

CV09-03442 DC-9900019670-015
FERRILL J VOLPICELLI VS SCOT 2 Pages
District Court 09/02/2010 03 49 PM
Washoe County 251B
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CODE \$2515
FERRILL VOLPICELLI # 78065
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Plaintiff In Pro Se

FILED
SEP - 2 2010
HOWARD W. CONYERS, CLERK
By: [Signature]
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * * * *

FERRILL T. VOLPICELLI
Plaintiff,
-vs-
SCOT EDWARDS
Defendant.

Case No. CV09-03442
Dept. No. 6

No. 56747 **FILED**
SEP 03 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: A. Ingerson
DEPUTY CLERK

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Plaintiff, FERRILL T. VOLPICELLI, in
pro se, hereby appeals to the Nevada Supreme Court the ORDER
DISMISsing SAID CASE, filed
August 9, 2010 (check if applicable) and _____
_____, filed
_____, 20____, in the above-entitled Court, the Honorable _____

Dated this 16 day of August, 2010.

RECEIVED
SEP 03 2010
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

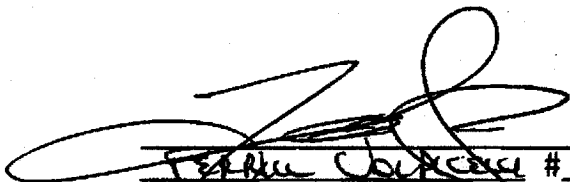
FERRILL VOLPICELLI # 78065
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419
Plaintiff In Pro Se

10-56747

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2 **CERTIFICATE OF SERVICE**

3 I do certify that I mailed a true and correct copy of the
4 foregoing NOTICE OF APPEAL to the below address(es) on this
5 16 day of AUGUST, 2010, by placing same in the
6 U.S. Mail via prison law library staff:

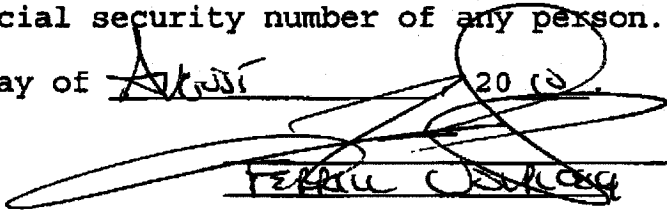
7 CREEKINGTON
8 c/o DISTRICT ATTORNEY
9 BOB 30083
10 RENO, NV 87520-3083
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18 FERRIS COOKSEY # 7725
19 Lovelock Correctional Center
20 1200 Prison Road
21 Lovelock, Nevada 89419
22
23 Petitioner In Pro Se

24 **AFFIRMATION PURSUANT TO NRS 239B.030**

25 The undersigned does hereby affirm that the preceding
26 NOTICE OF APPEAL filed in District Court Case No. CV09-03402
27 does not contain the social security number of any person.

28 Dated this 16 day of AUGUST, 2010


Petitioner In Pro Se

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Code 1310

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

FERRILL J. VOLPICELLI,

Appellant,

Case No. CV09-03442

vs.

Dept. No. 6

SCOTT EDWARDS,

Respondent.

CASE APPEAL STATEMENT

1. Ferrill J. Volpicelli is the Appellant.
2. This appeal is from the Order Dismissing Case filed on August 8, 2010 by the Honorable Brent Adams.
3. The parties in District Court consisted of Ferrill J. Volpicelli, Plaintiff, and Scott Edwards, Defendant.
4. The parties in the Nevada Supreme Court consist of Ferrill J. Volpicelli, Appellant, and Scott Edwards, Respondent.
5. Counsel on appeal consists of:

Ferrill J. Volpicelli, #79565, Appellant in Proper Person
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

David C. Creekman, Esq., Chief Deputy District Attorney for Respondent
Washoe County District Attorney's Office
P.O. Box 30083
Reno, NV 89520-3083

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- 6. Appellant represented himself in Proper Person in District Court.
- 7. Appellant is representing himself in Proper Person on appeal.
- 8. Fee not applicable in this case as Appellant was granted forma pauperis status on December 11, 2009.
- 9. Proceedings commenced by the filing of a Complaint on December 16, 2009.

Dated this 2nd day of September, 2010.

HOWARD W. CONYERS
Clerk of the Court

By: /s/ Teresa Prince
Deputy Clerk

1 3060

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IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

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FERRILL T. VOLPICELLI,

Case No. CV09-03442

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Plaintiff,

Department No.: 6

11

vs.

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SCOTT EDWARDS, ESQ.,

13

Defendant.

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ORDER GRANTING MOTION TO PROCEED IN FORMA PAUPERIS

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Having read the Plaintiff, FERRILL T. VOLPICELLI's Motion to Proceed in Forma Pauperis," this Court finds that pursuant to *NRS 12.015*, the Plaintiff's affidavit is sufficient to grant *forma pauperis* status at this time.¹

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In addition, pursuant to Nevada Supreme Court's Order ADKT No. 411 filed January 4, 2008, a person will be deemed 'indigent' who is unable, without substantial hardship to himself or his dependents, to obtain competent qualified legal counsel on his or her own.² Under this standard, a presumption of substantial hardship attaches to those persons currently serving a

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¹ *NRS 12.015(1)* Any person who desires to prosecute or defend a civil action may file an affidavit with the court setting forth with particular facts concerning his income, property and other resources which establish that he is unable to prosecute or defend the action because he is unable to pay the costs of so doing.

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² While the context of ADKT No. 411 is that of appointment of counsel for indigent defendants, the same rationale applies to actions involving indigent persons under *NRS 12.015*.

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1 sentence in a correctional institution or housed in a mental health facility. Mr. Volpicelli is
2 serving a sentence in a correctional institution.

3 Based on the foregoing and good cause appearing,

4 IT IS HEREBY ORDERED, pursuant to *NRS 12.015*, FERRILL T. VOLPICELLI's
5 Motion to Proceed in Forma Pauperis is GRANTED.

6 IT IS HEREBY FURTHER ORDERED that the Court allow said FERRILL T.
7 VOLPICELLI, to prosecute such action without costs and file or issue any necessary writ,
8 process, pleading or paper without charge, with the exception of jury fees.

9 IT IS HEREBY FURTHER ORDERED that the Sheriff or any other appropriate officer
10 within the state make personal service of any writ, process, pleading or paper without charge for
11 FERRILL T. VOLPICELLI.

12 DATED this 10 day of December, 2009.

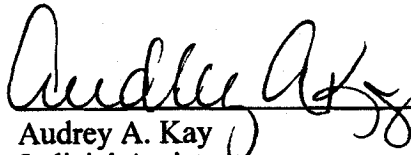
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15 CHIEF DISTRICT JUDGE

CERTIFICATE OF SERVICE

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I certify that I am an employee of JUDGE CONNIE STEINHEIMER; that on the 11th day of December, 2009, I certify that I deposited in the county mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing addressed to:

Ferrill T. Volpicelli, #79565
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419



Audrey A. Kay
Judicial Assistant

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
COUNTY OF WASHOE

Case History - CV09-03442

Case Description: FERRILL J VOLPICELLI VS SCOTT EDWARDS, ESQ. (D6)

Case Number: CV09-03442 Case Type: TORTS-OTHER - Initially Filed On: 11/25/2009

Parties

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - BRENT ADAMS - D6	Active
PLTF - FERRILL JOSEPH VOLPICELLI - @67988	Active
DEFT - SCOTT EDWARDS, ESQ - @1174925	Active
DA - David C. Creekman, Esq. - 4580	Active
PROP - ProPer Person - PROPER	Active

Disposed Hearings

- 1 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 8/6/2010 at 13:55:00
Extra Event Text: OPPOSITION TO DEFENDANTS' SUGGESTION OF LACK OF SUBJECT MATTER JURISDICTION
Event Disposition: S200 - 8/9/2010

Actions

- | <u>Filing Date</u> | <u>Docket Code & Description</u> |
|--------------------|---|
| 1 11/25/2009 | - COV - **Civil Cover Sheet
<i>No additional text exists for this entry.</i> |
| 2 11/25/2009 | - 1270 - Application ...
Additional Text: APPLICATION TO PROCEED IN FORMA PAUPERIS |
| 3 11/25/2009 | - 1030 - Affidavit in Support...
Additional Text: AFFIDAVIT IN SUPPORT OF APPLICATIO TO PROCEED IN FORMA PAUPERIS |
| 4 12/11/2009 | - 3035 - Ord Grant in Forma Pauperis
Additional Text: Transaction 1202797 - Approved By: NOREVIEW : 12-11-2009:11:14:01
MAILED COPIES TO FERRIL ON 12/16/09
nd |
| 5 12/11/2009 | - NEF - Proof of Electronic Service
Additional Text: Transaction 1202812 - Approved By: NOREVIEW : 12-11-2009:11:17:37 |
| 6 12/16/2009 | - 1425 - Complaint - Civil
<i>No additional text exists for this entry.</i> |
| 7 1/4/2010 | - 4090 - ** Summons Issued
<i>No additional text exists for this entry.</i> |
| 8 1/4/2010 | - 4090 - ** Summons Issued
<i>No additional text exists for this entry.</i> |
| 9 3/18/2010 | - 2610 - Notice ...
Additional Text: NOTICE OF FAULT AND OPPORTUNITY TO CURE |
| 10 3/19/2010 | - 3373 - Other ...
Additional Text: SUGGESTION OF LACK OF SUBJECT MATTER JURISDICTION |

Report Does Not Contain Sealed Cases or Confidential Information

- 11 4/1/2010 - 2075 - Mtn for Extension of Time
No additional text exists for this entry.
- 12 4/1/2010 - 1075 - Affidavit ...
Additional Text: AFFIDAVIT OF PLAINTIFF
- 13 4/12/2010 - 2650 - Opposition to ...
Additional Text: OPPOSITION TO DEFENDANT'S SUGGESTION OF LACK OF SUBJECT MATTER JURISDICTION
- 14 4/12/2010 - 1075 - Affidavit ...
Additional Text: AFFIDAVIT OF FERRILL J. VOLPICELLI
- 15 8/5/2010 - 3860 - Request for Submission
Additional Text: DOCUMENT TITLE: OPPOSITION TO DEFENDANTS' SUGGESTION OF LACK OF SUBJECT MATTER JURISDICTION
PARTY SUBMITTING: FERRILL J. VOLPICELLI
DATE SUBMITTED: 08-06-2010
SUBMITTED BY: HCHEEK
DATE RECEIVED JUDGE OFFICE:
- 16 8/9/2010 - S200 - Request for Submission Complet
Additional Text: order
- 17 8/9/2010 - 3370 - Order ...
Additional Text: DISMISSING CASE PURSUANT TO NRCP 12(h)(3) - Transaction 1646727 - Approved By: NOREVIEW : 08-09-2010:11:09:56
- 18 8/9/2010 - NEF - Proof of Electronic Service
Additional Text: Transaction 1646730 - Approved By: NOREVIEW : 08-09-2010:11:11:07
- 19 8/9/2010 - 1315 - ** Case Closed
No additional text exists for this entry.
- 20 8/13/2010 - 2540 - Notice of Entry of Ord
No additional text exists for this entry.
- 21 9/2/2010 - 2515 - Notice of Appeal Supreme Court
No additional text exists for this entry.
- 22 9/2/2010 - 1310E - Case Appeal Statement
Additional Text: Transaction 1697659 - Approved By: NOREVIEW : 09-02-2010:15:49:58
- 23 9/2/2010 - 1350 - Certificate of Clerk
Additional Text: Transaction 1697659 - Approved By: NOREVIEW : 09-02-2010:15:49:58
- 24 9/2/2010 - 1365 - Certificate of Transmittal
Additional Text: Transaction 1697659 - Approved By: NOREVIEW : 09-02-2010:15:49:58
- 25 9/2/2010 - NEF - Proof of Electronic Service
Additional Text: Transaction 1697672 - Approved By: NOREVIEW : 09-02-2010:15:51:54

1 Code 3370
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7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

12 FERRILL J. VOLPICELLI,

13 Plaintiff,

Case No. CV09-03442
Dept. No. 6

14 vs.
15

16 SCOTT EDWARDS,

17 Defendants.
18 _____ /

19 ORDER

20 The defendant has filed a suggestion of lack of subject matter jurisdiction.

21 The Court finds that the plaintiff has failed to meet the applicable statutes of
22 limitation, and that the Court therefore lacks subject matter jurisdiction.

23 Accordingly, pursuant to NRCP 12(h)(3), this case is dismissed.
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25 DATED: This 9th day of August, 2010.
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DISTRICT JUDGE

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CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court, in and for the County of Washoe; and that on this 9th day of August, 2010, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

Scott Edwards, Esq.
729 Evans Avenue
Reno, Nevada 89512

David C. Creekman, Esq.
Deputy District Attorney
PO Box 30083
Reno, NV 8952
(interoffice mail)

Ferrill Volpicelli, #79565
1200 Prison Road
Lovelock, NV 89419



Heidi Boe
Administrative Assistant

CV99-03442 DC-9900019301-029
FERRILL J. VOLPICELLI VS SCOT 5 Pages
District Court 08/13/2010 03:50 PM
Washoe County JYOST
DCC

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DAVID C. CREEKMAN
Chief Deputy District Attorney
Nevada State Bar Number 4580
P. O. Box 30083
Reno, NV 89520-3083
(775) 337-5700
ATTORNEY FOR DEFENDANT

FILED
2010 AUG 13 PM 3:50
HOWARD W. CONYERS
BY *[Signature]*

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

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9 FERRILL J. VOLPICELLI,
10 Plaintiff,
11 vs.
12 SCOTT EDWARDS,
13 Defendant.

Case No. CV09-03442
Dept. No. 6

NOTICE OF ENTRY OF ORDER

17 TO: Plaintiff, Ferrill J. Volpicelli.
18 Please take notice that an Order for Dismissal was filed on
19 August 9, 2010. A copy of that Order is attached hereto.

AFFIRMATION PURSUANT TO NRS 239B.030

21 The undersigned does hereby affirm that the preceding
22 ///
23 ///
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25 ///
26 ///

1 document does not contain the social security number of any
2 person.

3 Dated this 13th day of August, 2010.

4 RICHARD A. GAMMICK
5 District Attorney

6 By David C. Creekman

7 DAVID C. CREEKMAN
8 Chief Deputy District Attorney
9 P. O. Box 30083
10 Reno, NV 89520-3083
11 (775) 337-5700

12 ATTORNEYS FOR DEFENDANT
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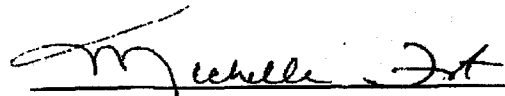
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CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I deposited for mailing in the U. S. Mails, with postage fully prepaid, a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER in an envelope addressed to the following:

Ferrill J. Volpicelli #79565
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

Dated this 13 day of August, 2010.


MICHELLE FOSTER

1 Code 3370
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7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

12 FERRILL J. VOLPICELLI,

13 Plaintiff,

Case No. CV09-03442
Dept. No. 6

14 vs.
15

16 SCOTT EDWARDS,

17 Defendants.
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19 ORDER

20 The defendant has filed a suggestion of lack of subject matter jurisdiction.

21 The Court finds that the plaintiff has failed to meet the applicable statutes of
22 limitation, and that the Court therefore lacks subject matter jurisdiction.

23 Accordingly, pursuant to NRCP 12(h)(3), this case is dismissed.
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25 DATED: This 9th day of August, 2010.
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DISTRICT JUDGE

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CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court, in and for the County of Washoe; and that on this 9th day of August, 2010, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

Scott Edwards, Esq.
729 Evans Avenue
Reno, Nevada 89512

David C. Creekman, Esq.
Deputy District Attorney
PO Box 30083
Reno, NV 8952
(interoffice mail)

Ferrill Volpicelli, #79565
1200 Prison Road
Lovelock, NV 89419



Heidi Boe
Administrative Assistant

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Code 1350

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

FERRILL J. VOLPICELLI,

Appellant,

vs.

SCOTT EDWARDS,

Respondent.

Case No. CV09-03442

Dept. No. 6

CERTIFICATE OF CLERK

I hereby certify that the attached documents submitted electronically are certified copies of the original pleadings on file with the Second Judicial District Court, in accordance with the Nevada Rules of Appellate Procedure, NRAP 3(g).

Dated this 2nd day of September, 2010.

HOWARD W. CONYERS
CLERK OF THE COURT

By: /s/ Teresa Prince
Deputy Clerk

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Code 1365

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

FERRILL J. VOLPICELLI,

Appellant,

Case No. CV09-03442

vs.

Dept. No. 6

SCOTT EDWARDS,

Respondent.

CERTIFICATE OF TRANSMITTAL

I hereby certify that this Notice of Appeal and other required documents (certified copies pursuant to NRAP 3(g)), were electronically filed from the Second Judicial District Court to the Nevada Supreme Court.

Dated this 2nd day of September, 2010.

HOWARD W. CONYERS
CLERK OF THE COURT

By: /s/ Teresa Prince
Deputy Clerk