

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 TO RESPONSE TO
MOTION FOR WARRANT OF
EXECUTION**

Murray Hooper has been eligible for a warrant of execution since March 21, 2022, when the Supreme Court denied certiorari in his habeas corpus proceeding. *See Hooper v. Shinn*, 142 S. Ct. 1376 (2022). Hooper does not address, much less contest, the State’s argument that his convictions and sentences have been affirmed, and his first post-conviction proceeding and federal habeas appeals have concluded, which are the only conditions required for a warrant of execution to issue. *See* A.R.S. § 13–759(A). Consequently, Hooper’s objections to the State’s motion for warrant are irrelevant, and the State’s motion should be granted.

Hooper first argues that the State’s motion should be denied because his current counsel are relatively new to his case. However, Hooper has already received more time for his counsel to become familiar with his case than he would

have otherwise had the State not been required by logistical constraints to initiate this process by filing a motion for briefing schedule. In addition, in its order granting the State's motion for briefing schedule, this Court gave Hooper extra time to file a response to the State's motion for warrant of execution. The length of time counsel have been on Hooper's case is thus not a reason to deny the motion for warrant.

Next, Hooper contends that this Court should deny the warrant because, just days ago, he filed a Motion for Postconviction DNA and Advanced Forensic Testing. The governing statute, however, does not permit declining to issue a warrant of execution because a defendant has a motion pending in the superior court. *See* A.R.S. § 13-759(A). Moreover, Hooper has had four decades, including *five* postconviction relief proceedings, during which to challenge the validity of his convictions. If he truly believed the requested testing will "support his claim of innocence" (Resp. at 4), it stands to reason he would not have waited until the eve of a warrant of execution being issued to file it. The timing of his motion for postconviction testing thus suggests a dilatory motive and does not justify denying a warrant.

Finally, Hooper argues that because his counsel are relatively new to his case, issuing the warrant of execution will deny him a meaningful clemency proceeding. Hooper, however, is currently represented by competent counsel.

Issuing the warrant will not deny him a meaningful clemency proceeding.

Because Hooper's objections are irrelevant to the conditions required by A.R.S. § 13-759(A), this Court should grant the State's motion for a warrant of execution.

DATED this 30th day of September, 2022.

Respectfully submitted,

Mark Brnovich
Attorney General
(Firm State Bar No. 14000)

s/Jeffrey L. Sparks
Deputy Solicitor General/
Chief Counsel Capital Litigation Section
2005 N. Central Ave.
Phoenix, AZ 85004
CLDocket@azag.gov
Telephone: (602) 542-4686
(State Bar Number 027536)

Attorneys for Appellee

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