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4 Attorneys for Petitioner
 5 EDDIE COLE

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 7 **IN THE UNITED STATES DISTRICT COURT**
 8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
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10	EDDIE COLE,)	No. C 07 5183 JF
11	Petitioner,)	
12	v.)	MOTION FOR EXTENSION OF
13	TOM FELKER, Warden of the High)	TIME TO FILE TRAVERSE AND
14	Desert State Prison,)	<u>SUPPORTING MEMORANDUM</u>
15	Respondent.)	

16 Petitioner Eddie Cole, through his counsel, hereby moves the Court for a thirty-one day
 17 extension of time, from the present due date of August 8, 2008, to and including September 8,
 18 2008, to file his traverse and supporting memorandum in this habeas matter.

19 In support of this motion, Donald M. Horgan declares under penalty of perjury as
 20 follows:

- 21 1. This office is counsel for petitioner Eddie Cole.
- 22 2. Petitioner filed a verified petition for a writ of habeas corpus on October 9, 2007 and a
 23 memorandum in support of the petition on December 6, 2007.
- 24 3. Petitioner's habeas petition challenges his state court conviction for second degree
 25 murder and imposition of a related firearm enhancement resulting in a state prison term of 40
 26 years.
- 27 4. We did not as Mr. Cole's counsel at his state court criminal trial.
- 28 5. The state filed an Answer to the Court's Order to Show Cause on July 9, 2008.

1 6. Pursuant to this Court's May 9, 2008, granting the state's last extension request
2 concerning the filing of its Answer, petitioner's traverse is due thirty days after filing of the
3 Answer, i.e., by August 8, 2008.

4 7. This motion is founded on the extraordinary press of business in this office which will
5 prevent us from filing the opening brief by the present due date. Specifically, during the past
6 thirty days, we have been required to file several pre-trial motions (1) entering plea of double
7 jeopardy and seeking to exclude evidence on that basis; (2) requesting exclusion of evidence
8 proffered under Evidence Code section 1101(b); and (3) requesting exclusion of certain expert
9 evidence in a murder prosecution of our client pending in the Los Angeles County Superior
10 Court, People v. Spector, Los Angeles Sup. Ct. No. BA255233; an opposition to a demurrer to a
11 complaint alleging negligence by the state Department of Corrections in connection with its
12 unsupervised release of a parolee who inflicted serious bodily injuries on our clients, Schaller, et
13 al., v. California, San Francisco Sup. Ct. No. CGC-08-473684; oppositions to the prosecution's
14 pre-trial motions in limine in the Spector matter, supra; a reply in support of a motion for a new
15 trial challenging our client's conviction for second degree murder, People v. Knoller, San
16 Francisco Sup. Ct. No. 181813-01; a reply in support of an appeal challenging our client's
17 conviction for leaving the scene of an accident involving death, People v. Harbert, First App.
18 Dist. No. A118186; objections to the magistrate's findings and recommendation that habeas
19 corpus relief be denied as to a petition challenging our client's California conviction for second
20 degree murder, Mouser v. Woodford, East Dist. No. 1:05-CV-00903-OWW-WMW; and an
21 extensive motion for a new trial challenging our client's multiple state court convictions for
22 sexual assault, People v. Chan, Alameda Co. Sup. Ct. No. 156651.

23 8. Furthermore, also during the past thirty days, we have been required to devote a
24 substantial amount of time to the development of post-conviction claims for relief in a capital
25 case involving a 1993 triple homicide in West Memphis, Arkansas, Echols v. Arkansas,
26 Craighead Co. Court No. CR-93-450A, Ark. Supreme Ct. No. CR 99-1060 and 94-928 (state
27 proceedings) and AR Eastern Dist. No. 5:04CV00391-WRW (federal habeas corpus
28 proceedings).

1 9. In addition, and apart from the traverse and supporting memorandum in this matter,
2 during the next thirty days we will be required to file an opening brief challenging our client's
3 state court conviction for second degree murder and related gang and firearm enhancements
4 resulting in a sentence of 50 years to life in state prison, People v. Campos (San Francisco Sup.
5 Ct. No. 2170342); a reply in support of a state motion for a new trial based on new scientific
6 evidence in the Echols matter, supra; a motion to dismiss the superseding indictment in a federal
7 perjury prosecution, United States v. Barry Lamar Bonds, Northern Dist. No. CR 07 0732 SI; an
8 opening brief on appeal challenging our client's multiple state court convictions for insurance
9 fraud, People v. Ghazey, First App. Dist. No. A120722; an opening brief challenging our client's
10 state court conviction for first degree murder resulting in a sentencing of twenty five years to life
11 in state prison, People v. Smith, Fourth App. Dist. No. G040107; a response to the government's
12 petition for rehearing as to a Ninth Circuit decision reversing our client's conviction in the
13 district court of Idaho for soliciting the murder of a federal official, United States v. Hinkson,
14 Ninth Cir. No. 05-30303; an opening brief on appeal challenging our client's multiple third-
15 strike convictions for residential burglary resulting in a sentence of forty years to life in state
16 prison, People v. Bui, First App. Dist. No. A119404; an opening brief in the Ninth Circuit Court
17 of Appeals challenging our client's federal court convictions on numerous counts of mail fraud
18 and theft of honest services, United States v. Garrido, et al., Central Dist. No. 04-1594 (B) -
19 SVW; and a motion for a new trial challenging our client's federal court convictions for
20 possession and manufacture of illicit drugs and a related firearm conviction, United States v.
21 Dugan, Northern Dist. No. CR 03-20010 RMW. We will also be required to prepare for a state
22 evidentiary hearing as to our state motion for post-conviction relief on the basis of new scientific
23 evidence in the Echols matter, supra, which hearing is scheduled to commence in September,
24 2008.

25 10. Mr. Cole is incarcerated.

26 11. In view of the foregoing circumstances, I respectfully request that the Court extend
27 the time for filing petitioner's traverse and supporting memorandum for a period of thirty-one
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1 days, from the present due date of August 8, 2008, to and including September 8, 2008.

2 Executed this 8th day of September, 2008, at San Francisco, California.

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/s/ Donald M. Horgan
Counsel for Petitioner
EDDIE COLE

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

EDDIE COLE,)	No. C 07 5183 JF
)	
Petitioner,)	[PROPOSED] ORDER
)	
v.)	
)	
TOM FELKER, Warden of the High)	
Desert State Prison,)	
)	
Respondent.)	
_____)	

Good cause appearing therefore, the time for filing petitioner's traverse and supporting memorandum is extended to and including September 8, 2008.

DATED: 9/9/08



JEREMY FOGEL
United States District Judge

