

3. Judgment and Sentence was imposed by the trial court on January 21, 2016.

4. Written Notice of Intent to Appeal, together with a written Designation of Record on Appeal, were filed in the District Court on January 27, 2016, and in this Court on February 1, 2016.

5. On May 23, 2016, the Clerk of the District Court of Oklahoma County filed in this Court a Notice of Completion of Record. That same day, the Clerk of this Court issued a request to transmit. The filing of the request began Appellant's briefing time, making his Brief of Appellant due on or before July 22, 2016. On July 28, 2016, this Court granted Appellant's first extension request until August 21, 2016.

6. Undersigned counsel received the record and transcripts on or about May 26, 2016. The original record in this case comprises four volumes for a total of 737 pages; the Preliminary Hearing transcript comprises two volumes totalling 458 pages; various pre-trial hearings comprise four volumes totalling 27 pages; the transcripts of the jury trial comprise nineteen volumes for a total of 4337 pages; and the motion for new trial and sentencing hearing comprises one volume of 50 pages. Additionally, Counsel has obtained trial counsel's files, comprising 7 CDs and 25 DVDs, totalling over 19 gigabytes of data, including reports, pleadings, and digital media files.

7. Since the Court granted Appellant's last extension request, Counsel has diligently continued to review the record, transcripts, and trial files in this case. Counsel has also identified numerous legal issues for investigation and research. However, due to the sheer enormity of the record and complexity of issues in this case, Counsel has been unable to complete that review, investigation, and research in order to prepare the Brief of Appellant. Additionally, Counsel has identified a need for additional testing and/or consultation with experts, which will

also require additional time. Accordingly, as explained more fully in the attached affidavit, it is impossible for Counsel to complete the brief in chief by the September 20, 2016, deadline.

8. For the reasons set forth more fully in the attached Affidavit of Appellate Counsel, Counsel respectfully asks the Court to grant the additional ninety (90) days requested in which to complete Appellant's brief in chief.

9. This application is made for good cause and not for purposes of delay. Appellant's case has errors in the proceedings below that must be fully investigated, researched, presented, and preserved on direct appeal. *Evitts v. Lucey*, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985); *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984).

UPON THE FOREGOING and for just cause, Appellant asks the court to grant him an additional ninety (90) days, or until December 19, 2016, to file his brief in chief.

Respectfully submitted,
DANIEL K. HOLTZCLAW

By:


JAMES H. LOCKARD
Oklahoma Bar No. 18099
Deputy Division Chief
Capital Direct Appeals Division
Oklahoma Indigent Defense System
P.O. Box 926
Norman, Oklahoma 73070-0926
(405) 801-2666

ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I certify that on the date of filing of the above and foregoing instrument, a true and correct copy of the same was delivered to the Clerk of this Court with instructions to deliver said copy to the Office of the Attorney General of the State of Oklahoma.

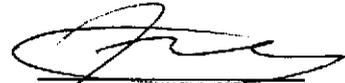

JAMES H. LOCKARD

including reports, pleadings, and digital media files.

7. I have very nearly completed my review of the record, transcripts, and trial files in this case. I have also brought in another attorney from this division, Michael D. Morehead, to review specific portions of the record and assist me in extra-record investigation and in preparation of the Brief of Appellant. However, this case is both abnormally long (as large as, or larger than, many capital cases) and unusually complex (18 convictions out of 36 counts involving 13 different alleged victims). Much of the evidence presented at trial to support the testimony of the alleged victims is highly technical and detailed, including DNA evidence, police procedures, Auto Vehicle Locator data, police dispatch activity and activity logs, and phone records. Accordingly, my efforts to complete my review and understanding of what was presented in the trial court has been difficult and time consuming.
8. Additionally, we have identified a specific need to have the DNA evidence in this case subjected to review and potential additional testing by our own experts. While trial counsel effectively cross-examined the State's expert as to the nature of the DNA evidence and how it was deposited on Officer Holtzclaw's pants, it appears that he missed significant issues with the State's conclusions and failed to do any additional testing that could have refuted those conclusions. More specifically, during closing argument, the prosecutor argued that the DNA evidence came from vaginal cells transferred via vaginal fluid onto Appellant's pants, even though the State's expert could only conclude that the DNA involved skin cells and admitted that no testing was done to verify the presence of vaginal fluid on the pants. Further, in two areas that were tested, the DNA was a mixture of at least three different people, at least one of whom was an unknown male, not Appellant. The significance of this information seems to have been lost on the parties below. Accordingly, it is vital that we consult our own experts to explain the significance of the evidence in this case, as well as to do additional testing on the pants.
9. I have been in continual contact and consultation with Mr. Holtzclaw and his family, and they are all agreed that the additional expert review and testing is vitally necessary. Because this cannot be completed by the September 20, 2016, deadline, Mr. Holtzclaw specifically agrees with my requesting additional time.
10. In addition to this and my other cases, I have a continuing obligation to assist all Division attorneys with proof-reading other briefs in chief and to attend all briefing conferences and moot oral arguments. Additionally, as Deputy Division Chief I have administrative duties to attend to, including the supervision of the Division's investigators and investigative resources.
11. Under these circumstances, it is impossible for me to address, adequately and thoroughly, the issues on behalf of Mr. Holtzclaw without an extension of time for filing his Brief of Appellant.

12. These events are beyond my control and not the fault of Mr. Holtzclaw. In that regard, and for the other reasons stated, I respectfully ask that the deadline for filing Mr. Holtzclaw's Brief of Appellant be extended beyond September 20, 2016.

FURTHER, AFFIANT SAYETH NOT.


JAMES H. LOCKARD

Subscribed and sworn to before me this 20 day of September 2016.


NOTARY PUBLIC

My Commission expires _____ Commission No. _____
(Seal)

