



Patterson v. Thornell et al

2024 | Cited 0 times | D. Arizona | April 1, 2024

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Isiah Patterson,

Petitioner, v. Ryan Thornell, et al.,

Respondents.

No. CV-20-02068-PHX-JJT DEATH PENALTY CASE ORDER

Renewed Motion for Rhines Stay to Exhaust State Claims. 1

(Doc. 54.) In renewing his request for a stay, Patterson indicates that he has been appointed counsel in state court and has filed a successive PCR petition raising a Simmons claim and a claim of ineffective assistance of trial counsel. 2

(Id.; see id.,)

Rule 7.2(c) of the Local Rules of Civil Procedure gives an opposing party 14 days after service in which to serve and file any responsive memorandum. LRCiv 7.2(c). Under Rule 7.2(i) 1

Rhines v. Weber, 544 U.S. 269, 273 77 (2005), authorizes a district court to stay a mixed habeas petition to allow a petitioner to present unexhausted claims to the state court without losing the right to federal habeas review pursuant to the relevant one-year statute of limitations. Id. at 273 77. motion for a stay. (Doc. 51.)

2 Simmons v. South Carolina, 512 U.S. 154, 156 (1994), held that in a capital case prohibits the consent to the . . . granting of the motion and the Court may dispose of the motion LRCiv 7.2(i). Respondents have not filed a response, timely or otherwise renewed motion for a stay. The Court deems that failure to constitute consent to the granting of s motion.



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Accordingly, IT IS ORDERED that Renewed Motion for Rhines Stay to Exhaust State Claims (Doc. 54) is granted pursuant to LRCiv 7.2(i).

IT IS FURTHER ORDERED directing Patterson to file notice with the Court or move for other appropriate relief within 30 days of the conclusion of the state court proceedings. Dated this 29th day of March, 2024.

Honorable John J. Tuchi United States District Judge

