



**NORTHERN NEVADA  
REPEAT OFFENDER PROGRAM  
RENO POLICE DEPARTMENT  
FINANCIAL IMPACT REPORT  
Defendant Ferrill Joseph Volpicelli  
Washoe County District Court Dept. 10 – April 1, 2004**

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**OFFENSE:** Defendant Volpicelli was indicted by Grand Jury for the following offenses:

Count I	Conspiracy to Commit Crimes Against Property (GM)
Count II	Burglary (F)
Count III	Burglary (F)
Count IV	Burglary (F)
Count V	Burglary (F)
Count VI	Burglary (F)
Count VII	Burglary (F)
Count VIII	Burglary (F)
Count IX	Burglary (F)
Count X	Unlawful Possession, Making, Forgery or Counterfeiting of Inventory Pricing Labels (F)

Defendant was convicted in a trial by jury on all 10 counts on November 14, 2003 and sentencing is set for April 1, 2004 in Washoe District Court Department 10.

**FELONY CONVICTIONS:**

1993 - Attempted Burglary  
1996 - Tax Perjury (4 counts)  
1998 - Burglary  
    - Principle to Burglary  
2003 - Indecent Exposure  
2003 - Open & Gross Lewdness  
2003 - Aid & Abet in the Commission of Attempting to Obtain Money by False Pretenses



Additionally, the defendant has 2 (two) prior misdemeanors and 1 (one) gross misdemeanor conviction.

### RECOVERED PROPERTY:

Search warrants executed on the defendant's residence, safe deposit box and storage unit pursuant to this investigation recovered over \$11,000 of new, in the box, merchandise believed to be the fruits or instrumentalities of defendant Volpicelli's criminal activity. Some items still had fictitious Universal Product Code (UPC) labels attached.

The following is a list of items recovered from the defendant's storage unit that are new, in the box items. By monitoring telephone calls and mail at the Washoe County Sheriff's Office I've discovered numerous inconsistent statements made by Volpicelli to friends and relatives regarding the ownership of these items. Depending on who he is speaking to Volpicelli has stated that the items belonged to his co-defendant, Brett Bowman, and that he was storing the items for Bowman. In other conflicting statements Volpicelli has also stated that he had over \$10,000 worth of merchandise in the storage unit that he purchased for his children. It is not difficult to conclude, considering Volpicelli's past criminal activities and the results of this investigation, that most, if not all, of the below listed items were fraudulently obtained by the defendant through the application of his criminal scheme. All retailers identified in this case and mentioned in the Grand Jury indictment have noticed me that they wish to have their property returned.

ARGUE  
TO RET.  
TO STORES.  
"KRISTIN"

1.	1 Quicken Business Lawyer 2001 Deluxe	Office Depot	\$29.88
2.	1 Brother P-Touch Electronic Labeling System	Office Depot	\$149.99
3.	1 Moen Extensa Faucet	Home Depot	\$199.00
4.	1 Deflect-O Bath N' Spa Exhaust Kit	Home Depot	\$175.00
5.	1 Kohler Rosario Low Flow Toilet	Home Depot	\$482.00
6.	1 Bulldog Security Remote Starter	Shopko	\$59.99
7.	1 Sonicare Plus Electric Toothbrush	Shopko	\$119.99
8.	1 Casio Cassiopeia Automatic PC	Shopko	\$79.99
9.	2 KDS Rad 5 - 15" LCD Monitors	Wal-Mart	\$377.00 ea.
10.	2 Hewlett-Packard Office Jet Printers	Wal-Mart	\$499.87 ea.
11.	3 Emerson TV/DVD Combos	Wal-Mart	\$299.94 ea.

12.	1 Simplicity Serge Pro Sewing Machine	Wal-Mart	\$263.00
13.	1 Compaq Computer	Wal-Mart	\$998.00
14.	1 Panasonic SC-DK10 DVD Stereo System	Wal-Mart	\$477.88
15.	1 Hoover Wind Tunnel Vacuum	Wal-Mart	\$288.00
16.	1 Kodak Ektagraphic III Slide Projector	Office Max	\$599.99
17.	1 Lego Steven Spielberg Movie Maker Set	Toys R' Us	\$60.00
18.	1 V-Tech Digital Telephone w/Answering System	Target	\$159.00
19.	2 V-Tech Digital Telephone Multi Handset Combo	Target	\$130.00 ea.
20.	2 Panasonic SC-HT70 DVD Dyna Movie	Target	\$449.67 ea.
21.	1 Memorex Travel View Mini-Van Console	Target	\$399.99
22.	1 100% Wool Handcrafted Rug	Lowe's	\$499.00
23.	1 Brother MFC-1970 Combo Fax-Scanner	Custom Office Supply	\$348.99
24.	2 Mabis Smart Read Plus Digital Blood Pressure	K-Mart	\$99.99 ea.
25.	1 Phantom Wildcat Vacuum	K-Mart	\$149.97
26.	1 Hoover Steam Vac	Shopko	\$299.99
27.	1 V-3 Racing Wheel	K-Mart	\$49.99
28.	1 Ozark Queen Size Air Bed	Wal-Mart	\$24.84
29.	2 Aero Minute Beds w/Fictitious Bar Codes	Wal-Mart	\$78.42ea.
30.	3 Willow Bay Comforters	Shopko	\$64.99ea.
31.	1 Krups Coffee Maker	Bed, Bath & Beyond	\$59.99

**TOTAL = \$10,339.16**

The following items were also recovered from the defendant's storage unit, however, retailer and pricing information was not immediately available at the time of this report:

One (1) G.E. Optima Amplified TV Antenna  
One (1) Playstation Open Driving Force  
Three (3) Kodak EZ200 Digital Cameras  
One (1) Braun shaver  
One (1) Norelco shaver  
One (1) Panasonic Cordless Answering System  
One (1) Texas Instruments Connectivity Value Kit  
Two (2) Brother P-Touch cartridges  
One (1) Texas Instruments calculator  
One (1) Samsonite car charger  
One (1) Multi Tool  
One (1) Panasonic KP-150 Electric Pencil Sharpener  
One (1) New in box Cigarette Lighter Jumpstarting System  
One (1) New Sport Universal blue & green windbreaker size Large w/tags.

**ESTIMATED RECOVERED TOTAL = IN EXCESS OF \$11,000**

**DETECTIVE  
MAN HOURS**

**WORKED:**                **647 TOTAL MAN HOURS.** Determined by the following:

Total number of hours worked by Detective Thomas on this case, excluding surveillance time, prior to the defendant's arrest on October 17, 2001 = 54 hours.

Total number of hours worked by Detective Thomas on this case after the defendant's arrest on October 17, 2001 = 285 hours.

Total surveillance hours worked by R.O.P. detectives = 189 hours.

Total number of hours worked by all R.O.P. detectives on the date of the defendant's arrest = 119 hours.

**TOTAL = 647 hours or 16.17 40 hour work weeks.**

It should be noted that this a conservative figure due to the fact that I did not take into account any follow-up investigative work completed by me or other R.O.P. detectives after February 2002. Additionally, I have not included court appearances, to include the Grand Jury, or any pre-trial meetings with the District Attorney's Office.



## **PROJECTED ECONOMIC LOSS TO THE COMMUNITY:**

Through interviews with his co-defendant detectives learned that defendant Volpicelli engaged in his fraudulent price changing scheme *at least* once a week making approximately 5-10 stops a day at various retail stores throughout the Reno/Sparks area for the purpose of purchasing merchandise at a greatly reduced price through the application of defendant Volpicelli's scheme. NOTE: Numbers used in this projection have been rounded to the nearest dollar.

Merchandise defendant Volpicelli purchased ranged in price from \$25 to \$1000. For this projection I determined an average price by taking 41 of the items recovered from the defendant's storage unit with confirmed price information and divided that into the total cost of those items which is roughly \$10,339. The resulting average purchase price is \$252.

Assuming defendant Volpicelli only applied his scheme once a week, five (5) times per day, one could reasonably conclude that he purchased \$1,260 worth of merchandise on any given day that he chose to set his scheme in motion. When that total is multiplied out over a twelve 12 month period defendant Volpicelli could conceivably attain over \$65,520 worth of merchandise per year.

It is not unreasonable to conclude that defendant Volpicelli actually committed these crimes on a far more frequent basis when he was not in the company of his co-defendant.

Through an affidavit provided to I.R.S. Revenue Agents in 1997 defendant Volpicelli outlined his criminal enterprise and, in so doing, estimated that using fraudulent Universal Product Codes he purchased merchandise at approximately 25% of actual cost.

**Using this information, defendant Volpicelli could conceivably have purchased the above mentioned items for approximately \$16,380 resulting in a net savings to him of \$49,140 tax free income per year. Consider that this figure applies only if the defendant engaged in his scheme one (1) time per week, five (5) times per day for one (1) calendar year.**

**Taking the same numbers but assuming the defendant engaged in his scheme ten (10) times per day, one (1) time per week his yearly tax free income would be \$93,280.**

## **SYNOPSIS:**

On June 1, 2001 Defendant Volpicelli was released from the Nevada Department of Corrections and paroled to the Reno area stemming from a burglary conviction in 1998 wherein he committed similar, and in some instances, the same crimes alleged in this case for which he was ultimately convicted.

Based upon the evidence obtained in this case after the defendant's arrest on October 17, 2001 it is clear the defendant immediately engaged in the same criminal activity he was convicted of in his 1998 case and continued to do so right up until the time he was arrested. Additionally, defendant Volpicelli has previously sworn, through the above mentioned affidavit, that he has engaged in this type of criminal activity since the mid 1980's wherein he states in part, "This scheme was the way I generated the majority of the income to support my wife and family to a very nice lifestyle from the beginning of 1987 until I became aware of the IRS criminal investigation in 1995."

I've spoken to Internal Revenue Service Agent Robert Graham reference the defendant's criminal activities back in the late 1980's to mid 1990's and he advised me that his investigation showed that defendant Volpicelli earned approximately \$800,000 over a three (3) year period while applying the same scheme he used in this case.

R.O.P. detectives also learned through monitoring jail telephone conversations and the defendant's mail that many items *not* seized in this investigation were also fruits of his criminal activity. Those items were discreetly transferred to family, friends and/or associates before detectives could follow up on the information.

Defendant Volpicelli's reasons for participating in this type of criminal activity vary depending on what day it is and to whom he is speaking. The defendant minimizes his crimes by describing them as misdemeanors and he has taken no responsibility in this case but, instead, has declared that his co-defendant was responsible for these crimes.

The defendant has no substantiated history of drug addiction, at least according to prior pre-sentence investigation reports before 2001, however, shortly after his arrest and incarceration for these crimes he suddenly described himself as a drug addict in an apparent attempt to get probation and enter a rehabilitation program. Through an interview I had with the defendant he described prison rehabilitation programs as "a joke". Through my contact with the defendant and my experience as the case agent with this investigation I have come to the personal conclusion that defendant Volpicelli is not only inherently dishonest but, more importantly, inherently criminal.

In spite of several prison incarcerations as well as opportunities at parole and probation, it is clear that defendant Volpicelli has no intention of curbing his criminal behavior. Since the date of his arrest up until the present time he has taken absolutely no responsibility for his actions but instead has laid blame at the feet of his co-defendant. The actual dollar figure that defendant Volpicelli has cost the taxpayers of this community reference this case is impossible to calculate but it is reasonable to conclude that it is in the tens of thousands if not hundred's of thousands of dollars.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Reed Thomas', with a stylized, elongated flourish extending to the right.

Detective Reed Thomas  
Reno Police Department  
Northern Nevada Repeat Offender Program

No. C R03-1263

State

vs.

Ferrill Volpicelli

Ex. 5

Admitted: 4-1, 20 04

RONALD A. LONGTIN, JR., CLERK

3v [Signature]  
Deputy



***Patricia M. McGaffin, CCS II***

Street Readiness Program Coordinator  
Northern Nevada Correctional Center

April 7, 2003

**TO WHOM IT MAY CONCERN:**

This letter is to certify that Ferrill Volpicelli, NDOC number 60076, was a participant in the Bridges to Freedom program, a pre-release program designed to assist people getting out of prison to develop a better, more positive self image. It also teaches them how to search for suitable legal employment and to be a successful interviewee in a hiring interview.

The specific topics covered are:

Orientation  
Time Management  
Money and Credit  
Communication  
Goal Setting  
Decision Making  
Stress and Health  
Assertiveness  
Exploring Interests

Interview Skills  
Packing Our Product  
Responsiveness  
Strengths  
First Impressions  
Job Progression  
Show Time  
Employer Panel  
Celebrating Success

Special guest speakers gave presentations on a variety of topics such as Twelve Step Programs, Parole Board Hearings, Doing a Successful Parole, and Driver's License testing and related questions about securing a license.

Sincerely

*Patricia McGaffin*

Patricia McGaffin  
Program Coordinator



V11.81





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

September 24, 2002

Ferrill Volpicelli 60076

**Nevada State Prison**

## *Letter of Completion*

**Dear Mr. Volpicelli**

This letter is written to confirm that you have successfully completed the 16 contact hours; Parenting Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rodger Hudnall Psych II".

Rodger Hudnall, Psychologist II

Nevada State Prison

RH:rwm

V11.82





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

July 25, 2002

**Ferrill                  Volpicelli                  60076**  
**Nevada State Prison**

## *Letter of Confirmation*

**Dear Mr. Volpicelli**

This letter is written to confirm that you have successfully completed the 40 contact hour; Substance Abuse Addiction and Recovery Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rodger Hudnall Psych II".

Rodger Hudnall, Psychologist II

Nevada State Prison

RH:rwm

V11.83





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

July 25, 2002

Fernil Volpicelli 60076  
Nevada State Prison

Re: Survive and Change Program; Relapse Prevention Module

## *Letter of Completion*

Dear Mr. Volpicelli

This Letter of Completion is written to confirm that you have successfully completed the 20 contact hour Relapse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements:

- Good attendance
- Class participation.
- Class assignments
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely

*Rodger Hudnall Psych II*

Rodger Hudnall, Psychologist II  
Nevada State Prison

Rth:jam

V11.84





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

July 23, 2002

Ferrill Volpicelli 60076

**Re: Survive and Change Program; Anger Management Module**

## *Letter of Completion*

Dear Mr. Volpicelli

This letter is written to confirm that you have successfully completed the 16 contact hour; Anger Management Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

*R. H. Lofis Psych II*  
Dr. Rebecca Lofis, Senior Psychologist  
Nevada State Prison

RHL:m





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

May 8, 2002

Ferrill Volpicelli 60076

Nevada State Prison

**Re: Survive & Change Program; 106 Computer Assisted Alcohol Abuse Prevention Module**

## *Letter of Completion*

Dear Mr. Volpicelli

This Letter of Completion is written to confirm that you have successfully completed the 14 lesson, 28 Hour Computer Assisted Alcohol Abuse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

*Rodger Hudnall Psych II*  
Rodger Hudnall, Psychologist II  
Nevada State Prison

RH: rwm

V11.86



VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

April 18, 2002

Ferrill      Volpicelli      60076  
Nevada State Prison

**Re: Survive and Change Program; 105 Computer Assisted Drug Abuse Prevention Module**

## *Letter of Completion*

**Dear Mr. Volpicelli**

This Letter of Completion is written to confirm that you have successfully completed the 10 lesson, 20 Hour Computer Assisted Drug Abuse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

*R. Hudnall Psych II*  
Rodger Hudnall, Psychologist II  
Nevada State Prison

RH: rwm





VIETNAM VETERANS OF AMERICA  
CHAPTER #545  
P.O. BOX 607  
CARSON CITY, NEVADA 89702

October 15, 2002

Ferrill Volpicelli 60076  
**Nevada State Prison**

## *Letter of Completion*

**Dear Mr. Volpicelli**

This letter is written to confirm that you have successfully completed the 9 contact hours;  
Domestic Violence Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements:

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

*Dr. Rebecca Loftis*

Dr. Rebecca Loftis, Senior Psychologist  
Nevada State Prison

RH:rwmm

V11.88

No. CR03-1263  
State

vs.

Ferrill Velpicelli

Ex. 6

Admitted: 4-1, 2004  
RONALD A. LONGTIN, JR., CLERK

3v [Signature]  
Deputy



STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS  
INMATE ACHIEVEMENT CERTIFICATE



*This is to certify that*

*Ferrill Volpicelli*

*Has successfully completed a prescribed course in the  
Survive and Change Program  
Consisting of Seven Modules of formal instruction.*

*Dated this 12 day of December 20 02*

*"Pride in Excellence"*

*James Broderick*

ASSOCIATE WARDEN PROGRAMS, N.S.P.

*Rodger Anderson Sr Byer*

SENIOR PSYCHOLOGIST, N.S.P.



Department of Corrections, Medical Division

# Health Related Recovery

This Is To Certify That:

FERRILL VOLPICELLI #60076

Has successfully completed  
40 hour course addressing life skills and overcoming substance abuse

Awarded On:

March 13, 2003

By Dr. Karen Gedney  
NNCC HRR Program Facilitator

*KGed*



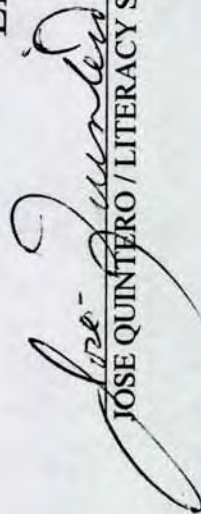


# CERTIFICATE OF ACHIEVEMENT

Awarded To:

FERRILL VOLPICELLI # 60076

In recognition for:  
SUCCESSFUL COMPLETION OF  
LITERACY / ESL TUTOR TRAINING

  
JOSE QUINTERO / LITERACY SPECIALIST

10-28-02  
Date

# NSP GARDENING CLASS 1

■ THE BELOW NAMED STUDENT HAS  
COMPLETED THE FIRST NSP GARDENING  
COURSE:

■ FERRIL VOLPICELLI #60076

WZ

WARDEN BUDGE

J

JAMES P. MAXEY

DATE: OCTOBER 17, 2002



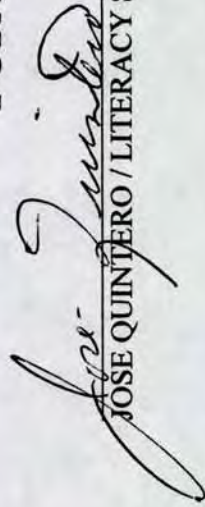
# CERTIFICATE OF ACHIEVEMENT

Awarded To:

FERRILL VOLPICELLI # 60076

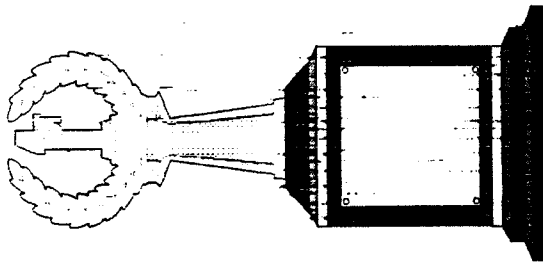
In recognition for:

6 MONTHS OF DEDICATED SERVICE  
FOR LITERACY/ESL TUTORING PROGRAM

  
JOSE QUINTERO / LITERACY SPECIALIST

10-28-07  
Date

# *Certificate of Achievement*



FERRILL VOLPICELLI

PARTICIPATION IN  
BRIDGES TO FREEDOM

Date March 10, 2003

Coordinator

A handwritten signature in black ink, appearing to be 'JJD', written over a horizontal line.

**Criminon™**

*"There is no person alive who cannot make a new beginning."  
...The Way To Happiness Book*

***Does hereby certify that  
Ferrill Volpicelli***

*Has satisfactorily attained the requirements necessary and is  
hereby awarded a Certificate of Completion of*

***The Way to Happiness Course***

*This 15th day of Aug. 2002 Certificate # 5568*

*Steven Jey*  
*Criminon Executive Director*



# Certificate of Achievement

for completion of  
Bridges to Freedom / Street Readiness Program

awarded to:

FERRILL VOLPICELLI

for completing sixty four hours of class instruction  
and participation in group activities  
in Self Improvement and Job Search Workshop

April 7, 2003



*Patricia M. McGaffin*  
Patricia M. McGaffin, Coordinator



# GOSPEL ECHOES TEAM

## *Certificate*

This is to certify that FERRILL VOLPICELLI

has successfully completed the Advance Course

### The Christian Way in Marriage

by

Home Bible Studies, a ministry of the Mennonite Church.

Granted this 1st day of May, 20 03

**GOSPEL  
ECHOES  
TEAM**  
ASSOCIATION



Peggy A. Beck  
Instructor

Marvin R. Beachy  
Marvin R. Beachy, President

No. CR03-1263

State

vs.

Ferrill Volpicelli

Ex. 7

Admitted: 4-1, 2004  
RONALD A. LONGTIN, JR., CLERK

3v *[Signature]*

Deputy



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

Electronically Filed  
Sep 05 2013 04:59 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

THE STATE OF NEVADA,  
Plaintiff,

vs.

FERRILL JOSEPH VOLPICELLI,  
Defendant.

Sup. Ct. Case No. 63554  
Case No. CR03-1263  
Dept. 9

RECORD ON APPEAL

VOLUME 11 OF 13

EXHIBITS

APPELLANT

Ferrill J. Volpicelli #79565  
P O BOX 359  
Lovelock, Nevada 89419

RESPONDENT

Washoe County District Attorney's  
Office  
Terrance McCarthy, Esq.  
P O Box 11130  
Reno, Nevada 89502-3083

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS	10/11/07	8	378-379
AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS	05/11/04	3	465-467
AFFIDAVIT OF KAREN S. FRALEY	10/11/07	8	372-375
AMENDED JUDGMENT	06/18/13	6	1180-1182
ANSWER TO PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	02/05/07	8	335-337
APPLICATION FOR ORDER TO PRODUCE PRISONER	01/16/04	3	375-376
APPLICATION FOR ORDER TO PRODUCE PRISONER	08/20/07	8	364-366
APPLICATION FOR SETTING	12/12/03	3	360
APPLICATION FOR SETTING	08/09/07	8	363
APPLICATION FOR SETTING	11/05/07	8	386-387
APPLICATION FOR SETTING	01/28/08	9	524
APPLICATION TO PROCEED IN FORMA PAUPERIS	12/06/11	6	1069-1072
APPLICATION TO PROCEED IN FORMA PAUPERIS	10/11/07	8	376-377
BENCH WARRANT	06/11/03	2	3-5
BENCH WARRANT	06/17/03	2	16-18
CASE APPEAL STATEMENT	04/22/04	3	453-454
CASE APPEAL STATEMENT	06/22/12	6	1113-1114
CASE APPEAL STATEMENT	07/09/13	6	1404-1405
CASE APPEAL STATEMENT	05/12/08	9	548-549
CERTIFICATE OF CLERK	04/22/04	3	455
CERTIFICATE OF CLERK	05/12/08	9	547
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	06/22/12	6	1115
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	07/09/13	6	1406
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	08/30/12	6	1121



# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
CERTIFICATE OF TRANSMITTAL	04/22/04	3	456
CERTIFICATE OF TRANSMITTAL	05/12/08	9	546
DEFENDANT'S WRIT OF PROHIBITION CHALLENGING PROCEEDING IN EXCESS OF JURISDICTION AT SENTENCING	12/06/11	6	1053-1068
ERRATA TO OPPOSITION TO MOTION FOR ORDER TO COMPEL	09/13/05	6	1031-1035
ERRATUM NOTICE OF APPEAL ISSUES TO BE RAISED	07/01/13	6	1186-1187
EX PARTE PETITION FOR CLARIFICATION ON ISSUES REGARDING STATE BAIL	07/16/03	2	194-196
EX PARTE PETITION FOR CLARIFICATION ON ISSUES REGARDING STATE BAIL	08/01/03	2	197-207
EXHIBIT LIST 04/01/04	04/01/04	11	1
EXHIBIT LIST 09/20/07	09/20/07	12	1
EXHIBIT LIST 11/10/03	11/12/03	10	1-3
EXHIBITS OF 04/01/04	04/01/04	11	2-99
EXHIBITS OF 09/20/07	09/20/07	12	2-189
EXHIBITS OF 11/12/03	11/12/03	10	4-59
EX-PARTE MOTION FOR APPOINTMENT OF COUNSEL	11/09/05	7	199-203
EXPORTE MOTION FOR APPROVAL OF FEES IN THE APPELLANT'S OPENING BRIEF AND JOINT APPENDIX	07/14/04	13	11-16
EXPORTE ORDER FOR APPROVAL OF FEES IN THE PREPARATION AND COMPLETION OF THE APPELLANT'S OPENING BRIEF AND JOINT APPENDIX	07/22/04	13	17-22
FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT	04/14/08	9	528-532
FORMER COUNSEL'S RESPONSE IN ACCORDANCE WITH ORDER TO RESPOND	01/10/06	6	1044-1052
GENERAL RECEIPT	06/20/03	2	169
GENERAL RECEIPT	07/09/03	2	193
INDICTMENT	06/11/03	2	6-15
INMATE REQUEST FORM – NO DOCUMENT IN FILE TO IMAGE ***	10/07/03	3	249

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
INMATE REQUEST FORM*****	10/07/03	2	241
JUDGMENT	04/01/04	3	383-385
JURY INSTRUCTIONS 1 THROUGH 37	11/14/03	3	275-319
LETTER BRIEF	03/06/06	7	222-225
LETTER FROM DEFENDANT	09/12/03	2	235-240
LETTER FROM DEFENDANT	11/17/03	3	340-343
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF NOTICE OF APPEAL	07/01/13	6	1192-1403
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	11/09/05	7	10-198
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	04/23/13	9	672-877
MEMORANDUM TO MOTION TO CORRECT ILLEGAL SENTENCE/MODIFY SENTENCE	06/03/13	6	1162-1175
MINUTES – 02/14/08 HEARING RE: PETITION FOR POST CONVICTION CONTINUATION OF WRIT OF HABEAS CORPUS HEARING	03/05/08	9	527
MINUTES – 04/01/04 ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE	04/01/04	3	379-382
MINUTES – 09/20/07 PETITION FOR POST CONVICTION/EVIDENTIARY HEARING	09/20/07	8	370
MINUTES – 09/20/07 PETITION FOR POST CONVICTION/EVIDENTIARY HEARING	10/03/07	8	371
MINUTES – 09/24/03 MOTION TO CONFIRM TRIAL	09/24/03	3	245
MINUTES – 11/10/03 HEARING RE: CONFLICT OF COUNSEL	11/10/03	3	267
MINUTES – 11/12/03 JURY TRIAL	11/12/03	3	268-274
MINUTES – ARRAIGNMENT	06/18/03	2	19
MOTION FOR CONTINUANCE OR STAY OF PROCEEDINGS WITH PENDING SUCCESSIVE WRIT	07/01/13	6	1188-1191
MOTION FOR COURT APPOINTED FEES WITH AFFIDAVIT IN SUPPORT	12/21/07	13	31-35
MOTION FOR COURT APPOINTED FEES WITH AFFIDAVIT IN SUPPORT	07/07/08	13	40-42



# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
MOTION FOR COURT APPOINTED FEES WITH AFFIDAVIT IN SUPPORT	10/27/09	13	45-49
MOTION FOR COURT APPOINTED FEES WITH AFFIDAVIT IN SUPPORT	04/2/10	13	54-58
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	05/11/04	3	464
MOTION FOR ORDER TO COMPEL	09/12/05	6	1010-1023
MOTION FOR ORDER TO COMPEL	01/31/06	7	204-206
MOTION FOR PARTIAL DISMISSAL OF PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	02/05/07	8	338-346
MOTION FOR RETURN OF PROPERTY AND REQUEST FOR HEARING REGARDING RESTITUTION AMOUNT	08/03/04	5	965-970
MOTION TO CORRECT ILLEGAL SENTENCE/MODIFY SENTENCE	06/03/13	6	1161
MOTION TO CORRECT JUDGMENT TO REMOVE DOUBLE JEOPARDY AND ILLEGAL CHARGES	05/14/13	6	1139-1153
MOTION TO QUASH SUBPOENA DUCES TECUM	05/17/04	3	468-476
MOTION TO STRIKE FUGITIVE DOCUMENT	08/18/04	6	974-983
NOTICE OF ADDRESS CHANGE	06/01/04	3	480
NOTICE OF ADDRESS CHANGE	05/28//04	3	481
NOTICE OF APPEAL	04/22/04	3	451-452
NOTICE OF APPEAL	06/22/12	6	1111-1112
NOTICE OF APPEAL	07/01/13	6	1184-1185
NOTICE OF APPEAL	05/08/08	9	544-545
NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY	02/10/12	6	1077-1079
NOTICE OF ENTRY OF ORDER	06/10/08	9	554-559
NOTICE OF INTENT TO SEEK HABITUAL CRIMINAL STATUS	10/09/03	3	250-251
NOTICE OF WAIVER OF APPEARANCE	12/21/07	9	522-523
NOTICE OF WITHDRAWAL OF ATTORNEY	04/19/04	3	449-450
NOTICE OF WITNESSES PURSUANT TO NRS 174.234	11/07/03	3	257-260
OPPOSITION TO MOTION FOR ORDER TO COMPEL	09/12/05	6	1024-1030

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
OPPOSITION TO MOTION FOR ORDER TO COMPEL AND MOTION TO QUASH SUBPOENA DUCES TECUM	02/17/06	7	211-221
OPPOSITION TO PARTIAL MOTION TO DISMISS/REPLY	02/20/07	8	347-352
OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS	09/04/03	2	229-234
ORDER	08/13/03	2	223-225
ORDER	11/07/03	3	263-266
ORDER	06/01/04	3	484
ORDER	10/14/07	8	380-382
ORDER	12/05/07	13	30
ORDER	05/15/08	13	38
ORDER	05/15/08	13	39
ORDER APPOINTING COUNSEL	06/01/04	3	482-483
ORDER APPOINTING COUNSEL	08/10/06	8	319-321
ORDER APPOINTING COUNSEL	06/09/08	9	552-553
ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF PROHIBITION	05/24/12	6	1107-1109
ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS	12/27/11	6	1073-1075
ORDER DENYING MOTION TO RECALL REMITTITUR AND DENYING PERMISSION FOR A LATE PETITION FOR REHEARING	01/28/10	9	584
ORDER DENYING REQUEST FOR APPOINTMENT OF COUNSEL	04/27/04	3	459-460
ORDER GRANTING MOTION FOR COURT APPOINTED FEES	01/30/07	13	29
ORDER GRANTING MOTION FOR COURT APPOINTED FEES	01/08/08	13	37
ORDER GRANTING MOTION FOR COURT APPOINTED FEES	07/17/08	13	44
ORDER GRANTING MOTION TO CORRECT JUDGMENT OF CONVICTION	06/04/13	6	1176-1178
ORDER PATYAILLY DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) AND ORDER TO SET HEARING	08/02/07	8	355-362



# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
ORDER QUASHING SUBPOENA DECUS TECUM AND DENYING MOITON TO COMPEL	08/10/06	8	322-324
ORDER TO PROCEED IN FORMA PAUPERIS	05/27/04	3	477-479
ORDER TO PRODUCE PRISINER	08/20/07	8	367-369
ORDER TO PRODUCE PRISONER	01/22/04	3	377-378
ORDER TO RESPOND	12/12/05	6	1041-1043
ORDER TO RESPOND	12/18/06	8	332-334
ORDER TO STRIKE FUGITIVE DOCUMENTS	09/23/04	6	986-988
ORDER TRANSFERRING CASE	11/07/03	3	261-262
PETITION FOR WRIT OF HABEAS CORPUS	08/08/13	2	208-211
PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	11/09/05	7	1-9
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	04/23/13	9	586-671
POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS	08/08/13	2	212-222
PRESENTENCE INVESTIGATION REPORT	12/19/03	13	1-10
PROOF OF SERVICE OF ELECTRONIC FILING	12/27/11	6	1076
PROOF OF SERVICE OF ELECTRONIC FILING	02/10/12	6	1083
PROOF OF SERVICE OF ELECTRONIC FILING	05/24/12	6	1110
PROOF OF SERVICE OF ELECTRONIC FILING	06/22/12	6	1116
PROOF OF SERVICE OF ELECTRONIC FILING	06/28/12	6	1118
PROOF OF SERVICE OF ELECTRONIC FILING	07/26/12	6	1120
PROOF OF SERVICE OF ELECTRONIC FILING	08/30/12	6	1122
PROOF OF SERVICE OF ELECTRONIC FILING	09/06/12	6	1125
PROOF OF SERVICE OF ELECTRONIC FILING	09/06/12	6	1126
PROOF OF SERVICE OF ELECTRONIC FILING	03/18/13	6	1129
PROOF OF SERVICE OF ELECTRONIC FILING	03/22/13	6	1132
PROOF OF SERVICE OF ELECTRONIC FILING	04/29/13	6	1138

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
PROOF OF SERVICE OF ELECTRONIC FILING	05/17/13	6	1158
PROOF OF SERVICE OF ELECTRONIC FILING	06/04/13	6	1179
PROOF OF SERVICE OF ELECTRONIC FILING	06/18/13	6	1183
PROOF OF SERVICE OF ELECTRONIC FILING	07/09/13	6	1407
PROOF OF SERVICE OF ELECTRONIC FILING	07/12/13	6	1409
PROOF OF SERVICE OF ELECTRONIC FILING	08/09/13	6	1411
PROOF OF SERVICE OF ELECTRONIC FILING	12/04/09	9	571
PROOF OF SERVICE OF ELECTRONIC FILING	12/30/09	9	583
PROOF OF SERVICE OF ELECTRONIC FILING	01/28/10	9	585
RECIPROCAL DISCOVERY AGREEMENT	07/07/03	2	1-2
RECOMMENDATION AND ORDER FOR PAYMENT OF ATTORNEY'S FEES AND EXPENSES	11/06/09	13	51-53
RECOMMENDATION AND ORDER FOR PAYMENT OF INTERIM ATTORNEY'S FEES	05/06/10	13	60-62
REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS	09/17/03	2	242-244
REPLY TO RESPONSE TO DEFENDANTS WRIT OF PROHIBITION	03/02/12	6	1084-1104
REPLY TO STATES OPPOSITION TO MOTION FOR ORDER TO COMPEL AND TO VAN RY'S ERRATA TO OPPOSITION TO MOTION FOR ORDER TO COMPEL	09/27/05	6	1036-1039
REQUEST FOR APPOINTMENT OF COUNSEL	04/22/04	3	457-458
REQUEST FOR ORDER TO SHOW CAUSE REGARDING CONTEMPT OF COURT- AND ORDER TO COMPEL	06/21/04	3	487-491
REQUEST FOR ORDER TO SHOW CAUSE REGARDING CONTEMPT OF COURT- AND ORDER TO COMPEL	07/06/04		957-964
REQUEST FOR SUBMISSION	06/14/04	3	486
REQUEST FOR SUBMISSION	08/03/04	5	971
REQUEST FOR SUBMISSION	08/03/04	5	972
REQUEST FOR SUBMISSION	08/03/04	5	973
REQUEST FOR SUBMISSION	08/26/04	6	984
REQUEST FOR SUBMISSION	08/26/04	6	985



# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
REQUEST FOR SUBMISSION	09/30/05	6	1040
REQUEST FOR SUBMISSION	01/31/06	7	207
REQUEST FOR SUBMISSION	02/09/06	7	210
REQUEST FOR SUBMISSION	03/21/06	7	226
REQUEST FOR SUBMISSION	03/05/07	8	353-354
REQUEST FOR SUBMISSION	10/25/07	8	383-385
REQUEST FOR SUBMISSION	12/05/07	9	519-521
REQUEST FOR SUBMISSION	01/26/07	13	23-28
REQUEST FOR SUBMISSION	12/21/07	13	36
REQUEST FOR SUBMISSION	07/07/08	13	43
REQUEST FOR SUBMISSION	10/27/09	13	50
REQUEST FOR SUBMISSION	04/22/10	13	59
REQUEST FOR SUBMISSION OF MOTION	04/10/12	6	1105-1106
REQUEST FOR SUBMISSION OF MOTION	05/28/13	6	1159-1160
REQUEST FOR TRANSCRIPTS	05/07/04	3	462
REQUEST, AGREEMENT AND ORDER FOR PRE-TRIAL RECIPROCAL DISCOVERY DEFENDANT'S REQUEST FOR DISCOVERY	07/09/03	2	191-192
RESPONSE TO "DEFENDANT'S WRIT OF PROHIBITION"	02/10/12	6	1080-1082
RESPONSE TO DEFENDANT'S MOTION TO CORRECT JUDGMENT OF CONVICTION	05/17/13	6	1154-1157
RESPONSE TO PETITIONER'S "LETTER BRIEF" FILED IN REPLY TO THE CITY OF RENO'S OPPOSITION TO MOTION FOR ORDER TO COMPEL AND MOTION TO QUASH SUBPOENA DUCES TECUM	03/21/06	7/8	227-303
RETURN	08/18/03	2	226-228
SECOND REQUEST FOR SUBMISSION	01/31/06	7	208-209
SECOND REQUEST FOR SUBMISSION	03/22/06	8	318
STIPULATION FOR CHANGE OF TRIAL DATE	10/07/03	3	246-248

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
STIPULATION FOR CONTINUANCE	01/30/08	9	525-526
STIPULATION TO EXTEND TIME TO FILE SUPPLEMENT TO PETITION	09/15/06	8	325
SUBSTITUTION OF COUNSEL FOR THE STATE	03/22/13	6	1130-1131
SUPPLEMENT TO PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION	11/21/06	8	326-331
SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	03/22/06	8	304-317
SUPREME COURT CLERK'S CERTIFICATE AND JUDGMENT	04/29/13	6	1134
SUPREME COURT ORDER OF AFFIRMANCE	04/29/13	6	1135-1137
SUPREME COURT - RECEIPT FOR DOCUMENTS	06/28/12	6	1117
SUPREME COURT REMITTITUR	04/29/13	6	1133
SUPREME COURT CLERK'S CERTIFICATE AND JUDGMENT	12/30/09	9	573
SUPREME COURT ORDER DENYING PETITION	11/12/08	9	560-561
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD	08/09/13	6	1410
SUPREME COURT - ORDER DIRECTING TRANSMISSION OF RECORD	07/26/12	6	1119
SUPREME COURT ORDER OF AFFIRMANCE	12/04/09	9	564-570
SUPREME COURT ORDER OF AFFIRMANCE	12/30/09	9	574-582
SUPREME COURT ORDER OF LIMITED REMAND FOR DESIGNATION OF COUNSEL	06/04/08	9	551
SUPREME COURT ORDER TO FILE SUPPLEMENTAL APPENDIX	09/10/09	9	562-563
SUPREME COURT RECEIPT FOR DOCUMENTS	09/06/12	6	1123
SUPREME COURT RECEIPT FOR DOCUMENTS	09/06/12	6	1124
SUPREME COURT RECEIPT FOR DOCUMENTS	05/19/08	9	550
SUPREME COURT REMITTITUR	12/30/09	9	572
SUPREME COURT CLERK'S CERTIFICATE AND JUDGMENT	08/01/05	6	999
SUPREME COURT NOTICE TO APPOINTED COUNSEL	06/14/04	3	485

# APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
SUPREME COURT ORDER OF AFFIRMANCE	06/30/05	6	989-997
SUPREME COURT ORDER OF AFFIRMANCE	08/01/05	6	1000-1009
SUPREME COURT ORDER OF AFFIRMANCE	03/18/13	6	1127-1128
SUPREME COURT ORDER OF LIMITED REMAND FOR APPOINTMENT OF COUNSEL	05/11/04	3	463
SUPREME COURT RECEIPT FOR DOCUMENTS	04/29/04	3	461
SUPREME COURT RECEIPT FOR DOCUMENTS	07/12/13	6	1408
SUPREME COURT REMITTITUR	08/01/05	6	998
TRANSCRIPT – 02/14/08 PETITION FOR POST CONVICTION	04/24/08	9	533-543
TRANSCRIPT – 04/01/04 SENTENCING	04/13/04	3	386-448
TRANSCRIPT – 06/11/03	06/20/03	2	20-168
TRANSCRIPT – 09/20/07 PETITION FOR POST CONVICTON	11/08/07	8/9	452-515
TRANSCRIPT – 09/20/07 PETITION FOR POST CONVICTION	11/08/07	8	388-451
TRANSCRIPT – 09/24/03 MOTION TO CONFIRM TRIAL	10/13/03	3	252-256
TRANSCRIPT – 10/24/03 MOTION TO CONFIRM TRIAL	11/26/03	3	344-352
TRANSCRIPT – 10/29/03 STATUS HEARING	12/02/03	3	353-359
TRANSCRIPT – 11/10/03 HEARING	12/15/03	3	361-374
TRANSCRIPT – 11/12/03 TRIAL	07/02/04	5	717-956
TRANSCRIPT – 11/13/03 – 11/14/03 JURY TRIAL	07/02/04	4	492-716
TRANSCRIPTS – 06/18/03 ARRAIGNMENT ON INDICTMENT	06/23/03	2	170-190
UNUSED VERDICT FORM	11/14/03	3	320
UNUSED VERDICT FORM	11/14/03	3	321
UNUSED VERDICT FORM	11/14/03	3	322
UNUSED VERDICT FORM	11/14/03	3	323
UNUSED VERDICT FORM	11/14/03	3	324
UNUSED VERDICT FORM	11/14/03	3	325
UNUSED VERDICT FORM	11/14/03	3	326



APPEAL INDEX

Case No. CR03-1263  
STATE OF NEVADA vs FERRILL J VOLPICELLI  
SEPTEMBER 5, 2013

PLEADING	DATE	VOL.	PAGE NO.
UNUSED VERDICT FORM	11/14/03	3	327
UNUSED VERDICT FORM	11/14/03	3	328
UNUSED VERDICT FORM	11/14/03	3	329
VERDICT	11/14/03	3	330
VERDICT	11/14/03	3	331
VERDICT	11/14/03	3	332
VERDICT	11/14/03	3	333
VERDICT	11/14/03	3	334
VERDICT	11/14/03	3	335
VERDICT	11/14/03	3	336
VERDICT	11/14/03	3	337
VERDICT	11/14/03	3	338
VERDICT	11/14/03	3	339
WAIVER OF APPEARANCE	12/05/07	9	516-518

**EXHIBITS**

**PLTF: STATE OF NEVADA**  
**DEFT: FERRILL JOSEPH VOLPICELLI**

**PATY: T. Riggs**  
**DATY: B. Van Ry**

Case No: **CR03-1263** Dept. No: **10** Clerk: **G. Bartlett** Date: 04/01/04

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
2	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
3	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
4	State	Picture of Deft.	4/1/04	No obj.	4/1/04
5	State	RPD Financial Impact report	4/1/04	No obj.	4/1/04
6	Deft	Various letters of completion	4/1/04	No obj.	4/1/04
7	Deft.	Various certificates	4/1/04	No obj.	4/1/04

FILED

FEB 11 2004

RONALD A. LONGTIN, JR., CLERK

By: *[Signature]*  
DEPUTY

ORIGINAL

Code 1850

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

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Reporter: D. Davidson

Defendant.

JUDGMENT

The Defendant, Ferrill Joseph Volpicelli, having been found Guilty on Count II of the Information by the Court on December 17, 2003, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Ferrill Joseph Volpicelli is guilty of the crime of Aiding And Abetting In The Commission Of Attempting To Obtain Money By False Pretenses, a violation of NRS 193.330, NRS 195.020 and NRS 205.380, a felony, as charged in Count II of the Information, and that he be punished by imprisonment in the Nevada Department of Corrections for a maximum term of forty-eight (48) months with a minimum parole eligibility of twelve (12) months, with credit for zero (0) days time served to be served consecutively to the sentence imposed in case number CR03-1263.

It is further ordered that the Defendant pay the statutory Twenty-five Dollar (\$25.00) administrative assessment fee and reimburse the County of Washoe the sum of

EXHIBIT

tabbies

V112



1 Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public  
2 Defender's Office.

3 Dated this 11th day of February, 2004.  
4  
5

6 Connie J. Steinheimer for  
7 JAMES W. HARDESTY  
8 DISTRICT JUDGE  
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*[Signature]*  
JAMES W. HARDESTY, JR.  
CLERK

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0148  
Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

\_\_\_\_\_ /

TRANSCRIPT OF PROCEEDINGS

SENTENCING

FEBRUARY 11, 2004

RENO, NEVADA

Reported by: DONNA DAVIDSON, CCR #318, RMR, CRR  
Computer-Aided Transcription

A P P E A R A N C E S

For the Plaintiff:

KRISTIN L. ERICKSON  
Deputy District Attorney  
75 Court Street  
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN  
Attorney at Law  
360 W. Liberty Street  
Reno, Nevada 89501

For the Division of Parole and Probation:

HEIDI POE



1 RENO, NEVADA, WEDNESDAY, FEBRUARY 11, 2004

2 9:07 A.M.

3 --oOo--

4  
5 THE COURT: State versus Ferrill Volpicelli.

6 Ms. Erickson is here for the State, Mr. Alian  
7 is here for Mr. Volpicelli, Ms. Poe is here for the  
8 Division of Parole and Probation.

9 This is the time set for sentencing in this  
10 case.

11 Mr. Volpicelli, have you seen the presentence  
12 report in this case?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Any factual corrections,  
15 Mr. Alian, you or your client would like to bring to  
16 my attention?

17 MR. ALIAN: Your Honor, I believe on the last  
18 page where they are figuring out the custody status  
19 and total days, they have total days zero, and it  
20 says under sentencing 02-148. Or 147. I assume that  
21 what they mean is that he gets zero time for this  
22 case, which would be 02-148 rather than 147.

23 Other than that, I don't have any other  
24 factual corrections to make.

1 THE COURT: Okay. What is your position with  
2 regard to the recommendation of the Division?

3 MR. ALIAN: Thank you, Your Honor. Your  
4 Honor, if I may, I would respectfully ask the Court  
5 to consider first running this case concurrent with  
6 CR02-1264. The Parole and Probation Department has  
7 asked that it run consecutive.

8 The Court has heard this case, so I won't  
9 belabor the matter, but I would ask the Court to also  
10 consider perhaps a 12 to 30 month sentence in this  
11 instance; and the reason why I suggest that -- and  
12 run it -- and ask that the Court consider running it  
13 concurrent is the fact that Mr. Volpicelli, as we  
14 know, has an extensive criminal history but at the  
15 same time also has some severe, I think,  
16 psychological problems.

17 In addition, he's also facing federal  
18 revocation. So he's going to be in for a long period  
19 of time. This at least gives him some light at the  
20 end of the tunnel. I think that it also will allow  
21 him to do some things which I think he really must do  
22 in the prison system to help himself, and that is  
23 avail himself of all the psychological help that he  
24 can get while there.

1           Based upon that, that's why I respectfully  
2 ask the Court to run it concurrent and consider a  
3 12-to-30-month sentence in this instance. Thank you.

4           THE COURT: Ms. Erickson?

5           MS. ERICKSON: Thank you, Your Honor.

6           Your Honor, the defendant now stands  
7 convicted of eight felonies. In addition he's been  
8 found guilty of eight burglary charges in Department  
9 Number 10, including charges of unlawful  
10 manufacturing of inventory labels.

11           I will not go over the facts of this crime as  
12 you heard all the facts during the course of the  
13 trial. What is of extreme concern to the State, Your  
14 Honor, is this is a despicable crime. This is a man  
15 who used his own son to further his criminal  
16 activities.

17           It's heartbreaking to listen to that tape of  
18 the phone call when he's trying to convince his son  
19 to commit this crime. You can hear the hesitation in  
20 his son's voice, he knows it's wrong, he knows he's  
21 not supposed to do it, he knows it's illegal, but  
22 it's his own dad asking him to do it. How could he  
23 say no to his own father trying to convince him, talk  
24 him into doing criminal acts? It's despicable, Your



1 Honor.

2 Your Honor, this man is dangerous. He's  
3 dangerous because he's smart. He's smart, he's  
4 persuasive, he's conniving. He persuaded his own son  
5 to commit this act. In the other trial in Department  
6 10, he convinced another person, basically, to do the  
7 dirty work for him. Once he switched the labels, he  
8 convinced them to go in and make the purchase or  
9 return in order to steal from that particular store.

10 He's a dangerous man, Your Honor. The State  
11 would ask that you sentence the defendant to 24 to 60  
12 months in the Nevada State Prison and run that case  
13 consecutive to CR02-1263.

14 THE COURT: All right. Ms. Poe?

15 MS. POE: Nothing further, Your Honor.

16 THE COURT: Okay. Mr. Volpicelli, you have  
17 an opportunity to address the Court. I have, of  
18 course, read your statement. Is there anything else  
19 you would like to say?

20 THE DEFENDANT: Your Honor, I would request  
21 that the Court consider running this sentence  
22 concurrent with the sentence I'm currently serving in  
23 Carson City, and that way I can put this behind me  
24 and get on with my life.

1           THE COURT: Okay. The Court believes the  
2 sentence should measure the crime and the offense  
3 that took place, not pile on years just because of  
4 your criminal history.

5           You are sentenced to a term of 48 months in  
6 the Nevada Department of Corrections, with a minimum  
7 parole eligibility of 12 months consecutive to  
8 CR02-1263.

9           You will pay a \$25 administrative-assessment  
10 fee, \$500 in public defender fees.

11          One other issue, Mr. Volpicelli, I wanted to  
12 mention to you. You have counsel in this case; I  
13 believe you have counsel in the other case in this  
14 department. You are a prolific letter writer, making  
15 a number of requests to the Court, to the Court's  
16 clerk, to the court reporters.

17          As long as you are represented by counsel,  
18 you need to channel those requests through your  
19 counsel. If you want transcripts, if you want copies  
20 of your records, if you want copies of your files,  
21 there's a procedure that's set into place. We  
22 respond to those as quickly as we can. And they will  
23 be responded to.

24          But I would request that those requests be

1 made through your counsel. And we will respond to  
2 those in due course with orders and directions to  
3 counsel and to the clerk's office accordingly..  
4 Otherwise, when we get all these letters written by  
5 you in a pro per way, frankly we just send those to  
6 your counsel requesting them to do the things that  
7 you should be asking them to do on your behalf.  
8 Okay?

9 THE DEFENDANT: I understand, Your Honor.

10 THE COURT: All right. Thank you.

11 Zero days credit for time served.

12 (Proceedings concluded.)

13 ---oOo--  
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1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )


4 I, DONNA DAVIDSON, Official Reporter of the  
5 Second Judicial District Court of the State of  
6 Nevada, in and for the County of Washoe, do hereby  
7 certify:

8 That as such reporter, I was present in  
9 Department No. 9 of the above court on said date,  
10 time and hour, and I then and there took verbatim  
11 stenotype notes of the proceedings had and testimony  
12 given therein.

13 That the foregoing transcript is a full, true  
14 and correct transcript of my said stenotype notes, so  
15 taken as aforesaid.

16 That the foregoing transcript was taken down  
17 under my direction and control, and to the best of  
18 my knowledge, skill and ability.

19 DATED: At Reno, Nevada, this 21st day of  
20 February, 2004.

21   
22

23 DONNA DAVIDSON, CCR #318  
24

2-12  
DA #215954

WCSO WC01-204619

1 CODE 1800  
Richard A. Gammick  
2 #001510  
P.O. Box 30083  
3 Reno, NV 89520-3083  
(775) 328-3200  
4 Attorney for Plaintiff  
5

ORIGINAL

FILED

2002 FEB -6 PM 3:52

RONALD A. LONGTIN, JR.

BY DEPUTY

67988  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR02-0148

12 FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

13 Defendant.  
14 \_\_\_\_\_/

15 INFORMATION

16 RICHARD A. GAMMICK, District Attorney within and for  
17 the County of Washoe, State of Nevada, in the name and by the  
18 authority of the State of Nevada, informs the above entitled  
19 Court that FERRILL JOSEPH VOLPICELLI, the defendant above named,  
20 has committed the crimes of:

21 COUNT I. AIDING AND ABETTING IN THE COMMISSION OF  
22 BURGLARY, a violation of NRS 195.020 and NRS 205.060, a felony,  
23 in the manner following:

24 That the said defendant on or between the 22nd day of  
25 October A.D. 2001, and the 23rd day of October A.D. 2001, or  
26 thereabout, and before the filing of this Information, at and

V11.13

1 within the County of Washoe, State of Nevada, did willfully and  
2 unlawfully aid and abet TRAVIS V., a juvenile, to enter the  
3 WASHOE COUNTY DETENTION FACILITY, at 911 Parr Boulevard, Reno,  
4 Washoe County, Nevada, with the intent to obtain money by false  
5 pretenses in an amount greater than \$250.00 in that he counseled,  
6 encouraged, induced or otherwise procured TRAVIS V. to commit  
7 said offense.

8 <sup>20</sup> COUNT II. AIDING AND ABETTING IN THE COMMISSION OF  
9 ATTEMPTING TO OBTAIN MONEY BY FALSE PRETENSES, a violation of NRS  
10 193.330, NRS 195.020 and NRS 205.380, a felony, in the manner  
11 following:

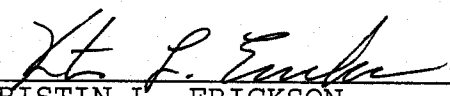
12 That the said defendant on or between the 22nd day of  
13 October A.D. 2001, and the 23rd day of October A.D. 2001, or  
14 thereabout, and before the filing of this Information, at and  
15 within the County of Washoe, State of Nevada, did willfully,  
16 unlawfully and knowingly aid and abet TRAVIS V., a juvenile, in  
17 attempting to obtain money by false pretenses in that TRAVIS V.  
18 falsely represented to Washoe County Sheriff's Office personnel  
19 that a previously issued Washoe County check to TRAVIS V. was  
20 lost and/or missing thereby requesting a new check in an amount  
21 greater than \$250.00 be issued, with the intent to cheat or  
22 defraud at 911 Parr Boulevard, Reno, Washoe County, Nevada, in  
23 that FERRILL JOSEPH VOLPICELLI counseled, encouraged, induced or  
24 otherwise procured TRAVIS V. to commit said offense.

25 ///

26 ///

1 All of which is contrary to the form of the Statute in  
2 such case made and provided, and against the peace and dignity of  
3 the State of Nevada.

4 RICHARD A. GAMMICK  
5 District Attorney  
6 Washoe County, Nevada

7 By:   
8 KRISTIN L. ERICKSON  
9 4258  
10 Deputy District Attorney  
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1           The following are the names and addresses of such  
2 witnesses as are known to me at the time of the filing of the  
3 within Information:  
4

5 RENO POLICE DEPARTMENT

6 DETECTIVE R. THOMAS #2481

7 WASHOE COUNTY SHERIFF'S OFFICE

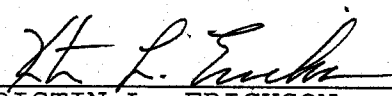
8 DETECTIVE L. LODGE #0386

MARGARET NETT

9 ELIZABETH BENNETT  
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RICHARD A. GAMMICK  
District Attorney  
Washoe County, Nevada

20  
21  
22  
23 By

  
KRISTIN L. ERICKSON

4258

Deputy District Attorney  
24  
25

PCN 82444353

26 02041619

No. C R03-1263

State

vs.

Ferrill Volpicelli

Ex. 1

Admitted: 4-1, 20 04  
RONALD A. LONGTIN, JR., CLERK

3v

R. Bantlett

Deputy

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: MAR 31 2004

RONALD A. LONGTIN, JR., Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By

[Signature] Deputy

V11.17



FILED

NOV 3 1998

BETTY J. LEWIS, Clerk

By

Deputy Clerk

No. CR98-2160

Dept. No. 9

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

STATE OF NEVADA,

Reporter: D. Vieira

Plaintiff,

vs.

J U D G M E N T

FERRILL JOSEPH VOLPICELLI,

Defendant.

The Defendant, having entered a plea of Guilty, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Ferrill Joseph Volpicelli is guilty of the crime of Burglary, a violation of NRS 205.060, a felony, as charged in Counts I and II of the Information, and that he be punished by imprisonment in the Nevada State Prison for a minimum term of twenty-four (24) months to a maximum term of seventy-two (72) months and by payment of a fine in the amount of Five Thousand Dollars (\$5,000.00) on Count I, to run consecutively to the Federal prison term he is obligated to serve; a minimum term of sixteen (16) months to a maximum term of seventy-two (72) months Nevada State Prison on Count II, to run consecutively to Count I. The sentence is suspended as to Count II and the Defendant is placed on probation for a period of time not to exceed three (3) years, to run consecutively to Count I and consecutively to the Federal prison term. The Defendant is given credit for eighty-seven (87) days time served. It is further ordered that the Defendant pay the

//

//



V. 1.18

1 statutory Twenty-Five Dollar (\$25.00) administrative assessment fee and pay the DNA fees of Two  
2 Hundred Fifty Dollars (\$250.00).

3 Dated this 3rd day of November, 1998.

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7 DISTRICT JUDGE  
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FILED

99 APR -1 A9:09

THY HARVEY, CLERK

31  
DEPUTY

Case No. CR98-2160

Department No. 9

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA  
BEFORE THE HONORABLE MARGARET SPRINGGATE DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA

Plaintiff

vs.

FERRILL JOSEPH VOLPICELLI

Defendant

ARRAIGNMENT

TRANSCRIPT OF PROCEEDINGS  
Thursday, September 24, 1998; 8:30 A.M.  
Reno, Nevada

APPEARANCES:

For the Plaintiff:

MICHAEL MAHAFFEY, Esq.  
Deputy District Attorney  
Washoe County Courthouse  
Reno, Nevada, 89501

For Defendant:

DAIVD HOUSTON, Esq.  
333 Marsh Avenue  
Reno, Nevada

Reported By:  
Computer-aided Transcription

JUDITH ANN SCHONLAU, CSR #18

1 THURSDAY, SEPTEMBER 24, 1998; 8:00 A.M.

2 -o0o-

3  
4 THE COURT: CR98-2160, State versus Ferrill Joseph  
5 Volpicelli. The Defendant is present together with his  
6 attorney, Mr. Houston.

7 MR. HOUSTON: Good morning, Your Honor.

8 THE COURT: Good morning, Mr. Houston. Good morning,  
9 Mr. Olmstead.

10 MR. HOUSTON: Your Honor, the name is correctly  
11 spelled and stated on line twelve. We are familiar with the  
12 content of the Information.

13 Your Honor, the negotiations are we will be entering  
14 pleas to Count I and II of guilty.

15 THE COURT: State the nature of the negotiations.

16 MR. HOUSTON: Yes, Your Honor. The nature of the  
17 negotiations are as follows: The State agrees, primarily, to  
18 concur with Parole and Probation as far as whatever  
19 recommendation Parole and Probation may make.

20 Further, the State agrees not to pursue any additional  
21 charges that could have been filed or were filed in reference  
22 to this particular case.

23 THE COURT: Do you waive the reading of the  
24 Information?



1 MR. HOUSTON: Yes, we do.

2 THE COURT: Mr. Mahaffey?

3 MR. MAHAFFEY: That is correct.

4 THE COURT: May I see the Plea Memorandum?

5 Mr. Volpicelli, you have heard the statements of your  
6 counsel and the District Attorney as to the plea negotiations.  
7 Is that your understanding as well?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Before I can accept your plea of guilty, I  
10 have to go through some questions with you to make sure you  
11 understand the rights you are giving up by entering the plea.

12 Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand by entering a plea of  
15 guilty to Counts I and II, burglary, felonies, do you  
16 understand that as to Count I, you may be imprisoned for one to  
17 ten years in the Nevada State Prison? You would be eligible  
18 for probation.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: That you may also be fined up to \$10,000?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And that as to Count II, you may be  
23 imprisoned for a period of one to ten years in the Nevada State  
24 Prison and would be eligible for probation?



1 THE DEFENDANT: Yes.

2 THE COURT: You may also be fined up to \$10,000.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand the Court may also  
5 impose the requirement that you pay restitution in these cases?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that you could be  
8 sentenced to Count I and Count II consecutive to each other or  
9 concurrent?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you understand the Court is not bound  
12 by the plea negotiations that have gone on in this case, and  
13 that I can impose any sentence allowed by law?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand if you do not plead  
16 guilty, you have a right to trial by jury?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand you have a right to  
19 confront the witnesses who testify against you?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: You would have a right to subpoena  
22 witnesses to come and testify in your behalf.

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: You would have a right to remain silent





1 throughout the trial and require the State to prove the  
2 elements of the offense beyond a reasonable doubt.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: By entering a plea of guilty in this case,  
5 you are giving up those constitutional rights; do you  
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Mr. Mahaffey.

9 MR. MAHAFFEY: Thank you, Your Honor. Sir, you have  
10 pled guilty to two counts of burglary. If this matter went to  
11 trial, the State would prove the following as to each count:  
12 That on or about January 9, 1998, in Wahose County, State of  
13 Nevada, you did wilfully and unlawfully enter buildings  
14 belonging to others. When you did this, you did it with the  
15 intent to commit uttering a forged instrument, a felony, within  
16 those buildings. Do you understand what the State would prove?

17 THE DEFENDANT: Yes, Sir.

18 THE COURT: Mr. Volpicelli, did you commit these  
19 crimes?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Is there anything you have not understood  
22 about the proceedings here today?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anyone made and threats or promises to



1 you in exchange for your plea?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: To Count I charged in the Information,  
4 burglary, a felony, how do you plead?

5 THE DEFENDANT: Guilty.

6 THE COURT: To Count II charged in the Information,  
7 burglary, a felony, how do you plead?

8 THE DEFENDANT: Guilty, Your Honor.

9 THE COURT: The Court finds you understood your  
10 constitutional rights, you understood the nature of the charges  
11 and the penalties that may be imposed and will accept you plea  
12 of guilty.

13 A date for sentencing.

14 THE CLERK: October 29th, 8:30 A.M.

15 MR. HOUSTON: Your Honor, Would October 26th be  
16 possible?

17 THE COURT: Is that possible for Parole and Probation?  
18 That is a Monday. We can't do Mondays. Maybe Tuesday?

19 MR. HOUSTON: The 28th, Your Honor?

20 THE COURT: The 28th is fine. That should give you  
21 enough time, Mr. Webb.

22 MR. HOUSTON: Thank you, Your Honor.

23 (Whereupon the proceedings were concluded.)

24



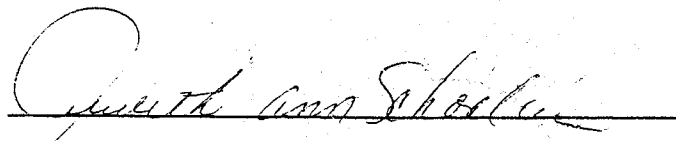
1 STATE OF NEVADA, )  
2 County of Washoe. ) ss.

3 I, JUDITH ANN SCHONLAU, Official Reporter of the  
4 Second Judicial District Court of the State of Nevada, in and  
5 for the County of Washoe, DO HEREBY CERTIFY:

6 That as such reporter I was present in the Department  
7 9 of the Second Judicial District Court on Thursday, September  
8 24, 1998, at the hour of 8:30 a.m. and that I then and there  
9 took verbatim stenotypy notes of the proceedings had and  
10 testimony given therein in the case of THE STATE OF NEVADA  
11 versus FERRILL JOSEPH VOLPICELLI, Case Number CR98-2160.

12 That the foregoing transcript, consisting of pages  
13 numbered 1 - 5, is a full, true and correct transcription of my  
14 said stenotypy notes, so taken as aforesaid, and is a full,  
15 true and correct statement of the proceedings had and testimony  
16 given in the matter of the  
17 above-entitled action to the best of my knowledge, skill and  
18 ability.

19  
20 DATED: At Reno, Nevada, this 31st day of March, 1999.

21  
22   
23 JUDITH ANN SCHONLAU, CSR #18  
24



# In the Justice Court of Reno Township

County of Washoe, State of Nevada

159462 T3A

CR98-2160

'98 SEP 17 23:24

THE STATE OF NEVADA,

Plaintiff,

vs.

FERRILL JOSEPH  
VOLPICELLI

Defendant.

No. 91,346

## Waiver of Preliminary Examination

I, the Defendant in the above-entitled action, being fully advised of my rights in the premises, hereby waive my preliminary examination on the charge of Burglary in the above entitled action, and consent that I may be remanded to the Second Judicial District Court of the State of Nevada, for further proceedings therein.

DATE: 9 sept 98

Def will plead guilty to 2 counts  
Burg. state agrees to DISMISS  
All remaining charges and not  
to pursue any additional  
charges state will concur with  
P.A. 11.27



1 Case No. CR98-2160

2 Dept. No. 9

FILED

BETTY J. LEWIS  
Clerk

Sept. 24, 1998

By Wagoner  
Deputy Clerk

3  
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5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE.

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

GUILTY PLEA MEMORANDUM

12 FERRILL JOSEPH VOLPICELLI,

13 Defendant.

14 \_\_\_\_\_/  
15 1. I, FERRILL JOSEPH VOLPICELLI, understand that I am  
16 charged with the offense(s) of: COUNTS I and II: BURGLARY,  
17 violations of NRS 205.060, felonies.

18 2. I desire to enter a plea of guilty to the  
19 offense(s) of COUNTS I and II: BURGLARY, violations of NRS  
20 205.060, felonies, as more fully alleged in the charge(s) filed  
21 against me.

22 3. By entering my plea of guilty I know and understand  
23 that I am waiving the following constitutional rights:

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1           A. I waive my privilege against self-incrimination.

2           B. I waive my right to trial by jury, at which trial  
3 the State would have to prove my guilt of all elements of the  
4 offenses beyond a reasonable doubt.

5           C. I waive my right to confront my accusers, that is,  
6 the right to confront and cross examine all witnesses who would  
7 testify at trial.

8           D. I waive my right to subpoena witnesses for trial on  
9 my behalf.

10           4. I understand the charge(s) against me and that the  
11 elements of the offense(s) which the State would have to prove  
12 beyond a reasonable doubt at trial are that on the 9th day of  
13 January, 1998, or thereabout, in the County of Washoe, State of  
14 Nevada, I did, as to Count I, willfully and unlawfully enter COMP  
15 USA located at 6407 South Virginia Street, Reno, Washoe County,  
16 Nevada, with the intent then and there to commit Uttering a  
17 Forged Instrument, a felony, therein.

18           I further understand the charge(s) against me and that  
19 the elements of the offense(s) which the State would have to  
20 prove beyond a reasonable doubt at trial are that on the 9th day  
21 of January, 1998, or thereabout, in the County of Washoe, State  
22 of Nevada, I did, as to Count II, willfully and unlawfully enter  
23 OFFICE DEPOT located at 4819 South Virginia Street, Reno, Washoe  
24 County, Nevada, with the intent then and there to commit Uttering  
25 a Forged Instrument, a felony, therein.

26 ///



1           5. I understand that I admit the facts which support  
2 all the elements of the offenses by pleading guilty. I admit  
3 that the State possesses sufficient evidence which would result  
4 in my conviction. I have considered and discussed all possible  
5 defenses and defense strategies with my counsel. I understand  
6 that I have the right to appeal from adverse rulings on pretrial  
7 motions only if the State and the Court consent to my right to  
8 appeal. In the absence of such an agreement, I understand that  
9 any substantive or procedural pretrial issue or issues which  
10 could have been raised at trial are waived by my plea.

11           6. I understand that the consequences of my plea of  
12 guilty are that, as to Count I, I may be imprisoned for a period  
13 of one to ten years in the Nevada State Prison and that I am  
14 eligible for probation. I may also be fined up to \$10,000.00.

15           I further understand that the consequences of my plea  
16 of guilty are that, as to Count II, I may be imprisoned for a  
17 period of one to ten years in the Nevada State Prison and that I  
18 am eligible for probation. I may also be fined up to \$10,000.00.  
19 The sentence on each count may be concurrent or consecutive to  
20 each other.

21           7. In exchange for my plea of guilty, the State, my  
22 counsel and I have agreed to recommend the following: The State  
23 will concur with the recommendation of the Division of Parole and  
24 Probation.

25 ///

26 ///



1           8. I understand that, even though the State and I have  
2 reached this plea agreement, the State is reserving the right to  
3 present arguments, facts, and/or witnesses at sentencing in  
4 support of the plea agreement.

5           9. I also agree that I will make full restitution in  
6 this matter, as determined by the Court. Where applicable, I  
7 additionally understand and agree that I will be responsible for  
8 the repayment of any costs incurred by the State or County in  
9 securing my return to this jurisdiction.

10          10. I understand that the State is entitled to  
11 withdraw from this agreement and proceed with the prosecution of  
12 the original charges if I fail to appear at any scheduled  
13 proceeding in this matter OR if prior to the date of my  
14 sentencing I am arrested in any jurisdiction for a violation of  
15 law OR if I have misrepresented my prior criminal history. I  
16 represent that I do ~~not~~ have a prior felony criminal record. I  
17 understand and agree that the occurrence of any of these acts  
18 constitutes a material breach of my plea agreement with the  
19 State. I further understand and agree that by the execution of  
20 this agreement, I am waiving any right I may have to remand this  
21 matter to Justice Court should I later withdraw my plea.

22          11. I understand and agree that pursuant to the terms  
23 of the plea agreement stated herein, any counts which are to be  
24 dismissed and any other cases charged or uncharged which are  
25 either to be dismissed or not pursued by the State, may be  
26 considered by the court at the time of my sentencing.





1           12. I understand that the Court is not bound by the  
2 agreement of the parties and that the matter of sentencing is to  
3 be determined solely by the Court. I have discussed the  
4 charge(s), the facts and the possible defenses with my attorney.  
5 All of the foregoing rights, waiver of rights, elements, possible  
6 penalties, and consequences, have been carefully explained to me  
7 by my attorney. I am satisfied with my counsel's advice and  
8 representation leading to this resolution of my case. I am aware  
9 that if I am not satisfied with my counsel I should advise the  
10 Court at this time. I believe that entering my plea is in my  
11 best interest and that going to trial is not in my best interest.

12           13. I understand that this plea and resulting  
13 conviction may have adverse effects upon my residency in this  
14 country if I am not a U. S. Citizen.

15           14. I offer my plea freely, voluntarily, knowingly and  
16 with full understanding of all matters set forth in the  
17 Information and in this Plea Memorandum. I understand everything  
18 contained within this Memorandum.

19           15. My plea of guilty is voluntary, is not the result  
20 of any threats, coercion or promises of leniency.

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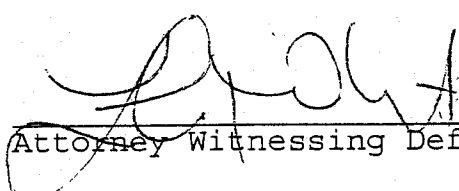


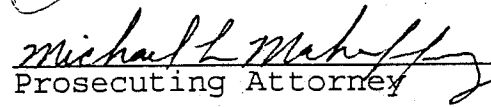
1 16. I am signing this Plea Memorandum voluntarily with  
2 advice of counsel, under no duress, coercion, or promises of  
3 leniency.

4 DATED this 23<sup>rd</sup> day of September, 1998.

5  
6   
7 \_\_\_\_\_  
8 DEFENDANT

9 \_\_\_\_\_  
10 TRANSLATOR/INTERPRETER

11   
12 \_\_\_\_\_  
13 Attorney Witnessing Defendant's Signature

14   
15 \_\_\_\_\_  
16 Prosecuting Attorney

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DA #159462

RPD 016628-98

'98 SEP 17 P2:24

Case No. CR98-2160

Dept. No. 9

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

INFORMATION

FERRILL JOSEPH VOLPICELLI,

Defendant.

RICHARD A. GAMMICK, District Attorney within and for  
the County of Washoe, State of Nevada, in the name and by the  
authority of the State of Nevada, informs the above entitled  
Court that FERRILL JOSEPH VOLPICELLI, the defendant above named,  
has committed the crimes of:

COUNT I. BURGLARY, a violation of NRS 205.060, a  
felony, in the manner following:

That the said defendant on the 9th day of January A.D.  
1998, or thereabout, and before the filing of this Information,  
at and within the County of Washoe, State of Nevada, did  
willfully and unlawfully enter COMP USA located at 6407 South  
Virginia Street, Reno, Washoe County, Nevada, with the intent

1 then and there to commit Uttering a Forged Instrument, a felony,  
2 therein.

3 COUNT II. BURGLARY, a violation of NRS 205.060, a  
4 felony, in the manner following:

5 That the said defendant on the 9th day of January A.D.  
6 1998, or thereabout, and before the filing of this Information,  
7 at and within the County of Washoe, State of Nevada, did  
8 willfully and unlawfully enter OFFICE DEPOT located at 4819 South  
9 Virginia Street, Reno, Washoe County, Nevada, with the intent  
10 then and there to commit Uttering a Forged Instrument, a felony,  
11 therein.

12  
13 All of which is contrary to the form of the Statute in  
14 such case made and provided, and against the peace and dignity of  
15 the State of Nevada.

16 RICHARD A. GAMMICK  
17 District Attorney  
18 Washoe County, Nevada

19 By: Michael L. Mahaffey  
20 MICHAEL L. MAHAFFEY  
21 Deputy District Attorney  
22  
23  
24  
25  
26





1           The following are the names and addresses of such  
2 witnesses as are known to me at the time of the filing of the  
3 within Information:  
4

5 RENO POLICE DEPARTMENT:

6 DETECTIVE RICHARD BJELKE  
7 DETECTIVE SCOTT HOPKINS  
8 DETECTIVE CURTISS C. KULL

9 STACEY K. TODD, 2344 Kaska, South Lake Tahoe, California 96150

10 SUZANNE YOUNG, 460 Smithridge Drive, Reno, Nevada

11 BILLIE J. HOBBS, 295 Palace Drive, Reno, Nevada  
12  
13  
14  
15  
16  
17  
18  
19

20 RICHARD A. GAMMICK  
21 District Attorney  
22 Washoe County, Nevada

23 By Michael L. Mahaffey  
24 MICHAEL L. MAHAFFEY  
25 Deputy District Attorney  
26

PCN 88364812

09152628



CERTIFIED COPY  
The document to which this certificate is  
attached is a full, true and correct copy of  
the original on file and of record in my office.

DATE: 4-23-03  
RONALD A. LONGTIN, JR., Clerk of the Second  
Judicial District Court, in and for the County  
of Washoe, State of Nevada.

By [Signature] Deputy

No. CRO3-1263

State

vs.

Ferrill Volpicelli

Ex. 2

Admitted: 4-1, 2004  
RONALD A. LONGTIN, JR., CLERK

3v [Signature]

Deputy

V11.37



U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
ENTERED & SERVED  
MAY 16 1997  
CLERK, U.S. DISTRICT COURT  
DEPUTY CLERK  
BY \_\_\_\_\_  
FERRILL J. VOLPICELLI

# UNITED STATES DISTRICT COURT

District of NEVADA

JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)

Case Number: CR-N-96-46-HDM(RAM)

Jerome Polaha (retained)  
Defendant's Attorney

THE DEFENDANT:  
(Name of Defendant)

☒ pleaded guilty to count(s) 15, 16, 17, and 18  
☐ was found guilty on count(s) \_\_\_\_\_ after a  
plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 USC 7206(1)	Tax Perjury	7-23-93	15, 16, 17 & 18

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_  
and is discharged as to such count(s).

☒ Count(s) 1 - 14 & 19 - 21 are dismissed on the motion of the United States.  
☒ It is ordered that the defendant shall pay a special assessment of \$ 200.00 for count(s)  
15, 16, 17 & 18 which shall be due ☒ immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

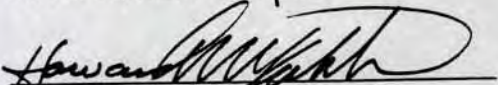
Defendant's Soc. Sec. No.: 572-76-7620

Defendant's Date of Birth: 12-30-55  
Defendant's USM No. 31441-048

Defendant's Mailing Address:  
2705 Camelot Way  
Reno, NV 89509

Defendant's Residence Address:  
Same

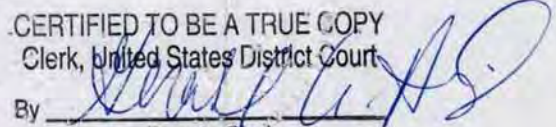
May 13, 1997  
Date of Imposition of Sentence


  
Signature of Judicial Officer

HOWARD D. MCKIBBEN, U. S. District Judge  
Name & Title of Judicial Officer

May 15, 1997  
Date

EXHIBIT  
3

CERTIFIED TO BE A TRUE COPY  
Clerk, United States District Court  
By   
Deputy Clerk

V11.38 73 



Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 2 of 5

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Twenty-two (22) months on each of Counts 15, 16, 17 & 18, said terms of incarceration to run concurrently with one another.

X The court makes the following recommendations to the Bureau of Prisons: Recommend defendant be incarcerated at FPC Nellis, Nevada.

- ☐ The defendant is remanded to the custody of the United States marshal.
- ☐ The defendant shall surrender to the United States marshal for this district.
- at ☐ on \_\_\_\_\_
- ☐ as notified by the United States marshal.
- X The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
- X before 12:00 noon on Friday, July 18, 1997.
- ☐ as notified by the United States marshal.
- ☐ as notified by the probation office.

## RETURN

I have executed this judgment as follows:

---



---



---



---



---

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_ with a certified copy of this judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal





Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 3 of 5

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of One (1) year.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. (Revocation of supervised release is mandatory for possession of a controlled substance.) The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

X The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

X The defendant shall pay any fines that remain unpaid during the term of supervised release.

X The defendant shall not possess a firearm or destructive device.

## ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. Defendant shall submit to the search of his person and any property, residence or automobile under his control by the probation officer, or any other authorized person under the immediate and personal supervision of the probation officer without a search warrant to ensure compliance with all conditions of release.
2. Defendant shall pay any remaining tax obligations during the term of supervised release, as directed by the probation office.
3. Defendant shall participate in and complete a mental health treatment program, which may include outpatient counseling or residential placement, as approved and directed by the probation officer and shall comply with the rules of the treatment program.
4. Defendant shall refrain from incurring any new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the probation officer.
6. Defendant shall provide the probation officer access to any requested financial information, including personal income taxes, authorization for release of credit information, and any other business financial information in which the defendant has a control or interest.
7. The defendant shall cooperate with and arrange with the Internal Revenue Service to pay all past and present taxes, interest and penalties owed, and shall file timely, accurate, and lawful income tax returns and show proof of same to the probation officer.
8. Defendant is not restricted to the State of Nevada during the period of supervised release.

## STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 4 of 5

## FINE

The defendant shall pay a fine of \$ 3,000.00 . The fine includes any costs of incarceration and/or supervision.

☐ This amount is the total of the fines imposed on individual counts, as follows:

☐ The court has determined that the defendant does not have the ability to pay interest. It is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

This fine plus any interest required shall be paid:

☐ in full immediately.

☐ in full not later than \_\_\_\_\_.

☐ in equal monthly installments over a period of \_\_\_ months . The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.

☐ in installments according to the following schedule of payments:

☒ payable during and subsequent to the term of imprisonment. Any remaining balance shall be paid during the term of supervised release upon a schedule to be established by the supervising probation officer.

If the fine is not paid the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.





Defendant: VOLPICELLI, FERRILL J.  
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 5 of 5

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 13

Criminal History Category: III

Imprisonment Range: 18 to 24 months

Supervised Release Range: - to 1 years

Fine Range: \$ 3,000 to \$ 30,000

☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ N/A

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):







U.S. Department of Justice

Tax Division

Western Criminal Enforcement Section  
P.O. Box 972, Ben Franklin Station  
Washington, D.C. 20044

(202) 514-5684

Telefax (202) 514-9623

February 7, 1997

AMENDED MEMORANDUM OF PLEA NEGOTIATION

TO: Howard D. McKibben  
United States District Judge

FROM: Kevin M. Kelcourse  
Danny N. Roetzel  
Trial Attorneys  
United States Department of Justice  
Tax Division

SUBJECT: United States v. Ferrill J. Volpicelli  
Criminal No. N-96-46-HDM (RAM)

FILED

FEB 7 1997

ERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA

I. PLEA NEGOTIATION:

Defendant FERRILL J. VOLPICELLI is charged by Indictment with violations of Title 18, United States Code, Sections 1014 and 1343, and Title 26, United States Code, Section 7206(1). These charges include Wire Fraud, False Bank Loan Statements, and Tax Perjury. The Government and the defendant, FERRILL J. VOLPICELLI, through his attorney, Jerome M. Polaha, have agreed to the following:

1. Defendant FERRILL J. VOLPICELLI will plead guilty to Counts Fifteen, Sixteen, Seventeen, and Eighteen of the Indictment, those each being Tax Perjury, in violation of Title 26, United States Code, Section 7206(1).

2. This plea is made pursuant to Rule 11(e)(1)(A) and (B) of the Federal Rules of Criminal Procedure and is not intended to be binding upon the Court.

3. Base Offense Level - Based upon the tax table (U.S.S.G. §§ 2T1.3, 2T4.1 (1991 edition)), the parties agree that the Base Offense Level concerning this defendant for Tax Perjury would be found in U.S.S.G. §2T1.3 and would carry a Base Offense Level of 11. This amount is determined pursuant to the tax table set out in U.S.S.G. § 2T4.1. Pursuant to the tax table, a tax loss greater than \$40,000 but less than \$70,000 would yield a Base Offense Level of 11.

4. Pursuant to U.S.S.G. § 2T1.3(b)(1), the parties agree that defendant VOLPICELLI "failed to report . . . income exceeding \$10,000 in any year from criminal activity." That

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Clerk, United States District Court

By

Deputy Clerk

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★



criminal activity is wire fraud. Accordingly, defendant VOLPICELLI's offense level would increase to 13.

5. The parties have reached no agreement as to whether, pursuant to U.S.S.G. § 2T1.3(b)(2), defendant VOLPICELLI used "sophisticated means . . . to impede discovery of the nature or extent of the offense." The parties reserve the right to argue their respective positions on this issue at the time of sentencing.

6. Pursuant to 26 U.S.C. § 7206(1), the defendant shall be sentenced to a term of imprisonment which may not exceed three (3) years and may be fined up to \$250,000.

7. The Government agrees not to pursue an increase in offense levels pursuant to U.S.S.G. § 3B1.1(a) through (c) concerning an aggravating role in the offense. The Government agrees not to pursue any increase of offense levels pursuant to the defendant's role in the offense.

8. The parties agree that the Offense Level may be decreased by two (2) levels pursuant to U.S.S.G. § 3E1.1 if the Court finds that the defendant has accepted responsibility for his criminal conduct. The Government agrees not to oppose defendant's request to reduce the Offense Level by two (2) levels pursuant to U.S.S.G. § 3E1.1(a), if: (1) it is determined by the United States Probation Office that the defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct in all proceedings, including his interview with the United States Probation Office; (2) defendant VOLPICELLI cooperates with the Reno Office of the Internal Revenue Service by signing waivers to correct the previously filed Individual Income Tax Returns, Forms 1040, for the years 1989 through 1992, inclusive (including the unreported taxable income set forth in this Memorandum and the civil fraud penalty, which defendant VOLPICELLI agrees is appropriate for each of the years 1989 through 1992) by the date of sentencing; and (3) defendant VOLPICELLI pays by the date of sentencing any additional outstanding individual income taxes reflected as due on the waivers referred to in this paragraph, as well as any interest and fraud penalties related thereto, or enters into a binding agreement to pay said amounts.





9. The parties agree that there are no other facts or circumstances that would allow for any other adjustment to the Offense Level under Chapter 3 of the Sentencing Guidelines.

10. The parties agree that the Offense Level is based upon information concerning these offenses and the defendant as it is known at the present time, and defendant VOLPICELLI understands that the Offense Level could change based upon the investigation by the United States Probation Office and the findings of the District Court at the time of sentencing.

11. The parties agree that the Offense Level and the Criminal History Category (Chapter 4) will be based upon the investigation of the United States Probation Office and the findings of the Court at the time of sentencing. The determination of the Criminal History Category (points) directly affects the possible sentencing range available to the Court. The parties have not made any stipulation concerning the defendant's criminal history. The parties are free to argue the Criminal History Category and criminal history points applicable to the defendant.

12. The parties agree that a period of supervised release pursuant to U.S.S.G. § 5D1.1 is applicable if a sentence of more than one (1) year imprisonment is imposed by the Court. Pursuant to Title 18, United States Code, Section 3559(a)(2), the charged offense is a Class E felony and, therefore, pursuant to U.S.S.G. § 5D1.2(a)(1) and (b), if a term of supervised release is applicable, it shall be ordered for one year.

13. The parties agree that both sides will be free at sentencing to argue the appropriate fine that should be imposed by the Court.

14. The Government will move to dismiss the remaining counts from the Indictment pending against defendant VOLPICELLI (Counts One through Fourteen and Nineteen through Twenty-One) at the time of sentencing. The Court may consider all the relevant facts and circumstances of those offenses under U.S.S.G. § 1B1.3---Relevant Conduct, when deciding the appropriate sentence.

15. The defendant is aware that his sentence will be imposed in accordance with the Federal Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which the defendant pleads guilty.

16. The defendant is also aware that Title 18, United States Code, Section 3742 gives the defendant a right to appeal





the sentence to be imposed and that other federal laws give the defendant rights to appeal other aspects of his conviction. In exchange for the concessions made by the United States in the instant plea agreement, the defendant knowingly and expressly waives his right to appeal any sentence to be imposed that is within the applicable sentencing guideline range contemplated by the parties in this agreement, further waives his right to appeal the manner in which that sentence was determined on the grounds set forth in Title 18, United States Code, Section 3742, and further waives his right to appeal any sentence. As to his sentence, the defendant reserves only the right to appeal any sentence imposed to the extent, but only to the extent, that the sentence is an upward departure and outside the range established by the applicable sentencing guideline.

II. PENALTY:

Statutory

Tax Perjury

The punishment for violating the provisions of Title 26, United States Code, Section 7206(1) is recited in that Section, which states that for making and subscribing a false return, the defendant shall be sentenced to a term of imprisonment which may not exceed three (3) years, be fined not more than \$250,000, or both for each count to which the defendant pleads guilty. (The fine amount is set forth in Title 18, United States Code, Section 3571.) Pursuant to U.S.S.G. § 5D1.2(b)(3), the Court may order a term of supervised release to follow imprisonment of not more than one year.

Under the provisions of Title 18, United States Code, Section 3013(a)(2)(A), a defendant must be fined a special assessment fine of \$50.00 for every felony conviction. (See United States v. Munos-Flores, 110 S.Ct. 1964 (1990)).

III. SENTENCING GUIDELINES:

Based upon the tax table (U.S.S.G. §§ 2T1.3, 2T4.1), the Base Offense Level concerning this defendant for Tax Perjury would be found in U.S.S.G. § 2T1.3 and would carry a Base Offense Level of 11. This amount is determined pursuant to the tax table set out in U.S.S.G. § 2T4.1. Pursuant to U.S.S.G. § 2T1.3(a), the tax loss is 28% of the amount by which taxable income was understated, which equals \$57,555.31. Pursuant to the tax table, a tax loss of greater than \$40,000 but less than \$70,000 would yield a Base Offense Level of 11.





However, pursuant to U.S.S.G. § 2T1.3(b)(1), the parties agree that defendant VOLPICELLI "failed to report . . . income exceeding \$10,000 in any year from criminal activity." That criminal activity is wire fraud. Accordingly, defendant VOLPICELLI's offense level would increase to 13. Moreover, the parties are free to argue whether, pursuant to U.S.S.G. § 2T1.3(b)(2), defendant VOLPICELLI used "sophisticated means . . . to impede discovery of the nature or extent of the offense." If the Court finds that defendant VOLPICELLI did use "sophisticated means," defendant VOLPICELLI's offense level would increase to 15. If the Court finds that the defendant has accepted responsibility for his criminal conduct and grants the two-level reduction pursuant to U.S.S.G. § 3E1.1, the final offense level would be 11 or 13 (depending on the Court's finding as to "sophisticated means").

If defendant VOLPICELLI does not argue that he did not use "sophisticated means" pursuant to U.S.S.G. § 2T1.3(b)(2), the parties agree that a sentence in the mid-point of the sentencing range is appropriate. However, if defendant VOLPICELLI does argue that he did not use "sophisticated means," the parties are free to argue a sentence anywhere in the sentencing range.

Pursuant to Title 18, United States Code, Section 3551, the Sentencing Reform Act and the Sentencing Guidelines, the possible sentencing range for this offense runs as follows:

**Final Offense Level 15**

Criminal History Category I - 18-24 months  
Criminal History Category II - 21-27 months  
Criminal History Category III - 24-30 months

**Final Offense Level 13**

Criminal History Category I - 12-18 months  
Criminal History Category II - 15-21 months  
Criminal History Category III - 18-24 months

**Final Offense Level 11**

Criminal History Category I - 8-14 months  
Criminal History Category II - 10-16 months  
Criminal History Category III - 12-18 months

Pursuant to U.S.S.G. §§ 5B1.1 and 5C1.1(c), probation and a "split sentence" are both unavailable if the Court concludes that the final offense level is 13 or 15, regardless of defendant VOLPICELLI's Criminal History Category. If the Court concludes that the final offense level is 11, a "split sentence"





(but not probation) would be available if the Court finds that defendant VOLPICELLI's Criminal History Category is I or II, but not if it is III.

Pursuant to U.S.S.G. § 5D1.1(a), if a term of imprisonment of more than one year is imposed, a term of supervised release following imprisonment is required. Under Title 18, United States Code, Section 3559(a)(2), the offense charged in Counts Fifteen through Eighteen of the Indictment are Class E felonies, and, therefore, pursuant to U.S.S.G. § 5D1.2(a)(1) and (b), if a term of supervised release is applicable, it shall be ordered for a period of one year.

Depending upon the Court's finding of the appropriate Offense Level, the Court is required to impose a fine. Pursuant to U.S.S.G. § 5E1.2, a possible fine can be imposed within a range depending upon the Court's finding of the applicable sentencing guideline range. At offense level 15, the maximum allowable fine is \$40,000 with a minimum fine of \$4,000; at offense level 13, the maximum allowable fine is \$30,000 with a minimum fine of \$3,000; and at offense level 11, the maximum allowable fine is \$20,000 with a minimum fine of \$2,000.

In addition to the fine mentioned above, U.S.S.G. § 5E1.2(i) requires the Court to impose an additional fine amount that is at least sufficient to pay the costs to the Government of any imprisonment, probation or supervised release ordered. However, U.S.S.G. § 5E1.2(f) allows the Court to lower or waive any fine or impose an alternative sanction, such as community service, if a defendant establishes that he or she does not have the ability to pay a fine.

Title 18, United States Code, Section 3663 and U.S.S.G. § 5E1.1 permit restitution if deemed appropriate by the Court.

Pursuant to Title 18, United States Code, Section 3013(a)(2)(A) and U.S.S.G. § 5E1.3, the Court is required to impose a special assessment in the amount of \$50.00 for each felony conviction. This special assessment shall be collected in the same manner that fines are collected in criminal cases.

#### IV. ESSENTIAL ELEMENTS OF THE OFFENSE:

Before a verdict of guilty may be reached, the Government would have to prove beyond a reasonable doubt each of the following essential elements of the offense as follows:





Tax Perjury

- First: That the defendant made and subscribed a return, statement, or other document that was false as to a material matter;
- Second: That the return, statement, or other document contained a written declaration that it was made under penalty of perjury;
- Third: That the defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and
- Fourth: That the defendant falsely subscribed to the return, statement, or other document with the specific intention to violate the law.

V. FACTS TO SUPPORT A PLEA OF GUILTY:

During the calendar years 1987 through at least 1993, defendant VOLPICELLI resided in Reno, Nevada. During this period, VOLPICELLI devised and carried out a scheme to defraud various stores (including, but not limited to, Target Stores and Mervyn's stores) by, among other things, purchasing various items with credit cards and then using multiple copies of the credit card receipts multiple times to return additional items in exchange for refunds. The additional returned items had been previously purchased by VOLPICELLI at a price less than the price indicated on the receipts he used to return the items. These refunds were made in the form of credits to various credit cards.

Specifically, VOLPICELLI carried out this fraud at least in part by purchasing an item at a store (the "original item"), using one of the numerous credit cards he or his wife had obtained from various credit card issuers. After purchasing the original item, VOLPICELLI made copies of the receipt he received from the store, at least in part by using a small, hand-held copy machine. VOLPICELLI then returned the original item for a full refund, which he knew would be posted as a credit to one of his or his wife's credit card accounts.

VOLPICELLI subsequently obtained the same item as the original item on several occasions from one or more stores for less than the full price (the "multiple items"). VOLPICELLI obtained the multiple items using different methods, including, but not limited to, using one of two UPC label machines to create new UPC labels for lower-priced items, which he then placed over the original code on the items' packaging. VOLPICELLI then





purchased those items at the lower price when the cashier at the store scanned the false UPC code on those items. Using the copies of the receipt he had made previously when he purchased the original item or claiming that he had lost the original receipt, VOLPICELLI returned the multiple items (however they were obtained) for a refund of the full price, which VOLPICELLI knew he had not paid and which amount he knew would be credited to one of his or his wife's credit card accounts.

As a result of this fraud, VOLPICELLI accumulated substantial credit card credit balances to which he knew he was not entitled. From calendar years 1989 through 1992 alone, VOLPICELLI obtained credit card credits on numerous separate credit card accounts totalling over \$800,000. VOLPICELLI then used these credit card balances like a debit card for various purposes.

VOLPICELLI used these credit balances to, among other things, (1) purchase personal items and (2) pay the mortgage on both his personal residence and a rental property through the use of checks drawn on the credit card accounts. These credit balances constituted taxable income to VOLPICELLI, which he failed to report on his Forms 1040 (Individual Income Tax Return) for tax years 1989, 1990, 1991, and 1992. The amount of taxable income VOLPICELLI failed to report for criminal purposes, which takes into account any potential deductions for expenses incurred in carrying out the fraud, is as follows:

<u>Tax Year</u>	<u>Unreported Taxable Income</u>
1989	\$ 28,136.74
1990	49,038.80
1991	67,884.05
1992	<u>60,495.10</u>
<b>TOTAL</b>	<b><u>\$205,554.69</u></b>

On or about July 11, 1990, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1989, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.





On or about August 1, 1991, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1990, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

On or about August 11, 1992, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1991, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

On or about July 23, 1993, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1992, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

VI. STATEMENT OF THE DEFENDANT:

I, FERRILL J. VOLPICELLI, hereby acknowledge that I have thoroughly read and reviewed this Memorandum with my attorney and agree it completely and accurately states both the negotiation between myself, my attorney and the United States and the facts supporting my plea of guilty. I have discussed the contents of this Memorandum with my attorney and he has explained them to my satisfaction. I understand that the contents of this Memorandum constitute the entire agreement between myself and the Government. The Government has not promised me anything not mentioned in this Memorandum.





My attorney has not promised me anything not mentioned in this Memorandum either, and, in particular, my attorney has not promised that I will get any specific sentence. I understand that any discussions with my attorney about the possible sentence I might receive from the Court are just predictions and are not binding on the Court. I know that I cannot withdraw my guilty plea because my attorney's sentencing predictions turn out wrong.

My attorney has also explained to me my constitutional rights, including my right to a jury trial, to confront my accusers, to call witnesses on my own behalf, and my right to remain silent. He has further explained to me that I have to waive these rights, that is, give them up, in order to have my guilty plea accepted by the Court.

I know that if the Government makes a non-binding recommendation as to what type of sentence I should receive, the Court does not have to follow that recommendation. I also understand that I cannot withdraw my guilty plea because the Court decides not to follow a non-binding sentencing recommendation of the Government.

I further understand that the matter of sentencing is entirely up to the Court. Any stipulations or agreements between myself, my attorney, and the Government are not binding upon the Court. I know that the Court will decide my sentence based upon the facts of this case, the applicable statutes and the Sentencing Guidelines. I fully understand that my sentence could be anywhere within the range set forth in Section II of this Memorandum.

I know that the maximum possible penalty provided by law for the violation of Title 26, United States Code, Section 7206(1), as alleged in the Indictment, is a \$250,000 fine and three (3) years imprisonment, or both, plus the costs of prosecution.

I understand that a term of supervised release may be added to any prison sentence imposed; that if the supervised release term is violated, I can be returned to prison for the remainder of my sentence and the full length of the supervised release term.

Additionally, I know the Court is required to impose an assessment in the amount of \$50.00 for each count to which I am pleading guilty.

I understand that if I knowingly violate any local, state or federal law between now and the time of my sentencing, such offense may constitute a violation of this plea agreement.





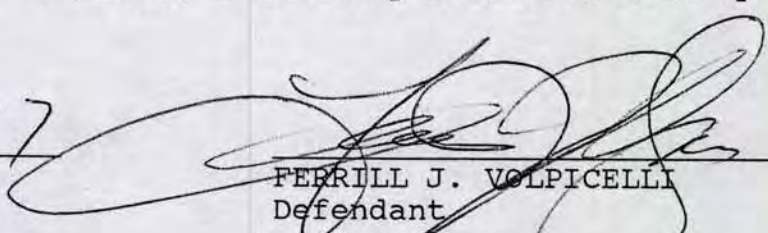
February 7, 1997  
Page 11

I also understand that the Court will decide whether a violation of the plea agreement has occurred. If the Court finds that I have breached this agreement by violating any law, I understand that the Court may relieve the government of all obligations and commitments in this plea agreement while leaving intact my plea of "Guilty".

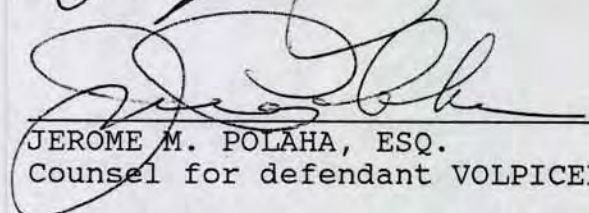
I am pleading guilty freely, voluntarily and knowingly because I am guilty and for no other reason. I have not been pressured or induced by any other defendant or lawyer to enter this plea. I was not under the influence of any drugs, medication or intoxicants when the decision to enter the plea was made, and I am not now under the influence of any drugs, medication or intoxicants.

Finally, I understand that the decision to plead guilty or go to trial is mine alone. As stated above, I have discussed this case fully with my attorney and received legal advice about what is the best course of action that I should take. My decision after receiving this advice is to plead guilty under this agreement. In addition, I am fully satisfied with my attorney.

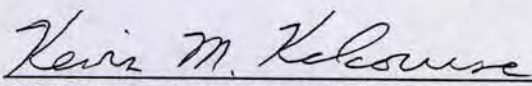
Date: 2-7-97

  
FERRILL J. VOLPICELLI  
Defendant

Date: 2-7-97

  
JEROME M. POLAHA, ESQ.  
Counsel for defendant VOLPICELLI

Presented and approved on behalf of the United States:

  
KEVIN M. KELCOURSE  
DANNY N. ROETZEL  
Trial Attorneys  
United States Department of Justice  
Tax Division

V11.53









1001 (02/01) (2) Shows last names of defendants

V. PROCEEDINGS

Interval I  
Gross 0  
Net 0  
Interval II  
Gross 176  
Les Excl T 133  
Net 43

For identifying  
periods of excluded  
delay per 18  
USC 2003 (1)(B)(i)  
and 2003 (1)(B)(ii)  
(in brackets)  
A. Cause of hearing  
for excluded delay  
(18 USC 2003  
(1)(B)(i))  
(1)(B)(ii))

§ 2003 (1)(B)(i)  
USC 2003 (1)(B)(i)  
C. Statutory and  
regulatory provisions  
applicable to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
D. Substantive law  
and (1)(B)(ii)  
E. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
F. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
G. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
H. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
I. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
J. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
K. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
L. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
M. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
N. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
O. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
P. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
Q. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
R. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
S. Federal action  
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(18 USC 2003  
(1)(B)(ii))  
T. Federal action  
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(18 USC 2003  
(1)(B)(ii))  
U. Federal action  
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(18 USC 2003  
(1)(B)(ii))  
V. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
W. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
X. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
Y. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
Z. Federal action  
leading to the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))

Q. Expenditure under  
admission, not to  
be used for  
any other purpose  
than the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
R. Expenditure under  
admission, not to  
be used for  
any other purpose  
than the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))  
S. Expenditure under  
admission, not to  
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excluded delay  
(18 USC 2003  
(1)(B)(ii))  
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(18 USC 2003  
(1)(B)(ii))  
U. Expenditure under  
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excluded delay  
(18 USC 2003  
(1)(B)(ii))  
V. Expenditure under  
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(18 USC 2003  
(1)(B)(ii))  
W. Expenditure under  
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(18 USC 2003  
(1)(B)(ii))  
X. Expenditure under  
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(18 USC 2003  
(1)(B)(ii))  
Y. Expenditure under  
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(18 USC 2003  
(1)(B)(ii))  
Z. Expenditure under  
admission, not to  
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than the  
excluded delay  
(18 USC 2003  
(1)(B)(ii))

N. Out-lying trial  
of defendant &  
then proceed (17)  
T. Continuance  
granted per (18)  
U. Continuance  
granted per (19)  
V. Continuance  
granted per (20)  
W. Continuance  
granted per (21)  
X. Continuance  
granted per (22)  
Y. Continuance  
granted per (23)  
Z. Continuance  
granted per (24)





UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET  
U.S. vs

FERRILL J. VOLPICELLI

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UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

AO 256A

USA VS. FERRILL, J. VOLPICELLI

CR-N-96-46-HDM

UNITED STATES  
CRIMINAL DOCKET  
AO 256A

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AO 266A

Yr. | Docket No. | Del.

PROCEEDINGS (continued)

V. EXCLUDABLE DELAY  
(a) | (b) | (c)

DATE	Document No.	PROCEEDINGS (continued)
7/2/97	24	MOTION to delay surrender obo VOLPICELLI. wj <i>7/2/97</i> <i>(25)</i>
7/3/97	--	Sub to HDM # 24 (A)T wj
7/7/97	25	ORDER re VOLPICELLI: (HDM) ORD D mtn #24 granted. D self surr by 8/18/97 to fed institute. cps dist (AT) wj
8/12/97	26	MOTION to delay surrender obo VOLPICELLI. wj <i>8/12/97</i> <i>(27)</i>
8/12/97	--	SUB to HDM #26 (AT) wj
8/13/97	27	ORDER re VOLPICELLI: (HDM) ORD D unopposd Mtn #26 to modify self surr granted. D sh surr on 10/17/97 cps dist (AT) wj
8/27/97	28	MOTION to rels grand jury information obo Govt re VOLPICELLI. wj <i>8/27/97</i> <i>(29)</i>
8/28/97	--	SUB to HDM #28 (AT) wj
8/29/97	29	ORDER re VOLPICELLI: (HDM) ORD Govt unopposd mtn #28 is granted. cps dist (AT) wj
10/15/97	30	MOTION to delay surrender (3rd/Req) obo D, VOLPICELLI. (m) (AT) blg. <i>(31)</i>
--	--	SUB to HDM: Item #30. (AT) blg.
10/16/97	31	ORDER: (HDM) ORD D may hv cll 11/28/97 in wh to surrender to fed instructn to wh he is assigned. There will be no fur extensions. cps.Dist. (AT) blg. *mld-10/16/97.
10/20/97	32	ORDER: (HDM) ORD errata to correct dt of sur fm 11/28/97 to 12/1/97 grntd. D, VOLPICELLI sh sur on 12/1/97. Cps.Dist. (AT) blg. *mld-10/21/97.
11/21/97	33	MOTION to delay surrender (4th Req) obo VOLPICELLI (A)T wj
11/24/97	--	SUB to HDM #33. (A)T wj
11/24/97	34	ORDER re VOLPICELLI: (HDM) ORD D may hv to and incl 11/15/98. to self surr to fed inst he is assignd. #37 FUR ORD th will be no fur extn grntd. cps dist (AT) wj
1/12/98	35	PETITION/ORDER re VOLPICELLI: (DMH) OR B/W be issd re vol condntl rels purs 18USC3148(b). cps dist (AT) wj
--	--	WARRANT issd USM re VOLPICELLI. wj

Cont page 5

V11.58



V. EXCLUDABLE DELAY

(a) (b) (c) (d)

PROCEEDINGS (continued)

(Document No.)

1/13/98	36	MINUTES/INITIAL APPEARANCE/REVOCATION PROCEEDINGS dtd 1/13/98 re VOLPICELLI: (PHA) Crt advs prts Ord extending dt d self surr 1/15/98, (#34) <b>revoked</b> . ORD cdnts of rels imposed 7/15/96 are hereby revoked. PUR ORD D remanded CUSM bgn syng sentence imposed 5/13/97. (Tape 98-3/4) E&S 1/14/98 cps dist (AT) wj
1/13/98	37	ORDER re VOLPICELLI: (HDM) ORD D self surr en 1/15/98 (#34) revoked. cps dist (AT) wj
1/20/98	38	MINUTES/TELEPHONIC STATUS CONFERENCE dtd 1/15/98 re VOLPICELLI: (HDM) ORD D remanded CUSM for trnfr to dsngnd institute. (C/R Margaret Griener) cps dist (AT) wj
--	39	WARRANT w/USM rtn re VOLPICELLI arr 1/12/98. wj
2/20/98	40	JUDGMENT w/USM rtn re VOLPICELLI dlvr'd 2/5/98 to FCI SAF, Safford AZ. wj
4/29/99	41	<del>X</del> MOTION for order to return seized property and to account obo VOLPICELLI. (m) (AT) wj (Pro Se) <i>1/3 denied 4/4</i>
4/30/99	--	SUB to HDM Item #41 (AT) wj
5/5/99	42	ORDER re VOLPICELLI: (HDM) ORD the US sh rspnd to the Mtn to rtnr seized property (#41) on or bef 6/1/99. cps dist wj (AT)
5/20/99	43	RESPONSE to doc (#41) obo Govt. (m) (AT) wj
5/21/99	--	SUB to HDM Item #41 (AT) wj
5/24/99	44	ORDER re VOLPICELLI (HDM) ORD the D's mtn for return of seized property is denied without prej to renew with the police department in las Vegas and Murray City, UT, and with the California Department of Justice. cps dist wj (AT) EOD 5/25/99
9/21/00	45	PETITION for modification of spvsd rels obo VOLPICELLI. (m) (AT) wj (cpy USA 9/22/00)
--	46	REQUEST for IFP re doc #45 obo VOLPICELLI. wj (AT) <i>granted 4/7</i>
9/22/00	--	SUB to HDM Item #45 and 46 (AT) wj
9/26/00	47	ORDER re VOLPICELLI (HDM) ORD D's req to proceed IFP granted. Govt sh rspn to D's pet for modif of spvsd rels on or bef 10/15/00. cps dist wj (AT)
10/11/00	48	RESPONSE to petn for modif (#45) obo GVT. (m) (AT) blg





Yr.	Docker No.	Def.
1990	1000	1000
1991	1000	1000
1992	1000	1000
1993	1000	1000
1994	1000	1000
1995	1000	1000
1996	1000	1000
1997	1000	1000
1998	1000	1000
1999	1000	1000
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2096	1000	1000
2097	1000	1000
2098	1000	1000
2099	10	

USA VS. FERRILL, J. VOLPICELLI

## V. EXCLUDABLE DELAY

V. EXCLUDABLE DELAY					
(a)	(b)	(c)	(d)	(e)	(f)
					V11-09

V11.60







1 limited to, Target Stores and Mervyn's stores) by, among other  
2 things, purchasing various items with credit cards and then using  
3 the credit card receipts (or copies thereof) multiple times to  
4 return additional items in exchange for refunds (hereafter referred  
5 to as the "credit card scheme"). These refunds were made in the  
6 form of credits to various credit cards.

7 3. As a result of this scheme, VOLPICELLI accumulated  
8 substantial credit card credit balances to which he was not  
9 entitled. From calendar years 1989 through 1992 alone, VOLPICELLI  
10 obtained credit card credits on numerous separate credit card  
11 accounts totalling over \$800,000.

12 4. VOLPICELLI used these credit balances to (1) purchase  
13 personal items and (2) pay the mortgage on both his personal  
14 residence and a rental property through the use of checks drawn on  
15 the credit card accounts.

#### 16 SCHEME TO DEFRAUD

17 5. Beginning at least as early as January 22, 1987, and  
18 continuing until at least April 6, 1993, in the District of Nevada  
19 and elsewhere, VOLPICELLI did knowingly devise and intend to devise  
20 a scheme or artifice to defraud and to obtain money from various  
21 stores in the form of credits on various credit cards held by  
22 himself or his wife, Lori Volpicelli, by means of false and  
23 fraudulent pretenses, representations and promises, the concealment  
24 of material facts, and other means (hereafter referred to as the  
25 "scheme").

#### 26 METHOD AND MEANS OF THE ILLEGAL SCHEME

27 6. It was part of the scheme that, on several occasions,  
28 VOLPICELLI purchased an item at a store (the "original item"),





1 using one of the numerous credit cards he or his wife had obtained  
2 from various credit card issuers. After purchasing the original  
3 item, VOLPICELLI made copies of the receipt he received from the  
4 store, at least in part by using a small, hand-held copy machine.  
5 VOLPICELLI then returned the original item for a full refund, which  
6 he knew would be posted as a credit to one of his or his wife's  
7 credit card accounts.

8 7. It was further part of the scheme that VOLPICELLI  
9 traveled to numerous stores in order to make thousands of purchases  
10 and returns discussed in the preceding paragraph, including stores  
11 located in Arizona, California, Nevada, Utah, and Washington, and,  
12 as a result, obtained credit card credits totalling over \$800,000  
13 during calendar years 1989 through 1992 alone.

14 8. It was further part of the scheme that VOLPICELLI used  
15 his own name as well as several different names other than his own  
16 when making the returns and obtaining the fraudulent credit card  
17 credits discussed in the preceding paragraphs.

18 9. It was further part of the scheme that VOLPICELLI  
19 obtained two machines used to make uniform product code ("UPC")  
20 labels. The first machine was seized by the Murray City, Utah  
21 police department after VOLPICELLI fled from security personnel at  
22 a Shopko store in Murray City and abandoned his rental car in which  
23 he had left the machine and other items. He obtained the second  
24 machine after the first machine was seized.

25 10. It further was part of the scheme that VOLPICELLI  
26 subsequently obtained the same item as the original item on several  
27 occasions from one or more stores for less than the full price (the  
28 "multiple items"). VOLPICELLI obtained the multiple items using





1 different methods, including, but not limited to, using one of two  
2 UPC label machines to create new UPC labels for lower-priced items,  
3 which he then placed over the original code on the items'  
4 packaging. VOLPICELLI then purchased those items at the lower  
5 price when the cashier at the store scanned the false UPC code on  
6 those items.

7 11. It further was part of the scheme that, using the copies  
8 of the receipt he had made previously when he purchased the  
9 original item or claiming that he had lost the original receipt,  
10 VOLPICELLI returned the multiple items (however they were obtained)  
11 for a refund of the full price, which VOLPICELLI knew he had not  
12 paid and which amount he knew would be credited to one of his or  
13 his wife's credit card accounts.

14 12. It further was part of the scheme that VOLPICELLI  
15 returned the multiple items knowing full well that the stores, in  
16 order to provide VOLPICELLI with the credit he sought, would  
17 communicate in interstate commerce by means of wire communication  
18 as a direct result of his actions.

19 COUNTS ONE THROUGH TWELVE

20 WIRE FRAUD

21 13. The Grand Jury repeats and realleges each and every  
22 allegation contained in paragraphs 1 through 12 of the Indictment.

23 14. For the purpose of executing the scheme to defraud and to  
24 obtain money in the form of credits on various credit cards held by  
25 himself or Lori Volpicelli, on or about the dates set forth below,  
26 within the District of Nevada and elsewhere, by means of false or  
27 fraudulent pretenses, representations, or promises, VOLPICELLI did  
28 knowingly cause to be transmitted by means of wire communication in





interstate commerce certain signs, signals and sounds between the Target Store locations listed below and Minneapolis, Minnesota as a result of his purchase or return of various items, with the corresponding receipt number, as follows:

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION</u>
--------------	-------------	--------------------

Golf Clubs, Receipt No. 0369

1.	January 21, 1992	Returned set of golf clubs to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$213.99 on Visa account number 4128400355173.
----	------------------	---

Tents, Receipt No. 0100

2.	March 14, 1992	Purchased a "two room tent" and a "Greatland two room tent" for a total price of \$588.48 at Target Store T-262 in Reno, Nevada, using Visa account number 4128400355173.
----	----------------	---

3.	March 14, 1992	Returned a "two room tent" and a "Greatland two room tent" at Target Store T-262 in Reno, Nevada, obtaining a credit in the amount of \$588.48 on Visa account number 4128400355173.
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4.	April 9, 1992	Returned a "Greatland two room tent" to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$267.49 on Visa account number 4128400355173.
----	---------------	---

Golf Clubs, Receipt No. 1150

5.	April 20, 1992	Purchased a set of "Black Diamond Irons" and a golf set for \$427.98 at Target Store T-261 in Sparks, Nevada, using Visa account number 4317344210045698.
----	----------------	---

6.	April 20, 1992	Returned a set of "Black Diamond Irons" and a golf set for \$427.98 at Target Store T-261 in Sparks, Nevada, using Visa account number 4317344210045698.
----	----------------	--

Sunbeam Stand Mixer, Receipt No. 4484





7. December 22, 1992 Returned a "Sunbeam Stand Mixer" to Target Store T-265 in Las Vegas, Nevada, obtaining a credit in the amount of \$107.74 on Master Card account number 5472330108229435.

Sunbeam Stand Mixer, Receipt No. 9661

8. December 22, 1992 Returned a "Sunbeam Stand Mixer" to Target Store T-265 in Las Vegas, Nevada, obtaining a credit in the amount of \$107.74 on Discover account number 6011009737000443.

Vacuum Cleaner, Receipt No. 8795

9. January 14, 1993 Returned a "Hoover Legacy Vacuum" to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$192.59 on Visa account number 4800120216070755.

Telephone, Receipt No. 3108

10. December 23, 1992 Returned an "AT&T 5500 Telephone" to Target Store T-680 in Henderson, Nevada, obtaining a credit in the amount of \$171.19 on Master Card account number 5424180271573179.
11. January 15, 1993 Returned an "AT&T 5500 Telephone" to Target Store T-680 in Henderson, Nevada, obtaining a credit in the amount of \$173.19 on Master Card account number 5424180271573179.
12. March 1, 1993 Returned an "AT&T 5500 Telephone" to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$173.19 on Master Card account number 5424180271573179.

All in violation of Title 18, United States Code, Section 1343.

COUNT THIRTEEN

WIRE FRAUD

15. The Grand Jury repeats and realleges each and every allegation contained in paragraphs 1 through 12 of the Indictment.

16. For the purpose of executing the scheme to defraud and to obtain money in the form of credits on various credit cards held by





1 himself or Lori Volpicelli, on or about November 21, 1992, within  
2 the District of Nevada, by means of false or fraudulent pretenses,  
3 representations, or promises, VOLPICELLI did knowingly cause to be  
4 transmitted by means of wire communication in interstate commerce  
5 certain signs, signals and sounds between Reno, Nevada and  
6 California for the purpose of purchasing two gold chains from the  
7 Mervyn's store # 167 in Mira Mesa, California.

8 In violation of Title 18, United States Code, Section 1343.

9 **COUNT FOURTEEN**

10 **WIRE FRAUD**

11 17. The Grand Jury repeats and realleges each and every  
12 allegation contained in paragraphs 1 through 12 of the Indictment.

13 18. For the purpose of executing the scheme to defraud and to  
14 obtain money in the form of credits on various credit cards held by  
15 himself or Lori Volpicelli, on or about December 22, 1992, within  
16 the District of Nevada, VOLPICELLI did knowingly cause to be  
17 transmitted by means of wire communication in interstate commerce  
18 certain signs, signals and sounds between San Mateo, California and  
19 Nevada, relating to the purchase of two gold chains from the  
20 Mervyn's store # 59 in Cupertino, California, using Visa account  
21 number 4737000080773.

22 In violation of Title 18, United States Code, Section 1343.

23 **COUNT FIFTEEN**

24 **TAX PERJURY**

25 19. The Grand Jury repeats and realleges each and every  
26 allegation contained in paragraphs 1 through 4 of the Indictment.

27 20. On or about July 11, 1990, in the District of Nevada,  
28 VOLPICELLI, a resident of Reno, Nevada, did willfully make and





1 subscribe a joint U.S. Individual Income Tax Return, for the  
2 calendar year 1989, which was verified by a written declaration  
3 that it was made under the penalties of perjury and which was filed  
4 with the Internal Revenue Service, which said income tax return he  
5 did not believe to be true and correct as to every material matter  
6 in that the said return failed to disclose that he was engaged in  
7 the operation of a business activity (i.e., the credit card scheme)  
8 from which he derived gross receipts or sales and incurred  
9 deductions or to report the income derived therefrom, whereas, as  
10 he then and there well knew and believed, he was required to  
11 disclose the operation of this business activity, the gross  
12 receipts or sales derived therefrom, and the deductions he incurred  
13 or to report the income derived therefrom.

14 In violation of Title 26, United States Code, Section 7206(1).

15 **COUNT SIXTEEN**

16 **TAX PERJURY**

17 21. The Grand Jury repeats and realleges each and every  
18 allegation contained in paragraphs 1 through 4 of the Indictment.

19 22. On or about August 1, 1991, in the District of Nevada,  
20 VOLPICELLI, a resident of Reno, Nevada, did willfully make and  
21 subscribe a joint U.S. Individual Income Tax Return, for the  
22 calendar year 1990, which was verified by a written declaration  
23 that it was made under the penalties of perjury and which was filed  
24 with the Internal Revenue Service, which said income tax return he  
25 did not believe to be true and correct as to every material matter  
26 in that the said return failed to disclose that he was engaged in  
27 the operation of a business activity (i.e., the credit card scheme)  
28 from which he derived gross receipts or sales and incurred





1 deductions or to report the income derived therefrom, whereas, as  
2 he then and there well knew and believed, he was required to  
3 disclose the operation of this business activity, the gross  
4 receipts or sales derived therefrom, and the deductions he incurred  
5 or to report the income derived therefrom.

6 In violation of Title 26, United States Code, Section 7206(1).

7 **COUNT SEVENTEEN**

8 **TAX PERJURY**

9 23. The Grand Jury repeats and realleges each and every  
10 allegation contained in paragraphs 1 through 4 of the Indictment.

11 24. On or about August 11, 1992, in the District of Nevada,  
12 VOLPICELLI, a resident of Reno, Nevada, did willfully make and  
13 subscribe a joint U.S. Individual Income Tax Return, for the  
14 calendar year 1991, which was verified by a written declaration  
15 that it was made under the penalties of perjury and which was filed  
16 with the Internal Revenue Service, which said income tax return he  
17 did not believe to be true and correct as to every material matter  
18 in that the said return failed to disclose that he was engaged in  
19 the operation of a business activity (i.e., the credit card scheme)  
20 from which he derived gross receipts or sales and incurred  
21 deductions or to report the income derived therefrom, whereas, as  
22 he then and there well knew and believed, he was required to  
23 disclose the operation of this business activity, the gross  
24 receipts or sales derived therefrom, and the deductions he incurred  
25 or to report the income derived therefrom.

26 In violation of Title 26, United States Code, Section  
27 7206(1).  
28





1 COUNT EIGHTEEN

2 TAX PERJURY

3 25. The Grand Jury repeats and realleges each and every  
4 allegation contained in paragraphs 1 through 4 of the Indictment.

5 26. On or about July 23, 1993, in the District of Nevada,  
6 VOLPICELLI, a resident of Reno, Nevada, did willfully make and  
7 subscribe a joint U.S. Individual Income Tax Return, for the  
8 calendar year 1992, which was verified by a written declaration  
9 that it was made under the penalties of perjury and which was filed  
10 with the Internal Revenue Service, which said income tax return he  
11 did not believe to be true and correct as to every material matter  
12 in that the said return failed to disclose that he was engaged in  
13 the operation of a business activity (i.e., the credit card scheme)  
14 from which he derived gross receipts or sales and incurred  
15 deductions or to report the income derived therefrom, whereas, as  
16 he then and there well knew and believed, he was required to  
17 disclose the operation of this business activity, the gross  
18 receipts or sales derived therefrom, and the deductions he incurred  
19 or to report the income derived therefrom.

20 In violation of Title 26, United States Code, Section 7206(1).

21 COUNT NINETEEN

22 FALSE BANK LOAN STATEMENT

23 27. The Grand Jury repeats and realleges each and every  
24 allegation contained in paragraphs 1 through 4 of the Indictment.

25 28. On or about February 2, 1993, in the District of Nevada,  
26 VOLPICELLI knowingly made a material false statement and report for  
27 the purpose of influencing the action of Great Basin Federal Credit  
28 Union, a Federal Credit Union, upon an application for credit in





1 that VOLPICELLI submitted a loan application which falsely stated  
2 that VOLPICELLI was an employee of Conner & Conner, Inc. ("Conner")  
3 and that his income from that employment was \$7,000 per month, when  
4 in truth and in fact, as VOLPICELLI well knew, he was not an  
5 employee of Conner and his income from that employment was not  
6 \$7,000 per month.

7 In violation of Title 18, United States Code, Section 1014.

8 COUNT TWENTY

9 **FALSE BANK LOAN STATEMENT**

10 29. The Grand Jury repeats and realleges each and every  
11 allegation contained in paragraphs 1 through 4 of the Indictment.

12 30. On or about February 20, 1993, in the District of Nevada,  
13 VOLPICELLI knowingly made a material false statement and report for  
14 the purpose of influencing the action of World Savings & Loan  
15 Association, an institution the accounts of which are insured by  
16 the Federal Deposit Insurance Corporation, upon a residential loan  
17 application in that VOLPICELLI submitted a loan application which  
18 falsely stated that VOLPICELLI was an employee of Conner & Conner,  
19 Inc. ("Conner") and that his monthly income from that employment  
20 was \$7,000. In addition, VOLPICELLI submitted two false Forms W-2,  
21 one each for 1991 and 1992 which falsely stated that he was paid  
22 \$81,600 and \$84,000, respectively, by Conner, from which federal  
23 income tax of \$14,300 and \$16,900, respectively, was purportedly  
24 withheld. In truth and in fact, as VOLPICELLI well knew, he was  
25 not an employee of Conner, his income from that employment was not  
26 \$7,000 per month, Conner did not pay him \$81,600 in 1991 or \$84,000  
27 in 1992, and no federal income tax was withheld from any amounts  
28 VOLPICELLI received from Conner in 1991 and 1992.





1 In violation of Title 18, United States Code, Section 1014.

2 **COUNT TWENTY-ONE**

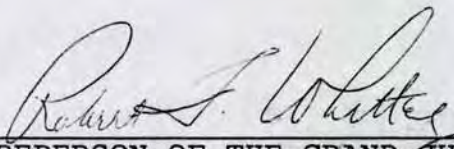
3 **FALSE BANK LOAN STATEMENT**

4 31. The Grand Jury repeats and realleges each and every  
5 allegation contained in paragraphs 1 through 4 of the Indictment.

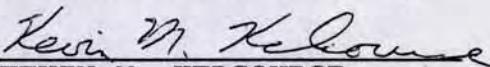
6 32. On or about October 8, 1990, in the District of Nevada,  
7 VOLPICELLI knowingly made a material false statement and report for  
8 the purpose of influencing the action of Pioneer Citizens Bank of  
9 Nevada, an institution the accounts of which are insured by the  
10 Federal Deposit Insurance Corporation, upon a credit application  
11 for an auto loan in that VOLPICELLI submitted a credit application  
12 which falsely stated that VOLPICELLI was an employee of Conner &  
13 Conner, Inc. ("Conner") and that his monthly gross income and net  
14 income from that employment was \$6,500 and \$5,900, respectively,  
15 when in truth and in fact, as VOLPICELLI well knew, he was not an  
16 employee of Conner and his gross income and net income from that  
17 employment was not \$6,500 and \$5,900, respectively, per month.

18 In violation of Title 18, United States Code, Section 1014.

19  
20 **A TRUE BILL:**

21   
22 **FOREPERSON OF THE GRAND JURY**

23 KATHRYN E. LANDRETH  
24 United States Attorney

25   
26 KEVIN M. KELCOURSE  
27 DANNY N. ROETZEL  
28 Trial Attorneys  
U.S. Department of Justice  
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Washington, D.C. 20530

Attorneys for the United States  
of America





No. CR03-1263

State

vs.

Ferrill Volpicelli

Ex. 3

Admitted: 4-1, 20 04

RONALD A. LONGTIN, JR., CLERK

3v *R. Bantlett*

Deputy

V11.73