

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA; THE STATE
OF NEVADA DEPARTMENT OF
CORRECTIONS; JAMES DZURENDA,
DIRECTOR OF THE NEVADA
DEPARTMENT OF CORRECTIONS;
IHSAN AZZAM, PH.D., M.D., CHIEF
MEDICAL OFFICER OF THE STATE
OF NEVADA IN HIS OFFICIAL
CAPACITY; AND JOHN DOE,
ATTENDING PHYSICIAN AT
PLANNED EXECUTION OF SCOTT
RAYMOND DOZIER IN HIS OFFICIAL
CAPACITY,
Petitioners,

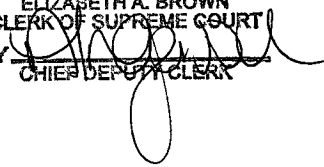
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
Respondents,
and
ALVOGEN, INC.,
Real Party in Interest.

No. 76485

FILED

AUG 08 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER GRANTING MOTION TO APPEAR,
DENYING MOTION TO STRIKE,
AND IMPOSING A TEMPORARY STAY*

This original petition to dissolve a stay of execution and for a writ of mandamus or prohibition challenges a district court temporary

restraining order precluding petitioners from using a certain drug. Hikma Pharmaceuticals USA Inc., a recently added co-plaintiff in the underlying action, has moved for leave to appear as a real party in interest in this writ proceeding. The motion is granted; the clerk of this court shall add Hikma Pharmaceuticals as a real party in interest to the caption of this case, and Hikma shall be subject to the briefing deadlines set forth in our July 27, 2018, order.

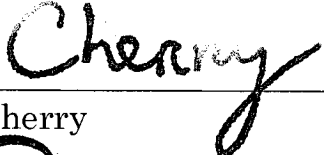
Petitioners have moved to stay the district court proceedings pending resolution of this petition. Real party in interest Alvogen, Inc., has notified this court of its intent to file an opposition to the motion, and petitioners have moved to strike the notice. The motion to strike is denied. However, having considered the motion for stay, we conclude that a temporary stay is warranted, pending our receipt and consideration of any oppositions. NRAP 8.


Therefore, we stay the proceedings in Eighth Judicial District Court Case No. A-18-777312-B, pending further order of this court. Real parties in interest shall have until noon on Monday, August 13, 2018, to file and serve any oppositions to the stay motion. No extensions of time will be granted. For purposes of this order, we suspend the provisions of NRAP 25(a)(2)(B)(ii), (iii), and (iv), which provide that a document is timely filed if, on or before its due date, it is mailed to this court, dispatched for delivery by a third party commercial carrier, or deposited in the Supreme Court drop box. *See* NRAP 2. Accordingly, all documents shall be filed personally or

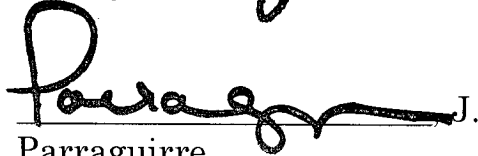
by facsimile or electronic transmission with the clerk of this court in Carson City.

It is so ORDERED.¹


_____, C.J.
Douglas


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Parraguirre


_____, J.
Stiglich

HARDESTY, J., concurring in part and dissenting in part:

I would not bar the district court proceedings in this case before the real parties in interest Alvogen Inc. and Hikma Pharmaceuticals USA Inc. have had an opportunity to respond to the motion. While the State petitioners seek to block discovery through their stay motion, they also seek to prevent the district court from considering a motion to intervene by

¹The Honorable Kristina Pickering, Justice, did not participate in the decision of this matter.

Sandoz Inc., the manufacturer of the third drug in the lethal injection protocol at issue in this case. I can see no reason why this court should interfere in the district court's management of this case, and the temporary stay would be unnecessary if the district court denies Sandoz's motion to intervene.

As for the legal issues raised in the State's writ petition, this court entered an order expediting an answer. It is noteworthy that the order entered by the district court was a temporary restraining order, the validity of which this court can resolve upon receipt of the answers and the reply. I see no prejudice to the State in responding to discovery on the factual issues that are before the district court while we consider the validity of the TRO.

The State's stay motion indicates that this case raises two issues. First, the State questions whether real parties in interest may properly seek to maintain a publicity advantage and obtain equitable relief through private causes of action. And second, the petition asks whether the order barring its use of the medication allegedly improvidently obtained is precluded under NRS 176.415, relating to the execution of Scott Raymond Dozier. Importantly, however, neither the State nor Dozier has sought this court's review of their stipulation to vacate the warrant of execution in the district court. Nothing in this case prevents the State from seeking a warrant for Dozier's execution through other means, and thus far, the State has failed to demonstrate that it cannot conduct its responsibilities to carry out Dozier's execution through other medications. *See* NRS 176.355(1). Therefore, while I agree that the motion to appear should be granted and

that the motion to strike should be denied, I dissent as to granting a stay at this time.

It is so ORDERED.


_____, J.
Hardesty

cc: Hon. Elizabeth Goff Gonzalez, Chief Judge
Attorney General/Carson City
Attorney General/Las Vegas
Latham & Watkins LLP/Chicago
Latham & Watkins LLP/Washington DC
Lewis Roca Rothgerber Christie LLP
Pisanelli Bice, PLLC
O'Mara Law Firm, P.C.
Clark County District Attorney
Eighth District Court Clerk