

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDR**

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ZANE MICHAEL FLOYD,

Defendant.

CASE NO: 99C159897

DEPT NO: XVII

**DECISION AND ORDER**

DATE OF HEARING: June 4, 2021  
TIME OF HEARING: 8:30 AM

THIS MATTER having come on for hearing before the Honorable MICHAEL VILLANI, on the 4th day of June 2021. The Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the Decision on State's Motion for the Court to Issue Second Supplemental Order of Execution and Second Supplemental Warrant of Execution.

The State seeks an Order for a Second Order of Execution. For purposes of this Order, the Court adopts the procedural history as set forth in the State's Second Supplemental Warrant of Execution.

The State's position is that Floyd has exhausted his legal remedies and therefore a second warrant of execution should be granted. The Nevada Supreme Court has affirmed Floyd's conviction, the United States Court of Appeals for the Ninth Circuit affirmed the denial of Floyd's Federal Habeas Petition, and the United States Supreme Court denied certiorari. *See* NRS 176.505(2) The State initially sought a date of warrant of execution for May 21, 2021. However, due to various delays, the State amended its request for July 26,

1 2021.

2

3 Floyd objects to this Court Granting the pending Motion for a Second Warrant of  
4 Execution based upon the following claims:

5

6 1. This case must be transferred to Department V. The Court previously  
7 denied said claim.

8 2. The Clark County District Attorney's office must be disqualified.  
9 The Court previously denied said claim.

10 3. Floyd is entitled to litigate his third State Habeas Petition, which was  
11 filed approximately 17 years after the Nevada Supreme Court filed  
12 Remittitur. As part of this claim, Floyd opposes said motion based upon  
13 the fact that he has the right to seek clemency and that the Pardons  
14 Board does not meet until the week of June 22, 2021.

15 4. The Nevada Department of Corrections should appear to discuss  
16 Covid-19 procedures for the execution.

17

18 The Court already ruled on claims one and two. Therefore only claims three and four will be  
19 addressed.

20

21 Floyd's third petition is primarily based upon a claim of fetal alcohol spectrum  
22 disorder. The Nevada Supreme Court as well the Federal District Court of Nevada and the  
23 United States Court of Appeals for the Ninth Circuit have ruled upon said claim. Further, no  
24 statutory or case law authority provides for a stay while Floyd seeks clemency. Floyd argues  
25 that since the Pardons Board does not meet until the week of June 22, 2021, that a stay  
26 should be granted. However, Floyd's request is moot as the amended execution date is for  
27 July 26, 2021.

28 ///

1 The Court is unpersuaded that the Nevada Department of Corrections must first prove  
2 that it can safely carry out an execution before the Court can sign an Order of Execution.  
3 Further, any claim that the timing of any of the Court's orders precludes appellate review is  
4 without merit.

5  
6 The mere fact that Floyd is litigating his claims in both Federal and State Courts does  
7 not preclude this Court from granting the State's motion.  
8

9 **ORDER**

10 THEREFORE, IT IS HEREBY ORDERED that State's Motion for the Court to Issue  
11 Second Supplemental Order of Execution for July 26, 2021 is GRANTED. IT IS HEREBY  
12 ORDERED the State is to provide a formal Second Supplemental Order of Execution.  
13

14 Floyd's Motion to Strike, or Alternatively, Motion to Stay the Second supplemental  
15 Order of Execution and Second Supplement Warrant of Execution was previously ruled  
16 upon in open Court on June 4th, 2021, and was DENIED. COURT ORDERS State to submit  
17 an order consistent with the Court's ruling. Furthermore, Floyd request for a Stay is  
18 DENIED.

19 Dated this 7th day of June, 2021

20 

21 \_\_\_\_\_  
DISTRICT JUDGE

22 208 4D6 F478 D690  
23 Michael Villani  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 The State of Nevada vs Zane M  
7 Floyd

CASE NO: 99C159897

8 DEPT. NO. Department 17

9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District  
11 Court. The foregoing Order was served via the court's electronic eFile system to all  
12 recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 6/7/2021

14 ECF Notifications CHU

ecf\_nvchu@fd.org

15 Amanda White

awhite@ag.nv.gov

16 Heather Procter

hprocter@ag.nv.gov

17 Randall Gilmer

drgilmer@ag.nv.gov

18 Frank Toddre

ftoddre@ag.nv.gov

19 Steven Wolfson

motions@clarkcountyda.com

20 Eileen Davis

Eileen.davis@clarkcountyda.com

21 Sara Jelinek

Sara\_Jelinek@fd.org

22 Heather Ungermann

23 ungermannh@clarkcountycourts.us

24  
25  
26  
27  
28