

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

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FILED

JAN 04 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY Williamado
DEPUTY CLERK

MARLO THOMAS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 46509

MOTION FOR STAY OF REMITTITUR PENDING
APPLICATION FOR CERTIORARI (NRAP 41)

COMES NOW, Appellant MARLO THOMAS, by and through his attorney DAVID M. SCHIECK, Special Public Defender, and moves this Honorable Court pursuant to the provisions of Nevada Rules of Appellant Procedure Rule 41(b), for a Stay of Remittitur, for 60 days, pending application to the United States Supreme Court for a Writ of Certiorari.

This matter was before the Court on an appeal from a sentence of death following a second penalty hearing after remand. This Court affirmed the sentence (Thomas v. State, 122 Nev. Adv. Op. No. 114, December 28, 2006). Remittitur has not issued as of this date.

Counsel for Petitioner is prepared to file a Petition for Writ of Certiorari in the United States Supreme Court within the time period provided in United States Supreme Court Rule 13.

DATED: January 2, 2007

BY David Schick
DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar No. 0824
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155
(702) 455-6265

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA



07-00290

1 POINTS AND AUTHORITIES

2 Nevada Rules of Appellate Procedure Rule 41 provides in pertinent
3 part:

4 "(b) Stay of remittitur pending application for
5 certiorari. A stay of the remittitur pending application
6 to the Supreme Court of the United States for a writ of
7 certiorari may be granted upon motion, reasonable notice of
8 which shall be given to all parties. The stay shall not
9 exceed sixty (60) days unless the period is extended for
10 cause shown. If during the period of the stay there is
11 filed with the clerk of the Supreme Court of Nevada a
12 notice from the clerk of the Supreme Court of the United
13 States that the party who has obtained the stay has filed
14 a petition for the writ in that court, the stay shall
15 continue until final disposition by the Supreme Court of
16 the United States. Upon the filing of a copy of an order
17 of the Supreme Court of the United States denying the
18 petition for writ of certiorari the remittitur shall issue
19 immediately....."

20 Good cause exists for stay of Remittitur in this case because it
21 is a capital case and due to the nature of the issues intended to be
22 raised. As such the propriety of the decision should be scrutinized
23 by the highest Court in the land.

24 A stay of sixty (60) days in issuance of the remittitur is
25 therefore respectfully requested.

26 DATED: January 2, 2007

27 BY David M. Schieck
28 DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar No. 0824
330 S. Third St., Ste. 800
Las Vegas, Nevada 89155
(702)455-6265

29 CERTIFICATE OF MAILING

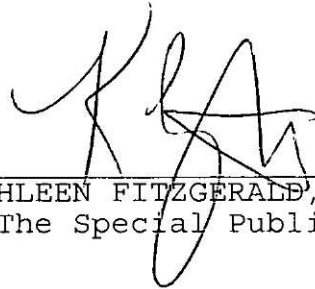
30 I, KATHLEEN FITZGERALD, do hereby certify that on the 2 day of
31 January, 2007, a copy of the foregoing Motion was deposited in the
32 United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope

1 upon which first class postage was fully prepaid, addressed to the
2 following:

3 District Attorney
4 Clark County Courthouse
5 200 Lewis Ave., 3rd Floor
6 Las Vegas, Nevada 89155

Nevada Attorney General
100 N. Carson Street
Carson City, Nevada 89701

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KATHLEEN FITZGERALD, an employee
of The Special Public Defender's Office