

# **EXHIBIT A**

(Motion for Warrant of Execution)

# ARIZONA SUPREME COURT

STATE OF ARIZONA,

Appellee,

v.

RICHARD KENNETH DJERF,

Appellant.

CR-96-0296-AP

Maricopa County Superior Court  
No. CR1993-07792

Ninth Circuit No. 08-99027

U.S. District Court  
No. CV-02-00358-PHX-JAT

## **MOTION FOR WARRANT OF EXECUTION**

Pursuant to A.R.S. § 13-759(A) and Arizona Rule of Criminal Procedure 31.23(a) and (b), the State of Arizona moves this Court for a Warrant of Execution for Richard Kenneth Djerf. Djerf's direct appeal, first post-conviction proceeding, and federal habeas proceeding have concluded, and the State is prepared to carry out his sentence of execution. Accordingly, under § 13-759(A) and Rule 31.23(a) and (b), a warrant of execution must issue. *See State v. Gunches*, No. CR-13-0282-AP (Decision Order, February 18, 2025).

Issuance of a warrant of execution is governed by A.R.S. § 13-759(A) and Rules 31.23(a) and (b). The statute provides:

After a conviction and sentence of death are affirmed and the first post-conviction relief proceedings have concluded, the supreme court *shall* issue a warrant of execution that authorizes the director of the state department of corrections to carry out the execution thirty-five

days after the supreme court’s mandate or order denying review or upon motion by the state. The supreme court *shall* grant subsequent warrants of execution on a motion by the state. The time for execution shall be fixed for thirty-five days after the state’s motion is granted.

A.R.S. § 13–759(A) (emphasis added). Rule 31.23 outlines the process for implementing this statute, stating:

(a) Issuance of Warrant. After affirming a death sentence, the Supreme Court *must* issue a warrant of execution if the State files a notice stating that:

- (1) the defendant has not filed a first Rule 32 petition for post-conviction relief and the time for filing a petition has expired;
- (2) the defendant has not filed a petition for review seeking review of a superior court denial of the defendant's first Rule 32 petition for post-conviction relief and the time for filing a petition for review has expired; or
- (3) the defendant has not initiated habeas corpus proceedings in federal district court within 15 days after the Supreme Court's denial of a petition for review seeking review of the denial of the defendant's first Rule 32 petition for post-conviction relief.

(b) Post-Habeas Warrant. On the State’s motion, the Supreme Court *must* issue a warrant of execution when federal habeas corpus proceedings and habeas appellate review conclude.

Ariz. R. Crim. P. 31.23 (emphasis added). As this Court recently recognized, once the State provides notice that these conditions are met, “this Court *must* issue a warrant authorizing the State to carry out an execution.” *State v. Gunches*, No. CR–13–0282–AP (Decision Order, February 18, 2025), at 2 (emphasis in original).

In 1995, Djerf pleaded guilty to four counts of first-degree murder and the trial court imposed a death sentence on each count. *State v. Djerf*, 191 Ariz. 583, 590, ¶ 19 (1998). This Court affirmed Djerf’s convictions and sentences on direct review, *see id.* at 599, ¶ 68, and the Supreme Court denied certiorari, *Djerf v. Arizona*, 525 U.S. 1024 (1998) (Mem.). The trial court subsequently denied Djerf’s first petition for post-conviction relief, and this Court denied review. No. CR–01–293–PC.

Djerf then filed a federal habeas petition, and the district court denied relief in September 2008. *Djerf v. Ryan*, 931 F.3d 870, 877 (9th Cir. 2019). Djerf appealed to the Ninth Circuit Court of Appeals, which remanded Djerf’s habeas petition back to the district court. *Id.* at 878. The district court denied all remaining claims on remand in April 2017, and Djerf again appealed to the Ninth Circuit. *Id.* On July 24, 2019, the Ninth Circuit issued an opinion affirming the district court’s denial of habeas relief. *Id.* at 887. On May 4, 2020, the Supreme Court denied certiorari. *Djerf v. Shinn*, 140 S. Ct. 2746 (2020) (Mem.).

Djerf’s federal habeas appeals have thus concluded. Djerf currently has no actions challenging his convictions or sentences pending in any state or federal court. *See* A.R.S. § 13–759(A); Ariz. R. Crim. P. 31.23(b). The State therefore requests that this Court issue a warrant of execution.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Respectfully submitted,

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