

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 60014

FILED

JAN 24 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER TO SHOW CAUSE

This original petition for a writ of mandamus challenges the district court's denial of a request to discharge retained counsel in a capital prosecution. We ordered the State to file an answer on behalf of respondents against issuance of the requested writ. In its answer, the State asserts that the petition is moot because the timeliness issue that informed and was the primary basis for the district court's decision¹ no


¹See, e.g., U.S. v. Rivera-Corona, 618 F.3d 976, 979-80 (9th Cir. 2010) ("Unless the substitution would cause significant delay or inefficiency or run afoul of the other considerations we have mentioned, a defendant can fire his retained or appointed lawyer and retain a new attorney for any reason or no reason. Conflict 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." (citations omitted)); People v. Ortiz, 800 P.2d 547, 549 (Cal. 1990) ("[W]hen a criminal defendant makes a timely motion to discharge his retained attorney he should not be required to demonstrate the latter's incompetence, as long as the discharge will not result in

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longer exists because the district court vacated the trial date and petitioner therefore has the opportunity to file a timely request to discharge retained counsel and appoint substitute counsel should he still wish to do so. This argument appears to have some merit. Accordingly, petitioner shall have 5 days from the date of this order to show cause why this petition should not be dismissed as moot.

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Stefany Miley, District Judge
E. Brent Bryson, Ltd.
The Law Offices of Yale L. Galanter, P.A.
Attorney General/Carson City
Clark County District Attorney

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prejudice to the defendant or in an unreasonable disruption of the orderly processes of justice." (emphases added)); People v. Lara, 103 Cal. Rptr. 2d 201, 212 (Ct. App. 2001) (explaining that where defendant seeks to discharge retained counsel, the court must balance the defendant's right to counsel of choice (effectuated by discharging retained counsel) against "the disruption, if any, flowing from the [discharge]"); Dixon v. Owens, 865 P.2d 1250, 1252 (Okla. Crim. App. 1993) ("Absent a showing of undue delay, disruption of the orderly process of justice or prejudice to the defendant or opposing counsel, a defendant who timely seeks to discharge retained counsel—whether indigency results or not—should be permitted to do so.").