

IN THE SUPREME COURT OF THE STATE OF NEVADA

ZANE M. FLOYD

Petitioner,

vs.

THE EIGHTH JUDICIAL
DISTRICT COURT OF THE
STATE OF NEVADA, IN AND
FOR THE COUNTY OF
CLARK; AND THE
HONORABLE MICHAEL P.
VILLANI, DISTRICT JUDGE,
Respondent.

STATE OF NEVADA

Real Party in Interest.

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Sep 07 2021 03:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. 83225

District Court Case Nos.
99C159897
Habeas Court Case No.
A-21-832952-W

(Death Penalty Case)

**REQUEST FOR EXTENSION OF TIME TO FILE REPLY
BRIEF**

Petitioner, Zane M. Floyd, by and through his counsel of record,
hereby files this request for an extension of time of eight days, up to and
including September 15, 2021, within which to file his Reply Brief.

This request is supported by the attached declaration of counsel.

DATED this 7th day of September, 2021.

Respectfully submitted,

/s/ *David Anthony*

DAVID ANTHONY

Assistant Federal Public Defender

Nevada Bar No. 7978

411 E. Bonneville Ave., Suite 250

Las Vegas, Nevada 89101

702-388-6577

DECLARATION OF DAVID ANTHONY

I, David Anthony, declare as follows:

1. I am an attorney at law, admitted to practice before this Court, employed as an Assistant Federal Public Defender. I represent the Petitioner Zane Floyd in this capital case.

2. Mr. Floyd's reply to the State's answer to his petition for writ of mandamus and prohibition in case no. 83255 is currently due today, September 7, 2021. I am requesting an extension of time of eight (8) days, up to and including September 15, 2021, to file and serve the reply. This is my first request for an extension of time.

3. On August 20, 2021, the State filed its answer to Mr. Floyd's Petition for Writ of Mandamus and Prohibition. In its Answer, the State raised, for the first time, a new argument against Mr. Floyd's statutory interpretation of NRS 176.355(3). Specifically, the State argues that the reference to "the state prison" in NRS Chapter 200 is relevant and should be considered alongside NRS 176.355 in determining legislative intent.

4. Because the State's Answer raises a new argument not originally argued below or considered by the district court in its decision, Floyd requests an extension of eight days to file his reply so that he may fully and properly assist this Court in resolving the issue raised with respect to the State's new argument. Relevant legislative history from these chapters of the NRS have been ordered and obtained for the purposes of addressing the State's arguments.

5. Fully briefing the new argument has required extensive and meaningful review of Nevada's statutory scheme and acquiring legislative history and minutes not readily available. This research is necessary to assist the Court in reviewing what will be an issue of first impression regarding the legislative intent of NRS 176.355.

6. In addition to these efforts, other case-related responsibilities have prevented me from devoting the full amount of time necessary to file the reply brief. I filed a writ reply with this Court on September 3, 2021 in case no. 83167. I am also assigned to Mr. Floyd's Ninth Circuit appeal, case no. 21-16134, where I am assisting in the drafting and review of an answering brief due September 7, 2021.

Along with these case requirements, I am also working on Mr. Floyd's federal trial case where he is challenging Nevada's method of execution. I am leading discovery in Mr. Floyd's federal case, which, relevant to this reply's timeframe, includes four depositions on September 8, September 10, September 13, and September 14. The latter two depositions require travel and an overnight stay in Ely, Nevada. And, I have had to devote time and attention to extensive consultation and review of experts and expert rebuttal reports which are due September 7, 2021.

7. This request is not made for the purpose of delay or for any other improper purpose, but in good faith and to ensure that all of the newly raised issues in this appeal are properly briefed before this Court while at the same time meeting my other travel and case-related deadlines that have been and will become due within this time period.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 7, 2021 in Las Vegas, Nevada.

/s/ David Anthony
DAVID ANTHONY

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of September, 2021 electronic service of the foregoing Request for Extension of Time to File Reply Brief shall be made in accordance with the Master Service List as follows:

Alexander Chen
Chief Deputy District Attorney
motions@clarkcountyda.com
Eileen.davis@clarkcountyda.com

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