

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES EARL PARKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70139

FILED

JUL 08 2016

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

***ORDER REMOVING COUNSEL, REFERRING COUNSEL TO STATE
BAR FOR INVESTIGATION, REMANDING FOR APPOINTMENT OF
APPELLATE COUNSEL, AND SUSPENDING BRIEFING***

On June 3, 2016, we entered an order imposing a conditional sanction against appellant's counsel, Michael W. Sanft, and directing him to pay \$250 to the Supreme Court Law Library by June 20, 2016, for his failure to file the rough draft transcript request form and the fast track statement and appendix.¹ That order provided that the conditional sanction would be vacated if he filed the required documents by June 14, 2016. We cautioned Mr. Sanft that failure to comply with the order or any other filing deadlines would result in his removal as counsel in this appeal. We also cautioned that such failure could result in referral to the State Bar of Nevada for investigation. To date, Mr. Sanft has not filed the rough draft transcript request form or the fast track statement and appendix. Nor has he filed a motion for extension of time, paid the \$250 sanction, or otherwise communicated with this court.

¹A copy of this order is attached.

We have repeatedly stated that we expect all appeals to be “pursued in a manner meeting high standards of diligence, professionalism, and competence.” *Cuzdey v. State*, 103 Nev. 575, 578, 747 P.2d 233, 235 (1987); *accord Polk v. State*, 126 Nev. 180, 184, 233 P.3d 357, 359 (2010); *Barry v. Lindner*, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003); *State, Nev. Emp’t Sec. Dep’t v. Weber*, 100 Nev. 121, 123, 676 P.2d 1318, 1319 (1984). It is incumbent upon Mr. Sanft, as part of his professional obligations of competence and diligence to his clients, to know and comply with all applicable court rules. *See* RPC 1.1; RPC 1.3. These rules have been implemented to promote cost-effective, timely access to the courts; it is “imperative” that he follow these rules and timely comply with our directives. *Weddell v. Stewart*, 127 Nev. Adv. Op. No. 58, 261 P.3d 1080, 1084 (2011). Mr. Sanft is “not at liberty to disobey notices, orders, or any other directives issued by this court.” *Id.* at 261 P.3d at 1085

Mr. Sanft’s failure to comply with our rules and orders has forced this court to divert our limited resources to ensure his compliance and needlessly delayed the processing of this appeal. Therefore, we remove Mr. Sanft as counsel for appellant in this appeal. *See* NRAP 3C(n). Because it appears that Mr. Sanft’s conduct in this appeal may constitute violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct), we refer Mr. Sanft to the State Bar of Nevada for investigation pursuant to SCR 104-105. Bar counsel shall, within 90 days of the date of this order, inform this court of the status or results of the investigation and any disciplinary proceedings in this matter.

We remand this appeal to the district court for the limited purpose of securing appellate counsel for appellant. *See Evitts v. Lucey*,

469 U.S. 387 (1985). If appellant is indigent, the district court shall have 30 days to appoint appellate counsel. Otherwise, the district court shall order that, within 30 days, appellant must retain appellate counsel and appellate counsel must enter an appearance in the district court. Upon the appointment of counsel, the district court clerk shall immediately transmit to the clerk of this court a copy of the district court's written or minute order or counsel's notice of appearance.

The briefing of this appeal shall be suspended pending further order of this court.

It is so ORDERED.

1 Hardesty, J.
Hardesty

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Michael W. Sanft
Stan Hunterton, Bar Counsel
Supreme Court Law Librarian

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CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER CONDITIONALLY IMPOSING SANCTIONS

This appeal was docketed in this court on April 12, 2016. Appellant's counsel, Michael W. Sanft, did not file the rough draft transcript request form with the notice of appeal. See NRAP 3C(d)(3)(A)(ii). Therefore, on April 12, 2016, we directed Mr. Sanft to file the rough draft transcript request form within 10 days or face sanctions.¹ See NRAP 3C(n). To date, Mr. Sanft has not complied.² Further, the fast track statement and appendix are now overdue.

We conclude that Mr. Sanft's failure to file the rough draft transcript request form and the fast track statement and appendix warrants the *conditional* imposition of sanctions. See *id.* Within 15 days from the date of this order, Mr. Sanft shall pay the sum of \$250 to the Supreme Court Law Library and provide this court with proof of such payment. Mr. Sanft shall have 11 days from the date of this order to file 2 file-stamped copies of the rough draft transcript request form and proof of

¹A copy of this notice is attached.

²While it appears that counsel may have filed the transcript request form in the district court, to date, it has not been filed *in this court*. See NRAP 3C(d)(3)(A)(iii).

service of the rough draft transcript request form or a certificate that no transcripts are being requested, and the fast track statement and appendix. See NRAP 3C(d)(3)(A)(iii), (D); NRAP 3C(e). If the required documents are timely filed, the conditional sanction will be automatically vacated. If the required documents are not timely filed, the sanction will no longer be conditional and must be paid.

Failure to comply with this order or any other filing deadlines will result in the removal of Mr. Sanft as counsel of record in this appeal. See NRAP 3C(n). Further, because it appears that Mr. Sanft's conduct in this appeal may constitute violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct), failure to comply with this order or any other filing deadlines will also result in Mr. Sanft's referral to the State Bar of Nevada for investigation pursuant to SCR 104-105.

It is so ORDERED.

Hardesty, J.
Hardesty

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Supreme Court Law Librarian
Michael W. Sanft

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JAMES EARL PARKER,
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THE STATE OF NEVADA,
Respondent.

**Supreme Court No. 70139
District Court Case No. C308719**

NOTICE TO REQUEST ROUGH DRAFT TRANSCRIPTS

TO: Sanft Law, P.C. \ Michael W. Sanft

To date, the appellant has failed to request transcripts in this appeal. Please file and serve a Rough Draft Transcript Request Form or, alternatively, a certificate that preparation of transcripts is not requested within 10 days from the date of this notice. See NRAP 3C(d)(3). Failure to request transcripts in compliance with NRAP 3C(d)(3) may result in the imposition of sanctions. See NRAP 3C(n).

DATE: April 12, 2016

Tracie Lindeman, Clerk of Court

By: Linda Hamilton
Deputy Clerk

Notification List

Electronic

Sanft Law, P.C. \ Michael W. Sanft

Clark County District Attorney \ Steven S. Owens, Chief Deputy District Attorney

Attorney General/Carson City \ Adam Paul Laxalt, Attorney General

Steven D. Grierson, Eighth District Court Clerk