

ARIZONA SUPREME COURT

STATE OF ARIZONA,

Appellee,

v.

MURRAY HOOPER,

Appellant.

No. CR 83–0044–AP

Maricopa County Superior Court
No. CR–0000–121686

Ninth Cir. No. 08–99024

U.S. District Court No. CV–98–02164–
PHX–SMM

**REPLY RE: RESPONSE TO
MOTION TO SET BRIEFING
SCHEDULE FOR MOTION FOR
WARRANT OF EXECUTION**

(Capital Case)

Murray Hooper was convicted in 1982 of the New Year’s Eve 1980 murders of Pat Redmond and Helen Phelps, and the attempted first-degree murder of Marilyn Redmond, along with other felonies. Motion, Exh. A, at 2. In 1983, the trial court sentenced him to death for the murders. *Id.* Over the next four decades, Hooper pursued his appeals in state and federal court, with his federal habeas litigation finally concluding on March 21, 2022, when the Supreme Court denied certiorari, *Hooper v. Shinn*, 142 S. Ct. 1376 (2022) (mem.), making him eligible for execution. Motion, Exh. A, at 3. The State has now asked this Court to set a briefing schedule on its anticipated motion for a warrant of execution.

In response, Hooper asks this Court to deny the State's requested briefing schedule and grant him a six-month extension. He makes this request because his prior counsel no longer represent him and he asserts that new counsel needs that time to become familiar with Hooper's case. Hooper has had, however, nearly forty years to challenge his convictions and sentences and has been eligible for a warrant of execution for almost five months. Under these circumstances, this Court should grant the State's motion and order the briefing schedule requested by the State.

The State is not unsympathetic to the necessity for Hooper's new counsel to become familiar with his case. However, the State and Hooper's victims have waited decades while Hooper pursued his right to appeal his convictions and sentences for the horrific crimes he committed over 40 years ago. Also, although Hooper's response does not indicate when his former counsel (Dale Baich and Thomas Phalen) ceased representing him, Hooper has been eligible for execution for nearly five months since the Supreme Court denied certiorari in his habeas case. Consequently, Hooper's new counsel has had that time to prepare for proceedings in the event the State requested a warrant of execution. And finally, under the State's requested procedure, Hooper's counsel has more notice (and, thus, more time to prepare) than if the State had simply initiated proceedings by filing a motion for warrant of execution.

Hooper committed the crimes for which the State seeks to carry out his execution over 40 years ago. He has had nearly four decades to challenge his convictions and sentences. Hooper’s victims have a constitutional right to a “prompt and final conclusion of the case after the conviction and sentence.” Ariz. Const. art. II, § 2.1(10). And the State has a strong “interest in carrying out capital sentences without delay.” *Ramirez v. Collier*, 142 S. Ct. 1264, 1283 (2022); *see also Nelson v. Campbell*, 541 U.S. 637, 650 (2004) (acknowledging “State’s significant interest in enforcing its criminal judgments”). Hooper’s lawfully imposed death sentence has been postponed long enough, and the State respectfully requests that this Court grant its motion for a briefing schedule and deny his request for a six-month delay.

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DATED this 12th day of August, 2022.

Respectfully submitted,

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(Firm State Bar No. 14000)

s/Jeffrey L. Sparks
Deputy Solicitor General/
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