1	RENE L. VALLADARES	
	Federal Public Defender	
2	Nevada Bar No. 11479 DAVID ANTHONY	
3	Assistant Federal Public Defender	
	Nevada Bar No. 7978	
4	David_Anthony@fd.org	
_	MARTIN L. NOVILLO	
5	Assistant Federal Public Defender	
6	Virginia State Bar No. 76997 Martin_Novillo@fd.org	
	T. KENNETH LEE	
7	Assistant Federal Public Defender	
0	Ohio Bar No. 0065158	
8	Ken_Lee@fd.org 411 E. Bonneville, Ste. 250	
9	Las Vegas, Nevada 89101	
	(702) 388-6577	
10	(702) 388-5819 (Fax)	
11	Attorneys for Petitioner	
12		DISTRICT COURT
14	UNITED STATES	DISTRICT COURT
13	DISTRICT	OF NEVADA
14	JAMES RAY WALKER,	Case No. 2:15-cv-01240-RFB-EJY
15	Petitioner,	
		UNOPPOSED MOTION FOR
16	v.	EXTENSION OF TIME TO FILE SECOND AMENDED PETITION
17	WILLIAM GITTERE, et al.,	FOR WRIT OF HABEAS CORPUS
		(POST-CONVICTION)
18		
10	Respondents.	(FIRST REQUEST)
19		DEATH PENALTY CASE
20		
01	Inmog Day Wallson through any	handhu maguagta an autonaige af time af
21	James Ray walker, through counse	el, hereby requests an extension of time of
22	ninety (90) days, up to and including Mon	day October 4, 2021, within which to file

23 his Second Amended Petition for Writ of Habeas Corpus. This is Mr. Walker's first

1	request for an extension of time. The State does not oppose the motion. This request	
2	is made and based on the following declaration of counsel and the entire file herein.	
3	DATED this 6th day of July, 2021.	
4	Respectfully submitted	
5	RENE L. VALLADARES Federal Public Defender	
6	/s/ Martin L. Novillo	
7	MARTIN L. NOVILLO Assistant Federal Public Defender	
8	Assistant Federal I ubic Defender	
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DECLARATION OF MARTIN L. NOVILLO

I, Martin L. Novillo, declare as follows:

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1. I am an attorney at law, admitted to practice before this Court, and employed as an Assistant Federal Public Defender. I represent petitioner James Ray Walker in this capital habeas case, having entered my appearance in this action on April 21, 2021. ECF No. 93.

2.Mr. Walker filed his proper person Petition for a Writ of Habeas Corpus on June 30, 2015. ECF No. 1. Mr. Walker amended his petition following the appointment of the Federal Public Defender for the District of Nevada (FPD). ECF 10 Nos. 40, 77. On March 30, 2016, this Court entered an order staying this action while Petitioner exhausted in state court his unexhausted claims for habeas corpus relief. ECF No. 69.¹ The state proceedings concluded and, on May 6, 2021, this 13 Court entered an Order vacating the stay previously entered and to re-opening Mr. 14 Walker's federal habeas action. ECF No. 98. The Court further provided Mr. Walker 15would have 60 days, or until Monday July 5, 2021, to file a second amended petition for writ of habeas corpus. Counsel for Mr. Walker now seeks a ninety day (90) day extension to file Mr. Walker's second amended petition. Respondents do not oppose 18 this request.

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¹ The Court denied the Respondents' motion for reconsideration of its order on November 18, 2016. ECF No. 74. The Court temporarily lifted the stay on May 16, 2017 to allow Mr. Walker to supplement his petition for writ of habeas corpus with a new claim. ECF No. 81. The Court noted the stay remained in effect in all other respects. ECF No. 81.

3. An extension of time to file Mr. Walker's second amended petition is merited on account of several filing deadlines and commitments undersigned counsel recently had to meet in various capital habeas matters. Since the May 6, 2021 Order reopening Mr. Walker's case, undersigned counsel has had to prepare and finalize claims for an amended habeas petition to be filed in early July 2021 in California state court in the capital habeas matter of *Maury (Robert Edward) on* H.C., 2011 Cal. LEXIS 12099 (2011). Similarly, counsel has had to investigate and prepare claims for an amended petition due also in July 2021 in Nevada state court in the capital habeas matter of *Biela v. State*, 2019 Nev. Unpub. LEXIS 475 (2019). Further, counsel had to review the record, investigate claims, and prepare an amended petition-filed on June 15, 2021-in the non-capital habeas matter of Bautista v. Garrett, et al., 20-cv-00403-LRH (D. Nev.). Finally, counsel has had to prepare various pre-trial motions in the out-of-district federal capital trial case United States v. Schlesinger, 18-cr-02719-RCC-BGM (D. Ariz.), including a one hundred fifty (150) page motion challenging the Federal Death Penalty Act (FDPA).

4. An extension of time is further merited on account of personal
circumstances affecting co-counsel for Mr. Walker, Kenneth Lee. Specifically,
counsel Mr. Lee underwent back surgery on June 22, 2021. Mr. Lee will be
unavailable for several weeks as he recovers from the surgery. Moreover, Mr. Lee's
surgeon has informed counsel that he will not be able to travel or drive for at least
the next seven weeks. As a result, the earliest counsel would be able to visit Mr.
Walker would be the week of August 16, 2021.

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5. Finally, an extension of time is needed so undersigned counsel can finalize his review of Mr. Walker's trial, appellate, and post-conviction record. Undersigned counsel was only recently designated as lead counsel for Mr. Walker. *See* ECF No. 93. Prior to that designation and while in state court exhausting claims, counsel reviewed and addressed specific issues raised in Mr. Walker's petition, but did not conduct a comprehensive and exhaustive review of the record. For the past several months, undersigned counsel has engaged in a diligent review of the entire record to ensure Mr. Walker is adequately represented in his habeas proceedings. Counsel's review is now nearly complete.

6. The present request for an extension is unopposed. On July 2, 2021, counsel for Petitioner contacted Deputy Attorney Jessica Perlick via email concerning this request for an extension of time. Ms. Perlick has no objection to the request. Petitioner understands that opposing counsel's non-opposition does not waive any claims, defenses, statute of limitations, or other substantive arguments the Respondents may choose to raise at a later date.

7. This requested extension will permit counsel time to properly review Mr. Walker's record and file an amended petition. It is not made for the purposes of delay, but rather in the interests of justice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on July 6, 2021, in Las Vegas, Nevada.

IT IS SO ORDERED:

RICHARD F. BOULWARE, II United States District Judge DATED this 8th day of July, 2021. <u>/s/ Martin L. Novillo</u> MARTIN L. NOVILLO Assistant Federal Public Defender

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1	CERTIFICATE OF SERVICE
2	In accordance with LR IC 4-1 of the Local Rules of Practice, the undersigned
3	hereby certifies that on the 6th day of July 2021, a true and correct copy of the
4	foregoing Unopposed Motion for Extension of Time to File Second Amended
5	Petition (First Request) was served by the United States District Court, CM/ECF
6	electronic filing system to:
7	Jessica Perlick
8	Deputy Solicitor General jperlick@ag.nv.gov
9	/s/ Sara Jelinek
10	An Employee of the Federal Public Defender
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