| $\begin{array}{c} 1 \\ 2 \end{array}$ | Rene L. Valladares Federal Public Defender Nevada State Bar No. 11479 | | |
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| 7 | jeremy_baron@fd.org | | |
| 8 | *Attorney for Petitioner Richard Lee Carmichael | | |
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| 10 | UNITED STATES DISTRICT COURT | | |
| 11 | DISTRICT OF NEVADA | | |
| 12 | Richard Lee Carmichael, | | |
| 13 | Petitioner, | Case No. 2:16-cv-01142-RFB-GWF | |
| 14 | v. | Unopposed motion for extension of | |
| 15 | Joe Gentry, et al., | time in which to file opposition to the State's motion to dismiss | |
| 16 | Respondents. | (Third request) | |
| 17 | | | |
| 18 | Richard Lee Carmichael respectfully moves this Court for an extension of time | | |
| 19 | of thirty (30) days, from June 24, 2019, to and including July 24, 2019, in which to | | |
| 20 | file an opposition to the State's motion to dismiss. | | |
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ARGUMENT

Mr. Carmichael filed a counseled amended petition on October 25, 2018.
ECF No. 24. The State filed a motion to dismiss on January 10, 2019. ECF No. 28.
Mr. Carmichael's opposition to the motion to dismiss is due on June 24, 2019.

2. Undersigned counsel has been reviewing the motion to dismiss and Mr. Carmichael's file in an effort to comply with the Court's deadline. However, counsel respectfully suggests additional time is necessary to properly prepare the opposition to the motion to dismiss.

3. Since Mr. Carmichael filed his last motion for an extension of time, the State has provided undersigned counsel with a copy of Mr. Carmichael's prison medical records. In turn, undersigned counsel has reviewed those records and has prepared a complete draft of an opposition to the State's motion to dismiss. In the course of drafting the opposition, undersigned counsel realized he needed to have an additional conversation with Mr. Carmichael regarding the issues in the opposition before finalizing and filing the opposition. Undersigned counsel has asked Mr. Carmichael to call him but hasn't yet spoken to him regarding this issue. On information and belief, Mr. Carmichael hasn't yet had a reasonable opportunity to call undersigned counsel. Once undersigned counsel speaks with Mr. Carmichael, he should be able to finalize and file the opposition in short order.

4. Undersigned counsel has had many professional obligations in the past weeks, including, among others, an opposition to a motion to dismiss filed on April 29, 2019, in *Elliott v. McDaniel*, Case No. 3:11-cv-00041-MMD-CBC (D. Nev.); a reply brief filed on May 3, 2019, in *Major v. Baker*, Case No. 76716 (Nev. Sup. Ct.); an oral argument held in San Francisco, California, on May 15, 2019, in *Ramet v. LeGrande*, Case No. 18-15206 (9th Cir.); an amended petition filed on May 17, 2019, in *Olsen v. LeGrand*, Case No. 3:15-cv-00367-MMD-WGC (D. Nev.); an opposition to a motion to dismiss filed on May 31, 2019, in *Barragan v. Filson*, Case No. 3:17-cv-00453-LRH- CBC (D. Nev.); second-chairing an en banc oral argument held in San Francisco, California, on June 19, 2019, in *Ross v. Williams*, Case No. 16-16533 (9th Cir.); and an opposition to a motion to dismiss filed on June 21, 2019, in *Murray v. Thomas*, Case No. A-19-794603-W (Nev. Eighth Jud. Dist. Ct.).

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 $\mathbf{5}$ 5. Undersigned counsel has many additional professional obligations in 6 the coming weeks, including, among others, an opposition to a motion to dismiss due 7 on June 25, 2019, in Patterson v. Gentry, Case No. 2:17-cv-02131-JCM-GWF (D. Nev.); 8 an opening brief due on June 27, 2019, in *Gutierrez v. Williams*, Case No. 78205 (Nev. 9 Sup. Ct.); an opposition to a motion to dismiss due on or about June 27, 2019, in 10 Palmer v. Gittere, Case No. A-19-794605-W (Nev. Eighth Jud. Dist. Ct.); an opposition 11 to a motion to dismiss due on or about June 27, 2019, in Cortinas v. Dzurenda, Case 12No. A-19-794687-W (Nev. Eighth Jud. Dist. Ct.); an opposition to a motion to dismiss 13due on or about June 28, 2019, in Guzman v. Gittere, Case No. A-19-794600-W (Nev. 14Eighth Jud. Dist. Ct.); a reply on the merits due on July 8, 2019, in Howard v. Wickham, Case No. 3:16-cv-00665-HDM-CBC (D. Nev.); an oral argument scheduled on 1516July 17, 2019, in Bynoe v. Baca, Case No. 17-17012 (9th Cir.); an opposition to a mo-17tion to dismiss due on July 22, 2019, in Richard v. Gentry, Case No. 2:18-cv-00181-18KJD-NJK (D. Nev.); and a reply on the merits due on August 7, 2019, in Bradford v. 19Filson, Case No. 2:13-cv-01784-RFB-GWF (D. Nev.).

6. Therefore, counsel seeks an additional thirty (30) days, up to and including July 24, 2019, in which to file the opposition to the motion to dismiss. This is undersigned counsel's third request for an extension of time in which to file the opposition to the motion to dismiss.

7. On June 21, 2019, counsel contacted Senior Deputy Attorney General Michael J. Bongard and informed him of this request for an extension of time. As a matter of professional courtesy, Mr. Bongard had no objection to the request. Mr. Bongard's lack of objection should not be considered as a waiver of any procedural defenses or statute of limitations challenges, or construed as agreeing with the accuracy of the representations in this motion.

8. This motion is not filed for the purposes of delay, but in the interests of justice, as well as in the interest of Mr. Carmichael. Counsel for Mr. Carmichael respectfully requests this Court grant the motion and order Mr. Carmichael to file the opposition to the motion to dismiss no later than July 24, 2019.

Dated June 24, 2019.

Respectfully submitted,

Rene L. Valladares Federal Public Defender

<u>/s/Jeremy C. Baron</u> Jeremy C. Baron Assistant Federal Public Defender

IT IS SO ORDERED:

RICHARD F. BOULWARE, II UNITED STATES DISTRICT JUDGE

DATED this 25th day of June, 2019

| 1 | CERTIFICATE OF SERVICE | |
|----|---|--|
| 2 | I hereby certify that on June 24, 2019, I electronically filed the foregoing with | |
| 3 | the Clerk of the Court for the United States District Court, District of Nevada by | |
| 4 | 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: Michael Bongard. | |
| 7 | I further certify that some of the participants in the case are not registered | |
| 8 | CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage | |
| 9 | pre-paid, or have dispatched it to a third party commercial carrier for delivery within | |
| 10 | three calendar days, to the following non-CM/ECF participants: | |
| 11 | Richard Lee Carmichael | |
| 12 | No. 27850 Warm Springs Correctional Center | |
| 13 | PO Box 7007 Carson City, NV 89702 | |
| 14 | | |
| 15 | /s/Jessica Pillsbury | |
| 16 | An Employee of the Federal Public Defender | |
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