

2009 WY 36

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2008

March 11, 2009

DALE WAYNE EATON,

Petitioner,

v.

THE STATE OF WYOMING,

Respondent.

S-08-0235

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

[¶1] **This matter** came before the Court upon “Petitioner’s Status Report,” which was e-filed herein February 26, 2009, pursuant to the terms of this Court’s November 14, 2008, “Order Granting Petition for Writ of Review, Order Vacating Warrant of Execution, Order Setting Date of Execution, and Order Staying Execution.” In the Status Report, Dale Wayne Eaton’s counsel informs this Court that the United States Supreme Court denied Mr. Eaton’s petition for a writ of certiorari, by order entered on February 23, 2009. *Eaton v. Wyoming*, 2009 U.S. Lexis 1251. Mr. Eaton’s counsel further informs this Court that Mr. Eaton, through counsel, intends to timely file a petition for post-conviction relief pursuant to Wyo. Stat. Ann. §§ 7-14-101 through 7-14-108 (LexisNexis 2007), on or before May 1, 2009.

[¶2] Now, having carefully reviewed this matter, this Court finds that, consistent with *Harlow v. State*, it should continue the current stay of execution of sentence pending the filing and during the pendency of Mr. Eaton’s state post-conviction relief proceeding. *Harlow v. State*, 2003 WY 144, 78 P.3d 1044 (Wyo. 2003). This Court will further order Mr. Eaton’s counsel to promptly inform this Court and the State of Wyoming of counsel’s timely filing of Mr. Eaton’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,

[¶3] **ORDERED** that the stay of execution of sentence under this Court's order of November 14, 2008, be, and it is hereby continued pending the filing and during the pendency of Mr. Eaton's state post-conviction relief proceeding; and it is further

[¶4] **ORDERED** that Mr. Eaton's counsel shall promptly notify this Court and the State of Wyoming of the timely filing of Mr. Eaton's petition seeking state post-conviction relief and of the state district court's disposition of said petition; and it is further

[¶5] **ORDERED** that this order be published in Pacific Reporter Third.

DATED this 11th day of March, 2009.

BY THE COURT:

/s/ Barton R. Voigt

BARTON R. VOIGT

Chief Justice