

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case Nos. 53159 & 55759

Electronically Filed
Aug 23 2018 03:03 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Norman Keith Flowers,

Appellant,

v.

The State of Nevada,

Respondent.

Motion to Remand for Appointment of New Counsel

Rene L. Valladares
Federal Public Defender
Nevada State Bar No. 11479
*C.B. Kirschner
Assistant Federal Public Defender
Nevada State Bar No. 14023C
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*Counsel for Petitioner Norman Flowers

I. This case should be remanded to the district court for the appointment of new counsel.

The appeals in this matter were originally filed by JoNell Thomas and Randy Pike of the Special Public Defender's Office. After this Court issued an order dismissing the appeals, the Special Public Defender's Office was permitted to withdraw as counsel of record. Attorney James Oronoz was subsequently appointed to represent Mr. Flowers for his post-conviction proceedings. At the conclusion of those proceedings, Mr. Oronoz was similarly permitted to be withdrawn as counsel.

The United State District Court, District of Nevada appointed the Federal Public Defender's Office to represent Mr. Flowers in his federal habeas corpus proceedings. Upon learning about a favorable ruling by this Court in a related case (docketed at number 70933), undersigned counsel moved to have the previously dismissed appeals reinstated. This Court granted that motion and ordered the appeals reinstated on July 9, 2018.

On August 16, 2018, this Court issued an order directing Flowers to refile the appendices that were originally submitted with appellate briefs in 2009. Undersigned counsel does not have a copy of the

appendices. Counsel contacted the Special Public Defender's Office to inquire if they would be able to comply with this Court's order. JoNell Thomas of the Special Public Defender's Office responded in the negative, stating that her office was no longer counsel on the case and no longer had the file.

Contemporaneous with the filing of this motion, undersigned counsel is filing a motion to be withdrawn as the attorney of record due to a conflict of interest. Therefore, Mr. Flowers respectfully requests his case be remanded to the district court for the appointment of new counsel to assist him with his appeals.¹ The Federal Public Defender's Office can assist new counsel by providing him or her with copies of the case materials currently in our possession.

II. Prayer for relief

Mr. Flowers respectfully requests this Court stay the current order, remand this matter to the district court, and direct that new counsel be appointed.

¹ Mr. Flowers is indigent and he has a constitutional right to the assistance of counsel on direct appeal. *See Kirksey v. State*, 112 Nev. 980, 998 (1996) (citing *Burke v. State*, 110 Nev. 1366, 1368 (1994)).

Dated this 23rd day of August, 2018.

Respectfully submitted,

RENE L. VALLADARES
Federal Public Defender

/s/ CB Kirschner

C.B. KIRSCHNER
Assistant Federal Public Defender

VERIFICATION

Pursuant to NRAP 21(a)(5), and under penalty of perjury, the undersigned declares that she is counsel for the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of her own knowledge except as to those matters stated on information and belief and as to such matters she believes them to be true. Petitioner personally authorized undersigned counsel to commence this action.

Dated this 23rd day of August, 2018.

Respectfully submitted,

RENE L. VALLADARES
Federal Public Defender

/s/ CB Kirschner
C.B. KIRSCHNER
Assistant Federal Public Defender

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this petition complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6), as required by NRAP 21(d) because:

This petition has been prepared in a proportionally spaced typeface using Microsoft Word in Century, 14 point font: or

This petition has been prepared in a monospaced typeface using Word Perfect with Times New Roman, 14 point font.

Dated this 23rd day of August, 2018.

Respectfully submitted,

RENE L. VALLADARES
Federal Public Defender

/s/ CB Kirschner

C.B. KIRSCHNER

Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2018, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

I served a true and accurate copy of the foregoing by placing it in the United States mail, first-class, postage pre-paid, addressed to:

Charles Thoman Clark County District Attorney's Office 200 Lewis Avenue Las Vegas, NV 89101	Adam Laxalt Office of the Attorney General 100 N. Carson Street Carson City, NV 89104
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I further certify that I have mailed the foregoing document by first-class mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following people:

Norman Flowers
#39975
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

/s/ Adam Dunn
An Employee of the Federal Public
Defender, District of Nevada