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10 Attorneys for Petitioner Julius Bradford

11  
12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 JULIUS BRADFORD,  
15  
16 Petitioner,  
17 vs.  
18 TIMOTHY FILSON, et al.,  
19 Respondents.

Case No: 2:13-cv-01784-RFB-GWF

**UNOPPOSED MOTION FOR  
EXTENSION OF TIME IN WHICH TO  
FILE OPPOSITION TO MOTION TO  
DISMISS**

**(First Request)**

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21 Petitioner Julius Bradford, by and through his attorneys of record, Assistant  
22 Federal Public Defenders Megan C. Hoffman and Jeremy C. Baron, hereby moves  
23 this Court for an extension of time of fourteen (14) days, from November 13, 2017, to  
24 and including November 27, 2017, in which to file the opposition to the respondents'  
25 motion to dismiss. This motion is based on the attached points and authorities and  
26 any pleadings and papers on file herein.

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## POINTS AND AUTHORITIES

1. Mr. Bradford has filed a second amended petition in this case. ECF No. 67. The respondents have filed a partial motion to dismiss the second amended petition. ECF No. 73. The current deadline for the opposition to that motion is November 13, 2017. *See* ECF No. 66; Fed. R. Civ. P. 6(a)(1)(C).

2. Undersigned counsel have diligently reviewed the motion to dismiss along with Mr. Bradford's file in an effort to prepare the opposition by the Court's deadline. However, counsel respectfully suggest that additional time is necessary to properly prepare Mr. Bradford's opposition to the motion to dismiss.

3. The partial motion to dismiss covers seven claims in Mr. Bradford's amended petition. In his opposition to the motion to dismiss, Mr. Bradford anticipates making a number of detailed arguments regarding each of these claims, potentially including an argument that he is actually innocent within the meaning of *Schlup v. Delo*, 513 U.S. 298 (1995), and arguments under *Martinez v. Ryan*, 566 U.S. 1 (2012). Because these potential arguments require detailed factual and legal discussions, the anticipated opposition is lengthy and complex. As such, additional time is necessary in order to properly prepare the opposition.

4. In addition to opposing the motion to dismiss, Mr. Bradford is considering whether to file a motion for leave to conduct discovery and/or for an evidentiary hearing. *See* ECF No. 66 (requiring that if Mr. Bradford intends to file such a motion, it accompany the opposition to the motion to dismiss). Mr. Bradford had not yet made a final decision about whether such a motion is necessary and, if it is, the precise scope of such a motion. As such, additional time is necessary to evaluate these issues.

5. The undersigned counsel who is taking primary drafting responsibility for the opposition has had many filing obligations in recent weeks, including, among

1 others, a reply brief filed on October 31, 2017, in *Gutierrez v. State*, Case No. 16-  
2 15704 (9th Cir.); an amended petition filed on November 6, 2017, in *Matlean v.*  
3 *Williams*, Case No. 3:16-cv-00233-HDM-VPC (D. Nev.); an opposition to a motion to  
4 dismiss filed on November 6, 2017, in *Castillo v. Baker*, Case No. 3:13-cv-00704-LRH-  
5 VPC (D. Nev.), an opposition in which the client is also asserting his actual innocence  
6 of first-degree murder; and a supplemental opening brief filed on November 9, 2017,  
7 in *LaPena v. Grigas*, Case No. 15-16154 (9th Cir.), a 40-year-old case in which the  
8 Ninth Circuit granted a certificate of appealability regarding the client's actual  
9 innocence within the meaning of *Herrera v. Collins*, 506 U.S. 390, 417 (1993), and  
10 that required extensive review of multiple multi-week trials, evidentiary hearings,  
11 trial court and appellate court pleadings, and other documents (counsel originally  
12 filed a proposed overlength brief on October 16, 2017, and filed a shortened  
13 conforming brief on November 9, 2017).

14         6.       In addition, the undersigned counsel who is taking primary drafting  
15 responsibility for the opposition has many additional obligations in the coming weeks,  
16 including, among others, an amended petition due on November 16, 2017, in *Elliot v.*  
17 *Neven*, Case No. 3:11-cv-00041-MMD-VPC (D. Nev.); an application for a certificate  
18 of appealability due on November 17, 2017, in *Bynoe v. Baca*, Case No. 17-17012 (9th  
19 Cir.); an amended petition due on November 20, 2017, in *Burch v. Baker*, 2:17-cv-  
20 00656-MMD-VCF (D. Nev.); and a reply in support of an amended petition due on  
21 November 20, 2017, in *Gonzalez v. Williams*, Case No. 2:15-cv-00618-RFB-CWH (D.  
22 Nev.).

23         7.       Therefore, counsel seek an additional fourteen (14) days, up to and  
24 including November 27, 2017, in which to file the opposition. This is undersigned  
25 counsel's first request for an extension of time to file Mr. Bradford's opposition.  
26 Undersigned counsel do not anticipate the need to take the entire fourteen days;

1 however, in an abundance of caution, counsel propose a deadline that postdates the  
2 Thanksgiving holiday.

3 8. On November 9, 2017, counsel contacted Chief Deputy Attorney General  
4 Heidi P. Stern and informed her of this request for an extension of time. As a matter  
5 of professional courtesy, Ms. Stern had no objection to the request. Ms. Stern's lack  
6 of objection should not be considered as a waiver of any procedural defenses or statute  
7 of limitations challenges, or construed as agreeing with the accuracy of the  
8 representations in this motion.

9 9. This motion is not filed for the purpose of delay, but in the interests of  
10 justice, as well as in the interest of Mr. Bradford. Counsel for Mr. Bradford  
11 respectfully request that this Court grant this motion and order Mr. Bradford to file  
12 the opposition to the respondents' motion to dismiss no later than November 27, 2017.

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1 Dated this 9th day of November, 2017.

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3 Respectfully submitted,

4 RENE L. VALLADARES  
5 Federal Public Defender

6 */s/Megan C. Hoffman*

7 MEGAN C. HOFFMAN  
8 Assistant Federal Public Defender

9 */s/Jeremy C. Baron*

10 JEREMY C. BARON  
11 Assistant Federal Public Defender

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14 IT IS SO ORDERED:

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16 RICHARD F. BOULWARE, II  
17 United States District Judge

18 DATED this 13th day of November, 2017.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on November 9, 2017, I electronically filed the foregoing  
3 with the Clerk of the Court for the United States District Court, District of Nevada  
4 by using the CM/ECF system.

5 Participants in the case who are registered CM/ECF users will be served by  
6 the CM/ECF system and include: Heidi P. Stern.

7 I further certify that some of the participants in the case are not registered  
8 CM/ECF users. I have mailed the foregoing by First-Class Mail, postage pre-paid, or  
9 have dispatched it to a third party commercial carrier for delivery within three  
10 calendar days, to the following non-CM/ECF participants:

11 Julius Bradford  
12 No. 81604  
13 Ely State Prison  
14 PO Box 1989  
15 Ely, NV 89301

16 */s/ Jessica Pillsbury*  
17 \_\_\_\_\_  
18 An Employee of the  
19 Federal Public Defender  
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