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8 Counsel for Petitioner CLAY BURGON

9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 CLAY BURGON,
13 Petitioner,
14 v.
15 D.W. NEVEN, et al.,
16 Respondents.

Case No. 2:14-cv-01128-RFB-CWH

**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE
AMENDED PETITION FOR WRIT OF
HABEAS CORPUS**

(Second Request)

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18 Petitioner Clay Burgon moves this Court for an extension of time of 120 days
19 from Wednesday, September 28, 2016, to and including Friday, January 27, 2017, to
20 file an Amended Petition for Writ of Habeas Corpus. This motion is based on the
21 attached declaration of counsel and the files and records in this case.

22 Dated this 28th day of July, 2016.

23 Respectfully submitted,
24 RENE L. VALLADARES
Federal Public Defender

25 /s/ Jonathan M. Kirshbaum for.
26 ARMILLA STALEY-NGOMO
Assistant Federal Public Defender

1 **DECLARATION OF ARMILLA STALEY-NGOMO**

2 1. On August 6, 2010, Mr. Burgon was charged in Clark County, Nevada
3 with Robbery with Use of a Deadly Weapon, Possession of Firearm by Ex-Felon,
4 Burglary While in Possession of a Firearm, and Stop Required on Signal of Police
5 Officer. The court sentenced Mr. Burgon to two terms of 10 years to life on May 12,
6 2011. The Nevada Department of Corrections currently houses Mr. Burgon at High
7 Desert State Prison.

8 2. On March 31, 2016, this Court appointed the Federal Public Defender
9 as counsel for Mr. Burgon. ECF No. 24. On April 15, 2016, Assistant Federal Public
10 Defender Melanie Gavisk filed a Notice of Representation in this case. ECF No. 25.
11 On May 31, 2016, Ms. Gavisk filed defense counsel's first request for an extension of
12 time to file an amended petition. ECF No. 27. This Court granted Ms. Gavisk's
13 request for an extension on the same date. ECF No. 28. Mr. Burgon's amended
14 petition is currently due on September 28, 2016.

15 3. Mr. Burgon's case was assigned to me (Assistant Federal Public
16 Defender Armilla Staley-Ngomo) on June 13, 2016, due to Ms. Gavisk's impending
17 departure from this office. On July 18, I filed a Notice of Change of Attorney. ECF
18 No. 29.

19 4. This is defense counsel's second request for an extension. I am filing
20 this request for an extension far in advance of the September 28, 2016 filing
21 deadline because I gave birth to a baby on July 26, 2016, and now will be on
22 maternity leave until November 2016, and require additional time to effectively and
23 thoroughly represent Mr. Burgon. This motion is not filed for the purposes of delay,
24 but in the interests of justice, as well as in the interests of Mr. Burgon. Nev. R.
25 Prof. Conduct 1.1.
26

1 5. In addition, this is a complex habeas corpus case, which will require
2 me and staff at my office to gather and review voluminous files and court records
3 related to Mr. Burgon's trial court, appellate court (direct appeal), and state and
4 federal post-conviction proceedings. This office is still in the process of gathering,
5 reviewing, and coding the files and court records in this case. It will therefore take
6 a significant period of time for me to completely review the files and court records in
7 this case, as well as draft an amended petition, upon my return from maternity
8 leave in November of 2016.

9 6. On July 28, 2016, Assistant Federal Defender Jonathan M. Kirshbaum
10 corresponded with Deputy Attorney General Matthew Johnson via email. He did
11 not object to the extension of time. However, the lack of objection should not be
12 construed as a waiver of any procedural defenses.

13 7. For the reasons stated above, as well as the files and records in this
14 case, I ask this Court to grant my request for an extension of time to file an
15 amended petition, and order the amended petition to be filed on or before Friday,
16 January 27, 2017.

17
18 I declare under the penalty of perjury that the foregoing is true and correct.

19
20 Dated this 28th day of July, 2016.

21
22 IT IS SO ORDERED:

23
24 

25 _____
26 RICHARD F. BOULWARE, II
 United States District Judge
 DATED this 30th day of August, 2016.

 Respectfully submitted,
 RENE L. VALLADARES
 Federal Public Defender

/s/ Jonathan M. Kirshbaum for.
 ARMILLA STALEY-NGOMO
 Assistant Federal Public Defender

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4 **CERTIFICATE OF SERVICE**

5 In accordance with the Rules of Civil Procedure, the undersigned hereby
6 certifies that on this 28th day of July, 2016, a true and correct copy of the foregoing
7 was filed electronically with the United States District Court. Electronic service of
8 the foregoing document shall be made in accordance with the master service list as
9 follows:

10 Matthew S. Johnson
11 Deputy Attorney General
12 Nevada Bar No. 12412
13 California Bar No. 290630
100 North Carson Street
Carson City, Nevada 89701-4717

14 /s/ Leianna Jeske
15 An Employee of the
16 Federal Public Defender,
17 District of Nevada
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