

Additional Statutory Considerations for NRAP 41

NRS 176.491 Stay of execution following denial of appeal.

1. Upon the denial of any appeal pursuant to [chapter 34](#) or [177](#) of NRS to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to [Section 4 of Article 6](#) of the Nevada Constitution, the appellate court of competent jurisdiction shall dissolve any stay of execution previously entered. No stay of such execution may be entered or continued by the appellate court of competent jurisdiction after the denial of an appeal pending the filing of a petition with a federal court or a petition for a writ of certiorari with the Supreme Court of the United States.

2. The entry of a stay of issuance of a remittitur in the appellate court of competent jurisdiction does not prohibit the application of or the issuance of a warrant of execution by the district court in which the conviction was obtained.

3. To stay the execution of a sentence of death following the denial of any appeal to the appellate court of competent jurisdiction pursuant to [chapter 34](#) or [177](#) of NRS, a person under sentence of death must:

(a) Apply for and obtain a stay in the federal court in which the person applies for a writ of certiorari or habeas corpus; or

(b) Obtain a stay of execution pursuant to [NRS 176.487](#).

(Added to NRS by [1987, 1221](#); A [1989, 491](#); [2013, 1757](#))

NRS 176.505 Order following appeal.

1. When a remittitur showing the affirmation of a judgment of death has been filed with the clerk of the court from which the appeal has been taken, the court in which the conviction was obtained shall inquire into the facts, and, if no legal reasons exist prohibiting the execution of the judgment, shall make and enter an order requiring the Director of the Department of Corrections to execute the judgment at a specified time. The presence of the defendant in the court at the time the order of execution is made and entered, or the warrant is issued, is not required.

2. When an opinion, order dismissing appeal or other order upholding a sentence of death is issued by the appellate court of competent jurisdiction pursuant to [chapter 34](#) or [177](#) of NRS, the court in which the sentence of death was obtained shall inquire into the facts and, if no legal reason exists prohibiting the execution of the judgment, shall make and enter an order requiring the Director of the Department of Corrections to execute the judgment during a specified week. The presence of the defendant in the court when the order of execution is made and entered, or the warrant is issued, is not required.

3. Notwithstanding the entry of a stay of issuance of a remittitur in the appellate court of competent jurisdiction following denial of appellate relief in a proceeding brought pursuant to [chapter 34](#) or [177](#) of NRS, the court in which the conviction was obtained shall, upon application of the Attorney General or the district attorney of the county in which the conviction was obtained, cause another warrant to be drawn, signed by the judge and attested by the clerk under the seal of the court, and delivered to the Director of the Department of Corrections.

(Added to NRS by [1967, 1442](#); A [1977, 863](#); [1989, 491](#); [2001 Special Session, 221](#); [2013, 1758](#))