

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ARMENIA LEVI CUDJO, JR.,	}	CA No. 08-99028	
Petitioner-Appellant,		}	D.C. No. CV-99-08089-JFW
v.			
VINCENT CULLEN, Warden,		}	
Respondent-Appellee.			

**APPELLANT’S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE REPLY BRIEF**

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE JOHN F. WALTER
United States District Judge

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Petitioner-Appellant,		}	D.C. No. CV-99-08089-JFW
v.			
VINCENT CULLEN, Warden,		}	
Respondent and Appellee. ¹			

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT'S REPLY BRIEF**

Petitioner-Appellant Armenia Levi Cudjo, Jr. hereby requests an extension of thirty days, to and including August 18, 2010, to file and serve his reply brief. This request is made under Rule 31 of the Federal Rules of Appellate Procedure and Circuit Rule 31-2.2(b), and is based on the attached Declaration of Katherine Froyen Black.

Dated: July 9, 2010

Respectfully submitted,

SEAN K. KENNEDY
Federal Public Defender

By /s/ Katherine Froyen Black
KATHERINE FROYEN BLACK
Deputy Federal Public Defender

Attorneys for Petitioner-Appellant
ARMENIA LEVI CUDJO, JR.

¹ In conformance with Rule 43(c)(2) of the Federal Rules of Appellate Procedure, Petitioner-Appellant hereby substitutes Vincent Cullen, Warden, San Quentin State Prison, for R.K. Wong, who is now the former Warden.

DECLARATION OF KATHERINE FROYEN BLACK

I, Katherine Froyen Black, declare:

1. I am an attorney licensed to practice law in the State of California, and I am admitted to practice in this Court. I am a Deputy Federal Public Defender in the Central District of California (“FPD”), and I am one of the attorneys assigned to represent Armenia Levi Cudjo, Jr., in this appeal. I make this declaration in support of Mr. Cudjo’s request for a 30-day extension of time, to and including August 18, 2010, to file and serve his reply brief.

2. Mr. Cudjo filed his opening brief on November 20, 2009. Appellee filed his Answering Brief on June 24, 2010. The reply brief is currently due for filing on July 19, 2010. I request an extension of time for a period of 30 days, to and including August 18, 2010, to file the reply brief. I request this extension because I and my co-counsel, Mark R. Drozdowski and John Littrell, are unable to complete and file the brief by the current deadline. This is Mr. Cudjo’s first request for an extension of time in which to prepare and file his reply.

3. In addition to my role as counsel of record for Petitioner-Appellant Cudjo, I am appointed counsel of record for six other capital habeas petitioners in the Central District. My responsibilities in these cases have been ongoing: C.D. Cal. case nos. CV-03-07848-GW; CV-96-02584-ABC; CV-05-04971-DMG; CV-07-00519-FMC; CV 94-06417-AHS and CV 09-46240-CAS. However, I am leaving my employment with the FPD effective July 16, 2010. In the past two weeks, since Appellee filed his Answering Brief, some of my time has been consumed with activities in preparation for my departure after almost six years of working in the FPD’s Capital Habeas Unit (“CHU”). Consequently, although I have begun preparing a reply to Appellee’s Answering Brief, I will not be able to complete the brief prior to my departure on the 16th. I believe I will be able to

make substantial progress on the reply prior to my departure, I do not believe I will be able to complete and file the reply prior to the 16th. Also, because my co-counsel, Mark Drozdowski and John Littrell, will be responsible for the litigation in this case following the filing of the reply and after I leave the office, it is important that they have adequate time to review and give input into the reply. Due to their case and other responsibilities, detailed below, their schedules will not allow adequate time to complete and file the brief by July 19, 2010. Consequently, I am requesting a 30-day extension of time in which to complete and file the reply.

4. My co-counsel, Mark Drozdowski, is the supervising attorney of the CHU, and he is responsible for overseeing the CHU's 20 attorneys and its caseload of about 70 federal capital habeas cases (including two 28 U.S.C. § 2255 actions), roughly 28 federal noncapital habeas cases and direct appeals, and federal trial work. Due to his case and supervisory obligations, Mr. Drozdowski has been unable to devote substantial time since June 24, 2010 to reviewing the Answering Brief and preparing a reply.

5. My other co-counsel, John Littrell, is a Deputy Federal Public Defender in the FPD's trial unit. As such, he is counsel of record in many federal criminal trial cases in addition to two capital habeas cases, including Mr. Cudjo's. Mr. Littrell is currently en route to a three-week training seminar in Wyoming, and he will not be able to devote time to the preparation of the reply brief until his return to the office on August 2, 2010.

6. For the reasons stated above, and despite diligent efforts, counsel for Cudjo have not been able to complete, and will not be able to complete, the reply brief by the current July 19, 2010, due date. I respectfully request a thirty-day

extension of time, to and including August 18, 2010, to file and serve the reply brief.

7. On July 9, 2010, I spoke with Bill Bilderback, counsel for Appellee, informing him that I intended to file this extension request and the reasons therefore. He replied that Appellee does not oppose the request.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on July 9, 2010 at Los Angeles, California.

/s/ Katherine Froyen Black
KATHERINE FROYEN BLACK

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2010, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

By /s/ Katherine Froyen Black
KATHERINE FROYEN BLACK
Deputy Federal Public Defender