

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3  
4 BENNETT GRIMES,                   )

5                                   Appellant,                   )

6                                   vs.                   )

7  
8 THE STATE OF NEVADA,                   )

9                                   Respondent.                   )

Electronically Filed  
Apr 08 2015 03:52 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
Case No. 67598

11                   **APPELLANT'S MOTION TO STRIKE**  
12                   **ORDER DENYING MOTION TO WITHDRAW**

13  
14                   Comes Now Appellant BENNETT GRIMES, by and through Deputy Public  
15 Defender DEBORAH L. WESTBROOK, and moves this Honorable Court to  
16 Strike its March 30, 2015 *Order Denying Motion to Withdraw* because, to date,  
17 jurisdiction over the instant case has remained in the District Court, which already  
18 ordered the Office of the Public Defender withdrawn due to a conflict of interest.  
19 This Motion is based upon the following Declaration and all papers and pleadings  
20 on file herein.  
21  
22

23                   DATED this 8th day of April, 2015.

24  
25                   PHILIP J. KOHN  
26                   CLARK COUNTY PUBLIC DEFENDER

27                   By /s/ Deborah L. Westbrook

28                   DEBORAH L. WESTBROOK, #9285  
Deputy Public Defender  
309 So. Third Street, Suite #226  
Las Vegas, Nevada 89155-2610  
(702) 455-4685

1                                    **DECLARATION OF DEBORAH L. WESTBROOK**

2                    1. I am an attorney licensed to practice law in the State of Nevada; I  
3  
4 am a deputy public defender assigned to handle the appeal of this matter; I am  
5 familiar with the procedural history of this case.

6                    2.     On March 16, 2015, the Office of the Public Defender  
7  
8 prematurely filed a Notice of Appeal in the instant case, after the District Court  
9 orally denied Mr. Grimes' motion to correct an illegal sentence, but *before* the  
10 District Court entered the final written order required by NRAP 4(b)(1)(A).

11                   3.     On March 19, 2015, the District Court ordered the Public  
12  
13 Defender's Office withdrawn as counsel of record from Mr. Grimes' case due to  
14 the conflict of interest created by Mr. Grimes' Petition for Post-Conviction Relief.

15                   4.     On March 20, 2015, I filed a Motion to Withdraw as counsel in  
16  
17 the instant appeal due to the conflict of interest created by Mr. Grimes' Petition for  
18 Post-Conviction Relief.

19                   5.     On March 24, 2015 the Nevada Supreme Court entered its  
20  
21 *Order re: Entry of Written Order and Suspending Briefing*, stating "the district  
22 court retains jurisdiction" over the instant case until such time as a final written  
23 order is entered.

24                   6.     Because no final written order has **ever** been entered in this  
25  
26 case that would transfer jurisdiction over the instant appeal to the Nevada Supreme  
27  
28

1 Court, jurisdiction remains with the District Court, which has already ordered the  
2 Office of the Clark County Public Defender withdrawn from Mr. Grimes' case.  
3

4 7. Therefore, the Nevada Supreme Court lacked jurisdiction to  
5 issue its March 30, 2015 *Order Denying Motion to Withdraw*, which was filed  
6 **after** this Court agreed it did not yet have jurisdiction over the instant case, and  
7 **after** the District Court ordered the Office of the Public Defender withdrawn.  
8

9 8. Accordingly, the March 30, 2015 *Order Denying Motion to*  
10 *Withdraw* should be stricken so that the District Court may appoint new counsel  
11 for both PCR and appellate purposes.  
12

13 I declare under penalty of perjury that the foregoing is true and  
14 correct to the best of my knowledge and belief.  
15

16 EXECUTED on the 8th day of April, 2015.  
17

18 /s/ Deborah L. Westbrook  
19 DEBORAH L. WESTBROOK  
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ADAM LAXALT  
STEVEN S. OWENS

DEBORAH L. WESTBROOK  
HOWARD S. BROOKS

BENNETT GRIMES  
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