

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Oct 30 2013 03:12 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

JAQUEZ DEJUAN BARBER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 62649

**MOTION TO STRIKE PORTIONS OF APPELLANT'S MOTION TO  
RECONSIDER DENIAL OF MOTION TO FILE JUVENILE COURT  
DOCUMENTS UNDER SEAL IN THE APPENDIX**

**Appeal From Judgment of Conviction  
Eighth Judicial District Court, Clark County**

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Counsel for Respondent

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Respondent.

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## ARGUMENT

Appellant's Motion to Reconsider the Denial of his Motion to File Juvenile Court Documents Under Seal in the Appendix (Reconsideration Motion), filed October 30, 2013, contains citation to an unpublished opinion of this Court. On page 3 of the Reconsideration Motion Appellant cites to the "unpublished opinion of Daron W. v. Eighth Jud. Dist. Ct., Case no. 57807 (5/10/11)." (Reconsideration Motion, p. 3). However, "[a]n unpublished opinion ... of the Nevada Supreme Court shall not be regarded as precedent and shall not be cited as legal authority[.]" Supreme Court Rules (SCR) Rule 123. As such this Court should decline to rely upon the document and should strike reference to it from the Reconsideration Motion.<sup>1</sup>

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<sup>1</sup> The Reconsideration Motion does not cite to authority allowing Appellant to ask this Court for reconsideration. Reconsideration of a decided issue is generally not favored. See, Whitehead v. Nevada Com'n. on Judicial Discipline, 110 Nev. 380, 388, 873 P.2d 946, 951-52 (1994) ("it has been the law of Nevada for 125 years that a party will not be allowed to file successive petitions for rehearing ... The obvious reason for this rule is that successive motions for rehearing tend to unduly prolong litigation"). Only Rules 27, 40 and 40A of the Nevada Rules of Appellate Procedure (NRAP) are potentially applicable. NRAP Rule 27 is the general motion rule and does not specifically allow for requests to reconsider. NRAP Rule 40A relates to motions for en banc reconsideration. The Reconsideration Motion does not request en banc reconsideration. NRAP Rule 40 allows a party to request rehearing of a matter. All this is preamble to the conclusion that this Court must consider the Reconsideration Motion as brought under NRAP Rule 40. As such Respondent has not offered opposition to the Reconsideration Motion as this Court has not directed a response. NRAP Rule 40(d). However, Respondent is prepared to offer opposition if so directed.

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Dated this 30<sup>th</sup> day of October, 2013.

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## CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 30<sup>th</sup> day of October, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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BY /s/ j. garcia  
Employee, District Attorney's Office

JEV/jg