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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JOSE L. ECHAVARRIA ,

Case No. 3:98-cv-00202-MMD-CBC

Petitioner,

ORDER

v.

WILLIAM GITTERE, et al.,

Respondents.

This Court granted Jose L. Echavarría's petition for writ of habeas corpus in this capital habeas corpus action on January 16, 2015. (See Order entered January 16, 2015 (ECF No. 210); Judgment (ECF No. 211).) The Respondents appealed (ECF Nos. 212, 214), and, on July 25, 2018, the Ninth Circuit Court of Appeals affirmed this Court's judgment. (See Opinion of the Court of Appeals (ECF No. 241).) The Court of Appeals filed its mandate on May 21, 2019. (ECF No. 246.)

The January 16, 2015, order of this Court granting the writ stated:

It is further ordered that the second amended petition for writ of habeas corpus ... of the petitioner, Jose L. Echavarría, is granted.

It is further ordered that the petitioner, Jose L. Echavarría, shall be released from custody within sixty (60) days, unless the respondents file in this action, within that sixty-day period, a written notice of election to retry Echavarría, and the State thereafter, within one hundred eighty (180) days after the filing of that notice, commences jury selection in the retrial. Either party may request from this Court reasonable modification of the time limits set forth in this paragraph.

It is further ordered that the judgment in this action shall be stayed pending the conclusion of any appellate or certiorari review in the Ninth Circuit Court of Appeals or the United States Supreme Court, or the expiration of the time for seeking such appellate or certiorari review, whichever occurs later.

(ECF No. 210 at 56.)


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As the Court of Appeals has affirmed this Court's judgment, and the appellate proceedings were completed on May 21, 2019 with the filing of the Court of Appeals' mandate, the stay of this Court's judgment expired, and the judgment took effect on that date.

It is therefore ordered that Respondents will have until and including Monday, July 22, 2019, to either release Echavarria from custody or file a notice of election to retry him (60 days from May 21 is July 20, a Saturday). If Respondents file a notice of intent to retry Echavarria, jury selection in the retrial must commence within 180 days after the notice is filed.

It is further ordered that, pursuant to Federal Rule of Civil Procedure 25(d), the Clerk of Court will substitute William Gittere for Timothy Filson as the respondent warden on the docket for this case.

DATED THIS 22<sup>nd</sup> day of May 2019.

  
MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE