IN THE SUPREME COURT OF THE STATE OF NEVADA

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Nov 19 2018 09:37 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

JOSE VALDEZ-JIMINEZ Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE MARK BAILUS, DISTRICT JUDGE, Respondents, and THE STATE OF NEVADA, Real Party in Interest.	Case No. 76417 Dist. Ct.

PETITIONER'S MOTION TO ASSOCIATE COUNSEL

COMES NOW Petitioner JOSE VALDEZ-JIMENEZ, by and through his attorney, NANCY LEMCKE, Deputy Public Defender, and moves this Honorable Court to allow association of outside counsel Charles Gerstein,

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Docket 76417 Document 2018-904717

Esq. in the instant matter. This Motion is based upon the following Memorandum and all papers and pleadings on file herein.

DATED this 15th day of November, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER



By_____

NANCY M. LEMCKE, #5416
Deputy Public Defender
309 So. Third Street, Suite #226
Las Vegas, Nevada 89155-2610
(702) 455-4685

POINTS AND AUTHORITIES

Petitioner's Mandamus Petition raises constitutional objections to wealth-based and arbitrary pre-trial detention orders issued in Clark County. The same claims have been raised in two other matters currently pending before this Honorable Court: *Nathan Grace v. Eighth Jud. Dist. Ct.*, Supreme Court Case No. 76947, and *Aaron Frye v. Eighth Jud. Dist. Ct.*, Supreme Court Case No. 76845.

Petitioner requests permission to associate outside counsel, Charles Gerstein, in the instant matter. Mr. Gerstein is an attorney with Civil Rights Corps (CRC), a non-profit organization in Washington, D.C. dedicated to challenging systemic injustice in the American legal system. CRC specializes in innovative impact litigation designed to reshape or end unlawful criminal justice practices. In that capacity, CRC has successfully challenged the use of money bail to confine indigent defendants in various jurisdictions throughout the United States. Mr. Gerstein has participated in several of those money bail challenges.

Nevada Supreme Court Rule 42 sets forth the requirements for pro hac vice admission in Nevada. SCR 42 requires that the attorney seeking admission reside out-of-state and not be a member of the State Bar of Nevada. It also requires that the attorney not be engaged in substantial

business activities in Nevada; and that he/she be a member in good standing of any jurisdiction in the United States. SCR 42 further requires that the attorney associate with an active member in good standing of the State Bar of Nevada. Finally, SCR 42(6) provides that the "granting or denial of a motion to associate counsel is… discretionary."

Mr. Gerstein is neither a Nevada resident nor a member of the State Bar of Nevada. He does not do substantial business in Nevada. He is a member of good standing in the jurisdictions in which he is barred. He has sought association in the instant matter with Chief Deputy Public Defender Christy Craig, an active Nevada State Bar member in good standing. Mr. Gerstein has experience litigating claims such as that raised in the instant matter throughout the United States. Accordingly, Petitioner requests that this Honorable Court allow Mr. Gerstein to associate as counsel here.

Respectfully submitted,

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER



By_____

NANCY M. LEMCKE, #5416
Deputy Public Defender
309 So. Third Street, Suite #226
Las Vegas, Nevada 89155-2610
(702) 455-4685

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 15th day November 2019 Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
STEVEN S. OWENS

NANCY M. LEMCKE
CHRISTY L. CRAIG
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

MARK BAILUS
District Court, Dept. XVIII
200 Lewis Avenue
Las Vegas, NV 89101

BY */s/ Carrie M. Connolly*
Employee, Clark County Public Defender's Office

EXHIBITS

STAT

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 76417

Jose Valdez-Jimenez

vs.

The Eighth Judicial District Court of the State of Nevada

_____/

STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE 42(3)(b)

THE STATE BAR OF NEVADA, in response to the application of Petitioner, submits the following statement pursuant to SCR42(3):

SCR42(6)**Discretion.** The granting or denial of a motion to associate counsel pursuant to this rule by the court is discretionary. The court, arbitrator, mediator, or administrative or governmental hearing officer may revoke the authority of the person permitted to appear under this rule. Absent special circumstances, repeated appearances by any person or firm of attorneys pursuant to this rule shall be cause for denial of the motion to associate such person.

(a) **Limitation.** It shall be presumed, absent special circumstances, and only upon showing of good cause, that more than 5 appearances by any attorney granted under this rule in a 3-year period is excessive use of this rule.

(b) **Burden on applicant.** The applicant shall have the burden to establish special circumstances and good cause for an appearance in excess of the limitation set forth in subsection 6(a) of this rule. The applicant shall set forth the special circumstances and good cause in an affidavit attached to the original verified application.

1. DATE OF APPLICATION: October 25, 2018

2. APPLYING ATTORNEY: Charles Lewis Gerstein, Esq.

3. FIRM NAME AND ADDRESS: Civil Rights Corps, 910 17th Street NW, Suite 200, Washington, DC 20006

4. NEVADA COUNSEL OF RECORD: Christy L. Craig-Rohan, Esq., Office of the Public Defender, 309 S. Third St., Ste. 226, Las Vegas, NV 89155

5. There is no record of previous applications for appearance by petitioner within the past three (3) years.

DATED this November 2, 2018

Suzy Moore

Suzy Moore
Member Services Admin.
Pro Hac Vice Processor
STATE BAR OF NEVADA

IN THE SUREME COURT OF THE STATE OF NEVADA

JOSE VALDEZ-JIMENEZ
Petitioner,
vs.
EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE MARK BAILUS, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest

Case No.: 76417
Dept No.:
Docket No.:

ORDER ADMITTING TO PRACTICE

CHARLES GERSTEIN, **ESQ.** having filed his/her Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the state of New York and the state of New Jersey, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and CHARLES GERSTEIN, **ESQ.** is hereby admitted to practice in the above entitled Court for the purposes of the above entitled matter only.

Dated this _____day of _____, 20_____

_____, A.C.J.

Submitted by:

PHILIP J. KOHN
Clark County Public Defender

_____
Christy L. Craig, #6262
Deputy Public Defender
309 S. Third Street, #226
Las Vegas, NV 89101
(702) 455-2728
Attorneys for Petitioner

VAPP

IN THE SUPREME COURT OF THE STATE OF NEVADA

Jose Valdez-Jimenez,
~~Plaintiff~~, Petitioner,

vs.

8th Judicial Diso. Co., Respondent
State of Nevada, Real Party in
~~Defendant~~. Interest

Case No. 76417
Dept. No.

VERIFIED APPLICATION FOR ASSOCIATION OF COUNSEL UNDER NEVADA SUPREME COURT RULE 42

CHARLES LEWIS GERSTEIN, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 209 14th Sosees NE
Street Address

Washingoon, Diso. of Columbia, DC, 20002
City County State Zip Code

(202) 670-4809
Telephone

2. Petitioner is an attorney at law and a member of the law firm of: Civil Rights Corps

with offices at 910 17th So. NW, Soe. 700
Street Address

Washingoon, Diso. of Columbia, DC, 20002
City County State Zip Code

(202) 670-4809, CHARLIE@CIVILRIGHTSCORPS.ORG
Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by Jose Valdez-Jimenez to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since July 8 of 2016, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of DC where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

Supreme Court of U.S.: July 17, 2017. Sixth Circuit Court of Appeals: Feb. 12, 2018. U.S. Dist. Ct. S.D.N.Y.: Aug. 9, 2016. U.S. Dist. Ct. D.D.C.: December 4, 2017. New Jersey: May 7, 2014. New York: July 16, 2014. D.C. July 8, 2016

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No.

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No.

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No.

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No.

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: No.

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: *(do not include Federal Pro Hacs)*

Date of Application	Cause	Title of Court Administrative Body or Arbitrator	Was Application Granted or Denied?
None.			

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:
(must be the same as the signature on the Nevada Counsel consent page)

CHRISTY L. CRAIG 6262,
First Name Middle Name Last Name NV Bar #

who has offices at Clark County Public Defender,
Firm Name/Company

309 S. 3rd St., Suite 226, Las Vegas, Clark,
Street Address City County

89155, (702) 455-4685.
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME MAILING ADDRESSS

- The Eighth Judicial Dist. Ct. of Nevada, Hon. Mark Bailus, Steven B. Wolfson, 200 Lewis Ave, Las Vegas, NV 89155.
- The State of Nevada, Adam Laxalt, Atty General, 100 North Carson St., Carson City, NV 89701

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, CHARLES GERSTEIN, do hereby swear/affirm under penalty of perjury that the assertions
Print Petitioner Name
of this application and the following statements are true:

1) That I am the Petitioner in the above entitled matter.

2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

(A) I am not a member of the State Bar of Nevada;

(B) I am not a resident of the State of Nevada;

(C) I am not regularly employed as a lawyer in the State of Nevada;

(D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;

(E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and

(F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.

2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 26th day of October, 2018

Petitioner/Affiant (blue ink)

STATE OF DC)
) ss
COUNTY OF Washington)

Subscribed and sworn to before me

this 26 day of October, 20 18

Notary Public

LORRAINE L. HARRISON
NOTARY PUBLIC
EXP.
7-31-22
DISTRICT OF COLUMBIA

DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I CHRISTY CRAIG hereby agree to associate with Petitioner referenced hereinabove
Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 2nd day of November, 2018

Nevada Counsel of Record (blue ink)

STATE OF Nevada)
) ss
COUNTY OF Clark)

Subscribed and sworn to before me

this 2nd day of November, 2018

Notary Public

PATRICIA BARBER-BAIR
NOTARY PUBLIC - STATE OF NEVADA
MY APPT. No. 93-0116-1
MY APPT. EXPIRES APRIL 18, 2021

On behalf of JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals, the District of Columbia Bar does hereby certify that

Charles Lewis Gerstein

was duly qualified and admitted on **July 8, 2016** as an attorney and counselor entitled to practice before this Court; and is, on the date indicated below, an **Active** member in good standing of this Bar.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on October 15, 2018.

Julio A. Castillo

JULIO A. CASTILLO
Clerk of the Court

Issued By:
District of Columbia Bar Membership

For questions or concerns, please contact the D.C. Bar Membership Office at 202-626-3475 or email memberservices@dcbar.org.

State of New York
Supreme Court, Appellate Division
Third Judicial Department

I, **Robert D. Mayberger**, Clerk of the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department, do hereby certify that

Charles Lewis Gerstein

having taken and subscribed the Constitutional Oath of Office as prescribed by law, was duly licensed and admitted to practice by this Court as an Attorney and Counselor at Law in all courts of the State of New York on the **16th day of July, 2014**, is currently in good standing and is registered with the Administrative Office of the Courts as required by section four hundred sixty-eight-a of the Judiciary Law.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at the City of Albany, this **15th day of October, 2018**.

Robert D Mayberger

Clerk

Supreme Court of New Jersey

Certificate of Good Standing

This is to certify that CHARLES L GERSTEIN *(No.* 104792014 *) was constituted and appointed an Attorney at Law of New Jersey on* May 07, 2014 *and, as such, has been admitted to practice before the Supreme Court and all other courts of this State as an Attorney at Law, according to its laws, rules, and customs.*

I further certify that as of this date, the above-named is an Attorney at Law in Good Standing. For the purpose of this Certificate, an attorney is in "Good Standing" if the Court's records reflect that the attorney: 1) is current with all assessments imposed as a part of the filing of the annual Attorney Registration Statement, including, but not limited to, all obligations to the New Jersey Lawyers' Fund for Client Protection; 2) is not suspended or disbarred from the practice of law; 3) has not resigned from the Bar of this State; and 4) has not been transferred to Disability Inactive status pursuant to Rule 1:20-12.

Please note that this Certificate does not constitute confirmation of an attorney's satisfaction of the administrative requirements of Rule 1:21-1(a) for eligibility to practice law in this State.

In testimony whereof, I have hereunto set my hand and affixed the Seal of the Supreme Court, at Trenton, this 17TH *day of* October *, 20* 18

Clerk of the Supreme Court

-453e-

IN THE SUPREME COURT OF THE STATE OF NEVADA

Jose Valdez-Jimenez,
~~Plaintiff~~, Petitioner

vs.

8th Judicial Dist. Ct., Respondent
State of Nevada, Real Party
~~Defendant~~ in
Interest

Case No. 76417
Dept. No.
Docket No.

APPLICATION FOR WAIVER OF FEE PURSUANT TO NEVADA SUPREME COURT RULE 42(3)(e)

CHARLES LEWIS GERSTEIN, Petitioner, respectfully requests that, pursuant
First Middle Name Last

to SCR 42(3)(e), the Court waive the application fee for the following reason(s):

____ Petitioner is providing *pro bono* services in a death penalty habeas corpus case; or

____ Petitioner is providing *pro bono* services in similar circumstances that warrant waiver of the application fee. The facts which support this request are as follows:

I am an attorney at Civil Rights Corps, a non-profit organization in Washington, DC, that provides legal services to its clients free of charge. I have been retained to provide pro bono counsel in support of Petitioner's request for a writ of mandamus. This case challenges Petitioner's ongoing detention as violative of the United States Constitution.

(If necessary, please attach additional pages)

I, Charles Grosser, do hereby swear/affirm under penalty of perjury that I am the Petitioner in the above entitled matter; that I have read the foregoing Waiver of Fees and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

DATED this 16 day of October, 2016

Petitioner/Affiant

STATE OF DC)
) ss
COUNTY OF Washington)

Subscribed and sworn to before me

this 16 day of October, 2018

Notary Public

LORRAINE B. HARRISON NOTARY PUBLIC EXP. 7-31-22 DISTRICT OF COLUMBIA