

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY J. CAVILL,
Petitioner,

vs.

THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE;
AND THE HONORABLE KIMBERLY A.
WANKER, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 71721

FILED

DEC 16 2016

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

ORDER DENYING PETITION

This petition seeks a writ of mandamus allowing petitioner to dismiss appointed counsel and proceed pro se or directing the respondent district court judge to schedule a hearing on petitioner's motion to dismiss counsel. Petitioner apparently seeks this relief so that he can pursue postconviction remedies. We conclude that the relief requested is unnecessary.

The counsel petitioner seeks to dismiss, attorney David Neely, was appointed to represent petitioner on appeal from the judgment of conviction. The court of appeals affirmed the judgment of conviction, *Cavill v. State*, Docket No. 67845 (Order of Affirmance, November 19, 2015), and this court subsequently denied a petition for review of that decision, *Cavill v. State*, Docket No. 67845 (Order, March 25, 2016). The remittitur issued on April 19, 2016. Appointed appellate counsel's responsibilities are complete. Therefore, no motion or court order is

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required to terminate appellate counsel's representation.¹ Accordingly, petitioner has not demonstrated that our intervention by writ of mandamus is warranted, *see Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981) (explaining that mandamus may issue when respondent has "clear, present legal duty to act" or has manifestly abused its discretion or exercised its discretion arbitrarily or capriciously); *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted."), and we

ORDER the petition DENIED.

Cherry, J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

cc: Hon. Kimberly A. Wanker, District Judge
Roy J. Cavill
David H. Neely, III
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk

¹If petitioner seeks to further challenge his judgment of conviction, he must file a postconviction petition for a writ of habeas corpus as provided in NRS 34.720 to NRS 34.830. *See* NRS 34.724. If petitioner is unable to pay the costs of the postconviction proceeding or to employ counsel, he may file an appropriate motion and affidavit with his petition. *See* NRS 34.735; NRS 34.750. We express no opinion as to the merits of any such petition or whether petitioner could comply with the procedural bars set forth in NRS chapter 34.