

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW TRAVIS HOUSTON,
Appellant,
vs.
CALVIN JOHNSON, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 86972

FILED

SEP 15 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING MOTION

Appellant's appointed counsel, Alexis M. Duecker, has filed a motion to withdraw as counsel for appellant. In support of the motion, Ms. Duecker states that appellant has filed a civil lawsuit against her in district court.

The motion to withdraw does not comply with NRAP 46(d)(3)(A)(iii) or (B) because it is not accompanied by an affidavit from appellant or set forth the reasons for the omission of the affidavit. Nevertheless, this court has considered the motion on its merits and concludes that Ms. Duecker fails to demonstrate cause for her withdrawal.

The filing of a lawsuit against counsel will not necessarily create an actual conflict of interest requiring counsel's removal. *See Carter v. Armontrout*, 929 F.2d 1294, 1300 (8th Cir. 1991) (explaining that a pending lawsuit between a defendant and defense counsel "may give rise to a conflict of interest," but the defendant "does not necessarily create such a conflict" merely by filing the lawsuit); *People v. Horton*, 906 P.2d 478, 501 (Cal. 1995) explaining that "[a]lthough being named as a defendant in a collateral lawsuit by one's client *may* place an attorney in a situation in which his or her loyalties are divided, a criminal defendant's decision to file

such an action against appointed counsel does not require disqualification unless the circumstances demonstrate an actual conflict of interest"). Nothing in the motion explains how counsel's loyalty to or efforts on behalf of appellant are threatened by the existence of a lawsuit. Accordingly, the motion to withdraw is denied.

It is so ORDERED.

 Shiglin , C.J.

cc: SDS Chartered, LLC
Attorney General/Carson City
Clark County District Attorney