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Tracie K. Lindeman
Clerk of Supreme Court

9 **SUPREME COURT OF THE STATE OF NEVADA**

10 MELVYN P. SPROWSON, JR.,) Supreme Court Case No. 68797
11)
12 Appellant,) District Court Case No. C295158
13)
14 vs.)
15)
16 THE STATE OF NEVADA,)
17)
18 Respondent.)
19)
20)
21)
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23)
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16 **MOTION TO WITHDRAW AS COUNSEL OF RECORD**

17 COMES NOW JOHN J. MOMOT, ESQ. and YI LIN ZHENG, ESQ., of Momot &
18 Zheng, 520 South 4th St., Ste. 300, Las Vegas, Nevada 89101, counsels for the Appellant,
19 MELVYN P. SPROWSON, JR., and moves to withdraw as counsels of record. This Motion is
20 based on the Memorandum of Points and Authorities attached hereto.
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22 DATED this 23rd day of September, 2015.

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25 
26 JOHN J. MOMOT, ESQ.
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MEMORANDUM OF POINTS AND AUTHORITIES

Nevada Supreme Court Rule 166(2) provides that a lawyer may withdraw from representing a client "if withdrawal can be accomplished without material adverse effect on the interests of the client." Rule 166(2) also allows a lawyer to withdraw if: (a) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent; (b) the client has used the lawyer's services to perpetrate a crime or fraud; (c) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent; (d) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (e) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or (f) other good cause for withdrawal exists.

Nevada Rules of Appellate Procedure Rule 3(b)(1) provides that "[T]o withdraw from representation during the appeal, trial counsel shall file with the Supreme Court a motion to withdraw from representation. The motion shall be considered only after trial counsel has filed the notice of appeal, rough draft transcript request and fast track statement. The granting of such motions shall be conditioned upon trial counsel's full cooperation with appellate counsel during the appeal."

EDCR 7.40(b)(2)(i) provides that when no attorney has been retained to replace the attorney withdrawing, the Court may nonetheless grant a written motion to withdraw.

Nevada Rules of Professional Conduct Rule 1.16 allows the attorney to terminate the relationship when (a)(3) "the lawyer is discharged", and Rule 1.16 (b)(7) "other good cause for withdrawal exists".

1 Counsels for the Appellant sets forth the bases for this motion as follows:

2 Counsels were previously attorneys of record for Appellant in District Court Case No. C295158.
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4 In that capacity Counsels filed a Motion to Suppress Evidence on May 6, 2015. An Evidentiary
5 Hearing was scheduled and occurred on July 1, 2015. Following the Evidentiary Hearing, the
6 attorney-client relationship deteriorated to the point that continued representation of the client
7 would be strained and unsuccessful.

8 Client expressed his dissatisfaction with counsels' representation of him. There were
9 unresolved and irreconcilable differences between attorneys and client regarding the manner of
10 the case's progression and the legal strategies integral to the case. Client disagreed with
11 counsels' strategic decisions and motion filings to preserve the record and to comply with the
12 statutory notice requirements of the case. Client does not heed the advice of his attorneys and
13 persist on his course of conduct notwithstanding the advice of counsel. Client implied that
14 counsels' did not understand or appreciate the gravity of the situation that he is faced with or that
15 counsels' are not acting in client's best interest. As a result, Counsels filed a Motion to
16 Withdraw as Counsel of Record, which the District Court granted on July 22, 2015.


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19 The Appellant then filed a Motion to Proceed *Pro Se*. On August 24, 2015, a *Faretta*
20 Canvass was conducted, the Motion to Proceed *Pro Se* was granted, and the Public Defender's
21 Office was appointed as standby counsel.

22 On August 28, 2015, the District Court issued its Decision and Order on the Motion to
23 Suppress Evidence that was the subject of the Evidentiary Hearing on July 1, 2015. It is this
24 Decision and Order, which was issued after Counsels' withdrawal as attorneys of record, that
25 Appellant seeks to appeal. Since Counsels' were no longer attorneys of record at the time of the
26 issuance of the Decision and Order that Appellant is appealing, Counsels' would ask to be
27 relieved as attorneys of record also for the purposes of the appeal.
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1 A copy of this Motion to Withdraw as Counsel of Record was sent via United States
2 Postal Service to the client at the Clark County Detention Center on September 23, 2015.
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4 Respectfully Submitted,

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