

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

WILLIAM P. CASTILLO,

Petitioner/Appellant,

vs.

THE STATE OF NEVADA,

Respondents/Appellees.

Supreme Court No. 73465

(Death Penalty Habeas Corpus Case)

**MOTION TO RECALL REMITTITUR PENDING
PETITION FOR WRIT OF CERTIORARI**

Appellant William Castillo hereby moves this Court for an order recalling the remittitur and execution of judgment of this Court while the Supreme Court of the United States decides Mr. Castillo's petition for writ of certiorari. *See Wood v. State*, 60 Nev. 139, 141, 104 P.2d 187, 188 (1940).

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DATED this 19th day of February, 2020.

Respectfully submitted
RENE L. VALLADARES
Federal Public Defender

/s/ Brad D. Levenson
BRAD D. LEVENSON
Assistant Federal Public Defender
Nevada Bar No. 13804C
411 E. Bonneville Ave., Suite 250
Las Vegas, Nevada 89101
702-388-6577

Attorneys for William P. Castillo

POINTS AND AUTHORITIES

NRAP 41 (b)(3)(A) provides for a stay of the issuance of this Court's remittitur pending filing of a petition for certiorari in the United States Supreme Court. "A party may file a motion to stay the remittitur pending application to the Supreme Court of the United States for a writ of certiorari." Once the petition is filed, "the stay shall continue until final disposition by the Supreme Court of the United States." NRAP 41(b)(3)(B).

In this case, Mr. Castillo filed a Renewed Motion to Stay Remittitur on January 29, 2020. Mr. Castillo requested the stay in order to file a petition for certiorari in the United States Supreme Court on February 3, 2020. In response, on February 12, 2020, this Court ordered the remittitur stayed until February 18, 2020 if the clerk of this Court received written notice by the clerk of the United States Supreme Court that Mr. Castillo had filed a petition for writ of certiorari.

According to this Court's docket, on February 19, 2020, this Court issued the remittitur in Mr. Castillo's case **and** received written notice that Mr. Castillo filed a petition for certiorari in the United States

Supreme Court on February 12, 2020 in case number 19-7647.

Based upon the fact Mr. Castillo's petition for writ of certiorari was filed on February 12th, Mr. Castillo requests the Court recall the remittitur as it appears its issuance was inadvertent. *See Wood v. State*, 60 Nev. 139, 141, 104 P.2d 187, 188 (1940) (holding that remittitur can be recalled when inadvertence, mistake of fact, or an incomplete knowledge of the circumstances of the case on the part of the court exists).

DATED this 19th day of February, 2020.

/s/ Brad D. Levenson
BRAD D. LEVENSON
Assistant Federal Public Defender
Nevada Bar No. 13804C
411 E. Bonneville Ave., Suite 250
Las Vegas, Nevada 89101
702-388-6577

Attorneys for William P. Castillo

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 19th day of February, 2020, electronic service of the foregoing MOTION TO RECALL REMITTITUR PENDING PETITION FOR WRIT OF CERTIORARI shall be made in accordance with the Master Service List as follows:

Alexander Chen
Chief Deputy District Attorney-Criminal
alexander.chen@clarkcountyda.com

/s/ Sara Jelinek
An Employee of the Federal Public
Defender, District of Nevada