

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
3 JASON F. CARR
Assistant Federal Public Defender
4 Nevada State Bar No. 006587
411 E. Bonneville, Ste. 250
5 Las Vegas, Nevada 89101
6 (702) 388-6577
7 (702) 388-5819 (fax)
Jason_Carr@fd.org

8 Attorney for Petitioner **Gallegos**

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

12 FERNANDO GALLEGOS,

13 Petitioner,

14 v.

15 ISIDRO BACA, et al.,

16 Respondents.

Case No. 3:15-cv-00254-RCJ-VPC

UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE A
REPLY TO THE STATE'S ANSWER

(Sixth Request)

17
18 COMES NOW the Petitioner, Fernando Gallegos, by and through counsel of
19 record, Jason F. Carr, hereby files this request for an extension of time of seven days
20 to file Reply and Legal Memorandum in Support of his Amended Petition.¹ The
21 Replay will now be due **June 15, 2020**.

22 This motion is based upon the attached Points and Authorities and all
23 pleadings and papers on file herein.
24
25
26

¹ Gallegos' last MFE mistakenly asked for a due date of June 6, 2020, which is a Saturday. This left the Reply due on June 8, 2020—the next business day.

1 **POINTS AND AUTHORITIES**

2 1. On February 16, 2017, this Court issued an Order granting Petitioner’s
3 Motion for Leave to File a Third Amended Petition. (ECF No. 39.) On May 4, 2017,
4 Petitioner filed his Third Amended Petition. (ECF No. 42). Respondents filed their
5 Answer on November 8, 2019. (ECF No. 69.)

6 2. Petitioner Gallegos requests a final extension of time until **June 15,**
7 **2020.**

8 3. Counsel requests this time because of press of business and the
9 uncertainties caused by the COVID-19 outbreak. Specifically, counsel had to file an
10 amended petition in *Coleman v. Gittere*, No. 3:19-cv-00172-RCJ (WGC), on May 28,
11 2020. While there was almost sufficient time to complete the Gallegos Reply
12 thereafter, and it is well along, in an abundance of caution, counsel is requesting an
13 additional seven days to finish this Reply but hopes to file it sooner. This will also
14 allow counsel to further consider some of the legal issues attendant to this case as
15 there are complications that became more apparent the deeper one delves into the
16 state court record and transcripts.

17 4. Further, counsel took a new federal defender position in Washington
18 state. That commitment occurred before the current pandemic had gained any real
19 force. The position starts on July 1, 2020. The complications with preparing to move
20 in this environment also delay preparing the Reply.

21 5. Counsel for Respondents do not object to this request for a continuance,
22 however the State requests that counsel for habeas petitioners make clear that
23 nothing about the decision not to oppose Petitioner’s extension request signifies an
24 implied finding of a basis for tolling any applicable period of limitations or the waiver
25 of any other procedural defense. Petitioner at all times remains responsible for
26 calculating any limitations periods and understands that, in granting an extension

1 request, the Court makes no finding or representation that the petition, any
2 amendments thereto, and/or any claims contained therein are not subject to dismissal
3 as untimely.

4 6. This motion is not filed for the purpose of delay, but in the interests of
5 justice, as well as in the interest of Mr. Gallegos. Counsel respectfully requests that
6 this Court grant the request for an extension of time to file his Reply on **June 15,**
7 **2020**, in order for the effective and thorough representation of Mr. Gallegos in his
8 federal habeas action.

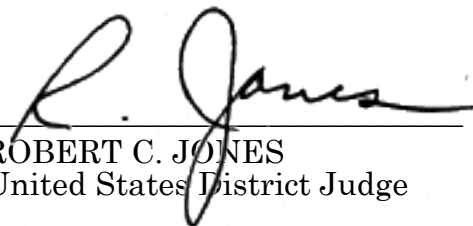
9 Dated: June 8, 2020.

10 Respectfully submitted,
11 RENE L. VALLADARES
12 Federal Public Defender

13 */s/ Jason F. Carr* _____

14 JASON F. CARR
15 Assistant Federal Public Defender

16 It is hereby **ORDERED** that, good cause appearing herein, that Petitioner
17 Fernando Gallegos' Reply to Respondent's Answer is due on **June 15, 2020**.

18
19
20 
21 ROBERT C. JONES
22 United States District Judge

23 Dated: **June 15, 2020**