

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 CHARLES NELSON,

5 Petitioner,

6 v.

7 WILLIAM REUBART, *et al.*,

8 Respondents.
9
10

Case No. 3:18-cv-00029-RCJ-CLB

**ORDER GRANTING
COUNSEL'S MOTION TO WITHDRAW
(ECF NO. 60)**

11
12 This action is a petition for writ of habeas corpus by Charles Nelson, an individual
13 incarcerated at Nevada's Ely State Prison. Nelson is represented by appointed counsel,
14 Mario D. Valencia. See Order entered February 6, 2018 (ECF No. 5); Order entered
15 March 6, 2018 (ECF No. 9); Order entered February 26, 2019 (ECF No. 21); Order
16 entered March 12, 2019 (ECF No. 22). The action was stayed on April 12, 2021,
17 pending state-court proceedings in which Nelson seeks to exhaust state court remedies
18 with respect to claims not previously asserted in state court. See Order entered April 12,
19 2021 (ECF No. 57). The Court takes judicial notice of publicly available records of Case
20 No. A-21-836085-W in Nevada's Eighth Judicial District Court, Nelson's state-court
21 action. See <https://www.clarkcountycourts.us/Portal/Home/WorkspaceMode?p=0>
22 (Case No. A-21-836085-W) (last visited May 19, 2022). This Court notes that Valencia
23 does not represent Nelson in the state-court action; Nelson is represented in that case
24 by other counsel. In the state-court action, the parties have entered a stipulation setting
25 a schedule for further proceedings. See Stipulation, Exh. 1 to Motion to Withdraw (ECF
26 No. 60, pp. 5–7). Nelson is to file a supplemental petition by August 9, 2022, the State's
27 response will be due October 19, 2022, Nelson's reply will be due November 8, 2022,
28 and a hearing is scheduled for November 14, 2022. See *id.*

1 In this case, on May 3, 2022, Valencia filed a Motion to Withdraw (ECF No. 60).
2 Valencia served that motion on Nelson (see ECF No. 60 at 3), and Nelson did not
3 respond. See LR IA 11-6 (b) (“The affected client may, but is not required to, file a
4 response to the attorney’s motion [to withdraw] within 14 days of the filing of the motion,
5 unless the court orders otherwise.”).

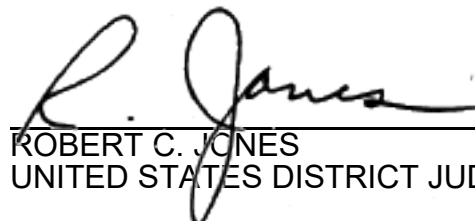
6 In his motion to withdraw, Valencia states that, because of matters in his
7 personal life, he has resigned from the Court’s panel of attorneys accepting
8 appointments in habeas cases, and he wishes to withdraw from his representation of
9 Nelson in this case. Motion to Withdraw (ECF No. 60), pp. 1–2. The Court finds that,
10 because this federal action is currently stayed, and because there are apparently
11 substantial proceedings remaining to be conducted in the state-court action, there will
12 be no delay of this case and Nelson will not be adversely affected if Valencia withdraws.
13 The Court determines that there is good cause to grant the motion to withdraw. The
14 Court will grant that motion and will undertake to appoint new counsel to represent
15 Nelson in this case.

16 **IT IS THEREFORE ORDERED** that Mario D. Valencia’s Motion to Withdraw
17 (ECRF No. 60) is **GRANTED**. Mario D. Valencia is discharged from his representation
18 of the petitioner in this case.

19 **IT IS FURTHER ORDERED** that the Court will, by separate order, appoint other
20 counsel to represent the petitioner in this case.

21 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure
22 25(d), William Reubart is substituted for William Gittere as the respondent warden. The
23 Clerk of the Court is directed to update the docket to reflect this change.

24 DATED THIS 14th day of June, 2022.

25
26
27
28

ROBERT C. JONES
UNITED STATES DISTRICT JUDGE