

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALFRED P. CENTOFANTI, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78193-COA

**FILED**

**AUG 24 2020**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *S. Young*  
DEPUTY CLERK

*ORDER DENYING REHEARING*

On June 5, 2020, this court entered an order affirming the district court's decision to deny Alfred P. Centofanti, III's postconviction petition for a writ of habeas corpus. *Centofanti v. State*, Docket No. 78193-COA (Order of Affirmance, June 5, 2020). On June 26, 2020, Centofanti filed a petition for rehearing with this court.

A rehearing may be warranted when the court has overlooked or misapprehended a material fact or question of law, or when the court has overlooked, misapplied, or failed to consider controlling authority. See NRAP 40(c)(2). However, a petition for rehearing may not be used to reargue matters that have been presented in previous briefs or raise points for the first time. See NRAP 40(c)(1).

Centofanti makes several arguments in support of his petition for rehearing. We are not persuaded.

For the first time, Centofanti contends that Chief Judge Michael Gibbons should have been disqualified from considering this appeal

because he participated as a district court judge at a pretrial hearing during the criminal case proceedings in 2001.<sup>1</sup>

Rehearing is not warranted on the disqualification issue because Centofanti raises this issue for the first time in his petition for rehearing. *See id.* Further, any request for disqualification by Centofanti would be untimely and procedurally defective. The district court minutes indicate that on May 15, 2001, Chief Judge Gibbons, then a district court judge, acted as a visiting judge in this case and orally denied Centofanti's pretrial petition for a writ of habeas corpus. Thus, the events that Centofanti references occurred nearly twenty years ago. Pursuant to NRAP 35(a)(1), Centofanti had 60 days from the date of docketing of his appeal of the district court's denial of his postconviction petition for a writ of habeas corpus to move to disqualify Chief Judge Gibbons. However, Centofanti has never moved to do so. Moreover, he waited until he filed his motion for rehearing—more than one year after that deadline—to even raise the issue. Therefore, he waived his right to object to Chief Judge Gibbons' participation in this case. *See id.* Finally, this appeal did not involve review of Chief Judge Gibbons' decision below, nor did Centofanti raise any issues involving the denial of his pretrial petition for a writ of habeas corpus based on Judge Gibbons' decision; therefore, granting rehearing on this basis is not warranted.

Centofanti raises the following additional issues in his petition for rehearing: (1) this court erred by concluding the ineffective assistance of his postconviction counsel did not amount to good cause, (2) this court erred

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<sup>1</sup>Out of an abundance of caution, Chief Judge Gibbons has voluntarily recused himself from participating in the decision regarding Centofanti's petition for rehearing.

by denying his February 3, 2020, motion requesting transcripts and additional relief, and (3) this court erred by concluding the district court properly denied the petition without conducting an evidentiary hearing or permitting him to conduct discovery. Rehearing is not warranted as to these issues because this court has already considered and rejected them, and reargument of matters that have already been considered is not a proper basis for rehearing. *See id.* Accordingly, Centofanti is not entitled to relief and we deny his petition for rehearing.

It is so ORDERED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Hon. Joseph T. Bonaventure, Senior Judge  
Alfred P. Centofanti, III  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>We have considered Centofanti's July 13, 2020, and August 14, 2020, motions filed with this court and grant his request for leave to file the supplemental petition for rehearing. We deny any additional relief requested in these motions. We have also considered Centofanti's supplemental petition for rehearing, which appears to reargue the same issues and, therefore, we conclude Centofanti is not entitled to relief based on this petition. Further, we have reviewed Centofanti's July 22, 2020, motion in which he requests additional time to file a petition for en banc reconsideration before the Nevada Supreme Court, which is not a request for which we can provide relief.