

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX TO APPENDIX

of Decisions of the Nevada Courts to which review is sought.

Exhibit No.	Page No.
B. Order; Nevada Supreme Court Filed July 3, 2019	0004
C. Order; Nevada Supreme Court Filed July 31, 2019	0006
E. Order; Nevada Supreme Court of Appeals Filed June 5, 2020	0011
F. Order; Nevada Supreme Court of Appeals Filed July 2, 2020	0016
G. Order; Nevada Supreme Court of Appeals Filed August 24, 2020	0018
I. Order; Nevada Supreme Court Filed September 10, 2020	0024
J. Order; Nevada Supreme Court Filed October 14, 2020	0026
K. Order; Nevada Supreme Court Filed November 6, 2020	0029
M. Order; Nevada Supreme Court Filed December 3, 2020	0033
P. Order; Nevada Supreme Court Filed March 3, 2020	0039

APP 0003

Exhibit B

Exhibit B

App. 0004

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

JUL 03 2019

ORDER DENYING MOTION

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

On June 19, 2019, this court granted appellant's request for a 90-day extension of time to file the opening brief or informal brief for pro se parties. Appellant has now filed a "supplement" to his original motion, requesting an extension of 120 days instead of 90 days. As cause for the extension, appellant suggests that he is developing "additional medical information" to provide to this court for resolution of this appeal. No cause appearing, the motion for a 120-day extension is denied. This court's review on appeal is limited to the documents filed in or considered by the district court in the underlying proceedings. *See Carson Ready Mix, Inc. v. First Nat'l Bank of Nev.*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981); NRAP 10(a) and (b) (together indicating that record on appeal consists of documents and exhibits filed in the district court, transcripts, minutes, and docket entries). Failure to timely file the opening brief or informal brief may result in disposition of this appeal without a brief from appellant. NRAP 31(d)(1).

It is so ORDERED.

Pickering, A.C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

App 0005

Exhibit C + Supplement C

Exhibit C + Supplement C

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

JUL 31 2019

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

ORDER

This is a pro se appeal from an order denying a postconviction petition for a writ of habeas corpus. Appellant has filed a motion including a number of requests. Primarily appellant has filed a transcript request form pursuant to NRAP 9(b). At this stage of the proceedings, this court is unable to determine which transcripts, if any, are necessary for this court's review on appeal, and therefore, preparation of the requested transcripts is denied at this time. However, as this appeal proceeds, the court will consider the necessity of transcripts and may order their preparation at a later date. *See* NRAP 9(b)(1)(C). Because this court declines at this time to order the transcripts, appellant's motion for an extension of time to file his opening brief or informal brief for pro se parties is denied. The brief remains due by September 30, 2019. If no brief is filed, the court may decide the appeal based on the record without briefing as provided in Rule 34(g). NRAP 32(d)(1).

Appellant requests the appointment of appellate counsel. Appellant is not entitled to appointed counsel at the state's expense in postconviction proceedings. *See Brown v. McDaniel*, 130 Nev. 565, 331 P.3d 867 (2014); *see also Coleman v. Thompson*, 501 U.S. 722, 755 (1991). Accordingly, the motion is denied.

Appellant's request for an index of the record on appeal is granted. The clerk of this court shall mail to appellant a copy of the table of contents of the record on appeal.

It is so ORDERED.

Pickering, A.C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

App 0010

Exhibit E

Exhibit E

App 001

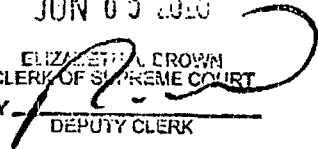
- IN THE COURT OF APPEALS OF THE STATE OF NEVADA -

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

No. 78193-COA

FILED

JUN 05 2008

ELIZABETH A. CROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Alfred P. Centofanti, III, appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Senior Judge.

Centofanti filed his petition on April 24, 2012, more than five years after issuance of the remittitur on direct appeal on March 27, 2007. *See Centofanti, III v. State*, Docket No. 44984 (Order of Affirmance, December 27, 2006). Thus, Centofanti's petition was untimely filed. *See* NRS 34.726(1). Moreover, Centofanti's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.¹ *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Centofanti's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

¹*Centofanti, III v State*, Docket No. 58562 (Order of Affirmance, June 3, 2013).

Centofanti claimed he had good cause to overcome the procedural bars because his counsel for the first postconviction proceedings had a conflict of interest as he represented Centofanti on direct appeal. The district court found Centofanti's conflict-of-interest claim provided good cause to overcome the procedural bars and denied his claims on the merits.

A claim of ineffective assistance of counsel may provide good cause but only where there is a right to counsel (statutory or constitutional) and the right to the effective assistance of counsel, *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 165 n.5, 912 P.2d 255, 258 n.5 (1996), and only where the good cause claim explains the procedural defects and is not itself procedurally barred, *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).

A conflict-of-interest claim is a claim of ineffective assistance because counsel's breach of the duty of loyalty gives rise to a claim that counsel was ineffective due to a conflict of interest. See *Strickland v. Washington*, 466 U.S. 668, 688, 692 (1984) (framing a conflict-of-interest claim as a claim that the defendant was denied the effective assistance of counsel). A conflict-of-interest claim thus requires there be a right to counsel and a right to the effective assistance of counsel. In Nevada, there is no constitutional or statutory right to postconviction counsel in non-capital cases and thus no right to the effective assistance of postconviction counsel in such cases. See *Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014). Because Centofanti did not have a constitutional or statutory right to postconviction counsel, he had no right to the effective assistance of postconviction counsel. Accordingly, Centofanti's assertion of postconviction counsel's conflict of interest cannot provide good cause to overcome the procedural bars. Therefore, the district court erred in finding

Centofanti had good cause to overcome the procedural bars. Nevertheless, because the district court reached the correct result by denying the petition, we affirm. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).


Next, Centofanti argues the district court erred by denying the petition without conducting an evidentiary hearing concerning the claims his postconviction counsel did not raise during the prior postconviction proceedings. Centofanti also contends the district court erred by declining to permit him to conduct discovery. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record, and if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046 & n.53, 194 P.3d 1224, 1233-34 & n.53 (2008) (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). Because Centofanti did not demonstrate good cause, he fails to demonstrate the district court erred by declining to conduct an evidentiary hearing concerning his procedurally-barred claims. In addition, Centofanti fails to demonstrate he was entitled to conduct discovery. *See* NRS 34.780(2). Therefore, Centofanti is not entitled to relief based upon these claims.


Finally, Centofanti argues that the district court's order was improper as the order was prepared by the State without allowing him an opportunity to review and respond to it. As discussed previously, Centofanti failed to demonstrate he had good cause to overcome the procedural bars and the district court properly denied relief. Centofanti does not demonstrate any failure to permit him to review and respond to the proposed order adversely affected the outcome of the proceedings or his ability to seek full appellate review. Therefore, even assuming the district

APP 2014

court erred by not allowing Centofanti the opportunity to review and respond to the proposed order, *cf. Byford v. State*, 123 Nev. 67, 69, 156 P.3d 691, 692 (2007) (stating that when a district court requests a party to prepare a proposed order, the court must ensure that the other parties are aware of the request and given the opportunity to respond to the proposed order), we conclude any error was harmless and Centofanti fails to demonstrate he suffered prejudice, *see* NRS 178.598 (stating that "[a]ny error, defect, irregularity or variance which does not affect substantial rights shall be disregarded"). Therefore, Centofanti is not entitled to relief based upon this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, 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

App 0015

Exhibit F

Exhibit F

App 0016

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


JUL 02 2020

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

ORDER

This court entered an order of affirmance on June 5, 2020. Appellant filed a petition for rehearing on June 26, 2020. Appellant has also filed a motion for leave to amend and other relief, wherein he seeks permission to amend his petition at a later date when he has more complete access to the prison law library. The motion to amend and for other relief is denied at this time. If appellant wishes to file an amended petition for rehearing at a later date, he can file a motion for leave to do so at that time, along with the proposed amended rehearing petition.

It is so ORDERED.

, C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

20-24566

App 007

Exhibit G

Exhibit G

App 2019

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 2001.¹

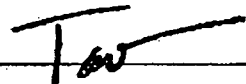
Rehearing is not warranted on the disqualification issue because Centofanti raises this issue for the first time in his petition for rehearing. *See id.* Further, any request for disqualification by Centofanti would be untimely and procedurally defective. The district court minutes indicate that on May 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

¹Out 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.²


_____, 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

²We 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.

App 0023

Exhibit I

Exhibit I

App 0024

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

SEP 10 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER GRANTING MOTION

Appellant has filed a motion requesting an extension of time to file a petition for en banc reconsideration. The motion is treated as a motion for extension of time to file a petition for review, and granted as follows. See NRAP 40B. Appellant shall have until September 30, 2020, to file and serve a petition for review. *See id.* If no petition is filed within this time period, the clerk of this court shall issue the remittitur.

It is so ORDERED.¹

Pickering, C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

¹This court takes no action regarding appellant's arguments as to his motion for an order to show cause. The court of appeals denied the motion in orders entered on August 24, 2020, and September 9, 2020.

App. 0025

Exhibit J

Exhibit J

App 7-17

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

OCT 14 2020

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

ORDER REGARDING MOTIONS

Appellant filed a motion for leave to file a petition for en banc reconsideration and other relief. This court construed the motion as a motion for an extension of time to file a petition for review and granted the motion on September 10, 2020, giving appellant until September 30, 2020, to file a petition for review. Appellant filed a petition for review on September 11, 2020. He also filed a "Motion for Leave to Amend Petition for Rehearing and Other Relief" and a "Notice of Errata and Nunc Pro Tunc," in which he asks for leave to amend the petition for review, that filing fees be waived, and this court order he be granted physical access to the prison law library. The motion is granted to the following extent. Appellant shall have 14 days from the date of this order to file an amended petition for review. Appellant may not add to the record by attaching additional document or exhibits. *See* NRAP 30(i). The record on appeal has been filed in this appeal. This court takes no action regarding appellant's additional requests. The filing fees have been waived, and appellant's motion does not provide this court a basis to alter the lockdown restrictions at the prison.

This court takes no action regarding appellant's renewed motion for an order to show cause. The court of appeals denied the motion, and appellant failed to demonstrate that reconsideration is warranted. See, e.g. *McConnell v. State*, 121 Nev. 25, 26, 107 P.3d 1287, 1288 (2005).

It is so ORDERED.

Pickering, C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

App 0028

Exhibit K

Exhibit K

App 0029


IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

NOV 06 2020

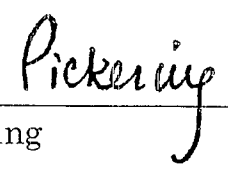
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

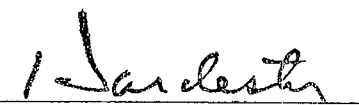
ORDER REGARDING MOTIONS


Appellant has filed a motion for a second indeterminate extension of time to file an amended petition for review and for this court to order access to the prison library and a "Renewed Motion for an Order for Access to the HDSP Law Library and Other Relief." The motion for an extension of time is granted to the following extent. Appellant shall have 14 days from the date of this order to file and serve the amended petition for review. If no petition is timely filed, the clerk shall issue the remittitur.

Appellant fails to demonstrate that reconsideration of this court's order declining to take action regarding the previous motion for access to the law library is warranted. *See, e.g. McConnell v. State*, 121 Nev. 25, 26, 107 P.3d 1287, 1288 (2005). The motions are denied.

It is so ORDERED.


Pickering, C.J.


Hardesty, J.


Silver, J.

App 0032

Exhibit M

Exhibit M

APP 0033

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

DEC 03 2020

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

ORDER

On November 6, 2020, this court granted appellant an extension of 14 days to file and serve an amended petition for review. Because the court's order was not delivered to appellant until November 17, 2020, appellant has filed a motion to stay the remittitur and for an extension of time to file the amended petition for review. The motion for an extension is granted as follows. Appellant shall have 30 days from the date of this order to file and serve an amended petition for review. No further extensions will be granted. If no amended petition for review is filed within this time period, this matter shall proceed on the petition for review filed on September 11, 2020.

It is so ORDERED.

Pickering, C.J.

cc: Alfred P. Centofanti, III
Attorney General/Carson City
Clark County District Attorney

App 0038

Exhibit P

Exhibit P

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 78193

FILED

MAR 03 2021

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

ORDER DENYING PETITION FOR REVIEW

Review denied. NRAP 40B.

It is so ORDERED.

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

Pickering, J.
Pickering

Herndon, J.
Herndon

cc: Chief Judge, The 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

**Additional material
from this filing is
available in the
Clerk's Office.**
