

1 IN THE SUPREME COURT OF THE STATE OF NEVADA  
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5 ALFRED P. CENTOFANTI, III,  
6

7 Appellant,  
8

9 vs.  
10

11 THE STATE OF NEVADA,  
12

13 Respondent.  
14

CASE NO. 44984

**FILED**

AUG 22 2005

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY J. Alvarado  
DEPUTY CLERK

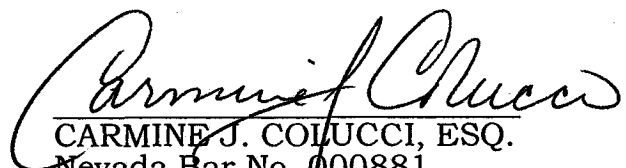
15 **MOTION TO EXTEND TIME TO FILE APPELLANT'S OPENING BRIEF**  
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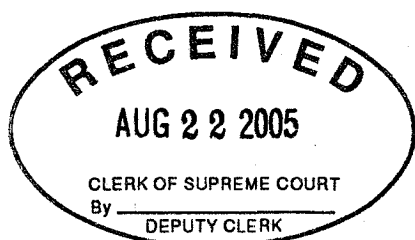
17 COMES NOW Appellant, ALFRED P. CENTOFANTI, III, by and through his  
18 attorney, CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI,  
19 CHTD., and moves this Honorable Court for an extension of time of thirty (60) days  
20 in which to file his Opening Brief from August 26, 2005, to and including October 26,  
21 2005.

22 This motion is made and based on the Points and Authorities submitted  
23 herewith and the Affidavit of Carmine J. Colucci, attached hereto, together with all  
24 pleadings and papers on file herein.  
25

26 DATED this 18th day of August, 2005.  
27

28 CARMINE J. COLUCCI, CHTD.

  
CARMINE J. COLUCCI, ESQ.  
Nevada Bar No. 000881  
629 South Sixth Street  
Las Vegas, Nevada 89101  
(702) 384-1274  
Attorney for Appellant



1 **POINTS AND AUTHORITIES**

2 Appellant's Opening Brief is due on August 26, 2005. Appellant's counsel will  
3 be unable to complete and file Appellant's Opening Brief by August 26, 2005, and is  
4 requesting an extension of sixty (60) days to and including October 26, 2005. Rule  
5 26(d) of the Rules of Appellate Procedure states in pertinent part as follows:

6 **Rule 26. Computation and extension of time.**

7 ...

8 (d) Time--Extension, shortening. Except as otherwise provided in  
9 these rules, or when not otherwise controlled by statute, the time  
10 provided in any of these rules within which an act shall be done,  
may be extended or shortened by stipulation of the parties, or by  
order of the court or a justice thereof upon good cause shown . . . .

11 The district court trial in the above-entitled matter consumed five weeks.  
12 Pretrial matters were heard over a three year period and post-trial matters  
13 extended from the end of trial on April 15, 2004, to the day that Appellant was  
14 sentenced on March 4, 2005.

15 Appellant's counsel, Carmine J. Colucci, Esq., was not the attorney of  
16 record for either the pretrial matters or for the trial and has had to order various  
17 transcripts which had not been previously prepared and has had to order various  
18 pleadings from the district court file which are necessary for this appeal. The  
19 most recent order of copies of pleadings from the Clark County Clerk's office was  
20 received on August 17, 2005. Counsel is requesting additional time to review  
21 those pleadings.

22 Appellant's counsel has conferred in person with Appellant while he was  
23 incarcerated in the Clark County Detention Center and High Desert State Prison.  
24 His most recent visit with Appellant was on August 15, 2005, at the High Desert  
25 State Prison. An extension of sixty (60) days to file the opening brief was  
26 discussed. Appellant agreed that additional time to prepare the brief was  
27 necessary and he agrees with this request for an extension of sixty (60) days. On  
28

1 August 17, 2005, Appellant was moved to the Ely State Prison. In order for  
2 counsel to go over the final draft of the opening brief with Appellant, he may have  
3 to travel to Ely State Prison which he is prepared to do.

4 Appellant's counsel has found it necessary to order numerous transcripts  
5 from four different court reporters. One of the court reporters, who prepared  
6 transcripts in this case, asked this Court for and received an extension to  
7 prepare the transcripts. Those transcripts were filed with the Eighth Judicial  
8 District Court on July 5, 2005, and provided to Appellant on July 11, 2005. In  
9 addition, during Appellant's counsel's work on this appeal, he has been in  
10 contact with several of the Appellant's prior attorneys to discuss possible issues  
11 for this appeal.

12 Appellant's counsel needs approximately sixty (60) additional days from  
13 August 26, 2005, to complete the preparation and submission of Appellant's  
14 Opening Brief and the Appendix thereto. Appellant's counsel has contacted  
15 Chief Deputy District Attorney James Tuftland who advised Appellant's counsel  
16 that he would not file an objection to this motion.

17 DATED this 18th day of August, 2005.

18 CARMINE J. COLUCCI, CHTD.

19   
20 CARMINE J. COLUCCI, ESQ.

21 629 South Sixth Street  
22 Las Vegas, Nevada 89101  
23 Attorney for Appellant  
24  
25  
26  
27  
28

**AFFIDAVIT OF CARMINE J. COLUCCI**

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

CARMINE J. COLUCCI, being first duly sworn, deposes and says:

1. That your Affiant is an attorney duly licensed to practice law in the State of Nevada, is the attorney of record for appellant, and has personal knowledge of the following facts except for those stated upon information and belief and is competent to testify thereon.

2. That the district court trial of this murder case consumed five weeks. Pretrial matters were heard over a three year period and post-trial matters extended from the end of trial on April 15, 2004, to the day that Appellant was sentenced on March 4, 2005, to life without the possibility of parole and a consecutive equivalent term for the use of a gun in the commission of that crime.

3. That affiant was not the attorney of record for either the pretrial matters or for the trial and has had to order various transcripts which had not been previously prepared and has had to order various pleadings from the district court file which are necessary for this appeal.

4. That on August 17, 2005, affiant received copies of pleadings from the Eighth Judicial District Court ordered by affiant which were not in the file given to affiant from Appellant's trial attorney.

5. That affiant requires additional time to review those pleadings.

6. That at least one of the court reporters, who prepared transcripts in this case, asked this Court for and received an extension to prepare the transcripts and those transcripts were filed with the Eighth Judicial District Court on July 5, 2005, and provided to Affiant on July 11, 2005.

7. That affiant has conferred with Appellant while at the Clark County Detention Center and at the High Desert State Prison and was informed on

1 August 17, 2005, that Appellant has now been moved to the Ely State Prison.

2 8. That Affiant meet in person with Appellant on August 15, 2005, and  
3 discussed getting an extension. Appellant agreed that additional time to prepare  
4 the brief was necessary and he agrees with this request for an extension of sixty  
5 (60) days.

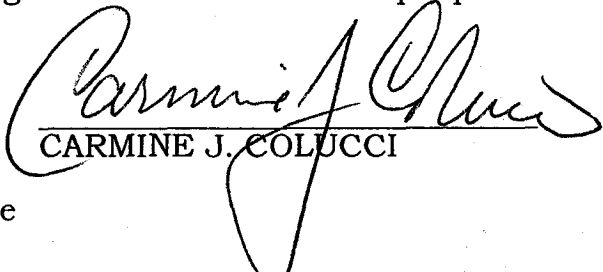
6 9. In addition, during affiant's work on this appeal, he has been in contact  
7 with several of the Appellant's prior attorneys to discuss possible issues for this  
8 appeal.

9 10. That Affiant needs approximately sixty (60) additional days from August  
10 26, 2005, to complete the preparation and submission of Appellant's Opening  
11 Brief and the Appendix thereto.

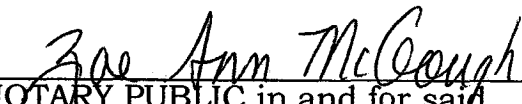
12 11. That Affiant has already availed himself of a 30 day extension of time by  
13 stipulation pursuant to NRAP Rule 26 but that time was not adequate for the  
14 reasons set forth above.

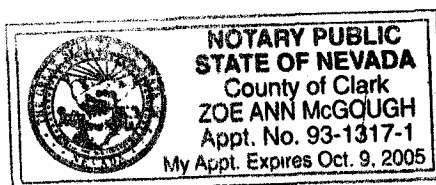
15 12. That Affiant contacted Chief Deputy District Attorney James Tuftland  
16 on August 18, 2005, and advised him that this motion was being filed and Mr.  
17 Tuftland advised Affiant that he would not file an opposition to the instant  
18 motion.

19 13. That this motion is made in good faith and not for the purposes of delay.

20  
21   
22 CARMINE J. COLUCCI

23 SUBSCRIBED and SWORN to before  
24 me this 18 day of August, 2005.

25   
26 NOTARY PUBLIC in and for said  
27 County and State



CERTIFICATE OF MAILING

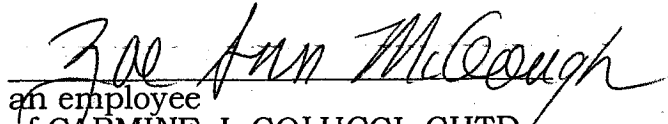
I HEREBY CERTIFY that on the 18 day of August, 2005, I deposited in the United States Mail at Las Vegas, Nevada, a true and correct copy of MOTION TO EXTEND TIME TO FILE APPELLANT'S OPENING BRIEF enclosed in a sealed envelope upon which first class postage has been fully prepaid, addressed to:

DAVID ROGER  
DISTRICT ATTORNEY  
200 South Third Street, Suite 701  
Post Office Box 552212  
Las Vegas, Nevada 89155-2212

BRIAN SANDOVAL  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

Attorneys for Respondent

Alfred P. Centofanti, 85237  
Ely State Prison  
P.O. Box 1989  
4569 North State Rt. 490  
Ely, NV 89031

  
an employee  
of CARMINE J. COLUCCI, CHTD