

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY SCOTT HERMANSKI A/K/A
ROBERT JAMES DAY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 41405

FILED

JAN 22 2004

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

ORDER DENYING MOTION TO SUBSTITUTE COUNSEL
AND DIRECTING FILING OF APPENDIX

Appellant has submitted a proper person letter and motion requesting this court to remove his counsel and appoint substitute counsel. Appellant has also submitted a motion requesting this court to permit him to file his "Motion for Substitution of Counsel." See NRAP 46(b). Cause appearing, we grant appellant's motion to proceed in proper person for the limited purpose of permitting appellant to file his letter and motion requesting substitution of counsel. The clerk shall file the letter received on November 10, 2003, and the motions received on December 15, 2003.

A criminal defendant may not reject court appointed counsel and request substitute counsel at public expense absent a showing of adequate cause. See Thomas v. State, 94 Nev. 605, 584 P.2d 674 (1978); see also, Thomas v. Wainwright, 767 F.2d 738 (11th Cir. 1985), cert. denied, 475 U.S. 1031 (1986) (good cause for the substitution of appointed counsel cannot be determined solely according to subjective standard of what defendant perceived; defendant's general loss of confidence or trust in his counsel, standing alone, is not sufficient). No good cause having been shown, we deny appellant's motion to remove and substitute appointed counsel.



On November 18, 2003, this court entered an order that directed appellant to file the opening brief and appendix within 15 days. Appellant untimely filed the opening brief on December 15, 2003. We note, however, that the opening brief was not accompanied by an appendix. See NRAP 30(e). Appellant shall have 15 days from the date of this order to file an appendix that complies with NRAP 30.

Respondent shall have 30 days from service of the appendix to file the answering brief. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

The November 18, 2003, order also imposed a monetary sanction of \$500.00 upon appellant's counsel, Paul E. Wommer. That order directed Mr. Wommer to pay the sanction and file proof of payment of the sanction within 15 days. The Supreme Court Law Library has informed this court that Mr. Wommer paid the sanction on December 4, 2003. We note, however, that Mr. Wommer has not filed proof of payment of the sanction with the clerk of this court. Because this court has been informed that the sanction was paid, we waive that portion of our November 18, 2003, order directing Mr. Wommer to file proof of payment of the sanction with the clerk of this court.

We admonish Mr. Wommer for failing to comply with orders of this court and the Nevada Rules of Appellate Procedure. We caution Mr. Wommer that continued failure to comply with orders of this court and/or the Nevada Rules of Appellate Procedure may result in the imposition of additional sanctions.

It is so ORDERED.

  C.J.

cc: Paul E. Wommer
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Gregory Scott Hermanski