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THIRD COURT OF APPEALS
AUSTIN, TEXAS
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JEFFREY D. KYLE
CLERK

CAUSE NO. 03-15-00819-CR

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
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JEFFREY D. KYLE
Clerk

IN THE COURT OF APPEALS
FOR THE THIRD DISTRICT OF TEXAS
AUSTIN DIVISION

TIMOTHY STEVEN BLACKARD §
§
v. §
§
THE STATE OF TEXAS §

APPELLANT'S SECOND MOTION TO EXTEND TIME TO FILE APPELLANT'S BRIEF

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ATTORNEY FOR APPELLANT

TO THE HONORABLE COURT OF APPEALS:

COMES NOW, Appellant, TIMOTHY STEVEN BLACKARD who files this Second Motion for Extension of Time to File Appellant's Brief, and shows unto the Court as follows:

I.

Appellant's brief is due on or before June 22, 2016.

II.

Appellant is asking for an additional thirty days to file his brief, which should make his brief due on or before July 21, 2016.

III.

Facts relied on to reasonably explain the need for an extension include the following:

1. Preparation for oral argument delivered in *Dwayne Darnell McGowan v. State*, 07-15-00270-CR involving complex, novel question of whether the common law ability-to-pay defense has been superseded by statute. (argued on May 25, 2016; work since brief was last due in this case performed on May 23, 2016; May 24, 2016; May 25, 2016; May 26, 2016 (detailed

communication with client regarding oral argument impressions)).

2. Review clerk's record and reporter's record in *Eian Tilor Hurlburt v. State*; Cause No. No. 10-15-00400-CR, 10-15-00401-CR, No. 10-15-00402-CR, No. 10-15-00403-CR; Draft and file four briefs and perform/review legal research. Detailed client communication regarding brief, next steps. (Work performed on May 27, 2016; May 31, 2016; June 1, 2016; June 2, 2016; June 3, 2016; June 7, 2016).

3. Review reporter's and clerk's records, perform research, and draft and file brief; review State's brief; letters to client regarding above in *Justin Keith Vega v. State*; Cause No. 08-16-00057-CR. (Work performed on June 1, 2016; June 2, 2016; June 6, 2016; June 7, 2016; June 8, 2016; June 9, 2016; June 14, 2016).

4. Draft and file motion for rehearing (and perform related legal research), and have telephone conferences with client's husband regarding PDR/motion for rehearing, in *Sherrill Ann Small v.*

State, 14-15-00039-CR, capital murder case. (Work performed on May 25, 2016; May 31, 2016; June 3, 2016).

5. Review State's Motion to Dismiss for Lack of Jurisdiction and perform/review legal research regarding same (involving question of first impression for 10th Court of Appeals—whether a criminal defendant has authority to appeal an order granting shock probation), and draft and file response; review State's brief on the merits; all in *Fernando Smith v. State*, Cause No. 10-15-00263-CR. (Work performed on June 9, 2016 and June 10, 2016).

6. Legal research and detailed letter to client regarding concurrent versus consecutive sentencing in federal versus state sentencing; telephone with client, and work related to confirming whether client's state sentence is running concurrently with his federal sentence. *Santos Salinas v. State*, Cause No. 13-15-00310-CR. (Work performed on May 31, 2016; June 6, 2016)

7. Draft and file Notice of Past Due Findings of Fact and Conclusions of Law and letter to court regarding same;

complete and file docketing statement; review proposed findings of fact and conclusions of law from opposing counsel and perform related legal research in *Phillip Randall Clemons v. Vianney Lynn*; Cause No. 03-16-00360-CV (*In re: H.C.C., A Child*; Cause No. 254,204 in the 426th District Court of Bell County, Texas). (Work performed on May 25, 2016; June 6, 2016; June 8, 2016).

8. Review court's opinion/judgment and send to client in compliance with Rule 48.4 of the Texas Rules of Appellate Procedure, as well as draft and file Rule 48.4 letter, in *Stanley Bernard Abney v. State*, Cause No. 03-15-00421-CR. (Work performed on June 10, 2016 and June 21, 2016).

9. Draft and file First Motion for Extension of Time to File Brief in *Jesse Daniel Sabedra, III v. State*, Cause No. 10-16-00033-CR. (Work performed on June 1, 2016).

10. Draft and file Rule 48.4 letters in *Raymond Ross Mormino, II v. State*; Cause No. 10-15-00167-CR and No. 10-15-00173-CR. (Work performed on June 1, 2016)

11. Initial work (draft motion for new trial, request reporter's record, request clerk's record, complete and file docketing statement) related to four new appeals:

    a. *Andre Rynell Edwards v. State*; Cause No. 10-16-00193-CR (15-22854; 52nd District Court, Coryell County, Texas) (Work performed June 6, 2016).

    b. *Major Thomas Davis v. State*; Cause No. 03-16-00334-CR (Work performed on May 27, 2016).

12. Work related to easement agreement/settlement of *Shawn Jones and April Jones v. Juanita C. Smith, et al*, Cause No. 223,129-B; 146th District Court of Bell County, Texas. (Work performed on May 31, 2016).

13. Meet with client, and review/revise proposed discovery to send in *Girly Bennett v. Susanna Allen*, Cause No. D-1-GN-15-005031; 98th District; Travis County (Work performed on June June 10, 2016 and June 21, 2016).

14. Preparation for CLE to deliver on May 27, 2016 (reviewing/revising materials, practicing delivery, etc.—May 26, 2016) and delivering CLE to Highland Lakes Bar

Association in Marble Falls (approximately an hour and a half away, one way) on May 27, 2016.

15. Miscellaneous work related to non-litigation (e.g., advising on independent contractor agreement, laser hair removal rental agreement, etc.) or cases not yet in litigation (e.g., demand letter, hot check) (performed variously over the course of the last month or so).

16. Time lost out for funeral for stepgrandmother in San Antonio on June 13, 2016.

17. Time lost on May 30, 2016 for Memorial Day because office was closed.

18. Time lost on June 7, 2016 for eye doctor appointment.

IV.

No previous extension have been requested and granted in this matter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Appellant asks this Court to extend his time for filing his brief to thirty (30) days from the date his brief is currently due.

Respectfully submitted:

/s/ Justin Bradford Smith
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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that, on June 21, 2016, a true and correct copy of the Appellant's First Motion to Extend Time to File Appellant's Brief was provided to counsel via the method indicated below:

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