

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM BLANDINO,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Electronically Filed
Aug 25 2022 03:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 84433

**APPELLANT’S MOTION FOR ENLARGEMENT OF TIME,
APPELANT COUNSEL’S MOTION TO WITHDRAW, AND
APPELLANT’S MOTION TO CONTINUE THIS MATTER *PRO SE***

COMES NOW Appellant KIM BLANDINO, by JOSEPH Z. GERSTEN, ESQ. of THE GERSTEN LAW FIRM PLLC, and moves this Court for an enlargement of time within which to file the Appellant’s Docketing Statement, moves this Court to Withdraw as Counsel, and moves this Court to allow Appellant to proceed *pro se*. This motion is based on the following memorandum and declaration of counsel and all papers and pleadings on file herein.

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Dated this 25th day of August 2022.

Respectfully submitted,

Joseph Z. Gersten

JOSEPH Z. GERSTEN
NV Bar #13876
The Gersten Law Firm PLLC
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702-857-8777
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MEMORANDUM

I, JOSPEH Z. GERSTEN, am a duly licensed attorney in the State of Nevada and am employed by The Gersten Law Firm PLLC. Appellant is requesting an enlargement of time in which to file his Docketing Statement which is currently due August 25, 2022. Appellant's Counsel is requesting to withdraw from this matter because of an irreparable conflict between Counsel and Appellant, and Appellant seeks to continue this matter *pro se*. This is an Appeal from a jury verdict accepted by Department XII of the Eighth Judicial District, Leavitt, J.

I. Motion For Enlargement of Time

The undersigned was appointed counsel by the District Court on July 7, 2022. As of even date Appellant delivered a letter directing Counsel to Cease-and-Desist representing Appellant. See Appellant's Cease and Desist Letter to Counsel, dated August 25, 2022, attached hereto as Exhibit A. Said letter was also directed to a third-party, Drew Christensen, Office of Appointed Counsel. With Appellant's delivery of said letter, and direction to Cease and Desist representing Appellant, Counsel believes it would be inadvisable to file Appellant's now due

Docketing Statement without at least some enlargement of time to ascertain and resolve said issues.

Due to the above-described circumstances, the Appellant respectfully requests an enlargement of time within which to file his Docketing Statement.

This motion is made in good faith and not for purposes of undue delay. The Appellant also notes that the Appellee will not be prejudiced by the extension, as it was a ruling against the Appellant that is the subject of this appeal.

II. Motion to Withdraw

As noted previously, Appellant has delivered a Cease-and-Desist letter to Appellant's Counsel. See Appellant's Cease and Desist Letter to Counsel, dated August 25, 2022, attached hereto as Exhibit A. Appellant's Counsel is requesting to withdraw from this matter because of an irreparable conflict between Counsel and Appellant resulting from

the letter and its directives towards Appellant's Counsel. Appellant relies on NRS 178.397.¹

Due to the above-described circumstances, Appellant's Counsel is requesting to withdraw from this matter because of an irreparable conflict between Counsel and Appellant resulting from the letter and its directives towards Appellant's Counsel.

This motion is made in good faith and not for purposes of undue delay. The Appellant also notes that the Appellee will not be prejudiced by the extension, as it was a ruling against the Appellant that is the subject of this appeal.

III. Motion to Allow Appellant to Proceed *Pro Se*.

Appellant moves this Court to allow Appellant to proceed *pro se*. Appellant's prior filings from this and other cases are replete with references to Appellant's desire to proceed *pro se*. As well, the current

¹ Every defendant accused of a misdemeanor for which jail time may be imposed, a gross misdemeanor or a felony and who is financially unable to obtain counsel is entitled to have counsel assigned to represent the defendant at every stage of the proceedings from the defendant's initial appearance before a magistrate or the court through appeal, **unless the defendant waives such appointment.** NRS 178.397 (emphasis added).

Cease-and-Desist letter sent to Counsel asserts the same. As a result, Appellant prays this Court allows him to proceed *pro se* pursuant to NRS 178.397. See Footnote 1 *infra*.

Due to the above-described circumstances, Appellant's Counsel is requesting to allow Appellant to proceed *pro se*.

This motion is made in good faith and not for purposes of undue delay. The Appellant also notes that the Appellee will not be prejudiced by the extension, as it was a ruling against the Appellant that is the subject of this appeal.

I declare under penalty of perjury that the factual representations set forth in the foregoing memorandum are true and correct.

Dated this 25th day of August 2022.


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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 25th day of August 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Esq.
Clark County District Attorney
200 Lewis Street, 3rd FLR
Las Vegas, NV 89101

Aaron Ford, Esq.
Attorney General
100 North Carson Street
Carson City, NV 89701

BY Joseph Z. Gersten
Employee of The Gersten Law Firm PLLC

EXHIBIT A

To: Joe Gersten Forced Counsel for Kim Blandino and Drew Christensen.

Re: Cease and Desist from the representation and appointing any future appellate counsel against my will and over my objections and in violation of my clear waiver of counsel

From: Kim Blandino

Please know that this letter may not be as comprehensive as I would like to have it if I had the luxury of more time to prepare the same, also excuse any grammar or spelling errors.

As both of you know I have asserted my right to waive counsel throughout the pre-trial, trial and appeals process. Judge Leavitt revoked my right to self - representation and forced Ben Bateman as counsel on me at trial and post-trial through sentencing.

Joe is aware that I have sincere religious beliefs and practices. That I know God wishes me to waive counsel and represent myself on appeal and fight legally as best I can to achieve this. This is a faith building experience for me that I cannot shy away from and must zealously and vigorously fight for.

Fortunately, in Nevada NRS 178.397 exists to assert this right to waive counsel and it states:

“Assignment of counsel. Every defendant accused of a misdemeanor for which jail time may be imposed, a gross misdemeanor or a felony and who is financially unable to obtain counsel is entitled to have counsel assigned to represent the defendant at every stage of the proceedings from the defendant’s initial appearance before a magistrate or the court through appeal, **unless the defendant waives such appointment** “ (emphasis added)

This statute could not be more clear that I have the right to waive counsel even on appeal.

NRS 197.200 is Oppression under color of office which states:

NRS 197.200 Oppression under color of office.

1. An officer, or a person pretending to be an officer, who unlawfully and maliciously, **under pretense or color of official authority**:

(a) Arrests or detains a person against the person's will;

(b) Seizes or levies upon another's property;

(c) Dispossesses another of any lands or tenements; or

(d) Does any act whereby the person, property or rights of another person are injured, commits oppression.

2. An officer or person committing oppression shall be punished:

(a) Where physical force or the immediate threat of physical force is used, for a category D felony as provided in NRS 193.130.

(b) Where no physical force or immediate threat of physical force is used, for a gross misdemeanor. (emphasis added)

If anyone continues to proceed as my legal representative in court, either you Joe or anyone that Drew might attempt to appoint to replace you then you or anyone aiding and abetting such an act will be committing a crime as shown above. You both know that the public defender's office took themselves away from any representation of me even as a stand by counsel at the beginning of this case without having to explain in any way why they were conflicted. So perhaps it might be a good idea to check with them for some clarity and possible edification.

The Nevada Supreme Court nor any of its officers **cannot** in any way order anyone to commit a crime in any way shape or form and you have absolutely no obligation upon you that requires you to obey an order that causes you to commit a crime. I would be greatly injured in my rights under NRS 197.200 if you continue to represent me.

So, both of you are hereby ordered to cease and desist from representing me or from facilitating anyone in representing me. This includes paying any money to compensate anyone toward any wrongful representation.

You are free to file this with the Nevada Supreme Court to inform them of situation and how, like the public defender before you, must conflict yourself out from this case.

Know that I will be filing a motion for reconsideration of the waiver of appellate counsel with the Nevada Supreme Court and will attach this letter as an exhibit as

well as the emergency complaints, I have filed with the Nevada Commission on Judicial Discipline ("NCJD"). I have sent copies of them to Joe yesterday.

I would implore both of you to also file complaints with the NCJD on your own. If the judiciary is allowed to violate a statute this clear, then what does this bode for the future?

I will be sending a request to the Attorney General to criminally investigate this denial of the right to waive counsel and this criminal oppression by these lawless justices.

I have also spoken to two different legislators and I am trying to see if these justices can be impeached, convicted and removed under the legislature's impeachment and removal power under Article 7 of the Nevada Constitution which states in pertinent part:

ARTICLE. 7. - Impeachment and Removal from Office.

Section. 1. Impeachment: Trial; conviction. The Assembly shall have the sole power of impeaching. The concurrence of a majority of all the members elected, shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon Oath or Affirmation, to do justice according to Law and Evidence. The Chief Justice of the Supreme court, shall preside over the Senate while sitting to try the Governor or Lieutenant Governor upon impeachment. No person shall be convicted without the concurrence of two thirds of the Senators elected.

Sec: 2. Officers subject to impeachment. The Governor and other state and judicial officers, except justices of the peace shall be liable to impeachment for misdemeanor or malfeasance in office; but judgment in such case shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

Sec. 3. Removal of justices of Supreme Court, judges of court of appeals and judges of district courts. For any reasonable cause to be entered on the journals of each House, which may or may not

be sufficient grounds for impeachment, the justices of the Supreme Court, the judges of the court of appeals and the judges of the district courts must be removed from office on the vote of two thirds of the members elected to each branch of the Legislature. The justice or judge complained of must be served with a copy of the complaint against him, and have an opportunity of being heard in person or by counsel in his defense. No member of either branch of the Legislature is eligible to fill the vacancy occasioned by such removal.

[Added in 2014. Proposed and passed by the 2011 Legislature; agreed to and passed by the 2013 Legislature; and approved and ratified by the people at the 2014 General Election. See: Statutes of Nevada 2011, p. 3835; Statutes of Nevada 2013, p. 3968.]

Sec: 4. Removal of other civil officers. Provision shall be made by law for the removal from Office of any Civil Officer other than those in this Article previously specified, for Malfeasance, or Nonfeasance in the Performance of his duties.

I hope you can see some partial irony here. The Supreme Court justices can be “heard in person or by counsel in his defense.” A right that they seek to deny me in this appeal.

Please take this very, very, seriously. These justices are doing a great evil here. The law is clear and they believe that they can do whatever the “hell” they wish regardless of the law. The legislature has extended this right to waive counsel and these justices arbitrarily and capriciously refuse to obey this right. In every other type of appeal they allow pro se representation.

God requires me to fight this tyranny to the best of my strength, knowledge and ability as he gives to me.

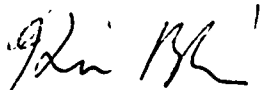
Please know that this position denies me an appeal of the denial of the motion for stay by counsel that Leavitt just denied. I well understand that. This also is a matter of faith. But let me reiterate that you are to do nothing more in regard to this appeal except to notify the court that you cannot represent me because I have waived counsel as is my right under the statute and to continue would be a crime with potential jail time and fines and possibly restitution and possibly expose you to civil liability as well.

For Drew's consideration I am attaching one of the complaints I mailed yesterday to the NCJD (The NCJD requires separate complaints for each judicial officer).

Please respect this cease and desist and do not require me to seek redress through other legal avenues. Perhaps if you do the right thing and obey the law these lawless judges might come to their senses.

As you can see in my complaint to the NCJD I would not oppose stand by counsel if the NSC wants that or if they direct you to file amicus curiae briefs. As I could not stop that in any event.

Please send back an acknowledgement that this has been received

A handwritten signature in black ink, appearing to read 'Kim Blandino'.

Kim Blandino

C/O 441 N 16th St.

Las Vegas Nevada 89101



(For Commission Use Only)

COMMISSION CASE NO. _____

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

VERIFIED STATEMENT OF COMPLAINT

(Please Clearly Type or Print All Required Information)

Part I: General Information

Date: 8/23/22

Name of Person Completing This Form: Kim Blandino

Mailing Address of Person Completing This Form: C/O 441 N 16th St
Las Vegas Nevada

Daytime Telephone: (702) 219-5652 Email: Kim43792@earthlink.net

Part II: Specific Information Regarding Complaint

Name of Nevada Judicial Officer (Only One Name Per Complaint Form): Justice Hardesty

Name of Court or Judicial District Involved: Nevada Supreme Court

Case Number (Please Include All Letters and Numbers): 84433

When and where did the alleged misconduct or disability occur?

Date: 8/22/22 Time: _____ Location: Nevada Supreme Court

Date: 4/28/22 Time: _____ Location: Nevada Supreme Court

This Case Is (Select One): ☐ Pending In Trial Court ☒ On Appeal ☐ Not Pending or Closed

Nature of Complaint (Select One): ☒ I have attached my own explanation page(s)
☐ I have used the standard Complaint Form

Revised Nevada Code of Judicial Conduct Section(s) Violated, If Known [(Example: Canon 3B(4))]:

Part III: Obligations Of Complainant

I hereby acknowledge the following agreements and/or waivers:

Consent to Investigate. I expressly authorize the Commission on Judicial Discipline ("Commission"), staff and contractors, to investigate my complaint and take any and all actions, including interviewing any relevant witness(es) or request by subpoena or otherwise any documentary evidence and to verify the statements I have made herein to be true and correct (or if stated to be on information and belief, that the statements are believed in good faith to be true and correct). I agree to promptly supplement and amend this complaint if I learn that the facts I have alleged are materially incorrect. I understand that deliberately misstating the truth of any material fact could subject me to various sanctions including, but not limited to, dismissal of my complaint, contempt or a separate action for perjury.

STANDARD COMPLAINT FORM (STATEMENT OF FACTS)

The following is my explanation as to why the judicial officer named in this complaint has violated the Revised Nevada Code of Judicial Conduct or suffers from a disability.

Please identify yourself as **[select one]:** ☒ a litigant; ☐ a witness or interested party; or ☐ a member of the general public who witnessed or viewed this conduct (but not otherwise involved).

The following are the specific facts and circumstances which you believe constitute misconduct or disability (please be as specific as possible about the event(s) or action(s) and attach additional pages, if necessary):

Please see attached.

I have **[select one]**: ☐ appealed the judge's decision ☐ not appealed the decision
 ☐ not decided to appeal the decision yet ☐ not applicable

Attach Additional Pages as Necessary

Part III Obligations of Complainant (Continued)

Full Cooperation. I agree to fully cooperate with the Commission, staff and its designated contractors with regard to my complaint. I understand that even if I wish to withdraw my complaint that the Commission retains independent grounds to pursue it and that the information contained within and attached to the complaint becomes the property of the Commission and the Commission may pursue the complaint even if I seek to withdraw it. I understand that all documents submitted become the property of the Commission and will not be returned.

Appeal Warning. I understand that the Commission, its staff and contractors are not an appellate court and that my filing of a complaint does not stay or stop any time I am provided to appeal a decision I disagree with or any decision that adversely affects me. I understand that I must timely file an appeal to preserve those rights. I acknowledge that filing a complaint with the Commission does not and cannot preserve those rights.

Legal Advice. I understand that the Commission, its Commissioners, Commission staff, investigators and contractors are precluded from giving me legal advice regarding my case or actions I should be taking in my case and I understand that should I require advice I will seek appropriate assistance apart from the Commission, Commissioners, Commission staff, investigators and contractors.

Part IV: Attachments

Relevant documents: Please attach any relevant documents which you believe directly support your claim that the judge has engaged in judicial misconduct or has a disability. Highlight or otherwise identify those sections that you rely on to support your claim. Do not include documents which do not directly support your complaint, for example, a copy of your complete court case. Keep a copy of all documents submitted for your records as they become the property of the Commission and will not be returned.

Part V: Signature and Verification of Complaint

9/12 - cannot swear!
After being duly sworn, I state under penalty of perjury that I am the above-referenced complainant whose name appears in Part I and who submitted this complaint. I know the contents thereof; and the matters set forth in this complaint are true and correct based upon my own knowledge, except as to matters stated to be on information and belief, and those matters are believed to be true and correct. I request that the conduct set forth above or referenced in the attachments and exhibits provided with the complaint be investigated by the Nevada Commission on Judicial Discipline. *I understand I can be prosecuted for perjury. cannot swear due to religious beliefs and conviction.*

Signature of Complainant

8/23/22
Date

How Do I Submit My Complaint? Where Can I Obtain Additional Assistance? This complaint, along with any supporting materials, should be sent by mail to the: Nevada Commission on Judicial Discipline, P.O. Box 18123, Reno, Nevada 89511. If you have questions regarding the completion of this form, please contact the Commission on Judicial Discipline at (775) 687-4017. In addition, if you have access to the internet, or can obtain access at a local library or other facility, the Commission's web site located at <http://judicial.nv.gov> and provides additional information to help you prepare your complaint. The web site also includes the full and current text of the Revised Nevada Code of Judicial Conduct and other laws, statutes and rules governing the Commission.

BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

KIM BLANDINO

Complainant

Complaint # _____

-VS

**JUSTICES HARDESTY, PARRAGUIRRE,
STIGLICH AND HERNDON of the Nevada
Supreme Court**

Accused, Respondents

**CONSOLIDATED CONTINUATION OF EMERGENCY SEPARATE
COMPLAINTS AGAINST JUSTICES HARDESTY, PARRAGUIRRE STIGLICH
AND HERNDON AND EMERGENCY MOTION FOR IMMEDIATE
SUSPENSION OF ALL OF THE ABOVE PENDING FURTHER
INVESTIGATION AND REQUEST TO TAKE JUDICIAL NOTICE AND FOR
IMMEDIATE IMMUNITY GRANT UNDER THE NEVADA CONSTITUTION
ARTICLE 6 SECTION 21(11)**

COMES NOW Complainant, Kim Blandino ("Kim") representing himself pro se and presents this **CONSOLIDATED CONTINUATION OF EMERGENCY SEPARATE COMPLAINTS AGAINST JUSTICES HARDESTY, PARRAGUIRRE STIGLICH AND HERNDON AND EMERGENCY MOTION FOR IMMEDIATE SUSPENSION OF ALL OF THE ABOVE PENDING FURTHER INVESTIGATION AND REQUEST TO TAKE JUDICIAL NOTICE**

**AND FOR IMMEDIATE IMMUNITY GRANT UNDER THE NEVADA
CONSTITUTION ARTICLE 6 SECTION 21(11)**

Kim must first apologize for the rushed manner in which Kim prepares this and for any grammar and spelling errors. Kim is under the most extreme circumstances. Kim has done virtually nothing but eat sleep and do legal work for the last many years. The more Kim tries to help people and the public and to seek redress the more Kim is retaliated against by various judges and the machinery of the state.

Kim asks the Nevada Commission on Judicial Discipline ("NCJD") for Emergency relief under the most dire of circumstances to which the NCJD has the power to grant relief to Kim.

This Emergency Complaint is made pursuant to the U.S. Constitution, Nevada Constitution, the NRS, the Nevada Revised Code of Judicial Conduct("CODE") and the Procedural Rules of the NCJD. This Emergency Complaint is based upon the Exhibits attached and the statements made supporting this filing under penalty of perjury by Kim and any other evidence that Kim has and is willing to give to the NCJD at any time should the NCJD provide Kim the immunity Kim desperately needs. Kim also requests that the NCJD take judicial notice of all the statutes and authorities herein. As part of the Judiciary in the State Constitution Kim believes that the NCJD has the power to take judicial notice as it has done so in other cases.

EMERGENCY CONDITIONS

Kim has a pending complaint against Leavitt with the NCJD Case No. 2022-104 (“2022-104”).

Kim was proceeding pro se in first the justice court where a rigorous Faretta canvass was made and then in the district court once an indictment was filed. Kim was found guilty by a jury and Judge Michelle Leavitt (“Leavitt”) against Kim’s will and over Kim’s repeated motions to disqualify over the pendency of that case refused to be disqualified. On July 7, 2022 after forcing counsel, on Kim Leavitt sentenced Kim to probation on an aggregate 12 to 120 month sentence that was suspended see register of actions for case C-19-341767-1 State v Blandino). Leavitt did this despite a pending motion to disqualify pending against her and was unresolved. The Code requires a judge to uphold the law. Leavitt had no authority to proceed with a motion to disqualify pending. The Code states:

“CANON 2

A judge shall perform the duties of judicial office impartially, competently, and diligently.

Rule 2.1. Giving Precedence to the Duties of Judicial Office. The duties of judicial office, as prescribed by law, shall take precedence over all of a judge’s personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

Rule 2.2. Impartiality and Fairness. A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially. (emphasis added)

As Exhibit 1CC attached to 2022-104 shows Kim filed the motion to disqualify Leavitt and all the EJDC judges from his case on July 6, 2022. Attached as Exhibit 2CC is that motion. Kim cited the law which states:

“Leavitt nor any other EJDC judge can proceed further while a motion to disqualify is pending. See Debiparshad v. The Eighth Judicial Dist. Court of State, 137 Nev. Adv. Op. 71 (Nev. 2021):

We conclude that once a motion to disqualify is filed by a party, the subject judge can take no further action in the case until the motion to disqualify is resolved. The NCJC requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and [to] avoid impropriety and the appearance of impropriety.” NCJC Rule 1.2. When a “judge’s impartiality might reasonably be questioned,” the judge must disqualify himself or herself from the proceeding. NCJC Rule 2.11(A). Any motion for disqualification filed pursuant to NCJC Rule 2.11 after the deadline established by NRS 1.235(1) must be timely under *Towbin Dodge* and based on new information learned or observed after the cutoff date, information which was not otherwise known or ascertainable by the moving party. *Towbin Dodge*, 121 Nev. at 260-61, 112 P.3d at 1069-70. *Debiparshad v. The Eighth Judicial Dist. Court of State*, 137 Nev. Adv. Op. 71, 7-8 (Nev. 2021)” pages 16-17 of Exhibit 2CC

Leavitt by refusing to get her old address off the missing money list with the State Treasurer is putting those current residents of that house at risk at the Gray Bluff address.

Rule 3.11 of the Code states:

“Rule 3.11. Financial, Business, or Remunerative Activities.

(A) A judge may hold and manage investments of the judge and members of the judge's family.

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code".

Leavitt's refusal to clear up this matter that is financial crates a danger and is a violation of 3.11 and of the preamble to the code to enhance the integrity of the judiciary and maintain the highest standards of judicial and personal conduct.

Kim had filed an appeal that is pending *Blandino v. State* Case # 84433. See Exhibit 1 attached (order). Kim has been denied the right to represent himself by Leavitt in both case C-19-341767-1 and the appeal by forcing Joe Gersten as appellate counsel against Kim's will and over his objections. See Exhibit 7CC of Leavitt complaint2 022-104 (minutes of July 7, 2022)

Exhibit 1 attached is the latest order denying Kim's motion to remove appointed counsel signed by Justices Parraguirre (Pparraguirre") , Hardesty ("Hardesty"), and Stiglich ("Stiglich"). Exhibit 2 attached is the previous order, also referenced in Exhibit

1 denying Kim's right to waive counsel on appeal pursuant to NRS 178.397 signed by Hardesty Stiglich and Justice Herndon ("Herndon").

All of the above justices have acted in concert, collusion and conspiracy (conspiracy means "breathe together) to deny Kim the right to waive counsel on his appeal. Therefore, this continuation sheet applies to all of the respondents and for brevity and easier handling Kim has submitted Exhibit 3 and 4 as shared Exhibits.

Shared Exhibit 3 is the motion that Kim filed on March 25, 2022 that was denied on April 28, 2022. Shared Exhibit 4 is the motion that was filed on August 8, 2022 and denied on August 22, 2022.

As the NCJD can see in these exhibits Kim clearly and unequivocally waives counsel for his appeal NRS 178.397 is absolutely clear and gives no discretion. Kim has the right to waive counsel from arraignment through appeal. No appellate justice can force counsel upon Kim for his appeal.

The Code as shown above and in Kim's motions show that all judicial officers must uphold and apply the law! This includes the code. Further, all of the above justices are trying to coerce Joe Gersten to refuse to honor Kim's waiver of counsel.

NRS 178.397:

NRS 178.397 Assignment of counsel. Every defendant accused of a misdemeanor for which jail time may be imposed, a gross misdemeanor or a felony and who is financially unable to obtain counsel is entitled to have counsel assigned to represent the defendant at every stage of the proceedings from the defendant's initial appearance before a magistrate or the court through appeal, unless the defendant waives such appointment.

(Added to NRS by 1967, 1451; A 2019, 2880)

This language could not be any more clear and this statute is under the section, **“RIGHTS OF DEFENDANT”** The defendant has the right to waive appointment of counsel. In fact this statute make the right to waive counsel at every stage of the proceeding through appeal and maintains that continuity. This right to waive counsel (although in context of fareta) is throughout the case law. See Scott v. State, 110 Nev. 622 (Nev. 1994) also Beals v. State, 106 Nev. 729 (Nev. 1990).

A. FOR THE LAY MEMBERS ESPECIALLY AND THOSE OTHER MEMBERS THAT CAN BE REASONSED WITH

NRS 178.397 is absolutely clear and Kim made this clear to all of the above justices that a person has the right to waive counsel without distinction from arraignment all the way through appeal. This is something the legislature granted as a right. If any judge is allowed to refuse to apply and uphold this in violation of the code, then they can refuse to apply any other law. Please know that this is a statute that grants rights so it is much more important than a law forbidding “jaywalking.”

Also, judicial notice must be taken that any other type of appeal even a post conviction appeal challenging a conviction the Nevada Supreme Court does not force counsel or attempt to force counsel on those appeals, where there is no such right to waive counsel under the statute in those appeals.

A. It is for this body to decide what the law is and have authority over the appeals court judges as to what the law is to uphold and apply not the Nevada Supreme

Court

This body must not and cannot defer its role to determine what the law is to the Nevada Supreme Court or any appellate court for that matter and especially in a case where the law at issue is as clear as this is here. If so, any appellate court could immunize itself against any discipline for a violation of Rule 2.2 by simply interpreting the law in an insane fashion such as they are doing here. They could then also overrule a decision of the NCJD by saying “no that black is white, white is black and evil is good and good is evil”! Because this body has lay members not skilled in law you must be allowed to use ordinary understanding to guide you. And for that matter all members must use their common sense and common understanding. If not there is no hope for any individual to be presumed to know the law.

It is not in any way disputed that one has the right to waive counsel at trial. Almost always *Faretta v. California*, 422 U.S. 806 (1975), is cited for this yet NRS 178.397 also allows for this and the statute goes further to be able to waive counsel through trial and “through appeal”.

So, when Kim waives counsel, he is not entitled to counsel on appeal pursuant to 178.397 and no judge anywhere can force counsel on Kim or any other appellant without violating that statute when he exercises the right to waive counsel.

Kim requests that this body take judicial notice that it has disciplined other judges for failure to uphold and apply the law (rule 2.2). It is this body’s responsibility and

duty to determine independently of any appeals court or appeals judges what the law is and further when a judge has failed to apply it and to uphold it. This is what we have here.

If this body consistent with ordinary understanding of language and consistent with common sense must determine that Kim has the right to waive counsel on appeal consistent with 178.397 and the justices at the appeals courts have to abide by that state created right and liberty interest to waive counsel on appeal and determine a way to process the appeal with the right that the legislature gave Kim and all appellants respected and honored.

The legislature in an almost complete rewrite of the Nevada Revised Statutes in 1967 and established many rights in 1967. These statutes were approved by both bodies of the legislature and signed by the Governor. Moreover subsequent legislatures and Governors were free to approve amendments. Please take judicial notice that 178.397 was amended for the first time in 2019. Any or all of the judges in Nevada including the appellate justices or judges were free to propose amendments to 178.397 over decades that would have taken away the right to waive counsel on appeal. Yet they did not.

Yet no judge is free to legislate from the bench especially when such would negate a right the legislature has given.

If The Nevada Supreme Court and its Justices wish to assign as stand by counsel only for Kim, Kim would not object to that. Or it could assign an attorney to file an amicus curiae brief in the appeal on Kim's behalf Kim would not object to that. However, forced

counsel is completely and willfully refusing to apply and uphold the law (178.397)in violation of Rule 2.2. Which in this case is a law that mandates rights to Kim and all other defendants and appellants in criminal cases.

The defendant exercises his right to waive counsel and has not waived his right to waive counsel and does not do so now. To deny the defendant in this court the right to oral argue this motion is to violate the revised code of judicial conduct rule 2.6 which states:

Ensuring the Right to Be Heard.

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

Gersten is not Kim's counsel as Kim has waived him as counsel. What all these offending justices are doing is also criminal NRS 197.200 is Oppression under color of office which states:

NRS 197.200 Oppression under color of office.

1. An officer, or a person pretending to be an officer, who unlawfully and maliciously, under pretense or color of official authority:

- (a) Arrests or detains a person against the person's will;
- (b) Seizes or levies upon another's property;
- (c) Dispossesses another of any lands or tenements; or
- (d) Does any act whereby the person, property or rights of another person are injured, commits oppression.**

2. An officer or person committing oppression shall be punished:

(a) Where physical force or the immediate threat of physical force is used, for a category D felony as provided in NRS 193.130.

(b) Where no physical force or immediate threat of physical force is used, for a gross misdemeanor. (emphasis added)

So what all these justices are doing is also committing a crime and anyone who aids and abets them is also committing a crime under the NRS.

CONCLUSION

This Commission must on an emergency basis suspend justice Hardesty with pay pending a full investigation. Because this violation of Rule 2.2 in this particular case is willful misconduct and done in combined with three other justices, Kim asks for permanent removal of the justices. There can be no good faith reason for violating a clear statute. To combine with other justices to do this evil must be given the greatest scrutiny and the harshest of discipline.

Kim is blocked from filing anything other than to remove counsel and has now done so and can at best ask for reconsideration. Kim must be allowed to waive counsel on appeal and proceed forward with his appeal without having counsel forced upon him. Kim also asks for the immunity that can be granted and to order that no retaliation be imposed upon Kim for making this complaint or any complaints. Kim would also specifically ask for an apology from the justices pending this suspension and after.

Kim also asks that these justices be referred to the Nevada Attorney General for criminal review and potential prosecution.

In the alternative Kim requests that the NCJD do such things that are proper and just and speedy.

DATED this 24th day of August 2022



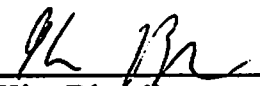
Kim Blandino

ASSEVERATION IN SUPPORT

I, Kim Blandino state under penalty of perjury that he is 66 years of age (outside the womb) and have read the foregoing and the same is true and correct except as to those matters of belief and belief and as to those matters Kim believes them to be true. And that:

1. Kim asks that this court excuse any spelling and grammar errors as Kim has so much work ahead of him that full and complete review was not possible
2. That Kim with all of the work that Kim has to do has done his very best to do an adequate job to receive the relief Kim asks.
3. That all exhibits are true and correct copies of the originals and are in fact authentic under FRE 901 AND NRS 52.015.
4. That this filing is not made to vex, harass delay nor for any improper purpose.

DATED this 24th day of August 2022



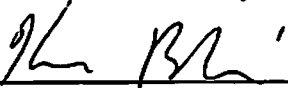
Kim Blandino
C/O 441 N 16th

Las Vegas Nevada 89101
702 219-5657

CERTIFICATE OF SERVICE

I HEREBY certify that service of the foregoing was accomplished by sending a copy
via priority mail to the NCJD P.O. Box 18123, Reno, Nevada 89511

DATED this 24th day of August 2022



Kim Blandino

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM DENNIS BLANDINO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84433

FILED

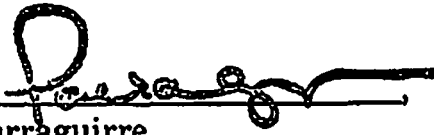
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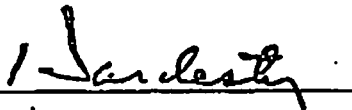
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING MOTION

Appellant's August 8, 2022, motion to remove appointed counsel and to be allowed to proceed with this direct appeal pro se is denied under NRAP 46A(b)(1) and for the reasons stated in this court's April 28, 2022, order denying a similar motion. All other requests for relief set forth in appellant's motion, including the request for emergency consideration of this motion, are denied.

It is so ORDERED.

 C.J.
Parraguirre

 J.
Hardesty

 J.
Stiglich

cc: The Gersten Law Firm PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

EXHIBIT 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM DENNIS BLANDINO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84433

FILED

APR 28 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

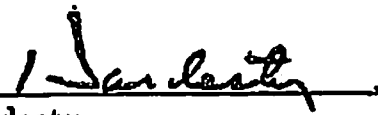
ORDER DENYING & STRIKING MOTIONS

This is an appeal from a jury verdict finding appellant guilty of extortion and impersonation of an officer. Appellant, in pro se, has filed three emergency motions. In the first motion, filed on March 25, 2022, he seeks to waive the appointment of counsel and asks this court to allow him to proceed pro se both in this appeal and below, where appellant has yet to be sentenced. In the other two motions, filed on April 12, 2022, appellant requests the immediate cessation of the use of his middle name in court documents and records and seeks reconsideration of our April 4, 2022, order suspending deadlines pending transmittal of the judgment of conviction and further order of this court.

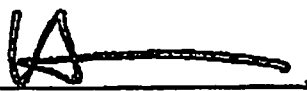
As we have explained, appellant "has neither a statutory right to self-representation on appeal nor a First Amendment right to proceed in proper person on appeal." *Blandino v. State*, 112 Nev. 352, 356, 914 P.2d 624, 627 (1996) (explaining the due process concerns with allowing defendants to proceed pro se on direct appeal). Although he now points to NRS 178.397, which governs the right to appointed counsel "through appeal, unless the defendant waives such appointment," that statute does not explicitly grant the right to appear on appeal without counsel, and NRAP 46A(b)(1) expressly prohibits defendants from proceeding on direct

appeal without counsel. *See Martinez v. Court of Appeal of Cal.*, 528 U.S. 152, 163 (2000) (recognizing courts' discretion over whether to allow defendants to proceed pro se, "the overriding state interest in the fair and efficient administration of justice" at the appellate level, and that "the States are clearly within their discretion to conclude that the government's interests outweigh an invasion of the appellant's interest in self-representation"). Accordingly, we deny appellant's motion to proceed on appeal pro se, as well as any further relief requested in his March 25 motion. Further, we direct the clerk of this court to strike appellant's April 12 motions.¹

It is so ORDERED.

 J.
Hardesty

 J.
Stiglich

 J.
Herndon

cc: Hon. Michelle Leavitt, District Judge
Kim Dennis Blandino
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We note, however, that this court may suspend briefing and hold an appeal in abeyance when judicial economy warrants, such as pending entry of a judgment of conviction. NRAP 2.