

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 22-0665

STATE OF MONTANA,

Plaintiff and Appellee,

v.

SCOTT ALAN LEHRKAMP,

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 January 5, 2024, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. This is Appellant's tenth request for an extension. Appellant's opening brief was first due February 2, 2023. Appellant's opening brief is currently due November 6, 2023. Appellant submits the attached affidavit in support of this motion.

Opposing counsel has been contacted and has no objection.

Respectfully submitted this 30th day of October 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 recently assigned as counsel in *State v. Lehrkamp* (DA 22-0665) on October 11, 2023.

3. Appellant's opening brief was first due February 2, 2023. The brief is presently due November 6, 2023. This is Appellant's tenth extension request, but is only my first extension request in this matter. I am requesting an extension of 60 days, until January 5, 2024, to submit the opening brief. The first ten extensions filed prior to my assignment as counsel were for 30 days each.

4. I am also counsel of record in eight (8) other pending appeals: *State v. Gibbons* (DA 21-0413), *State v. Stokes* (DA 21-0511), *State v. Stanley* (DA 21-0565), *State v. Roberts* (DA 21-0513), *State v. Davis* (DA 22-0171), *State v. Peterson* (DA 21-0573), *State v. Latter* (DA

22-0339), and *State v. Walla* (DA 22-0483). Opening briefs remain due in four 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 appeals have been pending longer than Mr. Lehrkamp's appeal.

6. Mr. Lehrkamp's case is my most recent assignment. 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. Lehrkamp is currently incarcerated.

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

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

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

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

October 30, 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 10-30-2023:

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

Kevin Downs (Govt Attorney)
228 E. Broadway
Helena, MT MT 59601
Representing: State of Montana
Service Method: eService

Electronically signed by Kim Harrison on behalf of Deborah Susan Smith
Dated: 10-30-2023