|                      | • ORIGINAL  |
|----------------------|---|
| 1<br>2               | IN THE SUPREME COURT OF THE STATE OF NEVADA                         |
| 3                    | ZANE MICHAEL FLOYD, ) Case No. 36752                                |
| 4                    | Appellant,  |
| 5                    | vs.   |
| 6                    | THE STATE OF NEVADA, MAY 20 2002                                    |
| 7                    | Respondent.   |
| 8<br>9               | MOTION FOR STAY OF REMITTITUR PENDING<br>APPLICATION FOR CERTIORARI |
| 10                   | COMES NOW, the Appellant, ZANE MICHAEL FLOYD, by and                |
| 11                   | through his counsel, Clark County Deputy Public Defender, ROBERT L. |
| 12                   | MILLER, and, pursuant to NRAP 41(b), respectfully requests this     |
| 13                   | Honorable Court to stay issuance of the remittitur through and      |
| 14                   | including the 5 <sup>th</sup> day of August, 2002.                  |
| 15                   | This Motion is based upon the Affidavit of counsel                  |
| 16                   | attached hereto.  |
| 17                   | DATED this 16 <sup>th</sup> day of May, 2002.                       |
| 18                   | MARCUS D. COOPER<br>CLARK COUNTY PUBLIC DEFENDER                    |
| 19                   |   |
| 20                   | By  |
| 21                   | ROBERT L. MILLER<br>NEVADA BAR #1060                                |
| 22                   | DEPUTY PUBLIC DEFENDER<br>309 SOUTH THIRD STREET, SUITE #226        |
| 23<br>24             | LAS VEGAS, NEVADA 89155-2610<br>(702) 455-4685                      |
| 2 <del>4</del><br>25 |   |
| 23<br>26             |   |
| 20                   | RECEIVED  |
| 28                   | MAY 2 0 2002  |
|                      | CLERK OF SUPREME COURT<br>By DEPUTY CLERK                           |

02-68792

| 1  | AFFIDAVIT   |
|----|---|
| 2  | STATE OF NEVADA )<br>)ss:   |
| 3  | COUNTY OF CLARK )   |
| 4  | ROBERT L. MILLER, being first duly sworn, deposes and                           |
| 5  | states as follows:  |
| 6  | 1. That he is an attorney duly licensed to practice law                         |
| 7  | in the State of Nevada and the Deputy Public Defender assigned to               |
| 8  | represent Zane Michael Floyd in Nevada Supreme Court Case No. 36752.            |
| 9  | 2. That an Order denying Appellant's Petition for                               |
| 10 | Rehearing was filed on the 7 <sup>th</sup> day of May, 2002.                    |
| 11 | 3. That pursuant to United States Supreme Court Rule 13.1                       |
| 12 | and 13.3, a Petition for Writ of Certiorari is deemed timely filed              |
| 13 | if filed within ninety (90) days from the date of the denial of the             |
| 14 | Petition for Rehearing. In the case at bar, this would require                  |
| 15 | filing of the Petition on or before August 5, 2002.                             |
| 16 | 4. That Affiant intends to file, and is in the process of                       |
| 17 | preparing, a Writ of Certiorari to the United States Supreme Court.             |
| 18 | Based on the foregoing, it is respectfully requested that                       |
| 19 | this Court stay the remittitur through and including the 5 <sup>th</sup> day of |
| 20 | August, 2002. Additionally, it is requested that if the Clerk of                |
| 21 | the Nevada Supreme Court receives notice from the Clerk of the                  |
| 22 | United States Supreme Court that Appellant has, in fact, filed his              |
| 23 | • • •   |
| 24 | •••   |
| 25 | • • •   |
| 26 | • • •   |
| 27 |   |
| 28 | •••   |

.

2

1 Petition for Writ of Certiorari, that this stay continue in effect 2 until final disposition of the certiorari proceedings. Robert L. Miller 6 Subscribed and sworn to before me this 16<sup>th</sup> day of May, 2002. DEENA G. DANIEL Notary Public - Nevada No. 98-23240-1 My appt. exp. Jan. 15, 2003 9 NOTARY PUBLIC in and for said County and State. 

## DECLARATION OF MAILING

3 . 6

| 1  | DECLARATION OF MAILING   |
|----|--|
| 2  | DEENA DANIEL, an employee with the Clark County Public               |
| 3  | Defender's Office, hereby declares that she is, and was when the     |
| 4  | herein described mailing took place, a citizen of the United States, |
| 5  | over 21 years of age, and not a party to, nor interested in, the     |
| 6  | within action; that on the 16th day of May, 2002, declarant          |
| 7  | deposited in the United States mail at Las Vegas, Nevada, a copy of  |
| 8  | the Motion for Stay of Remittitur Pending Application for Certiorari |
| 9  | in the case of Zane Michael Floyd, Case No. 36752, enclosed in a     |
| 10 | sealed envelope upon which first class postage was fully prepaid,    |
| 11 | addressed to Frankie Sue Del Papa, Attorney General, 100 North       |
| 12 | Carson Street, Carson City, Nevada 89701-4717, that there is a       |
| 13 | regular communication by mail between the place of mailing and the   |
| 14 | place so addressed.  |
| 15 | I declare under penalty of perjury that the foregoing is             |
| 16 | true and correct.  |
| 17 | EXECUTED on the 16th day of May, 2002.                               |
| 18 |  |
| 19 | Deena Daniel   |
| 20 |  |
| 21 |  |
| 22 |  |
| 23 | RECEIPT OF A COPY of the foregoing Motion for Stay of                |
| 24 | Remittitur Pending Application for Certiorari is hereby acknowledged |
| 25 | this boundary of May, 2002.  |
| 26 | STEWART L. BELL<br>CLARK COUNTY DISTRICT ATTORNEY                    |
| 27 |  |
| 28 | By Jadine Mulkey   |
|    | 4  |
|    |  |

4