

IN THE SUPREME COURT, STATE OF WYOMING

2003 WY 144

October Term, A.D. 2003

November 7, 2003

JAMES MARTIN HARLOW,)
)
 Appellant)
 (Defendant),)
)
 v.)
)
 THE STATE OF WYOMING,)
)
 Appellee)
 (Plaintiff).)

Nos. 99-58, 59, 60

**ORDER CONTINUING STAY OF EXECUTION OF SENTENCE
PENDING DISPOSITION OF STATE POST-CONVICTION RELIEF PROCEEDING**

Pursuant to the terms of this Court’s ORDER ISSUING MANDATE, SETTING NEW DATE FOR EXECUTION OF SENTENCE, AND STAYING EXECUTION OF SENTENCE PENDING FURTHER PROCEEDINGS entered May 29, 2003, counsel for James Martin Harlow filed her CASE STATUS REPORT in this Court on October 24, 2003, informing this Court that, among other things, the United States Supreme Court denied Mr. Harlow’s petition for a writ of certiorari by order entered on October 20, 2003 (Attachment A).

In her CASE STATUS REPORT, Mr. Harlow’s counsel further informs this Court that Mr. Harlow, through counsel, intends to timely file a petition for post-conviction relief pursuant to Wyo. Stat. Ann. §§ 7-14-101 through 108 (LexisNexis 2003) on or before December 7, 2003, and, therefore, Mr. Harlow, through counsel, requests that the current stay of execution of sentence under this Court’s order of May 29, 2003, be continued pending the filing and during the pendency of that state post-conviction relief proceeding.

In addition, in her CASE STATUS REPORT, Mr. Harlow’s counsel informs this Court that, depending upon the outcome of Mr. Harlow’s state post-conviction relief proceeding, Mr. Harlow intends to seek federal *habeas corpus* relief in federal court pursuant

to 28 U.S.C. § 2254 and, therefore, Mr. Harlow, through counsel, requests that this Court also continue the current stay of execution of sentence under this Court's order of May 29, 2003, pending the filing and during the pendency of Mr. Harlow's pursuit of federal *habeas corpus* relief.

Having carefully considered Mr. Harlow's requests to continue the current stay of execution of sentence, this Court considers it inappropriate to enter an order of stay as broad as Mr. Harlow seeks. This Court has determined that the better practice at this time is to enter its order continuing the current stay of execution of sentence pending the filing and during the pendency of Mr. Harlow's state post-conviction relief proceeding. This Court shall further order Mr. Harlow's counsel to promptly inform this Court and the State of Wyoming of counsel's timely filing of Mr. Harlow's petition for state post-conviction relief and of the state district court's disposition of said petition. Upon the state district court's disposition of said petition, this Court may make such further order as may then appear to be necessary and appropriate.

It is, therefore, **ORDERED** that the stay of execution of sentence under this Court's order of May 29, 2003, be, and it is hereby continued pending the filing and during the pendency of Mr. Harlow's state post-conviction relief proceeding;

It is further **ORDERED** that Mr. Harlow's counsel promptly notify this Court and the State of Wyoming of counsel's timely filing of Mr. Harlow's petition seeking state post-conviction relief and of the state district court's disposition of said petition;

It is further **ORDERED** that this order be published in Pacific Reporter Third.

DATED this _____ day of November, 2003.

FOR THE COURT:*

MICHAEL GOLDEN
Justice

*** Justices Golden, Lehman, and Voigt; and Judges Sullins and Burke sitting by appointment**