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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Edward Harold Schad, Jr.,

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No. CV-13-01962-PHX-ROS

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Plaintiff,

)

DEATH PENALTY CASE

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vs.

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**ORDER**

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Janice K. Brewer, et al.,

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Defendants.

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Plaintiff has moved for a temporary restraining order and a preliminary injunction to enjoin certain Defendants “from convening a reprieve/commutation hearing in his case.” (Doc. 6 at 3). Plaintiff also seeks a stay of his execution. In his civil rights complaint, Plaintiff alleges that Defendants have a created a clemency process that is arbitrary and capricious, in violation of the Eighth and Fourteenth Amendments. Plaintiff further claims that Defendants’ failure to comply with Arizona’s open meetings law violates his rights under the Eighth and Fourteenth Amendments. Finally, Plaintiff alleges that Defendants conspired to deprive “high-profile inmates” access to executive clemency, in violation of the equal protection clause of the Fourteenth Amendment and, for death row inmates, the Eighth Amendment.

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Because Plaintiff’s execution is scheduled to take place on Wednesday, October 9, 2013, the Court finds good cause to order expedited briefing and an evidentiary hearing on

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1 Plaintiff's motion. If, when filing their opposition to Plaintiff's motion, Defendants wish to  
2 dispute the factual accuracy of the information set forth in the complaint and accompanying  
3 documents, the opposition should be accompanied by appropriate affidavits. Moreover,  
4 Defendants should be prepared to present live testimony at the evidentiary hearing. The  
5 hearing may be vacated or rescheduled upon a review of Defendants' submissions.

6 Accordingly,

7 **IT IS ORDERED** that Defendants shall file a response to Plaintiff's Motion for  
8 Temporary Restraining Order or a Preliminary Injunction no later than **9:00 a.m. on**  
9 **Monday, September 30, 2013**. Defendants' response should be accompanied by the  
10 appropriate affidavits and should indicate whether Defendants are willing to reschedule  
11 Plaintiff's reprieve/commutation hearing for a date later than October 2, 2013, but prior to  
12 October 9, 2013. The response should also indicate which Defendants are available to testify  
13 on September 30, 2013, at 2:00 p.m. No reply is permitted absent further order of the Court.

14 **IT IS FURTHER ORDERED** that a hearing on Plaintiff's motion will be held on  
15 **Monday, September 30, 2013, at 2:00 p.m. in Courtroom 604**.

16 **IT IS FURTHER ORDERED** that the Clerk of Court shall forthwith email a copy  
17 of this Order as well as Plaintiff's Complaint for Equitable, Injunctive and Declaratory Relief  
18 (Doc. 1) and Plaintiff's Motion for Temporary Restraining Order or a Preliminary Injunction  
19 (Doc. 6), to Joseph Sciarrotta, Jr., General Counsel, Office of the Governor  
20 (jscarrotta@az.gov); Kelly Gillilan-Gibson, Assistant Arizona Attorney General, Arizona  
21 Board of Executive Clemency (kelly.gillilan-gibson@azag.gov); and Brian Luse, Assistant  
22 Arizona Attorney General, Arizona Board of Executive Clemency (brian.luse@azag.gov).

23 DATED this 27th day of September, 2013.

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26 Roslyn O. Silver  
27 Senior United States District Judge  
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