

No. 19-8175

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

Kitrich A. Powell, Petitioner,

v.

William Gittere, Warden, et al., Respondents.

On Petition for Writ of Certiorari to the
Nevada Supreme Court

**MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT
OF CERTIORARI**

CAPITAL CASE

RENE L. VALLADARES
Federal Public Defender of Nevada
TIMOTHY R. PAYNE
Counsel of Record
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-5819 (Fax)
Tim_Payne@fd.org

Counsel for Petitioner

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

Kitrich A. Powell, Petitioner,

v.

William Gittere, Warden, et al., Respondents.

**MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT
OF CERTIORARI**

To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to this Court's March 19, 2020 Order, Petitioner Kitrich Powell respectfully requests this Court delay distribution of his petition for writ of certiorari in *Powell v. Gittere*, No. 19-8175, until the June 13, 2020 distribution date due to difficulties related to COVID-19.

1. Kitrich Powell filed a petition for writ of certiorari on March 31, 2020, and it was placed on the docket on April 3, 2020. In the petition, Mr. Powell argued the Nevada Supreme Court violated his constitutional rights by making the outweighing requirement an afterthought for the jury, used only to lessen a death sentence to life imprisonment.

2. Respondent William Gittere filed his brief in opposition on April 29, 2020.

3. Based upon the filing date of the brief in opposition, without an extension of time, Mr. Powell's reply brief would need to be filed with the Court by the May 13, 2020 distribution deadline.

4. Mr. Powell respectfully requests that this Court delay distribution of his petition for a writ of certiorari until the June 13, 2020 distribution deadline based upon difficulties resulting from the COVID-19 crisis. As the lead attorney and drafter of the reply, the undersigned's efforts to draft the reply will be hampered by his involvement in a COVID-19 project within the office. The work on the project is in addition to the regular press of business. Additionally, the undersigned is working remotely from home, which has brought daily challenges.

5. The later distribution date creates a thirty-day extension of time on the reply brief which is reasonable given the circumstances.

6. This request comes well before the two days prior to the current distribution date, as specified in the March 19, 2020 order.

///

///

///

7. Undersigned counsel reached out to counsel for Respondent on April 29 and April 30, 2020, via email to ascertain their position on this motion. At the time of filing, undersigned counsel has not received a response.

DATED this 4th day of May, 2020.

Respectfully submitted,

RENE VALLADARES
Federal Public Defender of Nevada

/s Timothy R. Payne
TIMOTHY R. PAYNE
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
Tim_Payne@fd.org

CERTIFICATE OF SERVICE

I hereby declare that on 4th day of May, 2020, I served Petitioner's MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT OF CERTIORARI by depositing an envelope containing the Motion in the United States mail, with first-class postage prepaid, addressed as follows:

Alexander Chen
Clark County Deputy District Attorney
200 Lewis Avenue
Las Vegas, NV 89155

/s Timothy R. Payne
TIMOTHY R. PAYNE
Assistant Federal Public Defender