

Case No. 84081

Supreme Court of Nevada

Electronically Filed
May 18 2022 11:17 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Zane Michael Floyd,

Appellant,

vs.

DEATH PENALTY CASE

The State of Nevada Department of
Corrections, Charles Daniels,
Director, Department of Corrections,

Appellee.

Appeal from the Eighth Judicial District Court

Appellant's Appendix
Volume 4 of 4

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DOCUMENT	DATE	VOLUME	PAGE(S)
Complaint for Declaratory and Injunctive Relief	04/16/2021	1	001–016
Defendant Ihsan Azzam, M.D.’s Joinder to State of Nevada Ex Rel. Its Department of Corrections and Charles Daniels’ Motion to Dismiss Under Nev. R. Civ. P. 12(B)(5)	10/07/2021	2	388–390
Defendant Ihsan Azzam, M.D.’s Motion to Dismiss under Nev. R. Civ. P. 12(B)(5)	10/07/2021	2	381–387
Exhibits in Support of Opposition to Defendant Azzam’s Motion to Dismiss	10/19/2021	3	697–699
1. Declaration of John M. DiMuro, M.D., dated Oct. 20, 2017	10/19/2021	3	700–705
2. E-mails between James Dzurenda, Director, Nevada Department of Correction and Dr. Ihsan Azzam, Chief Medical Officer, Nevada Department of Correction, for the period July 6, 2018 – July 10, 2018 (Bates numbers NDOC-DPP-0009 – 0022)	10/19/2021	3	706–720
Exhibits in Support of Opposition to NDOC Defendant’s Motion to Dismiss	10/07/2021	2	406–408
Exhibits in Support of Plaintiff’s Motion for Temporary Restraining	04/16/2021	1	031–033

DOCUMENT	DATE	VOLUME	PAGE(S)
Order with Notice and Preliminary Injunction			
1. Hearing Before the Senate Committee on Judiciary, 62nd Legis. (1983) (statement of John Slansky, Warden of Northern Nevada Correctional Center), dated Feb. 10, 1983	04/16/2021	1	034–037
2. Hearing Before the Assembly Committee on Judiciary, 62nd Legis. (1983) (statement of Vernon Housewright, Director of Prisons), dated May 2, 1983	04/16/2021	1	038–039
3. Dozier v. State of Nevada, Case No. 05C215039, District Court of Clark County, Nevada, dated Nov. 27, 2017	04/16/2021	1	040–057
Exhibits to Reply to Opposition to Motion for Temporary Re Restraining Order with Notice and Preliminary Injunction	05/17/2021	1	087–090
1. <i>State v. Gee, et al.</i> , Appellant’s Opening Brief, Case No. 2547, Nevada Supreme Court, 1923	05/17/2021	1	091–128
2. Alexandra L. Klein, <i>Nondelegating Death</i> , 81 Ohio L. J. 924 (2020)	05/17/2021	1	129–188
3. <i>Floyd v. Charles Daniels, et al.</i> , Case No. 3:21-cv-00176-	05/17/2021	1	189–233

	DOCUMENT	DATE	VOLUME	PAGE(S)
	RFB-CLB, Transcript of Evidentiary Hearing, (Testimony of Charles Daniels, (D. Nev.), May 6, 2021, (ECF No. 49)			
4.	David Ferrara, <i>Nevada prison officials unsure on execution method for Zane Floyd</i> , Las Vegas Review Journal, May 3, 2021	05/17/2021	1	234–238
5.	Declaration of David B. Waisel, Oct. 4, 2017	05/17/2021	1–2	239–256
6.	<i>State v. Dozier</i> , Case No, 05215039, Clark County District Court, Transcript of Defendant’s Motion for Determination Whether Scott Dozier’s Execution Will Proceed in a Lawful Manner/Status Check: Protocols, Oct. 11, 2017	05/17/2021	2	257–277
7.	William Wan, <i>Execution drugs are scarce. Here’s how one doctor decided to go with opioids</i> , The Washington Post, December 11, 2017	05/17/2021	2	278–281
8.	<i>State v. Dozier</i> , Case No, 05215039, Clark County District Court, Findings of Fact, Conclusions of Law, and Order Enjoining the Nevada Department of Corrections	05/17/2021	2	282–299

DOCUMENT	DATE	VOLUME	PAGE(S)
from Using a Paralytic Drug in the Execution of Petitioner, Nov. 27, 2017			
9. <i>Floyd v. Daniels, et al.</i> , Case No. 3:21-cv-00176-RFB-CLB, (D. Nev.) Motion to Withdraw as Attorney of Record for Dr. Ishan Azzam, May 4, 2021 (ECF No. 41)	05/17/2021	2	300–311
Nevada Department of Corrections Opposition to Motion for Temporary Restraining Order With Notice and Preliminary Injunction	04/30/2021	1	058–069
Notice of Appeal	01/10/2022	4	756–759
Notice of Entry of Order granting Defendants’ Motions to Dismiss	01/07/2022	3–4	741–755
Opposition to Defendant Azzam’s Motion to Dismiss	10/19/2021	3	689–696
Opposition to NDOC Defendant’s Motion to Dismiss	10/07/2021	2	391–405
1. Reporter’s Transcript of Proceedings, <i>Floyd v. Daniels, et al.</i> , Case No. 3:21-cv-00176- RFB-CLB, (Dist. Nev), ECF No. 49, May 6, 2021	10/07/2021	2–3	409–518
2. Reporter’s Transcript of Proceedings, <i>Floyd v. Daniels, et al.</i> , Case No. 3:21-cv-00176-	10/07/2021	3	519–688

DOCUMENT	DATE	VOLUME	PAGE(S)
RFB-CLB, (Dist. Nev.), ECF No. 113, June 28, 2021			
Order Denying Plaintiff's Motion for Temporary Restraining Order with Notice and Preliminary Injunction	06/17/2021	2	357–369
Order Granting Defendants' Motions to Dismiss	01/07/2022	3	729–740
Plaintiff's Motion for Temporary Restraining Order With Notice and Preliminary Injunction	04/16/2021	1	017–030
Reply to Opposition to Motion for Temporary Restraining Order with Notice and Preliminary Injunction	05/17/2021	1	070–086
State of Nevada Ex Rel. Its Department of Corrections and Charles Daniels' Motion to Dismiss Under Nev. R. Civ. P. 12(B)(5)	08/23/2021	2	370–380
State of Nevada Ex Rel. its Department of Corrections and Charles Daniels' Reply Supporting Their Motion to Dismiss Under Nev. R. Civ. P. 12(B)(5)	10/28/2021	3	721–728
Transcript of Proceedings Re: Plaintiff's Motion for Temporary Restraining Order and With Notice and Preliminary Injunction	06/08/2021	2	312–356

Certificate Of Electronic Service

I hereby certify that on May 18, 2022, 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:

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

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

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

D3B 3B2 274C D5F1
Adriana Escobar
District Court Judge

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

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From: David Anthony <David_Anthony@fd.org>
Sent: Thursday, December 30, 2021 9:15 AM
To: Steven G. Shevorsi <SShevorsi@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. Shevorsi <SShevorsi@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 Shevorsi
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
4 CLARK COUNTY, NEVADA

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
14 system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 1/7/2022

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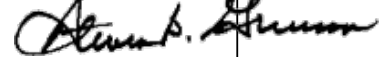
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1/10/2022 3:27 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Jan 18 2022 10:27 a.m.
Elizabeth A. Brown
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DISTRICT COURT
CLARK COUNTY, NEVADA

Zane M. 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. A-21-833086-C
Dept. No. XIV

Notice of Appeal

DEATH PENALTY CASE

1 Notice is hereby given that Plaintiff Zane Michael Floyd appeals to the
2 Nevada Supreme Court from the January 7, 2022, order granting Defendants'
3 motions to dismiss, as well as all orders, rulings, or decisions related thereto that
4 are made appealable thereby.

5 Written notice of entry of the order was filed on January 7, 2022.

6 Dated this 10th day of January, 2022.

7
8 Respectfully submitted,

9 Rene L. Valladares
Federal Public Defender

10 /s/ David Anthony
11 David Anthony
Assistant Federal Public Defender

12 /s/ Brad D. Levenson
13 Brad D. Levenson
Assistant Federal Public Defender

14 /s/ Jocelyn S. Murphy
15 Jocelyn S. Murphy
Assistant Federal Public Defender

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 10, 2022, a true and correct copy of the foregoing document was filed electronically with the Eighth Judicial District Court. Electronic service shall be made in accordance with the master service list as follows:

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