

1 AARON D. FORD
Attorney General
2 ALEXANDER J. SMITH (Bar No. 15484C)
Deputy Attorney General
3 State of Nevada
Office of the Attorney General
4 555 East Washington Avenue
Suite 3900
5 Las Vegas, Nevada 89101
(702) 486-4070 (phone)
6 (702) 486-3773 (fax)
Email: ajsmith@ag.nv.gov

7 *Attorneys for Defendants*
8 *Kim Thomas, Julio Calderin,*
Brian Williams, James Dzurenda,
9 *Harold Wickham, and Richard Snyder*

10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 ANTHONY PRENTICE,

14 Plaintiff,

15 v.

16 JAMES DZURENDA, *et al.*,

17 Defendants.

Case No. 2:18-cv-01801-APG-VCF

**DEFENDANTS' MOTION TO
EXTEND BY FIFTEEN DAYS THE
DEADLINE TO RESPOND TO
PLAINTIFF'S FEBRUARY 8, 2021
DISCOVERY REQUESTS**

(SECOND REQUEST)

18
19 Defendants, Kim Thomas, Julio Calderin, Brian Williams, James Dzurenda, Harold
20 Wickham, and Richard Snyder, by and through counsel, Aaron D. Ford, Nevada Attorney
21 General, and Alexander J. Smith, Deputy Attorney General, of the State of Nevada, Office
22 of the Attorney General, hereby move to extend the time in which to respond to Plaintiff
23 Anthony Prentice's February 8, 2021 discovery requests. For the reasons outlined below,
24 Defendants require an additional fifteen days; this will take the May 12, 2021 deadline (as
25 ordered by ECF No. 72 at 1) to May 27, 2021. Defendants have good cause for an extension,
26 and Prentice will not be prejudiced by this second extension.¹

27
28 ¹ Because Defendants previously demonstrated good cause (ECF No. 66), an April
30, 2021 order (ECF No. 72) extends the deadline date of Prentice's February 8, 2021
discovery requests to May 12, 2021.

1 Finally, LR 26-3 lists four factors that are considered upon adjudication of a motion
2 to extend a discovery deadline or to reopen discovery: (a) a statement specifying the
3 discovery completed; (b) a specific description of the discovery that remains to be completed;
4 (c) the reasons why the deadline was not satisfied or the remaining discovery was not
5 completed within the time limits set by the discovery plan; and (d) a proposed schedule for
6 completing all remaining discovery.²

7 **C. Rules 33, 34, And 36, Federal Rules Of Civil Procedure**

8 Rule 33(b)(2) requires a responding party to serve any answer and objection to an
9 interrogatory within thirty days after being served with the interrogatories, and the court
10 may extend the time. Rule 34(b)(2)(A) requires the party to whom a request for the
11 production of documents is directed to respond in writing within thirty days after being
12 served, and the court may extend the time. Rule 36(a)(3) governs the time limit for
13 responding to a request for an admission; a matter is deemed admitted unless, within thirty
14 days after being served, the party to whom the requested is directed serves on the
15 requesting party a written answer or objection. As with Rules 33 and 34, the court may
16 extend the time.

17 **D. Good Cause Exists For Extending A Second Time The Deadline To**
18 **Respond, Thus The Court Should Grant Defendants' Motion To**
19 **Extend By Fifteen Days The Deadline To Respond To Prentice's**
February 8, 2021 Discovery Requests

20 Prentice has served the following discovery requests on Defendants:

- 21
- Requests for Admission (RFA) to Snyder — Due 5/12/2021
 - RFA to Dzurenda — Due 5/12/2021
 - 22 • RFA to Williams — Due 5/12/2021
 - RFA to Thomas — Due 5/12/2021
 - 23 • RFA to Calderin — Due 5/12/2021
 - RFA to Wickham — Due 5/12/2021
 - 24 • Interrogatories (Rogs) to Calderin — Due 5/12/2021
 - Rogs to Thomas — Due 5/12/2021
 - 25 • Rogs to Snyder — Due 5/12/2021
 - 26 • Rogs to Dzurenda — Due 5/12/2021

27 ² LR 26-3 lists four factors that are considered. Arguably, these apply only when a
28 party moves for an extension to extend a discovery deadline or to reopen discovery; here,
Defendants neither move to extend a discovery deadline nor move to reopen discovery, so
they are not discussed in the analysis.

- 1 • Rogs to Wickham — Due 5/12/2021
- 2 • Rogs to Williams — Due 5/12/2021
- 3 • Request for the production of documents (RFPD) to Calderin — Due 5/12/2021
- 4 • RFPD to Snyder — Due 5/12/2021
- 5 • RFPD to Williams — Due 5/12/2021
- 6 • RFPD to Wickham — Due 5/12/2021
- 7 • RFPD to Thomas — Due 5/12/2021

8 For the reasons outlined below, Defendants require an additional fifteen days in
9 which to respond to all of the above.

10 Prentice has requested an extensive amount of discovery: seventeen separate
11 requests from a total of six defendants. Due to the voluminous amount of discovery,
12 obtaining responses to these requests and formatting the responses and any relevant
13 objections (in addition to producing the requested information itself) is taking much longer
14 than expected. Also, the paralegal assigned to this case has recently been off on furlough
15 leave and on sick leave.

16 Second, germane to this delay—which has affected timely responses in several other
17 cases—the State of Nevada has ordered its first execution in two years, and all available
18 staff have been roped in to deal with the case, including attorneys and paralegals, the latter
19 of whom assist with much of the discovery-related work. *See State of Nevada v Zane Floyd*
20 8th JD A-21-832952-W; 8th JD 99C159897 with a determination of warrant on May 12,
21 2021; *Floyd v State of Nevada*, 9th Cir. 14-99012; USDC 2:06-cv-00471-RFB-CWH (the
22 habeas challenges to the protocol); and *Floyd v Daniels* USDC 3:21-cv-00176-MMD-CLB
23 (Section 1983 suit regarding the protocol).

24 An evidentiary hearing was held in the Section 1983 suit on Thursday May 6, which
25 will likely result in further hearings and action by the State and the court. Additionally,
26 the District Court Judge set briefing on protective orders as to deliberative process
27 exceptions with a single day turnaround for both sides. This has inevitably had a short-
28 term impact on operations across the Division and has consumed much of the paralegals'
time in addition to their usual discovery-related responsibilities.

///

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on May 12, 2021, I electronically filed the foregoing **DEFENDANTS’ MOTION TO EXTEND BY FIFTEEN DAYS THE DEADLINE TO RESPOND TO PLAINTIFF’S FEBRUARY 8, 2021 DISCOVERY REQUESTS (SECOND REQUEST)** via this Court’s electronic filing system. Parties who are registered with this Court’s electronic filing system will be served electronically.

Anthony Prentice, #74880
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070
Email: HDSP_LawLibrary@doc.nv.gov
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General