

No. 86112

IN THE NEVADA SUPREME COURT

Electronically Filed
Jun 15 2023 03:25 PM
Elizabeth A. Brown
Clerk of Supreme Court

James Hayes,

Petitioner-Appellant,

v.

State of Nevada, et al.,

Respondents-Appellees.

On Appeal from the Order Denying Motion to
Correct or modify Illegal Sentence on the Merits
Eighth Judicial District, Clark County (C-16-315718-1)
Honorable Monica Trujillo, District Court Judge

Motion for Extension of time to file Appellant's Opening Brief

Rene L. Valladares
Federal Public Defender,
District of Nevada
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POINTS AND AUTHORITIES

For the reasons stated in the attached Declaration of Counsel, and pursuant to Nevada Rules of Appellate Procedure 26, 27, and 31(b)(3), James Hayes requests an extension of thirty-two (32) days in which to file his Opening Brief, from June 15, 2023, up to and including July 17, 2023.

DECLARATION OF COUNSEL

I, Martin L. Novillo, do declare as follows:

1. I am counsel for the Appellant in the above-entitled matter.

I have personal knowledge of the matters contained herein and am competent to testify thereto.

2. Appellant's Opening Brief is currently due June 15, 2023.

3. No extensions have previously been sought or granted with respect to the Opening Brief.

4. An extension of time is necessary on account of various filing deadlines and court dates, which declarant has had to recently meet. Specifically, on April 17, 2023, declarant had to finalize and file an amended petition in the non-capital habeas matter of *Villa v. Hutchings, et al.*, 21-cv-02030-ART (D. Nev.). In addition, declarant had to draft and, on May 10, 2023, file an opposition to a motion in limine in the federal trial matter, *United States v. Schlesinger*, 18-cr-02719-RCC (D. Ariz.). On May 15, 2023, declarant had to finalize and file a reply to an opposition to a Rule 59(e) motion to amend judgment in the capital habeas matter of *Blake v. Gittere, et al.*, 9-cv-00327-RCJ (D. Nev.). On

May 26, declarant had to file a sixty-page opening brief with the Ninth Circuit in the matter of *Leal v. Hutchings, et al.*, Case No. 22-16901.

Finally, during the course of the last two weeks, declarant had to respond to various pre-trial *Daubert* motions filed by the Government in the above-referenced *Schlesinger* matter, which concerns a recently de-authorized death penalty trial matter pending in the District of Arizona. In addition, over the course of the last month declarant had to engage in substantial amount of travel to Arizona and northern Nevada to meet with clients.

5. For the above stated reasons, and in order to adequately represent Mr. Hayes, declarant respectfully asks that this Court grant the requested 32-day extension of time, making the Opening Brief due on July 17, 2023.

Dated June 15, 2023.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Martin L. Novillo

Martin L. Novillo
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2023, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include:

Alexander G. Chen and Aaron D. Ford.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following person:

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/s/ Rosana Aporta
An Employee of the Federal
Public Defender, District of
Nevada