

ORIGINAL

FILED

09/09/2020

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 20-0395

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 20-0395

CLOVIS GENO,

Petitioner,

v.

MONTANA FIFTEENTH JUDICIAL DISTRICT COURT,
ROOSEVELT COUNTY, HON. DAVID CYBULSKI,
Presiding Judge.

Respondent.

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

ORDER

Petitioner Clovis Geno seeks a writ of supervisory control over the Montana Fifteenth Judicial District Court, Roosevelt County, in Cause No. DC-20-6 due to the State's alleged failure to timely comply with Montana Supreme Court Rule 97-326(I)(a) and § 46-1-401, MCA. In his Petition, Geno asserts that the State failed to timely file a notice of intent to seek the death penalty as required by Rule 97-326(I)(a) and further failed to properly specify and show supporting probable cause for one or more aggravating circumstances required for a death penalty prosecution under Rule 97-326(I)(a) and § 46-1-401, MCA, thus precluding prosecution of the case, and potential sentencing, as a death penalty case pursuant to *Miller v. Mont. Eighteenth Judicial Dist. Court*, 2007 MT 149, 337 Mont. 488, 162 P.3d 121.

After receiving Geno's Petition, we granted the District Court and the State the opportunity to respond in accordance with M. R. App. P. 14(7).

Both the District Court and the State have responded to Geno's Petition. Pertinent to the present Order, the State alleges Geno's Petition is moot because the State has filed in the District Court matter a Notice of Withdrawal of Intent to Seek the Death Penalty pursuant to Montana Supreme Court Rule 97-326(I)(1)(b).

We agree with the State that Geno's petition is moot as the State is no longer seeking the death penalty in this case. Thus, the basis of its petition no longer exists. M. R. App. P. 14(3).

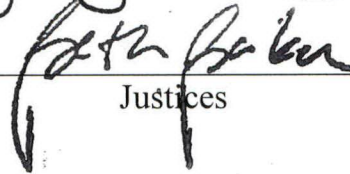
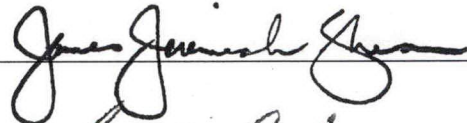
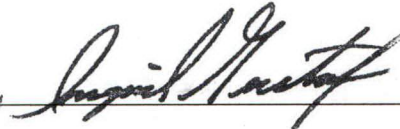
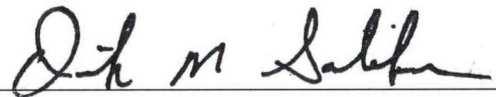
IT IS THEREFORE ORDERED that the petition for a writ of supervisory control is DENIED and DISMISSED as MOOT.

The Clerk is directed to provide immediate notice of this Order to counsel for Petitioner, all counsel of record in the Fifteenth Judicial District Court Cause No. DC-20-6, and to the Honorable David Cybulski, presiding Judge.

DATED this 9th day of September, 2020.



Chief Justice



Justices