

IN THE SUPREME COURT OF THE STATE OF NEVADA

VITALY ZAKOUTO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

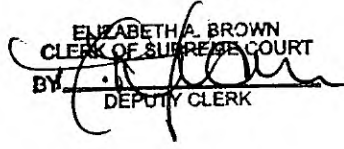
No. 84681

VITALY ZAKOUTO,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
NORTHERN NEVADA
CORRECTIONAL CENTER; JAMES
DZURENDA, DIRECTOR, NEVADA
DEPARTMENT OF CORRECTIONS;
AND AARON D. FORD, NEVADA
ATTORNEY GENERAL,
Respondents.

No. 85546

FILED

SEP 20 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEALS

These are consolidated appeals from district court orders denying a motion for new trial and denying a postconviction petition for writ of habeas corpus. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

On May 1, 2023, counsel for respondents filed a motion to dismiss these appeals wherein he informed the court that appellant had died. On May 12, 2023, this court entered an order instructing that appellant's personal representative, if any, should file a motion for substitution in this court pursuant to NRAP 43 by July 31, 2023, if he or she wished to proceed with this appeal. *See* NRAP 43(a); *Brass v. State*, 129 Nev. 527, 306 P.3d 393 (2013); *see also Walker v. Burkham*, 68 Nev. 250, 253-54, 229 P.2d 158, 160 (1951) ("Upon the death of a party . . . the [action] cannot proceed until someone is substituted for the decedent . . .").

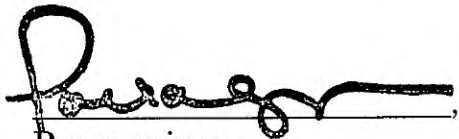
Subsequently, this court entered an order granting a motion to extend this deadline and directed any motion for substitution to be filed by August 30, 2023. This court cautioned that if no personal representative was substituted within that time, these appeals would be dismissed. *See Brass*, 129 Nev. at 530, 306 P.3d at 395. To date, no personal representative has filed a motion for substitution or otherwise communicated with this court.¹

Accordingly, this court

ORDERS these appeals DISMISSED.²


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

¹It appears that a motion for appointment of special administrator was filed in the district court and denied. *See Brass v. State*, 129 Nev. 527, 306 P.3d 393 (2013) (stating that a motion for substitution must be filed in the district court because such a determination may involve fact-finding, which the district court is in a better position to conduct). The opposed motion filed in this court by appellant's counsel on behalf of appellant to substitute a personal representative is therefore denied. The countermotion to strike the motion to substitute is denied. The motion for enlargement of time to file exhibits in support of the motion to substitute personal representative is granted. The exhibits were filed on August 31, 2023.

²Respondents' motion to dismiss these appeals is denied as moot.

cc: Hon. Jacqueline M. Bluth, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk