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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,

2021.

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

1. This case must be transferred to Department V. The Court previously denied said claim.
2. The Clark County District Attorney's office must be disqualified. The Court previously denied said claim.
3. Floyd is entitled to litigate his third State Habeas Petition, which was filed approximately 17 years after the Nevada Supreme Court filed Remittitur. As part of this claim, Floyd opposes said motion based upon the fact that he has the right to seek clemency and that the Pardons Board does not meet until the week of June 22, 2021.
4. The Nevada Department of Corrections should appear to discuss Covid-19 procedures for the execution.

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

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

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

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

ORDER

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

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

Dated this 7th day of June, 2021

DISTRICT JUDGE

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Michael Villani
District Court Judge