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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA  
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6 MONTRAIL D. SMITH,

7 Petitioner,

8 v.

9 BRIAN E. WILLIAMS, SR., *et al.*,

10 Respondents.  
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Case No. 2:15-cv-00487-KJD-VCF

**ORDER GRANTING MOTION FOR  
EXTENSION OF TIME AND MOTION  
FOR LATE FILING (ECF NOS. 76, 77)**

13 In this habeas corpus action, the petitioner, Montrail D. Smith, represented by  
14 appointed counsel, was due to respond to Respondents' motion to dismiss (ECF No.  
15 72, filed September 18, 2019) by November 18, 2019. See Order entered April 24, 2019  
16 (ECF No. 68) (60 days for response to motion to dismiss).

17 On November 20, 2019, Smith filed a motion for extension of time (ECF No. 76),  
18 requesting a 70-day extension of time, to January 27, 2020, to file his response to the  
19 motion to dismiss. Smith also filed a motion for late filing (ECF No. 77), requesting leave  
20 of court to file the motion for extension of time after the expiration of the prior deadline.  
21 See LR 26-4.

22 Smith's counsel states that the extension of time is necessary because she has  
23 been not yet been able to gather the information necessary to respond to the motion  
24 to dismiss, and she states that she drafted the motion for extension of time on  
25 November 18, 2019, but, inadvertently, it was not filed on that date. Respondents do not  
26 oppose the motion for extension of time.

27 The Court finds that Smith's counsel has shown excusable neglect with respect  
28 to the late filing of the motion for extension of time, and the Court finds that Smith's

1 motion for extension of time is made in good faith and not solely for the purpose of  
2 delay, and that there is good cause for the extension of time requested.

3 **IT IS THEREFORE ORDERED** that Petitioner's motion for late filing (ECF  
4 No. 77) and motion for extension of time (ECF No. 76) are **GRANTED**. Petitioner will  
5 have until and including **January 27, 2020**, to file his response to the motion to dismiss.

6 **IT IS FURTHER ORDERED** that, in all other respects, the schedule for further  
7 proceedings set forth in the order entered April 24, 2019 (ECF No. 68) will remain in  
8 effect.

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10 DATED THIS 7 day of January, 2020

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KENT J. DAWSON,  
14 UNITED STATES DISTRICT JUDGE  
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