

1 Petitioner's brief is currently scheduled to be filed on Friday, August 12, 2016. Petitioner requests
2 permission to file the Brief on Tuesday, August 16, 2016.

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4 Counsel for Petitioner has communicated this request to counsel for Respondent, Deputy
5 Attorney General Gregg Zywicke, who responded that the state has no objection. Petitioner does
6 not anticipate requesting any additional time to file the Opening Brief in this matter.

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8 Petitioner requests this extension of time in order to be able to prepare and submit the
9 Opening Brief, which will address some complex legal questions and related matters involving the
10 record. The Court's June 17, 2016, Order, Doc. 796, directed that any citations to the record
11 should be included in an appendix to the parties' pleadings, *id.*, at 1:22-23. Proper preparation of
12 the brief and appendix is taking significant time. As part of the CJA Budgeting process, counsel
13 requested and this Court issued an Order approving a budget on July 26, 2016, which was emailed
14 to counsel on August 1, 2016.

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16 Counsel are diligently working on preparation of the Brief. During the time since the
17 Court's June 17, 2016, Order, counsel have also had pre-existing obligations in other cases,
18 including capital matters, which have necessarily required time, giving rise to this request.

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20 Mr. Osterhoudt is also counsel in *Johnson v. Ayers*, 3:98-cv-04043-SI, a capital Habeas
21 case wherein the parties are litigating the scope of an evidentiary hearing recently granted by the
22 District Court; *United States v. Aguilera*, No. 3:09-cr-00988-CRB (N.D. Cal), on remand from the
23 Ninth Circuit for evidentiary hearing regarding a cell phone search in the case, hearing scheduled
24 for August 19, 2016; *United States v. Petrov*, 3:16-cr-00159-WHA, wherein motions must be filed
25 by the end of August and are in preparation, *United States v. Rush*, 4:15-cv-00454, a case
26 requiring review of voluminous discovery.
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1 Mr. Brosnan is also co-counsel for the condemned petitioner in: Berryman v. (San Quentin
2 Warden), Ninth Circuit no. 10-10-99004, an appeal after denial of a 28 U.S.C. §2254 habeas
3 corpus petition, in which he has been the primary author of several pleadings and submissions
4 either filed in the public docket or under seal and oral argument is under consideration for the
5 November calendar; Arias v. (San Quentin Warden), Eastern District of California no. CIV.S-99-
6 0627 WBS DB, in which a brief on the merits of all claims in the petition under 28 U.S.C.
7 §2254(d) is due November 30, 2016, Doc. 308, and work is ongoing; Williams v. (San Quentin
8 Warden), E.D. Cal no. 1:09-cv-01068-DAD-SAB, in which respondent filed its answer on August
9 12, 2016, Doc. 77, and petitioner's brief on the merits of all claims in the petition under 28 U.S.C.
10 §2254(d) is due August 22, 2017, Doc. 69, and work is ongoing.

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13 Even with the delays occasioned by these issues, counsel for Petitioner believe they will be
14 able to file the Opening Brief on Tuesday, August 16, 2016, two days after the current due date.

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16 For the foregoing reasons, Counsel for petitioner respectfully request a two-day extension,
17 to August 16, 2016, to file the Opening Brief.

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19 DATE: August 12, 2016

Respectfully submitted,

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21 /s/ William L. Osterhoudt
WILLIAM L. OSTERHOUDT

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23 /s/ Tim Brosnan
TIM BROSANAN

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25 Counsel for Petitioner,
OSCAR GATES

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~~PROPOSED~~ ORDER

Good cause appearing, Petitioner's motion to extend the time for filing the Opening Brief on Claims 6 A. – B. and 7 to August 16, 2016, is granted.

IT IS SO ORDERED.

DATED: August 22, 2016



HON. WILLIAM H. ALSUP
United States District Judge