

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM DENNIS BLANDINO,
Petitioner,


vs.

SUPREME COURT JUSTICES THE
HONORABLE LIDIA STIGLICH; THE
HONORABLE LINDA BELL; THE
HONORABLE ELISSA CADISH; THE
HONORABLE DOUGLAS W.
HERNDON; THE HONORABLE
PATRICIA LEE; THE HONORABLE
RON PARRAGUIRRE; THE
HONORABLE KRISTINA PICKERING;
AND COURT OF APPEALS JUDGES
THE HONORABLE MICHAEL P.
GIBBONS; THE HONORABLE BONNIE
A. BULLA; AND THE HONORABLE
DEBORAH L. WESTBROOK,
Respondents,
and
THE STATE OF NEVADA DIVISION
OF PAROLE AND PROBATION; AND
AARON D. FORD,
Real Parties in Interest.

No. 88332

FILED

DEC 03 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This pro se petition for a writ of mandamus, prohibition, certiorari, or habeas corpus challenges supreme court decisions requiring petitioner to proceed on direct appeal through counsel and seeks an order allowing petitioner to waive his right to counsel and to proceed pro se on direct appeal, as well as a stay of probation. After the court of appeals affirmed petitioner's conviction and petitioner's petition for review by this court was denied, petitioner supplemented the writ petition currently before

us, now seeking a new direct appeal in which he is permitted to represent himself or, alternatively, the reversal of his conviction.

Underlying his direct appeal, petitioner was found guilty by a jury of extortion and impersonation of an officer. After appealing the verdict, and later the judgment of conviction, appellant filed an emergency motion to proceed pro se on appeal. That motion was denied on April 28, 2022, by a three-justice panel of this court. *Blandino v. State*, Docket No. 84433 (Order Denying Motions & Striking Motions). Petitioner, both through appointed counsel and pro se, subsequently filed at least five more motions, most of which were labelled as an emergency, seeking the removal of appointed counsel and to be allowed to proceed pro se on appeal. All of petitioner's motions were denied, by four different justices, only three of whom are currently sitting on this court.

In the current petition challenging his inability to proceed pro se on direct appeal, petitioner has named each member of this court and the court of appeals as respondents, even though it does not appear that all justices of this court or any judges of the court of appeals were involved in deciding his motions to proceed pro se. Petitioner, apparently anticipating the recusal of each member of this court and the court of appeals, has filed a motion seeking immediate notification of who will be assigned as replacement justices or judges, so that he can then evaluate whether to move to disqualify the replacement justices or judges; he later filed a letter demanding that we have judges from outside the supreme court and court of appeals assigned to this matter immediately. This, we will not do.

Code of Judicial Conduct Rule 2.11(A)(2)(a) typically requires disqualification when a justice or judge is a party to the proceeding. But when a petitioner indiscriminately sues all members of a court, the rule of

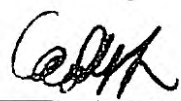
necessity steps in to allow the justices or judges to hear the case, based on the underlying legal maxim that “where all are disqualified, none are disqualified.” *Ignacio v. Judges of U.S. Ct. of Appeals for Ninth Cir.*, 453 F.3d 1160, 1164-55 (9th Cir. 2006) (quoting *Pilla v. American Bar Ass’n*, 542 F.2d 56, 59 (8th Cir.1976), and noting “reservations about giving litigants a veto right over sitting judges by providing them an improper means for getting their case transferred out of the circuit”); *In re Ross*, 99 Nev. 1, 10, 656 P.2d 832, 837 (1983) (recognizing the rule-of-necessity exception to judicial disqualification, in which disqualification is inappropriate when such disqualification “would leave the parties without a forum”). The rule of necessity applies despite the ability to appoint substitute justices and judges when doing so would allow—or even encourage—parties to impede the administration of justice. *Id.*; see also *Haase v. Countrywide Home Loans, Inc.*, 838 F.3d 665, 667 (5th Cir. 2016); *Bolin v. Story*, 225 F.3d 1234, 1238 (11th Cir. 2000); *Switzer v. Berry*, 198 F.3d 1255, 1258 (10th Cir. 2000) (discussing cases applying the rule of necessity even when it was possible to assemble a disinterested panel); *Tapia-Ortiz v. Winter*, 185 F.3d 8, 10 (2d Cir. 1999).

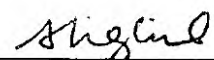
Here, a panel of the sitting members of this court ruled on petitioner’s various motions to proceed pro se in Docket No. 84433, interpreting NRS 178.397 in so doing. In his motion, petitioner is essentially asking to have members of the judiciary who are not sitting supreme court justices or court of appeals judges appointed to review and overturn this court’s interpretation of the statute. Joining the above-noted jurisdictions in their concern with providing litigants “veto power over sitting judges, or a vehicle for obtaining a judge of their choice,” *Switzer*, 198 F.3d at 1258 (quoting *United States v. Cooley*, 1 F.3d 985, 993 (10th Cir.

1993)), we conclude that the rule of necessity applies here and deny petitioner's motion for notification.

Accordingly, we turn to the petition for extraordinary writ relief. Extraordinary writ relief is available only when the petitioner has no speedy and adequate legal remedy. NRS 34.020(2) (certiorari); NRS 34.170 (mandamus); NRS 34.330 (prohibition); NRS 34.724(2)(a) (habeas corpus is a remedy for a claim that conviction was obtained unconstitutionally but is not a substitute for remedy of direct review). As noted above, petitioner had—and exercised on multiple occasions—an adequate legal remedy in the form of a motion filed in his direct appeal. As a result, extraordinary relief is precluded, and he improperly seeks a writ to attack his inability to proceed pro se on direct appeal. *See Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004); *see also Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that the issuance of a writ is discretionary). Consequently, we decline to consider this writ petition and

ORDER the petition DENIED.


_____, C.J.
Cadish


_____, J.
Stiglich


_____, J.
Herndon

cc: Kim Dennis Blandino
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk