IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

8

6

7

9

10

11

Anthony Marshall Spears,

Petitioner,

v.

12 Charles L. Ryan, et al.,

1314

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Respondents.

No. CV-00-01051-PHX-SMM

DEATH PENALTY CASE

ORDER

Before the Court is Petitioner Anthony Spears's Motion for Ninety Days to Reevaluate Arguments in Light of *Shinn v. Ramirez*. (Doc. 176.) Spears is an Arizona death row inmate seeking federal habeas relief. His case is before this Court on limited remand from the Ninth Circuit Court of Appeals for reconsideration of, among other issues, two ineffective assistance claims in light of *Martinez v. Ryan*, 566 U.S. 1 (2012). (Doc. 140.) Spears asks the Court to defer any ruling on his remanded claims while he evaluates the impact of the United States Supreme Court's decision in *Ramirez*, 142 S. Ct. 1718 (2022).

Spears argues that as a result of *Ramirez* "the legal landscape has shifted in a way that potentially requires amended allegations." (Doc. 176 at 3.) He also notes that lead counsel in his case has retired and the additional time is required for new lead counsel to become familiar with the case. (*Id.*) Respondents oppose the motion. (Doc. 177.) They contend that Spears's request for delay lacks specificity, that any additional requests for relief are foreclosed by *Martinez* and *Ramirez*, that the four claims at issue have been fully briefed, and that Spears may be engaging in dilatory litigation tactics. (*Id.* at 6–9.)

Spears cites several cases where district courts have granted such delays such as the one he seeks. (Doc. 176 at 3–4.) In these cases, from the Western District of Tennessee, the requests were unopposed and were made in the first part of June 2022, less than three weeks after the *Ramirez* decision on May 23, 2022. Spears waited 10 weeks to make his request for further delay, and now almost 90 days have passed since the decision.

Under these circumstances, the Court finds that a 30-day delay, in addition to the time that has already passed since *Ramirez* was decided, is more than sufficient for Spears to reevaluate his arguments and seek whatever relief he feels is appropriate.

Accordingly,

IT IS ORDERED granting Spears's motion (Doc. 176) as follows: no later than **September 23, 2022**, Spears to move for any appropriate relief based on *Ramirez*.

Dated this 2nd day of September, 2022.

Honorable Stephen M. McNamee Senior United States District Judge