

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 STEVEN NELSON MURRAY,
4 Petitioner,
5
6 v.
7 JERRY HOWELL, *et al.*,
8 Respondents.

Case No. 2:12-cv-02212-RFB-VCF
ORDER

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10 In this habeas corpus action, on December 24, 2020, the Court granted, in part,
11 the petition for writ of habeas corpus of Steven Nelson Murray, who is represented by
12 appointed counsel, and judgment was entered accordingly. ECF Nos. 114, 115. Pursuant
13 to Federal Rule of Appellate Procedure 23(c), the Court ordered Murray released from
14 physical custody, under supervision by the United States Probation Office for the District
15 of Nevada, pending appeal. *Id.* The respondents appealed (ECF No. 116), and the Ninth
16 Circuit Court of Appeals reversed and remanded in an order filed on May 24, 2022 (ECF
17 No. 121). The Court of Appeals filed an amended order reversing and remanding on July
18 8, 2022. ECF No. 122. The mandate of the Court of Appeals was issued on November
19 22, 2022 (but was not filed on the docket in this case until December 20, 2022). ECF No.
20 129.

21 On November 30, 2022, Respondents filed a Motion to Revoke Petitioner's
22 Release from Physical Custody. ECF No. 124. Respondents state in their motion:

23 Because Federal Rule of Appellate Procedure 23(c) no longer applies, and
24 the United States Court of Appeals for the Ninth Circuit has confirmed the
25 validity of his judgment of conviction, this Court should issue an order
revoking petitioner's release from physical custody forthwith.

26 ECF No. 124 at 2. The parties have fully briefed Respondents' motion and have submitted
27 proposed orders. ECF Nos. 124, 125, 126, 128, 131, 132, and 133. As Murray's appeal
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1 has concluded, with the Court of Appeals reversing and remanding, there is no longer
2 authority for Petitioner's release from physical custody. Good cause appearing, therefore,

3 **IT IS ORDERED** that Respondents' Motion to Revoke Petitioner's Release from
4 Physical Custody (ECF No. 124) is **GRANTED**. The Court's December 24, 2020, order
5 releasing Petitioner Steven Nelson Murray (ECF No. 114) from physical custody is
6 revoked.

7 **IT IS FURTHER ORDERED** that the United States Probation Office for the District
8 of Nevada or any peace officer in the State of Nevada shall take petitioner into custody
9 and arrange for him to be transferred into the custody of the Nevada Department of
10 Corrections.

11 **IT IS FURTHER ORDERED** that Respondents shall file a notice in this action,
12 informing the Court when Petitioner has been returned to the physical custody of the
13 Nevada Department of Corrections.

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15 DATED THIS 12th day of January, 2023.

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19 RICHARD F. BOULWARE, II
20 UNITED STATES DISTRICT JUDGE
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