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8 Counsel for Petitioner Gonzalo Villalobos

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 GONZALO VILLALOBOS,
12 Petitioner,
13 v.
14 BRIAN WILLIAMS, et al.,
15 Respondents.

Case No. 2:14-cv-02029-RFB-GWF

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

(Third Request)

17 Petitioner Gonzalo Villalobos, by counsel, moves this Court for an Order
18 extending the time in which he must file an amended petition for writ of habeas
19 corpus by 45 days from December 27, 2016 to, and including, February 10, 2017.
20 This motion is based on the attached points and authorities and the record in this
21 case.

22 Dated this 27th day of December, 2016.

23 Respectfully submitted,

24 RENE L. VALLADARES
25 Federal Public Defender

26 /s/ Amelia L. Bizzaro
AMELIA L. BIZZARO
Assistant Federal Public Defender

1 **POINTS AND AUTHORITIES**

2 1. On October 13, 2000, the state charged Villalobos with several crimes
3 related to a drive-by shooting. The jury convicted him of second-degree murder with
4 use of a deadly weapon, five counts of attempted murder with use of a deadly weapon,
5 and six counts of discharging a firearm out of a motor vehicle. The court sentenced
6 him two consecutive sentences of 10 to life for the second-degree murder and 2 to 5
7 years for all of the other counts, some of which were consecutive and some of which
8 were concurrent. Villalobos is currently incarcerated at Southern Desert Correctional
9 Center.

10 2. Villalobos' Amended Petition is currently due December 27, 2016. This
11 is counsel's third request for an extension of time.

12 3. In the past several months, counsel ordered 27 transcripts in Villalobos's
13 case. The last of the transcripts arrived earlier this month.

14 4. Counsel's schedule the last two months has been busier than normal
15 and she has not yet completed her review of the newly received transcripts. She
16 anticipates completing her review and filing the amended petition, without seeking
17 further extensions, by February 10, 2017.

18 5. Counsel was out of the office from November 2 through November 3,
19 2016 to visit a client in federal BOP custody in Lewisburg, Pennsylvania. This was
20 not a planned trip, but instead was necessary based on counsel's receipt of alarming
21 information and it forced counsel to ask to push back other deadlines. The visit was
22 quickly arranged so that counsel could meet with the client before a scheduled
23 November 4, 2016 discovery hearing before Judge Boulware in the event that counsel
24 needed Court intervention into the matters she discovered. The Court, due to its own
25 busy schedule, rescheduled the hearing until November 10, 2016. This was the first
26

1 time counsel appeared in court to litigate a discovery motion and the preparation took
2 more time than counsel had anticipated.

3 6. On November 14, 2016, counsel filed an opening brief in the Ninth
4 Circuit in *Melton v. Neven, et al.*, Case No. 16-15140, a cold record case in which
5 counsel did not represent Melton in the district court. This deadline was extended a
6 second time due to counsel's trip to Pennsylvania.

7 7. Counsel was out of town from November 16 through November 17, 2016
8 to attend oral arguments in Ninth Circuit. She was also out of town from November
9 23 through November 27, 2016 for a pre-planned trip to celebrate Thanksgiving.

10 8. Counsel attended three days of mandatory training from November 29
11 through December 1, 2016 and filed a brief in the Ninth Circuit on December 6, 2016,
12 which had been extended twice before.

13 9. On December 19, 2016, counsel filed a 60-page opposition to a motion to
14 dismiss along with several other motions in *Smith v. Filson*, Case No. 2:15-cv-00487-
15 KJD-VCF. Smith's opposition had been extended three times, and had been
16 admonished against seeking any further extensions. Four days later, counsel filed a
17 30-page opposition to a motion to dismiss in *Smith v. Legrand*, Case No. 3:14-cv-0029-
18 MMD-VPC, which had been twice extended.

19 10. Counsel was out of town from December 23 through December 26, 2016
20 for a pre-planned trip to celebrate Christmas with family.

21 11. The requested extension is necessary in order to effectively and
22 thoroughly represent Villalobos. The requested 45 days will provide enough time to
23 complete the Second Amended Petition. Counsel does not intend to ask for any further
24 extensions, absent some unforeseen circumstance.

25 12. On December 27, 2106, counsel e-mailed Deputy Attorney General
26 Matthew Johnson about this request. Atty. Johnson does not oppose to the request

1 for an extension of time. However, Atty. Johnson expressed that the lack of objection
2 should not be construed as a waiver of any procedural defenses, as a concession that
3 any amended petition will be considered timely filed, or as a basis for equitable
4 tolling.

5 13. For the reasons above, as well as the record in this case, Villalobos
6 respectfully asks this Court to grant the request for an extension of time to file the
7 amended petition and order the amended petition to be filed on or before February
8 10, 2017.

9 Dated this 27th day of December, 2016.

10 Respectfully submitted,

11 RENE L. VALLADARES
12 Federal Public Defender

13 */s/ Amelia L. Bizzaro*
14 AMELIA L. BIZZARO
15 Assistant Federal Public Defender

16 IT IS SO ORDERED:

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18
19 RICHARD F. BOULWARE, II
20 United States District Judge

21 DATED this 2nd day of January, 2017.
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1 **CERTIFICATE OF SERVICE**

2 In accordance with the Rules of Civil Procedure, the undersigned hereby
3 certifies that on this 27th day of December, 2016, a true and correct copy of the
4 foregoing was filed electronically with the United States District Court. Electronic
5 service of the foregoing document shall be made in accordance with the master
6 service list as follows:

7 MATTHEW S. JOHNSON
8 Deputy Attorney General
9 Nevada Bar No. 12412
10 California Bar No. 290630
100 North Carson Street
Carson City, Nevada 89701-4717

11 /s/ Jessica Pillsbury
12 An Employee of the
13 Federal Public Defender,
14 District of Nevada
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