

1 ADAM PAUL LAXALT  
 Attorney General  
 2 JARED M. FROST (Bar No. 11132)  
 Senior Deputy Attorney General  
 3 State of Nevada  
 Office of the Attorney General  
 4 555 E. Washington Ave., Ste. 3900  
 Las Vegas, Nevada 89101  
 5 (702) 486-3177 (phone)  
 (702) 486-3773 (fax)  
 6 Email: jfrost@ag.nv.gov

7 *Attorneys for Defendants*  
*James Dzurenda and Joseph Lewis*  
 8

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 LAUSTEVEION JOHNSON,

12 Plaintiff,

13 v.

14 LEWIS, *et al.*,

15 Defendants.

Case No. 2:17-cv-01668-JAD-CWH

**DEFENDANT DZURENDA AND  
 LEWIS' REQUEST FOR EXTENSION  
 OF TIME TO RESPOND TO  
 COMPLAINT**

**(First Request)**

16 Defendants James Dzurenda and Joseph Lewis, by and through counsel, Adam Paul  
 17 Laxalt, Nevada Attorney General, and Jared M. Frost, Senior Deputy Attorney General,  
 18 hereby move for a forty-five (45) day extension of time to respond to Plaintiff's Complaint.  
 19 Defendants' motion is made and based on Rule 6 of the Federal Rules of Civil Procedure,  
 20 the following memorandum of points and authorities, the attached Declaration of Counsel,  
 21 the pleadings and papers on file, and any other evidence the Court deems appropriate to  
 22 consider.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. BACKGROUND**

25 This is a prisoner civil rights action filed pursuant to 42 U.S.C. section 1983. ECF  
 26 No. 1-1. Plaintiff filed his Complaint in on June 8, 2017, while in the custody of the Nevada  
 27 Department of Corrections (NDOC). ECF NO. 1-1.

28 . . .

1 On July 18, 2018, the Court issued its Screening Order. ECF No. 5. Pursuant to the  
2 Screening Order, Plaintiff was allowed to proceed on the following claims:

- 3 • Retaliation claim against Willis, Lewis, Gentry, Adams, and Dzurenda  
4 alleging retaliatory force, false charges, and adjudication of a disciplinary  
5 proceeding.
- 6 • Free exercise/establishment claim alleging Willis required Plaintiff to  
7 proclaim “Jesus is God” to avoid disciplinary charges.
- 8 • Excessive force claim alleging Willis slammed Plaintiff’s head in a steel gate.
- 9 • Conditions of confinement claim against Lewis, Gentry, Adams, and  
10 Dzurenda alleging placement of mentally ill inmate in disciplinary  
11 segregation for sixty (60) days without sensory stimulation.
- 12 • Americans With Disabilities Act claim against Lewis, Gentry, Adams, and  
13 Dzurenda alleging failure to accommodate mental illness when placing  
14 Plaintiff in segregation without stimulation.
- 15 • Conditions of confinement claim against Willis, Dzurenda, and Gentry  
16 alleging they disabled prison gate safety features.
- 17 • Due process claim against Lewis, Gentry, and Dzurenda alleging denial of  
18 opportunity to call witness at a disciplinary hearing and lack of any evidence  
19 demonstrating he crossed a red line.
- 20 • Equal protection claim against Willis, Lewis, Gentry, and Dzurenda alleging  
21 Plaintiff faced disciplinary charges because he is a Muslim.

22 *See* ECF No. 6.

23 On August 24, 2018, the Court granted Plaintiff’s motion to exclude the case from  
24 mediation. ECF NO. 11.

25 On August 29, 2018, the Court granted Plaintiff’s application to proceed in pauper  
26 status and directed Defendants to file a response to the Complaint within ninety (90) days.  
27 ECF No. 12.

28 . . .

1 On September 12, 2018, the Office of the Nevada Attorney General entered an  
2 Acceptance of Service for Defendants Dzurenda and Lewis. ECF No. 13.

3 This motion for an extension of time to file a Response to Plaintiff's Complaint  
4 follows.

5 **II. APPLICABLE LAW**

6 Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), the Court may extend the  
7 time to perform an act within a specified time for good cause shown.

8 **III. ARGUMENT**

9 Defendants submit that good cause exists to extend the time to respond to Plaintiff's  
10 Complaint. Defendants' response is currently due October 29, 2018. Since the Court issued  
11 its August 29 order, the undersigned has completed an initial review of the Complaint and  
12 collected certain records pertaining to this matter. However, the undersigned has been  
13 unable to complete a response due to his responsibilities to meet deadlines in other cases.  
14 See Exhibit 1 (Declaration of Counsel). In addition, this case is of moderate complexity  
15 given the numerous defendants, occurrences, and legal theories that survived the screening  
16 order. Defendants therefore request an extension of forty-five (45) days, or until December  
17 13, 2018, to file a Response to Plaintiff's Complaint.

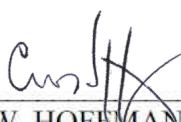
18 DATED this 29th day of October, 2018.

19 ADAM PAUL LAXALT  
20 Attorney General

21 By: /s/ Jared M. Frost  
22 JARED M. FROST (Bar No. 11132)  
23 Senior Deputy Attorney General  
24 *Attorneys for Defendant*

25 IT IS SO ORDERED.

26 DATED: Dec 06, 2018

27   
28 C.W. HOFFMAN, JR.  
UNITED STATES MAGISTRATE JUDGE

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the State of Nevada, Office of the Attorney General,  
3 and that on October 29, 2018, I electronically filed the foregoing document via this Court's  
4 electronic filing system. Parties who are registered with this Court's electronic filing  
5 system will be served electronically. For those parties not registered, service was made by  
6 depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las  
7 Vegas, Nevada, addressed to the following:

8 Lausteveion Johnson, #82138  
9 High Desert State Prison  
10 P.O. Box 650  
Indian Springs, Nevada 89070  
*Plaintiff, Pro Se*

11  
12 /s/ Traci Plotnick  
13 Traci Plotnick, an employee of the  
14 Office of the Nevada Attorney General  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

Declaration of Counsel

# EXHIBIT 1

1 ADAM PAUL LAXALT  
Attorney General  
2 JARED M. FROST (Bar No. 11132)  
Senior Deputy Attorney General  
3 State of Nevada  
Office of the Attorney General  
4 555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101  
5 (702) 486-3177 (phone)  
(702) 486-3773 (fax)  
6 Email: jfrost@ag.nv.gov

7 *Attorneys for Defendants*  
*James Dzurenda and Joseph Lewis*  
8

9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 LAUSTEVEION JOHNSON,  
12 Plaintiff,  
13 v.  
14 LEWIS, *et al.*,  
15 Defendants.

Case No. 2:17-cv-01668-JAD-CWH

**DECLARATION OF COUNSEL**

16 I, JARED M. FROST, hereby declare, based on personal knowledge and/or information  
17 and belief, that the following assertions are true:

18 1. I am a Senior Deputy Attorney General employed by the Nevada Attorney  
19 General in the Litigation Division, and I make this declaration in support of Defendants'  
20 motion to extend the time in which to file a Response to Plaintiff's Complaint filed in the  
21 above-referenced matter.

22 2. Since Defendants were directed to respond to the Complaint on August 29,  
23 2018, I have completed an initial review of the Complaint and collected certain prison records  
24 related to Plaintiff's allegations. However, I have been unable to complete the Response due  
25 to my responsibilities to meet deadlines in other cases.

26 3. My responsibilities to meet recent deadlines in other cases during the past  
27 month include: *Jackson v. State of Nevada*, 2:16-cv-00995 (Reply regarding Motion for  
28 Protective Order and Response to Countermotions filed October 29, 2018; supplemental

1 discovery responses and records disclosure served October 22, 2018; Motion to Strike filed  
2 October 19, 2018; six supplemental discovery responses, records disclosure, and privilege log  
3 served October 12, 2018); *Prentice v. State of Nevada*, 2:18-cv-01801 (Response to motion  
4 regarding screening filed October 25, 2018; Status Report filed October 3, 2018); *Ross v.*  
5 *Sandoval*, 2:17-cv-02386 (Notices Of Compliance filed October 22, 2018); *Matlean v.*  
6 *Dzurenda*, 2:17-cv-01461 (Answer to Complaint filed October 19, 2018); *Rexroad v. Neven*,  
7 2:17-cv-01629 (Acceptance of Service and Last Known Addresses filed October 18, 2018);  
8 *Rider v. Tristan*, 2:16-cv-02633 (Reply regarding Motion for Summary Judgment filed October  
9 2, 2018).

10 4. In addition to the foregoing responsibilities, I have been assigned to develop new  
11 training materials for NDOC staff and serve as the Internship Coordinator for the Office of  
12 the Attorney General. These assignments have also contributed to my inability to complete a  
13 response during the relevant period.

14 5. This request is made in good faith and not for the purpose of delay.

15 Pursuant to 28 U.S.C. section 1746 Declarant certifies, under penalty of perjury, that  
16 the foregoing is true and correct.

17 DATED this 29th day of October, 2018.

18 ADAM PAUL LAXALT  
19 Attorney General

20 By: /s/ Jared M. Frost  
21 JARED M. FROST (Bar No. 11132)  
22 Senior Deputy Attorney General  
23 *Attorneys for Defendant*  
24  
25  
26  
27  
28