

1 RENE L. VALLADARES  
 Federal Public Defender  
 2 Nevada State Bar No. 11479  
 3 AMELIA L. BIZZARO  
 Assistant Federal Public Defender  
 4 Wisconsin State Bar No. 1045709  
 411 E. Bonneville, Ste. 250  
 5 Las Vegas, Nevada 89101  
 6 (702) 388-6577  
 (702) 388-5819 (fax)  
 7 amelia\_bizzaro@fd.org

8 Counsel for Petitioner James Anthony Davis.

9 UNITED STATES DISTRICT COURT  
 10 DISTRICT OF NEVADA

11 JAMES ANTHONY DAVIS,  
 12 Petitioner,  
 13 v.  
 14 D.W. NEVEN, et al.,  
 15 Respondents.

Case No. 2:15-cv-01574-RFB-NJK

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

**(Third Request)**

17 Petitioner James Anthony Davis moves this Court for an extension of time of  
 18 120 days from January 26, 2017 to, and including, May 26, 2017, to file an Amended  
 19 Petition for Writ of Habeas Corpus. This motion is based on the attached  
 20 declaration of counsel and the record in this case.

21 Dated this 26th day of January, 2017.

22 Respectfully submitted,

23 RENE L. VALLADARES  
 24 Federal Public Defender

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

1 **POINTS AND AUTHORITIES**

2 1. On December 12, 2003, the state charged Davis with murder. Upon  
3 entry of his guilty plea, the court sentenced him to 20 years to life. The Nevada  
4 Department of Corrections houses Davis at Lovelock Correctional Center.

5 2. On March 31, 2016, this Court appointed the Federal Public Defender  
6 as counsel for Davis. ECF No. 8. Atty. Melanie Gavisk filed a Notice of Representation  
7 on April 15, 2016. ECF No. 9. Atty. Gavisk previously sought a 120-day extension  
8 until September 28, 2016. ECF No. 10.

9 3. Undersigned counsel filed her Notice of Appearance on August 10, 2016,  
10 having been reassigned the case, ECF No. 14, and a second request for 120-day  
11 extension until January 26, 2017, ECF No. 15. Counsel has met with Davis in person  
12 twice, the most recent visit taking place last Friday in Lovelock, and has spoken to  
13 him on the phone several times. This is Davis's third request for a 120-day extension  
14 of time.

15 4. This is a complex habeas corpus case with a voluminous record. As this  
16 Court previously noted, the petition appears untimely. *See* ECF No. 3. *See also* ECF  
17 Nos. 6, 7 (Davis's *pro se* response to this Court's Order to Show Cause and the  
18 warden's reply). Davis, by counsel, has been actively investigating the case, including  
19 an investigation related to tolling as well as an investigation of the merits of the  
20 claims. To that end, we have requested and received records from several different  
21 entities, including medical facilities and law enforcement agencies on the east coast,  
22 as well as the Nevada Department of Corrections. The records NDOC sent on  
23 December 6, 2016 were so voluminous they arrived by mail on compact disc. Just this  
24 week, we ordered additional records from the Social Security Administration and are  
25 planning to order school records from four schools in New York. In addition, we  
26 ordered and received several transcripts in Davis's case on December 7, 2016.

1           5.       Although the FPD has been diligently working on this case, additional  
2 time is necessary to order and receive records required for Davis’s case. Once  
3 obtained, it will take a significant period of time to completely review the file and  
4 draft an amended petition. The additional period of time is necessary in order to  
5 effectively and thoroughly represent Davis. This motion is not filed for the purposes  
6 of delay but in the interests of justice, as well as in Davis’s interests.

7           6.       On January 26, 2017, undersigned counsel contacted Senior Deputy  
8 Attorney General Shane S. Chesney about this request. However, I was unable to  
9 connect with Atty. Chesney before filing this motion.

10          7.       For the reasons above, as well as the record in this case, Davis asks this  
11 Court to grant his request for an extension of time to file the amended petition and  
12 order the amended petition to be filed on or before May 26, 2017.

13           Dated this 26th day of January, 2017.

14   Respectfully submitted,

15   RENE L. VALLADARES  
16   Federal Public Defender

17   /s/ Amelia L. Bizzaro  
18   AMELIA L. BIZZARO  
19   Assistant Federal Public Defender

20   IT IS SO ORDERED:

21   

22   \_\_\_\_\_  
23   RICHARD F. BOULWARE, II  
24   United States District Judge

25   DATED this 30th day of January, 2017.  
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 26, 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 Deputy Attorney General Shane Chesney.

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

11 James Anthony Davis  
12 No. 81111  
13 Lovelock Correctional Center  
14 1200 Prison Road  
15 Lovelock, NV 89419

16 */s/ Jessica Pillsbury*  
17 \_\_\_\_\_  
18 An Employee of the  
19 Federal Public Defender,  
20 District of Nevada  
21  
22  
23  
24  
25  
26