

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAOLA M. ARMENI, JONAH J.
HORWITZ, and DEBORAH A.
CZUBA,

Petitioners,

v.

THE EIGHTH JUDICIAL
DISTRICT COURT of the STATE of
NEVADA, in and for the COUNTY
of CLARK; and THE HONORABLE
MICHAEL P. VILLANI,

Respondents,

and

TIMOTHY FILSON, Warden,
ADAM PAUL LAXALT, Attorney
General for the State of Nevada, and
THE STATE OF NEVADA,

Real Parties in Interest.

Supreme Court Case No. 73462

Electronically Filed
Feb 16 2018 12:30 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Underlying Case: Clark County Dist.
Ct. No. 81C053867

RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITIES

The State’s notice of supplemental authorities, filed February 13, 2018 (“Notice”), alerts the Court to an unpublished order determining, as the State puts it, “that the Federal Public Defender was not forthright.” Notice at 4. In the unpublished order, the Court was resolving a case where the petitioner was represented by the Federal Public Defender of Nevada. *See Moore v. State*, Nev.

S. Ct. No. 66652, Order, filed Feb. 9, 2018, at 12. Here, the petitioners are two attorneys from the Federal Defender Services of *Idaho* (“FDSI”) and an attorney in private practice working on the matter pro bono. The State’s allegations of misconduct here are premised on the notion that the FDSI filed its *Hurst*¹ petition below as part of a conspiracy with other Federal Defender offices to delay Samuel Howard’s execution by seeking post-conviction relief on the eve of the deadline. *See Answer to Pet. for Writ of Mandamus*, filed Dec. 21, 2017, at 22–25, 42. Contrary to the State’s misrepresentations, Mr. Howard’s petition was filed three months before the deadline, his final amended petition was filed more than a month before the deadline and more than a month before the other Federal Defender petitions, and this litigation has not affected an execution date by a single day. *See Reply in Supp. of Pet. for Writ of Mandamus*, filed Jan. 18, 2018, at 32, 34, 36.

Moreover, as the petitioners informed the State below, they operate with complete independence from other Federal Defender offices. The FDSI is a non-profit organization, run by the Federal Defender and overseen by a board. *See App.* 472. Undersigned counsel decided to file their *Hurst* petition only to protect Mr. Howard’s rights, and not because of other death row inmates represented by other Federal Defender offices. *See App.* 424–25.

¹ *Hurst v. Florida*, 136 S. Ct. 616 (2016).

Consequently, the actions of another Federal Defender office, in a case wholly unrelated to this one involving entirely distinct issues, is irrelevant to the sanctions that were imposed here. The fact that the State is even attempting to use such an off-base authority shows that its argument on behalf of the sanctions rests on a single prosecutor's reflexive hostility to public defense as an institution, rather than any reasoned explanation of how the petitioners committed misconduct by zealously advocating for the rights of their death-sentenced client. In that regard, the Notice is an illustration of the inappropriate mindset that led to the sanctions in the first place, and yet another reason why they should be vacated.

DATED this 16th day of February 2018.

GENTILE CRISTALLI
MILLER ARMENI SAVARESE

/s/ Paola M. Armeni

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FEDERAL DEFENDER
SERVICES OF IDAHO

/s/ Jonah Horwitz

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document on February 16th, 2018. Electronic service of the document shall be made in accordance with the Master Service List to:

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/s/ Joy L. Fish
Joy L. Fish