

Case No. 83796

Supreme Court of Nevada

Electronically Filed  
Feb 13 2024 09:15 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

Donte Johnson,

Appellant,

vs.

State of Nevada, *et al.*,

Appellee.

**Motion to Extend Stay of  
Remittitur Pending Final  
Disposition of Petition for  
Writ of Certiorari**

DEATH PENALTY CASE

Rene L. Valladares  
Federal Public Defender  
Randolph M. Fiedler  
Assistant Federal Public Defender  
Nevada State Bar No. 12577  
411 E. Bonneville Ave., Ste. 250  
Las Vegas, NV 89101  
(702) 388-6577

Counsel for Appellant

Appellant Donte Johnson hereby moves for an order extending the stay of the remittitur and execution of judgment of this Court to allow his petition for writ of certiorari to be reviewed.

Dated this 13th day of February, 2024.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s/ *Randolph M. Fiedler*  
Randolph M. Fiedler  
Assistant Federal Public Defender

## 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 writ of 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." The rule contemplates a stay of 120 days unless good cause is shown. 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).

Mr. Johnson sought and received a stay under this rule, and this Court ordered the stay to remain in place until February 20, 2024. Per the order, if this Court has received notice from the United States Supreme Court that the petition for writ of certiorari has been filed, the stay will continue until ultimate resolution of his petition. If not, then the remittitur is to issue.

However, Mr. Johnson's petition for writ of certiorari, for which the United States Supreme Court granted an extension of time, is not

due until February 23, 2024. *See Johnson v. Nevada*, No. 23A564 (Dec. 19, 2023) (application for extension of time granted).<sup>1</sup>

Mr. Johnson requests that this Court extend the initial period of time for the stay an additional 17 days, but otherwise leave the Court's prior order in place.<sup>2</sup> That is, Johnson requests that this Court extend the stay of remittitur to March 8, 2024; if the clerk of court receives written notice by March 8, 2024, that Johnson filed a petition for writ of certiorari, Johnson requests that say remain in effect until final disposition of the certiorari proceedings.

///

///

///

---

<sup>1</sup> Available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23a564.html>.

<sup>2</sup> It took 14 days for the United States Supreme Court's notice of extension of time to be filed in this Court's docket, so Johnson is seeking 14 days from the filing deadline of his petition for writ of certiorari.

This is a death penalty case. Appellant will be raising an important federal constitutional issue that is subject to review by the United States Supreme Court.

DATED this 13th day of February, 2024.

Respectfully submitted  
Rene L. Valladares  
Federal Public Defender

/s/ *Randolph M. Fiedler*  
Randolph M. Fiedler  
Assistant Federal Public Defender

## CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2024, I electronically filed the foregoing document with the Nevada Supreme Court by using the appellate electronic filing system. The following participants in the case will be served by the electronic filing system:

Alex Chen  
Chief Deputy District Attorney  
Clark County District Attorney's Office

/s/ Lisa Keller  
An Employee of the  
Federal Public Defender