

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Case Nos. 53159 & 55759

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Electronically Filed  
Aug 23 2018 03:04 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Norman Keith Flowers,

Appellant,

v.

The State of Nevada,

Respondent.

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**Motion to Withdraw as Counsel**

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Rene L. Valladares  
Federal Public Defender  
Nevada State Bar No. 11479  
\*C.B. Kirschner  
Assistant Federal Public Defender  
Nevada State Bar No. 14023C  
411 E. Bonneville Ave., Suite 250  
Las Vegas, Nevada 89101  
Telephone: (702) 388-6577

\*Counsel for Petitioner Norman Flowers

**I. Undersigned counsel seeks to withdraw due to a conflict of interest.**

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 Oronoz was similarly permitted to be withdrawn as counsel.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.

Mr. Flowers' federal habeas petition is still pending. It would be a conflict of interest for the Federal Public Defender's Office to represent Mr. Flowers on both his reinstated direct appeals and his federal

habeas corpus petition. Habeas petitions often raise issues of ineffective assistance of trial and appellate counsel. Because an attorney cannot argue his/her own ineffectiveness, it would be a conflict of interest for undersigned counsel to represent Mr. Flowers on his direct appeals. *See generally Colwell v. State*, 118 Nev. 807, 812 (2002); *Martinez v. Ryan*, 566 U.S. 1 (2012). Consequently, counsel respectfully requests permission to withdraw as the attorney of record. Contemporaneous with the filing of this motion, Mr. Flowers is filing a motion to have his case remanded for the appointment of new counsel.

## II. Prayer for relief

Undersigned counsel respectfully requests to be withdrawn as counsel for Mr. Flowers in this matter and new counsel be appointed.

Dated this 23<sup>rd</sup> 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 23<sup>rd</sup> 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 23<sup>rd</sup> day of August, 2018.

Respectfully submitted,

RENE L. VALLADARES  
Federal Public Defender

*/s/ CB Kirschner*

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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