

1 Rene L. Valladares  
 Federal Public Defender  
 2 Nevada State Bar No. 11479  
 3 \*Jonathan M. Kirshbaum  
 Assistant Federal Public Defender  
 4 New York State Bar No. 2857100  
 411 E. Bonneville Ave., Ste. 250  
 5 Las Vegas, Nevada 89101  
 6 (702) 388-6577  
 Jonathan\_Kirshbaum@fd.org

7  
 8 \*Attorney for Petitioner Terrance L. Lavoll

9  
 10 UNITED STATES DISTRICT COURT  
 11 DISTRICT OF NEVADA

12 Terrance L. Lavoll,  
 13 Petitioner,  
 14 v.  
 15 Jerry Howell, *et al.*,  
 16 Respondents.

Case No. 2:19-cv-02249-GMN-EJY  
**Unopposed motion for extension of  
 time to file First Amended Petition  
 (First Request)**

17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27

1           1.       On June 30, 2020, this Court appointed the Federal Public Defender to  
2 represent Mr. Lavoll on his 28 U.S.C. § 2254 petition. ECF No. 12. On July 30, 2020,  
3 undersigned counsel appeared as counsel for Mr. Lavoll. ECF No. 13. On September  
4 24, 2020, this Court issued a scheduling order setting December 23, 2020, as the due  
5 for the first amended petition. ECF No. 14.

6           2.       Counsel for Mr. Lavoll requests a first extension of time of 61 days to  
7 file the first amended petition to Monday, February 22, 2021.

8           3.       Counsel has begun working on Mr. Lavoll's case. Counsel has spoken to  
9 Mr. Lavoll about the case and has begun reviewing the record. However, counsel was  
10 unable to complete the amended petition by the current deadline due to  
11 administrative responsibilities as a result of the pandemic as well as counsel's  
12 workload.

13           4.       First, counsel's numerous administrative and managerial  
14 responsibilities related to his position as Chief of the Non-Capital Habeas Unit has  
15 interfered with his ability to focus on this case. The current pandemic has placed  
16 many demands on undersigned counsel's time. Significantly, over the past month,  
17 counsel has had to address the changed environment when Governor Sisolak  
18 instituted the pause. As a result, the physical office for the Federal Public Defender  
19 closed down. Counsel was responsible for developing the policies and protocols for the  
20 Non-Capital Habeas Unit as a result of this physical closure. These administrative  
21 and managerial responsibilities have required a significant time investment, which  
22 has interfered with undersigned counsel's ability to dedicate enough time to work on  
23 his caseload. Undersigned counsel anticipates these responsibilities will continue  
24 during the entire time the office must work remotely. While working remotely has  
25 been feasible, there have been routine technological complications, making reviewing  
26 the record and drafting pleadings complicated. Further, working remotely has been  
27 challenging due to child-care issues.

1           5.       Despite the administrative and managerial responsibilities, counsel has  
2 retained a significantly large caseload, which increased with the departure of a highly  
3 experienced attorney in the middle of the year as well as another attorney going on  
4 leave at the end of October 2020. Over the past three months, counsel has filed,  
5 among other things, two cert. petitions, a Brief in Opposition in the United States  
6 Supreme Court, an Amended Petition, an Opening Brief in the Nevada Supreme  
7 Court, an opposition to a motion to dismiss, a state petition, two motions for a  
8 certificate of appealability, a Reply, and a lengthy pardons board application. In  
9 addition, counsel, in his role as supervisor, has had to review dozens of pleadings and  
10 provide consultation and support on numerous other cases. Moreover, for the past  
11 three weeks, counsel has been focusing much of his attention on an evidentiary  
12 hearing in federal court, which occurred on December 18 and 21, 2020.

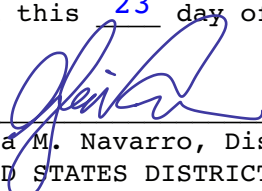
13           6.       For these reasons, counsel is requesting an additional 61 days to file the  
14 first amended petition.

15           7.       On December 22, 2020, counsel for respondents, Senior Deputy Attorney  
16 General Charles L. Finlayson, indicated by email Respondents do not oppose this  
17 request with the understanding that the lack of objection is not a waiver or concession of  
18 any kind.

19           8.       This motion is not filed for the purpose of delay, but in the interests of  
20 justice, as well as in the interest of Mr. Lavoll. Counsel for Petitioner respectfully  
21 requests that this Court grant this motion and order Petitioner to file the First  
22 Amended Petition no later than February 22, 2021.

23                           IT IS SO ORDERED.

24                           Dated this 23 day of December,  
25                           2020

26                             
27                           \_\_\_\_\_  
Gloria M. Navarro, District Judge  
UNITED STATES DISTRICT COURT

