1	IN THE SUPREME COURT OF THE STATE OF NEVADA	
2	2	
3	3	Electronically Filed
4	4	Electronically Filed Oct 30 2013 03:12 p.m.
5	5 JAQUEZ DEJUAN BARBER,)	Case No Tracie K. Lindeman Clerk of Supreme Court
6	6 Appellant,	
7	7 v.	
8	8 THE STATE OF NEVADA,	
9	9 Respondent.	
10		
11	MOTION TO STRIKE PORTIONS OF A RECONSIDER DENIAL OF MOTION 1	
12	2 DOCUMENTS UNDER SEAL	
13	Appeal From Judgment Eighth Judicial District Cou	of Conviction
14		rt, Clark County
15		VEN B. WOLFSON
16	6 Clark County Public Defender Clark 309 South Third Street Neva Nevada 20155 2610 Reva	County District Attorney da Bar # 001565 onal Justice Center Lewis Avenue
17	7 Las Vegas, Nevada 89155-2610 Regi (702) 388-6577 200 I Doct	Lewis Avenue
18	8 Las V	Office Box 552212 Vegas, Nevada 89155-2212
19	9 State	Vegas, Nevada 89155-2212) 671-2500 of Nevada
20		HERINE CORTEZ MASTO
21	1 Neva 100 J	da Attorney General da Bar No. 003926 North Carson Street
22	2 Carse (775)	on City, Nevada 89701-4717) 684-1265
23	3	084-1203
24	4	
25	5	
26	6	
27	7 Counsel for Appellant Cour	sel for Respondent
28	8	

I:\APPELLATE\WPDOCS\SECRETARY\MOTIONS\STRIKE\BARBER, JAQUEZ DEJUAN, 62649, MTN. TO STRIKE PORT. OF APP'S. MTN. TO RECONSD..DOC

Docket 62649 Document 2013-32652

1 2	IN THE SUPREME COURT OF THE STATE OF NEVADA		
3			
4			
5	JAQUEZ DEJUAN BARBER,) Case No. 62649		
6	Appellant,		
7	V		
8	THE STATE OF NEVADA,		
9	Respondent.		
10	MOTION TO STRIKE PORTIONS OF APPELLANT'S MOTION TO		
11	RECONSIDER DENIAL OF MOTION TO FILE JUVENILE COURT		
12	DOCUMENTS UNDER SEAL IN THE APPENDIX		
13	COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County		
14	District Attorney, through his Chief Deputy, JONATHAN E. VANBOSKERCK, and		
15	files this Motion to Strike Portions of Appellant's Motion to Reconsider Denial of		
16 17	Motion to File Juvenile Court Documents Under Seal in the Appendix. This motion is		
18	filed pursuant to NRAP Rule 27 and is based on the following memorandum and all		
19	papers and pleadings on file herein.		
20	Dated this 30 th day of October, 2013.		
21	Respectfully submitted,		
22	Respectivity submitted,		
23 24	STEVEN B. WOLFSON		
24	Clark County District Attorney Nevada Bar # 001565		
25			
26	BY /s/ Jonathan E. VanBoskerck		
27	Jonathan E. VanBoskerck Chief Deputy District Attorney		
28	Chief Deputy District Attorney Nevada Bar #006528 Office of the Clark County District Attorney		
	I:\APPELLATE\WPDOCS\SECRETARY\MOTIONS\STRIKE\BARBER, JAQUEZ DEJUAN, 62649, MTN. TO STRIKE PORT. OF APP'S. MTN. TO RECONSDDOC		

1	ARGUMENT	
2	Appellant's Motion to Reconsider the Denial of his Motion to File Juvenile	
3 4	Court Documents Under Seal in the Appendix (Reconsideration Motion), filed	
5	October 30, 2013, contains citation to an unpublished opinion of this Court. On page	
6	3 of the Reconsideration Motion Appellant cites to the "unpublished opinion of Daron	
7 8	W. v. Eighth Jud. Dst. Ct., Case no. 57807 (5/10/11)." (Reconsideration Motion, p.	
9	3). However, "[a]n unpublished opinion of the Nevada Supreme Court shall not be	
10	regarded as precedent and shall not be cited as legal authority[.]" Supreme Court	
11 12	Rules (SCR) Rule 123. As such this Court should decline to rely upon the document	
12	and should strike reference to it from the Reconsideration Motion. ¹	
14		
15		
16	///	
17		
18	¹ The Reconsideration Motion does not cite to authority allowing Appellant to ask this	
19 20	Court for reconsideration. Reconsideration of a decided issue is generally not favored. See, Whitehead v. Nevada Com'n. on Judicial Discipline, 110 Nev. 380,	
20	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	
22	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	
23	(NRAP) are potentially applicable. NRAP Rule 27 is the general motion rule and	
24	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	
25	banc reconsideration. NRAP Rule 40 allows a party to request rehearing of a matter.	
26	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	
27	not offered opposition to the Reconsideration Motion as this Court has not directed a	
28	response. NRAP Rule 40(d). However, Respondent is prepared to offer opposition if so directed.	

1	CONCLUSION	
1		
2	WHEREFORE, the State respectfully requests that this Court strike the	
3	reference to an unpublished opinion from the Reconsideration Motion and refrain	
4 5	from relying upon said document in adjudicating the Reconsideration Motion.	
5 6	nom rerying upon suid document in dejudicating the reconsideration worten.	
7	Dated this 30 th day of October, 2013.	
8		
9	Respectfully submitted,	
10	STEVEN B. WOLFSON Clark County District Attorney Nevada Bar # 1565	
11	Nevada Bar # 1565	
12	BY /s/ Jonathan E. VanBoskerck	
13	JONATHAN E. VANBOSKERCK Chief Deputy District Attorney	
14	Chief Deputy District Attorney Nevada Bar #006528 Office of the Clark County District Attorney	
15	200 Lewis Avenue Post Office Box 552212	
16	Las Vegas, Nevada 89155-2212	
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	$\frac{3}{1000}$ I:\appellate\wpdocs\secretary\motions\strike\barber, jaquez dejuan, 62649, mtn. to strike port. of app's. mtn. to reconsddoc	

1	CERTIFICATE OF SERVICE	
2	I hereby certify and affirm that this document was filed electronically with the	
3 4	Nevada Supreme Court on 30 th day of October, 2013. Electronic Service of the	
5	foregoing document shall be made in accordance with the Master Service List as	
6	follows:	
7		
8 9	CATHERINE CORTEZ MASTO Nevada Attorney General	
10 11	SHARON G. DICKINSON Deputy Public Defender	
12	JONATHAN E. VANBOSKERCK	
13	Chief Deputy District Attorney	
14		
15		
16	BY <u>/s/ j. garcia</u> Employee, District Attorney's Office	
17		
18 19		
20		
21		
22		
23		
24	JEV/jg	
25		
26		
27		
28		
	L:\APPELLATE\WPDOCS\SECRETARY\MOTIONS\STRIKE\BARBER, JAQUEZ DEJUAN, 62649, MTN. TO STRIKE PORT. OF APP'S. MTN. TO RECONSDDOC	