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ISB No. 6428
Attorney for Appellant

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

v.

LORI NORENE VALLOW a/k/a
LORI NORENE DAYBELL

Defendant-Appellant.

Case No. 51091-2023

Fremont County Case No.
CR22-21-1624

**UNCONTESTED FIFTH
MOTION FOR EXTENSION
OF TIME**

COMES NOW the Appellant, by and through her counsel, and moves the Court for an order extending the time in which to file the Appellant's opening brief for 35 days, until January 30, 2025. This motion is based on the declaration of counsel, which is attached and incorporated.

DATED this 20th day of December 2024.

/s/ Craig H. Durham
Craig H. Durham
Attorney for Appellant

DECLARATION OF COUNSEL

I, Craig H. Durham, under penalty of perjury depose and say:

1. Appellant's brief is due on or before December 26, 2024.
 2. Four previous extensions of time have been granted.
 3. The undersigned has contacted counsel for the State, who is not opposed to Ms. Daybell's request for a fifth extension.
 4. Counsel has been working diligently to prepare the brief but is unable to complete the brief by the current due date, for the following reasons.
 5. Counsel's workload has been unusually heavy over the last several weeks.
- In addition to working on this time-consuming case, in the last 30 days counsel also prepared and filed a reply brief in *Michael Dauber v. State*, Case No. 50672-2023; filed a lengthy response to a motion to dismiss in *Joel Guerrero v. State*, Ada County Case No. CV01-24-11888; prepared for and represented a client in a parole hearing with a significant prison sentence; reached a negotiated plea agreement in *State v. April Jarvis*, Jerome County Case No. CR27-24-0217; prepared and filed a petition for writ of habeas corpus in federal court in *Kendrick Robinson v. Tewalt*, Case No. 1:24-cv-614 ; began an investigation into an urgent potential class action lawsuit with time constraints; and continued ongoing representation, investigation, and plea discussions in federal criminal cases of *U.S. v. Ramirez*, *U.S. v. Koski*, and *U.S. v. Polk*, all of which are priorities due to the defendants' speedy trial rights.

6. Moreover, in counsel's experience, the record on appeal in this case presents several unique challenges that he has rarely encountered, which have caused delay. The case began as a death penalty case, and it has a record that is comparable in size to a capital case. The State had at least four attorneys in the district court prosecuting Ms. Daybell, and Ms. Daybell had two attorneys representing her at trial. The record is over 10,000 pages in total, about 5,000 pages of which are sealed, meaning that the corresponding record on appeal is in two large but separate chunks – sealed and unsealed. The district court clerk did not organize the transcripts in either chunk by the date that the hearings occurred. Instead, they are arranged from date that the court reporters filed their transcripts. Counsel has since rearranged dozens of pretrial hearings – sealed and unsealed – and several weeks of trial into a coherent chronological order. Moreover, jury selection was transcribed but the transcripts were not included in the record on appeal. When counsel discovered that omission, he filed a motion to augment those transcripts and suspend the proceedings to get the transcripts added to the appellate record.

7. Also, Ms. Daybell was transferred from Idaho to face additional charges in Arizona, which has added delay. Counsel has been unable to visit his client in Arizona, and communication by phone is considerably more difficult to arrange than it would be if she were in Idaho. It also takes more time to get copies of draft filings to Ms. Daybell for her review.

8. Ms. Daybell is serving consecutive life sentences in this case and is facing charges in Arizona that carry potential life sentences. Respectfully, in light of counsel's current workload, the size and complexity of this record, the severity of Ms. Daybell's punishment, logistic issues with the record, and the other factors mentioned, an additional delay of 35 days is reasonable and will not prejudice any party.

10. In counsel's opinion, the record contains promising yet complex appellate issues, and he needs more time to fully review, research, and prepare the appellate brief. Ms. Daybell is entitled to the effective assistance of counsel on direct appeal under the Fourteenth Amendment. If this extension is denied, she will be deprived of that constitutional right.

Per Idaho Code § 9-1406, I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on this 20th day of December 2024.

/s/ Craig H. Durham
Craig H. Durham

CERTIFICATE OF UNCONTESTED MOTION

The undersigned does hereby certify that he has contacted opposing counsel and is authorized to represent that opposing counsel has no objection to this motion.

Dated and certified this 20th day of December 2024.

/s/ Craig H. Durham
Craig H. Durham

CERTIFICATE OF SERVICE

A copy of this Motion for Extension of Time has been served on the following persons on December 20, 2024, via efilng and serve to:

KEN JORGENSEN
ecf@ag.idaho.gov

/s/ Craig H. Durham
Craig H. Durham