

1 DENNIS P. RIORDAN, Esq. (SBN 69320)
 DONALD M. HORGAN, Esq. (SBN 121547)
 2 RIORDAN & HORGAN
 523 Octavia Street
 3 San Francisco, CA 94102
 Telephone: (415) 431-3472

4 Attorneys for Petitioner
 5 EDDIE COLE

6
 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 day
 17 extension of time, from September 8, 2008, to and including October 7, 2008, to file his traverse
 18 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. The petition and memorandum
 24 challenge Mr. Cole's state court conviction for second degree murder and imposition of a related
 25 firearm enhancement resulting in a state prison term of 40 years.
- 26 3. We did not act as Mr. Cole's counsel at his state court criminal trial.
- 27 4. On February 13, 2008, the Court issued an order to show cause requiring respondent
 28 to respond to the petition within thirty days and permitting Mr. Cole to file a traverse to

1 respondent's answer within thirty days thereafter.

2 5. Respondent subsequently sought and received two extensions of time totaling one
3 hundred and twenty days to respond to Mr. Cole's petition.

4 6. Respondent filed an answer to the petition on July 9, 2008. Petitioner thereafter
5 sought a thirty-one day extension of time, from the original due date of August 8, 2008, to and
6 including September 8, 2008, to file his traverse to Respondent's Answer.

7 7. This motion is founded on the extraordinary press of business in this office which will
8 prevent us from filing the traverse and supporting memorandum by today's date. Specifically,
9 during the past thirty days, we have been required to file an extensive reply in support of a state
10 motion for a new trial based on new scientific evidence in a capital case involving a 1993 triple
11 homicide in West Memphis, Arkansas, Echols v. Arkansas, Craighead Co. Court No. CR-93-
12 450A, Ark. Supreme Ct. No. CR 99-1060 and 94-928; a response to the government's petition
13 for rehearing as to a Ninth Circuit decision reversing our client's conviction in the district court
14 of Idaho for soliciting the murder of a federal official, United States v. Hinkson, Ninth Cir. No.
15 05-30303; a motion to dismiss the superseding indictment in a federal perjury prosecution,
16 United States v. Barry Lamar Bonds, Northern Dist. No. CR 07 0732 SI; a petition for review to
17 the California Supreme Court challenging the Court of Appeal's denial of a writ of prohibition
18 based on a double jeopardy claim in the murder prosecution of our client in the Los Angeles
19 County Superior Court, People v. Spector, Los Angeles Sup. Ct. No. BA255233; supplemental
20 briefing in opposition to the Department of Justice's application to extradite our client, a
21 Mexican national and human rights activist accused by the Mexican government of murder, In
22 the Matter of the Extradition of Sergio Alfonso Dorantes Zurita, Northern Dist. No. CR 07-
23 90051 MISC (MEJ) MJJ; supplemental briefing in support of our motion for a new trial in the
24 Echols matter, supra; and an extensive motion for a new trial challenging our client's federal
25 court convictions for possession and manufacture of illicit drugs and a related firearm
26 conviction, United States v. Dugan, Northern Dist. No. CR 03-20010 RMW.

27 8. In addition, and apart from the traverse and supporting memorandum in this matter,
28 during the next thirty days we will be required to file an opening brief challenging our client's

1 state court conviction for second degree murder and related gang and firearm enhancements
2 resulting in a sentence of 50 years to life in state prison, People v. Campos (San Francisco Sup.
3 Ct. No. 2170342); an amended complaint alleging negligence by the state Department of
4 Corrections in connection with its unsupervised release of a parolee who inflicted serious bodily
5 injuries on our clients, Schaller, et al., v. California, San Francisco Sup. Ct. No. CGC-08-
6 473684; an opening brief on appeal challenging our client's multiple state court convictions for
7 insurance fraud, People v. Ghazey, First App. Dist. No. A120722; an opening brief challenging
8 our client's state court conviction for first degree murder resulting in a sentencing of twenty five
9 years to life in state prison, People v. Smith, Fourth App. Dist. No. G040107; a reply in support
10 of an appeal challenging our client's state court conviction for first degree murder, People v.
11 Posey, First App. Dist. No. A118361; an opening brief on appeal challenging our client's
12 multiple third-strike convictions for residential burglary resulting in a sentence of forty years to
13 life in state prison, People v. Bui, First App. Dist. No. A119404; an opening brief in the Ninth
14 Circuit Court of Appeals challenging our client's federal court convictions on numerous counts
15 of mail fraud and theft of honest services, United States v. Garrido, et al., Central Dist. No. 04-
16 1594 (B) - SVW; and a petition for review in the California Supreme Court as to the Court of
17 Appeal's denial of an appeal challenging our client's state court convictions for attempted
18 murder, burglary, assault with a deadly weapon, and arson, resulting in a life sentence, People v.
19 Engel, Third App. Dist. No. C054157.

20 9. Mr. Cole is incarcerated.

21 10. In view of the foregoing circumstances, I respectfully request that the Court extend
22 the time for filing petitioner's traverse and supporting memorandum for a period of thirty days,
23 from September 8, 2008, to and including October 7, 2008.

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

25
26 /s/ Donald M. Horgan

27 Counsel for Petitioner
28 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 October 7, 2008.

DATED: 9/9/08



JEREMY FOGEL
United States District Judge

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PROOF OF SERVICE BY MAIL -- 1013(a), 2015.5 C.C.P.

Re: Cole v. Felker No. C 07 5183

I am a citizen of the United States; my business address is 523 Octavia Street, San Francisco, California 94102. I am employed in the City and County of San Francisco, where this mailing occurs; I am over the age of eighteen years and not a party to the within cause. I served the within:

**MOTION FOR EXTENSION OF TIME TO FILE
TRAVERSE AND SUPPORTING MEMORANDUM ;
[PROPOSED] ORDER**

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at San Francisco, California, addressed as follows:

**Lisa Ashley Ott
Deputy Attorney General**
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102

BY MAIL: By depositing said envelope, with postage thereon fully prepaid, in the United States mail in San Francisco, California, addressed to said party(ies);

BY PERSONAL SERVICE: By causing said envelope to be personally served on said party(ies), as follows: **FEDEX** **HAND DELIVERY**

I certify or declare under penalty of perjury that the foregoing is true and correct.
Executed on September 8, 2008 at San Francisco, California.

/s/
Jocilene Yue