

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 FOURTH 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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ARMENIA LEVI CUDJO, JR.

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Petitioner-Appellant,		}	D.C. No. CV-99-08089-JFW
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Respondent and Appellee.			

**APPELLANT’S UNOPPOSED FOURTH MOTION FOR
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Petitioner-Appellant Armenia Levi Cudjo, Jr. hereby requests a one-week extension of time, to and including September 15, 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 Mark R. Drozdowski.

Dated: September 8, 2010

Respectfully submitted,

SEAN K. KENNEDY
Federal Public Defender

By /s/ Mark R. Drozdowski
MARK R. DROZDOWSKI
Deputy Federal Public Defender

Attorneys for Petitioner-Appellant
ARMENIA LEVI CUDJO, JR.

DECLARATION OF MARK R. DROZDOWSKI

I, Mark R. Drozdowski, 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 with the Office of the Federal Public Defender for the Central District of California (“FPD”). I am also the chief of the FPD’s capital habeas unit (“CHU”), and as such am responsible for overseeing the CHU’s 20 attorneys and its caseload of about 69 federal capital habeas cases (including two 28 U.S.C. § 2255 actions) and roughly 33 federal noncapital habeas cases. Deputy Federal Public Defender John Littrell and I represent Armenia Levi Cudjo, Jr., in this appeal. I make this declaration in support of Cudjo’s request for a one-week extension of time, to and including September 15, 2010, to file and serve his reply brief.

2. Cudjo filed his opening brief on November 20, 2009. Appellee filed his Answering Brief on June 24, 2010. The original due date for the reply was July 19, 2010. Cudjo sought and received a 30-day extension of time to file the reply. He then sought and received a two-week extension, making the due date September 1, 2010. On August 25, he filed a request for a one-week extension of time, to and including September 8, 2010, to file the reply. The Court has not issued an order on that request. Cudjo now makes another request for a one-week extension, to and including September 15, 2010, to file his reply and any supplemental experts of record. The reasons for the request are as follows:

3. Former Deputy Federal Public Defender Katherine Black worked on a draft of the reply before leaving the FPD on July 16, 2010 to move out of state. The draft is incomplete. My management duties have consumed the majority of my time since the Answering Brief was filed. Since I filed the prior extension request on August 25, I have also spent a considerable amount of time conducting

research for Respondent's Brief in *Cullen v. Pinholster*, Case No. 09-1088, a case before the United States Supreme Court. Petitioner filed his opening brief on August 9, 2010; our Respondent's brief is due to be filed by September 20; and I have been assisting Federal Public Defender Sean Kennedy in preparing a response to the opening brief. Since August 25, I have also spent numerous hours on attorney recruiting, hiring and training in our unit, more so than usual. For these reasons, I have not had sufficient time to complete Cudjo's reply. My co-counsel, Mr. Littrell, has an active trial caseload, and has been out of the office for about four weeks since the time the Answering Brief was filed. Mr. Littrell has been unable to spend much time on Cudjo's reply.

4. 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 September 8, 2010 due date. I respectfully request a one-week extension of time, to and including September 15, 2010, to file and serve the reply brief and any supplemental excerpts of record.

5. I recognize that this request was not filed at least one week before the due date for the brief, as per the Court's rules, but I did not realize that I needed more time to file the brief until the one week had passed. As late as yesterday, I still hoped to be able to complete and file the brief by September 8, but I cannot do so given my other obligations discussed above. I appreciate the Court's patience and understanding in granting the prior extension requests. I am sorry to ask for another extension, but I do not feel that I can meet my obligations to my client in this capital habeas appeal without more time to complete the brief. A one week extension will give me the time I need to complete and file the brief. If the Court grants this and the prior extension request, Cudjo will have received an additional 58 days total to file his reply.

6. I have exercised diligence and will file the reply and any supplemental excerpts within the time requested. The court reporter is not in default with regard to any designated transcripts.

7. I telephoned Bill Bilderback, counsel for Appellee, on September 8, 2010, and informed him that I would be making this extension request and the reasons therefore. He told me 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 September 8, 2010 at Los Angeles, California.

/s/ Mark R. Drozdowski
MARK R. DROZDOWSKI

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 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/ Mark R. Drozdowski*
MARK R. DROZDOWSKI
Deputy Federal Public Defender