

IN THE SUPREME COURT OF THE STATE OF NEVADA

CURTIS BILLY BONILLA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
DONALD M. MOSLEY, DISTRICT
JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 52957

FILED

JAN 08 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

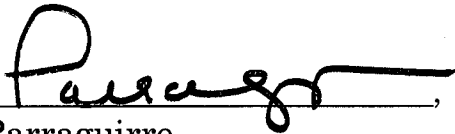
ORDER DENYING PETITION

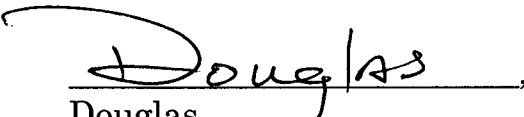
This original petition for a writ of mandamus or prohibition challenges a district court order denying a motion to strike the State's notice of intent to seek the death penalty. In particular, petitioner Curtis Billy Bonilla argues that the notice of intent respecting the State's allegation that the subject murder involved torture of the victim was insufficient on two grounds.

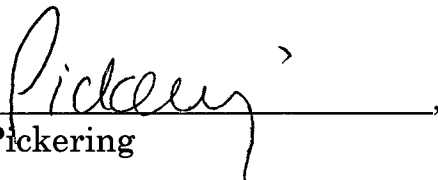
First, he contends that the State failed to specify how the facts alleged satisfy the definition of torture. We conclude that the notice of intent meets the requirements of SCR 250(4)(c) and does not implicate the concerns addressed in Hidalgo v. District Court, 124 Nev. ___, 184 P.3d 369 (2008). Whether the State presents sufficient evidence to support the aggravator is a matter for the jury and the jury's determination, if adverse to Bonilla, may be challenged on appeal. See NRS 34.170; NRS 34.330.

Second, Bonilla argues that he is entitled to a hearing before a grand jury or justice of the peace to determine whether probable cause supports the torture aggravating circumstance. We decline to address this argument in a pretrial writ petition. Bonilla may raise this issue on appeal in the event that he is convicted and sentenced to death. See Redeker v. Dist. Ct., 122 Nev. 164, 167, 127 P.3d 520, 522 (2006). Accordingly, we deny the petition. Further, we deny Bonilla's emergency motion for a stay.

It is so ORDERED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Donald M. Mosley, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk