

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 21-0513

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STATE OF MONTANA,

Plaintiff and Appellee,

v.

TERRANCE ANTHONY ROBERTS,

Defendant and Appellant.

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

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

Opposing counsel has been contacted and has no objection.

Respectfully submitted this 14th day of June 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 June 21, 2023. This is Appellant's fourteenth extension request, but is only my fifth extension request in this matter. I am requesting an extension of 30 days, until July 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 three requests were each for 60 days, and my last request was for 30 days.

4. I am also counsel of record in six (6) other pending appeals:  
*State v. Pine* (DA 21-0202), *State v. Gibbons* (DA 21-0413), *State v. Stanley* (DA 21-0565), *State v. Stokes* (DA 21-0511), *State v. Davis* (DA

22-0171), and *State v. Peterson* (DA 21-0573). Opening briefs remain due in two 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. With the exception of *Davis* and *Peterson*, all of my other cases have been pending longer than Mr. Roberts's appeal. Mr. Roberts's appeal is my oldest assignment requiring an opening brief and is my highest priority.

6. Since my last extension request, I have filed the reply brief in *Stanley* (05/22/23).

7. I have substantially completed the brief in Mr. Robert's appeal and have consulted with Mr. Roberts regularly. Due to the schedules of Appellate Division staff through the remainder of June who will review, format, and prepare the brief for filing, I request an extension of 30 days to finalize the brief. I also need time for Mr. Roberts to review the brief before filing it. 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

June 14, 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 06-14-2023:

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: 06-14-2023