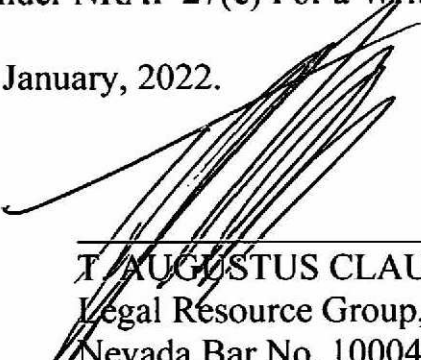
NRAP 26 governs computing and extending time, and reads, in pertinent part:

For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires.

NRAP 26 (b)(1)(A).

Petitioner can demonstrate good cause, as described above. THEREFORE, Petitioner would request a seven (7) day extension to file the Petitioner's Reply to Answer to Emergency Petition Under NRAP 27(e) For a Writ of Mandamus.

DATED this 18th day of January, 2022.



T. AUGUSTUS CLAUS, ESQ.
Legal Resource Group, LLC.
Nevada Bar No. 10004
205 N. Stephanie St., Suite D221
Henderson, NV 89074

CERTIFICATE OF SERVICE

Pursuant to NRAP 4(b) and NRAP 25(d)(1)(B), I hereby certify that I am employed by the **LEGAL RESOURCE GROUP, LLC.**, and that on the 18th day of January, 2022, I caused the MOTION TO EXTEND TIME TO FILE REPLY TO ANSWER TO EMERGENCY PETITION UNDER NRAP 27(e) FOR A WRIT OF MANDAMUS to be served as follows:

- ☐ [] by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ [] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☒ [X] by hand delivery via runner
- ☐ [] via electronic service

to the attorneys listed below:

DISTRICT ATTORNEY'S OFFICE
Clark County District Attorney
200 South Lewis Avenue
Las Vegas, Nevada 89155

The Honorable Judge Mary Kay Holthus
Eighth Judicial District Court
200 S. Lewis Avenue
Las Vegas, Nevada 89155



Employed by the Legal Resource Group, LLC.