

**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

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**KIM BLANDINO,**

Appellant,

vs.

**THE STATE OF NEVADA,**

Appellee.

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Clerk of Supreme Court

CASE NO: 84433-COA

**APPELLANT'S PETITION FOR REHEARING**

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## **NRAP 26.1 DISCLOSURE STATEMENT**

The undersigned counsel of record, on behalf of Appellant KIM BLANDINO, certifies there are no corporations, entities, or additional law firms described in NRAP 26.1(a) which must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

DATED this 7<sup>th</sup> day of February 2024.

  
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## I. TABLE OF AUTHORITIES

### Cases

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## II. STATEMENT OF ISSUES

A. THE COURT OF APPEALS SHOULD RECONSIDER APPELLANT'S THIRD ARGUMENT, THAT THE DISTRICT COURT ERRED WHEN IT DENIED APPELLANT'S MOTIONS TO DISQUALIFY LEAVITT, J. FROM HEARING HIS MATTER, BASED ON THE REASONING THAT APPELLANT'S ARGUMENT WAS NOT COGENT, WHEN IT WAS.

## III. ARGUMENT

### STANDARD OF REVIEW

Rehearing is appropriate when (1) the appellate court has overlooked or misapprehended a material fact in the record or a material question of law in the case; (2) the appellate court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case; or (3) as required to promote substantial justice. NRAP 40(c); Bahena v. Goodyear Tire & Rubber Co., 126 Nev. 606, 609, 245 P.3d 1182, 1184 (2010). The matter for which rehearing is requested must be a “germane legal or factual matter.” In re Estate of Herrmann, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984). That the appellate court may have overlooked or misapprehended an immaterial matter is not grounds for rehearing. Id. (holding that “[u]nder our long-established practice, rehearings are not

granted to review matters that are of no practical consequence.”). Except in special circumstances, a petition for rehearing will be summarily denied if it does not seek to alter the initial disposition or if it is defective. Whitehead v. Nev. Comm’n on Judicial Discipline, 110 Nev. 380, 386, 873 P.2d 946, 950–51 (1994).

**A. THE COURT OF APPEALS SHOULD RECONSIDER APPELLANT’S THIRD ARGUMENT, THAT THE DISTRICT COURT ERRED WHEN IT DENIED APPELLANT’S MOTIONS TO DISQUALIFY LEAVITT, J. FROM HEARING HIS MATTER, BASED ON THE REASONING THAT APPELLANT’S ARGUMENT WAS NOT COGENT, WHEN IT WAS.**

The Court of Appeals should reconsider Appellant’s third argument, that the District Court erred when it denied Appellant’s motions to disqualify Leavitt, J. from hearing his matter, based on the reasoning that Appellant’s argument was not cogent, when it was. In this particular case, it is Appellant’s position that the Appellate Court overlooked or misapprehended a material fact in the record, and a rehearing is required to promote substantial justice. NRAP 40(c); Bahena v. Goodyear Tire & Rubber Co., 126 Nev. 606, 609, 245 P.3d 1182, 1184 (2010). It is the Appellant’s position that the Appellate Court’s conclusion that his third argument was not cogent is a “germane legal or

factual matter.” In re Estate of Herrmann, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984).

As previously noted, Appellant has filed numerous motions to disqualify Leavitt, J. See AA0295. In his motions, Appellant cited the issues of failure to allow Appellant to proceed *pro se*, failure to terminate forced counsel, and outright prejudice. See AA00362; AA0694; AA0783. All of these reasons give rise to questions of impartiality on the part of the District Court. That the Court suggested Blandino’s arguments are merely speculative and not supported by sufficient facts is belied by the record. Appellant referred to multiple motions filed by Appellant containing facts and conclusions that show the District Court participated in a campaign to not allow Appellant to proceed *pro se*, to not allow Appellant to terminate forced counsel, and outright prejudice. See AA00362; AA0694; AA0783. As a result of these filings, it is Appellant’s position that his argument was cogent and deserves at the very least a proper review by this Court.

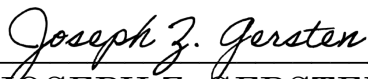
Appellant fully understands it is his responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court. See Carson v. Sheriff, 87 Nev. 357, 360-61,

487 P.2d 334, 336 (1971); Freeman v. Town of Lusk, 717 P.2d 331 (Wyo. 1986). However as previously stated, this Appellant firmly believes he has presented a cogent argument, and the Court of Appeals denial of review is error.

#### IV. CONCLUSION

WHEREFORE, this Appellant prays that this Court grant his Petition for Rehearing.

Dated this 7th day of February 2024.

  
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## V. ATTORNEY'S 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 Word 365, Century Schoolbook.

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 either:

Proportionately spaced, has a typeface of 14 points or more, and contains **1359** 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 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page

and volume number, if any, of the transcript or appendix where the matter relied on is to be found. 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 7th day of February 2024.

  
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## **VI. CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **APPELANT'S PETITION FOR REHEARING** with the Clerk of the Court by using the electronic filing system on the 7th day of February 2024.

The following participants in this case are registered electronic filing system users and will be served electronically:

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