

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNESTO MANUEL GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64249

FILED

JAN 13 2014

TRAMIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL AND
REMANDING FOR APPOINTMENT OF COUNSEL*

This is an appeal from a judgment of conviction. The notice of appeal was filed by attorney David R Houston, who had been retained by appellant's family to represent appellant at trial. Mr. Houston has filed a motion to withdraw as counsel explaining that although he had been retained solely for the trial, the district court appointed him as counsel after sentencing to ensure that a timely notice of appeal was filed. He implies that he was not appointed to and did not accept appointment to represent appellant in this appeal and suggests that it would be unlawful to appoint him as appellate counsel unless the public defender is disqualified from representing appellant. See NRS 7.115.

The motion does not comply with NRAP 46(d)(3) because it was not served on appellant and does not include the affidavit or statement required by NRAP 46(d)(3)(B). Nonetheless, under the circumstances presented and good cause appearing, the motion to withdraw is granted. See RPC 1.16(b)(1), (7). The clerk of this court shall remove Mr. Houston as counsel of record for appellant.

We remand this appeal for the limited purpose of securing counsel for appellant. *Evitts v. Lucey*, 469 U.S. 387 (1985). If appellant is indigent, the district court shall have 30 days from the date of this order to appoint counsel for appellant. If the district court determines that appellant is not indigent, the district court shall direct appellant to retain counsel and cause counsel to enter a notice of appearance with the district court within 30 days.

Within 5 days of the appointment or appearance of counsel, the district court shall: (1) transmit to the clerk of this court a copy of the district court's written or minute order; and (2) serve a copy of this order of remand on appellant's counsel.

Briefing of this appeal shall be suspended pending the appearance of counsel.

It is so ORDERED.

, C.J.

cc: Hon. Connie J. Steinheimer, District Judge
Law Office of David R. Houston
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk
Ernesto Manuel Gonzalez