

● ORIGINAL ●

IN THE SUPREME COURT OF THE STATE OF NEVADA

ZANE MICHAEL FLOYD,

Case No. 51409

Appellant,

FILED

vs.

E.K. McDANIEL, Warden of the
NEVADA STATE PRISON at ELY,
NEVADA; and CATHERINE CORTEZ
MASTO, Attorney General for Nevada,

MAR 05 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Respondents.

REQUEST TO TAKE JUDICIAL NOTICE

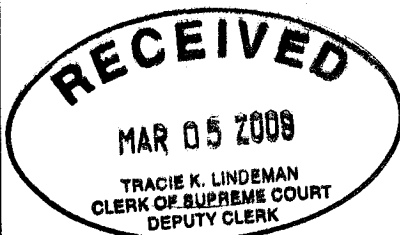
**Appeal from Order Dismissing Petition for
Writ of Habeas Corpus (Post-Conviction)**

FRANNY A. FORSMAN
Federal Public Defender

TIFFANI D. HURST
Assistant Federal Public Defender
Nevada Bar No. 11027C
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

C. BENJAMIN SCROGGINS
Staff Attorney
Nevada Bar No. 7902
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

Counsel for Appellant



REQUEST TO TAKE JUDICIAL NOTICE

Appellant Zane Floyd hereby moves this Court to take judicial notice of the following records under Nev. Rev. Stat. § 47.130. These court records support arguments raised in appellant's opening brief, and this Court's consideration of this evidence is required in order to provide Mr. Floyd with a full and fair opportunity to litigate the constitutional claims contained in the instant appeal.

Exhibit 1 is Appellant's Opening Brief filed in Zane Floyd v. State of Nevada, Nevada Supreme Court Case No. 36752, the direct appeal from Mr. Floyd's conviction. The State filed an answering brief. Exhibit 2 is Appellant's Reply Brief in the same case. Exhibit 3 is this Court's Opinion. Exhibit 4 is this Court's Order Denying Rehearing. Exhibit 5 is a Motion for Stay of Remittitur Pending Application for Certiorari. Exhibit 6 is this Court's Order Staying Remittitur. Exhibit 7 is Mr. Floyd's Motion to Recall Remittitur Pending Application for Certiorari. Exhibit 8 is this Court's Order Recalling Remittitur. Exhibits 2 through 8 are all filed in Nevada Supreme Court Case No. 36752. These documents are public record contained in a court file which is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Exhibit 9 is Appellant's Opening Brief filed in Zane Floyd v. State of Nevada, Nevada Supreme Court Case No. 44868, the appeal of Mr. Floyd's post-conviction petition for writ of habeas corpus. The State filed an answering brief. Exhibit 10 is Appellant's Reply Brief in the same case. Exhibit 11 is the Order of Affirmance filed by this Court February 18, 2006. These documents are public record contained in a court file which is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Exhibit 12 is a Hearing Memorandum submitted to the court in chambers but not filed in State of Nevada v. Zane Floyd, Clark County District Court Case No. 159897.

Exhibit 13 is a proposed Findings of Fact, Conclusions of Law and Order which was


1 transmitted by facsimile on March 28, 2008, to counsel for Appellant by Deputy District
2 Attorney Steven S. Owens in State of Nevada v. Zane Floyd, Clark County District Court Case
3 No. 159897.


4 Nev. Rev. Stat. § 47.130(2)(b) provides, in pertinent part, that judicial notice is proper
5 for evidence that is "capable of accurate and ready determination by resort to sources whose
6 accuracy cannot reasonably be questioned." This Court has consistently found that judicial
7 notice is warranted for public records that are relevant to the issues before the Court. See, e.g.,
8 Whitehead v. Nevada Commission On Judicial Discipline, 110 Nev. 380, 419 n.35, 873 P.2d
9 946, 970 n.35 (1994) (minutes of Committee on Judicial Discipline); Jory v. Bennight, 91 Nev.
10 763, 766, 542 P.2d 1400, 1402-03 (1975) (business records maintained at Secretary of State's
11 office); Cannon v. Taylor, 88 Nev. 89, 92, 493 P.2d 1313, 1314-15 (1972) (attorney general
12 advisory opinion). Mr. Floyd therefore respectfully requests that this Court take judicial notice
13 of the materials attached to this motion.
14

15 Dated this 3rd day of March, 2009.

16 Respectfully submitted,

17 FRANNY A. FORSMAN
18 Federal Public Defender

19 
20 TIFFANI D. HURST
21 Assistant Federal Public Defender
22 Nevada Bar No. 11027C
23 411 East Bonneville Avenue, Suite 250
24 Las Vegas, Nevada 89101

25 
26 C. BENJAMIN S. ROGGIN'S
27 Staff Attorney
28 Nevada Bar No. 7902
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101

Attorneys for Appellant

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David Roger
Clark County District Attorney
Steven S. Owens
Chief Deputy District Attorney
200 Lewis Avenue
PO Box 552212
Las Vegas, Nevada 89155-2212

Catherine Cortez Masto
Attorney General
Thom Gover
Senior Deputy Attorney General
555 E. Washington Ave, Suite 3900
Las Vegas, Nevada 89101

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