

1 LARRY GENE SMITH
 T-65308
 2 Mule Creek State Prison
 P.O. Box 409040
 3 Ione, California 95640

4 Petitioner Pro Se
 Assisted by

6 NEOMA KENWOOD (SBN 101805)
 Attorney at Law
 7 P.M.B. #414
 1563 Solano Avenue
 8 Berkeley, California 94707
 Telephone and Facsimile: (510) 528-4775
 9 nkenwood@sbcglobe.net

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

14 LARRY GENE SMITH,
 15 Petitioner,
 16 v
 17 ROSANNE CAMPBELL, Acting Warden,
 18 Respondent.

C 06-02972 MHP
 STIPULATION
 EXTENDING TIME FOR
 FILING OF
 PETITIONER'S
 TRAVERSE

20 BECAUSE counsel assisting petitioner Larry Gene Smith has been unable to
 21 complete the drafting of petitioner's Traverse as explained in the attached declaration,
 22 and counsel needs an additional 28 days to prepare and file the Traverse,

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IT IS HEREBY STIPULATED by and between the parties, pursuant to Civil Local Rule 6-2, as follows:

That petitioner shall serve and file a Traverse not later than July 31, 2009.

Dated: June 26, 2009

Respectfully submitted,

LARRY GENE SMITH
Petitioner Pro Se

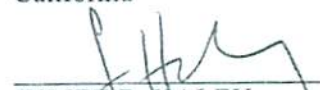
Assisted by


NEOMA D. KENWOOD
Attorney at Law

Dated: June 26, 2009

EDMUND G. BROWN, JR.
Attorney General of the State of
California

By:


JULIET B. HALEY
Deputy Attorney General
Attorneys for Respondent

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LARRY GENE SMITH,

Petitioner,

v

ROSANNE CAMPBELL, Acting Warden)

Respondent.

C 06-02972 MHP

**DECLARATION OF
NEOMA D. KENWOOD IN
SUPPORT OF
STIPULATION
EXTENDING TIME FOR
FILING OF
PETITIONER'S
TRAVERSE**

I, Neoma D. Kenwood, declare as follows:

1. I am an attorney licensed to practice law in the State of California and admitted to practice before this Court.
2. I represented petitioner LARRY GENE SMITH in his state appeal and state habeas corpus proceeding. I assisted Mr. Smith in the preparation and filing of his habeas corpus petition in this Court at Mr. Smith's request and have been assisting him in these proceedings without compensation, because he is unable to represent

1 himself. The Court, on February 17, 2009, denied Mr. Smith's renewed motion for
2 appointment of counsel. However, I will continue to prepare Mr. Smith's Traverse
3 because he is unable to prepare that pleading himself.

4 3. I have reviewed the Respondent's Answer to the Court's Order to Show Cause and
5 39-page Memorandum of Points and Authorities in support of that Answer and
6 believe that the filing of a Traverse is essential to respond to the Respondent's
7 arguments. I have been researching and drafting the arguments for Mr. Smith's
8 Traverse but will not be able to complete and file that Traverse by its due date of
9 July 3. I have completed my drafting of responses to all of respondent's arguments
10 except one, which requires the supporting declaration of an expert witness to rebut
11 the State's contentions. I have already conferred with this expert witness, but
12 because of the need to obtain various trial documents from trial counsel, this expert
13 will be unable to complete his work by the present due date of July 3. I have
14 arranged with Mr. Smith's former trial counsel to obtain the necessary documents
15 next week and the expert assures me that he will be able to complete his work in
16 sufficient time to enable me to complete my response and file the Traverse by July
17 31. Because I cannot complete the response to this one argument without
18 obtaining the declaration from this expert witness, I require an additional 28 days
19 within which to complete and file the Traverse. With this last requested extension
20 of time, I will be able to file the Traverse for Mr. Smith by July 3, 2009.

21 4. The parties have filed five previous stipulations extending time for the filing of
22 Petitioner's Traverse, first extending the time from November 30, 2008 to January
23 19, 2009, and second, extending the time from January 19, 2009 to March 5, 2009.
24 The Court, on its own motion, extended the time from March 5, 2009 to April 24,
25 2009, when it denied petitioner's motion for appointment of counsel. The parties'
26 third stipulation extended the time from April 24, 2009 to May 15, 2009, the fourth
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1 stipulation extended the time from May 15, 2009 to June 5, 2009, and the fifth
2 stipulation extended the time from June 5 to July 3, 2009.

3 5. Today I spoke to counsel for the Respondent, Juliet Haley, regarding my need for
4 another extension of time of 28 days to file the Traverse. She has no opposition
5 and is agreeable to this stipulation.

6 6. This requested time modification should have no impact on the filing of any
7 further pleadings, as the Court's Order to Show Cause, filed September 2, 2008,
8 states that the "matter shall be deemed submitted as of the date petitioner's
9 traverse is due."

10 7. Should the Court order that the time for the filing of petitioner's Traverse by
11 extended by 28 days to July 3, 2009, the Traverse will be completed and filed by
12 that date.

13
14 I declare under penalty of perjury under the laws of the State of California and the
15 United States of America that the foregoing is true and correct. Executed this 26th day of
16 June 26, 2009, at Berkeley, California.

17 /s/Neoma D. Kenwood
18 NEOMA KENWOOD

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~~PROPOSED~~ ORDER UPON
STIPULATION EXTENDING
TIME FOR FILING OF
PETITIONER'S TRAVERSE

21 Having considered the stipulation entered into by and between the parties and good cause
22 appearing therefor,

23 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED:

24 That petitioner shall serve and file a Traverse not later than July 31, 2009.

25 Dated: June 30, 2009

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28 HON. MARILYN H. PATEL
United States District Judge

