

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN M. LIPSITZ

APPELLANT,

v.

THE STATE OF NEVADA,

RESPONDENT.

CASE NO. 72057

DISTRICT NO. C916878

Electronically Filed
Feb 14 2019 04:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO WITHDRAW AS ATTORNEY OF RECORD

COMES NOW BRIAN VASEK, ESQ., attorney for DEFENDANT, RYAN LIPSITZ, and files the following motion with this Honorable Court. BRIAN VASEK respectfully files this motion to allow him to withdraw as attorney of record.

This motion is made and based upon the any pleadings and papers contained herein, the Declaration of Counsel attached hereto, and any oral argument of counsel at the time of the hearing for this matter, if desired by this Honorable Court.

DATED the 14th day of February, 2019.

BY: /s/ Brian Vasek, Esq.
BRIAN VASEK, ESQ.
Bar No. 13976
Counsel for Appellant, Ryan Lipsitz

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POINTS AND AUTHORITIES

Rule 1.16(b) of the Nevada Rules of Professional Conduct provides in relevant part that an attorney may withdraw from representation for the following reasons:

- (1) Withdrawal can be accomplished without material adverse effect on the interests of the client;
- (2) The client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- (3) The client has used the lawyer's services to perpetrate a crime or fraud;
- (4) A client insists upon taking action that the lawyer considers repugnant or with which the lawyer has fundamental disagreement;
- (5) 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;
- (6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
- (7) Other good cause for withdrawal exists.

Furthermore, Rule 46 of the Nevada Supreme Court rules allows for an attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

- (1) Upon consent of the attorney, approved by the client.
- (2) Upon the order of the court or judge thereof on the application of the attorney or the client.

As more fully discussed in the attached Declaration of Counsel, counsel respectfully files this motion so that this Honorable Court may permit him to withdraw as attorney of record for Defendant because the client contacted counsel and requested unequivocally that counsel withdraw from representation and cease representing him on this matter.

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DECLARATION OF BRIAN VASEK, ESQ.

BRIAN VASEK, ESQ. makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada and counsel for Appellant Ryan Lipsitz for his appeal currently pending before this Honorable Court;
2. That Appellant is an inmate in the Nevada Department of Corrections;
3. That on or around January 5, 2017, Appellant first filed his notice of appeal;
4. That on or around April 2, 2018, Appellant filed his opening brief; that on or around July 23, 2018, Opposition filed their answering brief; that on or around September 6, 2018, Appellant filed a reply to Opposition's answering brief; and that on or around January 4, 2019, notice of oral argument was sent to the parties;
5. That oral argument before this Honorable Court is currently set for February 20, 2019, at 10:00AM;
6. That on or about February 14, 2019, I received a hand-written letter from Appellant dated February 10, 2019 stating clearly and unequivocally that he no longer wished for me to represent him in this matter and, more specifically, that no attorney-client relationship has ever existed despite meeting with client and reviewing the appeal with him before filing;
7. That Appellant's hand-written letter states clearly that I am "not [his] lawyer" and that any attempts to represent him in this matter will be met with civil and criminal charges;
8. That upon receiving this hand-written letter from Appellant, I first learned that Appellant had been transported to the Northern Nevada Correctional Center in or around Carson City, which is approximately an eight hour drive from my office in Henderson, Nevada;
9. That upon information and belief, the only days that the Northern Nevada Correctional Center will schedule attorney visits are Fridays and Saturdays in the early morning;
10. That Appellant's hand-written letter states that he does not wish to speak with me and due to the distance between Carson City and Henderson, Nevada; limited options to conduct a visit before the February 20, 2019 oral argument; and the inability to reach Appellant by phone, I am unable to meet with and discuss this matter with Appellant;
11. That due to the factors discussed above, I also believe attempts to meet with and discuss this matter with Appellant would be futile;

1 12. That I am filing this motion because Appellant has requested, I withdraw;

2 13. That this request is made in good faith and not for the purposes of delay.

3 **I declare under penalty of perjury that the foregoing is true and correct. NRS 53.045.**

4 EXECUTED this 14th day of February 2019.

6 /s/ Brian Vasek, Esq.
BRIAN VASEK, ESQ.

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that electronic service of the foregoing document was made the 14th day of February 2019 to the following persons:

CLARK COUNTY DISTRICT ATTORNEY

ATTORNEY GENERAL / CARSON CITY

CERTIFICATE OF MAILING

I further certify that I served a copy of the foregoing document on the 14th day of February 2019, by mailing a true and correct copy thereof, postage pre-paid addressed to:

RYAN LIPSITZ, #1169942
NORTHERN NEVADA CORRECTIONAL CENTER
P.O. BOX 7900
CARSON CITY, NEVADA 89702

BY: /s/ Brian Vasek, Esq.