

IN THE SUPREME COURT OF THE STATE OF NEVADA

Zane Michael Floyd,

Appellant,

v.

The State of Nevada
Department of Corrections,
Charles Daniels, Director,
Department of Corrections;
And Ishan Azzam, Chief
Medical Officer of The State of
Nevada,

Respondents.

Supreme Court No. 84081

District Court Case No. A-21-833086-C

Electronically Filed
Feb 08 2022 01:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Docketing Statement
Civil Appeals

DEATH PENALTY CASE

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

I. WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XIV
County Clark Judge The Honorable Adriana Escobar
District Ct. Case No. A-21-833086-C

2. Attorney filing this docketing statement:

Attorney David S. Anthony, Brad Levenson Telephone (702)388-6577

Firm Federal Public Defenders Office

Address: 411 East Bonneville Avenue, Suite 250

Las Vegas, Nevada 89101

Client(s) Zane Michael Floyd

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Aaron D. Ford, Steve Shevorski

Telephone (702) 486-3420 Firm Office of the Attorney General

Address: 555 E. Washington Ave., Suite 3900

Las Vegas, Nevada 89101

Client(s) NDOC Defendants

Attorney Crane Pomerantz, Nadia Ahmed

Telephone (702) 862-8300

Firm Clark Hill

Address: 3800 Howard Hughes Pkwy, Suite 500
Las Vegas, Nevada 89169

Client(s) Ishan Azzam

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

☐ Judgment after bench

☒ Dismissal

☐ trial Judgment after

☐ Lack of jurisdiction

☐ jury verdict Summary

☒ Failure to state a
claim

☐ judgment Default

☐ Failure to
prosecute

judgment

☐ Grant/Denial of NRCP 60(b)
relief

☐ Other (specify): _____

☐ Grant/Denial of injunction

☐ Divorce Decree:

☐ Original
Modification

☐ Grant/Denial of declaratory
relief

☐ Review of agency determination

Other disposition (specify): _____

5. Does this appeal raise issues concerning any of the following?

☐ Child

☐ Custody

Venue

☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Floyd v. State, Supreme Court of the State of Nevada, Case No. 36752, Opinion (42 P.3d 249 (March 13, 2002)) (per curiam)

Floyd v. State, Supreme Court of the State of Nevada, Case No. 44868, Order of Affirmance (178 P.3d 754 (Feb. 16, 2006))

Floyd v. State, Supreme Court of the State of Nevada, Case No. 51409, Order of Affirmance (367 P.3d 769 (Nov. 17, 2010))

Floyd v. The Eighth Judicial District Court, Supreme Court of the State of Nevada, Case No. 83108

Floyd v. The Eighth Judicial District Court, Supreme Court of the State of Nevada, Case No. 83167

Floyd v. The Eighth Judicial District Court, Supreme Court of the State of Nevada, Case No. 83225

Floyd v. Gittere, Supreme Court of the State of Nevada, Case No. 83436

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

State v. Floyd, District Court, Clark County, Nevada, Case No. 99C159897,

Judgment of Conviction (September 5, 2000)

State v. Floyd, District Court, Clark County, Nevada, Case No. 99C159897, Findings of Fact Conclusions of Law and Order denying Petition for Writ of Habeas Corpus (February 4, 2005)

State v. Floyd, District Court, Clark County, Nevada, Case No. 99C159897, Findings of Fact Conclusions of Law and Order denying Petition for Writ of Habeas Corpus (April 2, 2008)

Floyd v. Baker, United States District Court, Case No 2:06-cv-00471-RFB-CWH, Order (47 F.Supp.3d 1148 (Sep. 22, 2014))

Floyd v. Baker, United States Court of Appeals for the Ninth Circuit, Case No. 14-99012, Opinion (940 F.3d 1082 (Oct. 11, 2019) and amended 949 F.3d 1128 (Feb. 2, 2020))

Floyd v. Gittere, et al, United States District Court, Case No. 2:06-cv-00471-RFB-DJA

Floyd v. Daniels, et al, United States District Court, Case No. 3:21-cv-00176-RFB-CLB

Floyd v. Gittere, District Court, Clark County, Nevada, Case No. A-21-832952-W

8. Nature of the action. Briefly describe the nature of the action and the result below:

Petitioner/Appellant, Zane Michael Floyd, appeals from an Order of the Eighth Judicial District Court granting Respondents Motion to Dismiss filed January 7, 2022. Mr. Floyd filed a complaint in the district court on April 16, 2021, alleging the Legislature made an unlawful delegation of authority to the Director of the NDOC, the Chief Medical Officer, and subordinate NDOC employees who will conduct Mr. Floyd's execution, in violation of Article 3, Section 1 of the Nevada Constitution. Specifically, Mr. Floyd argued the Legislature's grant of authority under NRS 176.355 constituted an unlawful delegation of authority in violation of the state constitution's separation of powers clause. NDOC Defendants and Defendant Ihsan Azzam filed motions to dismiss the complaint for failure to state a claim. This is an appeal from the district court's grant of the Defendants' motions to dismiss.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the district court erred in denying Mr. Floyd's complaint for declaratory and injunctive relief because NRS 176.355 constitutes and unlawful delegation of authority from the legislative branch to the executive branch in violation of Article 3, Section 1, of the Nevada Constitution.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Floyd v. NDOC, Supreme Court of Nevada Case No. 83181 (appealing the denial of a preliminary injunction and temporary restraining order).

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ NA

☐

☐

If not, explain: Not applicable. The Nevada Department of Corrections, through the Nevada Attorney General's Office, is a party to this appeal.

12. Other issues. Does this appeal involve any of the

☐ following issues?

- An issue arising under the United States and/or Nevada – Constitutions – yes, this is an issue under the Nevada Constitution
- A substantial issue of first impression – yes, this is a substantial issue of first impression
- An issue of public policy – yes, this appeal presents an important issue of public policy

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17 and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Under NRAP 17(a)(1), this case is retained by the Supreme Court because it is a death penalty case.

14. Trial. If this action proceeded to trial, how many days did the trial last?

N/A

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from
January 7, 2022

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served
January 7, 2022

Service was by
electronic means.

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

N/A.

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP Date of filing _____
50(b)

☐ NRCP Date of filing _____

☐ NRCP Date of filing _____

☐ 52(b)

NRCP 59

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See Primo Builders v. Washington, 126 Nev., 245 P.3d 1190 (2010).

N/A

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served_

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed January 10, 2022

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal,

e.g., NRAP 4(a) or other. NRAP 4(a)(1) provides for 30 days to file a timely notice of appeal

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP Yes

3A(b)(1)

Other (specify)

☐ NRS 38.205

☐ NRAP

3A(b)(2)

☐ NRS 233B.150

NRAP

NRS 703.376

3A(b)(3)

(b) Explain how each authority provides a basis for appeal from the judgment or order: NRAP 3A(b)(1) provides for an appeal from a final judgment dismissing Mr. Floyd's complaint.

List all parties involved in the action or consolidated actions in the district court:

- (a) Parties: Charles Daniels is the Director of the Nevada Department of Corrections; Ihsan Azzam is the Chief Medical Officer; John Does 1-20 are unknown employees or agents of NDOC who will be involved in the execution of appellant
- (b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other: all parties noted above are parties to this appeal. All parties have executed waiver of service of summons which have been filed in the district court.

22. List all parties involved in the action or consolidated actions in the district court:

The State of Nevada Department of Corrections; Charles Daniels, Director, Department of Corrections; and Ihsan Azzam, Chief Medical Officer of the State of Nevada; John Does 1-20 are unknown employees or agents of NDOC who will be involved in the execution of appellant

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

NRS 33.010 (declaratory relief) and NRS 30.030 (injunctive relief). Mr. Floyd's complaint for declaratory and injunctive relief was dismissed on January 7, 2022.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

- Yes

25.If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Y

☐ N

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment? N/A

☐ Y

☐ N

26.If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)): NA

27.Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross- claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order.

VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

DATED this 8th day of February, 2022.

Respectfully submitted
Rene L. Valladares
Federal Public Defender

/s/ *David Anthony*
David Anthony

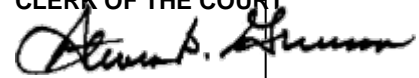
CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 8th day of February 2022, electronic service of the foregoing DOCKETING STATEMENT CIVIL APPEAL, shall be made in accordance with the Master Service List as follows:

Steven G. Shevorski
Chief Litigation Counsel
sshevorski@ag.nv.gov

Crane Pomerantz, Esq.
Nadia Ahmed, Esq.
Clark Hill
cpomerantz@clarkhill.com
nahmed@clarkhill.com

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



CASE NO: A-21-833086-C
Department 14

COMP
RENE L. VALLADARES
Federal Public Defender
Nevada Bar No. 11479
DAVID ANTHONY
Assistant Federal Public Defender
Nevada Bar No. 7978
David_Anthony@fd.org
BRAD D. LEVENSON
Assistant Federal Public Defender
Nevada Bar No. 13804C
Brad_Levenson@fd.org
JOCELYN S. MURPHY
Assistant Federal Public Defender
Nevada Bar No. 15292
Jocelyn_Murphy@fd.org
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-5819 (Fax)

Attorneys for Plaintiff Zane M. Floyd

DISTRICT COURT
CLARK COUNTY, NEVADA

ZANE MICHAEL FLOYD,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS;

CHARLES DANIELS, Director, Nevada
Department of Corrections;

IHSAN AZZAM, Chief Medical Officer of
the State of Nevada;

JOHN DOES 1-20, unknown employees or
agents of Nevada Department of
Corrections,

Defendants.

Case No.
Dept. No.

**COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

(Exempt from Arbitration: Equitable
and Declaratory Relief Requested)

DEATH PENALTY CASE

**EXECUTION WARRANT SOUGHT
BY THE STATE FOR MR. FLOYD'S
EXECUTION THE WEEK OF JUNE
7, 2021**

I. INTRODUCTION

1. Plaintiff, Zane Floyd hereby moves this Court for equitable relief against the Nevada Department of Corrections (NDOC), Charles Daniels, Director of the NDOC, Ihsan Azzam, Nevada's Chief Medical Officer, and John Does 1-20, who will participate in planning and effectuating Mr. Floyd's upcoming execution. Mr. Floyd challenges as unconstitutional NRS 176.355 (Nevada's lethal injection statute), which delegates, without suitable standards, unfettered discretion to the NDOC to determine Nevada's lethal injection protocol. Under NRS 33.010 and 30.030, Mr. Floyd requests this Court declare NRS 176.355 an unlawful delegation of power to the Executive branch and issue an injunction against Defendants, forbidding use of any lethal injection protocol against Mr. Floyd. Mr. Floyd's claims for relief are as follows:

II. PARTIES

2. Plaintiff, Mr. Floyd is a state death row inmate in the custody of Defendants at Ely State Prison in Ely, Nevada. On March 26, 2021, Clark County District Attorney, Steve Wolfson, announced that the CCDA would be seeking a warrant of execution against Mr. Floyd. *See David Ferrara, DA to proceed with death penalty against gunman in 1999 store killings*, Las Vegas Rev. J. (Mar. 26, 2021), available at <https://www.reviewjournal.com/crime/courts/da-to-proceed-with-death-penalty-against-gunman-in-1999-store-killings-2315637/>. Mr. Floyd brings this Complaint seeking declaratory and injunctive remedies, to ensure he is not unlawfully executed under NRS 176.355's unconstitutional delegation of legislative authority to the NDOC.

1 3. Defendant NDOC is a Nevada state agency. Article V of Nevada's
2 Constitution establishes that NDOC is a part of Nevada's Executive branch.
3 Under NRS 176.355, NDOC has delegated authority to carry out the execution of
4 death sentenced inmates.

5 4. Defendant Charles Daniels is the current Director of the NDOC.
6 Defendant Daniels is responsible for managing the operations of Nevada's state
7 prison facilities and the custody of the inmates confined therein, including Ely State
8 Prison (ESP). Defendant Daniels is ultimately responsible for the overall operations
9 and policies of NDOC, including the conducting of executions at ESP pursuant to
10 appropriately authorized state court issued warrants of execution, and ensuring
11 that any such executions at ESP are carried out in conformity with the constitutions
12 of Nevada and the United States. Under NRS 176.355, Director Daniels is required
13 to select the drug or combination of drugs to be used in Mr. Floyd's execution. Mr.
14 Daniels and all other individuals identified as Defendants in this Complaint are
15 sued in their official capacities.

16 5. Defendant Dr. Ihsan Azzam is the Chief Medical Officer of the State of
17 Nevada. Dr. Azzam is responsible for enforcing all public health laws and
18 regulations in the State. He also has the responsibility of providing consultation to
19 the NDOC Director regarding the selection of the drug or combination of drugs to be
20 used in lethal injection executions.

1 6. Defendants John Does 1-20 are employees or agents of NDOC who
2 take part in carrying out the lethal injection protocol for Nevada executions,
3 whether through planning, preparation, or performing the execution.

4 **III. JURISDICTION**

5 7. This Court has jurisdiction over Plaintiff, Mr. Floyd, as at all relevant
6 times he has been a citizen of the State of Nevada. Jurisdiction is also conferred to
7 Defendants as all are either Nevada state agencies or actors.

8 8. Jurisdiction is further conferred by NRS 30.010 and NRS 33.030,
9 which authorizes this Court to decide actions for declaratory relief and grant
10 injunctions.

11 **IV. VENUE**

12 9. Venue is proper in the Eighth Judicial District Court for the State of
13 Nevada, County of Clark, pursuant to NRS 13.020 in that the Defendants are
14 Nevada State agencies, Nevada public officers, and “the cause, or some part thereof,
15 arose” in Clark County, Nevada.

16 **V. FACTS**

17 10. On September 5, 2000, in the state district court for the Eighth
18 Judicial District Court of Nevada, the Honorable Jeffrey D. Sobel entered a
19 judgment of conviction against Mr. Floyd sentencing him to death.

20 11. After, Mr. Floyd began an appeals process, contesting his conviction
21 and death sentence through direct appeal and postconviction petitions before the
22 Nevada courts and then through habeas proceedings in both federal and state
23 courts.

1 12. The litigation of Mr. Floyd’s first federal habeas proceeding ended in
2 November 2020, upon the United States Supreme Court’s denial of Mr. Floyd’s
3 petition for writ of certiorari.

4 13. On March 26, 2021, Clark County District Attorney, Steve Wolfson,
5 gave notice that the CCDA would be seeking a warrant of execution against Mr.
6 Floyd from the state district court for the Eighth Judicial District Court of Nevada.

7 14. On April 14, 2021, the State filed a Motion and Notice of Motion for the
8 Court to Issue Second Supplemental Order of Execution and Second Supplemental
9 Warrant of Execution.

10 15. While the Legislature is constitutionally charged with deciding the
11 lethal injection protocol for Mr. Floyd’s execution, it delegated this authority to the
12 NDOC through NRS 176.355 (Nevada’s lethal injection protocol statute), by tasking
13 the Director of the Department of Corrections with, among other things, “Select[ing]
14 the drug or combination of drugs to be used for the execution after consulting with
15 the Chief Medical Officer.”

16 16. Because NRS 176.355 delegates unfettered discretion, Nevada’s
17 Director of the Department of Corrections, Charles Daniels, along with Nevada’s
18 Chief Medical Officer, Dr. Ihsan Azzam, will decide the entirety of the lethal
19 injection protocol used to execute Mr. Floyd. John Doe NDOC employees will also
20 assist in carrying out the lethal injection execution established by Daniels and Dr.
21 Azzam.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3

2

3
4
5
6
7
8
9

0
1

2

4
5

7
8
9
0
1

1 5. Accordingly, the Legislature may never delegate its lawmaking
2 authority.

3 6. However, under limited circumstances, the Legislature may delegate
4 fact-finding authority by establishing suitable and sufficient guidelines to aid the
5 delegated agency in carrying out the Legislature's policies. These guidelines must
6 make the statute complete within itself and leave the delegated agency with only
7 fact-finding authority.

8 7. NRS 176.355 violates Article III § 1 by delegating unfettered discretion
9 to the NDOC to determine Nevada's lethal injection protocol.

10 8. NRS 176.355 was codified in 1967 as Nevada's lethal injection statute.
11 It mandated that "the judgment of death shall be inflicted by the administration of
12 lethal gas, and that a suitable and efficient enclosure and proper means for the
13 administration of such gas for the purpose shall be provided by the board of prison
14 commissioners." This constituted a delegation to an Executive department, the
15 NDOC.

16 9. Later, in 1983, upon changing Nevada's method of execution to lethal
17 injection, NRS 176.355 was amended. The amendment altered NRS 176.355's
18 statutory language to provide: "(1) [t]he judgment of death must be inflicted by an
19 injection of a lethal drug. (2) The Director of the Department of Corrections shall . . .
20 Select the drug or combination of drugs to be used for the execution after consulting
21 with the Chief Medical Officer." The Legislature once again delegated authority to
22
23

determine Nevada's lethal injection protocol, but this time to the Director of the Department of Corrections.

10. NRS 176.355 includes less guidance than its prior version and its statutory language grants NDOC unrestricted authority, violating Article III § 1, in the following ways:

11. First, the Legislature fails to include suitable and sufficient guidelines to aid NDOC in carrying out the lethal injection protocol. Indeed, the sole guidance NRS 176.355 provides is that Mr. Daniels is ultimately responsible for deciding the entirety of the Nevada's lethal injection protocol, after consulting with Dr. Ahsam. NRS 176.355 only partially identifies the method of execution (lethal injection) and doesn't detail "how" and "under what circumstances" the lethal injection protocol must be carried out. NRS 176.355 provides the NDOC with unfettered discretion to choose between any type of drug(s) to be used during the execution and whether a one or multi drug protocol is satisfactory. NRS 176.355 fails to provide any guidelines or standards to aid NDOC in making either of these decisions.

12. Next, NRS 176.355 doesn't require the lethal drug(s) selected to be humane or that the execution be carried out humanely. NDOC is left with unfettered discretion to decide whether to facilitate a humane lethal injection protocol, a task that is beyond mere fact-finding. While a humane lethal injection protocol may be assumed or implied, neither is the standard under the separation of powers doctrine and neither is satisfactory for a constitutional delegation. NDOC is left with unfettered discretion to decide whether to create and effectuate a humane lethal injection protocol.

1 13. Additionally, NRS 176.355 states that death must be inflicted by an
2 injection of a lethal drug but does not specify the manner of injection. Thus, the
3 NDOC has unfettered discretion to decide whether an execution will be carried out
4 by an intravenous injection, requiring the use of a needle or through an oral
5 injection, consisting of injecting the lethal substance into a cocktail, that is then
6 drank during the execution. The Legislature fails to fully define its intended method
7 of execution and provide suitable and sufficient guidelines to aid the NDOC in
8 determining the proper manner of execution.

9 14. Finally, NRS 176.355 also fails to guide NDOC in carrying out the
10 Legislature's purpose in effecting the statute. Contextually, it is clear that NRS
11 176.355's main purpose is to execute a defendant. However, the statute doesn't
12 include standards to guide NDOC in carrying out this purpose. Instead, it leaves
13 those legislative decisions directly to NDOC. NRS 176.355 merely states that the
14 death punishment "must be inflicted by an injection of a lethal drug." Yet, its text
15 does not include express guidance requiring NDOC to administer lethal drugs until
16 an inmate is dead or even acquire drugs that are sufficient to cause death. These
17 tasks are not simple fact finding but go to the core of legislating by permitting
18 NDOC to: discontinue administering the lethal drug at its discretion, make
19 determinative decisions as to which drug(s) it believes are sufficient to cause death,
20 and arbitrarily acquire lethal drugs that are insufficient to cause death.

21 15. All of the above inquiries go beyond fact-finding and to the core of
22 policymaking and legislating, a task that the separation of powers specifically
23

1 forbids the Executive from performing. Nevada's democracy depends on Legislators
2 legislating and the Executive governing. Thus, NRS 176.355's delegation of
3 legislative power is not only a violation of Nevada's constitution, but also improper
4 under our State's fundamental principles of governing.

5 **B. An injunction prohibiting Defendants from using any lethal injection**
6 **protocol against Mr. Floyd is proper as he is likely to succeed on the**
7 **merits and Defendants conduct will cause irreparable harm for which**
8 **compensatory damages are inadequate**

9 16. Mr. Floyd realleges and incorporates herein by reference all of the
10 preceding paragraphs of this Complaint as if set forth in full below.

11 17. An injunction is appropriate when a moving party has a likelihood of
12 success on the merits and irreparable harm will result if the Defendant's conduct
13 continues. *Boulder Oaks Community Ass'n v. B & J Andrews Enterprises, LLC*, 125
14 Nev. 397, 403, 215 P.3d 31 (2009).

15 i. **Success on the merits**

16 18. Mr. Floyd is reasonably likely to succeed on the merits of his claim
17 because NRS 176.355 unequivocally violates Article III § 1 of Nevada's Constitution
18 by delegating legislative authority to the NDOC without suitable and sufficient
19 standards to guide NDOC in carrying out Nevada's lethal injection protocol.

20 19. NRS 176.355 provides a clear delegation of authority from the
21 Legislature, to the Executive, to determine Nevada's lethal injection protocol.

22 20. Article III § 1 of Nevada's constitution expressly prohibits the
23 Legislature's act.

1 21. The Legislature may only delegate authority when it: (1) establishes
2 suitable and sufficient standards within the statute to guide the delegated agency
3 in executing the Legislature’s policy; and (2) makes the statute complete within
4 itself such that only fact-finding authority is left.

5 22. Considering these factors, the Legislature’s delegation is
6 unconstitutional as it delegates unfettered discretion to the NDOC by:

7 (a) Failing to provide suitable and sufficient standards to guide
8 NDOC in executing NRS 176.355’s policy.

9 (b) Failing to make the statute complete within itself such that only
10 fact-finding authority is left.

11 (c) Failing to provide a meaningful definition of “lethal injection” and
12 thus giving NDOC authority to define terms.

13 (d) Providing NDOC with power beyond fact-finding authority by
14 granting the NDOC unfettered discretion to choose the quantity, quality, and type of
15 drug(s) to be used in Mr. Floyd’s execution.

16 (e) Providing NDOC with power beyond fact-finding authority by
17 permitting the NDOC with unfettered discretion to not acquire drugs that are
18 sufficient to cause death.

19 (f) Providing NDOC with power beyond fact-finding authority by
20 permitting the NDOC unfettered discretion to determine if its lethal injection
21 protocol will be carried out in a humane manner and determine what constitutes a
22 humane execution.

1 **ii. Irreparable harm**

2 23. If this Court does not intervene, Mr. Floyd will suffer irreparable
3 harm.

4 24. Defendants continued unlawful conduct will result in irreparable
5 harm. Defendants only purpose in carrying out NRS 176.355 is to execute Mr. Floyd
6 by lethal means. Mr. Floyd's death is a permanent harm and thus irreparable once
7 carried out by the NDOC; whereas, NDOC will only suffer delay, which is
8 inconsequential when compared to Mr. Floyd's execution. Any favorable outcome
9 following a trial will be useless for Mr. Floyd if his execution is not enjoined by this
10 Court.

11 **iii. No adequate remedy at law**

12 25. Because Defendants actions will result in Mr. Floyd's execution, any
13 amount of compensatory remedy is inadequate.

Prayer for Relief

WHEREFORE, Mr. Floyd requests the following relief:

1. That this Court assume jurisdiction of this case and set it for a hearing on the merits.

2. That this Court issue a declaratory judgment declaring NRS 176.355 a violation of Article III § 1, as an unlawful delegation of Legislative authority to the Executive, as alleged above.

3. That this Court issue a temporary restraining order or preliminary or permanent injunction commanding Defendants not to carry out any lethal injection protocol on Mr. Floyd until such time as the Legislature amends NRS 176.355 to set forth the State's lethal injection protocol and provide suitable and sufficient standards to guide Defendants in executing that protocol, so that Mr. Floyd may be executed in a constitutional manner.

///

///

///

1 4. Mr. Floyd also seeks any further relief the Court deems necessary,
2 just, and proper.

3 DATED this 16th of April, 2021.

4 Respectfully submitted
5 RENE L. VALLADARES
6 Federal Public Defender

7 /s/ David Anthony
8 DAVID ANTHONY
9 Assistant Federal Public Defender

10 /s/ Brad D. Levenson
11 BRAD D. LEVENSON
12 Assistant Federal Public Defender

13 /s/ Jocelyn S. Murphy
14 JOCELYN S. MURPHY
15 Assistant Federal Public Defender
16
17
18
19
20
21
22
23

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

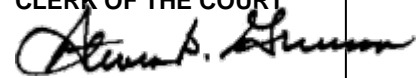
DATED this 16th day of April, 2021.

/s/ David Anthony
DAVID ANTHONY
Assistant Federal Public Defender

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

D. Randall Gilmer
Chief Deputy Attorney General
Office of the Nevada Attorney General
Public Safety Division
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101
Phone: 702.486.3427
Fax: 702.486.3773
drgilmer@ag.nv.gov

12
13
14
15
16
17
18
19
20
21
22
23



AARON D. FORD
Attorney General
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
Office of the Attorney General
555 E. Washington Ave, Suite 3900
Las Vegas, NV 89101
(702) 486-3420 (phone)
(702) 486-3773 (fax)
sshevorski@ag.nv.gov

*Attorneys for Defendants
Nevada Department of Corrections
and Charles Daniels*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ZANE MICHAEL FLOYD,
Plaintiff,

Case No. A-21-833086-C
Dept. No. XIV

vs.

NEVADA DEPARTMENT OF
CORRECTIONS; CHARLES DANIELS;
Director, Nevada Department of Corrections;
IHSAN AZZAM, Chief Medical Officer of the
State of Nevada; JOHN DOES 1-20, unknown
employees or agents of Nevada Department of
Corrections,

Defendants.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order Granting Defendants' Motions to Dismiss was entered on the 7th day of January, 2022, a copy of which is attached hereto as Exhibit "A".

DATED this 7th day of January, 2022.

AARON D. FORD
Attorney General

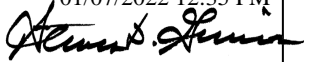
By: /s/ Steve Shevorski
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
*Attorneys for Defendants
Nevada Department of Corrections
and Charles Daniels*

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

/s/ Traci Plotnick
Traci Plotnick, an employee of the
Office of the Attorney General

EXHIBIT A

EXHIBIT A


CLERK OF THE COURT

ORDG
AARON D. FORD
Attorney General
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
State of Nevada
Office of the Attorney General
555 E. Washington Ave, Suite 3900
Las Vegas, NV 89101
(702) 486-3420 (phone)
(702) 486-3773 (fax)
sshevorski@ag.nv.gov

Attorneys for the State of Nevada ex rel.
The Nevada Department of Corrections

DISTRICT COURT

CLARK COUNTY, NEVADA

ZANE MICHAEL FLOYD,

Plaintiff,

vs.

NEVADA DEPARTMENT OF
CORRECTIONS; CHARLES DANIELS;
Director, Nevada Department of Corrections;
IHSAN AZZAM, Chief Medical Officer of the
State of Nevada; JOHN DOES 1-20, unknown
employees or agents of Nevada Department of
Corrections,

Defendants.

Case No. A-21-833086-C
Dept. No. XIV

Date of Hearing: December 9, 2021
Time of Hearing: 9:30 a.m.

ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS

The State of Nevada ex rel its Nevada Department of Corrections (**NDOC**), Director Charles Daniels (**Daniels**), and Chief Medical Officer Ihsan Azzam (**Dr. Azzam**), moved to dismiss Plaintiff's, Zane Floyd (**Floyd**), complaint under NRCP 12(b)(5). The Court held a hearing on December 9, 2021 at 9:30 a.m. Steve Shevorski appeared for NDOC and Director Daniels. Nadia Ahmed appeared for Dr. Ihsan Azzam. Brad Levenson and Jocelyn Murphy appeared on Plaintiff's behalf. The Court, having reviewed the respective motions to dismiss of NDOC and Daniels and Dr. Azzam, Floyd's opposition, and the respective . . .

1 replies and listening to oral argument, GRANTS NDOC and Daniels’ and Dr. Azzam’s
2 respective motions to dismiss:

3 **I. Plaintiff’s allegations**

4 1. Floyd is a death row inmate. Compl. ¶2

5 2. A Nevada jury sentenced him to death for shooting and killing Lucy
6 Tarantino, Thomas Darnell, Chuck Leos, and Dennis “Troy” Sargent with a 12-gauge
7 shotgun at a grocery store. *Id.* (citing [https://www.reviewjournal.com/crime/courts/da-to-](https://www.reviewjournal.com/crime/courts/da-to-proceed-with-death-penalty-against-in-1999-store-killings-2315637/)
8 [proceed-with-death-penalty-against-in-1999-store-killings-2315637/](https://www.reviewjournal.com/crime/courts/da-to-proceed-with-death-penalty-against-in-1999-store-killings-2315637/)).

9 3. Floyd challenges Nevada’s lethal injection statute, NRS 176.355, as
10 unconstitutional under the non-delegation doctrine. *Id.* at ¶¶1, and 15-16.

11 4. Daniels is NDOC’s current Director.

12 5. Dr. Azzam is Nevada’s current Chief Medical Officer.

13 6. The Nevada Legislature created NDOC. NRS 209.101(1).

14 7. Floyd seeks declaratory relief and an order against NDOC, Daniels, and Dr.
15 Azzam declaring that NRS 176.355 violates Article III §1 of Nevada’s Constitution under
16 the Separation of Powers doctrine.

17 **II. Statutory background**

18 8. Daniels, *inter alia*, administers NDOC under the direction of Board of State
19 Prison Commissioners. NRS 209.131(1).

20 9. The office of Chief Medical Officer is an appointed position within Nevada’s
21 Division of Public and Behavioral Health of the Department of Health and Human
22 Services. NRS 439.085(1).

23

24

25

26 . . .

27 . . .

28 . . .

10. The statute at issue is NRS 176.355, which provides in full:

1. The judgment of death must be inflicted by an injection of a lethal drug.

2. The Director of the Department of Corrections shall:

(a) Execute a sentence of death within the week, the first day being Monday and the last day being Sunday, that the judgment is to be executed, as designated by the district court. The Director may execute the judgment at any time during that week if a stay of execution is not entered by a court of appropriate jurisdiction.

(b) Select the drug or combination of drugs to be used for the execution after consulting with the Chief Medical Officer.

(c) Be present at the execution.

(d) Notify those members of the immediate family of the victim who have, pursuant to NRS 176.357, requested to be informed of the time, date and place scheduled for the execution.

(e) Invite a competent physician, the county coroner, a psychiatrist and not less than six reputable citizens over the age of 21 years to be present at the execution. The Director shall determine the maximum number of persons who may be present for the execution. The Director shall give preference to those eligible members or representatives of the immediate family of the victim who requested, pursuant to NRS 176.357, to attend the execution.

3. The execution must take place at the state prison.

4. A person who has not been invited by the Director may not witness the execution.

NRS 176.355.

III. Conclusions of law

11. Floyd in this action asserts that NRS 176.355 on its face violates the Separation of Powers doctrine enshrined in Article 3, §1 of Nevada's Constitution.

12. Article 3 of Nevada's Constitution is entitled "Distribution of Powers." NEV. CONST. art. 3.

13. Relevant to Floyd's challenge, Section 1 of Article 3 provides: "The powers of the Government of the State of Nevada shall be divided into three separate departments, - the Legislative, - the Executive and Judicial; and no persons charged with exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution." NEV. CONST. art. 3, §1.

14. The powers of the Legislative, Executive, and Judicial branches are described as follows by Nevada precedent:

1 [L]egislative power is the power of law-making representative
2 bodies to frame and enact laws, and to amend and repeal them. .
3 . . .

4 The executive power extends to the carrying out and enforcing
5 the laws enacted by the legislature. . . .

6 ‘Judicial Power’ . . . is the *authority* to hear and determine
7 justiciable controversies. Judicial power includes the
8 authority to enforce any valid judgment, decree, or order.

9 *Del Papa v. Steffen*, 112 Nev. 369, 377, 915 P.2d 245, 250-51 (1996) (quoting *Galloway v.*
10 *Truesdell*, 83 Nev. 13, 19, 422 P.2d 237, 242 (1967)).

11 15. Defining criminal conduct and setting corresponding punishments is a
12 legislative function. *Sheriff, Douglas Cty. v. LaMotte*, 100 Nev. 270, 272, 680 P.2d 333, 334
13 (1984).

14 16. The executive power carries out and enforces the laws that the Legislature
15 enacts. *Del Papa*, 112 Nev. at 377, 915 P.2d at 250.

16 17. Nevada’s jurisprudence makes clear that the Executive branch’s use of
17 discretion to implement a law does not violate Article 3, Section 1 of Nevada’s Constitution.
18 The Legislature’s delegation to an administrative agency is constitutional “so long as
19 suitable standards are established by the legislature for the agency’s use of its power.”
20 *Sheriff, Clark Cty. v. Luqman*, 101 Nev. 149, 153-54, 697 P.2d 107, 110 (1985). Suitable
21 standards include delegating “authority or discretion, to be exercised under and in
22 pursuance of the law.” *State v. Shaughnessy*, 47 Nev. 129, 217 P. 581, 583 (1923).

23 18. Statutes are presumed to be valid, and the challenger bears the burden of
24 showing that a statute is unconstitutional. *Hard v. Depaoli*, 56 Nev. 19, 41 P.2d 1054, 1056
25 (1935). To meet that burden, the challenger must make a clear showing of invalidity.
26 *Silvar v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark*, 122 Nev. 289, 292, 129 P.3d 682, 684
27 (2006).

28 19. Statutory and constitutional interpretation are questions of law. *ASAP*
Storage, Inc. v. City of Sparks, 123 Nev. 639, 644, 173 P.3d 734, 738 (2007).

. . .

1 20. “An example of a pure legal question might be a challenge to the facial validity
2 of a statute.” *Beavers v. State, Dep’t. of Motor Vehicles & Pub. Safety*, 109 Nev. 435, 438
3 n.1, 851 P.2d 432, 434 n.1 (1993); *accord Schwartz v. Lopez*, 132 Nev. 732, 744, 382 P.3d
4 886, 895 (2016).

5 21. Interpreting the breadth of authority from a statute’s language is question of
6 law for a court. *In re Nev. State Eng’r Ruling No. 5823*, 128 Nev. 232, 238, 277 P.3d 449,
7 453 (2012).

8 22. The doctrine of the separation of powers involves a pure legal question
9 regarding the constitutionality of a statute. *State v. Second Jud. Dist. Ct.*, 134 Nev. 783,
10 786, 432 P.3d 154, 158 (2018).

11 23. Floyd brings a facial challenge to the constitutionality of NRS 176.355.
12 Compl. at ¶¶ 1-15. Floyd raises no question before this Court as to the constitutionality of
13 Nevada’s mode of execution statute as applied to him, but rather asks this Court to declare
14 NRS 176.355 unconstitutional in all its applications. *Id.* at p. 12.

15 24. NRS 176.355 is constitutional.

16 25. Because Floyd brings a facial challenge, the Court starts with the language of
17 the statute, NRS 176.355.

18 26. The Court views the words “lethal” and “injection” in NRS 176.355 as
19 straightforward and unambiguous.

20 27. The word “lethal” has an ordinary meaning of “[d]eadly; fatal.” Lethal,
21 BLACK’S LAW DICTIONARY (10th ed. 2014).

22 28. The word “injection” is also not ambiguous. As the Ohio Court of Appeals
23 noted, “‘injection’ is defined as the ‘[i]ntroduction of a medicinal substance or nutrient
24 material into the subcutaneous cellular tissue (subcutaneous or hypodermic), the muscular
25 tissue (intramuscular), a vein (intravenous) . . . or other canals or cavities of the body.’”
26 *O’Neal v. State*, 146 N.E.3d 605, 617 (Ohio Ct. App.), *appeal allowed*, 154 N.E.3d 98 (Ohio
27 2020) (quoting STEDMAN’S MEDICAL DICTIONARY 635 (3d unabr. Laws.’ Ed. 1972)).

28 . . .

1 29. In rejecting Floyd’s argument, the Court is keeping faith with the Nevada
2 Supreme Court’s analysis in *Luqman*. That the Legislature used ordinary terms like
3 “lethal” and “injection” does not make NRS 176.355 constitutionally vulnerable to Floyd’s
4 argument. See *Luqman*, 101 Nev. at 154, 697 P.2d at 110 (upholding delegation to
5 administrative agency despite use of general terms like “medical propriety” and “potential
6 for abuse” because they were sufficient to guide the agency’s fact-finding).

7 30. The Legislature did not delegate its law-making function by not specifying the
8 drug or combination of drugs to be used in an execution by lethal injection. Consistent with
9 Separation of Powers principles, the Legislature may delegate the power to determine the
10 facts or state of things upon which the law makes its own operations depend. *State ex rel.*
11 *Ginocchio v. Shaughnessy*, 47 Nev. 129, 217 P. 581 (1923). That is just what the Legislature
12 did in enacting NRS 176.355. The Legislature properly delegated this fact-finding function
13 to NDOC’s Director.

14 31. NRS 176.355 is also not infirm because it does not include specific language
15 requiring a humane execution or that the drug(s) selected be humane. The Legislature and
16 administrative agencies alike must follow the state and federal constitution. See *Gibson v.*
17 *Mason*, 5 Nev. 283, 292 (1869) (explaining that the Legislature’s power is limited only by
18 “the Federal Constitution[] and . . . the fundamental law of the State”). The Court declines
19 to accept Floyd’s invitation to strike down NRS 176.355 by assuming that the Director and
20 NDOC may act unconstitutionally without a specific statutory language commanding them
21 to obey the Nevada and United States Constitutions.

22 32. The Court also takes note of persuasive authority that has rejected arguments
23 similar to Floyd’s. The courts to address this question, which have capital punishment
24 statutes that are similar to Nevada’s, have overwhelmingly found their state legislature
25 can constitutionally delegate implementation of execution statutes to corrections officials.
26 See, e.g., *O’Neal v. State*, 146 N.E.3d 605, 620 (Ohio Ct. App.), *appeal allowed on other*
27 *grounds*, 154 N.E.3d 98 (Ohio 2020); *Sims v. Kernan*, 241 Cal. Rptr. 3d 300, 308 (Ct. App.
28 2018); *Zink v. Lombardi*, No. 2:12-CV-4209-NKL, 2012 WL 12828155, at *7-8 (W.D. Mo.

1 Nov. 16, 2012); *Cook v. State*, 281 P.3d 1053, 1056 (Ariz. Ct. App. 2012); *State v. Ellis*, 799
2 N.W.2d 267, 289 (Neb. 2011); *Brown v. Vail*, 237 P.3d 263, 269 (Wash. 2010) (en banc);
3 *Sims v. State*, 754 So. 2d 657, 670 (Fla. 2000); *State v. Osborn*, 631 P.2d 187, 201 (Idaho
4 1981); *Ex parte Granviel*, 561 S.W.2d 503, 515 (Tex. Crim. App. 1978). *State v. Hawkins*,
5 519 S.W.3d 1 (Tenn. 2017) (quoting *State v. Hawkins*, No. W2012-00412CCA-R3-DD, 2015
6 WL 5169157 at *28 (Tenn. Crim. App. 2015)).

7 33. The Court notes the Nevada Supreme Court considered and rejected near
8 identical arguments in the Eighth Amendment context. *McConnell v. State*, 120 Nev. 1043,
9 1056-57, 102 P.3d 606, 616 (2004); *State v. Gee*, 46 Nev. 418, 436-48, 211 P. 676, 681-82
10 (1923);

11 34. In upholding former NRS 176.355, the Nevada Supreme Court noted the
12 current statute affords NDOC no more discretion than its prior version, requiring the use
13 of lethal gas for executions, which “infring[ed] no provision of the Constitution.” *Gee*, 46
14 Nev. 418, 211 P. 676, 682 (1923). Yet the Nevada Supreme Court “[could not] see that any
15 useful purpose would be served by requiring greater detail.” *Id.* The Court affirmed that
16 the reasoning in *Gee* applies equally to Nevada’s lethal injection statute. *See McConnell*,
17 120 Nev. at 1056, 102 P.3d at 616 (applying the reasoning in *Gee* to reject a facial challenge
18 to NRS 176.355 based on a lack of detailed codified guidelines for the lethal injection
19 procedure).

20 **III. Order**

21 Based upon the Background and Conclusions of Law above:

22 **IT IS HEREBY ORDERED** that NDOC and Daniel’s motion to dismiss pursuant
23 to NRCP 12(b)(5) is GRANTED.

24
25
26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that Dr. Azzam's motion to dismiss pursuant to
 NRC 12(b)(5) is also **GRANTED**.

DATED this 01 day of January, 2022.

Dated this 7th day of January, 2022

J. Escobar
DISTRICT COURT JUDGE

Submitted by:

AARON D. FORD
Attorney General

By: /s/ Steve Shevorski
Steve Shevorski
Chief Litigation Counsel
Attorneys for Defendants
State of Nevada ex rel. its
Department of Corrections and
Director Charles Daniels

From: Ahmed, Nadia <nahmed@clarkhill.com>
Sent: Wednesday, December 22, 2021 1:20 PM
To: Steven G. Shevorsi <SShevorsi@ag.nv.gov>
Subject: Re: Floyd - Checking in on Draft Order Granting Motions to Dismiss

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Okay fair enough. I'm fine with your order as is and don't have any edits. Sorry to hold it up and thank you!

Sent from my iPhone

Nadia Ahmed

Senior Counsel

Clark Hill LLP

3800 Howard Hughes Parkway, Las Vegas, NV 89169

(170) 269-7754(office) | (702) 862-8400(fax)

nahmed@clarkhill.com | www.clarkhill.com

From: David Anthony <David_Anthony@fd.org>
Sent: Thursday, December 30, 2021 9:15 AM
To: Steven G. Shevorski <SShevorski@ag.nv.gov>; Brad Levenson <Brad_Levenson@fd.org>
Cc: Ahmed, Nadia <nahmed@clarkhill.com>
Subject: RE: Floyd - Draft Order Granting MTD

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Steve:

It looks like there is a misspelling on page two line 6 should be "gauge". Other than that, we don't have an objection to the form or content of the order. Please feel free to submit the order to the court. Thanks.

David

From: Steven G. Shevorski <SShevorski@ag.nv.gov>
Sent: Monday, December 27, 2021 9:04 AM
To: Brad Levenson <Brad_Levenson@fd.org>; David Anthony <David_Anthony@fd.org>
Cc: Ahmed, Nadia <nahmed@clarkhill.com>
Subject: Floyd - Draft Order Granting MTD

Matter: Floyd
Case # A-21-833086-C

Brad and David,

I hope you were able to have a happy holiday. Attached is the draft order granting the motions to dismiss. Nadia has indicated her approval as to form and content.

Best regards,

Steve

Steve Shevorski
Chief Litigation Counsel
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
702-486-3783

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Zane Floyd, Plaintiff(s)

CASE NO: A-21-833086-C

7 vs.

DEPT. NO. Department 14

8 Nevada Department of
9 Corrections, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/7/2022

15 Gene Crawford

gcrawford@sklar-law.com

16 Traci Plotnick

tplotnick@ag.nv.gov

17 Steven Shevorski

sshevorski@ag.nv.gov

18 Mary Pizzariello

mpizzariello@ag.nv.gov

19 Amanda Brandon

abrandon@sklar-law.com

20 Bradley Levenson

ecf_nvchu@fd.org

21 David Anthony

david_anthony@fd.org

22 Crane Pomerantz

cpomerantz@sklar-law.com

23 Nadia Ahmed

nahmed@sklar-law.com

24 Akke Levin

alevin@ag.nv.gov

25 Sabrena Clinton

sclinton@ag.nv.gov

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Kiel Ireland	kireland@ag.nv.gov
Terri Scott	tscott@sklar-law.com
Eddie Rueda	erueda@ag.nv.gov