

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALFRED C. HARVEY,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
Sep 20 2018 08:43 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 75911

**OPPOSITION TO MOTION TO RECONSIDER DENIAL OF MOTION
FOR REMAND OR ALTERNATIVELY REVERSAL OF CONVICTION**

COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through his Chief Deputy, JONATHAN E. VANBOSKERCK, and files this Opposition to Motion to Reconsider Denial of Motion for Remand or Alternatively Reversal of Conviction. This opposition is filed pursuant to NRAP Rule 27 and is based on the following memorandum and all papers and pleadings on file herein.

Dated this 20th day of September, 2018.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar # 001565

BY */s/ Jonathan E. VanBoskerck*

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528
Office of the Clark County District Attorney

ARGUMENT

Appellant's naked demand for reconsideration must be denied because it is void of any reason to grant it.

This Court has repeatedly noted that the law does not favor multiple applications for the same relief. Whitehead v. Nevada Com'n on Judicial Discipline, 110 Nev. 380, 388, 873 P.2d 946, 951-52 (1994) ("it has been the law of Nevada for 125 years that a party will not be allowed to file successive petitions for rehearing ... The obvious reason for this rule is that successive motions for rehearing tend to unduly prolong litigation."); Groesbeck v. Warden, 100 Nev. 259, 260, 679 P.2d 1268, 1269 (1984), superseded by statute as recognized by, Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000) ("petitions that are filed many years after conviction are an unreasonable burden on the criminal justice system. The necessity for a workable system dictates that there must exist a time when a criminal conviction is final."). The less than favorable view of successive applications for the same relief explains why there is no right to appeal the denial of a motion for reconsideration. See, Phelps v. State, 111 Nev. 1021, 1022, 900 P.2d 344, 346 (1995). It also explains why a motion for reconsideration does not toll the time for filing a Notice of Appeal. See, In re Duong, 118 Nev. 920, 923, 59 P.3d 1210, 1212 (2002).

Appellant believes he is entitled to reconsideration of his Motion for Remand or Alternatively Reversal of Conviction because “the Court has not yet decided Alfred’s motion for reconsideration in Case No. 72829.” (Appellant’s Motion to Reconsider the Denial of his Motion Seeking an Order Remanding Case Back to District Court for a Decision by the Trial Judge, filed September 18, 2018, p. 3). That this Court has not yet adjudicated a different motion for reconsideration is irrelevant. This Court denied Appellant’s demand for remand in 75911 on the merits of that motion and for reasons independent of the motion that Appellant seeks reconsideration of in 72829:

Appellant’s arguments supporting the motion for remand go to the merits of this pending appeal—whether the district court erred in some manner when it denied appellant’s motion for a new trial. This court prefers to leave the merits of this appeal to be addressed through appropriate briefing under NRAP 31(a)(1) rather than motion practice.

Order Denying Motion, Case No. 76911, filed July 23, 2018, p. 1.

CONCLUSION

For the foregoing reasons, the State respectfully that Appellant’s motion be denied.

///

///

///

///

Dated this 20th day of September, 2018.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY */s/ Jonathan E. VanBoskerck*

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155
(702) 671-2750

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on September 20, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT
Nevada Attorney General

SHARON G. DICKINSON
Deputy Public Defender

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney

BY /s/ E.Davis
Employee, District Attorney's Office

JEV//ed