

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 21-0513

STATE OF MONTANA,

Plaintiff and Appellee,

v.

TERRANCE ANTHONY ROBERTS,

Defendant and Appellant.

**UNOPPOSED MOTION FOR EXTENSION
OF TIME WITH AFFIDAVIT IN SUPPORT**

COMES NOW Deborah S. Smith, Assistant Appellate Defender for the Appellate Defender Division, and respectfully requests an extension of time until March 21, 2023, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. This is Appellant's eleventh request for an extension. Appellant's opening brief was first due February 17, 2022. Appellant's opening brief is currently due January 20, 2023. Appellant submits the attached affidavit in support of this motion.

Opposing counsel has been contacted and has no objection.

Respectfully submitted this 13th day of January 2023.

OFFICE OF STATE PUBLIC DEFENDER
APPELLATE DEFENDER DIVISION
P.O. Box 200147
Helena, MT 59620-0147

By: /s/ Deborah S. Smith
DEBORAH S. SMITH
Assistant Appellate Defender

[illegible]

I, Deborah S. Smith, in compliance with M. R. App. P. 26(2),
declare:

1. I am a licensed, practicing attorney in the State of Montana,
and I am currently employed by the Office of State Public Defender,
Appellate Defender Division, as an Assistant Appellate Defender.

2. In that capacity, I was assigned as counsel in *State v. Roberts* (DA 21-0513) on October 26, 2022.

3. Appellant's opening brief was first due February 17, 2022. The brief is presently due January 20, 2023. This is Appellant's eleventh extension request, but is only my second extension request in this matter. I am requesting an extension of 60 days, until March 21, 2023, to submit the opening brief. The first nine extensions filed prior to my assignment as counsel were for 30 days each, and my first extension request was for 60 days.

4. I am also counsel of record in seven (7) other pending appeals: *State v. Sullivan* (DA 20-0588, includes three consolidated appeals), *State v. Sullivan* (DA 20-0589), *State v. Rounsville* (DA 21-

0132), *State v. Pine* (DA 21-0202), *State v. Gibbons* (DA 21-0413), *State v. Stanley* (DA 21-0565), and *State v. Stokes* (DA 21-0511). Opening briefs remain due in three of these cases.

5. I review and complete my cases in the order in which they were assigned to me or previous counsel, unless the particular circumstances of a case warrant prioritization of a newer appeal over older appeals. All of my other cases have been pending longer than Mr. Roberts's appeal.

6. Since my last extension request, I have filed the opening brief in *Pine* (12/20/2022); completed reviewing the record, researched, and ordered supplemental transcripts in *Gibbons* (briefing stayed pending receipt of supplemental transcripts due 1/30/23); and reviewed the record, researched, and started drafting the opening brief in *Stanley*. I also reviewed the record and requested re-assignment of counsel due to a conflict of interest in *State v. Hindman* (DA 21-0548), an appeal that originally I had been assigned. Once I have completed the opening briefs in *Stanley*, *Gibbons*, and *Stokes*, I will begin working on Mr. Roberts's appeal.

7. Due to work on my older appeals, I request an extension of 60 days to review the record on appeal, conduct legal research, consult with my client, and prepare the opening brief. Mr. Roberts is currently incarcerated.

8. I will work diligently to complete the matter in the time requested.

9. The State has been contacted and does not object to this request.

10. I declare under penalty of perjury that the above is true and correct.

/s/ Deborah S. Smith
DEBORAH S. SMITH,
Helena, Montana

January 13, 2023
Date

CERTIFICATE OF SERVICE

I, Deborah Susan Smith, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 01-13-2023:

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: State of Montana
Service Method: eService

Kirsten H. Pabst (Govt Attorney)
200 W. Broadway
Missoula MT 59802
Representing: State of Montana
Service Method: eService

Electronically signed by Kim Harrison on behalf of Deborah Susan Smith
Dated: 01-13-2023