IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS WILLIAM RANDOLPH,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF CLARK, THE HONORABLE STEFANY MILEY, DISTRICT JUDGE
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

Case No. 60014

ANSWER TO PETITION FOR EMERGENCY WRIT OF MANDAMUS

E. BRENT BRYSON, ESQ.
Nevada Bar #004933
3202 W. Charleston Blvd.
Las Vegas, Nevada 89102
(702) 384-2396
Co-Counsel for Petitioner

YALE E. GALANTER, ESQ.
3730 N. E. 199th Terrace
Aventura, Florida 33180
(305) 576-0244
Co-Counsel Pro Hac Vice

Counsel for Petitioner

MARY-ANNE MILLER
Interim Clark County District Attorney
Nevada Bar #001419
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

CATHERINE CORTEZ MASTO
Nevada Attorney General
Nevada Bar #003926
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Respondent

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COMES NOW, the State of Nevada, Real Party in Interest, by MARY-ANNE MILLER, Interim District Attorney, through her Chief Deputy, STEVEN S. OWENS, on behalf of the above-named Respondents and submits this Answer to Petition for Emergency Writ of Mandamus in obedience to this Court's order filed January 11, 2012, in the above-captioned case. This Answer is based on the following memorandum and all papers and pleadings on file herein.

Dated this 20th day of January, 2012.

Respectfully submitted,

MARY-ANNE MILLER
Interim Clark County District Attorney
Nevada Bar # 001419

BY */s/ Steven S. Owens*
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
Attorney for Respondent

MEMORANDUM OF POINTS AND AUTHORITIES

Statement of Facts and Procedural History

Thomas William Randolph (hereinafter "Randolph") is charged below in a three-year old capital murder case that has been continued multiple times all at Randolph's request. Ex. A, Transcript of 1/6/12, 9:38AM at pp. 18, 25-6. There has been at least one prior substitution of retained counsel for Randolph which contributed to some of the delay. Id. at p. 7. Retained counsel also recently sought mandamus relief unsuccessfully from this Court on a separate issue (SC# 59754). Id. at p. 25. The most recent trial setting was for January 3, 2012, but was delayed until January 17th to accommodate the defense. Id. at p. 29. At the calendar call in December, all parties announced they were ready for trial. Id. at p. 24. The State had at least 25 out-of-state witnesses subpoenaed who at considerable expense, time, and effort were all prepared and able to testify. Id. at p. 20. Despite there being multiple pretrial motions filed and evidentiary hearings over the last several years, at no time previously did Randolph request to substitute currently retained counsel. Id. at p. 24.

Several days after having announced ready at calendar call and three days after the trial was supposed to have started, Randolph's retained counsel orally represented in court on January 6, 2012, that they had been "fired" as counsel. Id. at p. 5. No written motion was ever filed. Due to a short extension that had already been given, this oral request for substitution of counsel came just 11 days before trial was to start on January 17, 2012. Id. at p. 29. The request for substitution of counsel included a request to appoint new counsel at public expense and to vacate and reset the trial date. Id. at p. 13. The district court had previously found that Randolph had become indigent and had authorized the payment of defense investigation and expert fees at public expense. Id. at p. 26. Randolph's indigent status is not in dispute.

Before ruling on the motion, the district court below held several hearings with Randolph personally, with Randolph's counsel, and telephonically with bar counsel, all of which were conducted outside the presence of the trial prosecutors. Ex. B, Transcript from 1/6/12 at 10:19AM, pp. 2-63. The transcripts were sealed so as to protect the defense trial strategy and confidentiality of attorney client communications. Id. In those hearings, the district court made inquiry into the timeliness of the request for substitution of counsel and the extent of Randolph's conflict with his retained counsel. Id.

After a full inquiry, the trial judge stated that she did not find sufficient cause to remove retained counsel from the case. Ex. A, Transcript of 1/6/12, 9:38AM at p. 23. The trial judge explained that although there had been numerous hearings previously in the case, "[a]t no time has Mr. Randolph ever indicated to this Court, and he's had the ability to do so, that he would like different counsel." Id. The judge further concluded that because the request had come just 11 days before the trial, "the timing alone suggests a dilatory motive on behalf of Mr. Randolph." Id. at p. 24. The judge noted that calendar call had passed and that the parties had announced ready not only in December but also as recently as January 3, 2012. Id.

The judge found "absolutely no indication" that the retained attorneys had been anything other than diligent in the case in filing pretrial motions and writs and performing a lot of work. Id. at p. 25. Retained counsel and Randolph himself both conceded that there had been frequent contact between them over the last three years. Id. The judge considered the skill of the two retained counsel Bryson and Galanter who were prepared and ready to go to trial. Id. at p. 26. In assessing prejudice if the motion were granted, the trial judge considered that it was just 11 days before trial, that both sides had subpoenaed witnesses and paid experts to come on the trial date, that it had taken three years to get the case ready for trial,

and that it would take a long time to get the case ready for trial again and again due to its complexity. Id. at pp. 25-6.

Once the trial judge denied the belated oral request for substitution of counsel and continuance of the trial date, Randolph sought mandamus relief from this Court through the instant petition. This Court's Order directing the State to answer the petition within ten days, left the district court with little choice but to grant a stay of the trial giving Randolph the relief he sought. The State now answers the Mandamus petition.

Extraordinary Relief Is Unwarranted

This Court may issue a writ of mandamus to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station or to control a manifest abuse of or arbitrary or capricious exercise of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). The writ will not issue where the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; Hickey v. District Court, 105 Nev. 729, 731, 782 P.2d 1336, 1338 (1989).

Any error in the denial of substitution of counsel is an issue that is capable of review on direct appeal after conviction. See e.g., Young v. State, 120 Nev. 963, 102 P.3d 572 (2004); Garcia v. State, 121 Nev. 327, 113 P.3d 836 (2005). However, this Court has also entertained a similar issue by way of mandamus. Ryan v. Eighth Judicial Dist. Court ex rel. County of Clark, 123 Nev. 419, 425, 168 P.3d 703, 707 (2007). The decision to entertain an extraordinary writ petition lies within the discretion of this Court, and this Court considers whether "judicial economy and sound judicial administration militate for or against issuing the writ." Redeker v. District Court, 122 Nev. 164, 167, 127 P.3d 520, 522 (2006).

Mandamus is unwarranted in the instant case because the district court did not manifestly or arbitrarily and capriciously abuse its discretion in refusing to substitute appointed counsel for retained counsel where the request was made on

the eve of trial, granting the request would have necessitated a continuance of the trial, and retained counsel was prepared and ready to proceed notwithstanding the defendant's lack of confidence in them. Despite the structural nature of Sixth Amendment error, there was no constitutional violation here that would warrant this Court's intervention. Extraordinary relief should also be denied as the issue has since become moot.

The Petition Should Be Denied As Moot

This writ petition became moot the instant this Court ordered an answer from the State and a supplement from Randolph. The only reason the oral motion to dismiss counsel was denied, was because of its timing on the eve of trial after having announced ready at calendar call and because of the prejudice that would ensue from vacating the trial date yet again. Ex. A, Transcript from 1/6/12 at 9:38AM at pp. 23-6. The effect of this Court ordering an answer from the State was that the district court has now granted a stay and vacated the trial date, which is all that this issue was ever about. No one is disputing Randolph's right to retain counsel of his choosing including his right to dismiss retained counsel with or without cause. Rather, the issue presented is whether such right still prevails when it is untimely asserted and would result in undue delay and prejudice to the administration of justice under the circumstances of this case.

This Court's duty is to decide actual controversies and not to give opinions on moot questions. Personhood Nevada v. Bristol, 126 Nev. ___, 245 P.3d 572, 574 (2010). The question of mootness is one of justiciability. This Court's duty is not to render advisory opinions but, rather, to resolve actual controversies by an enforceable judgment. NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981). Thus, a controversy must be present through all stages of the proceeding, see Arizonans for Official English v. Arizona, 520 U.S. 43, 67, 117 S.Ct. 1055 (1997); Lewis v. Continental Bank Corp., 494 U.S. 472, 476-78, 110 S.Ct. 1249 (1990), and even though a case may present a live controversy at its

beginning, subsequent events may render the case moot. University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004); Wedekind v. Bell, 26 Nev. 395, 413-15, 69 P. 612, 613-14 (1902).

With no pending trial date, there is now no bar to allowing Randolph to dismiss his retained counsel. The posture of the case has now completely changed from what it was. Randolph has made no showing that the court would have denied a timely motion to dismiss retained counsel. Because appointed counsel now will have time to take over the case and prepare for a new trial setting, all of the district court's concerns and rationale for previously denying the motion have been eliminated by this Court's actions of entertaining the petition. This petition should be denied as moot and Randolph can renew his motion below to dismiss retained counsel and appoint other counsel which undoubtedly will be granted.

Statement With Regard To Sealed Transcripts

Before deciding the oral motion to dismiss counsel, the district court below held several hearings with Randolph personally, with Randolph's counsel, and telephonically with bar counsel, all of which were conducted outside the presence of the trial prosecutors. Ex. B, Transcript from 1/6/12 at 10:19AM, pp. 2-63. This was done to protect the attorney-client privilege while satisfying the in-depth inquiry into such matters as required by this Court's precedent. Young v. State, 120 Nev. 963, 971, 102 P.3d 572, 577-78 (2004). Great effort was made to separately seal the portions of the transcripts where the prosecutors were excluded from the courtroom. See e.g., Ex. C, Transcript from 1/6/12 at 2:05PM, pp. 11-12.

However, Randolph has now voluntarily disclosed and served the contents of those sealed transcripts upon the State by attaching them as exhibits to his petition. It was irresponsible to put the State in this position without advance warning and without expressly waiving the privilege or otherwise seeking protection. One has to wonder if such was not done purposely in an effort to disqualify the District Attorney's Office. The State is left to conclude that such

actions constitute an implied waiver of any attorney client privilege as to the information contained therein. NRS 49.385; Wardleigh v. Second Judicial Dist. Court In & For County of Washoe, 111 Nev. 345, 354, 891 P.2d 1180, 1186 (1995), *citing* Developments in the Law–Privileged Communications, 98 Harv.L.Rev. 1450, 1637 (1985) ("[i]t has become a well-accepted component of waiver doctrine that a party waives his privilege if he affirmatively pleads a claim or defense that places at-issue the subject matter of privileged material over which he has control"). The attorney client privilege was intended as a shield, not a sword. Id. By electing to pursue this claim in a pre-trial petition for mandamus, Randolph has waived his privilege to the extent necessary to resolve his issue.

Nonetheless, out of an abundance of caution and to ensure that no conflict is alleged in the future against the trial prosecutors in this case, undersigned counsel has "screened" himself pursuant to NRPC Rule 1.0(k) from the rest of the office. The trial prosecutors who have spent three years preparing for trial are not privy to the contents of either the instant petition or the previously sealed transcripts that might divulge trial strategy or confidential communications of the defense. Undersigned counsel is isolated in the Appellate Division from the trial attorneys and will protect any confidential communications unless this Court concludes that waiver applies.

The Trial Judge did not Abuse her Discretion in Balancing the Right to Substitute Retained Counsel Against the Fair Administration of Justice

Resolution of the issue in this case depends not just upon Randolph's right to counsel, but the interplay of that right against the government's interest in the fair, orderly, and effective administration of justice. Randolph overlooks that his late request for substitution of counsel was also a late request to continue the trial date. Randolph's counsel acknowledged that "there would be absolutely no way that of a case of this magnitude that [appointed counsel] could be ready to go,"

given the untimeliness of the oral motion for substitution. Ex. A, Transcript of 1/6/12 at 9:38 AM at p. 13.

The Supreme Court has "recognized a trial court's wide latitude in balancing the right to counsel of choice against the needs of fairness ... and against the demands of its calendar." United States v. Gonzalez-Lopez, 548 U.S. 140, 152, 126 S. Ct. 2557, 2565-66 (2006) (*citing* Wheat v. United States, 486 U.S. 153, 159–60, 108 S.Ct. 1692, 100 L.Ed.2d 140 (1988); Morris v. Slappy, 461 U.S. 1, 11–12, 103 S.Ct. 1610, 75 L.Ed.2d 610 (1983)). Where the accused seeks to change retained counsel, his right to counsel of his choice must be balanced against the public interest in the prompt and efficient administration of justice. Wilson v. Mintzes, 761 F.2d 275 (6th Cir. 1985). The appropriateness of a continuance in order to substitute counsel depends upon factors such as the length of delay, previous continuances, inconvenience to litigants, witnesses, counsel and the court, whether the delay is purposeful or is caused by the accused, the availability of other competent counsel, the complexity of the case, and whether denying the continuance will lead to identifiable prejudice. Id.

It is well-recognized that the Sixth Amendment right to counsel is not absolute. Id.; see also Ryan v. Eighth Judicial Dist. Court ex rel. County of Clark, 123 Nev. 419, 425, 168 P.3d 703, 707 (2007). The district court has broad discretion to balance a criminal defendant's right to choose her own counsel against the administration of justice. Id. Broad discretion must be granted trial courts on matters of continuances and only unreasoning and arbitrary insistence upon expeditiousness in face of justifiable request for delay violates right to assistance of counsel. Morris v. Slappy, 461 U.S. 1, 11-2, 103 S.Ct. 1610 (1983).

In the Ninth Circuit, the denial of a continuance four days before trial to allow a defendant, who had appointed counsel, to retain a private attorney did not violate the Sixth Amendment where the court noted appointed counsel's ability to proceed, evaluated defendant's diligence in seeking private counsel, and weighed

the potential impact of a continuance on victims and witnesses. Houston v. Schomig, 533 F.3d 1076, 1079 (9th Cir. 2008); see Morris v. Slappy, 461 U.S. 1, 13-15, 103 S.Ct. 1610 (1983) (acknowledging that appropriate factors to consider include administration of justice, difficulty in assembling witnesses, bad faith delaying tactics, victims' concerns). Where defendant's private counsel, who had been substituted for court-appointed counsel for a few days before trial, made a motion for continuance on the morning of the trial to have more time to prepare, this Court held that the trial court did not commit error in denying the motion for continuance. Jones v. State, 90 Nev. 45, 518 P.2d 164 (1974). Last minute substitutions only for the purpose of gaining continuances are frowned upon. People v. Schumacher, 256 Cal.App.2d 858, 64 Cal.Rptr. 494 (1967); People v. Phillips, 270 Cal.App.2d 381, 75 Cal.Rptr. 720 (1969).

In a criminal case, all motions are to be filed not less than 15 days before the date set for trial and the court may decline to consider any untimely motion. EDCR Rule 3.20. Pursuant to EDCR Rule 7.40(b), counsel in any case may be changed ***only*** upon written motion served upon all the parties and filed with the court. There was no written motion with the requisite written consent filed in the instant case and the request was simply made orally in open court after calendar call. Furthermore, EDCR 7.40(c) provides that "[n]o application for withdrawal or substitution may be granted if a delay of the trial or of the hearing of any other matter in the case would result." In a case that had already been delayed for three years, allowing retained counsel to withdraw on the eve of trial would yet again have necessitated a continuance of the trial date.

In Young, this Court adopted three factors to consider in reviewing a district court's denial of a motion for substitution of counsel: "(1) the extent of the conflict; (2) the adequacy of the inquiry; and (3) the timeliness of the motion." Young v. State, 120 Nev. 963, 102 P.3d 572 (2004). In evaluating the timeliness of the motion, a court must balance a defendant's constitutional right to counsel

against the inconvenience and delay that would result from the substitution of counsel. Id., *citing* U.S. v. Moore, 159 F.3d 1154, 1158-69 (9th Cir. 1998). In Young, this Court found an abuse of discretion in denying a motion for substitution where the motion was made three and a half months before the start of trial and there was no proof in the record that Young filed his motions for dilatory tactics or bad-faith interference with the administration of justice. Young, 120 Nev. at 970, 102 P.3d at 577.

However, in Garcia, no abuse of discretion was found in the denial of a substitution motion filed at calendar call, just a few days before the trial was scheduled to begin. Garcia v. State, 121 Nev. 327, 336, 113 P.3d 836, 842 (2005). This Court explained that consideration of the timeliness of the motion included the extent to which it will result in inconvenience or delay. Garcia, 121 Nev. at 338-39, 113 P.3d at 843. Garcia had months to express his concerns to the court but waited until the eve of trial and filed his motion in open court—a fact this Court noted was suggestive of a dilatory motive. Id. The record further indicated that Garcia's motion, although timely in the sense that it was filed before the actual start of the trial, would have resulted in unnecessary inconvenience and delay, if granted. Id. Although the trial court's inquiry into the extent of the conflict was limited, it was adequate under the circumstances to affirm the denial of relief. Id.

The lack of timeliness of Randolph's motion was far worse than that in Garcia, *supra*. Unlike the written motion filed at calendar call in Garcia which this Court characterized as "suggestive of a dilatory motive," Randolph's motion was oral and was made several days ***after*** the calendar call where all parties had announced ready for trial. The trial judge in this case found that "the timing alone suggests a dilatory motive on behalf of Mr. Randolph." Ex. A, Transcript of 1/6/12 at 9:38AM, p. 24. The trial judge further found that although there had been numerous hearings previously in the case, "[a]t no time has Mr. Randolph ever indicated to this Court, and he's had the ability to do so, that he would like

different counsel." Id. Randoph's assertion that his motion was timely simply because it was orally made "before" the commencement of trial is not supported by law.

In assessing prejudice if the motion were granted, the trial judge considered that it was just 11 days before trial, that both sides had subpoenaed witnesses and paid experts to come on the trial date, that it had taken three years to get the case ready for trial, and that it would take a long time to get the case ready for trial again and again. Id. at pp. 25-6. In fact, the trial was actually set to begin on January 3rd, but the trial judge had already delayed the start until January 17th to accommodate the defense. Id. at p. 29. The State represented that it had at least 25 out-of-state witnesses who at considerable expense, time, and effort were all prepared and able to testify. Id. at p. 20. In the three years the case had been pending in district court, there had been multiple continuances that had been given all at the defense request. Id. at p. 18. Also, this was not the first time Randolph had delayed the case by changing attorneys. Id. at p. 7.

The extent of the trial judge's inquiry was adequate and reasonable and gave all parties an opportunity to fully express their concerns. Ex. B, Transcript from 1/6/12 at 10:19AM, pp. 2-63. Significantly, such inquiry revealed no irreconcilable conflict or complete break-down in the attorney-client relationship such as would violate the Sixth Amendment. Id. The mere fact that the accused lacks trust or confidence in counsel, or disagrees with counsel, or fails to cooperate in good faith with counsel, or that there is a lack of communication between the accused and counsel caused by the accused, does not justify discharge or substitution of counsel. 22 C.J.S. Criminal Law § 392. There is no constitutional guarantee to a meaningful relationship between a criminal defendant and his counsel. Morris v. Slappy, 461 U.S. 1, 14, 103 S.Ct. 1610 (1983). While the client may make decisions regarding the ultimate objectives of representation, the trial lawyer alone is entrusted with decisions regarding legal tactics such as deciding

what witnesses to call and what defenses to develop. Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002). None of Randolph's purported disagreements or dissatisfaction with counsel amounted to the type of irreconcilable conflict or complete breakdown required to show a Sixth Amendment violation.

Because the Request to Substitute was Untimely, the Analysis is the Same Regardless of Whether Counsel is Retained or Appointed

In their argument to the judge below, defense counsel argued against application of the three factors articulated in Young and Garcia, *supra*, to situations involving privately retained counsel. Ex. A, Transcript from 1/6/12 at 9:38AM, pp. 8-9. But counsel below provided no authority to the trial judge in support of their argument that Young and Garcia were limited to substitutions of appointed counsel. Id. Having been given no authority to the contrary, the trial judge did not abuse her discretion in concluding that "the factors set forth in those cases are applicable to the incident case. Notwithstanding the distinction that in those cases it happened to be appointed counsel versus in this case it's retained counsel, the Court finds it's really a distinction without a difference." Id. at p. 23.

Now for the first time in his mandamus petition, Randolph cites to California case authority for the proposition that in contrast to situations involving appointed counsel, a defendant may discharge his retained counsel of choice at any time with or without cause. People v. Lara, 86 Cal. App. 4th 139, 152, 103 Cal. Rptr. 2d 201 (2001); People v. Ortiz, 51 Cal.3d 975, 275 Cal.Rptr. 191, 800 P.2d 547 (1990). Therefore, in cases of discharging retained counsel, an extent-of-conflict inquiry generally is not appropriate or relevant. Id.; but see United States v. Mota-Santana, 391 F.3d 42, 47 (1st Cir. 2004) (disagreeing with Ortiz). However, neither Lara nor Ortiz involved an untimely request for substitution of retained counsel that necessitated the continuance of a trial date as in the present case. Notwithstanding that such case authority was not provided to the judge below, none of it controls the present situation.

In fact, Lara recognized that the right to discharge even retained counsel is not absolute and the court may still exercise discretion to ensure orderly and expeditious judicial administration if the defendant is "unjustifiably dilatory or ... arbitrarily desires to substitute counsel at the time of trial." Lara, *supra*, 86 Cal.App.4th at 153, *citing* People v. Blake (1980) 105 Cal.App.3d 619, 623-624 [164 Cal.Rptr. 480]; People v. Leonard, *supra*, 78 Cal.App.4th 776, 784. Similarly, Ortiz held the defendant's right to discharge his retained counsel was not absolute, and the trial court retained discretion to deny such a motion if the discharge "was untimely and would result in a " 'disruption of the orderly processes of justice unreasonable under the circumstances of the particular case.' " People v. Ortiz, *supra*, 51 Cal.3d at p. 982, *quoting* People v. Crovedi (1966) 65 Cal.2d 199, 208 [53 Cal.Rptr. 284, 417 P.2d 868]; People v. Turner, 7 Cal.App.4th at p. 918.

The Ninth Circuit agrees with Ortiz, *supra*, that the three part extent-of-conflict analysis applicable to a defendant seeking new court-appointed counsel generally does not apply to a defendant seeking to discharge retained counsel. United States v. Rivera-Corona, 618 F.3d 976, 979-80 (9th Cir. 2010). However, Rivera-Corona also explained that this is true "only where delay is not an issue." Id. The extent-of-conflict inquiry is not relevant "unless the substitution would cause significant delay or inefficiency." Id. The Ninth Circuit explained that "[c]onflict between the defendant and his attorney enters the analysis only if the court is required to balance the defendant's reason for requesting substitution against the scheduling demands of the court." Id. The only exception to the application of the three-part test is for situations in which the defendant seeks to substitute retained counsel and timeliness is not a problem; in such cases, the inquiry and conflict factors may be irrelevant. U.S. v. Torres-Rodriguez, 930 F.2d 1375, 1380 n. 2 (9th Cir.1991), overruled on other grounds, Bailey v. United States, 516 U.S. 137, 142-43, 116 S.Ct. 501, 133 L.Ed.2d 472 (1995). Because

timeliness was a problem in the instant case and the request for substitution had to be weighed against the government's interest in the fair, orderly, and effective administration of justice, the three factor analysis of Young and Garcia continues to control regardless of any retained or appointed counsel distinction.

CONCLUSION

This Court should not interfere with the trial judge's well-reasoned exercise of broad discretion in denying the motion to substitute retained counsel under the circumstances of this case. The inquiry and rationale of the trial judge are legally sound and did not infringe on any Constitutional right. The right to discharge retained counsel is not absolute. The untimely oral request in this case for substitution of retained counsel on the eve of trial could not overcome the prejudice to the fair administration of justice if this three-year old complex and costly murder case were continued yet again. This Court's actions in entertaining the instant petition have already rewarded Randolph with the trial continuance he so desperately sought. When the public complains about the high cost and delay of capital litigation, this is why. The standard for mandamus is high and it is an extraordinary remedy. Unless this Court is prepared to say that the judge in this case manifestly or arbitrarily and capriciously abused her discretion, mandamus relief must be denied. The record shows a thoughtful, well-reasoned exercise of discretion founded upon sound law. Therefore the State respectfully requests that mandamus be denied.

Dated this 20th day of January, 2012.

Respectfully submitted,

MARY-ANNE MILLER
Interim Clark County District Attorney
Nevada Bar # 001419

BY */s/ Steven S. Owens*
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on January 20, 2012. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
Nevada Attorney General

E. BRENT BRYSON, ESQ.
Co-Counsel for Appellant

STEVEN S. OWENS
Chief Deputy District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

YALE E. GALANTER, P. A.
3730 N. E. 199th Terrace
Aventura, Florida 33180
Co-Counsel Pro Hac Vice

HONORABLE STEFANY MILEY
Eighth Judicial Court, Dept. XXIII
Regional Justice Center, 12th Fl.
200 Lewis Avenue
Las Vegas, Nevada 89101

BY */s/ eileen davis*
Employee, District Attorney's Office

SSO/ed