

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RIPPO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44094

FILED

OCT 18 2005

ORDER GRANTING MOTIONS

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rihards*
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus in a capital case.

First, the State has filed a motion requesting permission to file an amended answering brief. Cause appearing, this motion is granted. The clerk of this court shall file the amended answering brief submitted provisionally with the State's motion on October 3, 2005.

Second, the State has requested this court to order supplemental briefing on the question of whether this court's decision in McConnell v. State, 120 Nev. ___, 102 P.3d 606 (2004), should be applied retroactively to appellant's case. To date, appellant has not opposed the motion. Accordingly, the State's motion is hereby granted. However, in addition to addressing the retroactivity of McConnell, the parties shall brief the question of whether this court should reach the retroactivity issue in the context of this appeal, where it appears that neither the retroactivity issue, nor the specific concerns addressed in McConnell were expressly raised or litigated in the proceedings below, and the district court has not had an opportunity to fully address the retroactivity question in the first instance.

Accordingly, appellant shall have 20 days from the date of this order within which to file and serve a supplemental brief of not more than

20 pages addressing the issues set forth above. The State shall have 20 days thereafter within which to file and serve a supplemental answering brief of the same length. Upon the filing of the supplemental answering brief, this appeal shall stand submitted for decision without oral argument unless otherwise ordered by this court.

It is so ORDERED.

Becker _____, C.J.

cc: Christopher R. Oram
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger