

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEVOHN MARKS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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No. 80469

Electronically Filed
Aug 22 2022 11:10 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Motion to Withdraw as Counsel

Pursuant to NRAP 46(d)(3) and SCR 46, I, Mario D. Valencia, move to withdraw as counsel for appellant Devohn Marks.

I was appointed by the district court to represent Marks in his direct appeal to the Nevada Supreme Court on February 17, 2021, in compliance with the Nevada Supreme Court's February 8, 2021 Order remanding the case to the district court to secure appellate counsel for Marks.

The Court's Order of Affirmance was entered on March 17, 2022. Marks filed a petition for rehearing of the panel's decision on April 21, 2022. The State filed its answer to the petition on May 16, 2022. The Court denied rehearing on July 19, 2022.

The Court's judgment or final determination in this case has been entered, and rehearing has been denied. I therefore move to withdraw as appellate counsel

for Marks. *See* SCR 46 (“After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney’s filing a withdrawal, with or without the client’s consent.”); *see also* NRAP 46(d)(3)(B) (a motion to withdraw as counsel “that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.”).

Since the order denying rehearing was filed while I was on vacation, I filed a motion for an extension of time to determine whether, in my professional opinion, there were meritorious grounds for filing a petition for en banc reconsideration. The Court granted that motion and extend the time to file a petition for en banc reconsideration to September 1, 2022. *See* Order (entered August 2, 2022). I have looked into the matter carefully and I will not be filing a petition for en banc reconsideration. I have let Marks know of my decision and that I would be moving to withdraw so that, if he chooses, he may file a pro se petition for en banc reconsideration.

Conclusion

For the reasons stated above, the Court should grant my motion to withdraw

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as appellate counsel for Marks.

DATED: August 22, 2022.

/s/ Mario D. Valencia
MARIO D. VALENCIA
Nevada Bar No. 6154
40 S. Stephanie St., Ste. 201
Henderson, NV 89012
(702) 384-7494
Counsel for Marks

Certificate of Service

I hereby certify and affirm that a true and correct copy of the foregoing
Motion to Withdraw as Counsel was filed electronically with the Nevada
Supreme Court on August 22, 2022. Electronic service of the foregoing document
shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

ALEXANDER CHEN
Chief Deputy District Attorney

TALEEN PANDUKHT
Chief Deputy District Attorney

/s/ Mario D. Valencia
MARIO D. VALENCIA