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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DAVID BOLLINGER ,

v.

WILLIAM GITTERE , et al.,

Respondents.

Case No. 2:98-cv-01263-MMD-PAL

ORDER

This is a capital habeas corpus action, brought by David Bollinger, a Nevada prisoner under sentence of death. The Court denied Bollinger habeas corpus relief on March 4, 2015 (ECF No. 243), and judgment was entered on March 5, 2015 (ECF No. 244). Bollinger appealed, and the case is pending on appeal.

On August 22, 2018, Bollinger filed a motion for leave to supplement his petition (ECF No. 256), and on August 23, 2018, he filed a motion for relief from judgment (ECF No. 259). The Court denied those motions, without prejudice, on December 13, 2018, because the case was pending on appeal and this Court was without jurisdiction to address the motions. (See Order entered December 13, 2018 (ECF No. 269).) However, the Court issued an indicative ruling under Federal Rule of Civil Procedure 62.1, finding that the motion for relief from judgment raised a substantial issue. (See *id.*) The Court stated that, if the Ninth Circuit Court of Appeals remanded this action, the Court would entertain renewed motions by Petitioner for relief from judgment and to amend or supplement his petition. (See *id.*)

On December 20, 2018, the Ninth Circuit Court of Appeals ordered a limited remand of the case, for this Court to consider Bollinger’s motion for relief from judgment.

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1 The Court takes judicial notice of the Court of Appeals' Order, entered December 20,
2 2018, in Case No. 15-99007.¹

3 On February 19, 2019, Bollinger filed renewed motions for relief from judgment
4 (ECF No. 270) and to supplement his petition (ECF No. 271). On March 5, 2019,
5 Respondents filed a motion for extension of time (ECF No. 272), requesting a seven-day
6 extension of time, to March 12, 2019, to respond to Bollinger's motions, and then, on
7 March 12, 2019, Respondents filed an opposition to each motion (ECF Nos. 273, 274),
8 as contemplated in their motion for extension of time. Respondents' counsel states, in
9 the motion for extension of time, that the extension of time was necessary because of a
10 calendaring error. Bollinger did not oppose the motion for extension of time. The Court
11 finds that Respondents' motion for extension of time was made in good faith and not
12 solely for the purpose of delay, and that there is good cause for the extension of time
13 requested. The Court will grant the motion for extension of time and treat Respondents'
14 oppositions to Bollinger's motions as timely filed. The Court also will extend the time for
15 Bollinger's replies sua sponte, in light of the relative complexity of these motions, with the
16 intention of forestalling any motion for extension of time for the replies.

17 It is therefore ordered that Respondents' Motion for Enlargement of Time (ECF No.
18 272) is granted. Respondents' responses to the motion for leave to supplement petition
19 and the motion for relief from judgment (ECF Nos. 273, 274) will be treated as timely filed.

20 It is further ordered that Petitioner will have until and including March 26, 2019, to
21 file replies in support of his motion for relief from judgment and motion for leave to
22 supplement his petition.

23 DATED THIS 14th day of March 2019.

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25 
26 _____
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE

¹The order has not been filed in this Court.