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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

PHILLIP MINOR,

Petitioner,

VS.

BRIAN WILLIAMS., et al.,

Respondents

CASE NO. 2:15-cv-02005-RFB-PAL

**UNOPPOSED MOTION TO CONTINUE
BRIEFING SCHEDULE
(Second Request)**

Date: August 3, 2017

The Petitioner, Philip Minor (Mr. Minor), by and through his counsel of record, Gia McGillivray, and pursuant to Local Rule IA 6-1, hereby respectfully moves this Honorable Court for a 40-day continuance of the briefing schedule set by the Court in this matter on May 5, 2017. (ECF No. 11.) According to the Order, Mr. Minor's amended petition for writ of habeas corpus is scheduled to be filed on August 3, 2017. (ECF No. 11.)

1. On October 16, 2015, Mr. Minor filed an Application to Proceed in Forma Pauperis, (ECF No. 1), a Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody ,(ECF Nos. 1-1, 1-2), and an Ex Parte Motion for Appointment of Counsel (ECF No. 2).

2. On September 13, 2016, the Court issued an Order granting the Motion to Proceed in Forma Pauperis and the Motion for Appointment of Counsel. (ECF No. 3.) Pursuant to the Order, the Federal Public Defender was appointed to represent Mr. Minor. (ECF No. 3.)

3. The Federal Public Defender responded to the Order on September 16, 2016, by filing a Notice of Conflict, advising that the Federal Public Defender could not undertake representation and requesting that the Court appoint alternate counsel. (ECF No. 5.)

4. On February 8, 2017, this Court appointed the undersigned to represent Mr. Minor. (ECF No. 8.) The Order further established that Mr. Minor file an amended petition for writ of habeas corpus within ninety (90) days of entry of the Order, that respondents have forty-five (45) days after service of the amended petition within which to answer and that petitioner shall have forty-five (45) days after service of the answer to file and serve a reply. (ECF No. 8.)

5. Following appointment, undersigned counsel has had telephone contact with Mr. Minor and researched the issues presented by Mr. Minor. Mr. Minor is currently housed in Ely, Neavda. Undersigned counsel was able to meet travel to Ely to meet with Mr. Minor. Counsel visited with Mr. Minor on June 2, 2017.

6. Undersigned counsel has also pursued obtaining the case file from the Eighth Judicial District Court of Nevada. Mr. Minor's case file was erroneously sealed due to a co-defendant's minor status. Following contact with the Court, Mr. Minor's case was to be unsealed and all documents properly redacted to conceal references to the co-defendant, whose file was to remain sealed. There has been a lengthy delay in obtaining the necessary documents from the court. Although Mr. Minor's file was to be unsealed, the Clerks office continued to deny requests for copies. Eventually, a Senior Records Tech from the Eighth Judicial District Court was involved and counsel was able to order copies of the file. The redaction process took the Clerk's office some time. On July 19, 2017, the Clerk's office provided counsel with over 800 pages of documents from Mr. Minors court file.

7. Undersigned counsel requires a continuance to properly prepare an amended petition.

8. Counsel has confirmed that the Government does not oppose the requested extension.

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1 For the reasons set forth above, Mr. Minor respectfully requests a 40 day continuance of
2 the presently scheduled briefing deadlines set in this case. (ECF No. 8.).

3 DATED this 2nd day of August, 2017.

4 MCGILLIVRAY LAW

5 By: /s/ Gia McGillivray
6 Gia McGillivray, Esq.
Nevada Bar No. 008182

7 IT IS SO ORDERED:

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10 RICHARD F. BOULWARE, II
11 United States District Judge

12 DATED this 9th day of August, 2017.

1
CERTIFICATE OF SERVICE

2 I hereby certify that on the date of filing of the document named below with the Clerk of
3 the Court, I cause a true and correct copy to be served in the following manner:

4 DOCUMENT(S) SERVED: MOTION TO WITHDRAW AS COUNSEL OF RECORD

5 ELECTRONIC SERVICE: Pursuant to Local Rule LR 5-4 of the United States
6 District Court for the District of Nevada, the above-referenced document was electronically filed
7 and served on all appearing parties through the Notice of Electronic Filing automatically generated
8 by the Court.

9 UNITED STATES MAIL: By depositing a true and correct copy of the above-
10 referenced document into the United States Mail with prepaid first-class postage, addressed to the
11 parties at their last-known mailing address(es):

12 Phillip Minor #21879
13 Ely State Prison
14 P.O. Box 1989
15 Ely, Nevada 89301

16 OVERNIGHT COURIER: By depositing a true and correct copy of the above-
17 referenced document for overnight delivery via a nationally-recognized courier, addressed to the
18 parties listed below at their last-known mailing address.

19 FACSIMILE: By sending the above-referenced document via facsimile to those
20 persons listed on the attached service list at the facsimile numbers set forth thereon.

21 EMAIL: By sending the above-referenced document via email to those persons at
22 the email addresses set forth below:

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/s/Gia McGillivray
25 Gia McGillivray
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