

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASHLEY WILLIAM BENNETT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39864

FILED

MAY 02 2003

ORDER

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

On January 2, 2003, attorney Stanley A. Walton filed a motion to withdraw as counsel for appellant. Mr. Walton has requested this court to file the motion under seal. No good cause appearing, we deny Mr. Walton's request to file the motion under seal. The clerk of this court shall unseal the motion filed on January 2, 2003.

In support of his motion to withdraw, Mr. Walton asserts that he has acquired information that creates a direct ethical conflict with appellant and his relationship with appellant has "deteriorated to the point of no repair." Good cause appearing, we grant the unopposed motion. See SCR 166(f). The clerk of this court shall remove Mr. Walton as counsel of record for appellant.

We remand this appeal for the limited purpose of securing counsel for appellant. See Evitts v. Lucey, 469 U.S. 387 (1985). If appellant is indigent, the district court shall have 30 days to appoint counsel for appellant. Otherwise, the district court shall order that, within 30 days, appellant must retain new counsel and counsel must enter an appearance in the district court.

Within 5 days from the appointment or appearance of counsel, the district court clerk shall: (1) transmit to the clerk of this court a copy of the district court's written or minute order; and (2) serve a copy of this

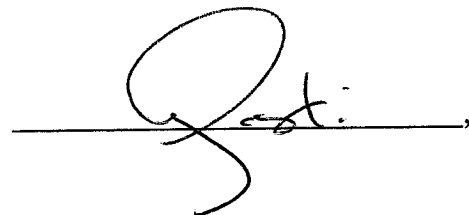
order on appellant's counsel. Thereafter, counsel shall have 10 days to file a notice of appearance with the clerk of this court.

New counsel shall have 100 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

On November 7, 2002, this court entered an order directing court recorder Cat Nelson to prepare and file the transcripts for proceedings conducted on June 18, 2002. On December 11, 2002, Ms. Nelson submitted a letter in response to our November 7, 2002, order. Ms. Nelson indicates that she is unable to produce the requested transcript because the machine used for recording those proceedings malfunctioned.

Because the transcript for proceedings conducted on June 18, 2002, cannot be produced, we vacate our November 7, 2002, order directing Ms. Nelson to produce and file that transcript. If either party needs a record from those proceedings, the parties may produce a statement of the proceedings in compliance with NRAP 9(d). Any statement of proceedings produced in compliance with NRAP 9(d) shall be filed with this court within 90 days from the date of this order.

It is so ORDERED.

 , C.J.

cc: Hon. Michael L. Douglas, District Judge  
Stanley A. Walton  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Ashley William Bennett  
Cat Nelson, Court Recorder  
Clark County Clerk