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11 Attorneys for Petitioner

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14 JAMES RAY WALKER,

15 Petitioner,

16 v.

17 WILLIAM GITTERE, et al.,

18 Respondents.  
19

Case No. 2:15-cv-01240-RFB-EJY

**UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE  
SECOND AMENDED PETITION  
FOR WRIT OF HABEAS CORPUS  
(POST-CONVICTION)**

**(FIRST REQUEST)**

**DEATH PENALTY CASE**

21 James Ray Walker, through counsel, hereby requests an extension of time of  
22 ninety (90) days, up to and including Monday October 4, 2021, within which to file  
23 his Second Amended Petition for Writ of Habeas Corpus. This is Mr. Walker's first

1 request for an extension of time. The State does not oppose the motion. This request  
2 is made and based on the following declaration of counsel and the entire file herein.

3 DATED this 6th day of July, 2021.

4 Respectfully submitted  
5 RENE L. VALLADARES  
6 Federal Public Defender

7 */s/ Martin L. Novillo*  
8 MARTIN L. NOVILLO  
9 Assistant Federal Public Defender  
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1           3.       An extension of time to file Mr. Walker’s second amended petition is  
2 merited on account of several filing deadlines and commitments undersigned  
3 counsel recently had to meet in various capital habeas matters. Since the May 6,  
4 2021 Order reopening Mr. Walker’s case, undersigned counsel has had to prepare  
5 and finalize claims for an amended habeas petition to be filed in early July 2021 in  
6 California state court in the capital habeas matter of *Maury (Robert Edward) on*  
7 *H.C.*, 2011 Cal. LEXIS 12099 (2011). Similarly, counsel has had to investigate and  
8 prepare claims for an amended petition due also in July 2021 in Nevada state court  
9 in the capital habeas matter of *Biela v. State*, 2019 Nev. Unpub. LEXIS 475 (2019).  
10 Further, counsel had to review the record, investigate claims, and prepare an  
11 amended petition—filed on June 15, 2021—in the non-capital habeas matter of  
12 *Bautista v. Garrett, et al.*, 20-cv-00403-LRH (D. Nev.). Finally, counsel has had to  
13 prepare various pre-trial motions in the out-of-district federal capital trial case  
14 *United States v. Schlesinger*, 18-cr-02719-RCC-BGM (D. Ariz.), including a one  
15 hundred fifty (150) page motion challenging the Federal Death Penalty Act (FDPA).

16           4.       An extension of time is further merited on account of personal  
17 circumstances affecting co-counsel for Mr. Walker, Kenneth Lee. Specifically,  
18 counsel Mr. Lee underwent back surgery on June 22, 2021. Mr. Lee will be  
19 unavailable for several weeks as he recovers from the surgery. Moreover, Mr. Lee’s  
20 surgeon has informed counsel that he will not be able to travel or drive for at least  
21 the next seven weeks. As a result, the earliest counsel would be able to visit Mr.  
22 Walker would be the week of August 16, 2021.

1           5.       Finally, an extension of time is needed so undersigned counsel can  
2 finalize his review of Mr. Walker’s trial, appellate, and post-conviction record.  
3 Undersigned counsel was only recently designated as lead counsel for Mr. Walker.  
4 *See* ECF No. 93. Prior to that designation and while in state court exhausting  
5 claims, counsel reviewed and addressed specific issues raised in Mr. Walker’s  
6 petition, but did not conduct a comprehensive and exhaustive review of the record.  
7 For the past several months, undersigned counsel has engaged in a diligent review  
8 of the entire record to ensure Mr. Walker is adequately represented in his habeas  
9 proceedings. Counsel’s review is now nearly complete.

10           6.       The present request for an extension is unopposed. On July 2, 2021,  
11 counsel for Petitioner contacted Deputy Attorney Jessica Perlick via email concerning  
12 this request for an extension of time. Ms. Perlick has no objection to the request.  
13 Petitioner understands that opposing counsel’s non-opposition does not waive any  
14 claims, defenses, statute of limitations, or other substantive arguments the  
15 Respondents may choose to raise at a later date.

16           7.       This requested extension will permit counsel time to properly review Mr.  
17 Walker’s record and file an amended petition. It is not made for the purposes of delay,  
18 but rather in the interests of justice.

19           I declare under penalty of perjury that the foregoing is true and correct, and  
20 that this declaration was executed on July 6, 2021, in Las Vegas, Nevada.

21           IT IS SO ORDERED:

22 

23 RICHARD F. BOULWARE, II  
United States District Judge  
DATED this 8th day of July, 2021.

*/s/ Martin L. Novillo*  
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MARTIN L. NOVILLO  
Assistant Federal Public Defender

1 **CERTIFICATE OF SERVICE**

2 In accordance with LR IC 4-1 of the Local Rules of Practice, the undersigned  
3 hereby certifies that on the 6th day of July 2021, a true and correct copy of the  
4 foregoing Unopposed Motion for Extension of Time to File Second Amended  
5 Petition (First Request) was served by the United States District Court, CM/ECF  
6 electronic filing system to:

7 Jessica Perlick  
8 Deputy Solicitor General  
9 jperlick@ag.nv.gov

10 /s/ Sara Jelinek  
11 An Employee of the  
12 Federal Public Defender  
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