

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

FEB 14 2002

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

GERALD ROSS PIZZUTO, JR., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 GREG FISHER, Acting Warden, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

No. 01-71257

D.C. No. CV-92-00241-S-AAM

ORDER

Before: B. FLETCHER, RYMER, and GOULD, Circuit Judges.

The application of Gerald Pizzuto for permission to file a Second Petition  
for Writ of Habeas Corpus is DENIED.

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

STATE OF IDAHO,	)	CASE NO. CR-1985-22075
	)	
Plaintiff,	)	
	)	DEATH WARRANT
vs.	)	
	)	
GERALD ROSS PIZZUTO, JR.,	)	
	)	
Defendant.	)	
_____	)	

**TO:** Josh Tewalt, Director, Idaho Department of Correction, and Tyrell Davis, Warden,  
Idaho Maximum Security Institution:

**WHEREAS**, the above-named Defendant, GERALD ROSS PIZZUTO, JR., on the 27<sup>th</sup>  
day of March, 1986, was found guilty by a jury of two counts of First Degree Murder; and,

**WHEREAS**, on the 23<sup>rd</sup> day of May, 1986, the Honorable George Reinhardt entered his  
Findings of the Court in Considering the Death Penalty Pursuant to the Provisions of 19-2515(e),  
Idaho Code, finding five aggravating factors under Idaho Code § 19-2515(f) (1984), and when  
weighed against each statutory aggravating factor individually, all mitigating circumstances were  
not sufficiently compelling to make imposition of the death penalty unjust; and

**WHEREAS**, on the 27<sup>th</sup> day of May 1986, the Honorable George Reinhardt entered a Judgment and Sentence sentencing the above named Defendant, GERALD ROSS PIZZUTO, JR., to death for two counts of First Degree Murder; and

**WHEREAS**, on the 15<sup>th</sup> day of April 1988, the Honorable George Reinhardt entered an order denying the above named defendant, GERALD ROSS PIZZUTO, JR., post-conviction relief; and

**WHEREAS**, on the 15<sup>th</sup> day of January 1991, the Idaho Supreme Court issued its opinion upholding the conviction and sentence and affirming denial of post-conviction relief, and issued its Remittitur on the 5<sup>th</sup> day of June, 1991; and

**WHEREAS**, on the 2<sup>nd</sup> day of March 1992, the United States Supreme Court denied certiorari for the above named defendant, GERALD ROSS PIZZUTO, JR., and

**WHEREAS**, all other requests for post-conviction and state collateral relief filed by the above named defendant, GERALD ROSS PIZZUTO, JR., have been denied by the state district court; and

**WHEREAS**, the Idaho Supreme Court has affirmed the denial of all other requests for post-conviction and state collateral relief filed by the above named defendant, GERALD ROSS PIZZUTO, JR.; and

**WHEREAS**, on the 7<sup>th</sup> day of April 1997, the Honorable Alan M. McDonald entered Judgment denying the above named defendant, GERALD ROSS PIZZUTO, JR., federal habeas relief; and

**WHEREAS**, on the 6<sup>th</sup> day of February 2002, the United States Court of Appeals, Ninth Circuit, affirmed the denial of federal habeas relief; and

**WHEREAS**, on the 31<sup>st</sup> day of October 2005, the United States Supreme Court denied certiorari for the above named defendant, GERALD ROSS PIZZUTO, JR., and

**WHEREAS**, all other requests for federal habeas filed by the above named defendant, GERALD ROSS PIZZUTO, JR., have been denied by the Federal District of Idaho; and

**WHEREAS**, the United States Court of Appeals, Ninth Circuit, has affirmed the denial of all other requests for federal habeas relief; and

**WHEREAS**, Idaho Code § 19-2715(2) mandates the state to apply for a death warrant from the district court in which the conviction was had after a sentence of death has been affirmed and the remittitur issued; and

**WHEREAS**, pursuant to Idaho Code § 19-2715(5) the Court has inquired and finds there is an existing death sentence and that no valid stays of execution are currently in place; and

**WHEREAS**, Idaho Code § 19-2715(2) mandates that, upon such application, the district court shall set a new execution date not more than thirty (30) days thereafter;

**NOW THEREFORE, YOU ARE HEREBY COMMANDED**, pursuant to Idaho Code § 19-2716 and the Judgment of this Court, to receive said Defendant into your custody, and on the 2<sup>nd</sup> day of June, 2021, you shall cause the execution of said sentence of death to take place, unless said sentence is stayed by law, and that you shall make a return upon this Death Warrant, showing the time, mode and manner in which it was executed pursuant to Idaho Code § 19-2718.

DATED this 6<sup>th</sup> day of May, 2021.

  
DISTRICT JUDGE

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

STATE OF IDAHO,	)	CASE NO. CR-1985-22075
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER STAYING
	)	EXECUTION
GERALD ROSS PIZZUTO, JR.,	)	
	)	
Defendant.	)	
_____	)	

Pursuant to the Stipulation for Stay of Execution signed on May 18, 2021, by counsel for the State of Idaho and the Defendant, Gerald Ross Pizzuto, Jr., the Court has been advised that the Idaho Commission of Pardons and Parole has granted Pizzuto's request for a commutation hearing that will be scheduled for its November 2021 hearing session. Therefore, pursuant to I.C. § 19-2715(1), the Court ORDERS that the execution as ordered in the Death Warrant issued by the Court on May 6, 2021, is stayed until the conclusion of the commutation proceedings related to Mr. Pizzuto's current commutation petition.

DATED this 18<sup>th</sup> day of May, 2021.

  
\_\_\_\_\_  
Jay Gaskill  
District Court Judge

*ORDER STAYING EXECUTION*