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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GARY CRAIG ROSALES,

Petitioner,

v.

Q. BYRNE, et al.,

Respondents.

Case No. 3:16-cv-00003-RCJ-WGC

**UNOPPOSED MOTION FOR
EXTENSION OF TIME IN WHICH TO
FILE REPLY IN SUPPORT OF
MOTION FOR STAY**

(First Request)

Petitioner Gary Craig Rosales hereby moves this Court for an extension of time of fourteen (14) days, from May 17, 2018, to and including May 31, 2018, in which to file a reply in support of Mr. Rosales's April 26, 2018, motion for a stay (ECF No. 38).

1 **POINTS AND AUTHORITIES**

2 1. Mr. Rosales filed a counseled amended petition in this case on October
3 28, 2016. ECF No. 15. The respondents filed a partial motion to dismiss on May 23,
4 2017 (ECF No. 25), and Mr. Rosales opposed that motion (ECF No. 26). The Court
5 issued an order resolving the motion to dismiss on March 27, 2018. ECF No. 37. It
6 rejected the respondents' argument that some of the claims in the amended petition
7 were untimely. But the Court agreed that Grounds One, Two, Three, and Four were
8 unexhausted. The Court ordered Mr. Rosales to respond accordingly. *Id.* at 8.

9 2. In response to the Court's order, undersigned counsel filed on Mr.
10 Rosales's behalf a motion requesting that the Court stay the case and hold it in
11 abeyance while Mr. Rosales exhausts his claims in state court. ECF No. 38. The
12 respondents filed an opposition to the motion on May 10, 2018. ECF No. 41. Mr.
13 Rosales's reply in support of his motion is due on May 17, 2018.

14 3. Undersigned counsel has made diligent efforts to prepare and file the
15 reply by the deadline. However, undersigned counsel respectfully suggests that
16 additional time is necessary in order to file the reply.

17 4. In their opposition, the respondents argue (among other things) that Mr.
18 Rosales does not have good cause for a stay because state post-conviction counsel
19 made a strategic decision not to pursue the unexhausted claims during the prior state
20 post-conviction proceedings. Additional time is necessary to evaluate and respond to
21 that argument.

22 5. Undersigned counsel has had many professional obligations in the past
23 week, including, among others, a multi-day training seminar held on May 10 and
24 May 11, 2018; an amended petition filed on May 14, 2018, in *Elliott v. McDaniel*, Case
25 No. 3:11-cv-00041-MMD-VPC (D. Nev.); second-chairing an oral argument held in
26 San Francisco on May 16, 2018, in *LaPena v. Grigas*, Case No. 15-16154 (9th Cir.);

1 and a second motion for discovery filed on May 17, 2018, along with the close of
2 discovery on May 17, 2018, in *Slaughter v. Baker*, Case No. 3:16-cv-00721-RCJ-WGC
3 (D. Nev.).

4 6. Undersigned counsel has many additional professional obligations in
5 the coming weeks, including, among others, an amended petition due on May 21,
6 2018, in *Burch v. Baker*, Case No. 2:17-cv-00656-MMD-VCF (D. Nev.); an opening
7 brief due on May 21, 2018, in *Mercado v. State*, Case No. 74513 (Nev. Sup. Ct.); and
8 an amended petition due on May 30, 2018, in *Howard v. Wickham*, Case No. 3:16-cv-
9 00665-HDM-VPC (D. Nev.).

10 7. Therefore, undersigned counsel seeks an additional fourteen (14) days,
11 up to and including May 31, 2018, in which to file the reply in support of the motion
12 for a stay. This is undersigned counsel's first request for an extension of time in
13 which to file the reply.

14 8. On May 17, 2018, undersigned counsel contacted Deputy Attorney
15 General Erin L. Bittick and informed her of this request for an extension of time. As
16 a matter of professional courtesy, Ms. Bittick had no objection to the request. Ms.
17 Bittick's lack of objection should not be considered as a waiver of any procedural
18 defenses or statute of limitations challenges, or construed as agreeing with the
19 accuracy of the representations in this motion.

20 9. This motion is not filed for the purpose of delay, but in the interests of
21 justice, as well as in the interest of Mr. Rosales. Undersigned counsel respectfully
22 requests that this Court grant this motion and order Mr. Rosales to file the reply in
23 support of his motion for a stay (ECF No. 38) no later than May 31, 2018.
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1 Dated this 17th day of May, 2018.

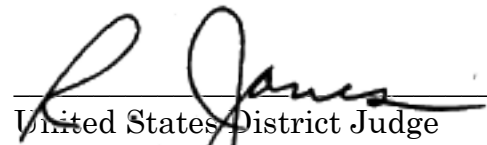
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3 Respectfully submitted,

4 RENE L. VALLADARES
5 Federal Public Defender

6 /s/Jeremy C. Baron

7 JEREMY C. BARON
8 Assistant Federal Public Defender

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10 IT IS SO ORDERED:

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14 United States District Judge

15 Dated: _____ May 17, 2018 -
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