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September 25, 2009

Frederick K. Gritner
Clerk of the Appellate Courts
305 Minnesota Judicial Center
Saint Paul, Minnesota 55155

RE: State of Minnesota v. Olga Marina Franco del Cid, Court File No. 42-CR-08-220; Court of Appeals File No. A08-2266.

Dear Mr. Gritner:

Pursuant to the Court of Appeal's Order of June 20, 2009, I am submitting this update regarding the Stay of the above appeal pending Appellant's Petition for Postconviction Relief. On September 17, 2009 the District Court issued its Findings of Fact, Conclusions of Law, Order, and Memorandum denying Appellant's Petition for Postconviction Relief without an evidentiary hearing.

By Order dated July 8, 2009, the Court of Appeals ordered that "If the district court denies appellant's postconviction petition, then this court will issue a briefing order." I am including herewith a Motion to Reinstate Appeal.

Respectfully,



Neal A. Eisenbraun
NAE/jgc
Enclosure

C: Ms. Olga Marina Franco del Cid (a.k.a. Alianiss Nunez Morales)
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SEP 29 2009

STATE OF MINNESOTA
COURT OF APPEALS

Appellate Court Case No. A08-2266

STATE OF MINNESOTA,

(Trial Court Case No. 42-CR-08-220)

Respondent,

vs.

OLGA MARINA FRANCO del CID,

Appellant.

APPELLANT'S NOTICE OF MOTION
AND MOTION TO REINSTATE APPEAL

PLEASE TAKE NOTICE that Appellant Olga Marina Franco del Cid by this Notice of Motion and Motion to Reinstate Appeal moves the Court of Appeals to reinstate her appeal in this matter. Appellant's Motion is based on the reasons set forth in the accompanying Memorandum and on all the files and records in the District Court and the Court of Appeals.

Dated: 09 25 2009

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ATTORNEY FOR APPELLANT

FILED IN THIS OFFICE

9/29/09

Karen J. Bierman
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Marshall, Lyon County, Minnesota

STATE OF MINNESOTA
COURT OF APPEALS

Appellate Court Case No. A08-2266

STATE OF MINNESOTA,

Trial Court Case No. 42-CR-08-220

Respondent,

vs.

OLGA MARINA FRANCO del CID,

Appellant.

APPELLANT'S MEMORANDUM IN SUPPORT OF
NOTICE OF MOTION AND MOTION TO REINSTATE APPEAL

I.
RELEVANT PROCEDURAL HISTORY

On December 29, 2008, Appellant filed her Notice of Appeal of her conviction in this matter.

On June 9, 2009, Appellant filed a Notice of Motion and Motion to Stay Appeal to Allow Appellant to Renew her Motion for a New Trial based on Newly Discovered Evidence.

On June 30, 2009, the Court of Appeals granted Appellant's Motion to Stay Appeal, construing the motion Appellant sought to file in District Court as a petition for postconviction relief. The Court of Appeals also required that Appellant's counsel "file with the Clerk of the Appellate Courts a monthly status letter, due on the 30th of each month, detailing the status of proceedings in the district court, until the stay of the is appeal is vacated."

On July 8, 2009, the Court of Appeals also entered an Order striking Appellant's non-conforming brief and ordering that "If the district court denies appellant's postconviction petition, then this court will issue a briefing order. Appellant will have the opportunity to file a new, conforming brief."

On September 17, 2009, the District Court denied Appellant's petition for postconviction relief without an evidentiary hearing.

II. DISCUSSION

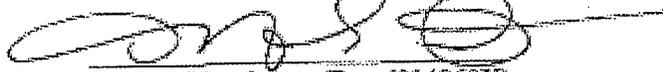
Because the District Court has now denied Appellant's petition for postconviction relief, and pursuant to the Court of Appeals' Orders of June 30, 2009 and July 8, 2009, Appellant respectfully asks the Court of Appeals to vacate the stay and reinstate the appeal in this matter. Appellant further respectfully requests, pursuant to the Court of Appeals' July 8, 2009 Order, that the Court of Appeals issue a briefing Order in this matter.

III. CONCLUSION

For the foregoing reasons, Appellant respectfully moves the Court of Appeals to vacate the stay, reinstate the appeal in this matter, and issue a briefing Order.

Respectfully submitted by Appellant this 25th day of September, 2009.

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