

No. 85759

IN THE SUPREME COURT OF THE STATE OF NEVADA

GODERICK VILADELGADO,

Petitioner,

v.

BOARD OF PAROLE COMMISSIONERS; DONNA VERCHIO; ERIC
CHRISTIANSEN; LAMICIA BAILEY; AND SCOTT WEISENTHAL,

Respondents.

**RESPONDENTS' OPPOSITION TO APPELLANT'S MOTION FOR
APPOINTMENT OF COUNSEL**

AARON D. FORD
Attorney General
KATHLEEN BRADY
Senior Deputy Attorney General
Nevada Bar No. 11525
Office of the Nevada Attorney General
555 Wright Way
Carson City, NV 89711
(775) 684-4605
kmbrady@ag.nv.gov

*Attorneys for BOARD OF PAROLE COMMISSIONERS; DONNA VERCHIO;
ERIC CHRISTIANSEN; LAMICIA BAILEY; AND SCOTT WEISENTHAL*

Electronically Filed
Aug 23 2023 01:50 PM
Elizabeth A. Brown
Clerk of Supreme Court

Respondents, the State of Nevada Board of Parole Commissioners, Commissioner Donna Verichio, Commissioner Eric Christiansen, Commissioner Lamicia Bailey, and Commissioner Scott Weisenthal (Parole Board), by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Kathleen Brady, Senior Deputy Attorney General, hereby oppose Appellant's Motion for the Appointment of Counsel. This Opposition is based on the attached Points and Authorities, the papers and pleadings on file, and all relevant rules of law.

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner Goderick Villadelgado is an inmate housed with the Nevada Department of Corrections (NDOC). After being denied parole, Villadelgado filed his Petition for Writ of Mandamus. Therein, Villadelgado sought reversal of the Parole Board's decision to deny him parole on April 21, 2022. The Nevada Court of Appeals granted Villadelgados' Petition, and the Parole Board sought reconsideration, which was denied. The Parole Board then sought rehearing of the Court of Appeal's decision in *Villadelgado v. Bd. of Parole Commissioners*, No. 85759-COA, 2023 WL 3362844, at *1–2 (Nev. App. May 10, 2023), pursuant to NRAP 40. Per the Nevada Supreme Court's order, Villadelgado answered the Board's petition for rehearing. Villadelgado then filed his Motion for Appointment of Counsel. The Parole Board opposes this Motion.

There is no legal basis to appoint counsel in this case. In Nevada, an indigent defendant who is charged with a criminal offense may be appointed counsel. *See* NRAP 46(c); NRS 171.188. However, the appointment of counsel in the non-criminal setting is quite limited. Both NRAP 46(c) and NRS 34.750 provide a mechanism for indigent persons to have the courts appoint counsel in petitions for post-conviction relief, i.e., habeas corpus actions. However, there is no Nevada statute or state-court opinion that would provide an indigent litigant an avenue by which to compel the appointment of counsel in a non-habeas-corpus civil case proceeding in state court.

Moreover, there is no right to appointed legal counsel in a civil case in Nevada absent a statute requiring such appointment, and neither due process nor the Sixth Amendment guarantee the right to counsel in civil proceedings. *See Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 804, 802–14, 102 P.3d 41, 44–52 (2004). Villadelgado is not entitled to counsel.

Regardless, Villadelgado would not meet the requirements for appointment of counsel to aid him with his petition. The consequences are not severe in this case and the issues presented are not difficult. As demonstrated by the Petition, Villadelgado is able to comprehend the proceedings. Villadelgado has demonstrated a more than ample capability of articulating his claims.

Based on the foregoing, Respondents respectfully request this Court deny Villadelgado's Motion for Appointment of Counsel.

Dated this 23rd day of August, 2023.

AARON FORD
Attorney General

By: /s/ Kathleen Brady
Kathleen Brady
Senior Deputy Attorney General
Office of the Nevada Attorney General
555 Wright Way
Carson City, NV 89711
(775) 684-4605
kmbrady@ag.nv.gov
Attorneys for Respondents

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14 pt. Times New Roman type style.

I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 918 words.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 27.

///

///

///

///

///

///

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 23rd day of August, 2023.

AARON FORD
Attorney General

By: /s/ Kathleen Brady
Kathleen Brady
Senior Deputy Attorney General
Office of the Nevada Attorney General
555 Wright Way
Carson City, NV 89711
(775) 684-4605
kmbrady@ag.nv.gov
Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing in accordance with this Court's electronic filing system and consistent with NEFCR 9 on August 23, 2023.

Participants in the case who are registered with this Court's electronic filing system will receive notice that the document has been filed and is available on the court's electronic filing system.

I further certify that any of the participants in the case that are not registered as electronic users will be mailed the foregoing document by First-Class Mail, postage prepaid.

Goderick Villadelgado #1237799
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

/s/ M.Neumann
An employee of the Office of the Attorney General